

# **BLACKROD NEIGHBOURHOOD PLAN 2018-2033**

Blackrod Neighbourhood Plan Examination  
A Report to Bolton Council

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October 2019



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## **1. Summary**

- 1 Subject to the recommendations within this Report, made in respect of enabling the Blackrod Neighbourhood Plan to meet the basic conditions, I confirm that:
  - having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
  - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.
- 2 Taking the above into account, I find that the Blackrod Neighbourhood Plan meets the basic conditions<sup>1</sup> and I recommend to Bolton Council that, subject to modifications, it should proceed to Referendum.

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<sup>1</sup> It is confirmed in Chapter 3 of this Report that the Blackrod Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

## **2. Introduction**

### **The Neighbourhood Plan**

- 3 This Report provides the findings of the examination into the Blackrod Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by Blackrod Town Council.
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. At Referendum, should more than 50% of votes be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by Bolton Council. The Neighbourhood Plan would then form part of the development plan and as such, it would be used to determine planning applications and guide planning decisions in the Blackrod Neighbourhood Area.
- 5 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

*"Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can shape, direct and help to deliver sustainable development."*

(Paragraph 29, National Planning Policy Framework)

- 6 As confirmed in paragraph 3.2 on page 3 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Blackrod Town Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan.
- 7 Section 3 of the Basic Conditions Statement also confirms that the Neighbourhood Plan relates only to the designated Blackrod Neighbourhood Area and that there is no other neighbourhood plan in place in the Blackrod Neighbourhood Area.
- 8 The above meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2019<sup>2</sup>) and Planning Practice Guidance (2014).

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<sup>2</sup> A replacement National Planning Policy Framework was published in July 2018 and amended in 2019. Paragraph 214 of the replacement document establishes that the policies of the previous National Planning Policy Framework apply for the purpose of examining plans, where those plans are

### Role of the Independent Examiner

- 9 I was appointed by Bolton Council, with the consent of the Qualifying Body, to conduct the examination of the Blackrod Neighbourhood Plan and to provide this Report.
- 10 As an Independent Neighbourhood Plan 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 Neighbourhood Plan and I possess appropriate qualifications and experience.
- 11 I am a chartered town planner and have seven years' direct experience as an Independent Examiner of Neighbourhood Plans and Orders. I also have thirty years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 12 As the Independent Examiner, I must make one of the following recommendations:
  - that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
  - that the Neighbourhood Plan, as modified, should proceed to Referendum;
  - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 13 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Blackrod Neighbourhood Area to which the Plan relates.
- 14 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

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submitted on or before the 24<sup>th</sup> January 2019. The Blackrod Neighbourhood Plan was submitted to Bolton Council after this date (during May 2019) and consequently, it is appropriate to examine the policies of the Neighbourhood Plan against the most recent version of the National Planning Policy Framework.

### Neighbourhood Plan Period

- 15 A neighbourhood plan must specify the period during which it is to have effect.
- 16 The title of the Neighbourhood Plan provides a clear reference to the plan period, 2018-2033 and the plan period is also referred to in the Foreword and on page 5 of the Neighbourhood Plan.
- 17 In addition, the Housing section of the Neighbourhood Plan also makes reference to the plan period.
- 18 Taking the above into account, the Neighbourhood Plan meets the requirement in respect of specifying the period during which it is to have effect.

### Public Hearing

- 19 According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 20 However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 21 Further to consideration of the information submitted, I determined not hold a public hearing as part of the examination of the Blackrod Neighbourhood Plan.
- 22 However, in order to clarify a number of points in respect of the examination, I wrote to the Qualifying Body and to Bolton Council and this examination has taken the responses received into account.

### **3. Basic Conditions and Development Plan Status**

#### **Basic Conditions**

- 23 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “*basic conditions*.” These were *set out in law*<sup>3</sup> following the Localism Act 2011. Effectively, the basic conditions provide the rock or foundation upon which neighbourhood plans are created. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
  - prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
- 24 Regulations 23 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to above. Of these, the following basic condition, brought into effect on 28<sup>th</sup> December 2018, applies to neighbourhood plans:
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations.<sup>4</sup>

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<sup>3</sup> Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

<sup>4</sup> *ibid* (same as above).

- 25 In examining the Plan, I am also required, as set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act), to check whether the neighbourhood plan:
- has been prepared and submitted for examination by a qualifying body;
  - has been prepared for an area that has been properly designated for such plan preparation (under Section 61G of the Localism Act);
  - meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that:
  - its policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004.
- 26 An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>5</sup>
- 27 I note that, in line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

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<sup>5</sup> The Convention rights has the same meaning as in the Human Rights Act 1998.



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

- 28 Paragraph 7.6 of the Basic Conditions Statement submitted alongside the Neighbourhood Plan sets out why, in the Qualifying Body's view, the Neighbourhood Plan is compatible with the ECHR.
- 29 I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.
- 30 In the above regard, I also note that information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. Various comments have been received in response to active community engagement during the plan-making process. The Consultation Statement submitted alongside the Neighbourhood Plan provides a summary of responses to comments and to resulting changes to the Neighbourhood Plan.

### European Union (EU) Obligations

- 31 In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment. In this regard, national advice states:
- "Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects."*  
(Planning Practice Guidance<sup>6</sup>)
- 32 This process is often referred to as "*screening*"<sup>7</sup>. If likely environmental effects are identified, an environmental report must be prepared.

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<sup>6</sup> Planning Guidance, Paragraph 027, Ref: 11-027-20150209,.

<sup>7</sup> The requirements for a screening assessment are set out in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.

- 33 Bolton Council carried out a screening assessment of the Neighbourhood Plan and this concluded that:

*"...it is unlikely that there will be any significant environmental effects arising from the proposals in the Blackrod Neighbourhood Development Plan that were not covered in the Sustainability Appraisal of the (Bolton) Core Strategy or the Allocations Plan. As such, it is considered that the BNDP does not require a full SEA to be undertaken."*

- 34 The statutory bodies, Historic England, Natural England and the Environment Agency were all consulted on the screening assessment. The statutory bodies agreed with its conclusions and none raised any concerns in respect of the requirement for the Neighbourhood Plan to meet European obligations.
- 35 In addition to SEA, a Habitats Regulations assessment identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans and projects. This assessment must determine whether significant effects on a European site can be ruled out on the basis of objective information<sup>8</sup>. If it is concluded that there is likely to be a significant effect on a European site, then an appropriate assessment of the implications of the plan for the site must be undertaken.
- 36 The Habitats Regulations Assessment screening undertaken by Bolton Council concluded that:
- "There are no European protected sites within the Blackrod Neighbourhood Plan boundary. Taking into consideration the screening assessment of the (Bolton) Core Strategy and the Allocations Plan it is concluded that a HRA is not required."*
- 37 Again, the statutory bodies were consulted on the outcome of the screening report and none raised any concerns in respect of the Neighbourhood Plan meeting European obligations.

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<sup>8</sup> Planning Guidance Paragraph 047 Reference ID: 11-047-20150209.

- 38 Further to the above, national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

*"It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations (including obligations under the Strategic Environmental Assessment Directive)"* (Planning Practice Guidance<sup>9</sup>).

- 39 In carrying out the work that it has and in reaching the conclusions that it has, Bolton Council has not raised any concerns in respect of the Neighbourhood Plan's compatibility with EU obligations.
- 40 In addition to all of the above, I note that, in April 2018, in the case *People Over Wind & Sweetman v Coillte Teoranta ("People over Wind")*, the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means if a likely significant effect is identified at the screening stage of a habitats assessment, an *Appropriate Assessment* of those effects must be undertaken.
- 41 In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.
- 42 The changes to regulations allow neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an *Appropriate Assessment* to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or planning application.
- 43 These changes came into force on 28<sup>th</sup> December 2018. This pre-dated the submission of the Neighbourhood Plan and the subsequent consultation period. I am mindful that Bolton Council has taken all of the above into account and that it considers the Neighbourhood Plan to be compatible with European obligations.

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<sup>9</sup> *ibid*, Paragraph 031 Reference ID: 11-031-20150209.

- 44 Taking all of the evidence into consideration, I am satisfied that the Neighbourhood Plan is compatible with European obligations.

#### **4. Background Documents and the Blackrod Neighbourhood Area**

##### **Background Documents**

- 45 In undertaking this examination, I have considered various information in addition to the Blackrod Neighbourhood Plan.
- 46 I note earlier in this Report that a replacement version of the National Planning Policy Framework has been published and that it is this replacement document that the Neighbourhood Plan must have regard to.
- 47 Information considered as part of this examination has included (but has not been limited to) the following main documents and information:
- National Planning Policy Framework (referred to in this Report as "*the Framework*") (2019)
  - Planning Practice Guidance (2014, as updated)
  - Town and Country Planning Act 1990 (as amended)
  - The Localism Act (2011)
  - The Neighbourhood Plan Regulations (2012) (as amended)
  - Bolton's Core Strategy Development Plan Document (2011) (referred to in this Report as the "*Core Strategy*")
  - Bolton's Allocations Plan (2014)
  - Basic Conditions Statement
  - Consultation Statement
  - Representations received
  - Supporting evidence including Neighbourhood Profile Document and Parish of Blackrod housing Needs Assessment Report 2018
- 48 In addition, I spent an unaccompanied day visiting the Blackrod Neighbourhood Area.

Blackrod Neighbourhood Area

- 49 The boundary of the Blackrod Neighbourhood Area is identified on Figure 1.2, provided on page 3 of the Neighbourhood Plan. For clarity, I recommend:
- **Change the title of Figure 1.2 to “*Blackrod Neighbourhood Area*”**
- 50 Bolton Council formally designated the Blackrod Neighbourhood Area on 11<sup>th</sup> July 2016.
- 51 This satisfies a 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).

## **5. Public Consultation**

### **Introduction**

- 52 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 53 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

### **Blackrod Neighbourhood Plan Consultation**

- 54 A Consultation Statement (split into two main parts) was submitted to Bolton Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning regulations<sup>10</sup>.
- 55 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Blackrod Neighbourhood Area, having regard to Paragraph 29 of the National Planning Policy Framework ("*the Framework*").
- 56 Blackrod Town Council established a Neighbourhood Plan Steering Group and commenced community engagement in 2016. During 2016, a wide range of awareness meetings were held and articles were published in the local press. A website was established and a community engagement flyer was delivered to all residents. Plan-makers also met with and held discussions with, officers from Bolton Council.
- 57 A first public meeting was held in February 2017, followed by a focus meeting with local schoolchildren. During the same year, a housing needs assessment was undertaken and this was completed in early 2018. A draft plan was prepared and consulted upon during December 2018 and January 2019.

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<sup>10</sup> Neighbourhood Planning (General) Regulations 2012.

- 58 This pre-submission consultation was supported by the delivery of more than 2500 flyers to residents and businesses; along with banners, articles in the local press and an open day. Numerous responses were received, including more than a hundred completed online questionnaires. These informed the production of the Neighbourhood Plan.
- 59 The above comprises only a brief summary of all of the engagement that has taken place in support of the production of the Neighbourhood Plan. The Consultation Statement provides ample evidence to demonstrate that public consultation was fundamental to the plan-making process. Consultation was very well-publicised, using a wide variety of methods. Matters raised were considered and the reporting process was transparent.
- 60 Taking all of the above into account, I am satisfied that the consultation process was robust and that it complied, in full, with the neighbourhood planning regulations referred to above.



## **6. The Neighbourhood Plan – Introductory Section**

61 For precision, I recommend:

- **Page 4, Para 1.6, line 2, change to “...are rules that *indicate* what development can...”**
- **Para 1.7, line three, change to “If approved *by Referendum*, following examination, this Neighbourhood...”**

62 It is not the role of the Neighbourhood Plan to place obligations on the local planning authority. Notwithstanding this, I note that the Neighbourhood Plan clearly sets out, in Para 1.7 and again in Para 1.14, how the Neighbourhood Plan will be used in practice.

63 I recommend:

- **Para 1.14, delete last sentence**

64 As set out, the Neighbourhood Plan's Objectives generally establish a clear set of aims. However, the Policy section of the Neighbourhood Plan introduces tables of Objectives that are different to those set out on page 22 of the Neighbourhood Plan. Many of these appear as a set of requirements to “*ensure*” various things., without any substantive evidence to demonstrate that all of the many things to be “*ensured*” are viable and deliverable. Effectively, the Objectives in the Policy section appear as though they comprise Policy requirements themselves, which they do not.

65 Further, as set out, with various numbers, eg, “*HO1, HO2, HO3*” etc, and combined with their apparent requirements, it is easy to confuse the Objectives in the Policy section with the Policies themselves. This detracts from the clarity of the Policies.

66 In addition to the above, the references to the various Objectives in the supporting text appear highly confusing. They comprise onerous requirements set out in bold text when the paragraphs of text which follow simply refer to the Policies themselves.

- 67 Taken together, the inclusion of Objectives in the Policy section of the Neighbourhood Plan detracts significantly from the clarity and precision of the document. It does not have regard to planning guidance, which requires planning policies to be unambiguous and precise<sup>11</sup>:

*“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*

- 68 I recommend:

- **Page 22, change 6 to “Encourage a sustainable and prosperous...”**
- **Delete the tables at the beginning of each Policy section**
- **Delete all reference to Objectives in the Policy section, including headings (eg, “Housing Objective HO1”) and the bold text below headings**

- 69 Paragraph 6.3 refers to information in respect of “conformity” of Neighbourhood Plan policies with national and local policy. As set out earlier in this Report, examination provides for the Neighbourhood Plan to be considered against the basic conditions. The basic conditions do not include a requirement for “conformity.” Notwithstanding this, the inclusion of arguably subjective and limited references to other policies to which Neighbourhood Plan Policies are considered to conform detracts from the clarity of the Policies themselves.

- 70 I recommend:

- **Page 23, delete Para 6.3 and Para 6.5 (which conflicts with accurate information provided earlier in the Neighbourhood Plan)**
- **Delete all “Policy...conforms to” references below all Policies**
- **Delete Para 6.4, which is self-explanatory/unnecessary**

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<sup>11</sup> Planning Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

## **7. The Neighbourhood Plan – Neighbourhood Plan Policies**

### **Housing**

#### **Policy H1: New Housing Development**

- 71 Whilst the introduction to the Housing section largely comprises important factual evidence, some of the text, including comments relating to the Household Survey (which forms part of the Neighbourhood Plan's evidence base) and commentary in respect of the calculation of requirements, appear unduly subjective and at times, confusing. This detracts from the clarity of the Housing section.
- 72 It is important to clarify the supporting text because its occasional subjective thrust and unnecessarily confusing approach to matters of detail, is not, in my view, reflective of the significant work undertaken and the otherwise exemplary, collaborative approach to providing for sustainable development in circumstances where the District-wide net additional housing requirement is considered to be out of date.
- 73 In the interests of clarity, it is therefore recommend below that unnecessary supporting text be removed from the introductory section. In making this recommendation, I note that the Household Survey remains as part of the evidence base and that it can be referred to, should more detailed information be sought. The removal of a number of paragraphs is aimed at ensuring a focus on the most relevant factors, thus providing a more precise and concise Neighbourhood Plan.
- 74 Essentially, the Neighbourhood Plan seeks to support the development of around 215 homes during the plan period. Evidence has been provided to demonstrate that this figure has been derived further to the consideration of relevant background information and that it was agreed following a request from the Qualifying Body to Bolton Council in respect of "*what Blackrod's contribution to housing supply*" should comprise over the plan-period.

- 75 This request from the plan-makers and Bolton Council's response to it, was in full accordance with national policy and advice, which states that:

*"...the National Planning Policy Framework expects an indicative figure to be provided to neighbourhood planning bodies on request."*<sup>12</sup>

- 76 There is plentiful evidence to demonstrate that the Neighbourhood Plan has been supported by pro-active and positive working between the Qualifying Body and Bolton Council. The agreed housing requirement of around 215 dwellings is reflective of this appropriate, collaborative approach.

- 77 In reaching the agreed housing requirement, plan makers have taken into account various information sources, including the findings of the (Housing Needs Assessment) Household Survey referred to above. The evidence demonstrates the regard that has been had to Planning Guidance,<sup>13</sup> which states:

*"Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested."*

- 78 Taking everything into account, including the differing views in respect of what Blackrod's housing needs might be, as expressed in representations to the Submission Consultation stage, I am satisfied that the figure of around 215 dwellings has been reached in accordance with the basic conditions.

- 79 I note that it is not unusual for parties either supporting or objecting to provision for new housing to disagree with housing requirements set out in land use plans. However, in this case, the housing requirement has been reached having regard to national policy and advice and is reflective of the local community's power to develop a shared vision for the Neighbourhood Area.

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<sup>12</sup> Planning Guidance, Paragraph: 105 Reference ID: 41-105-20190509

<sup>13</sup> Planning Guidance, Paragraph: 009 Reference ID: 41-009-20190509

- 80 As worded, I note that Policy H1 refers to a “*target*” of 215 homes. Whilst not the same as “*maximum*,” this wording does run the risk of the figure being interpreted as a maximum and appears in conflict with Para 6.377 of the Neighbourhood Plan, which indicates that the provision of more than 215 dwellings might be supported, as well as with the national policy aim of significantly boosting the supply of housing in a sustainable manner.
- 81 Also, the Policy refers to allocating “*sites*,” when the Neighbourhood Plan only allocates a single site for housing. Further, as the development plan needs to be considered as a whole, there is no need to cross-reference other Policies. Part of Policy H1 appears taken up with references to the requirements of other Policies. As well as being unnecessary, this appears unduly cumbersome and it detracts from the precision of the Policy.
- 82 The second paragraph of Policy H1 appears confusing. It is not clear, in the absence of any detailed information, how all residential development proposals might provide all of the types, design and tenures set out in the most recent Housing Needs Survey, or why they should do so. There is no need, for example, for a development comprising ten or fewer homes to provide mixed tenure housing.
- 83 In addition to the above, it is not clear how each residential development might be assessed in respect of how it would meet the needs of older people, or who would do this and on what basis. Whilst the intent of the Policy in this regard is noted, the Policy wording appears ambiguous.
- 84 In addition to cross-referencing other policies, the final parts of Policy H1 (parts 3, 4, 5, and 6) set out a series of requirements which do not have regard to national policy and which are not in general conformity with local policy. For example, national policy provides for a variety of ways in which sustainable residential development can appropriately be located in the Green Belt (Paragraph 145 of the Framework) in addition to those referred to by the latter part of Policy H1.
- 85 Taking all of the above into account, I recommend:
- **Policy H1, change first paragraph to “*The development of a minimum of 215 homes in the Neighbourhood Area over the plan period will be supported.*” Delete rest of para.**

- **Change second paragraph to *“New residential development should meet local needs, taking into account the most recent local housing needs survey available. The provision of housing to meet the needs of older people will be supported.”***
- **Delete Parts 3, 4, 5 and 6 of the Policy**
- **Page 25, delete first bullet point (which conflicts with the purpose of the Housing chapter)**
- **Delete Paras 6.9 to 6.15**
- **Para 6.17, change to *“...affordable housing strategy, subject to viability.”* (delete rest of sentence)**
- **Delete Para 6.18, which is not supported by a Policy**
- **Delete Paras 6.23 to 6.30**
- **Delete Para 6.31 (NB, monitoring is referred to elsewhere in the Neighbourhood Plan)**
- **Delete Para 6.32, (a subjective comment in respect of development outside the Neighbourhood Area)**
- **There is no self and custom build housing Policy in the Neighbourhood Plan. Change the wording of Para 6.35 to *“Blackrod Town Council is keen to see the development of self and custom build housing in the Neighbourhood Area.”***

## **Policy H2: Housing Mix**

- 86 In general terms, Policy H2 seeks to provide for a range of housing types and sizes, having regard to Paragraph 60 of the Framework, which requires planning policies to consider:

*"...the size, type and tenure of housing needed for different groups in the community..."*

- 87 As set out, the Policy introduces areas of conflict with itself, resulting in an ambiguous and imprecise Policy. It requires all development to meet housing needs and it requires developments of more than six dwellings to meet housing needs. Further, it requires the provision of a mix of dwelling types and sizes on sites for more than six dwellings and at the same time, it only requires "*large areas*" – suggested by the Qualifying Body as comprising developments of more than twelve dwellings – not to comprise "*uniform type and size of dwellings*."
- 88 Whilst "*large areas*" is an ambiguous term, the recommendations below take into account the fact that, in respect of housing, national policy considers "*major development*" to relate to residential developments of ten or more homes (Glossary, the Framework).
- 89 The Policy goes on to include unnecessary cross-referencing, comprising vague references to matters covered in more detail in other Policies and it seeks to establish a "*lock-in*" requirement unsupported by any evidence of deliverability, such as an agreement with housing providers.
- 90 No indication is provided in respect of how the Policy will give larger family properties "*priority*," as per the requirement in part 5 of the Policy. This part of Policy H2 does not provide a decision maker with a clear indication of how to react to a development proposal. Whilst the Qualifying Body has suggestion that the reference to "*priority*" could be altered to "*particularly encouraged*," it is not clear how such particular encouragement might be delivered by Policy H2.
- 91 Further to the above, the supporting text to Policy H2 makes it clear that there is an over-supply of three bed dwellings, yet Table H2.1 requires one fifth of all new market dwellings to comprise three bed dwellings. The Table appears to conflict with the Policy and its supporting text in this regard.

92 Also, the first column of Table H2.1 provides an indication of the market housing mix sought, but it does not indicate the size of sites where the percentages referred to might apply. Further, the Table would, if applied as set out, require that 45% of all market housing in the Neighbourhood Area *"should be suitable for elderly residents."*

93 Whilst there is evidence of the need to provide housing for older people, this requirement is not supported by detailed viability or deliverability evidence. There is no evidence, for example to demonstrate the deliverability of 45% of all new market homes being suitable for elderly residents and meeting Lifetime Homes Standards. This part of the Policy does not have regard to Paragraph 16 of the Framework, which requires plans to be:

*"...aspirational but deliverable."*

94 Further to the above, the Policy goes on to require all homes suitable for older residents to be *"suitable for younger residents"* but is not clear in respect of how this might be achieved or what such a dwelling might comprise; and nor is there any substantive evidence in respect of the deliverability of this aspect of Policy H2. This part of the Policy is imprecise and unsupported by appropriate evidence.

95 Taking all of the above into account, I recommend:

- **Policy H2, delete the Policy text and replace with *"Housing development should provide for a mix of housing types and sizes, taking account of local needs. Major developments of dwellings of uniform type and size will not be supported. Proposals that contribute to meeting the needs of an ageing population, including homes for down-sizing, as well as residential or nursing care, will be supported."***
- **Delete Para 6.39 and Table H2.1**



**Policy H3: Housing to meet the needs of an ageing population**

- 96 The Neighbourhood Plan's evidence base recognises the ageing population in the Neighbourhood Area and having regard to national policy referred to above, Policy H3 seeks to ensure that development provides housing for older people.
- 97 The Policy itself includes a statement (part 2), rather than land use planning policy and includes ambiguous references to "*encouragement*" and development being "*acceptable*".
- 98 Part 3 of the Policy seeks to establish a criteria-approached basis to the provision of housing for Over-55s founded on a need to identify specific individuals and for the Neighbourhood Plan to control the sale of private dwellings. No substantive evidence has provided to demonstrate that such a statutory change is justified, nor to demonstrate that the approach has regard to national policy or is in general conformity with the Core Strategy.
- 99 The Policy goes on to repeat requirements referred to in Policy H2, considered earlier in this Report.
- 100 I recommend:
- ***Change wording of Policy H3 to "New, converted and extended independent, assisted living and extra care facilities for older people will be supported, subject to respecting local character and residential amenity."***

**Policy H4: Local Occupancy**

- 101 As set out above, national guidance requires planning policies to be precise, concise, clear, unambiguous and supported by appropriate evidence.
- 102 Policy H4 comprises a statement and not a land use policy. Its content is entirely reliant upon third parties and on other factors outside the control of the Neighbourhood Plan and further, the Policy is not supported by evidence to demonstrate that its "*requirements*" are deliverable.
- 103 The Policy is not in general conformity with Core Strategy Policy SC1, contrary to the statement in the Neighbourhood Plan. Core Strategy Policy SC1 makes no reference to local occupancy conditions.
- 104 The Policy does not meet the basic conditions.
- 105 I recommend:
- **Delete Policy H4**
  - **Delete Para 6.41**

**Policy H5: Housing development site allocation – Land behind Vicarage road West between the Cricket Club and the Church School**

- 106 Whilst not a requirement, neighbourhood plans can allocate land for development. Policy H5 allocates a site for residential development.
- 107 Evidence has been provided to demonstrate that the allocation provides for sustainable growth and consequently, that the Policy contributes to the achievement of sustainable development.
- 108 As worded, parts of Policy H5 are confusing. The final part of the Policy states that the site is allocated for specialist housing and care, whilst the first part of the Policy simply allocates the site for housing. In this respect, the Policy is imprecise and fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework.
- 109 No information is provided to distinguish the difference between “support” and “support in principle.” Also, the phrase “Lifestyle Living,” as referred to in the Policy, appears meaningless in the absence of any detailed information as to what this entails.
- 110 The supporting text makes an unsubstantiated claim in respect of the site comprising “the only location” for the development anticipated by the Policy.
- 111 I recommend:
- **Policy H5, change wording to: “The development of between 20 and 60 dwellings for people aged over 55, on land behind Vicarage Road West between the Church School and the Cricket Club, as shown on the Policies Map, will be supported.” (delete rest of Policy)**
  - **Para 6.43, line 3, change to “...population. The site is in close proximity to the village...housing schemes.”**

**Policy H6: Section 106 agreements and Developer Contributions**

112 Core Strategy Policy IPC1 sets out the District-wide position in respect of infrastructure and planning contributions.

113 Paragraph 56 of the Framework states that:

*“Planning obligations must only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.”*

114 Parts 1-4 of Policy H6 largely comprise a statement with reference to the Core Strategy. Core Strategy Policy IPC1 is an adopted development plan Policy and as such, there is no need to repeat any of its provisions.

115 The final part of Policy H6 seeks to impose requirements *“in addition to”* the specific contribution requirements of Policy IPC1. Whilst I note that part of the intention of Policy H6 was to provide a further level of detail to Policy IPC1, the actual outcome is a list of requirements unsupported by evidence to demonstrate that they have regard to Paragraph 56 of the Framework, set out above.

116 Consequently, I am unable to conclude that Policy H6 meets the basic conditions. I also note that Paragraph 6.44 of the supporting text reads as though it comprises a Policy, which it does not.

117 Notwithstanding the above, I recognise that the Qualifying Body would like to ensure that planning obligations are locally effective. Bearing this and all of the above in mind, I recommend:

- **Delete Policy H6**
- **Delete Para 6.44**
- **Provide a new Para, to follow on from Para 6.55, *“The Town Council will seek to encourage locally effective contributions, which, within the Neighbourhood Area, are recognised as including: community tree planting; public transport improvements; improvements to the pedestrian and cycle network; improvements to car parking provision within the village core; and improvements to the appearance and quality of access gateways to the village.”***

**Policy DES1: Design Principles**

118 National planning policy recognises that:

*“Good design is a key aspect of sustainable development, creating better places in which to live and work and helps make development acceptable to communities.”* (Paragraph 124, the Framework)

119 Core Strategy Policy CG3 promotes good urban design and expects all new development to respect its surroundings.

120 The intention of Policy DES1 is to promote good design and in this respect – as clearly set out by the first sentence of the Policy - it is in general conformity with the Core Strategy and has regard to national policy.

121 The Policy then goes on to set out a long list of requirements. There is no evidence to demonstrate that all of these requirements would be relevant to all development proposals, or that the Policy is deliverable in respect of all of the requirements set out.

122 Notwithstanding this, a number of the requirements do appear to provide for good practice in respect of the promotion of good design. The re-wording of the second sentence, as recommended below, provides for these requirements to help shape future development in the Neighbourhood Area.

123 There is no national or local policy requirement for heritage assets to simply be “*protected*.” The approach to heritage is far more nuanced and as such, it provides for sustainable development whilst conserving the nation’s heritage assets, which are recognised as being irreplaceable.

124 The phrase “*adequately mitigate adverse impacts*” is vague. There is no indication of precisely what an adverse impact or adequate mitigation might be, resulting in an imprecise Policy.

125 Design guidance is simply that – it provides for guidance, rather than imposes policy requirements.

126 Planning application requirements are a matter of statute and in respect of local requirements, they are the responsibility of the Local Planning Authority. Notwithstanding this, a requirement for all Design and Access agreements to *"include perspective views from at least three mutually exclusive directions"* is onerous. It is not justified by any substantive evidence to demonstrate that it would contribute to the achievement of sustainable development; and no substantive information has been provided in support of such a radical change to planning application requirements.

127 Some of the supporting text to Policy DES1 reads as though it comprises a Policy, which it does not.

128 I recommend:

- **Policy DES1, replace second sentence with *"Development proposals should give consideration to the following:"***
- **Change b) to *"Respect designated and...settings;"***
- **Delete last sentence of c) (*"Developments...NE3"*)**
- **Delete last sentence of e) (*"Developments...NE2"*)**
- **Change h) to *"Consider guidance, including Building for Life 12, Lifetime Home Standards, Space Standards, Secured by Design. Major developments should seek advice from a Police Architectural Liaison representative."***
- **Delete i), j), k) and l)**
- **Change m) to *"Support better connections to..."***
- **Delete n)**
- **Change p) to *"Provide vehicle..."***
- **Delete *"- in line with latest design practices"* (there is no indication of what these are) from q) and r)**
- **Change s) to *"...roof construction."* (delete rest of sentence, which appears repetitive and vague)**

- Delete last sentence of t) (“Subject...feasibility”)
- Delete part 2 and part 3
- Para 6.58, change to “*Building for Life 12, Secured by Design and Lifetime Home standards provide guidance to support good design.*” (delete rest of para)
- Para 6.59, first line, change to “...developers should *consider* technological...”
- Delete para 6.60
- Delete paras 6.66 and 6.67

Transport and Infrastructure

**Policy TR1: Information required to support planning applications**

129 Paragraph 98 of the Framework states that:

*“Planning policies and decisions should protect and enhance public rights of way and access.”*

130 The first part of Policy TR1 seeks to promote the provision of safe public rights of way and in this way, it has regard to national policy.

131 As set out, Policy TR1 seeks to impose obligations on all forms of development without reference to the requirements of Paragraph 56 of the Framework, referred to earlier in this Report.

132 Policy TR1 then goes on to set out planning application requirements without justification. There is no evidence to demonstrate that the requirements of this part of the Policy are deliverable, having regard to Paragraph 16 of the Framework, also referred to earlier in this Report.

133 Part of the supporting text to the Policy reads as though it comprises a policy requirement, which it does not.

134 I recommend:

- **Policy TR1 change first sentence to *“The provision of safe and fit...disabled users will be supported.”***
- **Delete part 2 of the Policy**
- **Change title of Policy to *“Policy TR1: Public rights of way and access”***
- **Para 6.81, change to *“This Policy seeks...”***
- **Para 6.82, change to *“By encouraging good...”***



- Para 6.83, line 3, change to “...recognised and *the Town Council is keen to see that non-vehicular routes provide access to these services and make provision for the less mobile.*”

**Policy TR2: Improve the Provision of Public Transport Services**

**Policy TR3: Getting about in Blackrod**

**Policy TR5: Car Parking in Blackrod - Improvements**

135 Policies TR2, TR3 and TR5 are not land use planning policies, but comprise statements setting out things that the Town Council intends to do.

136 Rather than simply delete the Policies and lose sight of these important local aspirations, I recommend:

- **Delete Policies TR2, TR3 and TR5**
- **Replace each of the three Policies with a new heading “Community Project – Transport 1” (“Transport 2” and “Transport 3”)**
- **Remove the coloured shading from each Policy box (this is to ensure that the Community Projects do not appear as Policies, which they are not)**
- **Move “Community Project – Transport 3” (formerly TR5) so that it appears with the other Community Project before Policy TR4**
- **Provide new heading “Community Projects – Transport”) above Para 6.85**
- **Change Para 6.85 to “The community has identified a number of transport issues that cannot be tackled through land use planning policies, but which the Town Council would like to address as Community Projects. Whilst Community Projects have no land use planning policy status, they recognise important community aspirations and identify future tasks for the Town Council.”**
- **Change Para 6.88 to “The Community Project below outlines how the Town Council intends to create a comprehensive transport strategy for Blackrod in order...future.”**
- **Change Para 6.89 to “The Town Council will seek to ensure that getting...parked cars.”**
- **Change 6.90 to “The Community Project below seeks to identify the mechanism by which a...street trees.”**

- Change 6.92 to ***“The Community Project below sets down a strategy for...pedestrians.”***
- Delete para 6.93

**Policy TR4: Car Parking in Blackrod - General**

137 Policy TR4 seeks to safeguard existing public car parking in support of convenience and safety. This has regard to Paragraph 127 of the Framework, which requires planning policies to create places that are safe, inclusive and accessible.

138 The second part of Policy TR4 relies on an appendix which sets out a very detailed set of car parking standards. These are highly prescriptive and whilst there is no reference in the Neighbourhood Plan, they appear to have been extracted from another document. In the absence of detailed justification for the standards set out, it is not clear why the detailed standards in the Appendix should apply to Blackrod, or why they are deliverable, having regard to Paragraph 16 of the Framework.

139 I recommend:

- **Policy TR4, delete part 2 and delete Appendix TRA1 (pages 56 and 57)**
- **Para 6.91, delete from last four lines "Transport and Infrastructure...as far as possible."**

## Natural Environment

### Policy NE1

140 Policy NE1 appears to conflate the very specific Local Green Space designation with more general references to open space. It appears to mix together references to open space, green space, Local Green Space and green infrastructure. The Policy also appears to conflate improvements to wildlife corridors with the creation of new public rights of way.

141 For clarity, the first part of the Examiner's Report deals with Local Green Space first and subsequently to this, the rest of Policy NE1.

142 Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 99 of the Framework states that:

*"The designation of land as a Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them."*

143 The Framework requires policies for managing of development within a Local Green Space to be consistent with those for Green Belts (Paragraph 101, the Framework). A Local Green Space designation therefore provides protection that is comparable to that for Green Belt land. Consequently, Local Green Space comprises a restrictive and significant policy designation.

144 Given the importance of the designation, it is appropriate that areas of Local Green Space are clearly identified in the Neighbourhood Plan itself. The Figures identifying each Local Green Space are small and provided on a poor quality map base. This makes the detailed identification of boundaries difficult and I make a recommendation in this regard, below.

145 The designation of land for Local Green Space must meet the tests set out in Paragraph 100 of the Framework.

- 146 These are that the green space is in reasonably close proximity to the community it serves; that it is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and that it is local in character and is not an extensive tract of land.
- 147 The Neighbourhood Plan seeks to designate seventeen areas of land as Local Green Space. Whilst there is a paucity of information relating to each area of Local Green Space within the Neighbourhood Plan itself, the evidence base includes a supporting document, "*Blackrod Designations of Local Green Spaces*," which provides significant evidence to demonstrate that each Local Green Space meets the relevant national policy tests.
- 148 As such an important designation, it is essential that the precise boundaries of each Local Green Space are clearly identified within the Neighbourhood Plan itself. I note that, whilst the boundaries can just about be worked out, some of the plans of the smaller areas of Local Green Space provide in the supporting document are not sufficiently clear to be included in the Neighbourhood Plan – clearer plans are required.
- 149 National policy is clear in establishing that policies for managing development within areas of Local Green Space should be consistent with those for Green Belts. Policy NE1 fails to have regard to national policy in this respect, but instead it sets out a different approach that does not meet the basic conditions. This is addressed in the recommendations below.
- 150 The rest of Policy NE1 seeks to cover a wide range of matters generally related to green infrastructure. The Policy begins by stating that areas for open space, sport and recreation will be protected in line with national policy, as set out in Paragraph 97 of the Framework, before going on to set out an unjustified Policy requirement relating to commuted sums that appears in direct conflict with national policy.
- 151 Part b) of the Policy appears to require all development to contribute to green infrastructure. No evidence is provided to demonstrate that this is deliverable, or that the approach has regard to Paragraph 56 of the Framework, referred to earlier. However, the overall intent of securing green infrastructure improvements has regard to Paragraph 91 of the Framework, which states that planning policies should:

*"...aim to achieve healthy, inclusive and safe places which...enable and support healthy lifestyles...for example through the provision of safe and accessible green infrastructure..."*

- 152 The recommendations below take account of this and the scope for the Policy to align with national policy, taking account of the aspirations set out in the Neighbourhood Plan and its supporting evidence.
- 153 Part e) of the Policy goes beyond the scope of the Neighbourhood Plan by placing an obligation on the Local Authority.
- 154 I recommend:
- **Policy NE1, change title to “*Local Green Space and Green Infrastructure*”**
  - **Create new heading and opening paragraph “*Local Green Space. The sites listed below and shown in the following plans are designated as Local Green Space, to be protected in a manner that is consistent with Green Belt policy: LIST THE 17 SITES HERE.*”**
  - **Provide a set of plans to follow Policy NE1, showing the precise and clearly identifiable boundaries of each Local Green Space**
  - **Delete 1 a of Policy NE1**
  - **Change 1b of Policy NE1 to “*Green Infrastructure. Improvements to the quality and accessibility of public open spaces and areas of sports provision will be supported.*”**
  - **Change the first paragraph of 1c to “*Improvements to the connectivity between existing wildlife areas that enhance the green infrastructure of the Neighbourhood Area will be supported.*”**
  - **Add new paragraph to 1c, to follow on from the paragraph in the bullet point above “*The creation of new and the improvement of existing public rights of way, will be supported. Where new rights of way are being created, consideration should be given to the potential for routes to:*”**
  - **Delete parts e, f and g**
  - **Para 6.99, delete from line four (“The general...Policy NE1”)**

**Policy NE2: Trees and Hedgerows**

155 Chapter 15 of the Framework, *"Conserving and enhancing the natural environment,"* promotes the protection and enhancement of biodiversity. To some degree, Policy NE2, which seeks to protect trees and hedgerows and supports more planting, has regard to this.

156 However, as set out, Policy NE2 is highly prescriptive yet unsupported by evidence in respect of deliverability. There is nothing, for example, to demonstrate that all developments of ten or more dwellings can provide a common open space within the development site to meet the ambiguous requirement of incorporating *"a number of (ultimately) large trees."*

157 Similarly, it is not clear when a development must provide surveys and management plans; or how all developments can incorporate the planting of native trees and hedges. The Policy goes on to seek to impose requirements that may serve to prevent, or place an obstacle in the way of simply planting trees and to introduce an imprecise, unsubstantiated and ambiguous compensation clause.

158 In the absence of any detailed information, it is not clear what a tree or hedgerow of *"public amenity value"* comprises and this part of the Policy results in an ambiguous and subjective approach that fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework.

159 I recommend:

- ***Change wording of first para of Policy NE2 to "Local ecological habitats should be preserved and development should minimise impacts on and provide net gains for, biodiversity. Development should not result in the overall loss of trees or hedgerows. Development proposals should retain trees and hedgerows of good arboricultural value, or which have a positive impact on local character. Where an Arboricultural impact assessment to BS5837 (2012) Trees (or equivalent) demonstrates that loss of trees or hedgerows is unavoidable, development should seek to mitigate any loss through appropriate replacement.***

***The planting of native trees and hedgerows will be supported. Major residential development proposals should demonstrate how their approach to landscaping respects local character."***



- Paragraph 6.102, delete final sentence (“Street...TR3”)

**Policy NE3: Vistas and Views**

160 Paragraph 127 of the Framework requires planning policies to ensure that developments:

*"...are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change..."*

161 In very general terms, Policy NE3 seeks to ensure that development does not harm local character, having regard to national policy.

162 As set out, Policy NE3 seeks to impose an onerous Policy aimed at *"preserving"* wide-ranging views that, together, cover large swathes of the Neighbourhood Area. Notwithstanding that views can change seasonally and annually, as well as daily or even hourly, it is not clear, in the absence of detailed information in respect of deliverability, upon what basis Policy NE3 can seek to *"preserve"* these views whilst contributing to the achievement of sustainable development.

163 The Policy goes on to state that development that has *"an adverse impact"* on views and vistas *"will not be permitted."* The use of the phrase *"will not be permitted"* runs the risk of pre-determining the planning application process by failing to allow for the balanced consideration of harm against benefits. Such an approach may serve to prevent the Neighbourhood Plan from contributing to the achievement of sustainable development.

164 Further to the above, no detailed information has been provided to indicate what *"an adverse impact"* would comprise and fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework.

165 Paragraph 6.107 reads as though it comprises a Policy, which it does not.

166 I recommend:

- **Policy NE3, change to *"Development should take into account and respect important local views and vistas, as indicated on the Policies Map and detailed in the supporting document *"Blackrod vistas and views."****

- Para 6.105, change to “...Vistas and *Views*.” (delete rest of Para)
- Para 6.107, change first line to “...Blackrod. *This is shown for information and indicates that the main* potential...boundary of Blackrod.” (Delete rest of Para)

Public Realm

**Policy PR1: Safe and fit for purpose rights of way**

- 167 Policy NE1 covers public rights of way, having regard to national policy.
- 168 To a considerable degree, Policy PR1 unnecessarily repeats the provisions of Policy NE1.
- 169 The Policy goes on to seek to protect public rights of way which, by definition, are already protected. Furthermore, as set out, the Policy serves to erode the protection of public rights of way by suggesting that they can be replaced with similar alternative provision, or via costs of alternative provision being met by a developer, without providing any substantive evidence to demonstrate how such an apparent departure from the protection provided to public rights of way might be delivered.
- 170 If something is required in order to make a development acceptable, then it is a requirement of development. Consequently, if provision to extend or connect rights of way is required to make development acceptable, then such provision must be made. It is not clear, in the absence of any detailed information, why Policy PR1 seeks to include this statement of fact.
- 171 Manual for Streets 1 and 2 provides guidance, not policy and part 4 of the Policy appears ambiguous in its use of the phrase "*as appropriate.*"
- 172 Policy PR1 is repetitive, does not demonstrate deliverability, includes general statements of fact and appears vague. It does not meet the basic conditions. I note that the recommendation below does not affect the protection of public rights of way.
- 173 I recommend:
- **Delete Policy PR1**
  - **Delete Paras 6.110 and 6.111**

**Policy PR2: Gateways**

- 174 Having regard to Chapter 12 of the Framework, *“Achieving well-designed places,”* Policy PR2 promotes the development of strong, attractive gateways.
- 175 The first part of the Policy comprises a general statement, setting out something that the Town Council aims to do, and is not a land use planning policy.
- 176 The phrases *“reflecting their gateway locations”* and *“where appropriate”* appear vague and are unsupported by detailed information.
- 177 I recommend:
- **Policy PR2, delete part 1 (“Blackrod...meets the A6”)**
  - **Change part 2 to *“Development at the gateways to the village, identified on the Policies Map, should be of a high quality, in keeping with the importance of the gateways reflecting and helping to define the character of the village, taking into account the importance of trees and landscaping, the public realm and signage.”* (delete rest of Policy)**

## Community Facilities

### Policy CF1: Community Facilities Infrastructure

178 Chapter 8 of the Framework, "*Promoting healthy and safe communities*," promotes healthy lifestyles and requires planning policies to:

*"...plan positively for the provision and use of shared spaces, community facilities...and other local services to enhance the sustainability of communities and residential environments."* (Paragraph 92, the Framework)

179 Part of Policy CF1 is generally supportive of improvements to and the development of new community facilities and in this way, the Policy has regard to the Framework.

180 The first part of the Policy includes a statement setting out something supported by Blackrod Town Council. Blackrod Town Council is not the local planning authority. Once made, the Neighbourhood Plan would form part of the development plan for Bolton where planning applications are determined against the policies of the development plan as a whole by the local planning authority, which in this case, is Bolton Council.

181 The term "*infrastructure*" could cover any number of things and this is a point addressed in the recommendations below.

182 The first part of the Policy includes a list of requirements which, together, as worded, could prevent sustainable development from coming forward. A requirement for development not to have *any* adverse impact on amenities fails to provide for the balanced consideration of a proposal and does not allow, for example, for it to be demonstrated that harm arising is mitigated by, or outweighed by benefits.

183 Parts 1a, 1b and 1d largely state the same thing in respect of development being required to be in keeping with local character.

184 Part 2 of the Policy comprises a statement setting out something that the Town Council commits to doing and does not comprise a land use planning policy.

- 185 In respect of part 3 of the Policy, Paragraph 40 of the Framework establishes that developers cannot be required to engage with planning authorities prior to submitting a planning application. No evidence has been provided to justify a requirement for developers to engage with the Town Council. Further, the “*essential community infrastructure*” referred to in the Policy comprise a very wide range of things and no evidence is provided to demonstrate that the approach set out has regard to Paragraph 56 of the Framework, referred to earlier in this Report.
- 186 The Policy relies on other documents and policies outside the control of the Neighbourhood Plan and it sets out a delivery requirement without evidence in respect of deliverability.
- 187 Notwithstanding all of the above, the Qualifying Body has clarified that part of the intent of the Policy is to ensure that developments of ten or more dwellings contribute to community infrastructure. In this regard, the aims of the Policy are in general conformity with Core Strategy Policy IPC1, which sets out the District-wide approach to physical, social and green infrastructure and planning contributions.
- 188 Whilst Policy IPC1 sets a threshold of 15 dwellings, a Neighbourhood Area requirement relating to major development (ten or more dwellings) is reflective of the neighbourhood/village scale of Blackrod and as per the recommendations below, the Policy requirement would, in any case, be subject to that which is “*reasonable*.”
- 189 I recommend:
- **Change wording of Part 1 of Policy CF1 to “*The development of new and/or improvements to existing, community facilities and other physical, social and green infrastructure will be supported subject to such development being accessible and demonstrating respect for local character, residential amenity and highway safety.*”**
  - **Delete rest of Policy and replace with “*Major residential development proposals should demonstrate how they will make reasonable provisions or contributions towards the cost of appropriate physical, social and/or green infrastructure (such as education, health and community facilities) to mitigate the impacts of development and ensure that development is acceptable in planning terms.*”**

- **Para 6.128**, change penultimate line to ***“Policy CF2, seeks to protect, retain and enhance...”***
- **Delete Para 6.129**
- **Para 6.132**, delete second sentence (***“The Blackrod...page 37.”***)



**Policy CF2: Retention and Improvement of Community Facilities**

190 Policy CF2 sets out a land use planning policy approach to provide for the protection of community facilities, having regard to Paragraph 92 of the Framework, which states that:

*"...planning policies should...guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs."*

191 Policy CF1 supports the development of community facilities. There is no need for the third paragraph of Policy CF1, which could give rise to support for inappropriate forms of non-community development in part due to the ambiguity around the undefined term, *"community value."*

192 Part 4 of the Policy is not a land use planning policy, but sets out something that the Town Council intends to do.

193 I recommend:

- **Policy CF2, delete parts 3 and 4**
- **Add new para below 6.136 *"Blackrod Town Council will seek to work with the local community to identify important community facilities and nominate them, where appropriate, for registration as Assets of Community Value."***

## Retail

### **Policy ER1: Retaining existing “core” retail facilities**

- 194 As set out earlier in this Report, national planning policy seeks to prevent the loss of valued community facilities and services.
- 195 Having regard to this, Policy ER1 seeks to protect Blackrod's shops, financial and professional services, restaurants, cafes, pubs and takeaways and in this way, the Policy meets the basic conditions.
- 196 Part of the Policy seeks to impose a requirement on the local planning authority and this is beyond the scope of the Neighbourhood Plan. The Policy also sets out a very lengthy marketing period without evidence of reasonableness. This could serve to harm economic vitality in conflict with the aims of the Policy and there is no evidence to the contrary.
- 197 Also, the Policy's focus on retail floor space and “*nett loss*” is not supported by detailed information setting out what existing floor space comprises. In the absence of detail, it is not clear that the approach set out will contribute to the achievement of sustainability. Rather, it may prevent retailers from providing a flexible, commercially viable offer. As an aside, there have been fundamental changes that have affected retail over recent years and this has resulted in the need, in many cases, for retailers to be innovative and flexible in order to maintain viability. The recommendations below take account of this, as well as the fact that some permitted development rights support appropriate change without the need for planning permission.
- 198 I recommend:
- **Policy ER1, change wording to “*Where planning permission is required, the loss of shops, cafes, takeaways and services (A1-A5 uses) in the village, will not be supported unless it can be demonstrated that there is no prospect of a sale or letting for the existing use, following active marketing at a realistic market price for at least twelve months.*”**

- Paragraph 6.155, change from first line to ***“Policy ER1 seeks to address a common concern...good core of shops, it is considered essential that, as far as possible, existing facilities...very important.”***

**Policy ER2: Encourage more local retail space that meets the needs of the Village**

199 Having regard to Paragraph 92 of the Framework referred to earlier in this Report, Policy ER2 supports the additional provision of class A1-A5 uses in Blackrod's identified village core.

200 As set out, the Policy refers to floor space rather than use, which adds a level of unnecessary confusion unjustified by, for example any detailed supporting information and introduces similarly onerous requirements to those of other Policies considered earlier in this Report.

201 There is an absence of detailed information setting out what elements of uses that fall within the A1-A5 use classes would meet the daily retail needs of the community, and what elements would not. The Policy is imprecise in this regard.

202 I recommend:

- **Policy ER2, change to “*Within the village core, as shown on the Policies Map, development within Use Classes A1-A5 will be supported, subject to it respecting local character, residential amenity and highway safety.*”**
- **Para 6.157, change to “...village, it is the view of the Town Council that there should...encouraged. Retail Policy ER2 seeks to address this.”**

**Policy ER4: Support the provision of a farmers'/craft market**

203 Policy ER4 comprises a statement of intent and is not a land use planning policy.

204 I recommend:

- **Delete Policy ER4**
- **Change Paragraph 6.158 to *“With the aim of supporting the vibrancy of the Village, the Town Council will seek to work with appropriate stakeholders to encourage the provision of a Farmers’ and or Craft Markets/Shops in Blackrod. In doing this, the Town Council will seek to ensure that such markets and/or shops have sufficient parking and respect the amenity of residents.”***

**Policy ER3: Encourage the retention/expansion of well-being support facilities**

- 205 Having regard to national policy support for the provision and protection of community services and facilities, Policy ER3 seeks to promote the provision of new non-residential institutions, as well as protect those that already exist.
- 206 No indication is provided in respect of the difference between “*supported*” and “*strongly supported*” and this part of the Policy appears imprecise, failing to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework. Policy ER3 also introduces similarly onerous requirements to those of other Policies considered earlier in this Report.
- 207 The Policy seeks to place a requirement on the local planning authority and this is beyond the scope of the Neighbourhood Plan.
- 208 I recommend:
- **Policy ER3, change to “*Proposals that provide for new or expanded facilities in use Class D1 (eg, clinics, health centres, crèches, day nurseries, day centres, schools, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls) within or easily accessible to the village core, will be supported, subject to respecting local character, residential amenity and highway safety.***
- The loss of Class D1 uses will not be supported unless it can be demonstrated that there is no prospect of a sale or letting for the existing use, following active marketing at a realistic market price for at least twelve months.”***

Economy and Employment

**Policy ER5: Encourage the retention/expansion of existing employment**

- 209 Chapter 6 of the Framework, *"Building a strong, competitive economy,"* requires planning policies to help create the conditions in which businesses can invest, expand and adapt.
- 210 Policy ER5 promotes the retention and expansion of employment sites. This has regard to national policy.
- 211 As set out, the Policy supports employment on employment sites. Planning policy already allows for this. For clarity and taking account of previous comments in this Report, I recommend:
- **Change wording of Policy ER5 to *"Development that helps to sustain or intensify employment generating uses on established employment sites will be supported."***
  - **Par 6.168, change to *"Blackrod Town Council aims to ensure that..."***

**Policy ER6: Support the retention of existing employment sites**

212 Whilst the wording of the Policy raises issues considered earlier in this Report, in general terms, Policy ER6 seeks to avoid the loss of employment sites, having regard to Chapter 6 of the Framework.

213 I recommend:

- ***Policy ER6, change to “Development proposals that would result in the loss of an employment site will not be supported unless it can be demonstrated that the site is no longer suited to employment use and that employment use is no longer viable, further to actively marketing the land for employment use at a market value for a period of at least twelve months.”***



**Policy ER7: Support the improvement of Blackrod Industrial Estate**

214 Policy ER7 comprises a statement of intent and is not a land use planning policy.

215 I recommend:

- **Delete Policy ER7**
- **Change Paragraph 6.175 to “*With the aim of supporting the improvement of Blackrod Industrial Estate, the Town Council will seek to work with the landowners and other stakeholders to support a programme of improvements aimed at modernising the Estate.*”**

## Built Heritage

### **Policy BH1: Protection of Designated Heritage Assets (Listed Assets)**

- 216 Chapter 16 of the Framework, *"Conserving and enhancing the historic environment,"* recognises heritage assets as an irreplaceable resource and requires that they:

*"...be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations (Paragraph 184, the Framework).*

- 217 Chapter 16 of the Framework goes on to set out a carefully nuanced approach to ensuring that heritage assets are conserved in accordance with their significance. The approach accords with the principles of sustainable development, allowing for an appropriately balanced consideration of harm against benefits.

- 218 The first part of Policy BH1 requires the provision of a heritage assessment alongside any development proposal that impacts on a designated heritage asset. Subject to the recommendations below, this has regard to paragraph 189 of the Framework, which requires:

*"...to describe the significance of any heritage assets affected, including any contribution made by their setting."*

- 219 The remainder of Policy BH1 does not have regard to national policy. Rather, it sets out a very different approach to the conservation of designated heritage assets. Rather than provide for sustainable development, Policy BH1 seeks to establish criteria that fail to contribute to its achievement. The Policy sets out an interpretation of national policy that ends up conflicting with it.

- 220 For example, part 2 of the Policy simply supports change of use, regardless of the new use, so long as it repairs and re-uses listed buildings. This could result in support for inappropriate forms of development. In the absence of evidence, it is not clear how all development can preserve the appearance, scale and setting of designated heritage assets, nor given the absence of such a requirement in national policy, why it should be required to do so.

221 The Policy continues in a similar vein, such that the requirements set out within it provide scope for inappropriate forms of development, regardless of national policy, resulting in a Policy that fails to contribute to the achievement of sustainable development.

222 I recommend:

- **Policy BH1, change part 1. to *"All heritage assets and their settings must be conserved according to their significance. Development proposals affecting designated heritage assets and/or their settings must be accompanied by a heritage assessment that describes the significance of any heritage assets affected, including any contribution made by their setting. The assessment should demonstrate that the Historic Environment Record has been consulted."***
- **Delete rest of Policy**
- **Para 6.181, change to *"Designated heritage assets are protected by statute. Policy BH1 reflects this and sets out the requirement for development impacting on a designated asset or its setting to recognise and demonstrate understanding of the asset affected."***
- **Delete Para 6.182**

**Policy BH2: Protection of Non-Designated Heritage Assets (Local List)**

- 223 Policy BH2 sets out a similar approach to Policy BH1, considered earlier in this Report, in that it seeks to interpret national heritage policy, but in so doing, it creates a Policy that is in conflict with and fails to have regard to, Chapter 16 of the Framework.
- 224 As presented, Policy BH2 does not have regard to national policy and does not contribute to the achievement of sustainable development. It sets out Policy requirements without evidence of deliverability and which appear confusing, ambiguous and imprecise. It goes on to set out post-planning permission requirements, without justification.
- 225 Whilst non-designated heritage assets do not have the same status as designated heritage assets, they are still important and as with designated heritage assets, national policy requires plans to take into account:
- “...the desirability of sustaining and enhancing (their significance) and putting them to viable uses consistent with their conservations...”*  
(Paragraph 185, the Framework)

226 In recognition of this, I recommend:

- **Delete Policy BH2 and replace with “*The enhancement of non-designated heritage assets identified on the Neighbourhood Area’s Local List will be supported. Development proposals affecting a non-designated heritage asset should demonstrate how they will conserve that asset in accordance with its significance.*”**
- **Delete rest of Policy**
- **Para 6.186, line four, change to “...heritage assets *is the focus of* Policy BH2.”**

**Policy BH3: Protection of Areas of Special Character**

227 Whilst, to some considerable degree, the purpose of Policy BH3 is covered by Policy BH2, the identification of “*special areas*” draws further attention to the Neighbourhood Area’s heritage assets and has regard to Paragraph 127 of the Framework, which requires planning policies to ensure that developments:

*“...are sympathetic to local character and history...”*

228 As worded, Policy BH3 seeks to afford a level of protection which would conflict with and go well beyond that for even designated heritage assets. No justification or evidence of deliverability is provided for such a departure from national policy.

229 I recommend:

- **Policy BH3, change wording to “*The following areas in Blackrod have been identified in recognition of their special character: (LIST a.- g. HERE). Development proposals should demonstrate how they respect these areas of special character.*” (Delete rest of Policy)**

## **8. The Neighbourhood Plan: Other Matters**

230 For clarity, I recommend:

- **Delete Paras 8.1 and 8.2, replace with *"The made Policies of the Neighbourhood Plan form part of the development plan for the Neighbourhood Area. As such, the Policies serve to control development and together with the rest of the development plan, form the basis upon which the local planning authority, Bolton Council, will determine planning applications within Blackrod."***
- **Para 8.3, delete second sentence "Bolton...policies." Change last sentence to *"The Town Council will monitor development across the Neighbourhood Area and carry out an annual review."***

231 Table 8.1 does not reflect the recommendations in this Report and the responsibility for determining planning applications against development plan policies lies with the local planning authority. I recommend:

- **Delete Table 8.1**

232 The recommendations made in this Report will also have a subsequent impact on Contents, including Policy, paragraph, Table, Figure and page numbering.

233 I recommend:

- **Update the Contents and where necessary, Policy, paragraph, Table, Figure and page numbering, to take into account the recommendations contained in this Report**

## **9. Referendum**

- 234 I recommend to Bolton Council that, subject to the recommended modifications, **the Blackrod Neighbourhood Plan should proceed to a Referendum.**

### **Referendum Area**

- 235 I am required to consider whether the Referendum Area should be extended beyond the Blackrod Neighbourhood Area.
- 236 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.
- 237 Consequently, I recommend that the Plan should proceed to a Referendum based on the Blackrod Neighbourhood Area approved by Bolton Council on the 11<sup>th</sup> July 2016.

**Nigel McGurk, October 2019**  
**Erimax – Land, Planning and Communities**

