

# **Barmby Moor Neighbourhood Development Plan 2022-2037**

**A report to East Riding of Yorkshire Council on the  
Barmby Moor Neighbourhood Development Plan**

**Andrew Ashcroft  
Independent Examiner  
BA (Hons) MA, DMS, MRTPI**

**Director – Andrew Ashcroft Planning Limited**

## **Executive Summary**

- 1 I was appointed by the East Riding of Yorkshire Council in November 2022 to carry out the independent examination of the Barmby Moor Neighbourhood Plan.
- 2 The examination was undertaken by way of written representations. I visited the neighbourhood area on 25 November 2022.
- 3 The Plan includes a variety of policies and seeks to bring forward positive and sustainable development in the neighbourhood area. There is a very clear focus on two specific matters. The first is the proposed definition of a Key Open Area between the village and Pocklington. The second is the designation of a package of local green spaces and open spaces.
- 4 The Plan has been underpinned by community support and engagement. All sections of the community have been engaged in its preparation.
- 5 Subject to a series of recommended modifications set out in this report, I have concluded that the Plan meets all the necessary legal requirements and should proceed to referendum.
- 6 I recommend that the referendum should be held within the neighbourhood area.

**Andrew Ashcroft**  
**Independent Examiner**  
**27 January 2023**

## **1 Introduction**

- 1.1 This report sets out the findings of the independent examination of the Barmby Moor Neighbourhood Development Plan 2022-2037 ('the Plan').
- 1.2 The Plan was submitted to the East Riding of Yorkshire Council (ERYC) by Barmby Moor Parish Council (BMPC) in its capacity as the qualifying body responsible for preparing the neighbourhood plan.
- 1.3 Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently embedded in the National Planning Policy Framework (NPPF) in 2012, and which was updated in 2018, 2019 and 2021. The NPPF continues to be the principal element of national planning policy.
- 1.4 The role of an independent examiner is clearly defined in the legislation. I have been appointed to examine whether the submitted Plan meets the basic conditions and Convention Rights and other statutory requirements. It is not within my remit to examine or to propose an alternative plan, or a potentially more sustainable plan except where this arises as a result of my recommended modifications to ensure that the plan meets the basic conditions and the other relevant requirements.
- 1.5 A neighbourhood plan can be narrow or broad in scope and can include whatever range of policies it sees as appropriate to its designated neighbourhood area. The submitted Plan has been designed to be distinctive in general terms, and to be complementary to the existing development plan. It seeks to provide a context in which the neighbourhood area can maintain its character and appearance. It proposes the identification of a Key Open Area between Barmby Moor and Pocklington.
- 1.6 Within the context set out above, this report assesses whether the Plan is legally compliant and meets the basic conditions that apply to neighbourhood plans. It also considers the content of the Plan and, where necessary, recommends changes to its policies and supporting text.
- 1.7 This report also provides a recommendation as to whether the Plan should proceed to referendum. If this is the case and that referendum results in a positive outcome the Plan would then be used to determine planning applications within the neighbourhood area and will sit as part of the wider development plan.

## **2 The Role of the Independent Examiner**

- 2.1 The examiner's role is to ensure that any submitted neighbourhood plan meets the relevant legislative and procedural requirements.
- 2.2 I was appointed by ERYC, with the consent of BMPC, to conduct the examination of the Plan and to prepare this report. I am independent of both ERYC and BMPC. I do not have any interest in any land that may be affected by the Plan.
- 2.3 I possess the appropriate qualifications and experience to undertake this role. I am a Director of Andrew Ashcroft Planning Limited. In previous roles, I have over 35 years' experience in various local authorities at either Head of Planning or Service Director level. I am a chartered town planner and have significant experience of undertaking other neighbourhood plan examinations and health checks. I am a member of the Royal Town Planning Institute and the Neighbourhood Planning Independent Examiner Referral System.

### *Examination Outcomes*

- 2.4 In my role as the independent examiner of the Plan I am required to recommend one of the following outcomes of the examination:
- (a) that the Plan as submitted should proceed to a referendum; or
  - (b) that the Plan should proceed to referendum as modified (based on my recommendations); or
  - (c) that the Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.
- 2.5 The outcome of the examination is set out in Section 8 of this report.

### *Other examination matters*

- 2.6 In examining the Plan, I am required to check whether:
- the policies relate to the development and use of land for a designated neighbourhood plan area; and
  - the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one neighbourhood area); and
  - the Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.
- 2.7 I have addressed the matters identified in paragraph 2.6 of this report and am satisfied that they have been met.

### 3 Procedural Matters

3.1 In undertaking this examination I have considered the following documents:

- the submitted Plan.
- the Basic Conditions Statement.
- the Consultation Statement.
- the SEA/HRA Screening report (April 2019).
- the representations made to the Plan.
- BMPC's responses to the clarification note.
- the adopted East Riding Local Plan (April 2016) (ERLP).
- the adopted Allocations Document (July 2016).
- the National Planning Policy Framework (July 2021).
- Planning Practice Guidance.
- relevant Ministerial Statements.

3.2 I visited the neighbourhood area on 25 November 2022. I looked at its overall character and appearance and at those areas affected by policies in the Plan in particular.

3.3 It is a general rule that neighbourhood plan examinations should be held by written representations only. Having considered all the information before me, including the representations, I concluded that the Plan could be examined by way of written representations and that a hearing was not required.

## 4 Consultation

### *Consultation Process*

- 4.1 Policies in made neighbourhood plans become the basis for local planning and development control decisions. As such, the regulations require neighbourhood plans to be supported and underpinned by public consultation.
- 4.2 In accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended), BMPC prepared a Consultation Statement. It is proportionate to the neighbourhood area and its policies. It is a good example of a statement of this type. It sets out key findings in a concise report which is underpinned with a series of more detailed tables and appendices.
- 4.3 The Statement records the various activities that were held to engage the local community and the feedback from each event. It also provides specific details on the consultation processes that took place on the pre-submission version of the Plan (February to March 2022). Section 1.1.50 of the Statement provides details about the way in which the Plan was refined as a result of this process. This analysis contributes significantly to the legibility of the relevant information and helps to describe how the Plan has progressed to the submission stage.
- 4.4 The Statement sets out details of the range of consultation events that were carried out in relation to the key stages of the Plan. They are helpfully arranged under the following headings:
- Designation and Raising Awareness;
  - Consultation and Evidence Gathering;
  - Presentation of the Questionnaire Results;
  - Draft Plan Creation;
  - First Public Consultation;
  - Advice From East Riding of Yorkshire Council Forward Planning; and
  - Pre-submission Consultation.
- 4.5 I am satisfied that consultation has been an important element of the Plan's production. Advice on the neighbourhood planning process has been made available to the community in a positive and direct way by those responsible for the Plan's preparation. From all the evidence provided to me as part of the examination, I can see that the Plan has promoted an inclusive approach to seeking the opinions of all concerned throughout the process. ERYC has carried out its own assessment that the consultation process has complied with the requirements of the Regulations.

### *Consultation Responses*

- 4.6 Consultation on the submitted plan was undertaken by ERYC. It ended on 7 November 2022. This exercise generated representations from the following organisations:

- Ashcourt Group
- The neighbourhood planning group
- The Coal Authority
- Historic England
- Marine Management Organisation
- James Richardson and E. Richardson and Sons
- Natural England
- National Grid
- National Highways
- North Yorkshire County Council
- Sport England
- East Riding of Yorkshire Council – Written Statement

4.7 A comment was also received from a local resident.

4.8 I have taken account of all the representations in preparing this report. Where it is appropriate to do so, I refer to specific representations on a policy-by-policy basis.

## 5 The Neighbourhood Area and the Development Plan Context

### *The Neighbourhood Area*

- 5.1 The neighbourhood area follows the boundary of the Barmby Moor civil parish with the exclusion of the airfield and Pocklington Industrial Estate which have been included in the Pocklington neighbourhood area. Its population in 2011 was 1114 persons living in 500 households. It is located to the south and west of Pocklington and approximately 13 miles east of York and eight miles north west of Market Weighton. The neighbourhood area straddles the A1079 York to Hull Road. It was designated as a neighbourhood area on 22 March 2016.
- 5.2 Barmby Moor is an attractive village. Its historic core is a designated conservation area based on Main Street which provides the principal road access between the village and Pocklington. The village has great variety of density, building ages and materials.
- 5.3 The remainder of the neighbourhood area is largely in agricultural use.

### *Development Plan Context*

- 5.4 The development plan for the area is the East Riding Local Plan 2012 to 2029 (ERLP) and the associated Allocations Document. The two documents were adopted in April 2016 and July 2016 respectively.
- 5.5 Policy S5 (Spatial Strategy for Growth) of the ERLP comments about the hierarchical focus for strategic levels of growth and investment. Barmby Moor is not specifically identified in the settlement network and is one of a series of villages in the countryside. Insert Map 56 of the Local Plan policies map identifies the development limits for Barmby Moor. It also sets out the conservation area boundary.
- 5.6 The neighbourhood area is within the Vale of York sub area. Policy A6 sets out the Plan's approach to the sub-area. It comments that there is a strong relationship between the sub area and York and that the relatively close proximity to York places pressure on the sub area's settlements, as an attractive location for those people working in York who want to live in a more rural location. This is reflected by recent trends in in-migration to the area from York, and the relatively high level of out-commuting from the sub area to the City.
- 5.7 The Allocations Document does not identify any housing sites in the neighbourhood area.
- 5.8 The submitted Plan has been prepared within its up-to-date development plan context. In doing so, it has relied on up-to-date information and research that has underpinned existing planning policy documents. This is good practice and reflects key elements in Planning Practice Guidance on this matter. The submitted Plan seeks to add value to the different components of the development plan and to give a local dimension to the delivery of its policies. This is captured in the Basic Conditions Statement



*Visit to the neighbourhood area*

- 5.9 I visited the neighbourhood area on 25 November 2022. I approached the village from the A1079 to the south. This helped me to understand its position in the wider landscape in general and its accessibility to the road network.
- 5.10 I looked initially at St Catherine's Church. I saw its prominence in the village and the scale of its grounds within the local environment.
- 5.11 I walked along Flat Lane. I saw the scale and significance of the primary school, and the playing fields to the north. The description of the lane in the Plan was immediately self-evident.
- 5.12 I walked along Chapel Street, Beck Side and Hall Spout. This helped me to understand the character and format of the village and the designated conservation area. In doing so I saw the significance of the Methodist Church and the Village Hall.
- 5.13 I then walked along Keldspring Lane. As with Flat Lane I saw its attractive character. I was able to see the northern edge of the proposed Key Open Area. I saw the interesting plaque at the entrance to Norris Avenue about Sergeant B. Norris who was killed in action in December 1942.
- 5.14 I then walked along Back Lane. I saw the different types of houses. As I approached the A1079 I was able to see the southern part of the proposed Key Open Area.
- 5.15. Throughout the visit I took the opportunity to look at the proposed local green spaces. I saw the ways in which they contributed towards the attractiveness and spaciousness of the parish.
- 5.16 I left the neighbourhood area along the B1246 leading to Pocklington. This part of the visit highlighted the scale, significance, and openness of the proposed Key Open Area.

## 6 The Neighbourhood Plan and the Basic Conditions

- 6.1 This section of the report deals with the submitted neighbourhood plan as a whole and the extent to which it meets the basic conditions. The submitted Basic Conditions Statement has helped in the preparation of this section of the report. It is an informative and well-presented document.
- 6.2 As part of this process, I must consider whether the submitted Plan meets the basic conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the basic conditions, the Plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State;
  - contribute to the achievement of sustainable development;
  - be in general conformity with the strategic policies of the development plan in the area;
  - be compatible with European Union (EU) obligations and European Convention on Human Rights (ECHR); and
  - not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

I assess the Plan against the basic conditions under the following headings:

### *National Planning Policies and Guidance*

- 6.3 For the purposes of this examination the key elements of national policy relating to planning matters are set out in the National Planning Policy Framework 2021 (NPPF).
- 6.4 The NPPF sets out a range of land-use planning principles to underpin both plan-making and decision-taking. The following are particularly relevant to the Barmby Moor Neighbourhood Development Plan:
- a plan-led system - in this case the relationship between the neighbourhood plan and the ERLP and the Allocations Document;
  - building a strong, competitive economy;
  - recognising the intrinsic character and beauty of the countryside and supporting thriving local communities;
  - taking account of the different roles and characters of different areas;
  - highlighting the importance of high-quality design and good standards of amenity for all future occupants of land and buildings; and
  - conserving heritage assets in a manner appropriate to their significance.
- 6.5 Neighbourhood plans sit within this wider context both generally, and within the more specific presumption in favour of sustainable development. Paragraph 13 of the NPPF indicates that neighbourhoods should both develop plans that support the strategic needs set out in local plans and plan positively to support local development that is outside the strategic elements of the development plan.

- 6.6 In addition to the NPPF, I have also taken account of other elements of national planning policy including Planning Practice Guidance and the recent ministerial statements.
- 6.7 Having considered all the evidence and representations available as part of the examination, I am satisfied that the submitted Plan has had regard to national planning policies and guidance subject to the recommended modifications in this report. It sets out a positive vision for the future of the neighbourhood area. It includes a series of policies that address a range of development and environmental matters. It has a focus on securing good design standards for new development and in concentrating new development in sustainable locations.
- 6.8 At a more practical level, the NPPF indicates that plans should provide a clear framework within which decisions on planning applications can be made and that they should give a clear indication of how a decision-maker should react to a development proposal (paragraph 16d). This was reinforced with the publication of Planning Practice Guidance. Paragraph ID:41-041-20140306 indicates that policies in neighbourhood plans should be drafted with sufficient clarity so that a decision-maker can apply them consistently and with confidence when determining planning applications. Policies should also be concise, precise, and supported by appropriate evidence.
- 6.9 As submitted the Plan does not fully accord with this range of practical issues. Most of my recommended modifications in Section 7 relate to matters of clarity and precision. They are designed to ensure that the Plan fully accords with national policy.

*Contributing to sustainable development*

- 6.10 There are clear overlaps between national policy and the contribution that the submitted Plan makes to achieving sustainable development. Sustainable development has three principal dimensions – economic, social, and environmental. I am satisfied that the submitted Plan has set out to achieve sustainable development in the neighbourhood area. In the economic dimension, the Plan includes policies for residential development (Policies F1-F3) and for employment development (Policies G1 and G2). In the social role, it includes policies on community facilities (Policies I1/I2) and on green spaces (Policies D1/D2). In the environmental dimension, the Plan positively seeks to protect its natural, built, and historic environment. It has policies on the separation of Barmby Moor from Pocklington (Policy A1), the rural character of the parish (Policies B1 and B2), the conservation area (Policies E1-3) and design (Policy F4). This assessment overlaps with the details on this matter in the submitted Basic Conditions Statement.

*General conformity with the strategic policies in the development plan*

- 6.11 I have already commented in detail on the development plan context in paragraphs 5.4 to 5.8 of this report.
- 6.12 I consider that the submitted Plan delivers a local dimension to this strategic context and supplements the detail already included in the adopted development plan. Subject

to the recommended modifications in this report, I am satisfied that the submitted Plan is in general conformity with the strategic policies in the development plan.

#### *Strategic Environmental Assessment*

- 6.13 The Neighbourhood Plan General Regulations 2015 require a qualifying body either to submit an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 or a statement of reasons why an environmental report is not required.
- 6.14 In order to comply with this requirement, ERYC undertook a screening exercise in April 2019 on the need or otherwise for a Strategic Environmental Assessment (SEA) to be prepared for the Plan. The report is thorough and well-constructed. It includes the responses from the consultation bodies. The assessment concludes the proposed policy directions of the Barmby Moor Neighbourhood Plan are not likely to have significant environmental effects.

#### *Habitats Regulations Assessment*

- 6.15 The screening exercise also included a Habitats Regulations Assessment (HRA) of the Plan. The HRA of the Local Plan Strategy Document (April 2016) concluded the Strategy Document would not lead to likely significant effects on European sites, except for Policy S6 which allocates land at Hedon Haven to cater for the expansion of the Port of Hull. It identifies that no protected sites are located within the neighbourhood area. Nevertheless, it comments that the Lower Derwent Valley is located approximately 6km to the southwest of the town and is a SPA/SAC/Ramsar site. As such, the assessment considers whether the Plan would have a significant impact on nature conservation sites.
- 6.16 The HRA concludes that the neighbourhood plan will not give rise to likely significant effects on European sites, either alone or in combination with other plans or projects, and that Appropriate Assessment is not required.
- 6.17 Having reviewed the information provided to me as part of the examination, I am satisfied that a proportionate process has been undertaken in accordance with the various regulations. None of the statutory consultees have raised any concerns about either neighbourhood plan or to European obligations. In the absence of any evidence to the contrary, I am entirely satisfied that the submitted Plan is compatible with the relevant regulations.

#### *Human Rights*

- 6.18 In a similar fashion I am satisfied that the submitted Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) and that it complies with the Human Rights Act. There is no evidence that has been submitted to me to suggest otherwise. There has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known. On this basis, I conclude that the submitted Plan does not breach, nor is in any way incompatible with the ECHR.

*Summary*

- 6.19 On the basis of my assessment of the Plan in this section of my report, I am satisfied that it meets the basic conditions subject to the incorporation of the recommended modifications contained in this report.

## 7 The Neighbourhood Plan policies

- 7.1 This section of the report comments on the policies in the Plan. It makes a series of recommended modifications to ensure that the various policies have the necessary precision to meet the basic conditions.
- 7.2 The recommendations focus on the policies in the Plan given that the basic conditions relate primarily to this aspect of neighbourhood plans. In some cases, I have also recommended changes to the associated supporting text.
- 7.3 I am satisfied that the content and the form of the Plan is fit for purpose. It is distinctive and proportionate to the Plan area. The wider community and BMPC have spent time and energy in identifying the issues and objectives that they wish to be included in their Plan. This sits at the heart of the localism agenda.
- 7.4 The Plan has been designed to reflect Planning Practice Guidance (Section 41-004-20190509) which indicates that neighbourhood plans must address the development and use of land.
- 7.5 I have addressed the policies in the order that they appear in the submitted Plan.
- 7.6 For clarity, this section of the report comments on all policies whether I have recommended modifications in order to ensure that the Plan meets the basic conditions.
- 7.7 Where modifications are recommended to policies they are highlighted in bold print. Any associated or free-standing changes to the text of the Plan are set out in italic print.

### *The initial parts of the Plan (Sections 1 to 4)*

- 7.8 The Plan is well-organised and presented. It is supported by a series of helpful and well-chosen photographs. It includes a series of excellent maps.
- 7.9 The initial elements of the Plan set the scene for the policies. They are proportionate to the neighbourhood area and the policies prepared by BMPC. The Introduction comments about the wider agenda for neighbourhood planning and the history of the parish.
- 7.10 Section 3 comments about the way in which the Plan was prepared and when the neighbourhood area was designated. It properly identifies the neighbourhood area. I recommend that it also describes the Plan period so that it complies with the statutory requirement for the preparation of neighbourhood plans.

### *At the end of paragraph 3.1.4 add: 'The plan period is 2020 to 2037'*

- 7.11 Section 4 sets out the vision and objectives for the Plan. It makes a strong functional relationship between the various issues. The Vision neatly summarises the approach taken as follows:

*'The community wants Barmby Moor to continue to thrive as a vibrant and distinctive village, to continue to respect and reflect the views of its community, to evolve whilst retaining its unique and distinctive character, and to continue providing the relaxed, peaceful, and safe environment for current and future generations.*

*The community values its rural setting surrounded by open countryside, its rich heritage, conservation area and features, its natural environment, and green and open spaces. Barmby Moor must remain separate from neighbouring Pocklington to protect and retain Barmby Moor's identity as an individual distinct village, meeting the needs of the current population and community of the future, without compromising this distinction.'*

- 7.12 A key element of the Plan is the way in which its policies are directly informed by the various objectives.
- 7.13 The remainder of this section of the report addresses each policy in turn in the context set out in paragraphs 7.5 to 7.7 of this report.

General comments and recommended modifications

- 7.14 The Plan does not make an immediate distinction between the policies and their supporting text (described as 'Considerations'). I recommend that the policies are shown in policy boxes to remedy this matter.

*Display the policies in policy boxes.*

- 7.15 Whilst the policies are presented in well-defined topic areas, they do not have specific titles. This does not bring the clarity required by the NPPF. I recommend accordingly.

*Include a title for each policy.*

- 7.16 Several of the policies in the Plan have a complicated policy wording which refers to plans, strategies, and development decisions. Whilst this comprehensive approach is commendable the purposes of a neighbourhood plan is to provide additional parish-based policies to assist in the determination of planning applications (in addition to existing national and local planning policies). On this basis I recommend that the policies concerned are modified so that they set out more simply the policy requirements for development proposals. In this context they will be used by ERYC in determining planning applications in the neighbourhood area in the Plan period. I do not repeat this matter on a policy-by-policy basis.

**Reconfigure the general wording of policies which refer collectively to plans, strategies, and development decisions.**

Policy A1

- 7.17 This policy is an important element of the Plan. It identifies a Key Open Area to the east of the village. I looked at the proposed Area carefully during the visit. It is a critical component of the way in which the village relates to its wider surrounding landscape. A parallel approach has been proposed in the submitted Pocklington Neighbourhood

Plan. The two communities have coordinated the preparation of their respective plans so that they can be examined simultaneously. This is best practice.

- 7.18 Most of the overall Key Open Area is within the Pocklington neighbourhood area. In the case of Barmby Moor the proposed Key Open Area is located to the immediate east of the village. In general terms the wider proposed Key Open Area is a generally flat landscape broken up by hedgerows and some trees. It is experienced mainly from the Barmby Road (B1246) which connects Pocklington with Barmby Moor. The proposed Area is also experienced from the outer edges of the Pocklington Industrial Estate and from Hodsow Lane (which connects the motorists' service area on the A1079 with Pocklington).
- 7.19 In broad terms I am satisfied that the approach taken in the Plan adds value to the approach taken in the ERLP by defining the extent of the key open area as included and referenced in Policies ENV2 and Policy A6 of that Plan. In specific terms the Key Open Area has been carefully defined so that it takes account of the employment site in the Pocklington neighbourhood area (to the immediate east of the neighbourhood area) in the Allocations Document. In the round I am satisfied that it is in general conformity with the strategic policies in the development plan.
- 7.18 Representations from the Ashcourt Group and James Richardson and E. Robinson and Sons comments about the interplay between the policies in the submitted Plan and those in the ERLP. I have taken these representations into account in assessing the extent to which the policy would be in general conformity with the strategic policies in the ERLP. They draw attention to the potential conflict between the way in which the submitted Plan seeks to control development in the Key Open Area with other policies in the ERLP which have the potential to support certain types of development outside development limits.
- 7.19 In the round I recommend that the policy is recast so that it defines the Key Open Area and sets out a policy approach towards retaining its openness. I also recommend that the policy comments about the outcomes of development proposals which would have an unacceptable impact on the openness between Barmby Moor and Pocklington. The recommended modification does not incorporate the specific list of development proposals included in the submitted policy. In my judgement such an approach would be too prescriptive and, in places would be more onerous than national policy for Green Belts.
- 7.20 I also recommend that additional supporting text is included in the Plan to comment that the policy does not affect existing permitted development rights in the Key Open Area. This matter is important given the agricultural uses in the Key Open Area.

**Replace the policy with:**

**'The Plan identifies a Key Open Area between the village and the Pocklington Industrial Estate (as shown on the Policies Map). Development proposals should retain the openness of the Key Open Area.'**



**Development proposals which would have an unacceptable impact on the openness of the identified Area and/or which would result in the coalescence of Barmby Moor with the Pocklington Industrial Estate will not be supported.'**

*At the end of the last paragraph of the Consideration on page 14 of the Plan add:*

*'Policy A1 of this Plan provides a local dimension to the East Riding Local Plan (Policies ENV2 and A6). It has been designed so that it can be implemented in a complementary way to the strategic approach taken in the Local Plan. It defines the Key Open Area between Pocklington and Barmby Moor. For clarity the policy does not intend to prevent development which would traditionally be appropriate to a countryside location. Similarly, the policies do not affect permitted development rights (either generally or in relation to the agricultural uses).'*

#### Policy B1

- 7.21 This policy sets out to protect the open, rural, and tranquil landscape character of the countryside surrounding Barmby Moor particularly the areas to the north of Barmby Moor village alongside Keldspring Lane, and either side of Flat Lane and Lottings Lane.
- 7.22 I looked at Flat Lane and Lottings Lane during the visit. I saw that they were very distinctive features in the local landscape.
- 7.23 I recommend modifications to the wording of the policy so that it has the clarity required by the NPPF and can be applied consistently through the development management process. In doing so I have recommended the exclusion of the word 'untouched' from the policy. Whilst it accurately describes the nature of the landscape it is unnecessary as a description within a land use policy. I have also concluded that there is no need for the reference in the policy to the East Riding of Yorkshire Landscape Character Assessment Update 2018. It explains how the policy will be applied rather than policy. In any event it is already referenced in the Considerations.
- 7.24 I have recommended that Policy B2 is deleted and that its contents are incorporated as supporting text for this policy.

#### **Replace the policy with:**

**Development proposals should protect the open, rural, and tranquil landscape character of the countryside surrounding Barmby Moor particularly the areas to the north of Barmby Moor village alongside Keldspring Lane, and either side of Flat Lane and Lottings Lane.**

*Reposition the contents of Policy B2 as an additional paragraph at the end of the Considerations heading*

#### Policy B2

- 7.25 This policy comments that development proposals that have a significant impact on the open landscape, such as tall buildings or larger-scale developments shall be subject to a landscape impact appraisal carried out by the applicant.

- 7.26 The approach is appropriate. However, it is a process matter rather than a policy and it largely expands on the approach taken in Policy B1. As such I recommend that it is deleted and incorporate as supporting text for Policy B1,

### **Delete the policy**

#### Policy C1

- 7.27 This policy comments about the narrow lanes and grass verges of Flat Lane and Keldspring Lane. They are a distinctive feature of the parish. Its approach is that development proposals shall protect and maintain the existing narrow lanes and adjacent grass verges, hedges and trees and should not include any unnecessary widening of the carriageway or removing any part of the adjacent grassed verges, and shall maintain the opportunity for the public to be able to walk, cycle and horse-ride safely along these lanes in safety.
- 7.28 The policy is a very distinctive policy. It captures a specific feature in the parish.
- 7.29 I recommend modifications to the wording of the policy so that it has the clarity required by the NPPF and can be applied consistently through the development management process. I have concluded that there is no need for the reference in the policy that proposals should maintain the opportunity for the public to be able to walk, cycle and horse-ride safely along these lanes in safety. This is an outcome rather than a policy. In any event the issue is already comprehensively addressed in the Considerations section.

### **Replace the policy with:**

**‘Development proposals should respect the tranquil rural character and appearance (single carriageway, grassed verges, hedges and trees) of the narrow lanes and grass verges of Flat Lane and Keldspring Lane. In particular, development proposals should safeguard the existing narrow lanes and adjacent grass verges, hedges and trees and avoid any unnecessary widening of the carriageway or removing any part of the adjacent grassed verges.’**

#### Policy D1

- 7.30 This policy proposes the designation of a series of local green spaces (LGSs).
- 7.31 I looked at the proposed LGSs during the visit. Based on all the information available to me, including my own observations, I am satisfied that the proposed LGSs comfortably comply with the three tests in paragraph 102 of the NPPF and therefore meet the basic conditions. In several cases they are precisely the types of green spaces which the authors of the NPPF would have had in mind in preparing national policy. The St Catherine’s churchyard is a particularly good example.
- 7.32 In addition, I am satisfied that their proposed designation would accord with the more general elements of paragraph 101 of the NPPF. Firstly, I am satisfied that their designation is consistent with the local planning of sustainable development. They do not otherwise prevent sustainable development coming forward in the neighbourhood area and no such development has been promoted or suggested. Secondly, I am

satisfied that the LGSs are capable of enduring beyond the end of the Plan period. Indeed, they are an established element of the local environment and, in most cases, have existed in their current format for many years. In addition, no evidence was brought forward during the examination that would suggest that the proposed local green spaces would not endure beyond the end of the Plan period.

- 7.33 The policy comments that development on the LGSs will not be permitted other than in very special circumstances, such as when building works are demonstrated to be essential, or when the area is no longer designated as LGS. I can understand the circumstances which have caused BMPC to design the policy in this way. Nevertheless, I recommend a modification so that the policy takes the matter-of-fact approach in the NPPF which refers to very special circumstances which may support certain developments on LGSs. The recommended modification also takes account of the case in the Court of Appeal on the designation of local green spaces and the policy relationship with areas designated as Green Belts (2020 EWCA Civ 1259). In addition, LGS are expected to endure beyond the end of the Plan period so it would not be appropriate to anticipate a scenario where they were no longer designated.
- 7.34 In terms of the application of the policy should development proposals affecting designated LGSs come forward within the Plan period, they can be assessed on a case-by-case basis. ERYC will be able to make an informed judgement on the extent to which the proposal concerned demonstrates the ‘very special circumstances’ required by the policy. I recommend that the supporting text clarifies this matter.
- 7.35 Otherwise, the wider policy meets the basic conditions. It will contribute significantly to the delivery of the environment and the social dimensions of sustainable development.

**Replace the policy with:**

**The following areas, as shown on the Policies Map, are designated as Local Green Spaces: [Add list as in submitted Plan]**

**Development proposals on the identified local green spaces will not be supported except in very special circumstances.’**

*At the end of the Consideration add:*

*‘The Local Green Spaces will be protected for their amenity and recreational value, and the contribution they make to the character and appearance of the parish. Policy D1 follows the matter-of-fact approach in the NPPF. If development proposals come forward on the local green spaces within the Plan period, they can be assessed on a case-by-case basis by the East Riding of Yorkshire Council. It will be able to make an informed judgement on the extent to which the proposal concerned demonstrates the ‘very special circumstances’ required by the policy.’*

**Policy D2**

- 7.36 The policy comments that proposals should maintain identified open space, sports, and recreational land. They are identified open spaces which complement the approach taken towards the proposed LGS in Policy D1.

- 7.37 I am satisfied that the identified open spaces have been carefully-defined. I am also satisfied that there is a clear policy distinction between the identified open spaces and the proposed LGSs (in Policy D1).
- 7.38 I recommend a modification to the policy so that it has the clarity required by the NPPF.
- 7.39 Both the proposed LGS and the open spaces are shown on the map in Section D. However, the map and its key combine the two designations. I recommend that the two separate designations are shown in a different colour (and in the key). This will bring the clarity required by the NPPF.

**Replace the policy with: ‘Development proposals should protect the following existing open space, sports, and recreational land:’**

*On the map in Section D show the open spaces in a different colour (and with a different key) from the proposed LGS in Policy D1.*

Policy E1/E2/E3

- 7.40 These policy comments about the Barmby Moor Conservation Area. Policy E1 is general in nature. Policy E2 comments about materials and Policy E3 comments about trees.
- 7.41 I have considered the need or otherwise of the Plan to address the Conservation Area. The three proposed policies are rather general in nature and national guidance is clear that neighbourhood plans do not need to repeat or reinforce existing national and local planning policies. In its response to the clarification note BMPC commented that the scale and significance of the conservation area in the village justifies the inclusion of the policies in the Plan.
- 7.42 I have considered this matter very carefully and looked at the details in the Barmby Moor Conservation Area Appraisal (October 2007). On the balance of the evidence, I am satisfied that policies which referenced the Appraisal would be distinctive to the parish. I recommend accordingly. I also recommend that the three policies are combined into a single policy. This will bring the clarity required by the NPPF and provide the necessary overlaps so that its three elements can be read in a consistent fashion.

**Replace the policies with:**

**‘Development proposals should preserve and enhance the special character and appearance of the Barmby Moor Conservation Area and respond positively to the details of this character as set out in the Barmby Moor Conservation Area Appraisal (October 2007) or any update of that appraisal.**

**Development proposals in the Conservation Area shall should reflect the informal and understated nature of its historic properties and incorporate matching traditional materials such as clay or slate roof tiles, and facing brickwork, painted brickwork or painted render external walls (as specified in the Conservation Area Appraisal) wherever practicable.**

**Where otherwise acceptable schemes in the Conservation Area require the removal of trees, development proposals should incorporate the planting of native tree species appropriate to the site concerned within their proposed layouts.'**

#### Policy F1

- 7.43 This policy sets out a context within which infill proposals can come forward in the defined development limits of Barmby Moor village. It is a criteria-based policy. The Plan uses the identified development limits for the village as set out in the ERLP.
- 7.44 I am satisfied that the policy takes an appropriate approach. It is in general conformity with the strategic policies in the Local Plan and will ensure that new development comes forward in a sustainable location.
- 7.45 I recommend that the comment about any such proposals being a single dwelling is deleted. Whilst this may be the case, it will be a matter for ERYC to determine on a case-by-case basis and against the criteria in the policy.
- 7.46 Looking at the wider context of the Plan I recommend that Policy F4 (on high quality design) is incorporated into this policy. It, will give a sharper focus to the application of the development management process. I also recommend that the supporting text is expanded so that it draws attention to the importance of achieving high-quality design in the Plan period.
- 7.47 Policy F4 is underpinned by the Design Guidance in Section 5 of the Plan. It is an excellent interpretation of how good design should be achieved in the parish. In the round the combination of Policies F1 and F4 will be a first-class local response to Section 12 of the NPPF

**In the opening element of the policy delete the wording in brackets.**

**Replace the first criterion with: 'The proposal incorporates a high standard of design which responds positively to the site context, the scale and mass of neighbouring buildings and the wider street scene. Development proposals should demonstrate the way in which they have taken account of the Design Guidance in Section 5 of the Plan'**

*At the end of the second paragraph of the Considerations add: 'The first criterion of the policy stresses the importance of achieving high-quality design. The Design Guidance in Section 5 of this Plan has been prepared to add value to existing design advice at a national and a local level. Proposals in the Conservation Area should also have regard to the contents of the Conservation Area Appraisal'*

#### Policy F2

- 7.48 This policy complements Policy F1. In this case, it comments about proposals for replacement dwellings outside the village. It comments that they will be supported where they meet a series of conditions.

- 7.49 The policy sets out a local iteration of paragraph 80 of the NPPF. Whilst it does not address the full range of housing types included in that paragraph it focuses on a matter of particular importance to BMPC and reflects the flexibility afforded to qualifying bodies in deciding which policies to pursue in their plans. In these circumstances it meets the basic conditions.

Policy F3

- 7.50 This policy comments that rural exception sites for modest development of affordable housing (up to 10 dwellings) will be supported where they meet six criteria.
- 7.51 The policy brings distinctive value to national and local planning policies on this matter. It meets the basic conditions.

Policy F4

- 7.52 This policy comments that residential development proposals should have regard to the design guidance in Section 5 of the Plan.
- 7.53 I have recommended that this policy is incorporated into Policy F1. On this basis I recommend the deletion of the policy as submitted.

**Delete the policy**

Policy F5

- 7.54 This policy comments that housing proposals within the Key Open Area will not be supported as they would be contrary to the provisions of Policy A1.
- 7.55 As the policy and the supporting text comment this policy is intended to be a natural consequence of Policy A1. I have considered this matter very carefully. On the one hand the approach taken reinforces Policy A1. On the other hand, it does not bring any added value to the contents of Policies F1 and F2. In any event as part of the recommended modifications to Policy A1 I have addressed this matter in a general fashion. As such I recommend that the policy is deleted.

**Delete the policy**

Policy F6

- 7.56 This policy comments that housing proposals that are contrary to Policy B1 will not be supported
- 7.57 As the policy and the supporting text comment this policy is intended to be a natural consequence of Policy A1. I have considered this matter very carefully. On the one hand the approach taken reinforces Policy A1. On the other hand, it does not bring any added value to the contents of F1 and F2. In any event as part of the recommended modifications to Policy A1 I have addressed this matter in a general fashion. As such I recommend that the policy is deleted.

**Delete the policy**

## Policy G1/G2

- 7.58 These policies offer support for employment development. Policy G1 is general in nature. Policy G2 refers specifically to proposals for the employment use of vacant or under-used agricultural buildings. I am satisfied that the policies have regard to national policy. In addition, they respond positively to the character and to the land uses of the neighbourhood area.
- 7.59 I recommend that the policies are combined into a single policy. This will bring the clarity required by the NPPF. It will also ensure that the details in the second part of the policy are more readily understood.
- 7.60 Otherwise the policies meet the basic conditions. They will assist significantly with the delivery of the economic dimension of sustainable development.

### Replace the policies with:

**‘Development proposals for the appropriate extension of existing employment sites and for the conversion of existing buildings to employment uses will be supported where their scale is appropriate to their surroundings and where they do not have unacceptable traffic, environment, amenity, and landscape impacts.**

**Development proposals for the use of vacant or under-used agricultural buildings for employment uses will be particularly supported where they meet the criteria in the first part of this policy.’**

## Policy H1/Policy H2

- 7.61 These policies comment about proposals for a village shop. They are distinguished by their reference to floorspace. Policy H1 refers to proposals for up to 250 metres square. Policy H2 refers to proposals above this size. Policy H1 comments that a development proposal to provide a village shop in Barmby Moor that comprises no more than 250 metres square (gross) floorspace and that meets a purely localised need will be supported subject to a series of criteria.
- 7.62 Policy H2 comments that proposals for more than 250 square metres will be assessed against the provisions of Local Plan Policy EC3. This is an appropriate approach which takes account of policies in the ERLP. However, it is a statement of fact (and a signpost to an existing policy) rather than a policy.
- 7.63 I have considered this matter carefully and in doing so have taken account of BMPC’s response to the clarification note. On the balance of the evidence, I recommend that Policy H2 is deleted and incorporated as supporting text to Policy H1. In this context it will satisfy BMPC’s concern that otherwise the Plan would not have a policy for a larger village shop and there would be no clear guidance on the matter. I also recommend that the wording of the policy is simplified. In particular it will be impracticable for ERYC to ensure that any such shop would ‘meet a purely localised need’ as specified in the submitted policy. In any event, the limited size of any such shop and its location would not realistically cater for anything else other than a local need.

- 7.64 I recommend that the size threshold for the policy is modified from 250 to 280 square metres. This reflects the size threshold for a local community shop (Use Class F2a) as introduced into the Use Classes Order in 2020 and 2021. Such a type of shop is precisely the type of facility which BMPC has in mind in preparing the policy. Finally I recommend a modification to the third criterion so that it has the clarity required by the NPPF.

**Replace the policies with:**

**‘A development proposal to provide a village shop in Barmby Moor that comprises no more than 280 square metres (gross) floorspace will be supported subject to the following criteria:’**

**Replace 3 with: ‘The proposal will not generate an unacceptable level of customer and service traffic.’**

*At the end of the Consideration add: ‘Development proposals to provide a shop or shops of more than 280 square metres (gross) floorspace will be determined against the requirements of Local Plan Policy EC3.’*

Policy I1

- 7.65 This policy comments that proposals for new community facilities and services and for the upgrading and/or modification of existing community facilities and services will be supported subject to a series of criteria.
- 7.66 In general terms I am satisfied that the policy meets the basic conditions. I recommend two detailed modifications so that the policy will have the clarity required by the NPPF and can be applied in a consistent way through the development management process. Otherwise, the policy meets the basic conditions. It will assist significantly with the delivery of the social dimension of sustainable development.

**In the first criterion replace ‘adversely’ with ‘unacceptably’**

**In the second criterion replace ‘any adverse’ with ‘an unacceptable’**

Policy I2

- 7.67 This policy operates in a complementary way to Policy I1. It comments that proposed developments which would result in the loss of existing community facilities will not be supported other than where they are accompanied by evidence on viability grounds or where they incorporate suitable replacement community facilities.
- 7.68 This policy has been well-considered. It acknowledges that the commercial viability of some facilities may alter in the Plan period. It also recognises that other proposals may incorporate replacement facilities to compensate for the potential loss of existing facilities. As such it meets the basic conditions.



## Policy J1

- 7.69 This is a wide-ranging policy which includes commentary on flooding, the disposal of sewerage, access into the countryside and landscaping. In many ways it is a general policy which seeks to ensure that development proposals can be successfully incorporated into the local environment.
- 7.70 As submitted the opening element of the policy is rather loose in its intentions. This could lead to unintended consequences. I recommend that it is reconfigured to bring the clarity required by the NPPF and to allow it to be applied on a proportionate basis through the development management process. I also recommend detailed modifications to the criteria for the same reasons. Finally, I recommend the deletion of the final part of the policy as there is no reason why a neighbourhood plan policy needs to draw specific attention to the need for the development plan to be read as a whole.

**Replace the opening element of the policy with: ‘As appropriate to their scale, nature and location development proposals should’**

**Replace criterion 2 with ‘Where practicable improve the disposal of sewage.’**

**Replace criterion 4 with ‘Incorporate measures to extend the accessibility of footpaths and bridleways into the countryside.’**

**Delete the final element of the policy**

## Policy J2

- 7.71 This policy comments about replacement trees. It is a more general version of Policy E3 which refers specially to trees in the conservation area.
- 7.72 I recommend a similar modification to that for Policy E3. Otherwise, the policy meets the basic conditions.

**Replace the policy with: ‘Where otherwise acceptable schemes require the removal of trees development proposals should incorporate the planting of native tree species appropriate to the site concerned within their proposed layouts.’**

## Policy K1

- 7.73 This policy comments that new developments should encourage off-street car parking provision so as not to cause any additional parking on public roads.
- 7.74 I sought BMPC’s comments on the extent to which the policy brought added value beyond the approach already captured in national and local planning policies. It commented:

*‘Car parking in the village is a real problem and of great concern to residents. The feeling is that planning approvals do not reflect the real-life issues of car parking. It is quite clear that national and local policies are not working in this regard. All new developments should encourage off-street car parking provision so as not to cause any*

*additional parking on public roads is an attempt to emphasise, and to try and ensure that adequate car parking should be provided in new developments.'*

- 7.75 I have taken account of these comments. Nevertheless, the submitted policy draws attention to existing parking requirements rather than setting out as distinctive or refined approach. In these circumstances I recommend the deletion of the policy. Plainly the matter is one which BMPC and ERYC have the opportunity to address on a case-by-case basis taking account of the relationship between individual proposals and the most up-to-date policy context for car parking.

### **Delete the policy**

#### Policy K2

- 7.76 This policy offers specific support to proposals to improve car parking facilities and drop-off facilities at Barmby Moor CE Primary School.
- 7.77 The policy addresses a very specific issue in the parish. I saw the scale and importance of the school in the village during the visit.
- 7.78 I recommend modifications to the policy to bring the clarity required by the NPPF by defining the matters which should be considered as part of the determination of such proposals. The recommended modification also acknowledges that some proposals could be in the highway and therefore not necessarily need the submission of a planning application.

**Replace the policy with: 'Proposals to improve car parking facilities and drop-off facilities at Barmby Moor CE Primary School will be supported where they do not result in unacceptable impacts on the amenity of residential properties in the immediate locality and the capacity and safety of the local highways network'**

#### Other Matters - General

- 7.79 This report has recommended a series of modifications both to the policies and to the supporting text in the submitted Plan. Where consequential changes to the text are required directly as a result of my recommended modification to the policy concerned, I have highlighted them in this report. However other changes to the general text may be required elsewhere in the Plan as a result of the recommended modifications to the policies. Similarly, changes may be necessary to paragraph numbers in the Plan or to accommodate other administrative matters. It will be appropriate for ERYC and BMPC to have the flexibility to make any necessary consequential changes to the general text. I recommend accordingly.
- 7.Xx I have recommended that some policies are deleted from the Plan and that others are combined into single policies. This will have an impact of the structure of the Plan and numbering of the policies. The recommended modification also applies to this aspect of the Plan.

*Modification of general text and policy numbering (where necessary) to achieve consistency with the modified policies and to accommodate any administrative and technical changes.*

## 8 Summary and Conclusions

### *Summary*

- 8.1 The Plan sets out a range of policies to guide and direct development proposals in the period up to 2037. It is distinctive in addressing a specific set of issues that have been identified and refined by the wider community to safeguard the character and setting of the neighbourhood area and to maintain its separation from Pocklington.
- 8.2 Following the independent examination of the Plan, I have concluded that the Barmby Moor Neighbourhood Development Plan meets the basic conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications.

### *Conclusion*

- 8.3 On the basis of the findings in this report, I recommend to the East Riding of Yorkshire Council that subject to the incorporation of the modifications set out in this report that the Barmby Moor Neighbourhood Development Plan should proceed to referendum.

### *Other Matters*

- 8.4 I am required to consider whether the referendum area should be extended beyond the neighbourhood area. In my view, the neighbourhood area is entirely appropriate for this purpose and no evidence has been submitted to suggest that this is not the case. I therefore recommend that the Plan should proceed to referendum based on the neighbourhood area as approved by the East Riding of Yorkshire Council on 22 March 2016.
- 8.5 I am grateful to everyone who has helped in any way to ensure that this examination has run in a smooth manner.

**Andrew Ashcroft**  
**Independent Examiner**  
**27 January 2023**