

## **3BS (BEECHES, BOOTHS AND BARR) NEIGHBOURHOOD PLAN 2020 – 2031**

**The Report of the Independent Examiner to Birmingham City Council on the 3Bs  
Neighbourhood Plan**

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**13<sup>th</sup> August 2021**

## Summary

I was appointed by Birmingham City Council, in agreement with the 3Bs Planning Forum, in May 2021 to undertake the Independent Examination of the 3Bs Neighbourhood Plan.

The Examination has been undertaken by written representations. I visited the Neighbourhood Area on 24<sup>th</sup> June 2021 after resolving my enquiries of the Qualifying Body.

The Neighbourhood Plan proposes a local range of policies and seeks to bring forward positive and sustainable development in the 3Bs Neighbourhood Area. There is an evident focus on safeguarding the very distinctive character of the area whilst facilitating a new direction for the area and accommodating future change and growth.

The Plan has been underpinned by extensive community support and engagement. The social, environmental and economic aspects of the issues identified have been brought together into a coherent plan which adds appropriate local detail to sit alongside the Birmingham Development Plan 2031.

Subject to a series of recommended modifications set out in this Report, I have concluded that the 3Bs Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum.

I recommend that the referendum should be held within the Neighbourhood Area.

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## Introduction

This report sets out the findings of the Independent Examination of the 3Bs Neighbourhood Plan 2020 - 2031. The Plan was prepared and submitted to Birmingham City Council by the 3Bs Planning Forum as the Qualifying Body.

Neighbourhood Plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently incorporated within the National Planning Policy Framework (NPPF) in 2012 and this continues to be the principal element of national planning policy. A new NPPF was published in July 2021 and it is against the content of this NPPF that the Plan is examined. The changes between the 2019 and 2021 revisions of the NPPF have not been significant in the examination of Policies in this Plan.

This report assesses whether the 3Bs Neighbourhood Plan is legally compliant and meets the 'basic conditions' that such plans are required to meet. It also considers the content of the Plan and, where necessary, recommends modifications to its policies and supporting text. This report also provides a recommendation as to whether the 3Bs Neighbourhood Plan should proceed to referendum. If this is the case and that referendum results in a positive outcome, the 3Bs Neighbourhood Plan would then be used in the process of determining planning applications within the Neighbourhood Area boundary as an integral part of the wider Development Plan.

### The Role of the Independent Examiner

The Examiner's role is to ensure that any submitted Neighbourhood Plan meets the legislative and procedural requirements. I was appointed by Birmingham City Council, in agreement with the 3Bs Planning Forum, to conduct the Examination of the 3Bs Neighbourhood Plan and to report my findings. I am independent of both Birmingham City Council and the 3Bs Planning Forum. I do not have any interest in any land that may be affected by the Plan.

I possess the appropriate qualifications and experience to undertake this role. I have over 40 years' experience in various local authorities and third sector bodies as well as with the professional body for planners in the United Kingdom. I am a Chartered Town Planner and a panel member for the Neighbourhood Planning Independent Examiner Referral Service (NPIERS). I am a Member of the Royal Town Planning Institute.

In my role as Independent Examiner, I am required to recommend one of the following outcomes of the Examination:

- the 3Bs Neighbourhood Plan is submitted to a referendum; or
- the 3Bs Neighbourhood Plan should proceed to referendum as modified (based on my recommendations); or
- the 3Bs Neighbourhood Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.

As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. 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 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 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 Act (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.

These are helpfully covered in the submitted Statement of Basic Conditions and, subject to the contents of this Report, I can confirm that I am satisfied that each of the above points has been properly addressed and met.

In undertaking this Examination I have considered the following documents:

- 3Bs Neighbourhood Plan 2020 - 2031 as submitted
- 3Bs Neighbourhood Plan Basic Conditions Statement (November 2020)
- 3Bs Neighbourhood Plan Consultation Statement (May 2020)
- 3Bs Neighbourhood Planning Design Support (April 2019)
- 3Bs Landscape Analysis (March 2019)
- 3Bs Sustainable Urban Drainage Guidance (February 2019)
- Strategic Environmental Assessment Determination (September 2020)
- Habitat Regulation Assessment (HRA) Screening Statement for the Beeches, Barr and Booths (3Bs) Neighbourhood Plan (undated)
- Content at <https://3bsplanning.wixsite.com/planningforum>
- Representations made to the Regulation 16 public consultation on the 3Bs Neighbourhood Plan - as shown at:  
[www.birmingham.gov.uk/info/20054/local\\_plan\\_documents/1032/beeches\\_booths\\_and\\_barr\\_3bs\\_neighbourhood\\_plan](http://www.birmingham.gov.uk/info/20054/local_plan_documents/1032/beeches_booths_and_barr_3bs_neighbourhood_plan)
- Birmingham Development Plan, Adopted 2017
- National Planning Policy Framework (NPPF) (2021)
- Neighbourhood Planning Regulations (2012)
- Planning Practice Guidance (PPG) (March 2014 and subsequent updates)

I carried out an unaccompanied visit to the Neighbourhood Area on 24<sup>th</sup> June 2021. I looked at all the various sites, locations and impressive open spaces identified in the Plan document and their contexts.

The legislation establishes that, as a general rule, Neighbourhood Plan examinations should be held without a public hearing, by written representations only. Having considered all the information before me, including the representations made to the submitted plan which I felt made their points with clarity, I was satisfied that the 3Bs Neighbourhood Plan could be examined without the need for a public hearing and I advised Birmingham City Council accordingly. The Qualifying Body and the Local Planning Authority have helpfully responded to my enquiries so that I may have a thorough understanding of the facts and thinking behind the Plan, and the correspondence is to be made

available on the Birmingham City Council Neighbourhood Planning website for the 3Bs Neighbourhood Plan.

### **3Bs Neighbourhood Area**

A map showing the boundary of the 3Bs Neighbourhood Area has been provided within the Neighbourhood Plan. Further to an application made by 3Bs Planning Forum, Birmingham City Council approved the designation of the Neighbourhood Area 23rd January 2017. This satisfied the requirement in line with the purposes of preparing a Neighbourhood Plan under section 61G(1) of the Parish and Country Planning Act 1990 (as amended).

### **Consultation**

In accordance with the Neighbourhood Planning (General) Regulations 2012, the Qualifying Body has prepared a Consultation Statement to accompany the Plan.

The Planning Practice Guidance says:

“A qualifying body should be inclusive and open in the preparation of its Neighbourhood Plan [or Order] and ensure that the wider community:

- is kept fully informed of what is being proposed
- is able to make their views known throughout the process
- has opportunities to be actively involved in shaping the emerging Neighbourhood Plan [or Order]
- is made aware of how their views have informed the draft Neighbourhood Plan [or Order].”  
(Reference ID: 41-047-20140306)

The submitted Consultation Statement shows that community consultation started as long ago as 2015. A launch meeting in early 2016 attracted 80 people through the combined use of leaflets through doors, social media, press reports and invitations to stakeholders. Although attendees were fewer, the first AGM of the Forum made progress with core themes and working groups were established. I note that the core themes were then used as a basis for dialogue across the Summer of 2016, and again in 2017 and 2018, at a variety of community events or from stalls. Further interest in the potential of the Plan arose from floods in early 2017 which gave rise to some specific public meetings. Other interest and opportunities for engagement were generated around community meetings arising from the plans to host the Commonwealth Games. I note that a number of selective meetings around specific areas of interest or proposals were held in late 2018/ early 2019 helping to develop finer detail. In accordance with the Regulation 14 requirement, a formal pre-submission consultation was held between November 18<sup>th</sup> 2019 until (an extended end date of) March 6<sup>th</sup> 2020. A questionnaire was produced as part of the consultation and that was available online as well as at the drop in events where residents were encouraged to complete one during the drop in. 41 surveys were completed and the feedback was used, alongside other detailed feedback, to finalise the drafting of the Neighbourhood Plan prior to submission in September 2020; the impact of the consultation input is noted in the Consultation Statement.

Accordingly, overall I am satisfied that the consultation process accords with the requirements of the Regulations and the Practice Guidance and that, in having regard to national policy and guidance, the Basic Conditions have been met. In reaching my own conclusions about the specifics of the content of the Plan I will later note points of agreement or disagreement with Regulation 16

representations, just as the Qualifying Body has already done for earlier consultations. That does not imply or suggest that the consultation has been inadequate, merely that a test against the Basic Conditions is being applied.

### **Representations Received**

Consultation on the submitted Plan, in accordance with Neighbourhood Planning Regulation 16, was undertaken by Birmingham City Council from Friday 18th December until Friday 12th<sup>1</sup> February 2021. I have been passed the representations – 19 in total – which were generated by the consultation. I have not mentioned every representation individually within the Report but this is not because they have not been thoroughly read and considered in relation to my Examiner role, rather their detail may not add to the pressing of my related recommendations which must ensure that the Basic Conditions are met.

### **The Neighbourhood Plan**

The 3Bs Planning Forum is to be congratulated on its extensive efforts to produce a Neighbourhood Plan for their area that will guide development activity over the period to 2031. I can see that a sustained effort has been put into developing a Plan guided by a Vision (set down in Section 3 of the Plan) that, by 2031:

“the 3Bs will be a garden suburb north of the City; a clean, attractive, green area. There will be easy access to a high-quality natural environment including extensive parks, waterways and open spaces. There will be a range of local shops, community and leisure facilities to support the well-being of local people. Streets and public spaces will be well managed and the area will provide people with;

- a safe, pleasant and accessible place to live; and
- opportunities to access employment, leisure, housing and vibrant local centres.

The 3Bs will be an aspirational, multi-cultural place where everyone is valued and can thrive.”

The Plan document is a well-presented combination of text, images, maps and Policies that are, subject to the specific points that I make below, laid out helpfully for the reader. The Plan has been kept to a manageable length by not overextending the potential subject matter and the coverage of that.

The themed approach of the Neighbourhood Plan is impressive. The balance between Policy content and supporting documents has generally been addressed well. Community support amongst the representations is evident (“This is fantastic. Gives me hope for Birmingham.”), with some comments urging the Plan to go further, often beyond the scope of a land use planning document. Clearly, expectations have been raised. It is, however, evident that much of the implementation of the Plan is linked to, apparently uncertain, funding including the legacy from the Commonwealth Games. I appreciate that it is the nature of a planning document that it should be looking to future improvement. But the NPPF notes (para 16), “Plans should... be prepared positively, in a way that is aspirational *but deliverable*” (*my emphasis*). In this context the “Community Action” commitments are likely to be significant and I will consider these in that context. But helpfully the local authority has advised “With reference to ‘legacy’ funding, this is perhaps a generic description for funding which could be accessed from a range of sources based on the vision and projects being set out in the Perry Barr Regeneration Framework. This framework is being developed to set out an approach which will maximise the benefits of the existing investment in Perry Barr and ensure continued momentum in the regeneration of the area. It will include a non-statutory masterplan and an associated delivery plan, covering spatial and non-spatial objectives and projects. Public consultation on this framework will commence in early July 2021. There is a spatial overlap between the Perry

Barr Masterplan and the 3Bs Neighbourhood Plan. This has been discussed with the NP Forum and there is alignment between the principles of the NP and the opportunities and projects which are set out in the Perry Barr Regeneration Framework.”

The local authority has further advised: “We can confirm that flood risk proposals for this community as outlined within the 3Bs Neighbourhood Plan are within our 5 year ‘Project Pipeline.’ At present we are developing a business case for Grant in Aid (GiA) and Local Levey funding .... In addition to GiA and Local Levey, there are often discretionary pots of funding made available, through non-standard DeFRA grants. However, to apply for these there is usually a requirement for specific policies to deliver a scheme to form part of the Local Development Plan, and for evidence of community engagement and support. The adoption of a Neighbourhood Plan is therefore a significant boost for securing funding from these funds .... For all future flood risk management schemes, community engagement is given weight as part of the scoring process for the funding bid, and Neighbourhood Plans which propose flood risk management schemes do provide a boost that other unsupported schemes [don’t] have. This is seen to reduce the risk of local opposition to a scheme, and to ensure that securing planning permission is not impeded, thus reducing the risk of delaying the project and increasing the likelihood of delivering on time and on budget. The adoption of the 3Bs Neighbourhood Plan will significantly increase the likelihood of Birmingham LLFA securing funding to deliver the proposals within the Neighbourhood Plan and reducing flood risk to the community. We will continue to work closely with the Neighbourhood Forum to implement their policies and work collaboratively to secure funding.” I am therefore satisfied that, whilst it is appreciated there are no guarantees, there is evidence of alignment between the Neighbourhood Plan’s proposals and related funding mechanisms.

I note that a representation comments: “It is disgraceful that [the Plan] excludes the athletes’s village development without justification leading to cynical conclusions as to the motivations for doing so.” The Qualifying Body has responded: “The Plan area excluded the athlete’s village because it was recognised that the ability of the NP to influence the scheme was limited compared to the potential to frame an environmental, economic and social strategy in the context of development associated with Perry Park. This was the focus of concern and priority for the community.” The local authority has added: “the need to develop the Athletes’ Village (as it was intended to be used) at pace given the contracted timescales Birmingham is working to in delivering the [Commonwealth] Games, would have made its inclusion in the NP illogical.” My role is to Examine the Plan as presented and not to imagine another scenario for a differently bounded Plan.

It is an expectation of Neighbourhood Plans that they should address the issues that are identified through community consultation, set within the context of higher-level planning policies. There is no prescribed content and no requirement that the robustness of proposals should be tested to the extent prescribed for Local Plans. Where there has been a failure by the Qualifying Body to address an issue in the round, leading to an inadequate statement of policy, it is part of my role wherever possible to see that the community’s intent is sustained in an appropriately modified wording for the policy. It is evident that the community has made positive use of “direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area” (Planning Practice Guidance Reference ID: 41-001-20140306).

Individually I can see that the Policies address legitimate matters for a Neighbourhood Plan as identified with the community. I will later look at the Policies in turn so as to ensure that the Basic

Conditions are met, which include an obligation to be in general conformity with Local Plan strategic policies.

Having considered all the evidence and representations submitted as part of the Examination I am satisfied that the submitted Plan has had regard to national planning policies and guidance in general terms. It works from a positive vision for the future of the Neighbourhood Area and promotes policies that are, subject to amendment to variable degrees, proportionate and sustainable. The Plan sets out the community's priorities and establishes a sound basis for proportionate change whilst seeking to identify and safeguard 3Bs's distinctive features and character. The plan-making process had to find ways to reconcile the external challenges that are perceived as likely to affect the area with the positive vision agreed with the community. All such difficult tasks were approached with transparency, with input as required and support from Birmingham City Council.

However, in the writing up of the work into the Plan document, it is sometimes the case that the phraseology is imprecise, not helpful, or it falls short in justifying aspects of the selected policy. This is not uncommon in a community-prepared planning document and something that can readily be addressed in most instances. Accordingly, I have been obliged to recommend modifications so as to ensure both clarity and meeting of the 'Basic Conditions'. In particular, Plan policies as submitted may not meet the obligation to "provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency" (NPPF para 17). I bring this particular reference to the fore because it will be evident as I examine the policies individually and consider whether they meet or can meet the 'Basic Conditions'.

### **Basic Conditions**

The Independent Examiner is required to consider whether a Neighbourhood Plan meets the "Basic Conditions", as set out in law following the Localism Act 2011; in December 2018 a fifth Basic Condition was added relating to the Conservation of Habitats and Species Regulations 2017. 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 Plan for the area;
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations;
- not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(d).

The submitted Statement of Basic Conditions has very helpfully set out to address the issues in relation to these requirements and has tabulated the relationship between the policy content of the Plan and its higher tier equivalents. I note that the Local Plan is the Birmingham Development Plan 2031.

I have examined and will below consider the Neighbourhood Plan against all of the Basic Conditions above, utilising the supporting material provided in the Basic Conditions Statement and other available evidence as appropriate.

### **The Plan in Detail**

I will address the aspects of the Neighbourhood Plan content that are relevant to the Examination broadly in the same sequence as the Plan. Recommendations are identified with a bold heading and italics, and I have brought them together as a list at the end of the Report.

### **Front cover**

A Neighbourhood Plan must specify the period during which it is to have effect. I note that there is a prominent reference to the Plan period, starting at the point of Plan submission, 2020 – 2031 on the front cover. The reference to “Submission Version” can now be removed.

### **Table of Contents**

The listings will need to be reviewed once the text has been amended to accommodate the recommendations from this Report.

### **Common Abbreviations**

I noted an error with the detail for the acronym SLINC which should be ‘Site of Local Importance for Nature Conservation’. In July 2021 the NPPF was revised and therefore the references to it in the Referendum version of the Plan should be updated.

### **1 Foreword**

No comments.

#### ***Recommendation 1:***

*1.1 Amend the front cover to delete “Submission Version”.*

*1.2 Once the Plan text has been amended, review the “Contents” page to accommodate as required the recommended modifications from this Report.*

*1.3 Under the heading “Common Abbreviations”:*

*13.1 Amend the entry for the National Planning Policy Framework to replace “2019” with ‘2021’.*

*13.2 Amend the detailing of “SLINC” to read ‘Site of Local Importance for Nature Conservation’.*

### **The 3Bs Neighbourhood Plan**

Paragraph 2 here is a little confused. BCC will continue to have responsibility for decisions on planning applications and *strategic* planning policy but the Neighbourhood Plan adds some *local* planning policies. As the other paragraphs here seem to provide a sufficient explanation of the context for the Neighbourhood Plan, I suggested to the Qualifying Body that paragraph 2 was best omitted, and they agreed.

The representation from Sport England comments: “There is an omission of the Birmingham Playing Pitch Strategy as [one of] the City Wide Studies. Given the Commonwealth Games are taking place in the area it is disappointing.” The Qualifying Body responded: “The Play Pitch Strategy was referred to in the drafting of the NP – agree it should be listed at 4(f).” Another absent document reference is also identified under “11 Reducing the Risk of Flooding” later but is picked up in the recommendation below.

A map within the Neighbourhood Plan should show the designated “Neighbourhood Area”. To avoid confusion that is therefore how Map 1 should be titled.

**Recommendation 2:**

*Under the heading “The 3Bs Neighbourhood Plan”:*

*2.1 Delete paragraph 2 and renumber subsequent paragraphs accordingly.*

*2.2 In paragraph 4 add into the list of City Wide Studies after (e) ‘f) Birmingham Playing Pitch Strategy’ and g) ‘Birmingham Sustainable Drainage: Guide to Design, Adoption and Maintenance’; renumber subsequent entries in the list.*

*2.3 Retitle Map 1 on page 7 as ‘The designated 3Bs Neighbourhood Area’.*

**2 The need for a Neighbourhood Plan**

No comments.

**3 Towards a Garden Suburb**

A representation comments: “Point 22 is categorically untrue..... The sprint route will lead to a significantly smaller loss of green space than continuing to prioritise private vehicle use in the area. The commonwealth games proposals, especially for the athletes’ village, reintroduce a significant number of trees in a well landscaped, pedestrian friendly environment of an appropriate density given its proximity to a rail station and busy public transport corridor. The athletes (*sic*) village, conspicuous in its absence from the 3Bs area (why?) is a perfect example of what a sustainable, public and active transport prioritising garden suburb should be.” And further “Point 23 is an allegation”. The Qualifying Body responded: “Para 22 and 23 need to be seen in the context of para 21 which states that ‘the impact of the Commonwealth Games proposals has the potential to further reduce the leafy characteristics [of the Plan area] para 22 ‘Sprint bus lanes .... may see the loss of more grass verges on Walsall Road’ and ‘the impact development at Perry Park may have on the remaining mature trees and open green spaces there.’ At the time of writing the NP the details of the landscape scheme for Perry Park were not known. The sprint bus lanes do see the loss of some verges. Both statements used the word ‘may’ and reflected community concern. It is accepted that the landscape scheme at Perry Park will increase tree cover but the sprint bus scheme will see the loss of grass verges.” I accept that, in context, the text is an accurate reflection of the story behind the Plan. However, the local authority has also commented: “Firstly, BCC would like to ensure that there is clarity as to the difference between proposals which are for the Commonwealth Games and proposals which are to support the ongoing regeneration of Perry Barr but will be delivered ahead of, and to the benefit of, the Games. Secondly, assuming that the proposals to which the Plan refers are in fact the accelerated regeneration proposals (and not proposals specific to Games delivery), the Council refutes the suggestion that these will reduce the leafy characteristics of the area. Our preference would be for the Examiner to recommend this section is updated to reflect information now available on the detail of projects.” Since, under its sub-title, this Section is intended to be forward-looking rather than controversial, I suggest that the opportunity is taken to review the content in the light of the current knowledge and these comments, and that is what I recommend below.

**4 Consultation**

I note a helpful cross-reference to the Consultation Statement.

## **5 Community Vision**

Whilst I can see that the Community Vision Statement gives an indication of from where the community started, the passage of time has somewhat eroded the “15 year” vision into what is now a 10 year Plan. The Qualifying Body agreed an amendment to ‘2031’ would be appropriate.

### **Recommendation 3:**

*3.1 Under the heading “3 Towards a Garden Suburb”:*

*3.1.1 Replace paragraphs 21 & 22 as follows:*

*‘21 When the Plan area was built out substantially in the 20th century, the design of the housing included grass verges and street trees. Many of the houses have long gardens and the back-land areas added to the sense of being on the edge of a city but in a leafy residential area. The presence of the allotments fronting Walsall Road reflected the importance of ensuring people could have space to grow their own food and enjoy the outdoors and Perry Park and Perry Hall Park provided great opportunities for access to the open space.*

*22 Over the years and incrementally, parts of the Plan area have lost these leafy characteristics. This is due in part to reduced public sector funding for public open spaces which has seen a loss of planting and maintenance of Perry Hall Park, Perry Park, Turnberry Park and Kingsdown Park. The delivery of key regeneration projects in Perry Barr should enhance the positive characteristics of the area. However, there are two projects which directly affect the 3Bs plan area and are therefore considered in more detail here:*

*a) The Sprint cross city bus priority corridor is currently being implemented along the A34 Walsall Road through the plan area. This has resulted in the loss of some grass verges and trees on the Walsall Road, with plans for replacement and additional trees which should be informed by this plan, and*

*b) Development at Perry Park has also seen the loss of some trees and open green spaces, some on a temporary basis with reinstatement required.*

*The plan therefore sets out how the Forum has already worked with and expects, in the future, to work with the City Council and other agencies to offset these losses with a view to delivering overall environmental enhancements.’*

*3.1.2 Remove paragraph 23 to Section 2, inserted between paragraphs 15 and 16; amend paragraph numbers accordingly.*

*3.2 Within the Community Vision Statement on page 13 replace “In 15 years time” with ‘By 2031’.*

## **6 Community Objectives**

No comments, I regard this as a record of the product from community consultation.

## **7 The Birmingham City and 3Bs Policy Fit**

No comment.

## **8 Engaging with the Community: A Key Principle**

### **NPP 1 Pre-Application Community Engagement**

The NPPF (paragraph 126) includes the expectation of “effective engagement between applicants, communities, local planning authorities and other interests throughout the process.” Whilst I note that this Policy only ‘encourages’, the documents that should be submitted for a planning application to be validated are set down in statute. Rather than encourage a separate document, applicants might more reasonably be encouraged to include details of how their community engagement has influenced and benefitted the proposals. Element (c) of the Policy strays into an area that would already be an expected part of the Design and Access Statement as well as being more appropriately addressed in other Policies within the Neighbourhood Plan. The Qualifying Body accepted these comments.

As a small formatting matter, I believe it is usually a colon rather than a semi-colon that precedes a list of criteria within a Policy.

#### **Recommendation 4:**

*Under the heading “NPP 1 Pre-Application Community Engagement” in paragraph 2:*

*4.1 Replace “provide a short document with” with ‘include details within’.*

*4.2 Replace the semi-colon after “to explain” with a colon (and use the colon in the same context in other Policies in the Plan).*

*4.3 Delete element (c).*

As amended Policy NPP 1 meets the Basic Conditions.

### **Neighbourhood Plan Policies**

It is a requirement for Neighbourhood Plans (Schedule 4B to the Town and Country Planning Act 1990) that they should not relate to more than one Neighbourhood Area. Map 2 appears in parts to bind neighbouring areas to the “Masterplan” for the 3Bs Area. It is evident that the content of the map derives substantially from an analysis of the existing setting rather than proposals as such. The Qualifying Body responded: “Map 2 is not intended to bind adjacent areas but the nature of the Plan and its surroundings meant that the connections are existing and extend beyond the NP area. The Map is visually helpful to the community and it is strongly preferred that the Map remains in as amended rather than being removed.” Accordingly, the map needs either to be presented as analysis or it needs to be replaced with a simplified “Masterplan” prepared to relate solely to matters internal to the Neighbourhood Area (with the analysis from which it is derived referenced to its original source). The latter approach therefore provides the basis for my recommendation.

However, the local authority has added: “In making any changes, BCC suggests that the shaded red area to the south east which is currently described in the key as ‘proposed development area’ should be instead referred to as ‘Perry Barr Residential Scheme. The title Perry Park (Commonwealth Games Redevelopment site) is inaccurate (this should be called Perry Park and Alexander Stadium, and if reference to the Games is required it should be in terms of the Stadium as a host venue).” As full implementation of the first of these proposals would involve an alteration to the original map included in the DSA study it is beyond my remit, but the second part relates to content within the Neighbourhood Area.

From the text it is unclear to me how the listed 'Key Principles' have been derived and also in what ways they might be said to be "Key". The Qualifying Body has explained: "the key principles are taken from the list of points in the DSA study page 16. This list shows how the landscape analysis has looked at joining up the green spaces in the NP area and forms the basis for Map 2." The source therefore needs to be declared.

**Recommendation 5:**

**5.1 On Map 2 on page 18:**

*5.1.1 Restrict the content exclusively to that within the Neighbourhood Area boundary, bringing arrow heads and numbers inside where appropriate, deleting parts of symbols that cross the boundary and deleting content to the south that is outside of the boundary.*

*5.1.2 Amend the map title to '3Bs Masterplan (based on the analysis included in the 'Landscape Analysis Beeches, Booths and Barr' 2019 prepared by DSA [provide a source reference])'.*

*5.1.3 Add a heading to the top two key columns: 'Analysis'; amend the lower key to remove "Proposed Development Area".*

*5.1.4 Amend the Perry Park legend to 'Perry Park and Alexander Stadium (host venue for the Commonwealth Games)'.*

*5.2 On Table 2 add: 'Derived from 'Landscape Analysis Beeches, Booths and Barr' 2019 prepared by DSA'.*

**9 Sustainable Development**

At least one representation queries the suggestion, at the end of paragraph 46, that the Commonwealth Games developments are not contributing to environmental improvement and may be the cause of "an erosion of the environment for local residents". Another representation comments: "Should include wider consultation with Birmingham Cycle Resolution (*sic*) to extend the A34 cycleway through the area from Alexander Stadium and out north of the area. This plan has a very poor overview of travel in all aspects and without changing how people travel in the area the goals of this scheme won't be met, some hedges won't make the area as good as it could be if there are cars speeding through the area, causing pollution, damaging verges with improper parking and dominating community spaces."

The local authority has commented: "it is important to differentiate between the Commonwealth Games (an event, with some specific interventions), and wider regeneration activity which happens to be accelerated for the Games. There is a strategic ambition set out by BCC to extend the cycle network, as well as to implement other measures which will reduce car reliance and improve access to and take up of active and sustainable travel modes. We believe that the NP reflects what is proposed rather than ambition for the future in this respect. Whilst the strategic role is held by BCC and WMCA in respect of transport, BCC would welcome it being more clearly reflected in the NP. In reference to the inclusion of "an erosion of the environment for local residents" the Council refutes this suggestion. The Birmingham Walking and Cycling Strategy LCWIP includes the Perry Barr area in phase one improvements for a regional priority route between Perry Barr and Walsall and in phase four, Perry Barr to Sutton. The planned transport projects in the area have mitigated their impact on the environment. Transport for West Midlands are developing a Commonwealth Games Transport Plan that is due to be published in January 2022. This plan will encourage as much sustainable travel

as possible.”

The Qualifying Body has explained: “para 46 reflected community concerns at the time of writing about the proposed development – it does not say it will erode the environment but that it must make sure it won’t. Birmingham Cycle Revolution – agree that promoting cycling into, out of and around the Plan area should be supported and the proposals in the NP WRT improving green and blue connections are intended to increase active travel which is defined as cycling and walking (see NPP 5). The Birmingham Cycle Revolution celebration document (Jan 2020) indicates that the A34 cycle route to Birchfield will be extended to Perry Barr by 2021. The bus lanes will take out some of the cycle lanes and Councillor Hunt advises that there are now no proposals to extend the cycle route north of the river Tame (*sic*). NPP 5 refers to the importance of making cycling connections between the parks and the waterways and para 97 of the NP identifies the opportunity for Regina Drive to be a cycling route. Table 4 includes a list of projects that are supported by the community and that could be delivered as part of the development proposals up to 2031. The project listed as ‘improving walking/cycling connections to schools’ could be amended to add after connections ‘into and out of the Plan area and ...’” Accordingly I will address the latter matter at Policy NPP 5.

### **NPP 2 Sustainable Development**

It is a central tenet of the NPPF (paragraph 7) that “The purpose of the planning system is to contribute to the achievement of sustainable development.” Paragraph 6.1 of the Birmingham Development Plan (BDP) notes: “The quality of the City’s environment, ensuring sustainable development and dealing with the impacts of climate change will be central to the successful delivery of the BDP.” It is therefore appropriate for the 3Bs Neighbourhood Plan to set down its key issues to deliver sustainable development, although the Plan read as a whole provides the detail for delivery.

All the elements of Policy NPP2, except the last, are linked with an “and”, implying that all must be achieved every time. In practice this will not be possible, perhaps because of the scale of the development, eg a single infill dwelling, or because of its location, which may be so distant from eg a heritage asset that there is no reasonable connection. The pre-ambles therefore, as a minimum, needs to include ‘as appropriate’. Further the Policy does not seem to be true to the ‘Key Principle’ of the spine network whilst perhaps overplaying some elements that have their own Policy(ies) later. I note that there is a specific mention of the “mitigation hierarchy” but this could do with source referencing (eg BS42020:2013) for a full understanding - or omission here as Policy NPP7 may be the more appropriate place to develop such detail. The Qualifying Body commented in response: “accept that ‘as appropriate’ should be added at NPP 2 1. NPP 2 is intended as an overarching policy and the list a) to j) reflects primarily the community’s definition of sustainable development and k) was added based on comments at Reg 14.” I will temper my recommendations on the basis of this understanding.

The Environment Agency has recommended: “Re wording of 1) a) to read ‘Proposals are required to demonstrate they will; improve biodiversity (by promoting the planting of trees, shrubs, and natural flora)’ Addition of 1) l) to read: ‘l) protect and enhance the natural ecological & geomorphological function of watercourses’.” These suggestions were agreed by the Qualifying Body.

The Canal and River Trust identified a wording error in element (e) of the Policy where “water way” should be ‘waterway’.

**Recommendation 6:**

6.1 Under the heading “9. Sustainable Development”, on page 19, update footnote 17 from “NPPF 2018 para 7” to “NPPF para 7”.

6.2 Under the heading “NPP 2 Sustainable Development”:

6.2.1 Omit the number “1” at the beginning of the Policy.

6.2.2 Amend the introductory sentence to read: ‘To be supported, development proposals must contribute toward the achievement of sustainable development by, as appropriate, demonstrating they will:’.

6.2.3 Amend the elements of the Policy as follows:

6.2.3.1 Remove the “and” between elements.

6.2.3.2 Add a new first element (and renumber subsequent elements accordingly): ‘contribute to the delivery of the Master Plan (Map 2)’;

6.2.3.3 Reword the existing element (a) to read ‘proposals are required to demonstrate they will improve biodiversity (by promoting the planting of trees, shrubs, and natural flora)’.

6.2.3.4 Amend the existing element (e) by replacing “water way” with ‘waterway’.

6.2.3.5 Reword the existing element (i) to read: ‘protect and enhance the designated areas of nature conservation including SLINCs’.

6.2.3.6 Add an additional element to read: ‘protect and enhance the natural ecological & geomorphological function of watercourses’.

As amended Policy NPP 2 meets the Basic Conditions.

**10 Improving Landscape Character**

The title here implies rather more is encompassed than the subsequent Policy which relates only to Parks; it seems that the title should be just ‘Landscape Character’ since most of what follows is descriptive. Sport England comments: “There needs to be a positive statement on the improvement of sports facilities/playing pitches in the parks.” In response the Qualifying Body commented: “it is accepted that the opening section is descriptive and an amendment to landscape character would be acceptable. The emphasis from the community was the need to improve the parks (see NPP 3) rather than the sports pitches. The community would support an additional criterion in NPP 3 supporting the improvement of sports facilities and playing pitches in the parks. The 3Bs Forum accept and expect that the Commonwealth Games development will improve the sports provision in the Plan area.”

**Improving the Parks**

A representation comments:

“Para 55 - Perry Park also contains heritage assets.

Para 57 - Perry Hall Park - the medieval moat and former fishponds are heritage assets.

Para 61 - Perry Park contains heritage assets - former mill pools and the sites of watermills.”

The Qualifying Body responded that “The NP acknowledges the presence of heritage assets in Perry Hall Park. The moat is referred to at para 57 this could be amended to add ‘medieval’ before moat and heritage assets in brackets afterwards. The heritage assets in the parks are shown on Map 14 – this could be referenced in this earlier descriptive section.”

### **NPP 3 Improving the Parks**

The NPPF paragraph 92 expects planning policies which “support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.” The Development Plan Policy ‘TP9 Open space, playing fields and allotments’ supports the retention and improvement of public open spaces.

Within Policy element 1 it is unclear how “development” might “protect public access to”; the earlier descriptive content suggests that these areas are designated and therefore protected as public open spaces; the expectation is, it would seem, more about new development realising opportunities, where possible, for additional access points. With other elements it is evident that some/many are management issues that would not entail a planning consent; however, the implication seems to be that “improvement proposals” would come forward from the owners and these would be capable of being influenced through the planning process in line with Development Plan Policy TP9. In element 3 it appears contradictory that “development proposals” should “maintain the Park as an open green space”.

The Environment Agency has recommended: “Addition of 2) d) ‘look to facilitate the natural processes of the River Tame’. Addition of 3) e) ‘naturalise the Perry Brook to restore natural functions, improve biodiversity and slow flows’. Addition of 4 f) ‘look for multi-functional solutions to improve, water attenuations, water quality, biodiversity and public amenity value’.”

A representation comments: “We support the policy 2(a) to enhance heritage assets in Perry Hall Park but it should read east of the River Tame, not north (*sic*).”

To these issues the Qualifying Body responded: “the intention of NPP 3 (1) is to ensure that new development should ensure there remains access to the parks from all the existing points. Turnberry and Kingsdown Parks have access points from the side of a run of shops. (See photos on page 41). There was concern to ensure that these access points were protected (if development proposals for improvements or extensions to the shops came forward.) At Perry Park one of the earlier proposals for the Commonwealth Games site included the removal of the allotments, this met with strong local opposition and the submitted proposals do include the allotments. The reference to protecting the allotments 3a) and the more general point about maintaining the park as an open green space 3d) reflect community concerns that development associated with the commonwealth games may see the loss of access to some areas of the park. [The Environment Agency’s] suggested additions would be supported – they are in line with the sort of improvements that the community want, particularly where they will enhance biodiversity and reduce the risk of flooding elsewhere. Agree[d] that NPP 3 2a should read enhance the heritage assets to the east of the River Tame.”

The Qualifying Body has added: “Map 3 was produced by BCC and shows their planning designations for things like playing fields and public open space but this does not always accord with how the space is used so the request is that to the title of Map 3 is added 'Nature Conservation and Open

Spaces as defined by BCC'. And Sport England have referred to a playing pitch that is not used at present but Map 4 could show its location - this has been added to the map attached (it is the pink square next to the allotments) and would replace Map 4." Since these would provide greater clarity, I am happy to include them as recommendations.

**Recommendation 7:**

*Under the heading "10 Improving Landscape Character":*

*7.1 Change the title to Section 10 by removing "Improving".*

*7.2 In paragraph 53 add to the first sentence 'and Map 14 shows the heritage assets in the parks'.*

*7.3 In paragraph 55 amend the last sentence to read: 'Perry Hall and Perry Hall Park both include heritage assets which help to provide a quality space to relax and walk.'*

*7.4 Amend the title of Map 3 to read: 'Nature Conservation and Open Spaces as defined by BCC'.*

*7.5 Replace Map 4 with the replacement Map with added playing pitch supplied by the Qualifying Body with their email of 16<sup>th</sup> June 2021.*

*7.6 In paragraph 57 replace "moat" with 'medieval moat (heritage asset)'.*

*7.7 In paragraph 61 after "Perry Reservoir" insert: ', former mill pools and the sites of watermills'.*

*7.8 Within Policy NPP 3:*

*7.8.1 In element 1 replace "Development must protect public access to" with 'Development proposals should demonstrate they retain and where possible enhance the public access routes into'.*

*7.8.2 In element 2(a) replace "south" with 'east'.*

*7.8.3 Add a new element 2(d) as follows: 'look to facilitate the natural processes of the River Tame'; also add '; and' at the end of element 2(c).*

*7.8.4 Reword element 3(d) as: 'protect the Park's open green space; and'.*

*7.8.5 Add a new element 3(e) as follows: 'naturalise the Perry Brook to restore natural functions, improve biodiversity and slow flows'.*

*7.8.6 Add a new element 4(f) as follows: 'look for multi-functional solutions to improve water attenuations, water quality, biodiversity and public amenity value'; also add '; and' at the end of element 4(e).*

As amended Policy NPP 3 meets the Basic Conditions.

**Greening the Streets**

The Landscape Analysis is an impressive piece of evidence. The dilemma is about how to capitalise on this in planning policy terms. Paragraph 72 says: "The 3Bs Forum recognise that there is a double benefit from encouraging *development* that contributes to making the area a garden suburb" [my

*emphasis*] but, in reality, development opportunities are not identified, doubtless because these are limited in a mature, urban setting; what are in fact identified are “interventions”. In this context therefore the benefits of planning policy are likely to be weak and yet the Community Actions appear to be marginal to the delivery of the scale of anticipated “interventions”.

In their response to my concerns the Qualifying Body commented: “the community acknowledge that apart from the proposals relating directly to the Commonwealth Games at Perry Park, additional development will be limited. Nevertheless, NPP 4 seeks to ensure that where planning permission for infill development or change of use [requiring a planning consent] is required that there is no further loss of trees, hedges and grass verges. Over the years it is the incremental development that has seen the cumulative loss of street trees and character. The major development of industrial units on Walsall Road and the boundary treatment (see photo on page 72 and discussed at para 175) demonstrated the limitations of the BCC city wide approach. A neighbourhood plan provides the opportunity to take a more localised view of the sort of development that would be acceptable (subject to being in accordance with the basic conditions of course) and that is what NPP 4 seeks to do. The community actions are separate from the NP policy and are intended to capture the actions that have been generated as a consequence of the Forum’s creation and the production of a neighbourhood plan which has raised a range of other matters that fall outside the planning system.” I don’t feel that this response properly addresses the significance of the need for “interventions” and, whilst they are normally beyond my area of interest as an Examiner, I feel it is appropriate below to make a recommendation in relation to the “Community Action” content.

#### **NPP 4 Greening the Streets**

The NPPF at paragraph 20 notes that “Strategic policies should .... make sufficient provision for .... conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.” In turn the strategic policy of the Birmingham Development Plan, Policy TP7 says: “The City Council will also seek to conserve and enhance Birmingham’s woodland resource (collectively known as ‘The Birmingham Forest’) .... All trees, groups, areas and woodlands will be consistently and systematically evaluated for protection and all new development schemes should allow for tree planting in both the private and public domains. The importance of street trees in promoting the character of place and strengthening existing landscape characteristics will be recognised.” This context is very supportive of Policy NPP 4.

Within Policy NPP 4, element 1 appears to be a piece of supporting text rather than a policy statement; the latter actually starts with element 2 where it should not be implied that support for development proposals rests solely upon planting. Elements 2 and 3 seem to say the same thing and could readily be merged; the emphasis on areas identified as “red” should, I believe, be a focus for both the Policy and the Community Action. In response the Qualifying Body has commented: “much of the response to the questions are considered under the section above. However, the NP group will be guided by the examiner in terms of how the policy wording can most reasonably reflect the intent. It is agreed that the areas identified as ‘red’ should be a focus for both the policy and the community action.”

In wording terms, the tense for ‘replace’ in 2(a) would appear to be wrong and in Community Action, (d) seems unnecessarily to repeat “to”.

**Recommendation 8:**

Within Policy NPP 4:

8.1 Delete element 1 of the Policy and renumber subsequent elements accordingly.

8.2 In element 2:

8.2.1 In the opening sentence add ‘, as appropriate,’ between “proposals” and “should”.

8.2.2 In 2(a) amend “replaced” to ‘replace’.

8.2.3 In 2(b) add ‘particularly where employment areas are contiguous with residential uses’.

8.2.4 Amend element 2(d) to add ‘; particularly innovative interventions will be needed in the areas identified as red on Maps 5 & 7;’.

8.3 Delete element 3 and renumber subsequent elements accordingly.

8.4 Within the related Community Action:

8.4.1 In element (d) delete “to”.

8.4.2 Add an additional element as follows: ‘(e) With the Woodland Trust and others identify fundable projects that would advance progress with the delivery of the 3Bs Garden Suburb.’

As amended Policy NPP 4 meets the Basic Conditions.

**Waterways****Improving blue and green connections**

I note that the Canal and River Trust has commented on this section: “We welcome attempts to improve the attractiveness and safety of the canal corridor in order to increase its use and share its benefits with the wider community.”

**NPP 5 Improving blue and green connections**

The NPPF (paragraph 104) notes that “Transport issues should be considered from the earliest stages of plan-making and development proposals, so that .... opportunities to promote walking, cycling and public transport use are identified and pursued.” Birmingham Development Plan Policy TP 27 notes (*inter alia*): “Sustainable neighbourhoods are characterised by .... Environmental sustainability and climate proofing through measures that save energy, water and non-renewable resources and the use of green and blue infrastructure.” Policy NPP 5 helps to set out such an approach for the Neighbourhood Area.

It seems improbable that there will be a scale of development in the Neighbourhood Area that would “provide” a “network” of active connections for walking or cycling between the parks and waterways. More realistically perhaps, ‘where appropriate, development proposals should contribute to or improve elements of the network of active connections for walking or cycling between the parks and waterways’.

The Environment Agency has recommended: "Addition of 1) g) 'incorporating a buffer zone free from proposed development & hardstanding next to watercourses which can be naturalised to provide space for water, biodiversity and natural geomorphological processes.'"

The Canal and River Trust has commented: "The reduction of vegetation along the canal cutting/embankment could have detrimental impacts on the structural integrity of the cutting/embankment, which in a worst-case scenario, could result in their failure through removing support." They therefore have suggested revised wording for the second element of Policy NPP5 as follows: "Proposals that provide visibility to the canal through or over the bridge on Walsall Road are supported, subject to the proposals not having an adverse impact on the structural integrity of the canal infrastructure and the biodiversity and amenity value of the canal corridor".

To these issues the Qualifying Body has responded: "the NP sought to be aspirational given the scale of change in the Plan area due to the Commonwealth Games and the timeframe for the NP to 2031. However, it is recognised that given the residential nature of the Plan area, the opportunities for change beyond Perry Park will be more limited. The wording suggested 'where appropriate development proposals should contribute or improve elements of the network of active connections for walking or cycling between the parks and waterways' is supported. EAs suggested addition for NPP 5 1g) is supported - it would enhance biodiversity and reduce the risk of flooding in the residential areas. The Canal and River Trust additional wording is supported."

### **Community Action**

The Canal and River Trust point out that there is an absence of references to the Trust here, despite the Trust being the owner of Freeth Bridge. Similarly, it is noted (page 42) that the Forum will work with "the police and other agencies"; the Trust feels it should be specifically referenced at this point as they are happy to discuss the potential creation or modifications of access points with the Neighbourhood Forum. The Trust also notes that at paragraph "85 it is remarked that views toward the canal are obscured due to the canal being enclosed by lock gates. Given that lock gates are fundamental to the operation of a canal for boaters and are therefore intrinsic with the canal network, we assume that this is a typographical error and that it is meant to be read as 'locked gates'". They have asked that this be reviewed and corrected/clarified. The Trust further comments: "It is posed within the Plan the idea of the Neighbourhood Forum adopting a stretch of canal. This is something that the Trust would welcome, and we are keen to work with local organisations and agencies to create opportunities for community adoptions." This is perhaps an addition for Community Action?

The Qualifying Body commented in response: "the Forum would be pleased to work with the Canal and River Trust in respect of modifications to access points and in relation to Freeth Bridge and are pleased to acknowledge this. The reference to 'lock gates' should be 'locked gates' and is reference to the limited access in places e.g. on the bend at Kingsdown Avenue. Working with the Canal and River Trust is important and in the community action box on page 43 this could be added at f) to work with the Canal and River Trust." I therefore make recommendations below to pick up these points appropriately.

### **Recommendation 9:**

*9.1 Under the heading "Waterways", at paragraph 85 replace "lock gates" with 'locked gates'.*

*9.2 Within Policy NPP 5:*

9.2.1. Amend the opening sentence to read: ‘Where appropriate, development proposals should contribute to or improve elements of the network of active connections for walking or cycling into and out of the Neighbourhood Area and between the parks and waterways; this could include:’.

9.2.2 Under element 1 add an additional element as follows: (g) ‘incorporating a buffer zone free from proposed development & hardstanding next to watercourses which can be naturalised to provide space for water, biodiversity and natural geomorphological processes.’

9.2.3 Revise the wording of element 2 as follows: ‘Proposals that provide visibility to the canal through or over the bridge on Walsall Road are supported, subject to the proposals not having an adverse impact on the structural integrity of the canal infrastructure and the biodiversity and amenity value of the canal corridor.’

9.3 Within the related Community Action:

9.3.1 Replace the opening few words with: ‘The Forum will work with the Canal and River Trust and:’.

9.3.2 In element (b) delete “work with”.

As amended Policy NPP 5 meets the Basic Conditions.

## **11 Reducing the Risk of Flooding**

Paragraph 105 notes that “the 3Bs Forum recognise that the surface water run off flooding was made worse by the lack of front gardens and grass verges that in the past would have soaked up some of the water”. It is therefore surprising that, given the Permitted Development position also noted, that there is no related Community Action proposal here – however the Qualifying Body confirmed that the Community Action related to Policy NPP8 had been mislocated and should be alongside Policy NPP 6.

I noted that the “The AECOM report on SuDs”, the “Birmingham’s Sustainable Drainage: Guide to Design, Adoption and Maintenance” and Map 10 are not source referenced within the text. The Qualifying Body further noted that the Birmingham Sustainable Drainage: Guide to Design, Adoption and Maintenance should be included in the list of BCC documents on page 5, as earlier recommended.

## **NPP 6 Reducing the Risk of Flooding**

Paragraph 152 of the NPPF notes: “The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience ....”. Policy TP 2 of the Birmingham Development Plan includes a commitment, providing a context for Policy NPP 6, that “The City will need to adapt to the impacts of extreme weather and climate change. Measures to help manage the impacts will include:

- Managing Flood Risk and promoting sustainable drainage systems (Policy TP6) ....”.

The Canal and River Trust has commented: “As the Tame Valley Canal sits in a principal cutting along a significant stretch of canal included within the Plan area, the Trust has concerns that Policy NPP 6 may lead to an increase in SuDS drainage systems (notably soakaways) in close proximity to the

canal cutting. The drainage methods for proposed developments can have significant impacts on the structural integrity of waterways; for example, the operation of soakaways located close to cutting slopes can detrimentally affect the stability of these structures, which at worst, could lead to the failure of the canal cutting. It is paramount that surface water is discharged appropriately from sites in close proximity to the canal in order to protect the integrity and stability of the canal cutting/embankment slope. We therefore recommend that the following paragraph is included within the AECOM SuDS Guidance Report, which applicants/developers must take consideration of in accordance with Policy NPP 6: 'the location of any soakaway or SuDS system should be at least 10 metres away from the top of the canal cutting'. This is required in order to protect the structural integrity of the canal infrastructure. Furthermore, it should be known that the Trust is not averse to surface water draining to the Tame Valley Canal, though this will be decided on a case-by-case basis, and any applicant/developer would need to enter into a commercial agreement with the Trust." To this concern the Qualifying Body has responded: "the 3Bs NP seeks to reduce flood risk not increase it and defers to the Canal and River Trust's advice re the need to add a note in relation to the AECOM SuDS Guidance Report. If this is a recommendation in the examiner's report a footnote can be added in the 3Bs NP – it is suggested at para 109. Locality will also be requested to issue a revised final draft with the addendum. This revised final draft will be put on the 3bs web site." Accordingly, this is the basis of my recommendations.

Turning to the wording of the Policy, it is improbable that "all permanent alterations to a building and associated curtilage" will have an impact on drainage. Elements 2 & 3 appear to be a repetition of element 1, with the potential to confuse with the use of different wording. As things stand, the use of "assessment" in elements 1 & 2 is unexplained. Given that the use of a porous surfacing material will not require planning consent in many instances, it would seem more appropriate to say in element 4 that the use of replacement porous materials is 'encouraged'. Element 6 in this Policy is unexplained in the supporting text. To these issues the Qualifying Body has commented: "Suggest amending wording of NPP 6 (1) to 'Excepting where permitted development rights apply, and where development will have an impact on drainage ...' It is accepted that element 2 is a repeat of element 1. Element 3 focuses on the steps required where development could lead to surface water run-off. It was considered a helpful statement to clarify matters for developers and the community. The evidence provided in the NP and in the supporting documents of the negative cumulative impact of the use of non-porous materials is clear it is accepted that 'encourage' could be used given the scope of planning to address this matter. The inclusion of NPP 6 (6) reflects the difficulties sometimes in knowing where to put a cross cutting issue. The EA has suggested adding at NPP 3 4 f) [reference to] the need to look for multi-functional solutions to improve water attenuation, water quality, biodiversity and public amenity value'. If this is added to NPP 3 4 f) as suggested the ref at NPP 6 (6) could be removed."

**Recommendation 10:**

*10.1 Under the heading "11 Reducing the Risk of Flooding":*

*10.1.1 Add source reference footnotes for "The AECOM Report on SuDS" and the "Birmingham's Sustainable Drainage: Guide to Design, Adoption and Maintenance"; add to Map 10 'Map taken from the AECOM Report on SuDS'.*

*10.1.2 Add to paragraph 109 as follows: 'As a result of input from the Canal and River Trust the AECOM Report has been amended to note that, to protect the structural integrity of the canal infrastructure, the location of any soakaway or SuDS system should be at least 10 metres away from the top of the canal cutting.'*

*10.2 The Qualifying Body should arrange with AECOM for a suitable amendment/addendum to be added to the AECOM Report on SuDS to address the issues raised by the Canal and River Trust, to the satisfaction of the Trust, and the revised document clearly marked 'Revision [date]' should replace the existing version on the Neighbourhood Plan website.*

*10.3 Within Policy NPP 6:*

*10.3.1 Reword element 1 as: 'Excepting where permitted development rights apply or where development will have no impact on drainage, permanent alterations to a building and associated curtilage (including the conversion of gardens for parking) will demonstrate how the proposal meets the requirements set out in the 3Bs SuDS Design Guidelines in the AECOM SuDS Guidance Report.'*

*10.3.2 Delete element 2.*

*10.3.3 Amend element 3 to read: 'Where surface water run-off could be increased and SuDS are not proposed, alternative mitigation proposals will need to be suggested and justified by the applicant.'*

*10.3.4 In element 4 replace "will be supported which include" with 'are encouraged for'; also delete "as part of a highways scheme".*

*10.3.5 Delete element 6.*

*10.4 Relocate the Community Action that follows Policy NPP 8 to be immediately after Policy NPP6.*

As amended Policy NPP 6 meets the Basic Conditions.

## **12 Improving Biodiversity**

The use of "if applied by BCC" in paragraph 121 appears to imply some scepticism. However, the Qualifying Body has commented: "the community have been concerned throughout about the impact of major development particularly at Perry Park on biodiversity. However, this scepticism was not intended to be explicit in the NP and it is the hope of the Forum that through the NP policies and community actions, biodiversity will be significantly increased. [In] Para 121 'if applied by BCC' could be removed."

I noted that the areas referenced in paragraphs 129 & 130 do not subsequently appear in the related Policy. The Qualifying Body responded: "The areas identified at para 129 and 130 are also proposed as LGS and the community are keen to see their biodiversity value increased. However, it would be useful to reference them in NPP 7 and an additional criterion could be added to NPP 7 saying 'Proposals that improve biodiversity at locations such as Barr Bank and Perry Wood (and other small sites within the residential areas) will be supported.'"

## **NPP 7 Improving Biodiversity**

Paragraph 122 of the NPPF requires that: "Planning policies and decisions should contribute to and enhance the natural and local environment by .... minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures ....". The Birmingham Development Plan Policy TP 8 comprehensively

addresses the local approach to protecting biodiversity and the related hierarchy of spaces and mitigations such that these do not need repeating in the Neighbourhood Plan.

There are a number of drafting issues with Policy NPP 7. I note that element 1 makes a cross-reference to an incorrect element of Policy NPP 2 regarding the “mitigation hierarchy”; I noted however above that the BDP Policy TP 8 more appropriately addresses such Birmingham-wide issues. Element 1 also uses the term “these measures” but, in context, this appears to refer back to “compensation”. This has the effect of emphasising the “last resort” of “compensation”. Element 1 is therefore best omitted.

Element 2(d) of the Policy says “i.e. nest boxes” whereas the Qualifying Body has confirmed that ‘e.g. nest boxes’ was meant. Element 4 says “landscaping schemes submitted” .... “should include landscape schemes” and double references “the 3Bs Area” in a Policy that will only apply in the Neighbourhood Area; some simplification is needed.

The Environment Agency has recommended: “Rewording of 2) a) as we suggest avoiding the term ‘meadows’ as this implies a high expectation which can only be achieved through very specific establishment and maintenance requirements. This is fine if the resource is available but can lead to disappointment where not. Biodiversity gains can often be achieved via less onerous inputs, for example reducing grass cutting. We therefore recommend this is reworded to read: ‘strengthening and planting new hedgerows and planting or allowing wild flowers to establish allowing natural ruderal vegetation or shrubs to develop in strips to provide more robust habitat ‘corridors’ in and between Perry Hall Park, Perry Park, Turnberry Park and Kingsdown Park; and Rewording of 2) b) 3) and 4) as areas of taller ruderal vegetation and scrub are very beneficial for invertebrate and bird biodiversity and have the added benefit of increasing the permeability of the soil. This can be a much more cost effective solution to tree planting in places where the maintenance of trees may be onerous. It should therefore read: 2) b) planting of trees, scrub and other natural vegetation 3) The planting of tree and scrub species that have been shown to support improvements in local air quality should be included in major development proposals. 4) Where appropriate, landscaping schemes submitted to support major planning applications in the 3Bs Area should include landscape schemes that increase the extent of woodland and scrub cover and result in the planting of flora to enhance biodiversity in the 3Bs Area.” The Qualifying Body has responded: “EA’s explanation of the need to remove the word ‘meadows’ and replace with ‘strengthening and planting new hedgerows and planting or allowing wildflowers to establish allowing vegetation or shrubs to develop in strips to provide more robust habitat corridors ....’ is seen as a helpful amendment. Whilst the Forum accept the need to provide cost-effective solutions other than tree planting this shouldn’t mean that tree planting is not specifically referenced as it underpins the aspiration to create a garden suburb. EAs suggested wording amendments still references trees but the inclusion of the words ‘and scrub cover’ for NPP 7 and the ‘and scrub in NPP 7 2b is supported.”

Sport England comments: “We do have a concern of the biodiversity improvements which could impact negatively on formal sport. The creation of new wildlife corridors could create planning blight on the ability to install sports lighting to sites. Therefore, we would to see impact assessment provided for any biodiversity improvements within 50 m (or some other agreed distance) of playing fields, multi use games areas, tennis courts skate or BMX facilities.” The Qualifying Body has responded: “– there is no intention to reduce the effectiveness of the play pitches as these are also valued by the community. Given the size of Perry Hall Park and Perry Park and the opportunity for

biodiversity enhancements across the whole parks, is not expected that there would be any conflict.”

**Recommendation 11:**

*11.1 Under the heading “12 Improving Biodiversity” in paragraph 121 remove “, if applied by BCC,”.*

*11.2 Within Policy NPP 7:*

*11.2.1 Delete element 1.*

*11.2.2 In element 2:*

*11.2.2.1 Reword element (a) as: ‘strengthening and planting new hedgerows and planting or allowing wild flowers to establish, thus allowing natural ruderal vegetation or shrubs to develop in strips to provide more robust habitat ‘corridors’ in and between Perry Hall Park, Perry Park, Turnberry Park and Kingsdown Park; and’.*

*11.2.2.2 Reword element (b) as: ‘planting of trees, scrub and other natural vegetation especially at locations identified on Map 5 and 7, where there has been a loss of trees and hedge planting; and’.*

*11.2.2.3 In element (d) replace “i.e.” with ‘e.g.’.*

*11.2.3 Reword element 3 as: ‘The planting of tree and scrub species that have been shown to support improvements in local air quality should be included in major development proposals.’*

*11.2.4 Reword element 4 as ‘Where appropriate, landscaping schemes submitted to support major planning applications should increase the extent of woodland and scrub cover and result in the planting of flora to enhance biodiversity.’*

*11.2.5 Add an additional element: ‘5. Proposals that improve biodiversity at locations such as Barr Bank and Perry Wood (and other small sites within the residential areas) are encouraged.’*

As amended Policy NPP 7 meets the Basic Conditions.

### **13 Local Green Spaces**

I note that paragraph 131 suggests that Local Green Spaces are protected “for the duration of the Plan”. However, paragraph 101 of the NPPF actually says that Local Green Spaces should be “be capable of enduring beyond the end of the plan period”. The Qualifying Body has agreed “that it is the intention and expectation that the LGS designations endure beyond 2031”.

Although the analysis of how the four areas meet the NPPF criteria (paragraph 102) is not over-detailed, the descriptive text appears to establish that at least three of the areas can be said to be “demonstrably special to a local community and holds a particular local significance” and this has not been contested. However, Site D is significantly compromised by roadways and may fall short of this particular criterion; it is unclear what elevates this trisected space to “*particular* local significance” (my emphasis). The Qualifying Body has commented: “Site D is valued because of its green character and mature trees even though it is on Walsall Road. It is enjoyed by local people particularly because

it contrasts favourably with the hard urban feel as you continue along Walsall Road further south. It is a key entry point into Birmingham and being at the top of the hill it provides a focal point.” Whilst that explanation suggests why the location is significant, I feel it fails to convince that the green space is of “particular local significance”. I do however accept that it is illustrative of to what a Garden Suburb can aspire more generally and that is “particular” to the space identified. Accordingly, I accept the Local Green Space designations as proposed.

### **NPP 8 Designation of Local Green Spaces**

The NPPF (paragraph 103) says that “Policies for managing development within a Local Green Space should be consistent with those for Green Belts” which would not necessarily include for “development [that] clearly enhances the Local Green Space, for the purpose for which it was designated” as included within Policy NPP8. The Qualifying Body has commented: “The Forum are aware that since drafting there has been a Court of Appeal decision on the designation of local green spaces and the policy relationship with areas designated as Green Belts (2020 EWCA Civ 1259) and also the NPPF reference” and made a suggestion for redrafting. However, there is no need here for NPPF content to be interpreted.

#### **Recommendation 12:**

*12.1 Under the heading “13 Local Green Spaces”:*

*12.1.1 In paragraph 131 replace “for the duration of the Plan” with ‘to the same extent as Green Belt’.*

*12.1.2 For accuracy, in the table that follows paragraph 135, wherever “demonstrably special to the local community” is used this should be followed immediately by ‘and holds a particular local significance’.*

*12.1.3 In footnote 37 update the NPPF reference from “99 – 101” to ‘101 – 103’.*

*12.2 Within Policy NPP8:*

*12.2.1 In element 1 delete “and are protected for their beauty, recreational value, tranquillity or richness of wildlife’.*

*12.2.2 In element 2 delete “or if the development clearly enhances the Local Green Space, for the purpose for which it was designated”.*

*12.3 As noted above the Community Action box has been moved to be alongside Policy NPP 6.*

As amended Policy NPP 8 meets the Basic Conditions.

### **14 Improving Community Shopping Hubs**

The NPPF (paragraph 86) says: “Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.” The Birmingham Development Plan Policy TP21 ‘The network and hierarchy of centres’ says (*inter alia*) “Alongside new development, proposals will be encouraged that enhance the quality of the environment and improve access [at centres]”. The context for Policies NPP 7 – NPP 11 is therefore supportive.

In relation to Map 13 it is not explained how the boundary to each of the Shopping Hubs has been determined, which is problematic particularly since it is noted that “Tower Hill was not included on BCC’s list of Local Centres in the Birmingham Development Plan”. Since the boundaries extend beyond the shopping frontages the use of the term “hub” seems justified although I note this is not picked up in the sub/Policy headings. The Qualifying Body responded: “the boundaries for the shopping hubs were determined by AECOM in partnership and discussion with the Forum .... The boundaries are defined based on local understanding of the extent of these Local Centres. The Forum were advised not to call these areas Local Centres but ‘shopping areas’ by BCC in previous discussions. The descriptor for each area could be changed to Shopping Hub.” As no evidence is provided to support the boundaries and as it is not a Policy intention to ‘designate’ the areas identified, I believe that the boundaries should be shown with a broken not a solid line, so that their informal status is clear.

It is not explained what benefits would arise from the desired designation of Tower Hill as a Local Centre (paragraph 142). The Qualifying Body has explained: “Previous evidence was that the planning system was blind to the amenity value of Tower Hill as a community space in respect of the installation of a highly intrusive telecommunication mast right next to the shops. This application was won on appeal but at the time it was considered that had Tower Hill been a Local Centre this would have carried weight in the decision and may have resulted in the appeal being lost. Since then, locals accept that the value of Tower Hill has been more fully acknowledged in BCC policy.” The reference to designation could therefore be removed.

A representation comments: “Section (*sic*) 143 is the wrong way to approach this redevelopment, the area should be for local people, there will not be passing visitors as this is a fairly standard retail area and as such is not a long distance destination, designing it as such will focus on the wrong people and draw attention away from the local people who are key to the community.” The Qualifying Body responded: “The proposals for Tower Hill are exactly to make it better for local people e.g. para 147 proposals for an indoor community space and para 144 multi use open space for Bescot Court. The proposals seek to create attractive spaces indoors and out around the shops and facilities. The area would enhance that part of Walsall Road but more importantly make a focus for local people. Suggest adding additional text at para 143 after ‘to attract passing customers as well as to provide indoor and outdoor meeting space for local residents.’” This is helpful and will therefore provide the basis for my recommendation.

### **NPP 9 Regeneration of Tower Hill Shopping Area**

As within the other Shopping Hub Policies, element 1 appears to be a statement rather than a policy expectation, although the use of the term “redevelopment” here may be seen to be more all-encompassing than the supporting text suggests. I note that “Figure 1” is only referenced in relation to tree planting. Elements 3 & 4 appear to cover the same subject with the potential to confuse with the use of different wording. The direction of this element of the Policy seems to be at odds with the more preliminary Community Action to “undertake community consultation to seek ideas for the .... function of a community space at Tower Hill” since this consultation would also help to establish the feasibility of proposals. The Qualifying Body responded: “BCC does not have any published plans for the redevelopment of the library site. But it was part of the aspiration when work on the NP began in 2018 to incorporate plans to redevelop the library and the social housing. The redevelopment must retain the library facility as a key focus at Tower Hill. Although the plans have not progressed the Forum want to express support for it within the NP. NPP 9 1 is intended to demonstrate that all proposals should contribute to the regeneration of the shopping area. The extent to which the

proposals will include redevelopment is still not clear but it is anticipated that there will be some redevelopment of at least parts of the BCC buildings. It would be appropriate for figure 1 to be referenced in this wider context and the phrase 'in accordance with figure 1' could be moved to NPP 9 1. The Forum would accept element 3 being deleted so long as all parts of element 4 remain please. The community action reflects the fact that this project seems now to be moving more slowly but the Forum wanted NPP 9 to support the principle of a new mixed-use scheme. It is suggested that the wording of NPP 9 4 is sufficiently general in intent to not prejudice the necessary community consultation suggested in the community action." My recommendations therefore acknowledge these comments.

The Environment Agency has recommended: "Addition of 6) Regeneration that looks to enhance and treat the River Tame as a valuable aesthetic asset and improve community connectivity to the river will be supported." The Qualifying Body has acknowledged that "The addition of NPP 9 6 with wording suggested by the EA is in line with the Forum's aspirations and is supported."

### **Turnberry Shopping Area**

#### **NPP 10 Regeneration of Turnberry Shopping Area**

Some of my comments under Tower Hill above also relate to the other Shopping Hub policies. In Policy NPP 10 it is unclear what sort of "development" might be expected to include for the combination of planting trees, inclusion of SuDS and a "design" for the Park entrance and/or how this might be achieved. The Qualifying Body has responded: "There are no immediate development proposals for the shop forecourts but this is an important focal point for local services (school and the shops). The loss of street trees and grass verges create a 'hard' environment– it is also an area that floods. Access to the Park is hidden. The NP sets an aspiration for the enhancement of this space where funding and opportunity permit. It is expected that if there is funding for flood prevention it will focus on this neighbourhood. The application from BCC to EA is quite advanced. A proposed parish council might be able to match fund this as well." My recommendations therefore acknowledge these comments.

In relation to Figure 2, it is difficult to know what "6. Improve hardscape materiality in front of primary school" might mean. The Qualifying Body commented: "Figure 2 was produced by AECOM [and] whilst 6 is referenced in the key there is no 6 shown on figure 2 and it is assumed this is an editing error. AECOM could be asked to remove the ref in the key."

### **Thornbridge Avenue Shops**

#### **NPP 11 Regeneration of Thornbridge Avenue Shopping Area**

Some of my comments under Tower Hill above also relate to the other Shopping Hub policies. A representation comments: "Intelligent use of benches, trees and other softening measures will prevent vehicles from parking outside the shops and create spill out spaces and areas for visitors to linger rather than driving in and driving out again." The SuDS proposal at Thornbridge Avenue seems to be particularly ambitious, albeit with a very obvious justification; little detail is provided as to the extent that the proposal has support from those that would likely need to fund the proposal.

In response to these comments the Qualifying Body replied: "the comment [in the representation] is supported. The SuDs proposals are ambitious reflecting the level of concern. There is also space here to provide SuDs. The bid put in for flooding support was non-specific and is therefore open for shaping in terms of specific proposals. The 3Bs Forum is in discussions with BCC officers and site visits have taken place to see how the flooding support funding could deliver the proposals in the

NP.” And the local authority has also commented: “Birmingham Lead Local Flood Authority (LLFA), has worked closely with the community since the significant flooding in 2016, and we have worked constructively and supportively throughout the preparation of the 3Bs Neighbourhood Plan and the development of detailed policies and proposals .... The adoption of the 3Bs Neighbourhood Plan will significantly increase the likelihood of Birmingham LLFA securing funding to deliver the proposals within the Neighbourhood Plan and reducing flood risk to the community. We will continue to work closely with the Neighbourhood Forum to implement their policies and work collaboratively to secure funding. “

In acknowledgement of these comments my recommendations are limited to ensuring clarity.

**Recommendation 13:**

**13.1 Under the heading “14 Improving Community Shopping Hubs”:**

*13.1.1 On Map 13 and on Figures 1 – 3 replace the solid red line boundary to each Shopping Hub with a broken red line.*

*13.1.2 In paragraph 142 delete: “The 3Bs Forum seeks to work with BCC to get Tower Hill recognised as a Local Centre according to BCC’s definition to reflect the relative significance of Tower Hill to the local community.”*

*13.1.3 In paragraph 143 after “Hub” add ‘to attract passing customers as well as to provide indoor and outdoor meeting space for local residents’.*

**13.2 In relation to Policy NPP 9:**

*13.2.1 In the title replace “Area” with ‘Hub’.*

*13.2.2 Remove element 1 and place it at the beginning of paragraph 147, replacing “redevelopment” with ‘regeneration’; add a new element 1 as follows: ‘Development proposals within the vicinity of the Tower Hill Shopping Hub should demonstrate regard for the indicative scheme at Figure 1.’*

*13.2.3 In element 2 replace “that” with ‘should’ and delete “in accordance with figure 1 are supported”.*

*13.2.4 Replace elements 3 & 4 with: ‘A mixed-use scheme to include housing and a cafe as part of a library regeneration is encouraged so as to secure community and library facilities.’*

*13.2.5 Add an additional element as follows: ‘6. Regeneration that looks to enhance and treat the River Tame as a valuable aesthetic asset and improve community connectivity to the river is encouraged.’*

As amended Policy NPP 9 meets the Basic Conditions.

**13.3 In relation to Policy NPP 10:**

*13.3.1 Amend Figure 2 to omit element 6 from the key.*

*13.3.2 In the sub-title and Policy title replace “Area” with ‘Hub’.*

*13.3.3 Remove Policy element 1 and place it at the beginning of paragraph 149, replacing “development” with ‘regeneration’; add a new element 1 as follows: ‘Development proposals within the vicinity of the Turnberry Shopping Hub should demonstrate regard for the indicative scheme at Figure 2.’*

*13.3.4 Replace Policy elements 2, 3 & 4 with:*

*‘2. Development proposals should, as appropriate:*

*2.1 include the planting of trees as part of forecourt improvements and the creation of SuDS schemes;*

*2.2 make a more visible connection between the park and the shops so that the entrance to the park is clear;*

*2.3 facilitate crossing points to improve pedestrian safety near the school.’*

*13.3.5 Renumber Policy element 5 as element 3.*

As amended Policy NPP 10 meets the Basic Conditions.

*13.4 In relation to Policy NPP 11:*

*13.4.1 In the sub-title and Policy title replace “Area” with ‘Hub’.*

*13.4.2 Remove Policy element 1 and place it at the end of paragraph 153, replacing “development” with ‘regeneration’; add a new element 1 as follows: ‘Development proposals within the vicinity of the Thornhill Shopping Hub should demonstrate regard for the indicative scheme at Figure 3.’*

*13.4.3 Replace Policy element 2 with: ‘Development proposals should include softening the shop forecourts with benches and tree planting creating spill out spaces and areas for visitors to linger and the use of a SuDs scheme along Thornbridge Avenue.’*

As amended Policy NPP 11 meets the Basic Conditions.

## **15 Protecting and Enhancing Heritage Assets**

A representation from the Council for British Archaeology (West Midlands) comments: “p68 para 161 - first sentence is OK, but second sentence should read: Water mills were a feature of the area and there are millpools and the sites of mills in Perry Park. Third sentence should be parks not park. p68 para 165 - It would be better to say zig-zag bridge (Perry Bridge) because Perry Bridge is its name in the National Heritage List for England. This para could also point out that the bridge is the only scheduled monument in the 3Bs (it is also a grade II listed building). It is not medieval but dates to the 18th century although it is in a medieval style. We support the comments about its setting.”

The Qualifying Body welcomed the points of clarification from the Council of British Archaeology and the proposed text amendments.

The Canal and River Trust has noted: “Though the Trust supports the inclusion of Policy NPP 12, it should be noted that Map 14 is inaccurate as Locks 1 and 2 should be marked as statutorily listed. Moreover, paragraph 162 implies that all locks and bridges within the Plan area are listed, which is incorrect (Perry Barr footbridge is listed, as well as Perry Barr Locks 1 and 2).” The Qualifying Body

responded: “Map 14 .... was provided by BCC. Para 162 should be amended based on their comment.”

I note that paragraph 163 says “BCC has a Local List of 441 buildings, structures and features in the city” but Map 14 does not appear to show any within the Neighbourhood Area; the relevance of this City-wide reference may therefore be questionable. Paragraph 164 says that “Planning custom and practice protects the setting of Listed Buildings” but in fact the setting of a Listed Building is protected in statute to the extent it contributes to the significance of the heritage asset (<https://historicengland.org.uk/images-books/publications/gpa3-setting-of-heritage-assets/heag180-gpa3-setting-heritage-assets/>). The Qualifying Body commented: “The reference to the BCC city wide Local List is [to note] that there is already a Local List in the City.”

Paragraphs 166 & 167 appear confused as to what is proposed in Policy NPP 12. It is open to the Forum to identify and recognise non-designated heritage assets, provided a consistent set of criteria is adopted and, whilst recognition on the BCC Local List may enhance protection, this is not an essential step beyond the Neighbourhood Plan recognition. The intention is unclear, what the Policy says or what the supporting text says? The Qualifying Body responded: “The Forum consider that certain buildings have a local heritage quality and architectural value. They have identified these buildings. The Forum would like these to be recognised and given protection commensurate with their heritage value. The Forum seeks advice from the examiner on the most effective way to do this. Having them added to BCCs Local List was considered the most appropriate way of ensuring they are recorded. Perhaps their acceptance in the NP will be sufficient for them to be added to the Local List. The Forum welcomes BCCs comment and supports an approach that sees these buildings recognised for their local heritage value.”

### **NPP 12 Protecting and Enhancing Heritage Assets**

The NPPF section 16 provides the framework for ‘Conserving and enhancing the historic environment’. The Birmingham Development Plan states: “Proposals for new development affecting a designated or non-designated heritage asset or its setting, including alterations and additions, will be determined in accordance with national policy.” It is therefore appropriate for the Neighbourhood Plan to address the heritage assets of the Neighbourhood Area.

Element 1 of Policy NPP 12 is essentially a factual statement. Elements 2 & 4 appear to say the same thing, mentioning two specific examples en route. The Qualifying Body accepted these points and responded: “the specific identification of Perry Bridge and Badshah Palace is important. A suggested amendment to element 4 is ‘Proposals that enhance the setting of listed buildings, for example Badshah Palace and Perry Bridge to better reflect their historic significance will be supported’. And element 2 [can be] deleted.” Picking up from the content of Policy NPP 13, Windmill Cottages ought also to be exemplified here.

I commented to the Qualifying Body that whilst Appendix B illustrates the identified non-designated heritage assets with pictures, it provides no indication of the basis for the conclusion that these assets have heritage significance; this is vital as without this applicants and decision makers will be unable to assess the impact of proposals on that significance. The Qualifying Body responded that “the criteria used for the identification of non-designated heritage assets is (*sic*) explained at para 166 and footnote 42 provides a web link” but it is the application of those criteria that is vital. However, it is evident that both the Qualifying Body and the local authority wish for the heritage assets identified in the Plan to be under consideration when the BCC Heritage SPD and Local List are

updated, and the value of each heritage asset will be confirmed at that time. Meanwhile, therefore, the Appendix B list can only be part of a Community Action, pending the review of the Local List.

**Recommendation 14:**

**14.1 Under the heading “15 Protecting and Enhancing Heritage Assets”:**

14.1.1 With BCC, review Map 14 to ensure that it is a complete record of heritage assets within the Neighbourhood Area especially in relation to Perry Bridge and Locks 1 & 2; either add to this or provide an additional map to show the location of the assets identified in Appendix B.

14.1.2 At paragraph 161 replace the second sentence with ‘Water mills were a feature of the area and there are millpools and the sites of mills in Perry Park’ and in the third sentence replace “park” with ‘parks’.

14.1.3 Reword paragraph 162 as: ‘The waterways are also heritage assets with Perry Barr footbridge and Perry Barr Locks 1 & 2 all statutorily listed.’

14.1.4 Amend paragraph 163 to add to the first sentence ‘although there are presently none in the Neighbourhood Area’ and in the last sentence add ‘BDP’ before “Policy”.

14.1.5 At paragraph 164 replace “Planning custom and practice protects the setting of Listed Buildings” with ‘The setting of a Listed Building is protected to the extent it contributes to the significance of the heritage asset’.

14.1.6 At paragraph 165 add after “zig-zag bridge” ‘(Perry Bridge)’.

14.1.7 At paragraph 166 footnote 42 correct “was” to ‘were’.

**14.2 Within Policy NPP 12:**

14.2.1 Delete element 1 and footnote 43 (amend subsequent footnote numbering).

14.2.2 Merge elements 2 & 4 to read: ‘Proposals that enhance the setting of heritage assets to better reflect their historic significance, for example the listed Badshah Palace and Perry Bridge, and the non-designated Windmill Cottages, will be supported’.

14.2.3 Delete element 3.

14.3 Amend the Community Action to read: ‘The buildings and structures identified in Appendix B are nominated as heritage assets as historic buildings of local significance. The Forum will work with BCC to add all that meet BCCs criteria to the Local List.’

As amended Policy NPP 12 meets the Basic Conditions.

**16 Development of Employment Sites**

It is puzzling why a map would be included (Map 15) that “does not fully convey the extent of industry in the 3Bs area”. The Qualifying Body has explained: “Map 15 was produced by BCC and shows what they have designated as a Core Employment Areas ... the community do not want Baltimore Estate to become a core employment area or for there to be any confusion around this.

The Forum do not know why Baltimore Estate was not defined as a core employment area [by BCC] but assume it was its location in close proximity to Perry Hall Park and the existing conflict with the residential and park use." The positive interest of the community would therefore seem to revolve around protecting and enhancing the Park rather than promoting employment sites.

### **NPP 13 Development on Employment Sites**

This Policy is problematic. The Policy effectively prejudices the determination of a future planning application without providing the required evidence that the site is required and is suitable for residential development. I note that Birmingham Plan Policy TP20 does not address the Baltimore Industrial Estate in particular. To allocate the site for residential use in the Neighbourhood Plan would require significantly more evidenced analysis, not least problematic evidence that there are no more suitable sites as regards flood risk. The local authority has confirmed: "We are due to begin updating the BDP this year. This will include updating the evidence base for the industrial portfolio across Birmingham. Until this work has been done and the BDP update has reached its latter stages or further robust evidence to challenge the estate's existing use is provided, the position with regard to the Baltimore Estate remains as at present."

Looking at the Policy detail, element 1 is not appropriate since, as a note on every page of the Plan says, "All policies should be read in conjunction with adopted policies in the Birmingham Development Plan"; there is therefore no need for a Policy to restate what already exists. Element 4 has already been addressed within Policies NPP2, reworded NPP 4 & NPP 7 and gains nothing from further repetition. Most of the rest of the Policy is either about the relationship between Perry Hall Park and the industrial area or Windmill Cottages and the industrial area. Windmill Cottages has now been included within Policy NPP 12 and, similarly, it would be more appropriate for Park issues to be addressed within Policy NPP 3.

#### **Recommendation 15:**

*15.1 Delete Section 16 and Policy NPP 13 and renumber subsequent sections and policies accordingly.*

*15.2 Revisit Section 10 under the sub-heading 'Improving the Parks' and add a new paragraph 61 as follows (amending subsequent paragraph numbers accordingly): 'The Baltimore Industrial Estate includes large units off Lavendon Road whose operations have been the cause of complaint amongst local residents and users of Perry Hall Park. Proposals for development on the boundary of Baltimore Estate should not harm the amenity of the north west portion of the Park. The Forum will work with BCC to address positively and resolve these conflicts with the expectation of wider benefits - for example improved access to Perry Hall Park from this location and improved boundary landscaping.'*

*15.3 Revisit Policy NPP 3 and add a new element 2(e) as follows: 'address the issues of conflicting uses address the issues of conflicting uses so that proposals on the Baltimore Estate are not detrimental to the amenity and absence of access along the north western boundary of Perry Hall Park;'*

*15.4 Move the Community Action that presently follows Policy NPP 13 to follow Policy NPP 3.*

As further amended Policy NPP 3 continues to meet the Basic Conditions.

### **17 Protecting and Enhancing Community Facilities**

The NPPF supports the retention and improvement of community facilities at paragraph 93. The Birmingham Development Plan Policy TP 27 notes that sustainable neighbourhoods are characterised by (*inter alia*) “Access to facilities such as shops, schools, leisure and work opportunities within easy reach”.

Whilst the 3Bs facilities listed in Table 3 may be well known to the local community, for the information of prospective developers, I feel they need to be located on a map. Within the Table it is not clear what “enabling the wider community to enjoy the old cinema building is supported” is intended to say/suggest in relation to the Badshah Palace as a community facility. The Qualifying Body acknowledged that the wording is confusing and the wording ‘enabling the wider community to enjoy’ could be struck out.

#### **NPP 14 Protecting and Enhancing the provision of community facilities**

I note that whilst Table 3 is referenced in element 3 of the Policy, it is not in element 1 and the Qualifying Body agreed that it is relevant to both. Element 2 of this Policy relies on the availability of “up to date *published* evidence of community need in the 3Bs (and the surrounding area)” (*my emphasis*) it is not clear by whom such evidence is collated continuously; the Qualifying Body agreed that “published” should be deleted. Element 3 in the Policy makes a distinction between sports facilities and other facilities, but Table 3 does not seem to identify sports facilities other than as community facilities; The Qualifying Body suggested that ‘and sports’ facilities should be added to the Table heading.

#### **Recommendation 16:**

**16.1 Under the heading “Protecting and Enhancing Community Facilities”:**

16.1.1 Add a map illustrating and cross-referencing the facilities listed in Table 3; renumber subsequent maps accordingly.

16.1.2 Retitle Table 3 as ‘Community and Sports Facilities’.

16.1.3 Within Table 3 at the entry titled “Badshah Palace” replace “enabling the wider community to enjoy the old cinema building is supported” with ‘the old cinema building’.

**16.2 Within Policy NPP 14, now renumbered as NPP 13:**

16.2.1 Amend the Policy title as: ‘Protecting and Enhancing the provision of community and sports facilities’.

16.2.2 Add a new opening sentence as: ‘In relation to the community and sports facilities listed in Table 3:’.

16.2.3 In element 1 replace “Proposals to improve community facilities within the 3Bs Area” with ‘Improvement’.

16.2.4 In element 2 delete “for community facilities” and “published”.

16.2.5 In element 3 replace “The redevelopment of the facilities listed in Table 3” with ‘Redevelopment’ and in element 3(a) update the NPPF paragraph reference from “97” to ‘99’.

As amended and renumbered Policy NPP 13 meets the Basic Conditions.

### **18 Developer Contributions**

Paragraph 181 confusingly uses “attract” with two different meanings; I believe that it would be clearer to say that “residential, hotel or industrial development within the 3Bs area” do not pay CIL whereas “public realm and highway improvements” can benefit from CIL monies. The Qualifying Body agreed.

I note that the BCC Community Infrastructure Levy Regulation 123 List includes the following: “The Council will work with local communities and councillors to agree local priorities for spend. The ‘meaningful proportion’ held by local communities does not need to be spent on items within the Regulation 123 List, but local communities should work closely with the City Council to agree priorities for spending the neighbourhood funding element.” The Qualifying Body has proposed an amendment to Paragraph 182 to reflect the nature of discussions with BCC. However, I note that the text does indicate that discussion with BCC has reached agreement to the significant list of spend proposals at Table 4.

### **NPP 15 Developer Contributions**

As Policy NPP 15 cannot say anything more than Birmingham Plan Policy TP47, I believe that the pressing of Table 4 Projects – which the Qualifying Body is anxious to keep within the Plan text – should be a Community Action rather than a Policy.

#### ***Recommendation 17:***

*Under the heading “18 Developer Contributions”:*

*17.1 Amend sentence one of paragraph 181 to update the NPPF paragraph reference from “54 – 57” to ‘55 – 58’ and reword the second sentence to say: ‘Residential, hotel or industrial development within the 3Bs area does not pay CIL whereas public realm and highway improvements can benefit from CIL monies.’*

*17.2 Amend paragraph 182 to say: ‘There will be detailed discussions on the nature and scale of any developer contributions associated with individual development proposals in the Plan period. The Forum would support a package of measures which includes some form of contribution towards relevant projects listed in Table 4.’*

*17.3 Replace Policy NPP 15 with a Community Action box and replace element 3 with: ‘2. The Forum will prioritise support for the projects listed in Table 4 where possible and appropriate.’*

### **19 How will this Neighbourhood Plan deliver change?**

It is helpful that the Plan sets down a basis for co-operation in the delivery of the Plan.

### **20 Monitoring and Review**

It is helpful that the Plan sets down a basis for Plan review.

### **Appendices**

The Appendices generally appear to include content that is relevant to the understanding of the Plan content. However, Appendix A to some extent duplicates the content of the Consultation Statement that is required to accompany the Plan. The Qualifying Body has commented: “Appendix A was included in the NP to demonstrate to consultees at Reg 14 the robustness of the consultation

process and the extent to which the scope had been informed by the local community.” Appendix A could therefore now be removed.

Appendix B illustrates the non-designated heritage assets but provides no indication of the basis for the conclusion that these assets have heritage significance; however, on the basis of the earlier recommendation, this Appendix now relates to a Community Action.

Appendix C does not provide details of the source document of which it is an extract. The Qualifying Body has explained that the full report title is ‘S19 Report Flooding June 2016’ and a web reference has been provided; these therefore need to be added to the Appendix.

Appendix D appears to duplicate, without much additional detail, a section of the Plan itself; I noted that, unless BCC has a special local arrangement, it is incorrect to say that the Plan “attracts a specific proportion of any section 106 money [as distinct from CIL] allocated with major planning approvals in the area”. The Qualifying Body explained: “Appendix D is included to provide a summary for local residents including the action in relation to making the 3Bs Forum a Parish Council. The Forum do not have a special local arrangement with BCC and accept that the ref to [S106 monies] has not been correctly stated.” Accordingly, a correction is required.

Appendix E provides a useful compilation of Community Actions to which my recommendations above may require amendment/addition eg co-operation with the Canal and River Trust and, for heritage assets, the referencing of Appendix B.

Appendices F, G & H provide relevant contexts for the Plan.

**Recommendation 18:**

*18.1 Delete Appendix A and renumber subsequent Appendices (and text references to them) accordingly.*

*18.2 For Appendix C add a source reference for the extract: S19 Report Flooding June 2016  
[www.birmingham.gov.uk/downloads/file/7167/flooding\\_section\\_19\\_investigation\\_-\\_june\\_2016](http://www.birmingham.gov.uk/downloads/file/7167/flooding_section_19_investigation_-_june_2016)*

*18.3 Within Appendix D replace “It attracts a specific proportion of any section 106 money allocated with major planning approvals in the area” with ‘It may benefit from S106 obligations attached to major planning approvals in the Neighbourhood Area’.*

*18.4 Review Appendix E in the light of amendments made to Community Actions in response to recommendations above.*

**Other matters raised in representations**

Some representations have suggested additional content that the Plan might include. However, given that the Neighbourhood Plan sits within the Development Plan documents as a whole, keeping content pertinent to identified priorities for the 3Bs is entirely appropriate. As noted within the body of this Report, it is a requirement that a Neighbourhood Development Plan addresses only the “development and use of land”. Even within this restriction there is no obligation on Neighbourhood Plans to be comprehensive in their coverage – unlike Local Plans - not least because proportionate supporting evidence is required.

Some representations indicate support for all or parts of the draft Plan and this helps in a small but valuable way to reassure that the extensive public consultation has been productive.

I have not mentioned every representation individually but this is not because they have not been thoroughly read and considered in relation to my Examiner role, rather their detail may not add to the pressing of my related recommendations which must ensure that the Basic Conditions are met.

## **European Union (EU) and European Convention on Human Rights (ECHR) Obligations**

A further Basic Condition, which the 3Bs Neighbourhood Plan must meet, is compatibility with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

There is no legal requirement for a Neighbourhood Plan to have a sustainability appraisal. A Strategic Environmental Assessment (SEA) Screening & Habitats Regulation Assessment (HRA) Screening were prepared by Birmingham City Council for the 3Bs Neighbourhood Plan. The SEA Screening concludes: "Policies and proposals set out in the Neighbourhood Plan will promote sustainable development and are deemed to be in general conformity with the BDP [Birmingham Development Plan]. As such, there is no mechanism for significant environmental effects to arise from the Neighbourhood Plan which have not already been considered as part of the production of the BDP, which met the requirements of the SEA." The HRA Screening notes: "The conclusion of the HRA Screening Process is that none of the proposed policies within the draft 3Bs Neighbourhood Plan have potential to lead to a Likely Significant Effect on a European Site. The draft 3Bs Neighbourhood Plan can be 'screened out' of the Habitat Regulation Assessment process and an 'Appropriate Assessment' is not required."

In making their determination, Birmingham City Council had regard to Schedule 1 of the Regulations and carried out consultation with the relevant public bodies which concurred with the conclusion of the Assessment. I can therefore conclude that the SEA and HRA undertaken were appropriate and proportionate, and that the Plan has sustainability at its heart.

The Basic Conditions Statement, submitted alongside the 3Bs Neighbourhood Plan, addresses the European Convention on Human Rights and confirms that "Whilst an Equality Impact Assessment Report has not been specifically prepared, great care has been taken throughout the preparation and drafting of this Plan to ensure that the views of the whole community were embraced to avoid any unintentional negative impacts on particular groups. The Community Engagement shows the commitment of the Forum to engaging the whole community." I can confirm that the Consultation Statement demonstrates a commitment to full community engagement and I can conclude from that Statement that the 3Bs Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998. No evidence has been put forward to demonstrate that this is not the case.

Taking all of the above into account, I am satisfied that the 3Bs Neighbourhood Plan is compatible with EU obligations and that it does not breach, nor is in any way incompatible with, the ECHR.

## Conclusions

This Independent Examiner's Report recommends a range of modifications to the Policies, as well as some of the supporting content, in the Plan. Modifications have been recommended to effect corrections, to ensure clarity and in order to ensure that the Basic Conditions are met. Whilst I have proposed a significant number of modifications, the Plan itself remains fundamentally unchanged in the role and direction set for it by the Qualifying Body.

I therefore conclude that, subject to the modifications recommended, the 3Bs 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 Plan for the area;
- is compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations;
- does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(d).

**On that basis I *recommend* to the Birmingham City Council that, subject to the incorporation of modifications set out as recommendations in this report, it is appropriate for the 3Bs Neighbourhood Plan to proceed to referendum.**

### Referendum Area

As noted earlier, part of my Examiner role is to consider whether the referendum area should be extended beyond the Plan area. I consider the Neighbourhood Area to be appropriate and no evidence has been submitted to suggest that this is not the case. I therefore ***recommend*** that the Plan should proceed to referendum based on the Neighbourhood Area as approved by the Birmingham City Council on 23rd January 2017.

**Recommendations:** (this is a listing of the recommendations exactly as they are included in the Report)

Rec.	Text	Reason
1	<p>1.1 Amend the front cover to delete “Submission Version”.</p> <p>1.2 Once the Plan text has been amended, review the “Contents” page to accommodate as required the recommended modifications from this Report.</p> <p>1.3 Under the heading “Common Abbreviations”:            13.1 Amend the entry for the National Planning Policy Framework to replace “2019” with ‘2021’.</p> <p>13.2 Amend the detailing of “SLINC” to read ‘Site of Local Importance for Nature Conservation’.</p>	For clarity and accuracy
2	<p>Under the heading “The 3Bs Neighbourhood Plan”:            2.1 Delete paragraph 2 and renumber subsequent paragraphs accordingly.</p> <p>2.2 In paragraph 4 add into the list of City Wide Studies after (e) ‘f) Birmingham Playing Pitch Strategy’ and g) ‘Birmingham Sustainable Drainage: Guide to Design, Adoption and Maintenance’; renumber subsequent entries in the list.</p> <p>2.3 Retitle Map 1 on page 7 as ‘The designated 3Bs Neighbourhood Area’.</p>	For clarity and accuracy
3	<p>3.1 Under the heading “3 Towards a Garden Suburb”:            3.1.1 Replace paragraphs 21 &amp; 22 as follows:            ‘21 When the Plan area was built out substantially in the 20th century, the design of the housing included grass verges and street trees. Many of the houses have long gardens and the back-land areas added to the sense of being on the edge of a city but in a leafy residential area. The presence of the allotments fronting Walsall Road reflected the importance of ensuring people could have space to grow their own food and enjoy the outdoors and Perry Park and Perry Hall Park provided great opportunities for access to the open space.</p> <p>22 Over the years and incrementally, parts of the Plan area have lost these leafy characteristics. This is due in part to reduced public sector funding for public open spaces which has seen a loss of</p>	For clarity and accuracy

Rec.	Text	Reason
	<p>planting and maintenance of Perry Hall Park, Perry Park, Turnberry Park and Kingsdown Park. The delivery of key regeneration projects in Perry Barr should enhance the positive characteristics of the area. However, there are two projects which directly affect the 3Bs plan area and are therefore considered in more detail here:</p> <p>a) The Sprint cross city bus priority corridor is currently being implemented along the A34 Walsall Road through the plan area. This has resulted in the loss of some grass verges and trees on the Walsall Road, with plans for replacement and additional trees which should be informed by this plan, and</p> <p>b) Development at Perry Park has also seen the loss of some trees and open green spaces, some on a temporary basis with reinstatement required.</p> <p>The plan therefore sets out how the Forum has already worked with and expects, in the future, to work with the City Council and other agencies to offset these losses with a view to delivering overall environmental enhancements.'</p> <p>3.1.2 Remove paragraph 23 to Section 2, inserted between paragraphs 15 and 16; amend paragraph numbers accordingly.</p> <p>3.2 Within the Community Vision Statement on page 13 replace "In 15 years time" with 'By 2031'.</p>	
4	<p>Under the heading "NPP 1 Pre-Application Community Engagement" in paragraph 2:</p> <p>4.1 Replace "provide a short document with" with 'include details within'.</p> <p>4.2 Replace the semi-colon after "to explain" with a colon (and use the colon in the same context in other Policies in the Plan).</p> <p>4.3 Delete element (c).</p>	For clarity and accuracy and to meet Basic Condition 1
5	<p>5.1 On Map 2 on page 18:</p> <p>5.1.1 Restrict the content exclusively to that within the Neighbourhood Area boundary, bringing arrow heads and numbers inside where appropriate, deleting parts of symbols that cross the boundary and deleting content to the south that is outside of the boundary.</p> <p>5.1.2 Amend the map title to '3Bs Masterplan (based on the analysis included in the 'Landscape Analysis Beeches, Booths and Barr' 2019 prepared by DSA [provide a source reference])'.</p> <p>5.1.3 Add a heading to the top two key columns: 'Analysis'; amend the lower key to remove "Proposed Development Area".</p>	For clarity and accuracy

Rec.	Text	Reason
	<p>5.1.4 Amend the Perry Park legend to 'Perry Park and Alexander Stadium (host venue for the Commonwealth Games)'.</p> <p>5.2 On Table 2 add: 'Derived from 'Landscape Analysis Beeches, Booths and Barr' 2019 prepared by DSA'.</p>	
6	<p>6.1 Under the heading "9. Sustainable Development", on page 19, update footnote 17 from "NPPF 2018 para 7" to "NPPF para 7".</p> <p>6.2 Under the heading "NPP 2 Sustainable Development":</p> <p>6.2.1 Omit the number "1" at the beginning of the Policy.</p> <p>6.2.2 Amend the introductory sentence to read: 'To be supported, development proposals must contribute toward the achievement of sustainable development by, as appropriate, demonstrating they will:'.</p> <p>6.2.3 Amend the elements of the Policy as follows:</p> <p>6.2.3.1 Remove the "and" between elements.</p> <p>6.2.3.2 Add a new first element (and renumber subsequent elements accordingly): 'contribute to the delivery of the Master Plan (Map 2)';</p> <p>6.2.3.3 Reword the existing element (a) to read 'proposals are required to demonstrate they will improve biodiversity (by promoting the planting of trees, shrubs, and natural flora);'.</p> <p>6.2.3.4 Amend the existing element (e) by replacing "water way" with 'waterway'.</p> <p>6.2.3.5 Reword the existing element (i) to read: 'protect and enhance the designated areas of nature conservation including SLINCs;'.</p> <p>6.2.3.6 Add an additional element to read: 'protect and enhance the natural ecological &amp; geomorphological function of watercourses'.</p>	For clarity and to meet Basic Conditions 1 and 3
7	<p>Under the heading "10 Improving Landscape Character":</p> <p>7.1 Change the title to Section 10 by removing "Improving".</p> <p>7.2 In paragraph 53 add to the first sentence 'and Map 14 shows the heritage assets in the parks'.</p>	For clarity and accuracy and to meet Basic Conditions 1 and 3

Rec.	Text	Reason
	<p>7.3 In paragraph 55 amend the last sentence to read: 'Perry Hall and Perry Hall Park both include heritage assets which help to provide a quality space to relax and walk.'</p> <p>7.4 Amend the title of Map 3 to read: 'Nature Conservation and Open Spaces as defined by BCC'.</p> <p>7.5 Replace Map 4 with the replacement Map with added playing pitch supplied by the Qualifying Body with their email of 16th June 2021.</p> <p>7.6 In paragraph 57 replace "moat" with 'medieval moat (heritage asset)'.</p> <p>7.7 In paragraph 61 after "Perry Reservoir" insert: ', former mill pools and the sites of watermills'.</p> <p>7.8 Within Policy NPP 3:</p> <p style="padding-left: 40px;">7.8.1 In element 1 replace "Development must protect public access to" with 'Development proposals should demonstrate they retain and where possible enhance the public access routes into'.</p> <p style="padding-left: 40px;">7.8.2 In element 2(a) replace "south" with 'east'.</p> <p style="padding-left: 40px;">7.8.3 Add a new element 2(d) as follows: 'look to facilitate the natural processes of the River Tame'; also add '; and' at the end of element 2(c).</p> <p style="padding-left: 40px;">7.8.4 Reword element 3(d) as: 'protect the Park's open green space; and'.</p> <p style="padding-left: 40px;">7.8.5 Add a new element 3(e) as follows: 'naturalise the Perry Brook to restore natural functions, improve biodiversity and slow flows'.</p> <p style="padding-left: 40px;">7.8.6 Add a new element 4(f) as follows: 'look for multi-functional solutions to improve water attenuations, water quality, biodiversity and public amenity value'; also add '; and' at the end of element 4(e).</p>	
8	<p>Within Policy NPP 4:</p> <p>8.1 Delete element 1 of the Policy and renumber subsequent elements accordingly.</p> <p>8.2 In element 2:</p> <p style="padding-left: 40px;">8.2.1 In the opening sentence add ', as appropriate,' between "proposals" and "should".</p> <p style="padding-left: 40px;">8.2.2 In 2(a) amend "replaced" to 'replace'.</p> <p style="padding-left: 40px;">8.2.3 In 2(b) add 'particularly where employment areas are contiguous with residential uses'.</p>	For clarity and to meet Basic Conditions 1 & 3

Rec.	Text	Reason
	<p>8.2.4 Amend element 2(d) to add ‘; particularly innovative interventions will be needed in the areas identified as red on Maps 5 &amp; 7;’.</p> <p>8.3 Delete element 3 and renumber subsequent elements accordingly.</p> <p>8.4 Within the related Community Action:</p> <p>8.4.1 In element (d) delete “to”.</p> <p>8.4.2 Add an additional element as follows: ‘(e) With the Woodland Trust and others identify fundable projects that would advance progress with the delivery of the 3Bs Garden Suburb.’</p>	
9	<p>9.1 Under the heading “Waterways”, at paragraph 85 replace “lock gates” with ‘locked gates’.</p> <p>9.2 Within Policy NPP 5:</p> <p>9.2.1. Amend the opening sentence to read: ‘Where appropriate, development proposals should contribute to or improve elements of the network of active connections for walking or cycling into and out of the Neighbourhood Area and between the parks and waterways; this could include:’.</p> <p>9.2.2 Under element 1 add an additional element as follows: (g) ‘incorporating a buffer zone free from proposed development &amp; hardstanding next to watercourses which can be naturalised to provide space for water, biodiversity and natural geomorphological processes.’</p> <p>9.2.3 Revise the wording of element 2 as follows: ‘Proposals that provide visibility to the canal through or over the bridge on Walsall Road are supported, subject to the proposals not having an adverse impact on the structural integrity of the canal infrastructure and the biodiversity and amenity value of the canal corridor.’</p> <p>9.3 Within the related Community Action:</p> <p>9.3.1 Replace the opening few words with: ‘The Forum will work with the Canal and River Trust and:’.</p> <p>9.3.2 In element (b) delete “work with”.</p>	For clarity and accuracy and to meet Basic Conditions 1 and 3
10	<p>10.1 Under the heading “11 Reducing the Risk of Flooding”:</p> <p>10.1.1 Add source reference footnotes for “The AECOM Report on SuDS” and the “Birmingham’s Sustainable Drainage: Guide to Design, Adoption and Maintenance”; add to Map 10 ‘Map taken from the AECOM Report on SuDS’.</p> <p>10.1.2 Add to paragraph 109 as follows: ‘As a result of input from the Canal and River Trust the AECOM Report has been amended to</p>	For clarity and accuracy and to meet Basic Conditions 1 and 3

Rec.	Text	Reason
	<p>note that, to protect the structural integrity of the canal infrastructure, the location of any soakaway or SuDS system should be at least 10 metres away from the top of the canal cutting.'</p> <p>10.2 The Qualifying Body should arrange with AECOM for a suitable amendment/addendum to be added to the AECOM Report on SuDS to address the issues raised by the Canal and River Trust, to the satisfaction of the Trust, and the revised document clearly marked 'Revision [date]' should replace the existing version on the Neighbourhood Plan website.</p> <p>10.3 Within Policy NPP 6:</p> <p>10.3.1 Reword element 1 as: 'Excepting where permitted development rights apply or where development will have no impact on drainage, permanent alterations to a building and associated curtilage (including the conversion of gardens for parking) will demonstrate how the proposal meets the requirements set out in the 3Bs SuDS Design Guidelines in the AECOM SuDS Guidance Report.'</p> <p>10.3.2 Delete element 2.</p> <p>10.3.3 Amend element 3 to read: 'Where surface water run-off could be increased and SuDS are not proposed, alternative mitigation proposals will need to be suggested and justified by the applicant.'</p> <p>10.3.4 In element 4 replace "will be supported which include" with 'are encouraged for'; also delete "as part of a highways scheme".</p> <p>10.3.5 Delete element 6.</p> <p>10.4 Relocate the Community Action that follows Policy NPP 8 to be immediately after Policy NPP6.</p>	
11	<p>11.1 Under the heading "12 Improving Biodiversity" in paragraph 121 remove ", if applied by BCC,".</p> <p>11.2 Within Policy NPP 7:</p> <p>11.2.1 Delete element 1.</p> <p>11.2.2 In element 2:</p> <p>11.2.2.1 Reword element (a) as: 'strengthening and planting new hedgerows and planting or allowing wild flowers to establish, thus allowing natural ruderal vegetation or shrubs to develop in strips to provide more robust habitat 'corridors' in and between Perry Hall Park, Perry Park, Turnberry Park and Kingsdown Park; and'.</p> <p>11.2.2.2 Reword element (b) as: 'planting of trees, scrub and other natural vegetation especially at locations identified on</p>	For clarity and accuracy and to meet Basic Conditions 1 and 3

Rec.	Text	Reason
	<p>Map 5 and 7, where there has been a loss of trees and hedge planting; and’.</p> <p>11.2.2.3 In element (d) replace “i.e.” with ‘e.g.’.</p> <p>11.2.3 Reword element 3 as: ‘The planting of tree and scrub species that have been shown to support improvements in local air quality should be included in major development proposals.’</p> <p>11.2.4 Reword element 4 as ‘Where appropriate, landscaping schemes submitted to support major planning applications should increase the extent of woodland and scrub cover and result in the planting of flora to enhance biodiversity.’</p> <p>11.2.5 Add an additional element: ‘5. Proposals that improve biodiversity at locations such as Barr Bank and Perry Wood (and other small sites within the residential areas) are encouraged.’</p>	
12	<p>12.1 Under the heading “13 Local Green Spaces”:</p> <p>12.1.1 In paragraph 131 replace “for the duration of the Plan” with ‘to the same extent as Green Belt’.</p> <p>12.1.2 For accuracy, in the table that follows paragraph 135, wherever “demonstrably special to the local community” is used this should be followed immediately by ‘and holds a particular local significance’.</p> <p>12.1.3 In footnote 37 update the NPPF reference from “99 – 101” to ‘101 – 103’.</p> <p>12.2 Within Policy NPP8:</p> <p>12.2.1 In element 1 delete “and are protected for their beauty, recreational value, tranquillity or richness of wildlife’.</p> <p>12.2.2 In element 2 delete “or if the development clearly enhances the Local Green Space, for the purpose for which it was designated”.</p> <p>12.3 As noted above the Community Action box has been moved to be alongside Policy NPP 6.</p>	For clarity and accuracy and to meet Basic Conditions 1, 2 & 3
13	<p>13.1 Under the heading “14 Improving Community Shopping Hubs”:</p> <p>13.1.1 On Map 13 and on Figures 1 – 3 replace the solid red line boundary to each Shopping Hub with a broken red line.</p> <p>13.1.2 In paragraph 142 delete: “The 3Bs Forum seeks to work with BCC to get Tower Hill recognised as a Local Centre according to BCC’s definition to reflect the relative significance of Tower Hill to the local community.”</p>	For clarity and accuracy and to meet Basic Condition 1

Rec.	Text	Reason
	<p>13.1.3 In paragraph 143 after “Hub” add ‘to attract passing customers as well as to provide indoor and outdoor meeting space for local residents’.</p> <p>13.2 In relation to Policy NPP 9:</p> <p>13.2.1 In the title replace “Area” with ‘Hub’.</p> <p>13.2.2 Remove element 1 and place it at the beginning of paragraph 147, replacing “redevelopment” with ‘regeneration’; add a new element 1 as follows: ‘Development proposals within the vicinity of the Tower Hill Shopping Hub should demonstrate regard for the indicative scheme at Figure 1.’</p> <p>13.2.3 In element 2 replace “that” with ‘should’ and delete “in accordance with figure 1 are supported”.</p> <p>13.2.4 Replace elements 3 &amp; 4 with: ‘A mixed-use scheme to include housing and a cafe as part of a library regeneration is encouraged so as to secure community and library facilities.’</p> <p>13.2.5 Add an additional element as follows: ‘6. Regeneration that looks to enhance and treat the River Tame as a valuable aesthetic asset and improve community connectivity to the river is encouraged.’</p> <p>13.3 In relation to Policy NPP 10:</p> <p>13.3.1 Amend Figure 2 to omit element 6 from the key.</p> <p>13.3.2 In the sub-title and Policy title replace “Area” with ‘Hub’.</p> <p>13.3.3 Remove Policy element 1 and place it at the beginning of paragraph 149, replacing “development” with ‘regeneration’; add a new element 1 as follows: ‘Development proposals within the vicinity of the Turnberry Shopping Hub should demonstrate regard for the indicative scheme at Figure 2.’</p> <p>13.3.4 Replace Policy elements 2, 3 &amp; 4 with:  ‘2. Development proposals should, as appropriate:  2.1 include the planting of trees as part of forecourt improvements and the creation of SuDS schemes;  2.2 make a more visible connection between the park and the shops so that the entrance to the park is clear;  2.3 facilitate crossing points to improve pedestrian safety near the school.’</p> <p>13.3.5 Renumber Policy element 5 as element 3.</p> <p>13.4 In relation to Policy NPP 11:</p>	

Rec.	Text	Reason
	<p>13.4.1 In the sub-title and Policy title replace “Area” with ‘Hub’.</p> <p>13.4.2 Remove Policy element 1 and place it at the end of paragraph 153, replacing “development” with ‘regeneration’; add a new element 1 as follows: ‘Development proposals within the vicinity of the Thornhill Shopping Hub should demonstrate regard for the indicative scheme at Figure 3.’</p> <p>13.4.3 Replace Policy element 2 with: ‘Development proposals should include softening the shop forecourts with benches and tree planting creating spill out spaces and areas for visitors to linger and the use of a SuDs scheme along Thornbridge Avenue.’</p>	
14	<p>14.1 Under the heading “15 Protecting and Enhancing Heritage Assets”:</p> <p>14.1.1 With BCC, review Map 14 to ensure that it is a complete record of heritage assets within the Neighbourhood Area especially in relation to Perry Bridge and Locks 1 &amp; 2; either add to this or provide an additional map to show the location of the assets identified in Appendix B.</p> <p>14.1.2 At paragraph 161 replace the second sentence with ‘Water mills were a feature of the area and there are millpools and the sites of mills in Perry Park’ and in the third sentence replace “park” with ‘parks’.</p> <p>14.1.3 Reword paragraph 162 as: ‘The waterways are also heritage assets with Perry Barr footbridge and Perry Barr Locks 1 &amp; 2 all statutorily listed.’</p> <p>14.1.4 Amend paragraph 163 to add to the first sentence ‘although there are presently none in the Neighbourhood Area’ and in the last sentence add ‘BDP’ before “Policy”.</p> <p>14.1.5 At paragraph 164 replace “Planning custom and practice protects the setting of Listed Buildings” with ‘The setting of a Listed Building is protected to the extent it contributes to the significance of the heritage asset’.</p> <p>14.1.6 At paragraph 165 add after “zig-zag bridge” ‘(Perry Bridge)’.</p> <p>14.1.7 At paragraph 166 footnote 42 correct “was” to ‘were’.</p> <p>14.2 Within Policy NPP 12:</p> <p>14.2.1 Delete element 1 and footnote 43 (amend subsequent footnote numbering).</p> <p>14.2.2 Merge elements 2 &amp; 4 to read: ‘Proposals that enhance the setting of heritage assets to better reflect their historic significance, for example the listed Badshah Palace and Perry Bridge, and the non-designated Windmill Cottages, will be supported’.</p>	For clarity and accuracy and to meet Basic Conditions 1 and 3

Rec.	Text	Reason
	<p>14.2.3 Delete element 3.</p> <p>14.3 Amend the Community Action to read: ‘The buildings and structures identified in Appendix B are nominated as heritage assets as historic buildings of local significance. The Forum will work with BCC to add all that meet BCCs criteria to the Local List.’</p>	
15	<p>15.1 Delete Section 16 and Policy NPP 13 and renumber subsequent sections and policies accordingly.</p> <p>15.2 Revisit Section 10 under the sub-heading ‘Improving the Parks’ and add a new paragraph 61 as follows (amending subsequent paragraph numbers accordingly): ‘The Baltimore Estate includes large units off Lavendon Road whose operations have been the cause of complaint amongst local residents and users of Perry Hall Park. Proposals for development on the boundary of Baltimore Estate should not harm the amenity of the north west portion of the Park. The Forum will work with BCC to address positively and resolve these conflicts with the expectation of wider benefits - for example improved access to Perry Hall Park from this location and improved boundary landscaping.’</p> <p>15.3 Revisit Policy NPP 3 and add a new element 2(e) as follows: ‘address the issues of conflicting uses address the issues of conflicting uses so that proposals on the Baltimore Estate are not detrimental to the amenity and absence of access along the north western boundary of Perry Hall Park;’.</p> <p>15.4 Move the Community Action that presently follows Policy NPP 13 to follow Policy NPP 3.</p>	For clarity and to meet Basic Conditions 1 & 3
16	<p>16.1 Under the heading “Protecting and Enhancing Community Facilities”:</p> <p>16.1.1 Add a map illustrating and cross-referencing the facilities listed in Table 3; renumber subsequent maps accordingly.</p> <p>16.1.2 Retitle Table 3 as ‘Community and Sports Facilities’.</p> <p>16.1.3 Within Table 3 at the entry titled “Badshah Palace” replace “enabling the wider community to enjoy the old cinema building is supported” with ‘the old cinema building’.</p> <p>16.2 Within Policy NPP 14, now renumbered as NPP 13:</p> <p>16.2.1 Amend the Policy title as: ‘Protecting and Enhancing the provision of community and sports facilities’.</p> <p>16.2.2 Add a new opening sentence as: ‘In relation to the community and sports facilities listed in Table 3:’.</p> <p>16.2.3 In element 1 replace “Proposals to improve community facilities within the 3Bs Area” with ‘Improvement’.</p>	For clarity and to meet Basic Conditions 1 & 3

Rec.	Text	Reason
	<p>16.2.4 In element 2 delete “for community facilities” and “published”.</p> <p>16.2.5 In element 3 replace “The redevelopment of the facilities listed in Table 3” with ‘Redevelopment’ and in element 3(a) update the NPPF paragraph reference from “97” to ‘99’.</p>	
17	<p>Under the heading “18 Developer Contributions”:</p> <p>17.1 Amend sentence one of paragraph 181 to update the NPPF paragraph reference from “54 – 57” to ‘55 – 58’ and reword the second sentence to say: ‘Residential, hotel or industrial development within the 3Bs area does not pay CIL whereas public realm and highway improvements can benefit from CIL monies.’</p> <p>17.2 Amend paragraph 182 to say: ‘There will be detailed discussions on the nature and scale of any developer contributions associated with individual development proposals in the Plan period. The Forum would support a package of measures which includes some form of contribution towards relevant projects listed in Table 4.’</p> <p>17.3 Replace Policy NPP 15 with a Community Action box and replace element 3 with: ‘2. The Forum will prioritise support for the projects listed in Table 4 where possible and appropriate.’</p>	For clarity and accuracy
18	<p>18.1 Delete Appendix A and renumber subsequent Appendices (and text references to them) accordingly.</p> <p>18.2 For Appendix C add a source reference for the extract: S19 Report Flooding June 2016  <a href="http://www.birmingham.gov.uk/downloads/file/7167/flooding_section_19_investigation_-_june_2016">www.birmingham.gov.uk/downloads/file/7167/flooding_section_19_investigation_-_june_2016</a></p> <p>18.3 Within Appendix D replace “It attracts a specific proportion of any section 106 money allocated with major planning approvals in the area” with ‘It may benefit from S106 obligations attached to major planning approvals in the Neighbourhood Area’.</p> <p>18.4 Review Appendix E in the light of amendments made to Community Actions in response to recommendations above.</p>	For clarity and accuracy