

SUTTON CUM LOUND NEIGHBOURHOOD PLAN 2016-2031

REVIEW SUBMISSION VERSION

**A Report to Bassetlaw District Council of the Examination
into the Sutton cum Lound Neighbourhood Plan Review**

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Summary and Overall Recommendation

0.1 Following my examination of the Sutton cum Lound Neighbourhood Plan Review (SNPR), it is my view that the SNPR reflects the views of the community and sets out a clear vision and suite of policies and proposals for the Neighbourhood Area.

0.2 I am satisfied that although the Review does involve a material change to Policy 6, regarding infilling and redevelopment proposals, it does not amount to a change to the nature of the plan.

0.3 As the Parish Council has republished the whole plan to form the Review it is important that, as well as assessing the reviewed policy against the Basic Conditions, I consider all the policies afresh against the first Basic Condition as the National Planning Policy Framework (NPPF) has been reviewed since the neighbourhood plan was originally 'made'.

0.4 In examining the SNPR, in addition to some minor changes to Policy 6, there are a number of places where the supporting text to policies needs to be corrected to be consistent with the policies and to reflect current circumstances and to correct a number of typographical errors. These need to be made in order that the Review meets the requirement in national policy that plans must be clear and unambiguous. I am satisfied that these are all non-material corrections and can be made without the need for consultation.

0.5 Subject to the recommended modifications in the report being completed I am satisfied that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to 'make' the SNPR;
- the making of the SNPR contributes to the achievement of sustainable development;
- the making of the SNPR is in general conformity with the strategic policies contained in the development plan for the area of the authority.
- the making of the SNPR does not breach, and is otherwise compatible with, EU obligations.
- prescribed conditions are met in relation to the SNPR and prescribed matters have been complied with in connection with the proposal for the plan.

0.6 The SNPR also complies with the legal requirements set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

0.7 With the modifications in place the Sutton cum Lound Neighbourhood Plan Review will meet the Basic Conditions. As the changes in the review do not change the nature of the plan it is not a requirement that it be the subject of a referendum and it can proceed immediately to be 'made'.

Peter Biggers
18 January 2021
Argyle Planning Consultancy Ltd

1. Introduction

1.1 Background Context

1.1.1 This Report provides the findings of the Examination into the Sutton cum Lound Neighbourhood Plan Review (referred to as the SNPR throughout this report).

1.1.2 The SNPR was produced by Sutton cum Lound Parish Council (SPC) and in consultation with interested parties and local stakeholders.

1.1.3 The SNPR relates to the Sutton cum Lound Neighbourhood Area which has not changed since its original designation and equates to the administrative area of the Parish.

1.1.4 The Sutton-cum-Lound Neighbourhood Plan was ‘made’ following a public referendum on 15 February 2018. Subsequent to the Plan being ‘made’, SPC identified an error in Policy 6 and, in collaboration with Bassetlaw District Council, sought to have this rectified.

1.1.5 The proposed amendments to the Neighbourhood Plan set out in the SNPR therefore concerns the wording of Policy 6 (*Infill and Redevelopment in Sutton cum Lound Village*).

1.1.6 During preparations for the public referendum, held on 15 February 2018, the submission version of the Neighbourhood Plan was edited by Bassetlaw District Council in order to implement the modifications of the Examination Report on the original Neighbourhood Plan. In the process of amending Policy 6, criterion d), concerning the scale of infill development, was inadvertently deleted. This version of the Neighbourhood Plan, minus criterion d), was the subject of the public referendum, and is thus the Plan currently in force in the Sutton cum Lound Neighbourhood Area.

1.1.7 The SNPR the subject of this examination seeks to correct the above error, re-inserting criterion d) into Policy 6, as was the original intention.

1.2 Scope and Scale of the Review

1.2.1 Once ‘made’, neighbourhood plans can be reviewed as required. The National Planning Policy Guidance clarifies that there are three classes of review that can be undertaken in respect to a ‘made’ neighbourhood plan, each with its own procedure for enactment, as follows:

<u>Type</u>	<u>Scope</u>	<u>Procedure</u>
Non-material amendment	Correcting a minor error that will not materially change the way that a ‘made’ neighbourhood plan functions.	The changes can be made to the plan, subject to the approval of both the qualifying body (e.g. parish council) and BDC Full Council.

Minor material amendment	Making small-scale changes that may have a material impact on the way that a 'made' neighbourhood plan functions. The decision as to whether the changes alter the nature of the plan will be determined by the examiner.	As above, but the modified plan should be subject to public / statutory consultation (Reg 14 and Reg 16), and independent examination, before seeking BDC Full Council approval
Significant material amendment	Making more substantial changes that will materially alter the way that a 'made' neighbourhood plan functions and will alter the nature of the Plan.	As above, but a public referendum will be required subsequent to BDC Full Council approval

1.2.2 The Local Planning authority and the Qualifying Body must issue a statement to the examiner setting out the status of the review which I can confirm I have received.

1.2.3 The option of undertaking a more comprehensive review of the Plan was considered as part of initial scoping discussions, but SPC opted to defer this until a later date, and to focus on correcting the error.

1.2.4 The Council and Qualifying Body have concluded that, although the proposed modifications are minor in scale, and are, by definition, solely concerned with correcting an error, it is acknowledged that the insertion of criterion d) into Policy 6 will materially affect how the Policy functions. However, it is considered that the changes are minor in scale, and do not change the nature of the Plan as a whole. Both the Parish Council and District Council are accordingly of the view that the changes should be considered as a minor material amendment.

1.3 Appointment of the Independent Examiner

1.3.1 I was the original examiner for the SNP and was reappointed by Bassetlaw District Council, with the consent of SPC, to conduct the examination and provide this Report on the SNPR. I remain independent of the qualifying body and the Local Authority. I do not have any interest in any land that may be affected by the SNPR nor do I have any professional commissions in the area currently and I possess appropriate qualifications and experience. I have planning and development experience, gained over 39 years across the public and private planning sectors and am a Member of the Royal Town Planning Institute.

1.4 Role of the Independent Examiner

1.4.1 It is the role of the Independent Examiner to issue a statement on the status of the Review and in particular whether the amendment would change the nature of the Plan thereby confirming the procedure to be followed to 'make' the reviewed neighbourhood plan. I make this statement in section 4 below.

1.4.2 The examination must, as with the original plan consider whether a neighbourhood plan review meets the “Basic Conditions.” The Basic Conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (TCPA) as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (PCPA). They are that * :

- a) Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- d) The making of the neighbourhood plan contributes to the achievement of sustainable development;
- e) The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority.
- f) The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.
- g) Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the plan.

1.4.3 Pursuant to Basic Condition g) above, Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended by the *Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018* effective from 28 December 2018) prescribes the following Basic Condition for the purpose of paragraph 8(2)(g) of Schedule 4B to the TCPA 1990:

“The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017”.

Regulation 106 (1) of Chapter 8 states that : *“a qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 105 (that assessment is necessary where the neighbourhood plan is likely to have a significant effect on a European site or a European offshore marine site either alone or in combination with other plans or projects) or to enable it to determine whether that assessment is required”.*

1.4.4 In examining the Review of the Plan, I must also consider whether the legislative requirements continue to be met namely:

- The Neighbourhood Plan has been prepared and submitted for examination by a qualifying body as defined in Section 61F of the TCPA as applied to neighbourhood plans by section 38A of the PCPA.

* NB Two other matters relating to the desirability of preserving or enhancing listed buildings and conservation areas are also included in the basic conditions but as these only concern neighbourhood development orders and not neighbourhood plans they are not included in this report

- The Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the TCPA as applied to neighbourhood plans by section 38A of the PCPA.
- The Neighbourhood Plan meets the requirements of Section 38B of the PCPA (the Plan must specify the period to which it has effect, must not include provisions relating to 'excluded development', and must not relate to more than one Neighbourhood Area) and
- The policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of the PCPA Section 38A.

1.4.5 Having made the assessments I must make one of these recommendations:

- a) that the Review of the Plan should proceed on the basis that it meets all legal requirements;
- b) that the Review of the Plan, once modified to meet all relevant legal requirements, should proceed;
- c) that the Review of the Plan should not proceed, on the basis that it does not meet the relevant legal requirements.

1.4.6 As with the original plan the role of the independent examiner is not expressly to comment on whether the review of the plan is sound or how the plan could be improved but rather to focus on the compliance with the Basic Conditions.

2. The Examination Process

2.1 It is a general rule that neighbourhood plan examinations should be held without a public hearing ie by written representations only and on consideration of all the evidence before me, I am satisfied that there is no need for a hearing in respect of the SNPR and I confirm that *all* representations on the Neighbourhood Plan Review received at the Regulation 16 stage have been taken into account in undertaking this examination.

2.2 In view of the limited nature of the Review and the fact that it does not involve site specific matters coupled with my prior knowledge of the area from the original examination I have not undertaken a further site visit.

2.4 In undertaking this examination, I have considered each of the following documents in addition to the Sutton cum Lound Neighbourhood Plan 2016-2031 Review Submission Version:

- a) National Planning Policy Framework 2019 (NPPF)
- b) The National Planning Practice Guidance
- c) Town and Country Planning Act 1990 (as amended)
- d) The Planning and Compulsory Purchase Act 2004 (as amended)
- e) The Localism Act (2011)
- f) The Neighbourhood Planning Act 2017
- g) The Neighbourhood Planning (General) Regulations (2012) (as amended)

- h) Bassetlaw District Local Development Framework Core Strategy and Development Management Policies DPD 2011.
- i) Bassetlaw Local Plan - Regulation 18 Draft - November 2020
- j) Sutton cum Lound Neighbourhood Plan Review Basic Conditions Statement - 2020
- k) Sutton cum Lound Neighbourhood Plan Review Consultation Statement - 2020
- l) Strategic Environmental Assessment & Habitat Regulations Assessment Screening Statement - August 2020

Also:

- m) Representations received during the Regulation 16 publicity period post-submission of the Review ending 23 November 2020.

3. Public Consultation

3.1 Background

3.1.1 An accessible and comprehensive approach to public consultation is the best way to ensure that a neighbourhood plan reflects the needs, views and priorities of the local community.

3.1.2 SPC submitted a Consultation Statement, as required by Regulation 15 of the Neighbourhood Planning (General) Regulations, to Bassetlaw District Council on 7 October 2020.

3.1.3 in view of the limited nature of the review, Public consultation on the SNPR commenced at the Regulation 14 Consultation stage on the draft plan. The consultation stages were therefore as follows:

- The pre-submission consultation from 18 December 2019 to 7 February 2020
- The formal, publicity stage, as required by Reg 16, (the consultation period post-submission of the plan was held from 12 October to 23 November 2020)

This last stage resulted in 14 consultation responses. These are considered as necessary within my assessment of the plan in section 7 below.

3.2 Sutton cum Lound Neighbourhood Plan Review Consultation

3.2.1 The original SNP was built on extensive consultation with the community and stakeholders and given the limited nature of the Review the Steering Group has carried out a less extensive consultation on this occasion. The communication methods used were similar to those in the preparation of the original plan and included the neighbourhood plan and village websites, social media and direct email drops. Copies of the Pre-Submission Draft and Submission Versions of the reviewed plan were uploaded to the website as well as being made available locally.

3.2.2 The pre-submission consultation as required by Regulation 14 involved a 6 week period from 18 December 2019 to 7 February 2020. The SNPR was made available online and locally and the consultation was advertised online and locally. Statutory consultees and other key community stakeholders were consulted by email. SPC set up a public drop in session on 10 January 2020 to explain the review and allow people to

raise issues. 22 residents attended. During the consultation no negative representations were received.

3.2.3 The Neighbourhood Planning Regulations are part and parcel of the 1st Basic Condition and regulation 15 (2) sets out clearly what the Consultation Statement should include. Having reviewed the Consultation Statement I am satisfied that it is compliant with Reg 15 in demonstrating who was consulted, how they were consulted, what the main issues and concerns were and what action has been taken in response to these to arrive at the Submission version of the SNPR. I am satisfied from the evidence that the communication and consultation which took place provided adequate opportunity for the community's participation in the Review.

4. Examiner's Statement on the Status of the Review

4.1 Having read and assessed the SNPR, I am of the opinion that the Review undertaken by SPC does not constitute minor non-material modifications simply to correct errors - (the first type of review - see Table at paragraph 1.2.1 above). However, in carrying out the examination, I have identified a number of this type of modification that will need to be made.

4.2 Although the Review focusses on Policy 6 and is intended to correct an omission from the 'made' plan, the amendment would be a material change inasmuch as it adds a further criterion to the policy on infill development which will have to be taken into account when the policy is applied. Although this clause was initially part of Policy 6 at the time of the original examination its omission from the version of the plan on which the referendum was based means that it cannot simply be reinstated without the Review being the subject of re-consultation under Neighbourhood Planning Regulations 14 and 16 and being submitted for examination.

4.3 Notwithstanding that the Review constitutes a material change, I am satisfied from the evidence before me and from the way the plan is intended to operate that this limited Review would not be so significant or substantial as to constitute a change to the nature of the plan. Its objectives and policies and proposals would not be affected.

4.4 Accordingly, whilst examination of the Review is required and the Council must act on the outcome of this examination, it will not be necessary for the Council to hold a further referendum on the reviewed plan. The Council has 5 weeks from receipt of my completed report to 'make' the modified plan including the making of any modifications that I recommend below in order that the reviewed Plan will meet the Basic Conditions.

5. Preparation of the Reviewed Plan and Legislative Requirements

In terms of the procedural tests set out in paragraph 1.4.4 of this report my findings are as follows:

5.1 Qualifying body

5.1.1 Sutton cum Lound Parish Council as the duly elected lower tier council is the qualifying body for preparation of the SNPR.

5.1.2 I am satisfied that the requirements set out in the Localism Act (2011) and in Section 61F(1) and (2) of the TCPA (as applied to neighbourhood plans by section 38A of the PCPA) have been met.

5.2 Plan area

5.2.1 The Sutton cum Lound Neighbourhood Area as designated on 28 June 2015 by Bassetlaw District Council remains unchanged and coincides with the boundaries of the Parish.

5.2.2 This satisfies the requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) (2) and (3) of the TCPA (as applied to neighbourhood plans by section 38A of the PCPA) and regulations 5, 6 and 7 of the Neighbourhood Planning (General) Regulations 2012.

5.3 Plan period

5.3.1 A neighbourhood plan must specify the period during which it is to have effect. The SNPR clearly states on its title page and in the introductory sections that it covers the period from 2016 – 2031. The SNPR plan period extends beyond that of the Bassetlaw LDF Core Strategy because it draws on the evidence base for the new emerging Bassetlaw Local Plan (BLP). There is no requirement for neighbourhood plan periods to match exactly with the rest of the Development Plan and at the time of the original examination I did not consider this to be an issue.

5.3.2 A matter has been raised by BDC officers at the Regulation 16 stage as to whether the SNPR should now be aligned with the end date of the emerging BLP namely 2037 as there is only just over 10 years life left for the SNPR.

5.3.3 Were the period to be extended this would imply that the SNPR could comply with and meet all requirements up to 2037. However, given that the Review continues to be based on the Bassetlaw Core Strategy and Development Management Policies as the adopted development plan and the emerging BLP has not yet been adopted and is still at a stage where its policies and provisions may change further, the SNPR cannot reasonably be expected to be fit for purpose to cover the period to 2037. Accordingly, and particularly as an extension of the plan period has not been consulted on, the end date should remain as 2031.

5.3.4 In any event SPC has stated, in deciding to limit the scope of this Review for the time being, that it will undertake a fuller review in due course. A possible trigger for this will be the adoption of the BLP. In that context a 10 year life span for the plan is adequate and the intended time period to 2031 still satisfies the requirements of Section

38B of the PCPA as amended.

5.4 Excluded development

5.4.1 The Review does not include policies or proposals that relate to any of the categories of excluded development – county matters (mineral extraction and waste development), nationally significant infrastructure or any matters set out in Section 61K of the TCPA 1990. The SNPR relates solely to the neighbourhood area and no other neighbourhood and there are no other neighbourhood development plans in place within the neighbourhood area. This satisfies requirements of Section 38B of the PCPA as amended.

5.5 Development and use of land

5.5.1 The Neighbourhood Plan should only contain policies relating to development and use of land. The SNPR policies would be compliant with this requirement of Section 38B of the PCPA as amended and all relate to development and the use of land. As with the original SNP some community projects are set out at Appendix A of the SNPR to deal with matters the community has raised which cannot be addressed through the formal neighbourhood plan. This section is not examined in this report.

6. The Basic Conditions

6.1 National policy and advice

6.1.1 The main document that sets out national policy is the *National Planning Policy Framework* (NPPF) published in 2019.

6.1.2 The NPPF explains that neighbourhood plans should support the delivery of strategic policies and set out non-strategic policies and plan positively to shape, direct and help to deliver sustainable development that is outside the strategic elements of the Local Plan.

6.1.3 The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Development Plan. They should not promote less development than that set out in the strategic policies of the development plan or undermine those strategic policies.

6.1.4 The NPPF indicates that plans should contain policies that are clearly written and unambiguous so that it is clear how a decision maker should react to development proposals. They should serve a clear purpose and avoid unnecessary duplication of policies that apply to a particular area.

6.1.5 National advice on planning is set out in the *Planning Practice Guidance* (PPG), which includes specific advice regarding neighbourhood plans, and I have also considered the advice of the PPG.

6.1.6 The SNP was initially prepared in the context of the original NPPF dated 2012.

However there have been changes in policy between that and the 2019 version. The NPPF now requires neighbourhood plans being prepared with a submission date after 24 January 2019 to be prepared in the context of the NPPF 2019. As SPC has republished the whole plan when submitting the Review, in carrying out the examination I have considered all the policies to ensure they continue to have regard to the NPPF as revised. I discuss any necessary modifications in section 7 below. However, in most cases the modifications relate to updating of references to the NPPF.

6.2 Sustainable development

6.2.1 A qualifying body must demonstrate how a neighbourhood plan contributes to the achievement of sustainable development. The NPPF as a whole constitutes the Government's view of what sustainable development means in practice for planning. The NPPF explains that there are three dimensions to sustainable development:- economic, social and environmental.

6.2.2 There is no legal requirement for a formal Sustainability Appraisal (SA) to be carried out in respect of neighbourhood plans. However good practice suggests that where neighbourhood plans are allocating land for development an appraisal should be carried out and one was carried out for the original SNP. The findings of that SA were that the SNP vision, objectives, policies and proposals had broadly positive or neutral effects and no likely negative impacts on economic, social or environmental objectives and no need for mitigating changes.

6.2.3 The original SA supported the conclusion that overall the original SNP would contribute to the achievement of sustainable development. As the Review involves only a minor change to Policy 6 the SA has not been reviewed and I consider in Section 7 below whether the change will contribute to sustainable development.

6.3 Conformity with the Development Plan

6.3.1 The adopted development plan in force for Bassetlaw District is the Bassetlaw District Local Development Framework – Bassetlaw Core Strategy & Development Management Policies DPD (BCSDMP).

6.3.2 Bassetlaw District Council (BDC) has begun work to prepare a new Local Plan to replace the BCSDMP and has published Regulation 18 drafts most recently in November 2020 for consultation. Whilst some of the evidence base for this plan informed the SNP and SNPR and may have a bearing on my consideration of the basic conditions it is the BCSDMP that continues to set out the strategic policies and which must be used in assessing the plan against Basic Condition No 3.

6.3.3 I consider in further detail in Section 7 below the matter of general conformity with the development plan.

6.4 European Union (EU) Obligations

6.4.1 A neighbourhood plan must be compatible with European Union (EU) obligations,

as incorporated into UK law, in order to be legally compliant. Notwithstanding the United Kingdom's departure from the European Union these obligations continue to apply unless and until repealed or replaced in an Act of Parliament.

Strategic Environment Assessment and Habitat Regulations Assessment

6.4.2 Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment has a bearing on neighbourhood plans. This Directive is often referred to as the Strategic Environment Assessment Directive. Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (often referred to as the Habitats and Wild Birds Directives respectively) aim to protect and improve Europe's most important habitats and species and can have a bearing on neighbourhood plans.

6.4.3 Regulation 15 of the Neighbourhood Planning Regulations as amended in 2015 requires either that a Strategic Environmental Assessment (SEA) is submitted with a Neighbourhood Plan proposal or a determination from the responsible authority (BDC) is provided that the plan is not likely to have 'significant effects.'

6.4.4 A screening opinion both in respect of the need for SEA and Habitat Regulation Assessment (HRA) was prepared by BDC in August 2020 for the SNPR in consultation with the statutory bodies.

6.4.5 The determination from BDC as the responsible body is that the Sutton cum Lound Neighbourhood Plan Review will not have significant environmental effects in relation to any of the criteria set out in Schedule 1 of the SEA Regulations, and therefore **does not need to be subject to a full SEA.**

6.4.6 Regarding HRA, the test in the additional Basic Condition is that the making of the neighbourhood development plan is "*not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) either alone or in combination with other plans or projects.*"

6.4.7 No European sites are located within the Neighbourhood Area. The nearest is the Birklands and Bilhaugh Special Area for Conservation some 14 kms south west of the border of the neighbourhood area at its closest point. The HRA screening considered the impact of development in the SNPR, and the determination from BDC as the responsible body is that no significant effects are likely to occur with regards to the integrity of the Birklands & Bilhaugh SAC, due to the implementation of the Plan. As such the Plan **does not require a full HRA to be undertaken.**

6.4.8 The main reason for these conclusions is that - "*the development that is supported in the Plan is deemed to be of a scale and nature and located on sites that will not result in any significant effects on the Birklands & Bilhaugh SAC*".

6.4.9 Neither statutory environmental consultees nor anyone else has taken a different view and I have no reason to reach a different conclusion.

European Convention on Human Rights (ECHR)

6.4.10 The Human Rights Act encapsulates the Convention and its articles into UK Law.

6.4.11 In respect of Article 1 of the first protocol - the right of everyone to the peaceful enjoyment of possessions; although the SNPR includes policies that would restrict development rights, this does not have a greater impact than the general restrictions on development rights provided for in national law. The restriction of development rights inherent in the UK's statutory planning system is demonstrably in the public interest by ensuring that land is used in the most sustainable way, avoiding or mitigating adverse impacts on the environment, community and economy.

6.4.12 In respect of Article 6 of the Convention's Rights and Freedoms - the right to a fair and public hearing in determination of an individual's rights and obligations - the process for preparing the SNPR is fully compatible with this Article, allowing for consultation on its proposals at various stages, and incorporating this independent examination process.

6.4.13 In respect of Article 14 of the Conventions Rights and Freedoms - the enjoyment of rights and freedoms without discrimination on any ground, the policies and proposals of the SNPR have been developed in consultation with the community and wider stakeholders to produce as inclusive a document as possible. Although no specific Equalities Impact Assessment has been carried out I am satisfied that, across the policies of the Review, no sectors of the community are likely to be discriminated against and no objections have been raised that would suggest otherwise. The policies of the reviewed plan together would generally continue to have public benefits and encourage the social sustainability of the neighbourhood.

6.4.14. I am satisfied therefore that the SNPR does not breach, and is otherwise compatible with, the ECHR.

6.4.15 Taking all of the above into account, I am satisfied that the SNPR is compatible with EU obligations and therefore with Basic Conditions f) and g).

7. Assessment of the Sutton-Cum-Lound Neighbourhood Plan Review

7.0.1 The SNPR is considered against the Basic Conditions in this section of the Report following the structure and headings in the Plan but focusing in particular on reviewed Policy 6. In respect of the other policies, given my findings in my original examination and that the then recommended modifications to meet the Basic Conditions have been implemented and the plan 'made', I have simply focused on Basic Condition a) (Having regard to National Policy) as the review of the NPPF is the only changed circumstance.

7.0.2 I have also taken the opportunity to examine whether the reviewed Policy 6 raises any consistency issues in respect of the other policies in the plan and their implementation.

7.0.3 Other than recommending modifications to meet the basic conditions the only modifications an examiner may make to a neighbourhood plan is to correct any errors within the plan and where I have come across these I have taken the opportunity to recommend their correction.

7.1 The General Form of the Review

7.1.1 The structure of the SNPR remains generally logical and clear with early sections setting the context and then policy sections.

7.1.2 I have one concern with the general content of the SNPR. The Planning Practice Guidance in its advice on neighbourhood plans requires that plans provide a clear and unambiguous guide to developers and to that end there is a need for referencing to be accurate and up to date and for incorrect references remaining from editing following the examination of the original plan to be removed. As the SPC has republished the whole plan in preparing the Review it is important that these updates are made to comply with Basic Condition a):

Recommendation 1 – Carry out the minor updating to referencing in the Review set out in Appendix 1 so that the reviewed document is accurate and up to date.

7.1.3 There are also some typographical errors remaining in the SNPR which should be corrected for clarity and accuracy.

Recommendation 2 - Carry out the minor typographical corrections set out in Appendix 2 so that the reviewed document is clear and accurate.

7.2 Community Vision and Community Objectives

7.2.1 Sections 9 and 10 of the SNPR set out the vision of the plan, and the community objectives to deliver the vision and provide the basis for the policies.

7.2.2 The vision and community objectives do draw on the matters of concern within the community and set out the aim to meet the local needs of the community without losing the rural character of the parish.

7.2.3 The vision and objectives of the SNPR although originally prepared in the context of NPPF 2012, when reassessed against NPPF 2019 also have regard to its policies, in particular:

Section 5 – Delivering a sufficient supply of homes

Section 8 – Promoting healthy and safe communities

Section 9 – Promoting sustainable transport

Section 12 - Achieving well designed places

Section 15 – Conserving and enhancing the natural environment

Section 16 – Conserving and enhancing the historic environment.

7.2.4 General conformity with the strategic policies of the development plan has not changed as a result of the Review and the vision and objectives are likely to continue to

contribute to sustainable development.

7.2.5 Accordingly, the Vision and Community Objectives in sections 9 and 10 of the SNPR continue to meet the Basic Conditions a), d) and e).

7.3 Policy 1 - Design of Residential Development

7.3.1 Policy 1 seeks to establish sound design principles for all residential development in the plan area developing from the principles in the Bassetlaw SPD. Assessed afresh against the NPPF 2019 the policy has regard to the high level of importance which the current version of the NPPF places on high quality design, particularly the importance of development reflecting and enhancing local character and local distinctiveness.

7.3.2 Regarding the intention of the policy on design, it is clear both from the content of the policy and the supporting text that what is important is that new development is integrated with the settlement pattern, its character and its setting in open countryside. The policy is consistent with the reviewed Policy 6 on infilling.

7.3.3 General conformity with the strategic policies of the development plan has not changed as a result of the review and Policy 1 is likely to continue to contribute to sustainable development. Accordingly, Policy 1 of the SNPR continues to meet the Basic Conditions a), d) and e)

7.4 Policy 2 - A Mix of Housing Types

7.4.1 Policy 2 seeks to secure a housing mix that responds to the need for smaller units to help support a sustainable community. Assessed afresh against the NPPF 2019 the policy has regard to the requirement in paragraph 61 of the NPPF that the size, type and tenure of housing needed for different groups should be reflected in planning policies. There is however a need to correct the referencing to the NPPF in this section see Appendix 1.

7.4.2 The policy is not inconsistent with the reviewed Policy 6 on infilling.

7.4.3 General conformity with the strategic policies of the development plan has not changed as a result of the review and Policy 2 is likely to continue to contribute to sustainable development. Accordingly, Policy 2 of the SNPR continues to meet the Basic Conditions a), d) and e)

7.5 Policies 3-5 - Site Allocations

7.5.1 Policies 3-5 and supporting text sets out the basis for the main allocations of housing land in Sutton cum Lound. The site selection has been arrived at following a robust site assessment process.

7.5.2 The allocation policies assessed afresh against the NPPF 2019 would have regard to it. However, the NPPF indicates that plans should provide a practical basis within which

decisions on planning applications can be made with a high degree of predictability and efficiency and the PPG states that neighbourhood plans should be clear and unambiguous. Against these tests the SNPR supporting text to the policies contains two areas where the text is confusing as it is inconsistent.

7.5.3 First, in my original examination report there was a detailed discussion about the need for the SNP to designate a new development boundary to include the 3 allocated sites and this modification was implemented in the 'made' plan. However, partly as a result of the fact that it was not highlighted in my report, each of the sections of supporting text to the 3 policies at Paragraphs 98, 107 and 111 continue to state that the allocation sites are outside the development boundary. This is confusing and ambiguous as it is contrary to Map 5: Policies Map and these references should be deleted.

7.5.4 Second, in my original examination report there was also a detailed discussion about the inappropriateness of trying to phase the development on the site allocated in Policy 4 - Land South of Lound Road to take place after development of the allocation in Policy 3. The modification deleting the reference to phasing in Policy 4 was accepted and implemented in the 'made' plan. However, the supporting text at paragraph 110 still refers to it as an objective and needs to be corrected in the SNPR. Inasmuch as paragraph 110 is reporting that the impact on landscape character scored a red in the assessment the first sentence of the paragraph can remain but the reference to phasing development in the rest of the paragraph should be removed.

Recommendation 3 –

3A – Delete references to the allocated sites being outside the development boundaries in paragraphs 98, 107 and 111. Revise to read:

Para 98 – “*This 1.25 hectare site adjoins Mattersey Road....*”

Para 107 – “*This 0.53 hectare site has a road and a pair of semi-detached.....*”

Para 111 – “*This 0.77 hectare site is on the southern approach to the village...*”

3B – Delete all of paragraph 110 after first sentence. Replace with the following text: “Nevertheless, with careful design as required in Policy 4 any negative impact can be minimised.”

7.5.5 The need for these further modifications in respect of this section of the Review flows from earlier modifications and are justified as the SPC has resubmitted the whole plan as the Review. They constitute minor non-material corrections which it is necessary to make to meet Basic Condition a) and the need for plans to be unambiguous. The ability of this section of the plan to meet Basic Conditions d) and e) is unaffected.

7.6 Policy 6 - Infill Development in Sutton cum Lound Village

7.6.1 Policy 6 (the focus of the Review to the SNP) seeks to guide infill and redevelopment proposals in the village and to encourage such development to provide smaller dwellings well related to village services.

7.6.2 Assessed afresh against the NPPF 2019 the principle of the policy has regard to the NPPF in seeking to ensure that the development is in keeping with its surroundings. It also, in principle, continues to be complementary and additional to Policy CS8 of the BCSDMP setting out the development strategy for the rural service centres including Sutton cum Lound.

7.6.3 The clause that was omitted in error during the editing of the original plan prior to the referendum and now reinstated is entirely justified in helping to further define the scale of infilling and redevelopment the Policy envisages. However, the part of the clause which introduces the possibility of flexibility refers only to dwelling size when arguably plot size would also be a principal determinant as to whether more than 1 or 2 dwellings could reasonably be accommodated. Adding plot size to the clause would demonstrate the policy has had full regard to section 11 of the NPPF seeking to make effective use of land.

7.6.4 In publishing the SNPR however further errors have been made in the text of Policy 6 which mean that, in its submitted form, the policy fails the test of being clear and unambiguous. It is not clear whether these errors were made in the process of making the modifications set out in my original examination report or subsequently in reviewing the policy but they must be corrected.

7.6.5 In clause 1b) part of clause 1c) has been incorporated at the end, meaning clause 1b) is unclear. Clause 1c) meanwhile includes part of the text of clause 2 again meaning the clause is confused and unclear. Clause 2, in its proper location at the end of the policy, as it is not a requirement but an indication of when proposals will be supported, has omitted the words '*that are within safe walking distance of local amenities*'. Assuming this was unintentional, as it appears in the wording at the end of clause 1c), it should be reinstated.

7.6.6 I am satisfied that these are all non-material corrections. They do not seek to add to the policy or change the way in which it would operate. They simply ensure the policy is clear and unambiguous thus meeting Basic condition a).

7.6.7 General conformity with the strategic policies of the development plan has not changed as a result of the Review and Policy 6 is likely to continue to contribute to sustainable development. Accordingly, Policy 6 of the SNPR once modified as set out below will meet the Basic Conditions a), d) and e).

Recommendation 4

4A – Insert in Policy 6 Clause 1d) Line 3 the words '*plot and*' immediately before the word 'dwelling'.

4B – In clause 1b) Lines 4-5 - delete the words '*...of building lines and boundary treatments should reflect the positive characteristics of the area*'

4C – In clause 1c) - insert full stop after the word 'site' and delete the rest of the wording in the clause.

4D – Insert after the word ‘sites’ in line 1 of clause 2 the words “*that are within a safe walking distance of local amenities....*”

7.7 Policy 7 - Enhancing Facilities in the Village

7.7.1 Policy 7 of the SNPR encourages and supports the provision of community facilities appropriate to the rural setting. Assessed afresh against the NPPF 2019 the policy has regard to paragraph 92 of the NPPF encouraging plans to plan positively for the provision and use of community facilities. There is however a need to correct the referencing to the NPPF in this section see Appendix 1.

7.7.2 General conformity with the strategic policies of the development plan has not changed as a result of the Review and Policy 7 is likely to continue to contribute to sustainable development. Accordingly, Policy 7 of the SNPR will meet the Basic Conditions a), d) and e).

7.8 Policy 8 - Improving Green Infrastructure

7.8.1 Policy 8 of the SNPR gives encouragement to development proposals that would improve green infrastructure and protects and enhances public rights of way. Assessed afresh against NPPF 2019 and sections 8, 9 and 15 of the NPPF in particular, which encourage planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure, Policy 8 has regard to national policy.

7.8.2 General conformity with the strategic policies of the development plan has not changed as a result of the Review and Policy 8 is likely to continue to contribute to sustainable development. Accordingly, Policy 8 of the SNPR will meet the Basic Conditions a), d) and e).

7.9 Policy 9 - Highway Safety

7.9.1 The SNPR at Policy 9 seeks to respond to significant concern regarding highway safety in the parish and in the village in particular and requires development to demonstrate that it has been designed to improve pedestrian and highway safety in the immediate vicinity of the site. Assessed afresh against the NPPF 2019 at section 9 it is clear that the policy has regard to national policy and in particular paragraph 110. There is however a need to correct the referencing to the NPPF in this section see Appendix 1.

7.9.2 General conformity with the strategic policies of the development plan has not changed as a result of the Review and Policy 9 is likely to continue to contribute to sustainable development. Accordingly, Policy 9 of the SNPR will meet the Basic Conditions a), d) and e).

8. Other Matters

8.1 Severn Trent Water in their Regulation 16 comments reiterated comments made at the Regulation 14 stage requesting changes to a number of policies other than Policy 6 to

insert references to sustainable surface water drainage, flood alleviation etc. SPC chose not to make any changes as these did not relate to the reviewed policy.

8.2 I am aware that in carrying out this examination I have recommended some modifications to sections of the plan not directly the subject of the Review on the basis that the SPC chose to republish the whole plan. However, unlike the Severn Trent representations, these are solely to either update references or correct errors in the plan remaining from revisions made following the examination of the original plan and typographical errors and should be corrected to ensure the plan is clear and unambiguous. These are all non-material corrections. The Severn Trent representations by contrast would be material changes which have not been consulted on.

9.0 Conclusion

9.1 Subject to the recommended modifications set out above being completed, it is appropriate that the Sutton cum Lound Neighbourhood Plan Review should proceed to be made.

9.2 The Council has 5 weeks from receipt of this completed examination report to 'make' the modified plan including the making of any modifications that I recommend in order that the reviewed Plan will meet the Basic Conditions. If necessary, this period may be extended provided it is with the agreement of the Qualifying Body.

Recommendation 5

I recommend to Bassetlaw District Council that the Sutton cum Lound Neighbourhood Plan Review, modified as specified above, meets the Basic Conditions and should proceed to be 'made'.

Peter D Biggers Independent Examiner – 18 January 2021

Appendix 1 – Table of Non-Material Updating Changes

Page	Location	Correction
6	Paragraph 14 Line 1 1 st Sentence	Replace with the following: <i>“The adopted district policies are in the Core Strategy and Development Management Policies Development Plan Documents 2011.”</i> Reason: The SNPR makes an incomplete reference to the Development Plan and policies that are of relevance.
	Paragraph 15 Line 2	Insert after ‘Core Strategy’ the words <i>“and Development Management Policies DPD,....”</i> Reason: The SNPR makes an incomplete reference to the Development Plan and policies that are of relevance.
15	Table 3 5 th row ‘The Roads / Speeding / Safety’ – Lines 7/8/9	Delete from the words ‘an aspirational policy’ to the end of the sentence. Replace with: <i>...”Policy 9 to secure appropriate access and road safety projects that could be delivered (subject to funding)”</i> Reason: The Aspirational Policy was replaced by Policy 9 under a modification recommended and accepted in the original examination into the SNP. This consequential change has been missed and needs to be corrected.
16	Footnote 10 Line 2	Delete the words ‘aspirational policy’ and replace with: <i>“Policy 9 and the community projects at Appendix A”</i> Reason: The Aspirational Policy was replaced by Policy 9 under a modification recommended and accepted in the original examination into the SNP. This consequential change has been missed and needs to be corrected.
19	Policy 1 section 1c) and section 3a)	Add the word “and” at the end of sections 1c) and 3a) Reason: These linking ‘and’ words are necessary for consistency through the policy.
20	Paragraph 81 Lines 1-2	Delete the quote from the NPPF and paragraph reference. Replace with the words <i>“mix of housing”</i> and paragraph reference <i>“61”</i> Reason: The NPPF 2019 no longer includes this phrase and the paragraph numbers have changed for the housing section.
29	Paragraph 126 Lines 1-3	Delete the quote from the NPPF and

31	Paragraph 131 Line 3	<p>paragraph reference. Replace with the words "...planning policies should <i>plan positively for the provision and use of community facilities and local services</i>" and paragraph reference "92" Reason: The NPPF 2019 no longer includes this phrase and the paragraph numbers have changed.</p> <p>Delete the reference to AP2 and the word 'allocate' Replace with "<i>Policy 7</i>" and the word "<i>deliver</i>". Reason: The Aspirational Policy 2 was replaced by Policy 7 under a modification recommended and accepted in the original examination into the SNP. This consequential change has been missed and needs to be corrected. If the wish was to allocate a site during the plan period it should have been identified in the plan. Therefore, the word "deliver" is more accurate and better reflects Policy 7(2)</p>
33	Paragraph 154 Lines 5-6	<p>Delete the quote from the NPPF and paragraph reference. Replace with the words "...and designed to <i>provide safe and suitable access</i> it is justified..." and reference "<i>section 9 paragraph 108</i>" in place of 'paragraph 35' Reason: The NPPF 2019 no longer includes this phrase and the paragraph numbers have changed.</p>
34	Paragraph 155 Line 6 to end	<p>Delete the last sentence of the paragraph including the NPPF quote. Reason; Aspirational policies were recommended to be removed in the original SNP examination and a modification recommended that it was replaced with Policy 9. This consequential change has been missed and needs to be corrected. Also the NPPF no longer includes this quote at paragraph 29.</p>

Appendix 2 – Table of Typographical Corrections

Page	Location	Correction
8	Paragraph 25 line 5	Remove bracket after the word ‘occurs’.
10	Paragraph 42 Line 2	Replace the word ‘these’ with the word “ <i>there</i> ”. Reason: To make grammatical sense.
12	Paragraph 47 Line 2	Replace the word ‘issues’ with the word “ <i>issue</i> ”. Reason: To make grammatical sense.
17	Subtitle to section 13	Relocate subtitle to next page. Reason: The subtitle is ‘orphaned’ at the foot of the page and separate from its text.
21	Paragraph 93 Line 3	Remove full stop after the word ‘identified’. Reason: To make grammatical sense.
22	Map 5 Title	Change title to Map 5 to refer to “ <i>Policies Map</i> ”. Reason to be consistent with the wording in paragraph 97 immediately preceding.
22	Subtitle at foot of page	Relocate subtitle to next page. Reason: The subtitle is ‘orphaned’ at the foot of the page and separate from its text.
23	Paragraph 102 Line 3	Insert the word “ <i>and</i> ” after the word ‘benefit’. Reason: To make grammatical sense.
24	Policy 3 (1) Line 3	Delete the replicated words ‘where the applicant can demonstrate that the scheme meets all...’. Reason: these words appear twice in the policy.
26	Paragraph 111 Line 2	Insert full stop after the word ‘boundary’. Start new sentence “On the eastern...” Reason: To make grammatical sense.
27	Polcy 5 Section d)	Make the word ‘treatments’ plural

27	Line 1 Subtitle to section 16 at foot of page	Reason: To make grammatical sense. Relocate subtitle to next page. Reason: The subtitle is 'orphaned' at the foot of the page and separate from its text.
29	Paragraph 129 Line 1	Delete the word 'They' and replace with the word " <i>The</i> ". Reason: To make grammatical sense.
33	Paragraph 153 Line 2	Delete the word 'policy' replace with the word " <i>police</i> ". Reason: To make grammatical sense.