

# BURGHWALLIS NEIGHBOURHOOD PLAN

Burghwallis Neighbourhood Plan Examination,  
A Report to Doncaster Metropolitan Borough Council

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## 1. Introduction

### The Neighbourhood Plan

This Report provides the findings of the examination into the Burghwallis Neighbourhood Plan (referred to as the Neighbourhood Plan).

Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

*“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”*  
(Paragraph 183, National Planning Policy Framework)

Burghwallis Parish Council is the *qualifying body*<sup>1</sup> responsible for the production of this Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).

This Examiner’s Report provides a recommendation as to whether or not the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by Doncaster Metropolitan Borough Council. The Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Burghwallis Neighbourhood Area.

### Role of the Independent Examiner

I was appointed by Doncaster Metropolitan Borough Council, with the consent of Burghwallis Parish Council, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience. I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.

As the Independent Examiner, I must make one of the following recommendations:

- a) that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;

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<sup>1</sup>The qualifying body is responsible for the production of the Plan.

- b) that the Neighbourhood Plan, as modified, should proceed to Referendum;
- c) that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether or not the Referendum Area should extend beyond the Burghwallis Neighbourhood Area to which the Plan relates.

In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

Subject to the contents of this Report, I am satisfied that all of the above points have been met.

#### Neighbourhood Plan Period

A neighbourhood plan must specify the period during which it is to have effect.

The title page of the Neighbourhood Plan states that it covers the period 2015-2028. The Foreword and paragraph 2.3 of the Basic Conditions Statement submitted alongside the Neighbourhood Plan also refer to the plan period.

Taking the above into account, I confirm that the Neighbourhood Plan satisfies the relevant requirement in this regard.

## Public Hearing

According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.

However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.

Further to consideration of the written representations submitted, I confirmed to Doncaster Metropolitan Borough Council that I was satisfied that the Burghwallis Neighbourhood Plan could be examined without the need for a Public Hearing.

## **2. Basic Conditions and Development Plan Status**

### Basic Conditions

It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*<sup>2</sup> following the Localism Act 2011. In order to meet the basic conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan for the area;
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

I have examined the Neighbourhood Plan against the basic conditions.

As noted above, Burghwallis Parish Council has submitted a Basic Conditions Statement. This sets out how, in the Parish Council’s view, the Neighbourhood Plan meets the basic conditions.

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

## European Convention on Human Rights (ECHR) Obligations

I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.

## European Union (EU) Obligations

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal<sup>3</sup>. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.

With the above in mind, draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects. This process is referred to as a “screening” opinion or assessment. If the screening assessment identifies likely significant effects, then an environmental report must be prepared.

The Basic Conditions Statement confirms that Doncaster Metropolitan Borough Council undertook a screening opinion. The screening opinion states that

*“The cumulative impact of the Burghwallis Neighbourhood Plan will result in positive environmental benefits.”*

Having regard to the screening opinion, the Basic Conditions Statement goes on to state that:

*“...the Burghwallis Neighbourhood Plan will not result in significant environmental effects and does not require a Strategic Environmental Assessment in accordance with Directive 2001/42/EC (often referred to as the Strategic Environmental Assessment (SEA) Directive.”*

A Habitats Regulations Assessment (HRA) is required if the implementation of the Neighbourhood Plan may lead to likely negative significant effects on protected European sites. The screening opinion provided by Doncaster Metropolitan Borough Council states that there are:

*“No internationally significant sensitive receptors within the parish boundary or within the vicinity of the parish boundary”*

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<sup>3</sup> Paragraph 026, Planning Practice Guidance 2014.

and no requirement for a HRA was identified. This is confirmed in the Basic Conditions Statement, which states:

*“...the Neighbourhood Plan does not require an appropriate assessment under the EU Habitats Regulations.”*

The Environment Agency, English Heritage (now, with regards to planning matters, Historic England) and Natural England were consulted as part of the scoping opinion. None of these bodies dissented from the conclusions set out in Doncaster Metropolitan Borough Council’s screening opinion. Furthermore, each statutory body was also consulted during the Submission Consultation stage and that no further comments were made with regards compatibility with European obligations.

In addition to the above, national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations is placed on the local planning authority,

*“the local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations.”* (Planning Practice Guidance 11-031)

With regards this latter point, there is nothing before me to indicate that Doncaster Metropolitan Borough Council, which undertook the screening opinion, has any concerns with regards the Neighbourhood Plan’s compatibility with EU obligations.

Taking all of the above into account, I am satisfied that the Neighbourhood Plan is compatible with EU obligations.



### **3. Background Documents and Burghwallis Neighbourhood Area**

#### Background Documents

In undertaking this examination, I have considered various information in addition to the Burghwallis Neighbourhood Plan. This has included:

- National Planning Policy Framework (The Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Planning Regulations (2012)
- The Core Strategy Development Plan Document (2012) (Core Strategy)
- Doncaster Unitary Development Plan (1998) (Saved Policies)
- Basic Conditions Statement
- Consultation Statement

Also:

- Representations received during the publicity period

In addition, I spent an unaccompanied day visiting the Burghwallis Neighbourhood Area.

#### Burghwallis Neighbourhood Area

The boundary of the Burghwallis Neighbourhood Area is shown on a plan on page 7 of the Neighbourhood Plan. The plan is very small and is not provided on an Ordnance Survey base. This makes it very difficult to identify the precise area covered by the Neighbourhood Plan. I note later in this Report that, whilst the overall presentation of the Burghwallis Neighbourhood Plan is excellent, a number of the plans provided are too small to be of practical use.

Taking the above into account, I recommend:

- **Replace the Neighbourhood Area plan on page 7 with a larger plan, with clearly identifiable boundaries on an Ordnance Survey (OS), or similar, base.**

Further to an application made by Burghwallis Parish Council, Doncaster Metropolitan Borough Council approved the designation of Burghwallis as a Neighbourhood Area on 2 November 2012.

In the above regard, requirements in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended), have been satisfied.

## **4. Public Consultation**

### Introduction

As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.

Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a successful 'Yes' vote at Referendum.

### Burghwallis Neighbourhood Plan Consultation

In line with legislative requirements, a Consultation Statement was submitted to Doncaster Metropolitan Borough Council by Burghwallis Parish Council. Further to consideration, I can confirm that this sets out who was consulted and how, together with the outcome of the consultation. In this regard, the Consultation Statement meets the requirements of the neighbourhood planning *regulations*<sup>4</sup>.

A Neighbourhood Plan Working Group was established by Burghwallis Parish Council and an initial public meeting, advertised by a flyer, was held in February 2013. Following this, a questionnaire was devised and included in another flyer. This was delivered to 263 separate addresses, including those of landowners, local businesses, associations, societies and councillors. An 18.6% response rate raised 102 comments for consideration.

In December 2013, a workshop was held with Planning Aid to consider the returned questionnaires and correspondence received. In August 2014, a detailed "Policy Intentions" flyer was delivered to 263 addresses to raise awareness of a public consultation meeting held at Burghwallis pub that month. The responses to this were taken into account.

The draft plan was then produced and published in February 2015. Consultation took place during February and March 2015. It was supported by a "public consultation surgery" and the delivery of a further flyer to 263 addresses. Consultation responses included one from, the then, Leader of the Opposition and local MP, Ed Miliband.

Consultation was widely communicated and well-publicised in a variety of ways. A dedicated email address was set up to enable people to leave their comments and a

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<sup>4</sup>Neighbourhood Planning (General) Regulations 2012.

member of the Parish Council collated these and replied to requests. Further, a dedicated web page was created, enabling Working Group minutes and supporting documents to be viewed and/or downloaded.

The Working Group also utilised social media, setting up a Facebook account and noting/acknowledging comments. In addition to the various flyers referred to above, local Noticeboards were used to display information posters.

Taking all of the above into account, the Consultation Statement presents an audit trail to demonstrate that consultation was carried out in an open manner, and people and organisations were not just provided with a fair chance to have their say, but were actively encouraged to engage in shaping the Neighbourhood Plan. Comments received were duly considered and evidence has been provided to demonstrate that the Neighbourhood Plan reflects the views of local people.

I am satisfied that the consultation process was comprehensive and robust.

A representation has been received which requests that the Neighbourhood Plan includes an area of land, "*proposed for a sympathetic small scale development,*" be included in the Neighbourhood Plan.

However, the Neighbourhood Plan does not seek to allocate land for development and there is no requirement for it to do so.

## **5. The Neighbourhood Plan – Introductory Section**

**Where modifications are recommended, they are presented as bullet points and highlighted in bold print, with any proposed new wording in italics.**

The policies of the Neighbourhood Plan are considered against the basic conditions in Chapter 6 of this Examiner’s Report. I have also considered the Introductory Section of the Neighbourhood Plan and make recommendations below, aimed at making it a clear and user-friendly document.

The presentation of the Neighbourhood Plan is excellent. In particular, the use of photographs, colour and the interesting page designs, combine to create a visually attractive and easy to navigate document. Further, the use of a “logo” adds to the distinctive and professional “feel” of the Neighbourhood Plan. It provides an excellent example for others.

The Foreword provides a clear introduction. Some of the information has become dated and I recommend:

- **Update the Foreword (by removing references to consultation and related processes)**

The Consultation page, set out on page 6, is now out of date. I recommend:

- **Delete page 6**

I have made recommendations regarding the plan on page 7 earlier in this Report. In addition, I recommend:

- **Insert “*the*” before “A1” in the second sentence on page 7**

The summary of the consultation process, set out on pages 8 and 9, is helpful. However, some of the information is not appropriate for inclusion in a final plan and I recommend:

- **Page 8, first line, replace “Draft” with “This *Neighbourhood Plan* has been...”**
- **Page 8, remove the “Plan Preparation Process” section, including the diagram**

## **6. The Neighbourhood Plan – Neighbourhood Plan Policies**

The Policy Section is clearly set out. Policies are distinctive from the supporting text and are supported by photographs and plans.

The plans are provided to present useful and occasionally, essential, information and they have the potential to significantly enhance the overall document. However, the presentation of the plans is such that much of the information shown is illegible, indistinctive and difficult to locate. As a consequence of this, the plans provided do not achieve their purpose. I comment on this below on a Policy-by-Policy basis, as appropriate.

Each Policy is considered below under its Chapter heading in the Neighbourhood Plan.

## **Built Heritage**

The Built Heritage section opens with a plan showing the Burghwallis Conservation Area. This appears as quite a faded copy of part of another plan. Consequently, it is difficult to make out the precise boundary of the Conservation Area, or to place it in the context of Burghwallis village. Providing clarity with regards the Conservation Area boundary in relation to its wider setting adds value to the Neighbourhood Plan. I recommend:

- **Page 10, replace the Conservation Area plan with a clearer version of the plan provided. If this is not possible, create a new plan, showing the boundary of the Conservation Area on an OS base and showing the wider context around all edges of the boundary (ie, a slightly wider area than that shown on the existing plan, providing more context)**

The two plans on page 11 have the potential to provide useful, helpful and relevant information. However, they are entirely illegible. I recommend:

- **Replace the two plans on page 11 with plans that are large enough and clear enough to read**

The text at the top of page 12 reads as though it comprises part of a Policy, which it does not. Also, this part of the supporting text refers to four non-designated heritage assets, when the relevant Policy only includes three such assets. I recommend:

- **Page 12, change first sentence to *“The Parish Council also aims to protect and enhance non-designated heritage assets. These are recognised as locally important assets and include:”***

The text on page 13 refers to Appendix 3. Appendix 3 contains 14 pages of information relating to the archaeology of the Neighbourhood Area. As such, it is nearly as long as the whole Policy section of the Neighbourhood Plan. Its inclusion results in a severe imbalance in the Neighbourhood Plan, where the most important content – the Policies – are not provided much more prominence than one of several appendices.

Further to the above, it is unclear why there needs to be any list of archaeological monuments, let alone around a page of detailed information relating to each one. No Policy in the Neighbourhood Plan refers directly to them. Whilst there is no doubting the veracity of the information provided, it is not clear why it needs to be provided in the Neighbourhood Plan. Taking the above into account, I find that its inclusion detracts from the Neighbourhood Plan as a whole. Similarly, there is no reason to include a list of archaeological finds in the Appendices.

I recommend:

- **Delete reference to Appendix 3 on page 13 and replace with “*Information relating to the Neighbourhood Area’s archaeology has been collated as part of the plan-making process. This is available from the Parish Council.*”**
- **Delete Appendices 3 and 4**

### **Policy BH1: Protection of Local Heritage Assets**

Policy BH1 identifies the War Memorial, Village Pump and the Poor’s Field as local heritage assets. Their inclusion in Policy BH1 is supported by Historic England.

The wording of Policy BH1 does not have regard to national policy, which does not simply protect non-designated heritage assets from development, but rather, requires the effect of any application on the significance of such an asset to be taken into account, having regard to the scale of harm and the significance of the asset.

Whilst, in most cases, this ensures that heritage assets – recognised by the Framework as “*an irreplaceable resource*” (Paragraph 126) – can be appropriately protected from development, it also means that the sustainability benefits a development may bring can be balanced against any harm that may arise. In this regard, Planning Practice Guidance recognises non-designated heritage assets as:

*“having a degree of significance meriting consideration in planning decisions”*  
(Paragraph 039, 18a-039-20140306).

Taking the above into account, I recommend:

- **“Policy BH1, change wording to “*The three sites listed below are identified as important local heritage assets. Any proposal affecting the significance of these assets and their setting should demonstrate that public benefits will outweigh any harm or loss to the asset...*”**

Subject to the above, Policy BH1 meets the basic conditions.



## **Policy BH2: Archaeological Remains**

The Neighbourhood Area has a rich archaeological history. Where a development proposal might impact on land with archaeological interest, national policy requires the submission of a desk-based assessment and where necessary, a field valuation (Paragraph 128, the Framework).

In addition to the above, UDP Policy ENV37 states that

*“In determining development, proposals affecting sites of local archaeological importance, the desirability of preserving the site and its setting will be an important consideration.”*

UDP Policy 38 goes on to state that, taking into account the importance of the archaeological site and opportunities for its preservation, planning permission will be subject to either preserving the archaeology in situ, or providing an adequate record of the site, by an approved archaeological body.

Policy BH2 states that, in all cases, archaeological remains will be protected in situ or preserved as appropriate. Such an approach does not have regard to national policy and nor is it in general conformity with the UDP Policies identified above. No substantive evidence is provided to justify the approach set out in Policy BH2.

Taking the above into account, I recommend:

- **Policy BH2, change wording to *“Where development proposals affect sites of local archaeological importance, an assessment must be provided and subject to the importance of the site, the archaeology should be preserved in situ or an adequate record made by an appropriate archaeological body.”***

### **Policy BH3: Enhancement and Promotion of Heritage Assets**

Policy BH3 states that development that provides for the “*sympathetic enhancement and promotion*” of heritage assets will be welcomed. However, no indication is provided as to what sympathetic enhancement might comprise, who will judge it and on what basis. Consequently, Policy BH3 does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.

In addition to the above, no detail is provided to demonstrate how the promotion of a heritage asset comprises a land use planning policy matter. Promotion appears to be more a matter of marketing, PR and advertising.

Taking the above into account, I recommend:

- **Delete Policy BH3**
- **Replace with “*Community Action: The Parish Council will welcome discussions regarding the promotion of the Parish’s built heritage assets and will be pleased to consider and where appropriate, support proposals for the sympathetic enhancement of built heritage assets.*” (For clarity, this does not comprise a Policy).**

## **Green Environment**

The introduction to the Green Environment section establishes the importance of the Neighbourhood Area's green environment and wildlife habitats. It goes on to describe why six locations within the Neighbourhood Area are important to the local community.

The supporting text Playing Field and Playground, the Pub Field and Squirrel Wood provide for recreation and wildlife; and the Poor's Field, Scorcher Hill's Paddock and Stoney Croft Lane provide for wildlife.

A plan is provided on page 15 with the aim of identifying the above sites. However, as with other plans in the document, it is illegible and does not achieve its purpose. I take this into account in considering Policy GE1 below.

### **Policy GE1: Protection of Local Green Spaces**

Policy GE1 seeks to designate six separate areas of Local Green Space.

The Framework enables local communities to identify, for special protection, green areas of particular importance to them. Paragraph 76 states that

*“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”*

Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. Effectively, Local Green Spaces, once designated, provide protection that is comparable to that for Green Belt land. Notably, the Framework is explicit in stating that

*“The Local Green Space designation will not be appropriate for most green areas or open space.”* (Paragraph 77)

Consequently, when designating Local Green Space, plan-makers must clearly demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land.

In the supporting text preceding Policy GE1, evidence is provided with regards the Playing Field and Playground, the Poor's Field, the Pub Field, Scorcher Hills Paddock and Squirrel Wood being demonstrably special to the local community and holding a particular local significance. I note that the historic interest of the War Memorial is identified earlier in the plan and that it comprises a non-designated heritage asset. The Neighbourhood Area is relatively small and all of these sites are in reasonably close proximity to the community they serve.

Five of the six proposed areas of Local Green Space are not extensive tracts of land. However, Squirrel Wood comprises "over 70 acres." In the context of the Neighbourhood Area, there can be no doubt that this is an extensive tract of land. Consequently, the proposed designation of Squirrel Wood does not have regard to the Framework and does not meet the basic conditions.

The Neighbourhood Plan does not provide any appropriate plans to support the designation of Local Green Space. Consequently it is not possible to identify precisely which areas of land would be protected by Policy GE1. I note above that the plan on page 15 Policy serves no purpose.

As set out in Paragraph 76 of the Framework, Local Green Space policy is straightforward. However, by seeking to introduce its own version of how Local Green Space should be treated, Policy GE1 does not have regard to the Framework and no justification for departing from national policy in this regard is provided.

Taking all of the above into account, I recommend:

- **Policy GE1, change wording to "The five sites below are designated as Local Green Space. The development of Local Green Space is ruled out other than in very special circumstances. 1) the Playing..."**
- **Delete "5) Squirrel Wood"**
- **Delete plan on page 15**
- **Provide a new plan, or if appropriate, a set of new plans, showing a clear red line boundary for each designated Local Green Space on an OS base. The precise location of each area to be protected must be clearly legible.**

Subject to the above, Policy GE1 contributes to the achievement of sustainable development and meets the basic conditions.

### **Policy GE2: Protection of Stoney Croft Lane**

Policy GE2 seeks to prevent any development of “the green corridor” at Stoney Croft Lane that would harm its recreational or nature conservation value.

No green corridor is identified in the Neighbourhood Plan. Consequently, Policy GE2 does not provide decision makers with a clear indication of how to react to a development proposal. It does not meet the basic conditions.

I recognise that there is an intention to protect a specific path valued by the community. The Framework supports the protection of public rights of way and access (Paragraph 75). Consequently, I recommend:

- **Delete Policy GE2, change wording to “*The Bridle Path at Stoney Croft Lane will be protected from adverse development.*”**

### **Policy GE3: Development Mitigation**

Policy GE3 is aimed at comprising a positive land use planning policy, supportive of development that enhances the Neighbourhood Area’s environment.

However, as worded, the Policy is unclear and could have unintended consequences. It would support any development proposal that enhanced natural heritage assets. For example, a new settlement, or an on-shore wind farm, would be supported as long as it enhanced natural heritage assets in some way.

Further, the Policy is vague with regards construction. Where appropriate, development is already subject to detailed construction management requirements. These are imposed by the local planning authority via conditions. Part 2) of Policy GE3 is unclear, vague and far less detailed than the controls that already exist. As set out, I consider that it would fail to contribute to the achievement of sustainable development and there is no substantive evidence to the contrary.

The Framework supports the conservation and enhancement of biodiversity (Paragraph 118) and to some degree, Policy GE3 has regard to this. I recommend:

- **Policy GE3, change wording to “*The conservation and of Burghwallis’ natural heritage assets will be supported.*”**

## **Policy GE4: Survival of Important Habitats and Species**

Policy GE4 refers to developer contributions. Paragraph 204 of the Framework states that:

*“Planning obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.”*

As worded, there is nothing to indicate that Policy GE4 has regard to this. Further, the Policy seeks to place a requirement on Doncaster Metropolitan Borough Council and it is inappropriate for a neighbourhood planning policy to do this.

The Policy states that contributions should enhance all *“local and natural assets.”* This is an unduly vague and wide-ranging requirement. Also, the five criteria set out in Policy GE4 generally amount to the same thing.

I note above that national policy supports the conservation and enhancement of biodiversity and the overall aspirations of Policy GE4 have regard to this. Consequently, I recommend:

- **Policy GE4, change wording to *“Where developer contributions are appropriate, their use to conserve and enhance biodiversity will be supported.”***

Subject to the above, Policy GE4 contributes to the achievement of sustainable development and meets the basic conditions.

## **Community Assets and Infrastructure**

As the most significant community assets in the Neighbourhood Area, the importance to the community of the Burghwallis pub, its car park and the Pub Field are clearly identified in the Neighbourhood Plan.

The supporting text to the Community Assets and Infrastructure Policies re-emphasises the community role of the Playing Field and Playground, and the Poor's Field, previously described in the Green Environment section of the Neighbourhood Plan.

### **Policy CA11: Protection of Community Services and Facilities**

Policy CA11 seeks to protect the Playing Field and Playground, and the Poor's Field from "*development or change.*"

However, both of these areas of land are already identified as Local Green Space in the Neighbourhood Plan. As such, they are protected from development other than in very special circumstances. Essentially, the Neighbourhood Plan already affords these two areas planning such significant protection that it is consistent with that of Green Belt policy.

Consequently, it is not necessary to seek to provide additional protection from development. Furthermore, there is no evidence to demonstrate that preventing change to a community service or facility has regard to national policy, is in general conformity with local strategic policies, or contributes to the achievement of sustainable development.

I recommend:

- **Delete Policy CA11**

I note that there is no harm in retaining the references to the Playing Field and Playground, and the Poor's Field as community facilities in the text preceding the Community Assets and Infrastructure Policies.

## **Policy CA12: Development of Community Services and Facilities**

Policy CA12 is a positive Policy that has regard to national policy's support for the retention and development of local services and community facilities in villages (Paragraph 28, the Framework).

As worded, it is unclear as to what "*will be welcomed*" actually means within a land use planning context. To address this, I recommend:

- **Policy CA12, change "*...will be welcomed*" to "*... will be supported.*"**

Also, for clarity and to avoid ambiguity, I recommend:

- **Policy CA12, add "*...of existing community services...of new community services and facilities to benefit...*"**

Subject to the above, Policy CA12 contributes to the achievement of sustainable development and meets the basic conditions.



### **Policy CA13: The Village Pub, Car Park and Pub Field**

As set out, Policy CA13 requires any development to safeguard the community use and benefits of the pub, car park and Pub Field.

The Pub Field is already protected in the Neighbourhood Plan as a result of its designation as Local Green Space. Further, whilst I acknowledge the community benefits provided by the pub and car park, there is nothing in either national nor local strategic planning policy to protect these in perpetuity. Consequently, as set out, Policy CA13 does not meet the basic conditions.

However, national policy does support the retention of pubs and community facilities (Paragraph 28, the Framework). Furthermore, in Chapter 8 of the Framework, “Promoting healthy communities,” national policy requires positive planning for the provision of pubs and other local services to enhance the sustainability of communities (Paragraph 70). The aims of Policy CA13 have regard to this.

Taking the above into account, I recommend:

- **Policy CA13, change wording to “*The safeguarding of the community use and benefits associated with the pub, car park and Pub Field will be supported. Any proposals for the redevelopment of the pub must demonstrate that it is no longer viable in its current use and that consideration has been given to safeguarding the community benefits associated with it.*”**

#### **Policy CA14: Development Proposals, Village Shop and Post Office**

Policy CA14 is a supportive Policy that promotes the development of a village shop and post office within the village pub. This is a creative Policy that has regard to one of the Core Planning Principles set out in Paragraph 17 of the Framework:

*“planning should...be a creative exercise in finding ways to enhance and improve the places in which people live their lives.”*

No changes to Policy CA14 are recommended.

#### **Policy CA15: Broadband and Telecoms**

National planning policy supports the creation of high quality communications infrastructure (Chapter 5, the Framework). Policy CA15 has regard to this.

The first part of Policy CA15 includes a vague reference to *“other material planning considerations”* without setting out what these might be. Consequently, it does not provide a decision maker with a clear indication of how to react to a development proposal.

The second part of Policy CA15 requires all residential and economic development (whatever that might be) to contribute towards improvements in super fast broadband for existing homes and businesses, wherever possible. This is an onerous requirement and there is no evidence to demonstrate that such an obligation would meet the requirements of Paragraph 204 of the Framework, set out earlier in this Report.

Taking the above into account, I recommend:

- **Policy CA15, change the wording of part 1) to *“The development of super fast broadband will be supported.”***
- **Change the wording of part 2) to *“New residential and business space development should, where possible, provide super fast broadband.”***

## Development

The supporting text to this section establishes the importance to Burghwallis' of the Conservation Area and the need for development to respect its surroundings.

### Policy D1: Requiring High Quality Design in Burghwallis

Good design is recognised by national policy as comprising a key aspect of sustainable development. It is indivisible from good planning. National policy requires good design to contribute positively to making places better for people (Paragraph 56, the Framework). In addition, Core Strategy Policy CS14 promotes good design.

Policy D1 begins by seeking to require all development to “*enhance*” Burghwallis. This is a tall order that goes beyond the requirements of national policy and local strategic policy. No evidence is provided to demonstrate that all development can enhance the village of Burghwallis, or that failing to enhance Burghwallis will result in a proposal failing to provide for sustainable development. The requirement does not meet the basic conditions.

The Policy goes on to set out ten criteria against which development proposals will be assessed. Generally, these criteria have regard to national policy and are in general conformity with Core Strategy Policy CS14. I note that not all of the criteria will be relevant for all applications for development.

Criterion 1 includes a reference in parenthesis that does not make any sense. No justification is provided for Criterion 6's requirement for all trees removed to be replaced on a “*2:1 basis with native trees of local provenance.*” With regards Criterion 9, no reason is provided as to why the consideration of storage and recycling facilities “*must be considered as part of the initial design process for all new developments,*” how this will be monitored, or what will occur if it does not take place as part of the initial design process for all new developments. The final Criterion is reliant upon local parking standards which are not identified and which form part of another document, the responsibility of another body.

Taking all of the above into account, I recommend:

- **Policy D1, replace opening sentence with “*Development proposals should, where appropriate and relevant, provide for good design by demonstrating that consideration has been given to:*”**
- **Criterion 1, delete the text in brackets “(as set...Appendix 1)”**

- **Criterion 6, delete last sentence and add “...arboricultural statement, and mitigated by replacement with appropriate native trees.”**
- **Criterion 9, delete second sentence**
- **Delete Criterion 10**

### **Policy D2: Sustainable Drainage**

In a Ministerial Statement made on 18 December 2014, the Government established that major development, including developments of 10 dwellings or more, should ensure that sustainable drainage systems for the management of run-off are put in place, unless demonstrated to be inappropriate. Policy D2 has some regard to this advice. However, as worded, not only does it seek to apply to all forms of development, regardless of relevance, but includes unduly onerous requirements, such as consideration of “all available Sustainable Urban Drainage System (SUDs) techniques.”

Together, national policy and Core Strategy Policy CS4 set out a sequential test approach to flooding and drainage. Policy D2 fails to have regard to, and is not in general conformity with, this approach. Consequently, the Policy appears confusing and includes what may be irrelevant requirements.

Taking the above into account, I recommend:

- **Policy D2, delete the existing policy wording and replace with “Where possible and appropriate, proposals for development should incorporate Sustainable Urban Drainage Systems (SuDS). The enhancement of wildlife and biodiversity as part of the development of such systems will be supported.”**
- **Delete the text in brackets in the last paragraph at the bottom of page 23**

Subject to the above, Policy D2 contributes to the achievement of sustainable development and meets the basic conditions.

## Developer Contributions

### Policy CIL1

Policy CIL1 applies to something that does not exist. It is inappropriate for inclusion as a land use planning policy. I note that the Policy goes on to include general information, rather than land use planning policy requirements, and statements.

Policy CIL1 does not provide a decision maker with a clear indication of how to react to a development proposal.

I recommend:

- **Delete Policy CIL1**
- **Replace title “Policy CIL1” with new title “*Community Action*” (For clarity, this is no longer a Policy)**
- **Retain text, but change colour and font to match that of supporting text, rather than Policy text**
- **Under “Preserve Village Character,” change first sentence to “The Parish Council would like to see funds used to enhance...”**
- **Last paragraph on page 25, change to “The Parish Council will encourage...”**

## **Neighbourhood Plan – Other Matters**

The term “Aspirational Policies” is confusing and potentially misleading. The text on pages 26 and 27 does not contain land use planning policies. It is important that this text is not confused with the Neighbourhood Plan’s Policies.

I recommend:

- **Replace the heading “Aspirational Policies” on pages 26 and 27 with “Community Actions”**
- **Provide a new sentence at the start of page 26, “*The Parish Council aspires to achieve the following and where possible and appropriate, will seek to use developer contributions in order to do so.*”**
- **Change the colour and font of the text on pages 26 and 27 to that of supporting text. It must be entirely distinctive from that of the Neighbourhood Plan’s Policies.**

Also:

- **Update the Contents page to take account of the changes recommended in this Report**

## **8. Summary**

I have recommended a number of modifications further to consideration of the Burghwallis Neighbourhood Plan against the basic conditions.

Subject to these modifications, the Burghwallis Neighbourhood Plan

- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies of the development plan for the area;
- does not breach, and is compatible with European Union obligations and the European Convention of Human Rights.

Taking the above into account, I find that the Burghwallis Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

## **9. Referendum**

I recommend to Doncaster Metropolitan Borough Council that, subject to the modifications proposed, the **Burghwallis Neighbourhood Plan should proceed to a Referendum.**

### Referendum Area

Neighbourhood Plan Area - I am required to consider whether the Referendum Area should be extended beyond the Burghwallis Neighbourhood Area. I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

I recommend that the Plan should proceed to a Referendum based on the Burghwallis Neighbourhood Area as approved by Doncaster Metropolitan Borough Council on 2 November 2012.

**Nigel McGurk, January 2016**  
**Erimax – Land, Planning and Communities**

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