

Adel Neighbourhood Plan (ANP)

Produced by Adel Neighbourhood Forum

Health Check – June 2019: Undertaken by Andrew Seaman BA (Hons) MA MRTPI

Summary of Recommendations

1. Process

- The Adel Neighbourhood Forum was designated on 3rd April 2014. It has clearly undertaken much good work. However, as a consequence of Section 61F(8) of the Town and Country Planning Act 1990 (as amended) ('the 1990 Act') which provides a 5 year limitation on the authority of a Forum, the Adel Neighbourhood Forum is no longer authorised to act in relation to the Adel Neighbourhood Area. However, we note that publicity of the application to re-designate Adel Neighbourhood Forum took place between Tuesday 30 April and Tuesday 11 June 2019, and therefore the renewed designation is clearly in hand.
- Further liaison and correspondence with Leeds City Council ('the City Council') would be prudent to ensure, as far as practical, that the Council is in agreement with the process of the ANP production and its final content.
- Brief updates to the Habitats Regulation Assessment (HRA) and Strategic Environmental Assessment (SEA) should be undertaken prior to submission of the Plan to the City Council.
- The Consultation Statement at Appendix 1 of the ANP needs to be completed (and separated from the ANP as a whole). Currently it is not clear that the necessary pre-submission consultation and publicity has been met albeit it is assumed that evidence does exist to this effect. For example, evidence (eg copy of consultation invitation letters) could be provided to illustrate that those potentially affected by the ANP were given at least 6 weeks to respond with details of how to make representations (Reg 14). The Forum should assure

itself that the landowners of the proposed Local Green Space have been notified/consulted in accordance with the advice in the Planning Practice Guidance (PPG)¹.

2. Content

- The references within the ANP to the National Planning Policy Framework (NPPF) are based on the 2012 version which has been replaced by the 2019 version. Consequently, the ANP should be updated to ensure that all elements refer and have regard to the most up to date version of national policy.
- Liaison with the City Council should be made to check the general conformity of the ANP with the current strategic policies of the development plan and to check the status and timescale of the adoption of the Site Allocations Plan (SAP) and the Core Strategy Selective Review. A Statement of Common Ground would be a useful addition to the evidence base prior to formal submission for Examination.
- The Basic Conditions Statement and Statement of Consultation should be separated from the ANP prior to submission and be available as separate discrete supporting documents.
- Some corrections are identified to the ANP which are set out in Part 3 of this Health Check.
- It is clear that the policies within the ANP have been shaped by the community and the process of plan production. Some detailed comments are made on the content and drafting of the ANP Policies to assist their clarity and future implementation. Policy H1 introduces a sequential assessment for building on greenbelt and greenfield land which would conflict with the NPPF and should be resolved.
- Where no comment is made against a policy, this is because the policy appears to be in general conformity with the strategic policies of the adopted Development Plan and has regard to national policy and guidance, and the aims of sustainable development.

¹ See PPG Reference ID: 37-019-20140306

Andrew Seaman
24 June 2019

Part 1 – Process

| | Criteria | Source | Response/Comments |
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| 1.1 | Have the necessary statutory requirements been met in terms of the designation of the neighbourhood area? | Adel NP | Yes, this requirement is met. The process of designation is described within the NP (see paragraph 1.4/1.5 and in the Basic Conditions Statement). Figure 1 of the NP contains the Designation Map. The Neighbourhood Area designation date is noted as 6 th November 2013. |
| 1.2 | If the area does not have a parish council, have the necessary statutory requirements been met in terms of the designation of the neighbourhood forum? | Adel NP | The Adel Neighbourhood Forum was designated on 3 rd April 2014. As a consequence of Section 61F(8) of the 1990 Act which provides a 5 year limitation on the authority of a Forum, the Adel Neighbourhood Forum is no longer authorised to act in relation to the Adel Neighbourhood Area. However, we note that publicity of the application for redesignation has recently concluded on 11 June 2019, thus a renewed designation is well progressed. |
| 1.3 | Has the plan been the subject of appropriate pre-submission consultation and publicity, as set out in the legislation, or is this underway? | Adel NP | The Consultation Statement at Appendix 1 of the ANP needs to be completed. Currently it is not clear that the necessary pre-submission consultation and publicity has been met albeit it is assumed that evidence does exist to this effect. For example, evidence (eg copy of consultation invitation letters) could be provided to illustrate that those potentially affected by the ANP were given at least 6 weeks to respond with details of how to make representations under Regulation 14) |
| 1.4 | Has there been a programme of community engagement proportionate to the scale and complexity of the plan? | Adel NP | Sections 1, 3 and Appendix 1 of the ANP sets out the process of producing the Plan and detail aspects of the consultation and engagement undertaken. With the additional clarity to be provided by addressing the matter above (1.3,) this appears proportionate to the complexity of the Plan. |
| 1.5 | Are arrangements in place for an independent examiner to be | No source | There is no information provided on this. Whilst the Forum has not yet reached submission of the Plan to Leeds City Council under |

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| | appointed? | | <p>Regulation 15, it is advised that the Forum now begin discussing what the process will be for identifying a suitable independent examiner with the City Council.</p> <p>Whilst the general approach is to assess the resumes/CVs provided by prospective examiners, you may also find it very helpful in coming to a decision by reading examples of their reports on other Neighbourhood Plans.</p> |
| 1.6 | Are discussions taking place with the electoral services team on holding the referendum? | No source | It is not yet appropriate to put in place arrangements for a Referendum after the examination of the Plan. However, as the Plan advances, discussions should be held with Leeds City Council. |
| 1.7 | Is there a clear project plan for bringing the plan into force and does it take account of local authority committee cycles? | Adel NP | <p>There is no process set out for bringing the Plan into force.</p> <p>The ANP contains a short commentary at Section 9 on 'Implementation' which includes a focus upon future partnership working with the City Council and others. It would be advisable to extend this section to incorporate details of how the Plan will be brought into force and, critically, how its general effectiveness in conjunction with individual policies will be monitored and managed.</p> |
| 1.8 | Has a SEA screening been carried out by the LPA? | Draft Adel NP SEA and HRA Screening Report (2016) | <p>A SEA Screening Report was prepared by Leeds City Council in November 2016, which concluded that it is unlikely that there would be any significant environmental effects arising from the ANP and its policies. A full SEA as prescribed by the SEA Regulations is not deemed to be required for the Plan.</p> <p>Consultation responses were received from the Environment Agency, Historic England and Natural England.</p> <p>Given the fact that the screening was undertaken in 2016 against an earlier version of the ANP (albeit similar in its content), it would be advisable to provide a brief update to the Screening Report confirming that there has been no material change to affect its</p> |

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| | | | conclusion. |
| 1.9 | Has a HRA screening been carried out by the LPA? | Draft Adel NP SEA and HRA Screening Report (2016) | <p>The Draft Adel NP HRA Screening Report has been undertaken by the City Council. This identifies the relevant Natura 2000 site of the South Pennine Moors Phase 2 SPA/SAC and its features of interest. The Screening Report has regard to the HAR Screening determinations for other planning policy documents: Leeds Core Strategy 2004, the emerging Sites Allocation Plan and the Natural Resources and Waste Development Plan.</p> <p>The Report concludes that the distance from the Adel NP area to the South Pennine Moors Phase 2 SPA/SAC is sufficient such that a formal scoping opinion was not required and that the ANP would not be likely to cause significant effects alone or in combination with other projects or plans.</p> <p>The QB's attention is drawn to the fact that the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 were made on 5 December 2018 and came into force on 28 December 2018. These amend the prescribed Basic Condition related to Habitats Assessments - the revised Basic Condition took effect from 28 December 2018. See the following link: http://www.legislation.gov.uk/uksi/2018/1307/contents/made (Section 3). This amendment follows the ruling of the European Court in People over Wind and Sweetman on 12 April 2018. The QB should revert to the City Council for an update to the HRA Screening Report to assure itself that the implications of the European ruling have not affected the way in which the Sites Allocation Plan has been considered and in turn whether there are any implications for the ANP.</p> |

Part 2 – Content

| | Criteria | Source | Response/Comments |
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| 2.1 | Are policies appropriately justified with a clear rationale? | Adel NP | <p>The Plan has a clear Vision, 18 Objectives and 22 policies which are grouped into 6 sectional themes.</p> <p>The policies are clearly labelled and set out. Each is accompanied by a rationale in the text of the Plan which identifies the ‘intent’ of the policy and its ‘justification’.</p> <p>Policy NBH6 is currently somewhat unclear in its apparent aspiration to establish a Local Heritage Area and could benefit from refinements to aid its clarity which would then be supported by the provided justification.</p> <p>Policy H2 is in two parts, the second of which is more a statement of preference than a land use policy. Consideration could be given to the way in which this policy is framed and how it is justified in light of the SAP.</p> <p>Policy RB2 refers to hot food takeaways. The intent is clearly set out although the justification for a 15% limit of hot food takeaways of the total occupied units is not justified clearly within the justification or in evidence. This may benefit from a review.</p> <p>Policy HT3 has a clear purpose although is lengthy. Could this be refined with some of the detail being set out in the justification rather than in the policy itself?</p> |
| 2.2 | Is it clear which parts of the draft plan form the ‘neighbourhood plan proposal’ (i.e. the neighbourhood <i>development plan</i>) under the Localism Act, subject to the independent examination, and | Adel NP | <p>The ANP currently totals 220 pages. The ANP incorporates sections on how the Plan was prepared (Section 3) and a Basic Conditions Statement (Section 5) and 4 Appendices. Whilst these are informative, they should be removed from the ANP as it is the ANP itself which is the subject for Examination.</p> <p>Section 3 and Appendix 1 should logically form part of a final</p> |

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| | which parts do not form part of the 'plan proposal', and would not be tested by the independent examination? | | <p>Consultation Statement; the Basic Conditions Statement should be a stand alone supporting document and Appendix 4 a separate supporting piece of evidence.</p> <p>Revisions to the structure would ensure clarity on what parts of the Plan form the 'neighbourhood plan proposal' subject to Examination.</p> |
| 2.3 | Are there any obvious conflicts with the NPPF? | Adel NP | <p>The Plan has evidently been prepared in the context of the NPPF (2012). Critically, the NPPF has been updated (2019) and consequently the content of the ANP should be reviewed and updated, especially Section 5, to account for this change in national policy.</p> <p>Policy H1 introduces a sequential assessment for building on greenbelt and greenfield land which would conflict with the NPPF. The NPPF identifies that development can proceed upon Green Belt in certain circumstances. This conflict should be resolved.</p> |
| 2.4 | Is there a clear explanation of the ways the plan contributes to the achievement of sustainable development? | Adel NP | <p>Yes, the ANP has been prepared in the knowledge of the need to secure sustainable forms of development. This is noted in the preparatory phases of the ANP, in general conformity with the strategic Development Plan and in the Basic Conditions Statement (Section 5 and Table D). The ANP Vision does not contradict the intention of securing sustainable development and the Plan's objectives support this concept whilst certain policies specifically note the need for sustainable forms of development (NBH5 and H1).</p> <p>It may be helpful to liaise with the City Council to ensure that there are no implications arising from the content of the ANP the viability of new development.</p> |
| 2.5 | Are there any issues around | Adel NP (Section 5 et al) | No, from our assessment of the documents received, including the |

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| | compatibility with human rights or EU obligations? | | Basic Conditions Statement, there would appear to be no outstanding issues regarding compatibility with human rights or EU obligations. |
| 2.6 | Does the plan avoid dealing with excluded development including nationally significant infrastructure, waste and minerals? | Adel NP | Yes, the Plan does avoid dealing with such excluded development, and there are no potential issues regarding this matter. |
| 2.7 | Is there consensus between the local planning authority and the qualifying body over whether the plan meets the basic conditions including conformity with strategic development plan policy and, if not, what are the areas of disagreement? | Adel NP and letter from Leeds City Council to the draft ANP dated 15.11.16 | <p>There is insufficient evidence at this time to conclude that the local planning authority are in agreement over whether the ANP meets this aspect of the Basic Conditions.</p> <p>The correspondence from the Chief Planning Officer of Leeds City Council dated 15th November 2016 based on an earlier version of the ANP, raises some matters of potential contention. These include the relationship between the ANP and the Core Strategy and some allocated sites in the SAP in addition to a number of matters of detail. A number of resultant changes to the Pre Submission ANP have been made although it is unclear as to whether all matters have been satisfactorily resolved to the point of final agreement and general conformity.</p> <p>It cannot be concluded at the present time that there are no potential issues of general non-conformity (i.e. disagreement) with strategic development plan policies. It would be prudent to engage in further correspondence with the City Council, potentially to agree a Statement of Common Ground, to identify the current position and hopefully consensus.</p> |
| 2.8 | Are there any obvious errors in the plan? | Adel NP | Some matters are identified below. |

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| 2.9 | Are the plan's policies clear and unambiguous and do they reflect the community's land use aspirations? | Adel NP | <p>We make Detailed Comments below on the content and drafting of the Plan's Policies. It is clear that they reflect and have been shaped by the community's land use aspirations, as expressed at various stages during the Plan's preparation.</p> <p>However, some of the policies would benefit from a further 'sense check' and potential refinement to ensure that they are specific land use policies and not general assertions of aspiration (which might be contained to a degree within the text of the Plan, balanced with the advice in the PPG²).</p> |
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² See PPG Reference ID: 41-004-20190509

Part 3 - Detailed Comments

1. These detailed comments address all matters, both of significance and of a more minor nature, across the Plan and are presented in Page order. However, there is no pagination within the current document which should be rectified.
2. Page 2 – Table of Contents is required.
3. Page 3 – Foreword (not Foreward).
4. Page 3 – Paragraph 7 requires updating to reflect current timescales.
5. Page 17 et al – All references to the NPPF 2012 should be updated to reflect the fact that the document was updated in 2019.
6. Page 17 – The City Council are undertaking a Core Strategy Selective Review. This should be referenced. As appropriate, any implications of the Selective Review should be noted within the ANP – this could be discussed and agreed with the City Council.
7. Page 18 – The SAP is scheduled for adoption in the summer of 2019. An update on progress should be obtained from the City Council. It may be likely that the SAP will become an adopted document before the ANP is submitted for Examination and therefore the ANP should be updated to reflect this fact and to acknowledge the final contents of the SAP. This will be important for the Basic Condition of general conformity in relation to those policies considered to be strategic in the SAP.
8. Page 19 - The Basic Conditions Statement is most appropriately created as a separate supporting document to the ANP particularly as some of the information is repetitive of previous content (eg the background to Neighbourhood Planning is similar in part to Section 1 of the ANP). Further guidance on Basic Conditions Statements can be found here:
https://www.rtpi.org.uk/media/1282954/approaches_to_writing_a_basic_conditions_statement.pdf
9. Page 20 - Paragraph 5.3.2 confirms the date when the Forum was designated. Unfortunately, this is more than 5 years ago and therefore a new designation is required to be legally compliant. An update to the text will subsequently be required.
10. Page 21 - Table A would be clearer with the addition of a heading to the first column (Objective number).

11. Page 22 (and others) – Paragraphs 5.4.3, 5.4.4 and Table B refer to the old NPPF. Updates are required (the 12 core principles are no longer cited as such).
12. Pages 24 and 25 – Paragraph 5.4.6 needs to be updated as the sections within the new NPPF have altered in comparison to its predecessor. Consequently, Table C column 3 is out of date.
13. Page 32 – This section of the Statement may require updating if the SAP is adopted prior to the submission of the ANP for Examination. The City Council website indicates that it hopes to adopt the SAP during the summer of 2019. The ANP currently references the draft SAP which is appropriate but it should be noted for clarity that the Core Strategy is subject to ongoing Selective Review and how, if appropriate, the ANP has had regard to any proposed changes to the Core Strategy content (the City Council may be able to advise)³; Table E may require consequent amendment.
14. Page 33 – Paragraph 5.4.24, as noted above at 1.9, attention is drawn to the fact that the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 were made on 5 December 2018 and came into force on 28 December 2018. These amend the prescribed Basic Condition related to Habitats Assessments - the revised Basic Condition took effect from 28 December 2018. See the following link: <http://www.legislation.gov.uk/ukxi/2018/1307/contents/made> (Section 3). This amendment follows the ruling of the European Court in *People over Wind and Sweetman* on 12 April 2018. The Forum should revert to the City Council for an update to the HRA Screening Report to assure itself that the implications of the European ruling have not affected the way in which the Sites Allocation Plan has been considered and in turn whether there are any implications for the ANP.
15. Page 42 – Objective 12 references ‘existing links’. Clarification could be provided to explain what these are. For example, are they transport links, ‘green’ links etc? Objective 15 refers to the provision of play space etc within the development area of new developments but this is not necessarily deliverable in all instances (eg small scale development). Could this be clarified by adding the words “...within *or near to* the development area”.
16. Page 44 – Policy NBH1 refers to the ‘special’ character and appearance of the local landscape. Would ‘distinct’ be more appropriate? The 2nd sentence of the 2nd paragraph states that the loss of important natural features will not be supported which may be an inflexible requirement; would ‘unjustified’ loss be appropriate? The 3rd paragraph refers to ‘Development that negatively impacts...’ which is a stringent requirement, would ‘impacts unacceptably’ be more positive? The final paragraph of the policy ~~refers~~ states “Limited urban fringe development will be supported ...”; however, as this may relate to development upon Green Belt land where more than the consideration of just ‘openness’ will apply, it would be more appropriate to amend the start of the paragraph to: “Limited *justified* urban fringe development will be supported ...” which will enable the consideration of ‘Very Special Circumstances’ in line with national policy.

³ See PPG Reference ID: 41-009-20190509

17. Page 49 – Policy NBH2 - For clarity it would be helpful to explain the meaning of the currently very broad term ‘materially injure the health’ within the policy/text. The justification for the replacement planting ratio of 3:1 should be provided.
18. Page 51 – Policy NBH3 final paragraph requires measure to enhance a site’s nature conservation interest but, whilst a laudable aspiration, is not technically enforceable. (also update the reference to NPPF paragraph 117).
19. Page 55 – Policy NBH4 - It would be helpful for clarity to set out how the Areas of Townscape Significance and their features of interest have been identified, eg any particularly background evidence/study?
20. Page 57 – Policy NBH5 states “Developments that do not preserve or enhance the character of the Listed Buildings or that significantly ...” might be more effective if they allude to the legislative requirements such as “Developments that do not preserve or enhance the *special interest* of the Listed Buildings or that *unacceptably* ...”. Could the 2nd and 3rd sentences be more effectively combined: eg “...particularly those that preserve and enhance the special interest of the Grade II listed Adel Reformatory and contribute to meeting the needs of the local community”? It would be helpful to clarify the status given to the illustrative layout of Figure 10?
21. Page 59 – Policy NBH6. The first 5 and 7th sentences are not land use policy and could be placed in the justification. The Policy could simply consist of the final sentence of the first policy paragraph.
22. Page 61 – Within Conservation Areas the statutory tests for planning permission are whether a development preserves or enhances the character or appearance of the area. Policy CD1 would appear to set a higher test that may be difficult to justify for a non statutorily designated area – perhaps the ‘and’ in the first sentence could be replaced by ‘or’? Would ‘respecting’ be a more appropriate word than ‘reinforcing’ in criteria 1, thereby clarifying that there is flexibility in its application for schemes that do not simply repeat the vernacular design style? The policy also contains a clause referring to 15 views and vistas. The key views in clause 3 & Figures 13 & 14) contain one view (#8 on Figure 14) which appears to extend beyond the Plan area. The policy says: ‘New development should preserve and enhance the special character of the Adel Neighbourhood Area....by protecting key views and vistas of the local landscape and townscape Area.’. Whilst the policy does not require an outright ban on any development, we consider the widespread coverage of the views and vistas warrants some qualification perhaps along these lines: ‘*Development proposals should respect the open views and vistas as shown in Figures 13 and 14. Proposals which would have a significantly detrimental impact on these views and vistas will not be supported.*’
23. Page 63 – ‘drab and uninteresting’ are rather harsh terms for those who may live in such areas. Would ‘areas of limited character interest’ be more diplomatic?

24. Page 65 – The first sentence of Policy H1 runs contrary to national policy which allows for the development of Green Belt land for certain forms of development and when Very Special Circumstances have been identified. This will require redrafting. For clarity and effective implementation Criteria 2 should conclude with “...and meet the policies of this Plan and the wider development Plan in conjunction with national policy”. The text of the policy does not fully reflect the justification provided at paragraph 2.
25. Page 67 – It is possible that Policy H2 requires updating to take account of the passage of time. The references to HG2-38 seem misplaced in policy as its intention runs contrary to the likely adopted SAP. Deletion should be considered. The reference to HG1-74 would benefit from rephrasing with a focus on the criteria to be applied to new development proposals.
26. Page 69 – The justification for 50% of housing to be 2 bedroom homes in Policy H3 should be made clear in the supporting justification with regard to the requirements of the Core Strategy and SAP (taking into account any additional evidence that post dates the 2014 Adel Housing Assessment. The Appendix needs a number.
27. Page 73 – Policy CFGS3 refers to an Appendix which requires numbering. The Policy lists 10 new Local Green Spaces (LGS) supported by the current Appendix 2. It is likely that this policy and the identified LGS will be subject to further scrutiny at Examination. Whilst Appendix 2 is useful, the justification in some instances is rather brief, eg why an area is demonstrably special. This should be expanded with greater information and clarity. Appropriate checks should be made that all landowners are aware of the proposed designations. The size, in hectares, should be given for the 10 proposed LGS designations and particular regard should be had to the advice in the PPG⁴.
28. Page 80 – Policy RB1 refers to proposals meeting a need; however, this is unclear in its implementation as to how such a need is to be identified. Ordinarily the ‘market’ is the arbiter of supply and demand. The Vision does not clearly identify what would be an appropriate proposal within the Adel Shopping Parades as referred to in the policy and therefore greater clarity should be provided on how this would be implemented. There is scope to rephrase the first sentence of the policy to aid its clarity of purpose and how it would be implemented.
29. Page 81 – The 15% limit on hot food takeaways as a proportion of occupied premises in Policy RB2 is not justified in the Plan or in evidence. As presented this would not appear to be justified sufficiently to remain as a policy requirement. Is a percentage figure required at all? The final criterion requires clarification on what is meant by ‘impacting’. Perhaps ‘impacting unacceptably’ would be helpful?

⁴ See “Open space, sports and recreation facilities, public rights of way and local green space”, PPG Reference ID: 37-005-20140306 - Reference ID: 37-022-20140306.

30. Page 83 – The first paragraph of Policy RB3 is a long sentence. Its clarity would be improved by breaking the paragraph into two or more sentences, particularly the relationship of the policy purpose to the final line and a half (“or in other locations close to existing shops and services which are easily accessible by foot, bicycle and public transport.”)
31. Page 86 – Policy HT3 is unclear as a land use policy and in how decision makers should have regard to it. It is primarily a descriptor of the current situation and contains aspirational concepts. It is recommended that the policy be redrafted to become more succinct with supporting information moved to the justification.
32. Page 91 – The header refers to ‘8.0 Implementation’ whereas it is ‘9.0 Implementation’. The section of the ANP on Implementation would benefit from further detail on how the policies of the Plan will be monitored for their effectiveness and thereafter managed to maximise their effect. This could entail liaison with the City Council on how it monitors the effectiveness of the existing development plan.
33. Page 93 – The Appendices are actually in Section 10 (not 9). Consideration should be given to the need to include the Consultation Statement in the ANP: ordinarily the Consultation Statement should be provided as a separate document as should the Basic Conditions Statement). Detailed guidance on the contents of a consultation statement can be viewed here: https://www.rtpi.org.uk/media/1282948/how_to_write_a_consultation_statement.pdf . Indeed, there is the potential to remove all the Appendices to separate supporting documents (or website links) which would hone the final ANP into a more concise Plan.
34. **General** – The Plan is a relatively long and comprehensive document. The Plan is presumably deliberately silent on topics such as climate change, air quality and the viability implications of the ANP. It may be helpful to briefly address the intended arrangements for the future Monitoring and Review of the Plan. For example, there is no indication on how the successful implementation of the Plan’s policies will be monitored, or the circumstances (such as changes in strategic planning policies or national policy which might necessitate a formal Review of the Plan prior to 2028.
35. The main focus of this report has been on undertaking a detailed assessment of the Plan. A thorough proof-read and sense check should be made of the supporting documents prior to their submission and the Plan itself should also be proof read by an independent person to check for typographical errors.
36. Finally, it is recognised that the above comments will involve some amendments to the Plan and its contents. However, the time and effort that has clearly been put into the Plan to date is commendable and if the Plan can be amended to incorporate the above suggestions then it will have a very good prospect of being submitted in due course for a successful examination.