

# **BALSALL HEATH NEIGHBOURHOOD DEVELOPMENT PLAN 2014-2031**

**SUBMISSION VERSION**

**A Report to Birmingham City Council of the Examination  
into the Balsall Heath Neighbourhood Development Plan**

by Independent Examiner, Peter Biggers BSc Hons MRTPI

*Argyle Planning Consultancy LTD*  
March 2015

<b>Contents:</b>	<b>Page</b>
<b>Summary and Overall recommendation</b>	<b>3</b>
<b>1. Introduction</b>	<b>5</b>
• 1.1 Background context	5
• 1.2 Appointment of Independent Examiner	5
• 1.3 Role of the Independent Examiner	5
<b>2. The Examination Process</b>	<b>7</b>
<b>3. Public Consultation</b>	<b>8</b>
• 3.1 Background	8
• 3.2 Balsall Heath Neighbourhood Plan Consultation	8
<b>4. Preparation of Plan and Legislative Requirements</b>	<b>9</b>
• 4.1 Qualifying Body	10
• 4.2 Plan area	10
• 4.3 Plan Period	10
• 4.4 Excluded Development	10
• 4.5 Development and Use of Land	11
• 4.6 Plan Publication Following Submission	11
<b>5. The Basic Conditions</b>	<b>11</b>
• 5.1 National Policy and Advice	11
• 5.2 Sustainable Development	12
• 5.3 Compliance with Development Plan	12
• 5.4 EU Obligations	13
<b>6. The Neighbourhood Plan Assessment</b>	<b>15</b>
• 6.1 The General Form of the Plan	15
• 6.2 Sections 1 Introduction	16
• 6.3 Section 2 The Balsall Heath Neighbourhood	17
• 6.4 Section 3 The Planning Context	17
• 6.5 Section 4 The Neighbourhood Plan Policies Overview	18
• 6.6 Section 5A and 5B Area Wide Policies and General Policies	18
• 6.7 Section 5C Place Specific Policies and Proposals	24
• 6.8 Other Policy Related Matters	33
• 6.9 Section 7 Delivering the Plan	35
<b>7. Referendum</b>	<b>36</b>
<b>Appendix 1 –</b>	<b>37</b>
City Council Response to Representation submitted on behalf of the West Midlands Police and Crime Commissioner	

## Summary and Overall Recommendation

0.1 Following my examination of the Balsall Heath Neighbourhood Development Plan (BHNDP), including a site visit to the Neighbourhood Area on 9 January 2015, it is my view that the BHNDP reflects the views of the community and sets out a clear vision and suite of policies and proposals for the Neighbourhood Area.

0.2 However my report highlights a number of areas where I consider the wording of the plan as submitted is not wholly in accordance with one or more of the basic conditions. In particular there are tensions with National policy and guidance, and in a small number of cases with the requirement to achieve sustainable development or the requirement to be in general conformity with the Birmingham Unitary Development Plan.

0.3 I have therefore recommended a number of modifications to the Plan which should be made before the plan can proceed to Referendum. These are intended to ensure that first and foremost the Plan can meet the Basic Conditions.

0.4 In proposing the modifications I have tried to ensure that the integrity and value of the BHNDP and its vision is retained and that the intention of neighbourhood planning, where the community's wishes should be central to the plan, is honoured.

0.5 It is possible that the Balsall Heath Neighbourhood Planning Forum will be disappointed with the findings. However by its nature the examination has to be rigorous. Any criticism is not at all to undermine the huge community effort that has gone into the plan. Rather the purpose of the examination is to ensure that the Neighbourhood Plan is as robust as possible and that it can play its part in planning decisions and managing change in the future in an effective way.

0.6 In addition to the recommended modifications it should also be noted that there will be a number of consequential changes to the supporting text and referencing that will be needed as a result of making the modifications. It will also be necessary to ensure all document referencing is up to date. I have not highlighted every one of these changes, but these are matters that will need remedying in the final version of the Plan.

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

- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- will contribute to the achievement of sustainable development;
- is in general conformity with the strategic policies of the development plan for the area;
- does not breach, and is compatible with European Union obligations and the European Convention of Human Rights.
- is not likely to have a significant effect on a European Site either alone or in

combination with other plans or projects.

0.8 Subject to the recommended modifications, the BHNDP also complies with the legal requirements set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

0.9 With the modifications in place the Balsall Heath Neighbourhood Development Plan will meet the Basic Conditions and can proceed to a Referendum. When that takes place I also recommend that the Neighbourhood Area is taken as the area for the Referendum.

**Peter Biggers**  
**March 2015**  
**Argyle Planning Consultancy Ltd**

## 1. Introduction

### 1.1 Background Context

1.1.1 This Report provides the findings of the Examination into the Balsall Heath Neighbourhood Development Plan (referred to as the BHNDP throughout this report).

1.1.2 The BHNDP was produced by the Balsall Heath Neighbourhood Planning Forum (the Forum) in consultation with interested parties and local stakeholders.

1.1.3 Balsall Heath Neighbourhood Area is an inner urban area lying approximately 2 kms south of Birmingham city centre bounded by Highgate Road to the north, Stoney Lane to the east, Brighton Road and Edgbaston Road to the south and Pershore Road to the west. It forms approximately the southern half of the Sparkbrook ward and is dissected by Moseley Road and Ladypool Road which are both important neighbourhood centres. Historically the area has seen significant change since the 1960s as Victorian housing and industry has been cleared and redeveloped. There remains however areas of original housing and building particularly along these two north-south corridors. The plan area is typical of older inner urban areas in its mix of uses and its street network.

1.1.4 This Examiner's Report provides a recommendation as to whether or not the BHNDP should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes cast in favour of it, then the BHNDP would be '**made**' by Birmingham City Council. The BHNDP would then be used to determine planning applications and guide planning decisions in the Balsall Heath Neighbourhood Area.

### 1.2 Appointment of the Independent Examiner

1.2.1 I was appointed by Birmingham City Council, with the consent of the Forum, to conduct the examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the Local Authority. I do not have any interest in any land that may be affected by the BHNDP nor do I have any professional commissions in the area currently and I possess appropriate qualifications and experience – I have planning and development experience, gained over 30 years across the public and private planning sectors and am a member of the Royal Town Planning Institute and a member of the National Panel of Independent Examiners Referral Service run by the Royal Institute of Chartered Surveyors.

### 1.3 Role of the Independent Examiner

1.3.1 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the "Basic Conditions." The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (TCPA) as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004

(PCPA). In order to meet the Basic Conditions, the making of the BHNDP must:

1. Have regard to national policies and advice contained in guidance issued by the Secretary of State;
2. Contribute to the achievement of sustainable development;
3. Be in general conformity with the strategic policies of the development plan (see Development Plan Status below) for the area.
4. Not breach, and must be otherwise compatible with, European Union (EU) and European Convention on Human Rights (ECHR) obligations.

1.3.2 Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further basic condition for Neighbourhood Plans in addition to those set out in primary legislation and referred to in the paragraph above - that is:

5. The making of the Neighbourhood Plan is not likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2012) either alone or in combination with other plans or projects.

1.3.3 In examining the Plan, I am also required, under the legislation to establish whether:

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

1.3.4 I have examined the BHNDP against the Basic Conditions above and, as Independent Examiner, I must make one of the following recommendations:

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

1.3.5 If recommending that the Plan should go forward to Referendum, I am also then required to consider whether or not the Referendum Area should extend beyond the

Balsall Heath Neighbourhood Area to which the Plan relates. I make my recommendation on the Referendum Area at the end of this Report.

1.3.6 The role of the independent examiner is not expressly to comment on whether the plan is sound or how the plan could be improved but rather to focus on the compliance with the basic conditions.

## **2. The Examination Process**

2.1 It is a general rule that neighbourhood plan examinations should be held without a public hearing ie by written representations only. However, according to the legislation, when the Examiner considers it necessary to ensure adequate examination of an issue, or to ensure a person has a fair chance to put a case, a public hearing may be held.

2.2 With regard to the above and on consideration of all the evidence before me, I am satisfied that there is no need for a hearing in respect of the BHNDP and I confirm that *all* representations on the Neighbourhood Plan received at the Regulation 16 Publicity Stage have been taken into account in undertaking this examination.

2.3 I held a briefing meeting with Birmingham City Council and the Forum representatives to clarify matters of fact having completed the reading of neighbourhood plan documents and undertook a site visit around the neighbourhood area on 9 January 2015. I am grateful to both the Forum and City Council for facilitating this. At this meeting I requested that the City Council in consultation with the Forum provide a response to the representation from the Police and Crime Commissioner for the West Midlands in response to the Post Submission Publicity stage which raises detailed criticism regarding the content of the plan in respect to 'designing out crime' and community safety.

2.4 In undertaking this examination, I have considered each of the following documents in addition to the Submission Version of the Balsall Heath Neighbourhood Development Plan dated June 2014:

1. National Planning Policy Framework (The Framework) (2012)
2. The National Planning Practice Guidance
3. Town and Country Planning Act 1990 (as amended)
4. The Planning and Compulsory Purchase Act 2004 (as amended)
5. The Localism Act (2011)
6. The Neighbourhood Planning (General) Regulations (2012)
7. Birmingham Development Plan Submission Version (2013)
8. Birmingham Unitary Development Plan (2005)
9. Balsall Heath Neighbourhood Development Plan Basic Conditions Statement
10. Balsall Heath Neighbourhood Development Plan Statement of Public Consultation
11. Balsall Heath Neighbourhood Development Plan Sustainability Appraisal Report August 2014
12. Balsall Heath Neighbourhood Area Map
13. Balsall Heath Neighbourhood Development Plan Housing Demand – Background

Also:

14. Representations received during the Regulation 16 publicity period post submission ending November 2014

### **3. Public Consultation**

#### 3.1 Background

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

3.1.2 The Forum submitted a Consultation Statement, as required by regulation 15 of the Neighbourhood Planning (General) Regulations 2012, to Birmingham City Council. This document and the Plan itself sets out who was consulted and how, together with a brief outline on the outcome of the consultation and what action was taken in response to representations received. The consultation process drew on well-established community networks in Balsall Heath and the principles of the City Council's Statement of Community Involvement 2008.

3.1.3 Public consultation on the BHNDP commenced with an initial consultation in 2011/12. This was followed by various consultation stages, culminating in the formal, publicity stage, the six week consultation period post submission of the plan from 14 October 2014 to 25 November 2014 which resulted in 4 consultation responses. These are referred to in section 6 below.

#### 3.2 Balsall Heath Neighbourhood Development Plan Consultation

3.2.1 The initial consultation took place over a substantial period from July 2011 to April 2012 centred around what people and groups in the community would like to see included in the plan. This stage included 4 main Forum meetings, a community planning workshop over 2 days in December 2011 with 150 attendees facilitated by the Prince's Foundation and a significant number of individual and group meetings with stakeholders. I am satisfied that this early stage successfully engaged a wide cross section of the community including typically harder to reach groups such as youngsters at school. It achieved its objective of providing a foundation for the plan and endorsed the 'shopping list' of topics to be addressed.

3.2.2 Between June and August 2012 a consultation on draft proposals took place. A series of A1 panels were prepared and exhibited around the area and were visited by 1145 people over 40 days. 180 people discussed the proposals at 10 residents meetings. Feedback was via a questionnaire and verbal comments were captured by staff. The consultation statement summarises the scope of the comments and what would be done in response.



3.2.3 It is not entirely clear from the statement how exhibitions, events and meetings were advertised in the area. However It was explained to me at the briefing on 9<sup>th</sup> January that the community newspaper the Heathan was used throughout the process as the vehicle to advertise the plan and events, backed up by the website and information provided through the 10 resident associations. Nevertheless this and the numbers of written responses at this stage should be confirmed in the statement.

3.2.4 The BHNDP and sustainability appraisal were prepared in the light of comments received on the initial proposals and pre-submission consultation documents were prepared including a 4 page summary of the plan and a questionnaire to solicit responses. These were published in September 2013 for the formal pre-submission consultation using the Heathan, website and viewing points locally. The documents were also sent to the statutory consultees. Eight weeks were allowed for formal comment from September to November 2013. I am satisfied from the evidence before me that the Forum has satisfactorily complied with regulation 14 of the Neighbourhood Planning Regulations controlling this stage.

3.2.5 It is not apparent from the consultation statement whether any discussion sessions were held at this stage and the statement only records 12 written responses from the pre submission consultation which the qualifying body acknowledge was disappointing. In part this limited level of response seems to have been a result of a good level of engagement at the 2 earlier stages and general support for the plan at the second stage.

3.2.6 The Neighbourhood Plan regulations are part and parcel of the 1st Basic Condition and regulation 15 (2) sets out clearly what the consultation statement should include.

3.2.7 I am generally satisfied that the statement in its coverage of stage 1 and 2 complies with the regulation, other than not making clear how the plan stages were advertised nor providing the feedback form used. However in respect of stage 3, the main consultation stage, I cannot see in the statement or the appendices clarification of details of the persons and bodies who were formally consulted nor again a copy of the feedback form. There is only reference to the few bodies who actually responded. I have no doubt that the plan did go to who it should have gone to but it is not stated.

**Recommendation 1 Add to the Consultation Statement providing a statement on how the consultation stages and events were advertised and specific detail regarding the bodies and agencies formally consulted at the pre submission stage. A copy of the feedback forms used in stages 2 and 3 should be appended.**  
Note - The amended statement should be available on the website prior to progressing to referendum so that those voting can be reassured that the BHNDP has been the subject of adequate consultation throughout.

#### **4. Preparation of the Plan and Legislative Requirements**

In terms of the procedural tests set out in paragraph 1.3.3 of this report my findings are

as follows:

#### 4.1 Qualifying body

4.1.1 An application was made by the Balsall Heath Forum on 7 September 2012 to designate a neighbourhood forum - the Balsall Heath Neighbourhood Planning Forum as the *qualifying body*. This was approved by Birmingham City Council on 12 February 2013 following consultation.

4.1.2 I am satisfied that the designation requirements set out in the Localism Act (2011) and in Section 61F(5) of the Town and Country Planning Act 1990 (as amended) and in regulations 8, 9 and 10 of the Neighbourhood Planning (General) Regulations 2012 have been met. Balsall Heath Neighbourhood Planning Forum is therefore the *qualifying body* for leading the BHNDP.

#### 4.2 Plan area

4.2.1 The Balsall Heath Neighbourhood Area coincides with the boundary of the Balsall Heath Forum and comprises the southern half of the Sparkbrook electoral ward.

4.2.2 An application was made by the Balsall Heath Forum on 7 September 2012 to designate the Balsall Heath Neighbourhood Area. This was approved by Birmingham City Council on 12 February 2013 following consultation and with a small adjustment the Neighbourhood Area was designated.

4.2.3 This satisfied the requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended) and regulations 5, 6 and 7 of the Neighbourhood Planning (General) Regulations 2012.

#### 4.3 Plan period

4.3.1 A neighbourhood plan must specify the period during which it is to have effect. The BHNDP clearly states on its title page and in the introductory sections that it covers the period to 2031 to coincide with the Birmingham Development Plan. It therefore satisfies this legal requirement.

#### 4.4 Excluded development

4.4.1 The Plan does not include policies or proposals that relate to any of the categories of excluded development or (as recommended to be modified) to matters outside the Neighbourhood Area. In these respects it therefore meets requirements.

## 4.5 Development and use of land

4.5.1 The Neighbourhood Plan should only contain policies relating to development and use of land. However plans often contain projects or proposals that signal the community's priorities for the future of their local area. Where these are included the "*Planning Practice Guidance*" makes it clear that they need to be differentiated in the way in which they are presented so that there is no confusion as to their status. The BHNDP has proposed complementary projects which are branded as such and distinguished from policies of the Plan and their status spelt out. However I am not convinced that their inclusion within the body of the plan is acceptable and I deal with this matter in Recommendation 2 below.

## 4.6 Plan Publication Following Submission

4.6.1 Birmingham City Council undertook a final validation check of the Balsall Heath Neighbourhood Development Plan on submission in September 2014 and were satisfied that the Plan could proceed to be publicised under Regulation 16 and proceed to this independent examination under regulation 17.

## **5. The Basic Conditions**

### 5.1 National policy and advice

5.1.1 The main document that sets out national policy is the *National Planning Policy Framework* (the NPPF) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan.

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

5.1.3 The NPPF indicates that plans should provide a framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.

5.1.4 National advice on planning is set out in the *Planning Practice Guidance 2014* (PPG) which includes specific advice regarding neighbourhood plans.

5.1.5 I consider the extent to which the plan meets this Basic Condition No 1 in section 6 below.

## 5.2 Sustainable development

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

5.2.2 Whilst there is no legal requirement to do so, a Sustainability Appraisal (SA) was carried out in respect of the BHNDP, in conjunction with the Strategic Environmental Assessment beginning with appraisal of the Policy Options document in December 2012. The SA was carried out by Lepus Consulting and the scoping was subject to consultation in October 2012. The Statutory consultees at the scoping stage were satisfied that the SA proposed was satisfactory.

5.2.3 The SA presents a clear assessment of how the Plan's policies and proposals perform against 13 sustainability objectives. The findings from the first stage of appraisal on the Policy Options were used in developing the draft plan. Subsequent appraisal of the draft plan itself was then used to remove or adapt policies that were found to have a likely negative impact on sustainability principles. In general I am satisfied that the sustainability appraisal process carried out was a robust one and overall the results support the BHNDP as a sustainable plan but I consider detailed points regarding the plan's ability to meet this Basic Condition No 2 in section 6 below.

## 5.3 The Development Plan

5.3.1 The adopted development plan in force for Birmingham City remains the Birmingham Unitary Development Plan (UDP). Therefore in terms of assessing the plan against Basic Condition No 3 it is the UDP that must be used. However this was adopted in 2005 and is now quite dated – preceding the NPPF. If there are circumstances where a UDP policy is no longer consistent with the NPPF and a conformity issue arises with the BHNDP I will attach greater weight to the degree of conformity with the NPPF and take a flexible approach to the UDP. The test in Basic Condition No 3 is after all **general** conformity with strategic policies of the adopted plan.

5.3.2 The PPG explains that NDPs can be developed before or at the same time as the LPA is producing its local plan. The UDP's replacement, the Birmingham Development Plan (BDP), is well advanced and at the examination in public stage. In view of this the Forum in consultation with the City Council have collaborated, as advised in the PPG, to align the BHNDP with the policies and proposals of the BDP Submission Version to minimize the possibility of any conflict in the future. I understand why in the circumstances it is reasonable and practical to seek to align the BHNDP with the BDP but the BHNDP cannot at this stage be tested for general conformity against the policies in the emerging BDP. It is however a requirement of the NPPF that plans are based on

sound current reasoning and evidence and I will therefore be considering as part of my assessment against Basic Condition No 1 the extent to which the BHNDP has taken account of the recent evidence available which will be the evidence base of the BDP.

5.3.3 The judicial review of the legal challenge to the Tattenhall Neighbourhood Plan made by Barrett Homes and Wainhomes Developments and the decision by senior High Court judge, Mr Justice Supperstone in 2014, clarifies and confirms the approach that must be taken in respect of Basic Condition No 3.

5.3.2 Birmingham City Council has confirmed that it has no concerns over the general conformity of the BHNDP with the strategic policies of the Birmingham Unitary Development Plan 2005. I have no reason to disagree subject to my consideration in further detail in Section 6 below on issues of general conformity with the plan.

#### 5.4 European Union (EU) Obligations

5.4.1 A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into UK law, in order to be legally compliant.

##### Strategic Environment Assessment

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

5.4.3 As stated above the Sustainability Appraisal of the BHNDP was started early and the scope was deliberately designed to meet the requirements of the SEA Directive in view of the development proposals in the plan. This was agreed by the statutory consultees at the scoping stage. The outcome of the SA was that the plan is compliant to the requirements of the Directive and I have no reason to disagree.

##### European Convention on Human Rights (ECHR)

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

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

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

5.4.7 In respect of Article 12 - the enjoyment of rights and freedoms without discrimination on any ground, the policies and proposals of the BHNDP have been developed in full consultation with the community and wider stakeholders to produce as inclusive a document as possible. Although no specific Equalities Impact Assessment has been carried out there is specific reference to the requirement to take into account the interests of those with special needs including disabled people and other minority groups in policy BH1. Although some policies benefit particular sectors of the community, for example policy BH20 to provide youth facilities, I am satisfied that across the plan as a whole no sectors of the community are discriminated against. The policies together would generally have public benefits and encourage the social sustainability of the neighbourhood.

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

#### Other EU obligations

5.4.9 No Habitats Regulations Assessment Screening Statement has been produced. Neither the Neighbourhood Plan documentation nor representations indicate that such an assessment is necessary. There are no European sites within the Neighbourhood Area. Therefore the Plan does not breach, and is otherwise compatible with, EU obligations in this respect.

5.4.10 I am not aware of any other European Directives which apply to this particular Neighbourhood Plan and no representations at pre or post submission stage have drawn any others to my attention. Taking all of the above into account, I am satisfied that the BHNDP is compatible with EU obligations and therefore with Basic Conditions Nos 4 and 5.

## 6. The Neighbourhood Plan – Assessment

The Neighbourhood Plan is considered against the Basic Conditions in this section of my Report following the structure and headings in the Plan. Given my findings in section 5 above that the plan as a whole is compliant with Basic Conditions Nos 4 and 5, this section largely focusses on Basic Conditions No 1 (Compliance with National Policy), No 2 (Delivery of Sustainable Development) and No 3 (General Conformity with the Development Plan).

Where modifications are recommended, they are presented and clearly marked as such and highlighted in bold print, with any proposed new wording in italics.

### 6.1 The General Form of the Plan

6.1.1 The structure of the BHNDP is broadly clear with sections distinguishing between the policies themselves, and their justification. Each policy is accompanied by some supporting text and I suggest in the topic sections below where a greater degree of justification is required.

6.1.2 However as set out in paragraph 4.5 above the differentiation between the neighbourhood plan and the related community projects is not as clear as it should be to comply with Section 38A of the PCPA 2004 and Basic Condition No 1. Section 6 of the plan, which contains these projects, is within the body of the plan and whilst the Forum has been careful to state the difference, their positioning could lead to confusion, particularly in any forthcoming referendum, as to what formally is part of the plan.

**Recommendation 2 – Relocate the whole of the current section 6 to the end of the plan renaming it “*Annex to Balsall Heath Neighbourhood Development Plan – Community Action Projects*” and renumbering paragraphs for example A1, A2, A3**

6.1.3 As stated above the NPPF indicates that plans should provide a practical basis within which decisions on planning applications can be made with a high degree of predictability and efficiency. This includes the use of clear mapping where it is required to interpret and explain policies. Some of the mapping in the plan sets out the policy proposals, in particular Maps 5, 6 and 7. However not all of the policy proposals are included in Maps 5, 6 and 7. For example they do not include the limits of the two local centres which are instead shown in Maps 8 and 9.

6.1.4 Other mapping sets out the general context, for example Map 3 showing the ‘orphan’ open spaces. All are simply referred to as Maps 1, 2, 3 etc. The result is confusing in respect of which maps are supporting the policies and which are simply providing context.

6.1.5 The 3 maps setting out the policy proposals (currently Maps 5,6 and 7) should be identified and numbered as proposals maps whether as a single map or 3 with scale and north point and indicating:

- Neighbourhood Plan Area
- Proposed site allocations
- Any areas where a policy relates to a specific area

6.1.6 It would be clearer if other maps with the exception of the plan area at the start of the plan were removed or at least not referred to as 'Maps'. There is in any event some instances in the text of incorrect references to map numbers which also needs to be corrected and a specific proposals map or maps would avoid the need to refer to particular map numbers to the same degree.

6.1.7 The absence of clarity in this respect means that there is a tension with the NPPF and PPG requirements and therefore with Basic Condition No 1.

**Recommendation 3 – the City Council and the Forum should work together to clarify the mapping for the BHNDP as set out in paragraph 6.1.3 – 6.1.6 above creating a single proposals map or, if that is logistically difficult, 3 proposals maps East, Central and West based on Maps 5, 6 and 7. Other referencing to 'Maps' if it is necessary to retain them should be replaced by Figure 1, 2, 3 etc. Finally check and correct all number referencing in modifying the plan for referendum.**

6.1.8 With this modification in place the general form of the plan will comply with the Basic Conditions.

## 6.2 Section 1 - Introduction

6.2.1 The first section of the BHNDP sets out the contextual information about the neighbourhood planning process, what it seeks to achieve in a plan vision, how it has been developed in partnership with the local communities in the plan area and a good range of stakeholders and clarifies who is responsible for the plan. It finishes with a summary of the community consultation stages that have been carried out. The section explains and clarifies the status of formal policies of the plan and the community projects that have evolved in response to community aspirations.

6.2.2 This initial section 1 of the Neighbourhood Plan is largely factual background and complies with the Basic Conditions. I do not propose any modifications other than following through the implications of Recommendations 3 and 5 below in respect of paragraphs 1.2.3 and 1.3.6 and incidental updating to document referencing and plan process.

**Recommendation 4: Check and amend all document referencing to ensure the plan will accurately refer to documents that will be in operation during the lifetime of the plan and that the plan making process is up to date for its final stages.**



## 6.3: Section 2 - The Balsall Heath Neighbourhood

6.3.1 Section 2 of the BHNDP sets out the plan area, its history and characteristics and breaks the area into 5 sub-areas for the purposes of the plan and identifies the development needs and issues arising from the initial consultation stages.

6.3.2 The PPG states that “*Neighbourhood planning provides the opportunity for communities to set out a positive vision for how they want their community to develop... in ways that meet identified local need and make sense for local people*”. Accordingly there should be a clear thread in the BHNDP from the community’s identification of issues to the Plan’s vision and aims and into the policies and proposals. Although all the elements to comply with this are present within the BHNDP and the issues identified are reflected in the plan aims I am not convinced that the thread is entirely clear because the vision is presented in section 1.2.3 before there has been any real discussion of the issues and the plan aims are in section 3.3 which is otherwise setting out the planning context. I consider that the ‘thread’ from issues to plan solutions via vision and aims needs to be as clear as it can be to fully comply with the PPG, and therefore with Basic Condition No 1.

**Recommendation 5: Relocate the vision at Section 1.2.3 and plan aims at Section 3.3 into Section 2 following the discussion of development needs and issues.**

**Recommendation 6: Retitle Section 2 *The Balsall Heath Neighbourhood – Development Needs, Plan Vision and Aims***

With these modifications at Recommendations 5 and 6 implemented the issues, vision and aims of the Plan will form a more coherent section compliant with Basic Condition No 1. The content of the vision and its related plan aims are consistent with the Birmingham UDP vision and objectives in section 2 at 2.5-2.9 and will establish the basis of a sustainable future and therefore complies with Basic Conditions Nos 2 and 3.

## 6.4 Section 3 – The Planning Context for the BHNDP

6.4.1 Section 3 of the plan sets out the planning context provided by the national, and local level planning policy including:

- National Planning Policy Framework
- Birmingham Unitary Development Plan (UDP)
- Birmingham Development Plan Submission Draft (BDP)
- Birmingham Supplementary Planning Documents
- Draft Community Infrastructure Levy and
- Draft Infrastructure Delivery Plan

As well as other documents related to the planning of the area.

6.4.2 I note that the BHNDP refers to those emerging BDP policies that could be

considered to have a strategic bearing. However neither the plan nor the Basic Conditions Statement submitted by the BHNPF refers to specific Birmingham Unitary Development Plan policies with which the Plan needs to be in general conformity. Without this the BHNDP does not meet the requirements of Basic Conditions Nos 1 and 3 and the plan needs to be amended to cross refer to the relevant strategic policies of the UDP.

**Recommendation 7 – Include a new section “3.2 Relevant UDP Policies” to specifically refer to the strategic policies of the UDP with which the BHNDP is in general conformity.**

**The Basic Conditions Statement needs to be similarly revised.**

#### 6.5 Section 4 – Neighbourhood Plan Policies - Overview

6.5.1 The next sections consider the policies of the BHNDP in detail. These are separated into 7 overarching policies and 13 topic and site specific policies.

6.5.2 The overview section at the start of the policies has 3 areas where there is the potential for confusion. Para 4.1.1 line 3 does not correctly refer to the examination test. Paragraph 4.1.3 wrongly includes policy BH7 as a site specific policy when it is stated to be a general policy. Paragraph 4.1.5 and Sections 4.2, 4.3 and 4.4 in referring to earlier policy numbering is potentially confusing.

**Recommendation 8 –**

**A. Reword Paragraph 4.1.1 Line 3 to read “....to ensure they meet the Basic Conditions as set out in the Town and Country Planning Act 1990 and applied to neighbourhood plans by the Planning and Compulsory Purchase Act 2004.”**

**B. Reword para 4.1.3 line 1 to read “...policies (BH8-20)”**

**C. Delete paragraph 4.1.5 and the numbering in brackets in section 4.2, 4.3 and 4.4. If it is felt necessary to explain the point relating to the SEA/SA process this would be less confusing if done in the SA document rather than in the plan itself.**

#### 6.6 Section 5A and 5B Area Wide Policies and General Policies with Impacts on Specific Locations

6.6.1 Looking at the content matter of the policies in section 5A and B, Policies BH4 and BH6, dealing with green infrastructure and connectivity respectively, appear to be policies that should be applied across the plan area. Accordingly, and in conformity with the PPG’s requirement for clarity, the two policies should be moved to section 5A.

**Recommendation 9 – Move policies BH4 and BH6 to section 5A. There will be a consequent need for renumbering as a result of this change.**

6.6.2 Before looking at each policy in detail I have a general concern over the wording of a number of the policies which are to be generally applied across the area. Each of these policies will be used in the assessment of development proposals but it is not clear how this will be done. It is possible to surmise that the development will be permitted if it meets the various principles in the policy but it doesn't actually say that.

6.6.3 The NPPF indicates that plans should provide a practical basis within which decisions on planning applications can be made with a high degree of predictability and efficiency and the PPG requires that policies in a neighbourhood plan should be clear and unambiguous. They should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications.

6.6.4 Against this test Policies BH1, 2, 3, 4 and 6 need clarification to comply with Basic Condition No 1. I recommend therefore that the introductory sentence to each is modified.

**Recommendation 10** – Delete the word “through” at the end of the introductory clause to each policy, insert a full stop and start a new sentence to read: *“Proposals for the development and use of land and buildings will be supported which:”*

**In most cases the criteria or principles that follow in each policy will need adjustment to the tense, replacing the present participle so that the sense of the policy will be retained.**

#### Policy BH1- A Sustainable Community

6.6.5 The first policy topic area is to secure a sustainable community within Balsall Heath. In this respect the principle of starting with this policy makes sense.

6.6.6 However given the scope and breadth of the topic, essentially setting out the whole basis of the plan, the supporting text and justification for the policy is limited and partial in what is covered. The NPPF at paragraph 184 states that the ambition of the neighbourhood (in this case to create a sustainable community) should be aligned with the strategic needs and priorities of the wider local area. Plus the PPG requires evidence to support the choices made and the approach taken. To that end I would have expected to see more of a discussion in the justification about what is involved in terms of creating a sustainable community in this part of Birmingham.

6.6.7 Balsall Heath to be a sustainable community will be a place where people live and work and are able to access local services. It therefore plays a part in the provision of housing and supply of employment within the city. I accept that, as an inner urban neighbourhood, the opportunities for a major contribution in terms of land to these key sectors is of necessity limited. However, given that the text at paragraph 2.4.4 makes it clear that key concerns of the community are meeting housing and employment needs, it is surprising that, in tackling the topic of a sustainable community, the plan approach in response and how this sits with the development strategy for the city is not clearly set out.

6.6.8 It would be misleading for the plan to consider its role against the development requirements set out in the now dated UDP but the NPPF and PPG do require neighbourhood plans to be based on clear and up to date evidence. Therefore to satisfy Basic Condition No 1 the plan should clearly set out its position against the land supply evidence assembled for the BDP now at examination.

6.6.9 I accept that there is some discussion in section 2 of the position but because of where it is located in the plan it reads as part of the issues underlying the plan. The proposed plan response is somewhat lost. The simplest way to rectify this is to include a new section at the start of section 5 which draws the threads together from section 2. You may find that in doing that some text in section 2 under the detailed discussion of housing and economic and social issues may have to move to the new section.

**Recommendation 11** - At the start of section 5 insert new text discussing the plan strategy to create a sustainable community based on the vision and aims and explaining the contribution the plan will make in terms of housing and employment opportunities in the plan area against the evidence. The text should explain what a sustainable community for Balsall Heath means and lead into policy BH1. It could be entitled “*Building a Sustainable Community in Balsall Heath*” or similar.

The new section would be clearer if what is currently the “Introduction” at section 5.1, which is largely explanatory, is moved back to section 4.5.

6.6.10 With this modification in place the starting rationale for the plan would be much clearer and would accord with Basic Conditions Nos 1, 2 and 3.

6.6.11 Regarding policy BH1, it is consistent with the overall objective of the NPPF to secure sustainable development and with the modification proposed at Recommendation 10 in place the policy will meet Basic Condition No1. It is consistent with UDP policies at 3.14 and the wider thrust of the UDP towards sustainable development and therefore meets Basic Condition No 3. Whilst the sustainability appraisal confirms the policy will have generally positive outcomes against the sustainability objectives the Environment Agency in its comments at the regulation 16 Publicity Stage has raised a slight concern regarding flood risk. It has requested that a reference is added to BH1 to ensure development is not put at risk from flooding. Given that the NPPF includes taking full account of flood risk within its core principles and in Section 10 the request would be a justified addition to the policy.

**Recommendation 11A** – Reword clause f) to read:

***“ encourage measures to adapt to the impacts of climate change including locating development away from areas at risk of flooding, and promotion of sustainable surface water drainage, sustainable energy use.....”***

6.6.11 With this modification applied the policy will promote sustainable development and meet Basic Condition 2.

### Policy BH2 – Design and Conservation of the Built Environment

6.6.12 In seeking high quality design and conservation of the built environment policy BH2 is consistent with the objectives of the NPPF at Sections 7 and 12.

6.6.13 The modification at Recommendation 10 once applied goes part way to making Policy BH2 compliant particularly with Basic Condition No 1. However as a result of the proposed modification part (f) no longer makes sense and should be separated out as a specific paragraph. Again given the requirement of the PPG for clarity and certainty, outlined above, the policy needs to tie the operation of the proposed Urban Design Framework into the policy otherwise its status, once prepared, will be vague and uncertain. It is not enough to simply propose its preparation without saying how it will be applied.

**Recommendation 12 – Reword section (f) of BH2 as a separate paragraph to read: “All new development proposals will be required to reflect the Urban Design Framework for Balsall Heath once prepared.”**

6.6.14 With these modifications the policy meets Basic Condition No 1. The SA confirms the policy will contribute to meeting sustainability objectives and the policy is in conformity with policies in section 3 of the UDP dealing with the built environment. It therefore meets Basic Conditions Nos 2 and 3.

### Policy BH3 – Community Infrastructure and Shopping and Local Centres.

6.6.15 Policy BH3, although setting out a wider aspiration regarding community infrastructure, is really about the local centres. The policy in that regard is consistent with section 2 paragraph 23 of the NPPF which seeks to ensure the vitality of town centres. However the NPPF also indicates that plans should provide a practical basis within which decisions on planning applications can be made with a high degree of predictability and efficiency. To that end I have two areas of concern with the policy.

6.6.16 The justification refers incorrectly to maps 3 and 4 as showing the effective limits of the local centres. The correct reference is maps 8 and 9. However my recommendation 3 above if applied will enable much clearer mapping of the limits to the two centres within proposals maps, removing the need for what are unclear illustrations. Once that is achieved the policy should be clarified by referring to the proposals map definition of the centres.

6.6.17 Secondly, the BHNDP will be an important part of the development plan in its own right once made. I do not therefore think it is necessary to refer to a Supplementary Planning Document within section a) of the policy. The justification section can be used to refer to the SPD as the source evidence to justify the retention of 50% of units in retail use. If the SPD is not the source for that then further justification must be included if the policy is to comply with the Framework and PPG requirements for a clear evidence base.

**Recommendation 13 – Add to line 3 after Ladypool Road) “as defined on the**

*proposals map”.....*

Delete the reference to the SPD in part a) “*in line with the Shopping and Local Centres SPD*” and refer instead to it in more detail in the justification.

As drafted part d) of the policy does not make sense read with the first part of the policy particularly once modified by Recommendation 10. It is suggested that this part of the policy is separated out as an independent paragraph without lettering as it is a standalone element of the policy.

6.6.18 With modifications at Recommendation 10 and 13 applied the policy meets Basic Condition No 1. The SA confirms it performs well against sustainability objectives meeting Basic Condition No 2. The policy is also in conformity with policies 7.21 to 7.26 in the UDP dealing with retail centres outside the city centre.

#### Policy BH4 – Environment and Open / Green Space

6.6.19 The NPPF at section 11 and paragraph 114 encourages positive planning for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure. Thus policy BH4 is consistent with the Framework and with the modification at recommendation 10 it will be compliant with the Basic Condition No 1.

6.6.20 The statement in BH4 that some current green space can be more beneficially used for other purposes leaves a slightly uncertain effect in respect of biodiversity. However no priority habitats would be involved and the SA concludes there would be unlikely to be any significant loss of biodiversity. In any event clause (i) at policy BH1 is intended to mitigate these effects and therefore Basic Condition No 2 is met.

6.6.21 The policy is in general conformity with the UDP at section 3.47-3.64. However the statements in the justification regarding orphan spaces and their possible use for alternative purposes, at face value, conflict with policy 3.52 of the UDP.

6.6.22 These statements at 5B 3.3 read as policy intentions and set out the circumstances in which alternative uses may be accepted. In that respect there is ambiguity about the plan’s intention and therefore conflict with Basic Conditions Nos 1, and 3 in particular. If the plan content regarding the orphan spaces and their possible alternative use is to be retained this should be converted to a policy statement. This could be achieved with a new policy BH4 B which would allow the position to be clarified in a way that is compliant with the NPPF at paragraph 74 and UDP policy 3.52.

**Recommendation 14 – Introduce new policy or separate section to policy BH4 dealing with the circumstances in which orphan spaces in particular could be put to alternative use. The wording must make it clear the circumstances in which orphan spaces or indeed other greenspace may be considered for alternative uses as set out in para 5B.3.3. Where built development is proposed the policy must make clear the criteria which will be applied based on the NPPF at paragraph 74 and with UDP policy 3.52A where it is still consistent with the NPPF.**

### Policy BH5 – Parks

6.6.23 Policy BH5 seeking to improve the parks is supported by a strong justification and is consistent with paragraph 73 of the NPPF. However I have two concerns with the policy and Basic Condition No 1. The PPG requires that policies in a neighbourhood plan should be clear and unambiguous. They should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. With that in mind the first statement “The Plan suggests that...” is too vague and uncertain. Secondly the phrasing of part d of the policy is such that the policy intent is unclear. It is also about control and not part of a programme of improvements. Thus it would be better as a standalone part of the policy at the end

**Recommendation 15** – **Revise policy BH5 to start “The Plan proposes that for each of the formal parks in the plan area a programme of improvements will be prepared to enhance the environmental benefits and community use of these assets including:.....”**

**Insert after part c – “These programmes of improvements will be implemented in association with the grant of planning permission for development proposals which depend on the parks for provision of public open space and recreation facilities.”**

**Relocate part (d) to be an unmarked standalone clause at the end of the policy to read –“Development proposals to extend uses related to Edgbaston Cricket Ground which adversely affect Calthorpe Park will be resisted.”**

6.6.24 With these modifications in place the policy is compliant with the Basic Condition No 1 and the SA confirms the policy is generally positive in terms of sustainability objectives meeting Basic Condition No 2. The policy is in conformity with the open space policies in section 3 of the UDP and in section 16, dealing with Edgbaston, the issue of conflicts with Calthorpe Park is not raised. BH5 therefore meets Basic Condition No 3.

### Policy BH6 Connectivity

6.6.25 The justification to the policy in this section is detailed introducing the objectives in terms of connectivity and the detailed community projects related to connectivity improvements and in principle is consistent with section 4 of the NPPF. However, the policy itself is unclear in both its intent and how it will be applied. Again therefore there is conflict with Basic Condition No 1 and the requirements of the NPPF and the PPG.

6.6.26 I have already recommended at Recommendation 10 that rewording is carried out but in the case of this policy I recommend the following wording to create criteria to assess development proposals out of the text that exists.

**Recommendation 16** – **apply the principles set out in Recommendation 10 and reword as follows:**

**“The NDP seeks to enhance the connectivity of the area to the rest of the city and secure safe use of transport networks. Proposals for the development and use of**

***land and buildings will be supported which:***

- a) Improve accessibility by public transport***
- b) Improve driver, passenger, cyclist and pedestrian safety and convenience within the plan area***
- c) Effectively manage traffic, congestion and parking especially in and around the local centres and other community facilities***
- d) Take account of the specific transport needs of children, the elderly and disabled.”***

6.6.27 With this modification in place the policy is compliant with Basic Condition No 1. The elements of the policy as it currently exists raised no issues in the SA and as modified it would continue to promote sustainable connectivity. Thus Basic Condition No 2 is met and the policy as revised is in general conformity with UDP policy at section 6 - 6.17-20.

#### *Policy BH7 Marking significant Places and Spaces*

6.6.28 Section 7 of the NPPF on design stresses the need for plans to establish a strong sense of place and to that end the principle of policy BH7 is consistent with it. Whilst a community project is proposed that could provide smaller scale ‘marking structures’, street lighting etc it is clear from the justification text and the community project itself that larger scale opportunities are intended to be taken.

6.6.29 With this in mind and to be compliant with the NPPF and PPG requirements of policies in plans, the policy needs to be clearer in its intent than the aspirational statement it is at present. It should clearly set out how this desirable objective is delivered principally through the development process.

#### **Recommendation 17 – Reword the policy as follows**

***“Development opportunities at entrance points and key focal points in the plan area will be expected through their architectural design, materials, lighting and proposals for public art to mark out and enhance Balsall Heath’s ‘gateways’ promoting a sense of place and local distinctiveness.”***

6.6.30 With the modification applied the policy will be consistent with Basic Condition No 1. The SA did not identify any particular issue with the principle of the policy and the rewording would not change that so the second basic condition would also be met. The policy would also be in conformity with policy 3.14 of the UDP although this was based on guidance in former Planning Policy Guidance Note 1 rather than the NPPF.

#### *6.7 Section 5C Place Specific Policies and Proposals*

6.7.1 The general introduction to this section clarifying the origin and status of policies and proposals is helpful but raises a number of general matters that need to be resolved as a result of other recommendations above.



6.7.2 Regarding the statement at the end of paragraph 5C.1.3 about the plan making complementary suggestions on land adjoining the plan area I could only find one area where this occurred in respect of the Highgate Road proposals. Particularly in view of the fact that the Sparkbrook neighbourhood has in the past taken issue with an early proposal to extend the plan area northwards but more importantly because of the legislation at Section 38B of the PCPA, this approach is problematic. It raises a direct conflict with Basic Condition No 1 which is easily avoided by removal of this text.

**Recommendation 18 – remove the sentence at the end of paragraph 5C.1.3 starting “Some complementary suggestions....”**

6.7.2 Given my recommendation 3 above, the reference to mapping at paragraph 5C.1.4 will need to be amended to refer correctly to mapping according to whether the approach of one proposals map or three sectional proposals maps is adopted.

**Recommendation 19 – Amend paragraph 5C.1.4 to refer to proposals mapping as resolved following the modification at recommendation 3.**

6.7.3 Throughout this section if illustrative mapping or illustrations are to be used to help demonstrate proposal concepts they should be described as such. Titling that refers to “indicative” appears to suggest a higher level of certainty than is perhaps intended to be the case. To fully comply with Basic Condition No 1 all such titling should be amended.

**Recommendation 20 – replace the word “indicative” in the titling of mapping and illustrations in section 5C with the word “illustrative”.**

*Balsall Heath Neighbourhood Centre – Policy BH8 Land Use and Ladypool Road Neighbourhood Centre – Policy BH12 Land use*

6.7.4 These 2 policies are essentially similar and raise similar issues in respect of the basic conditions I have therefore dealt with them together.

6.7.5 Policies BH8 and BH12 in seeking to set out the land use strategy for each neighbourhood centre is in accordance with the policy principles in the NPPF at Section 2 paragraph 23 which seeks to ensure town centres are managed to maintain viability and vitality. However there are two procedural problems with each policy.

6.7.6 First the PPG requires proportionate, robust evidence to support the choices made and the approach taken. It is not immediately obvious in either of the policies or their supporting text what the source of the percentage thresholds used in the policies are for retail and hot food takeaways. If these figures are to be used and applied through the policies then they need to be evidenced in the justification. Without this the policies will fail Basic Condition No 1.

6.7.7 Secondly, the policies in operation depend on the definition of 2 area boundaries –

the Primary Shopping Area and the Neighbourhood Centre boundary in each centre. Whilst the SPD is referenced as the source of the definition, as set out above dependence on the SPD for this purpose in the policies is not appropriate. To fully comply with the requirements of the PPG that policies in a neighbourhood plan should be clear and unambiguous the boundaries should be defined in the BHNDP. In respect of boundaries in both the Moseley Road and Ladypool Road centres it will be simplest to depend on and refer to the proposals map(s).

**Recommendation 21 – Include additional text in the justification to both policies BH8 and BH12 evidencing the use of the 50% and 10% thresholds.**

**Reword policy BH8 Line 1/2 and policy BH12 Line 1/2 to read “...(as identified in the Proposals Map(s)).....”**

**As per recommendation 3 incorporate the maps showing the boundaries of the primary shopping areas and neighbourhood centres for both Moseley Road and Ladypool Road (currently Maps 8 and 9) into the Proposals Map(s).**

6.7.8 With this modification applied policies BH8 and BH12 comply with Basic Condition No 1. Both policies will have neutral or positive impacts against the sustainability objectives<sup>1</sup>, thus meeting Basic Condition No 2 and as set out above the policies are also in conformity with policies 7.21 to 7.26 in the UDP dealing with retail centres outside the city centre.

1. Please note the SA in the table on page 25 confuses the impacts of BH12 with BH13. BH 12 should have the same impacts as BH8 – essentially positive

#### *Balsall Heath Neighbourhood Centre – Policy BH9 Historic Buildings and Design*

6.7.9 Policy BH9 which seeks to encourage the protection, enhancement and more effective use of heritage assets in the neighbourhood centre is fully consistent with the NPPF at section 12 paragraph 126. The SA confirms it is in accordance with sustainability principles and the policy also generally conforms to policies 3.20 to 3.26 of the UDP dealing with the historic environment. I have no concerns that necessitate modification and the policy meets the Basic Conditions.

#### *Balsall Heath Neighbourhood Centre – Policy BH10 Street Scene and Town Square*

6.7.10 The proposals for streetscene enhancements in Moseley Road and the establishment of a town square are consistent with section 2 of the NPPF seeking to enhance the vitality of town centres. However, again the policy fails against the requirement of the PPG that policies in a neighbourhood plan should be clear and unambiguous and should be drafted with sufficient clarity that a decision maker can apply it consistently. The use of the word “could” essentially destroys the value of the policy and again the role of development proposals in promoting and delivering the objective of the policy is not clarified.

**Recommendation 22** – Reword line one of policy BH10 to read:

***“A comprehensive scheme will be drawn up....”***

**Add at the end of the policy :**

***“Development proposals along Moseley Road will be expected to be designed in accordance with the scheme to assist in delivering its objectives and in accordance with the Balsall Heath Urban Design Framework once prepared (See policy BH2).”***

6.7.11 With this modification applied Basic Condition No 1 is met. The policy was assessed in the SA as one with essentially positive outcomes and the modification does not affect that. Thus Basic Condition No 2 is met. The policy is also in general conformity with the UDP.

*Policy BH11 – Improving Old Moseley Road*

*Policy BH13 – The Street Scene in Ladypool Road*

*Policy BH14 – The Street Scene in Stoney Lane*

6.7.12 The proposals for streetscene enhancements in this suite of 3 policies as with policy BH10 are again consistent with section 2 of the NPPF seeking to enhance the vitality of town centres. However, again, against the requirement of the PPG that policies in a neighbourhood plan should be drafted with sufficient clarity that a decision maker can apply them consistently, the policies are inadequate to meet Basic Condition No 1.

6.7.13 The way in which each is expressed varies but essentially they propose that environmental improvements will be supported. In policy BH11 highway improvements are also referred to but not in policies BH13 and 14 even though, particularly in respect of the supporting text in respect of Stoney Lane, traffic and parking are clearly issues. It is not clear how the improvements will be coordinated or delivered. Some of the policies’ supporting texts imply that this will be as part of the preparation of the Urban Design Framework for Balsall Heath. However as written, decision makers would have to take ad hoc decisions about enhancement and there is no clear instruction to those proposing development on these streets.

6.7.14 Moreover, at least in respect of policies BH13 and BH14 there is a policy instruction in the justification text that is not set out in the policy – that development proposals should observe the guidance in the Urban Design Framework proposed as part of BH2. As an expectation of developers this should be set out in the policies.

6.7.15 The NPPF indicates that plans should provide a practical basis within which decisions on planning applications can be made with a high degree of predictability and efficiency. For the reasons above the 3 policies would fail Basic Condition No 1 unless they are modified.

6.7.16 Additionally, the illustrative plan of the Ladypool Road proposals indicates development in the adjoining neighbourhood area of Sparkbrook. Whilst I accept this is intended to be only illustrative, given the legislation at Section 38B of the PCPA that

neighbourhood plans are restricted to presenting proposals within the neighbourhood area, this should be deleted.

### **Recommendation 23 –**

- A. **Reword lines 1-3 of Policy BH11 to read:**  
***“The NDP seeks environmental and highway improvements incorporating appropriate parking areas for Old Moseley Road between Haden Way and Highgate Road. These improvements will include planting, lighting, paving and street furniture.....”***
- B. **Reword lines 1-4 of policy BH13 to read:**  
***“The NDP seeks environmental and highway improvements incorporating appropriate shopper and resident parking areas for Ladypool Road. These improvements will include planting, lighting, paving and street furniture. Encouragement will also be given to landowners to improve buildings and land in a poor state of repair.”***
- C. **Reword lines 1-4 of policy BH14 to read:**  
***The NDP seeks environmental and highway improvements incorporating appropriate shopper and resident parking areas for Stoney Lane. These improvements will include planting, lighting, paving and street furniture. Encouragement will also be given to landowners to improve buildings and land in a poor state of repair.”***
- D. **Add the following wording to the end of all 3 policies:**  
***“Development and refurbishment proposals along (...insert road name...) will be expected to be designed in a way that assists in delivering environmental and highway improvements and in accordance with the Balsall Heath Urban Design Framework once prepared (See policy BH2).”***
- E. **Amend the plan on P 46 of the plan to delete the indicative development north of Highgate Road.**

6.7.17 With these modifications made to the 3 policies they will meet Basic Condition No 1. The SA raises some concerns<sup>1</sup> with BH13 and BH14 that the proposals to increase car parking in the local centres would have an uncertain outcome against the sustainability objectives. However taken overall I am satisfied that the policies as modified would make a generally positive contribution to sustainable development. Thus Basic Condition No 2 is met. The policies as modified will continue to be in general conformity with policies 7.21 to 7.26 in the UDP dealing with retail centres outside the city centre and with policy in section 17 relating to Balsall Heath and the Sparkbrook ward

<sup>1</sup> Please note the SA in the table on page 25 confuses the impacts of BH12 with BH13.

### **Section 5C.6 Ex Joseph Chamberlain College Site – Policy BH15**

6.7.18 This section of the plan has been subject to a representation made at the Regulation 16 publicity stage by GVA on behalf of Standard Life Assurance the site owners. As part of this section I will therefore give consideration to the content of this representation.

6.7.19 The representation in commenting on the current situation requires a factual correction to be made to the supporting text. In the period since the submission version of the plan was written all the pre-commencement conditions of the 2011 approval have been discharged and the consent has been implemented therefore paragraph 5C.6.1 is now factually incorrect.

6.7.20 The Forum has taken the view that, in the light of the site remaining undeveloped, it is appropriate for the plan to propose an alternative mixed use development solution incorporating residential - a proposal which the landowner is not against in principle. The paragraph at 5C.6.1 also implies that convenience retail would be acceptable on the site even though this was not what was originally permitted. Whilst this in itself may not be unacceptable the sentence following, at line 8, that effectively writes off any conflict with the vitality and viability of Moseley Road centre because of the importance of regenerating the site is not acceptable. The policy in the NPPF at paragraphs 24-27 requires satisfactory sequential and impact tests to have been carried out before out of centre retail development can be accepted. Accordingly, this sentence needs to be redrafted to comply with Basic Condition No 1.

6.7.21 In terms of policy BH15 itself again the NPPF indicates that plans should provide a practical basis within which decisions on planning applications can be made with a high degree of predictability and efficiency. In recognition of both this and the planning circumstances of the site the use of the word “may” in line 4 of the policy is inappropriate. In addition the owners have raised concern about the wording in line 1/2 of the policy where it states “in partnership with the owners of the site”. The representation is not specific but I assume their confusion is that there would be no operative basis for a partnership. The policy works adequately without the clause and therefore it would be simpler to remove it.

6.7.22 For similar reasons, ie lack of clarity in intent, the text at paragraph 5C.6.2 also needs to be amended to confirm that a development brief **will** be prepared.

6.7.23 Finally although I accept that the layout plan on page 50 is illustrative I agree with the owners concerns that there is very little basis for this and it would be better relocated to the proposed development brief for the site as and when that is prepared.

#### **Recommendation 24 –**

**A. Amend text at paragraph 5C.6.1 lines 4-6 to read :**

***“...renewed in 2011. Although pre-commencement conditions have been discharged and material operations to secure the consent have been carried out construction has not taken place. Supporting the NDP’s.....”***

**B. At line 8 paragraph 5C.6.1 Delete the sentence starting “Although convenience retail....” and replace with the following:**

***“However if convenience retail is part of the mix of uses proposed for the former college site proposals must be subject to the results of a sequential test and, if retail floorspace is to exceed 2500m<sup>2</sup>, subject to the results of a***

- retail impact test on Moseley Road as required by the NPPF.”*
- C. In policy BH15 line 1/2 – delete the phrase “...and in partnership with the owners of the site...”.
- Replace “*may*” with “*will*” in line 4 of the policy.
- D. Reword paragraph 5C.6.2 Line 1 to read:  
 “*A development brief will be prepared.....*”
- E. Delete the illustration of the site layout on Page 50
- F. In line with recommendation 3 Map 10 will be relocated into the proposals map(s).
- G. Consequential changes are required at paragraph 2.3.9 delete “*but this .....implemented*” and insert “*Although pre-commencement conditions have been discharged and material operations to secure the consent have been carried out construction has not taken place.*”
- At paragraph 4.6 line 10 delete “*(expired June 2014)*”
- At paragraph 2.4.11 line 2 after “would be on” add “ *the former Joseph Chamberlain college site and on .....*”

6.7.24 With these modifications Basic Condition No 1 is met along with the valid concerns of the landowner that the BHNDP as submitted did not reflect the actual permission with regard to planning permissions on the site.

6.7.25 As well as the SA conclusion that development of the site for mixed use performed well against the sustainability objectives the site has also, as part of its planning history, been subject to Environmental Impact Assessment which concluded the retail development proposed at that time was an environmentally sustainable use of the site. Basic Condition No 2 is therefore met.

6.7.26 The permission on the site postdates the adoption of the revised UDP and therefore the site is not specifically mentioned. However the principle of a mixed use redevelopment of the site is in general conformity with the development strategy of the UDP.

#### Section 5C.7 Highgate Road – Policy BH 16

6.7.27 The NPPF encourages the effective use of land encouraging its reuse where it has been previously developed as in the case of the Highgate Road site. Given the NPPF’s encouragement to the delivery of sustainable housing development, the principle of the proposal accords Basic Condition No 1. However, because of the requirement in Section 38B of the PCPA that NDPs should not include proposals outside the neighbourhood area, the map of the proposal needs to be amended to only show the development on the south side of Highgate Road. In conjunction with recommendation 3 above it is in any event suggested that the site extent and policy reference number would be moved to the Proposals Map(s) although the Forum may wish to retain an illustrative plan of the possible development on the south side of the road.

6.7.28 The Highgate Road site was one of those where the SA indicated some uncertain

impact in that the extent of open greenspace would be reduced. The supporting text indicates that improved higher quality greenspace will be retained but this is not set out in the policy. In order to respond to the SA concerns it is recommended that a modification is added to meet Basic Condition No 2.

6.7.29 Highgate Road forms part of the Birmingham Strategic Highway Network and is identified in the UDP at proposal T30 for widening. No Highway Improvement Line is shown on the UDP proposals map to establish whether there would be a conformity issue. The BDP retains the proposed widening of Highgate Road along the north side of the proposed housing site but again does not provide a detailed Highway Improvement Line. However as the BHNDP states that the City Council has reviewed its proposals for the road, making more land available for other purposes I have taken it that there is no conformity issue in this regard and therefore Basic Condition No 3 is met.

**Recommendation 25 – Identify the extent of the Highgate Road site on the Proposals Map(s) as per Recommendation 3. If the Forum wish to retain Map 11 to show the illustrative layout on the site – delete any development shown on the north side of Highgate Road.**

**Add to policy BH16 at line 3 after “land” :**

***“....retaining improved green space and respecting.....”***

6.7.30 With these modifications applied the Basic Conditions are met.

#### Section 5C.8 Rail Connectivity – Balsall Heath Railway Station Policy BH17

6.7.31 Sustainable transport opportunities are supported in the NPPF at section 4 and particularly at paragraph 29. As a high density inner urban area with a large resident population close to the Camphill railway line its reopening to passenger traffic and the development of a Balsall Heath station is consistent with the NPPF objectives. However again in terms of the PPG requirements for proportionate, robust evidence to support the choices made and the approach taken and that policies in a neighbourhood plan should be clear and unambiguous the section of the plan requires modification in two respects.

6.7.32 The evidence backing up the proposal in terms of the origin of the proposal to reopen the Camphill line and identify station locations is absent from the supporting text. Investigation of reopening the line is clearly set out at policy 6.30 of the UDP and whilst no proposed stations are set out in the policy the proposal would be in general conformity with the UDP. The BDP also retains the proposal although Balsall Heath is not mentioned as a station location. The text at paragraph 5C.8.1 needs to be extended to evidence the source of the proposal otherwise the supporting text reads as though the idea has simply arisen out of consultation responses with no clear rationale.

6.7.33 Secondly, the wording of the actual policy is again too vague to comply with the requirements for clarity. Use of “there could be” and “could ideally” in the policy is inappropriate wording in the context of the PPG and the NPPF. Also the policy does not

indicate how the station proposal will be taken forward.

**Recommendation 26 –**

- A. Add a new paragraph after 5C.8.1 setting out the origins of the proposal to reopen the Camphill Line, the UDP/BDP support for it and the intention to seek a station in Balsall Heath.**
- B. In line 2 of policy BH17 delete the words “*there could be*” and insert after “station” the words “*will be investigated*”.**
- C. In line 4 of the policy replace the words “*could ideally*” with “*should*”**

6.7.34 With these modifications the policy will meet Basic Conditions Nos 1 and 3. The SA identified a possible negative effect on health as a result of the possible loss of a sports facility to the site of the new station. However as BH17 only seeks to investigate the siting and provision of a station and given the benefits in respect of sustainable transport the policy overall meets sustainability objectives and therefore Basic Condition No 2 is met.

Section 5C.9 River Rea – Policy BH18

6.7.35 Section 11 of the NPPF requires the planning system to contribute to and enhance the natural and local environment and therefore the proposal in policy BH18 to naturalise the open section of the River Rea in the western part of the plan area is consistent. However the NPPF at paragraphs 109 seeks net gains in biodiversity and at paragraph 114 that plans should plan positively for the creation, protection and enhancement of networks of biodiversity and green infrastructure. Accordingly to enhance consistency with the Basic Condition No 1 a reference to biodiversity should be added to the policy. Additionally to comply with the requirement of neighbourhood plans not to include proposals outside the plan area the policy should clarify that the objective will apply only to the River Rea within the BHNDP area.

**Recommendation 27 – Amend line 3 of the policy to read**

**“.....*profile, setting, use and biodiversity value of the River Rea within the Plan Area.*”**

6.7.36 The policy proposal has a positive or neutral outcome against sustainability objectives in the SA and is also consistent with Policy 3.76 of the UDP which encourages the opening up of culverted and canalised watercourses. Moreover the Environment Agency in its representation on the plan at the Regulation 16 publicity stage supports the naturalization of the River Rea corridor and does not request any modification to the plan.

6.7.37 With the minor modification above the policy BH18 meets Basic Conditions 1, 2 & 3.

Policy BH19 New Allotments

6.7.38 The related proposal in this part of the plan area to deliver new allotments on land adjoining the River Rea is consistent with the NPPF which seeks to secure access to high



quality open spaces and recreation. Basic Condition No 1 is therefore met. Equally the SA concludes the proposal has a neutral or positive impact on the sustainability objectives and Basic Condition No 2 is therefore met.

6.7.39 Policy 3.62 of the UDP seeks to encourage provision of allotments in areas of deficiency. It is not apparent from the supporting text that there is evidence of deficiency but the proposal is in general conformity with the UDP and Basic Condition No 3 is met.

6.7.40 The Environment Agency in its representation indicates that it would wish to be involved in the design of the allotments in order to mitigate any risk of pollution to the watercourse. However as the EA would be involved at the planning application stage as a consultee I do not see a particular need to recommend a modification to the policy.

### Policy BH20 Youth Centres

6.7.42 The NPPF at section 8 states that the planning system plays an important role in facilitating social interaction and creating healthy inclusive communities. As such the policy objective in BH20 to provide youth facilities for the neighbourhood area in association with the local centres on Moseley Road and Ladypool Road is entirely consistent. The UDP does not include any specific supporting policy but the policy is nevertheless in general conformity with policy 7.23 regarding mixed uses in local neighbourhood centres. The SA confirms a neutral or positive outcome also from the policy. Accordingly Basic Conditions Nos 1,2 and 3 are met.

## 6.8 Other Policy Related Matters

6.8.1 In response to the Regulation 16 publicity stage a detailed representation on the BHNDP was submitted to the City Council from the West Midlands Police and Crime Commissioner (WMPCC). This representation was cross cutting, raising the issue of crime reduction and community safety across a number of policies and to avoid repetition in the report dealing with the issue on a policy by policy basis I consider the issues here *en bloc*.

6.8.2 Because of the detailed and extensive nature of the representation and that, under the neighbourhood planning and examination procedures, there is no formal opportunity for the Local Planning Authority to provide a response, I offered the City Council the opportunity to respond to the WMPCC representations. The City Council's response is set out in Appendix 1 to this report.

6.8.3 I accept that the NPPF at section 7 paragraph 58 does state "*Planning policies and decisions should aim to ensure that developments:.....create safe and accessible environments where crime and disorder and the fear of crime do not undermine quality of life or community cohesion*". The same policy message is reiterated at section 8 on promoting healthy communities at paragraph 69.

6.8.4 However in deciding what is an appropriate coverage of the matter in the BHNDP it

is necessary to bear in mind that the NPPF is itself setting out national policy to be applied in decision making as paragraph 58 and 69 state. It is not therefore necessary to reiterate the wording therein which is what the WMPCC requests.

6.8.4 Moreover the adopted development plan in force, the UDP, already states at policy 3.16 that “*the design of the environment influences both the actual and perceived threat of crime (and that) the adoption of suitable measures at the design stage in consultation with the police where appropriate will be of particular importance*”. In addition policy PG3 of the Birmingham Development Plan which is likely to replace the UDP states that “*new development should create safe environments that design out crime ...designing buildings and open spaces that promote positive social interaction and natural surveillance.*”

6.8.5 It is a basic premise of the planning system that decision making on development will take place against a hierarchy of plans and it is neither necessary nor desirable for plans at each level to merely duplicate policy statements.

6.8.6 Furthermore a second premise in development plans is that, in assessing development proposals, policies cannot be read in isolation and the whole plan will be applied where relevant. Therefore it is neither necessary nor desirable to seek to insert a particular aspect, in this case crime prevention, into a number of policies all stating much the same message. If I were to agree that the BHNDP should be modified as requested by the WMPCC the result would be that it would be unreasonably skewed in the direction of crime prevention and reduction.

6.8.7 On a number of occasions in the representation the WMPCC refer to the BHNDP being unsound without a modification being made. Soundness of the plan is not a matter before me. My consideration is whether the plan does or does not meet basic conditions.

6.8.8 However notwithstanding the above I do consider that to fully accord with Basic Condition Nos 1 and 2 in particular, the BHNDP overarching policies at BH1 and BH2 should be modified to reflect the WMPCC representations but without the repeated reference to the NPPF’s paragraph 58 test. The opportunity should also be taken to clarify in policy BH4 – Environment and Open/Green Space that open space should be designed and managed to reduce crime. As BH4 includes all open space it is not necessary to also include this in policy BH5 – dealing with parks as the WMPCC requests.

### **Recommendation 28 –**

**A. Insert into Policy BH1: A Sustainable Community (as modified by Recommendation 10 and 11A) the following additional text after clause i):**  
***“j) encourage measures to create and maintain surroundings that design out crime and establish safe and accessible environments.”***

**B. Insert into Policy BH2: Design and Conservation of the Built Environment (as modified by Recommendations 10 and 12) the following additional text after e):**  
***“f) positively contribute towards the regeneration of the environment and community safety. Developments should meet ‘Secured by Design’ standards and***

*include measures to improve natural surveillance and create active street frontages.”*

C. Reword clause b) of policy BH4 (as modified by Recommendation 10) to read: **“b) ensure that appropriate uses and management programmes are in place for open and green spaces (*including small ‘orphan’ spaces*), which promote the creation and maintenance of safe and accessible environments, and reduce crime and disorder, anti-social behaviour and the fear of crime.”**

## 6.9 Section 7 Delivering the Plan

6.9.1 To meet Basic Condition No 1 the section on delivery needs to acknowledge that as a statutory plan which forms part of the development plan a key part of delivery is via policy implementation through the management of development and change. Section 7 at present largely omits this major means of delivery concentrating more on project actions which of course are important but additional text is required to acknowledge one of the principal purposes of the neighbourhood plan.

**Recommendation 29** – Delete the last sentence of 7.1.1 and the first sentence of 7.1.2. Add a new paragraph 7.1.2 as follows:

***“7.1.2 Once the Neighbourhood Plan has been ‘made’ by Birmingham City Council the Council will determine all planning applications and other proposals in the light of policies set out in the plan. Applicants for planning permission will be expected to demonstrate in their applications how proposals conform to the neighbourhood plan policies.***

***7.1.3 In addition to implementation through development management the Balsall Heath Forum is a long standing....the neighbourhood who will actively promote the delivery of the plan. Working with the City Council....”***

6.9.2 In the same way that the NPPF at paragraph 153 requires Local Plans to be kept under review, good practice would suggest that the City Council and the Forum as Qualifying Body should put in place mechanisms for monitoring progress with the plan. These need not be unduly onerous and a number of Qualifying Bodies achieve this by presenting an annual monitoring report on the plan to their annual meetings for example. A commitment to review the plan as necessary in the light of a significant change in circumstances, for example where the Birmingham Development Plan is itself being reviewed, should be made. In this way the risk of contradiction between plans can be avoided.

6.9.3 The plan currently makes very brief mention of this in section 7.6.3 and at 1.3.6. In my opinion the reference to review in paragraph 1.3.6 is lost and instead a new section 7.7 entitled Monitoring and Review should be included at the end of the plan.

**Recommendation 30** – Replace paragraph 7.6.3 with a new heading **“7.7 Monitoring and Review”** and a new paragraph 7.7.1 using the text relocated from paragraph

**1.3.6, adding at the end of that paragraph :**

***“Such reviews will meet one of the recommendations of the Sustainability Appraisal and will follow any procedures for review as may be set out in neighbourhood planning regulations applying at that time”. The first review is due in 2019/20.***

## **7. Referendum**

7.1 I recommend to Birmingham City Council that, subject to the recommended modifications being completed, **the Balsall Heath Neighbourhood Development Plan should proceed to a Referendum.**

7.2 I am required to consider whether the Referendum Area should be synonymous with the Neighbourhood Area or extended beyond the Balsall Heath Neighbourhood Area.

7.3 The Neighbourhood Area mirrors the Balsall Heath Forum boundary and, whilst I understand that residents over a wider area of Birmingham may be employed in Balsall Heath or look to use the facilities and services available from time to time, I do not consider that this alone would warrant extending the area for the purposes of the referendum.

7.4 Although the Plan does propose two allocations of land adjacent to the northern boundary of the neighbourhood area I do not consider these would have such a significant impact on neighbouring areas as to warrant residents of those communities being given the opportunity to vote in the referendum.

7.5 Accordingly, I consider that it is unnecessary to recommend any other referendum area than the Neighbourhood Area and no evidence has been submitted to suggest any alternative approach.

7.6 I recommend that the Neighbourhood Plan, modified as specified above, should proceed to a Referendum based on the Balsall Heath Neighbourhood Area as designated by Birmingham City Council on 12 February 2013.

**Peter D Biggers**  
**Independent Examiner**

**31 March 2015**

**Argyle Planning Consultancy Ltd**

## Appendix 1

### **Response from Neil Vyse Birmingham City Council following the Examiner's request for the Qualifying Body and City Council view in response to the representations of the West Midlands Police and Crime Commissioner on the Balsall Heath Neighbourhood Development Plan.**

I refer to our discussion last week and am picking up the points you raised that required a response from us, principally the web site issues /formatting, the extent of the formal consultation and the observations of the Police and Crime Commissioner for the West Midlands.

Noreen has been in contact with you re the format of the document, and I can confirm that the hard copy I gave to you at the site visit is the final version. The glitch with a version that the Forum submitted (a couple of the images were lost in the ether) has been resolved, and the version I gave you is now on BCC's web site (see attached).

Also attached are the details of the organisations that we consulted as part of the validation process.

Regarding the Police and Crime Commissioner's submission, BHNDP remain of the opinion that their response to the Commissioners earlier correspondence (as outlined in the Consultation Statement) addresses the concerns raised, in that;

- Since the NDP will sit below both the NPPF, the UDP and the BDP (once adopted), the overarching community safety policies contained within those documents, are enshrined in the NDP: it does not therefore require explicit mention.
- When sites / projects come forward for planning permission / implementation, they will be considered by planning officers who are fully au fait with matters such as passive policing, designing out crime and 'secured by design' principles. Reference will also be made at that stage (where appropriate), to the Police architectural liaison officers, for their input into the design elements relevant to community safety etc.

Having said that, BHNPF fully supports the philosophy of designing out crime and thereby improving the community safety of individuals and neighbourhoods. The Forum is therefore happy to include the following suggestions for policy modifications (in italics).

#### **Policy BH1: A Sustainable Community (TP1-3, TP13, TP19, TP26-30)**

**The Balsall Heath Neighbourhood Development Plan will seek to maintain, develop and enhance the sustainable qualities of the area through:**

***j) encouraging measures to create and maintain environments that design out crime and create safe and accessible environments, where crime and disorder and the fear of crime, do not undermine quality of life or community cohesion.***

#### **Policy BH2: Design and Conservation of the Built Environment (TP12)**

**The NDP seeks to enhance the quality of life of residents and visitors through:**

***b) ensuring high quality design in all developments which will positively contribute towards the regeneration of the environment and community safety. Developments should meet 'Secured by Design' standards and include measures to improve natural surveillance and create active street frontages.***

**Policy BH4: Environment and Open/Green Space (TP7/8/9)**

The NDP recognises the importance of green space for biodiversity needs and seeks to enhance the quality of the environment and open spaces through:

b) ensuring that appropriate uses and management programmes are in place for open and green spaces *(including small 'orphan' spaces)*, to ensure that *management and development proposals promote the creation and maintenance of safe and accessible environments, where crime, anti-social behaviour, disorder and the fear of crime, do not undermine quality of life or community cohesion.*

**Policy BH5: Parks (TP7-11)**

The Plan suggests that for each of the formal parks in the plan area a programme of improvements should be carried out to enhance the environmental benefits and community use of these assets, including:

*(e) opportunities should be taken to improve the design, management and maintenance of parks to reduce crime, anti-social behaviour, disorder and the fear of crime.*

I hope the above answers the points raised, but should you require further clarification, please do not hesitate to get in touch.

Kind regards

Neil Vyse  
Principal Planning Officer  
Planning and Regeneration - South  
Birmingham City Council

0121 303 2238