

Leeds City Council

Decision Statement - Kippax Neighbourhood Development Plan

Planning & Compulsory Purchase Act 2004 The Neighbourhood Planning (General) Regulations 2012

Regulation 18 Decision Statement

1. Summary

- 1.1 Following an independent examination, Leeds City Council now confirms that it is making modifications to the Kippax Neighbourhood Plan as set out in Table 1 below. The Plan will then proceed to a Neighbourhood Planning Referendum.
- 1.2 In accordance with the independent examiner's recommendations, the Kippax Neighbourhood Plan will proceed to referendum based on the Kippax Neighbourhood Area as designated by Leeds City Council on 17th September 2012.
- 1.3 This Decision Statement, the examiner's report and the draft Kippax Neighbourhood Plan and supporting documentation are available on the Council's website:
<http://www.leeds.gov.uk/council/Pages/Neighbourhood-planning.aspx>.
- 1.4 They are also on the Kippax Parish Council website
http://www.kippaxparishcouncil.gov.uk/Kippax-PC/neighbourhood_plan-6395.aspx
- 1.5 Hard copies of the Decision Statement and the examiner's report are available for inspection at:
 - Leeds City Council, The City Centre Hub, Woodhouse Lane, Leeds, LS2 8LX (Mon, Tues, Thurs, Fri 8.30 – 17.00, Weds 9.30 - 17.00),
 - Kippax Community Hub, Westfield Lane, Kippax, Leeds, LS25 7LY (Mon 10.00 – 17.00, Tues – Fri 9.00 – 17.00)
 - Kippax Post Office, 41 High Street, Leeds, LS25 7AF (Mon – Sat 9.00 – 17.30pm)
 - Kippax Leisure Centre, Station Road, Kippax, LS25 7LQ (during opening hours)

2. Decisions and Reasons

- 2.1 The examiner has concluded that subject to the specified modifications being made to the Plan, the Kippax Neighbourhood Plan meets the Basic Conditions stated and other relevant legal requirements.
- 2.2 The Council accepts all of the modifications and the reasons put forward by the examiner for them. The examiner's reasons and recommended modifications are set out in Table 1, followed by the Council's decisions.

- 2.3 The Council is satisfied that subject to the modifications specified in Table 1 below the Plan meets the relevant Basic Conditions mentioned in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990, is compatible with the Convention Rights and complies with the provision made by or under s38A and s.38B of the Planning & Compulsory Purchase Act 2004
- 2.4 To meet the requirements of the Localism Act 2011, a referendum which poses the question “Do you want Leeds City Council to use the Neighbourhood Plan for Kippax to help it decide planning applications in the neighbourhood area?” will be held in the Kippax Neighbourhood Area. It is anticipated that the referendum will take place in February 2019.

This Decision Statement is dated 15 November 2018

TABLE 1 Schedule of Modifications Recommended in the Examiner’s Report

Modification Number	Page/Part of the Plan	Examiner’s recommended changes	Examiner’s reason	Leeds City Council’s decision
3.3 High Street Regeneration (HS)				
HS1: Public Realm				
M1 - Recommended Modification 1	Policy HS1: Public Realm, page 22	<p>In Policy HS1</p> <ul style="list-style-type: none"> • after “Local Centre” insert “identified on Map 2” • delete “should seek to” and insert “proposals will be supported where, subject to viability and practicality, they” 	<p>The policy refers to the imprecise term “the Local Centre”. In a joint response to a request for clarification I made, the City and Parish Councils stated “The boundary shown on Map 2 is the boundary of the Kippax Higher Order Local Centre proposed in the Submission Draft Site Allocations Plan. The City Council is awaiting the Inspector’s report on the new boundary, however there are no outstanding objections therefore it is not anticipated that the boundary will change. The Leeds Core Strategy (2014) downgraded the UDP Town Centre to a Local Centre and the Site Allocations Plan proposes a smaller area to be protected by the Local Centre designation. There is a need for consistency in how this area is referred to within the Neighbourhood Plan and the use of “local centre” would be consistent with higher order policies and the convention used by Leeds City Council. The Parish Council intends that the term Local Centre used in the Neighbourhood Plan matches the Local Centre designation within higher order policies (Core Strategy Policy P1). The extent of this policy would be applicable within the boundary shown on Map 2 (page 25 of the neighbourhood plan), which is an extract from the Site Allocations Plan, giving effect to the Core Strategy. A modification to the policy to refer to the centre boundary shown on Map 2 would be welcomed and appropriate”. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.</p> <p>The term “should seek to” does not provide a basis for the determination of planning applications. It may not be viable or</p>	<p>Agree to modify the text and maps as indicated to comply with the examiner’s recommendations.</p>

			practical for all development proposals to address each of the issues identified. Paragraph 173 of the Framework requires careful attention to viability, and deliverability of plans. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.	
HS2: Shop Frontage Design				
M2 – Recommended Modification 2	Policy HS2: Shop Frontage Design, page 24	In Policy HS2 <ul style="list-style-type: none"> • before “Proposals” insert “To be supported” • after “should” insert “demonstrate how they” • delete “town centre” and insert “Local Centre identified on Map 2” 	<p>The policy refers to the imprecise term “town centre”. In a joint response to a request for clarification I made, the City and Parish Councils stated “The reference to the ‘Town Centre’ in Policy HS2 is incorrect, and should refer to Local Centre (as designated by higher order policies), a modification to correct this error would be welcomed. As above, a modification to the policies to refer to the centre boundary shown on Map 2 would be welcomed and appropriate.” I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.</p> <p>The term “should have regard to” does not provide a basis for the determination of planning applications. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.</p>	Agree to modify the text as indicated to comply with the examiner’s recommendations.
HS3: Improvement of Shopping and Associated Services				
M3 – Recommended Modification 3	Policy HS3: Improvement of Shopping and Associated	In Policy HS3 <ul style="list-style-type: none"> • delete “is encouraged, in particular” and insert “identified on Map 2 will be supported where it proposes” 	The policy refers to the imprecise terms “Kippax Local Centre” and “the Local Centre”. In a joint response to a request for clarification I made, the City and Parish Councils stated a modification to the policy to refer to the centre boundary shown on Map 2 would be welcomed and appropriate. I have recommended a modification in this respect so that the policy	Agree to modify the text as indicated to comply with the examiner’s recommendations.

	Services, page 26	<ul style="list-style-type: none"> in the first paragraph at the end of points a) b) and c) insert “; or” delete “are discouraged but any new development should seek to” and insert “will only be supported where it is demonstrated they will” in the second paragraph after “environment” insert “;” and after “parking” insert “; and” 	<p>provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.</p> <p>The terms “is encouraged, in particular”; “are discouraged”; and “seek to” do not provide a basis for the determination of planning applications. It should be made clear the types of development referred to in the first paragraph are not all required for support to be given. It should also be made clear the criteria for support must all be met for a proposal to be supported. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.</p>	
HS4: Development of Key Locations				
M4 – Recommended Modification 4	<p>Policy HS4: Development of Key Locations, page 27</p> <p>Map 3, page 28</p>	<p>In Policy HS4:</p> <ul style="list-style-type: none"> commence the policy with “To be supported” after “Locations “insert “at The Hermitage and surrounding land; at Hanover Place; and at the central High Street” delete “appropriate development should seek to” and insert “development proposals must demonstrate how they will” <p>Map 3 should be adjusted or new maps be included in the Neighbourhood Plan so that the precise boundaries of the Key Locations can be identified</p>	<p>The term “should seek to” is without consequence and does not provide a basis for decision making on development proposals. The term “appropriate development” is imprecise. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.</p> <p>The policy refers to “the Key Locations on the Policies Map and Map 3”. Neither of these maps provides an accurate identification of the nature or extent of the Key Locations. In a joint response to a request for clarification I made, the City and Parish Councils stated “the Key Locations are identified within the URS Study, which forms part of the evidence base to the Neighbourhood Plan, and a modification to show the precise boundaries would be welcomed and achievable”. I have recommended Map 3 should be adjusted, or alternatively new maps be included in the Neighbourhood Plan, so that the policy</p>	Agree to modify the text and maps as indicated to comply with the examiner’s recommendations.

			provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.	
3.4 Green Environment (GE)				
GE1: Local Green Spaces				
M5 – Recommended Modification 5	Policy GE1: Local Green Spaces, page 30.	In Policy GE1 after “Policies Map” insert “and on maps included in Appendix 1”	Designation of Local Green Space can only follow identification of the land concerned. For a designation with important implications relating to development potential it is essential that precise definition is achieved. The proposed Local Green Spaces are presented on Map 4 and on the Policies Map in the Neighbourhood Plan at a scale that is insufficient to identify the precise boundaries of each Local Green Space proposed for designation. The areas proposed for designation are however presented individually on detailed maps in Appendix 1 to the Neighbourhood Plan. On this basis I consider the areas of land concerned have been adequately identified. I recommend a modification so that maps of the areas of land designated as Local Green Space included in Appendix 1 of the Neighbourhood Plan are referred to in the policy.	Agree to modify the text as indicated to comply with the examiner’s recommendations.
GE2: Green Corridors				
M6 – Recommended Modification 6	Policy GE2: Green Corridors, page 33 Map 5, page 34 Policies Map, page 50	Policy GE2, and Map 5, and the Policies Map must identify the local green corridors using the same name, as follows: <ul style="list-style-type: none"> • Part of the Lines Way (the correct name is within the Policy GE2) • Kippax Back (the correct name is on the key to Map 5) • Roman Road (the correct name is on the key to Map 5) 	It is confusing that there is variation between names used to identify local green corridors in the policy wording, and on Map 5, and on the Policies Map. In a joint response to a request for clarification I made, the City and Parish Councils has advised me of the preferred name for each local green corridor. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.	Agree to modify the text and maps as indicated to comply with the examiner’s recommendations.
GE3: Enhancement of Local Biodiversity				

<p>M7 – Recommended Modification 7</p>	<p>Policy GE3: Enhancement of Local Biodiversity, page 35</p> <p>New maps required</p>	<p>In Policy GE3:</p> <ul style="list-style-type: none"> • delete “such sites should seek to contribute” and insert “these sites must demonstrate how it contributes” • delete “is encouraged to have” and insert “must demonstrate” • continue the final sentence “commensurate with the status and wildlife or geodiversity importance of the site and any contribution it makes to wider ecological networks” <p>Maps of the Oxford Drive Limestone Quarry Face and Kippax Polo Pond local wildlife sites at sufficient scale to identify their boundaries should be included in the Neighbourhood Plan.</p>	<p>A representation states “Paragraph 113 of the previous Framework refers to the need for criteria-based policies in relation to proposals affecting protected wildlife or geodiversity sites or landscape areas, and that protection should be commensurate with their status which gives appropriate weight to their importance and contributions to wider networks. As currently drafted, Gladman do not believe this policy fully aligns with the previous Framework. The policy fails to make a distinction and recognise that there are two separate balancing exercises which need to be undertaken for national and local designated sites and their settings. We therefore suggest that the policy is revisited to ensure that it is consistent with the approach set out within the previous Framework.” Paragraph 113 of the Framework refers to the approach of Local Planning Authorities in policy making but is silent with respect to the role of Qualifying Bodies in preparing neighbourhood plans. The first two sentences of Policy GE3 are proposing locally designated sites and seeking to establish criteria for assessment of proposals affecting those sites. I have recommended a modification of the final sentence of the policy to have regard for national policy.</p> <p>The Oxford Drive Limestone Quarry Face and Kippax Polo Pond areas presented on Map 5, and on the Policies Map, are at a scale that is insufficient to identify the precise boundaries of each area. This is not acceptable as the policy refers to proposals “on or adjacent to” the sites. In a joint response to a request for clarification I made, the City and Parish Councils have stated “a modification to show the precise boundaries of the sites referred to in Policy GE3 would be welcomed and achievable”. I have recommended a modification so that maps of the areas concerned, at sufficient scale to identify their boundaries, are included in the Neighbourhood Plan.</p> <p>The terms “such sites”, “seek to contribute” and “encouraged to” are imprecise and do not offer a basis for the determination</p>	<p>Agree to modify the text and provide new maps as indicated to comply with the examiner’s recommendations</p>
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			of planning applications. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.	
3.5 Built Environment (BE)				
BE1: Design of the Built Environment				
M8 – Recommended Modification 8	Policy BE1: Design of the Built Environment, page 38	In Policy BE1: <ul style="list-style-type: none"> commence the policy with “To be supported” delete “paying” and insert “demonstrating” delete “positive” and insert “position of” delete “Adequate” and insert “Sufficient” 	The policy is without consequence. The term “paying” does not offer a basis for determination of planning applications. The term “positive buildings” is imprecise. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.	Agree to modify the text as indicated to comply with the examiner’s recommendations
BE2: Identification of Non-Designated Heritage Assets				
M9 – Recommended Modification 9	Policy BE2: Identification of Non-Designated Heritage Assets, page 41 Section 3.5.2, page 39 Section 4.0, pages 51 - 51	In Policy BE2: <ul style="list-style-type: none"> replace the first sentence with “Development proposals that directly or indirectly affect non-designated heritage assets will be assessed having regard to the scale of any harm or loss and the significance of the heritage asset including their importance to local history, distinctiveness, character, and sense of place.” delete the second sentence with list of heritage assets and transfer those to a Community Action which states “The following buildings and features of the built environment are nominated for assessment by Leeds City Council as potential Non-Designated Heritage 	It is appropriate for a community to use the neighbourhood plan preparation process to identify buildings and structures of local interest and to include policies to require particular consideration of assets that have been formally recognised by the City Council in the determination of planning applications. It is not appropriate for Policy BE2 to refer to the named assets as non-designated heritage assets unless the City Council has added those assets to a local list. In a joint response to a request for clarification I made, the City and Parish Councils stated “Whilst it is recognised that the Council does not have a formal Local List of Non-Designated Heritage Assets, the Examiner is referred to the City Council’s proposed modification to the Site Allocations Plan (page 4), which amends the generic considerations for all proposed sites in the Revised Submission Draft SAP. The Council’s position is that the existing work on non-designated heritage assets is not exhaustive or exclusive. It	Agree to modify the text as indicated to comply with the examiner’s recommendations

		<p>Assets". The supporting text will require adjustment and the process for formal recognition by the City Council should be explained.</p>	<p>is noted that the Examiner is minded to recommend that Policy BE2 of the Neighbourhood Plan is changed to a Community Action. The Parish Council would be comfortable with this recommendation as the list would remain in the Plan (although not as part of a formal planning policy), and would ask that the Examiner considers how support for the protection and enhancement of heritage assets in Kippax can still remain a part of the Neighbourhood Plan as part of a planning policy, if appropriate".</p> <p>I recommend that the second part of Policy BE2 of the Neighbourhood Plan is changed to a Community Action so that the list would remain in the Plan, although not as part of planning policy. The status of the locally identified non-designated heritage assets should be clarified and the process to achieving their formal recognition should be explained.</p> <p>Paragraphs 131 to 136 of the Framework establish a policy regime for the determination of proposals that affect designated and non-designated heritage assets. The balancing of considerations is a part of the judgement necessary in the determination of proposals. In the case of harm to non-designated heritage assets the Framework states it is necessary to balance the scale of any harm or loss and the significance of the asset. Paragraph 135 of the Framework states "The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset." Whilst Policy BE2</p>	
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			provides an additional level of detail or local approach to guide the determination of planning applications it does not reflect the balanced judgement required by national policy. I have recommended a modification in this respect.	
3.6 Housing (H)				
H1: New Housing Development				
M10 – Recommendation 10	Policy H1: New Housing Development, page 45	In Policy H1 <ul style="list-style-type: none"> commence the policy with “To be supported” delete “should seek to” and insert “must demonstrate it will” replace b) with “not be detrimental to road safety and will not result in severe traffic congestion” replace e) with “not result in additional on-street parking” 	The term “should seek to” does not provide a basis for the determination of planning applications. The terms “minimise” and “appropriate to” are imprecise. In a joint response to a request for clarification I made, the City and Parish Councils stated “it is the intention that new development should not result in additional on-street parking, where possible, and that parking provision is incorporated in development proposals from the outset”. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. The Framework states “Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.	Agree to modify the text as indicated to comply with the examiner’s recommendations
H2: Housing Type and Mix				
M11 – Recommendation 11	Policy H2: Housing Type and Mix, page 47	In Policy H2 <ul style="list-style-type: none"> commence the policy with “To be supported proposals for” delete “should seek to” and insert “must demonstrate they will” delete “should prioritise” and insert “of the following types 	The terms “should seek to” and “should prioritise” do not provide a basis for the determination of planning applications. I have recommended a modification so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.	Agree to modify the text as indicated to comply with the examiner’s recommendations

		of accommodation will be supported”		
H3: Affordable Housing				
M12 – Recommendation 12	Policy H3: Affordable Housing, page 48	Replace Policy H3 with “On-site affordable housing should be integrated throughout the development concerned and not located in an identifiable cluster. Where affordable housing is not provided on-site in accordance with Strategic Policy H5 all necessary provision should be made within the Neighbourhood Area unless it can be demonstrated this is not practical”	<p>The term “is a priority” does not provide a basis for the determination of planning applications. The term “wherever possible” is imprecise. I have recommended a modification so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.</p> <p>Strategic Policy H5 requires affordable housing to be provided at specified target levels in schemes above a threshold number of units. Strategic Policy H5 also specifies a requirement for the affordability of the affordable housing. It is inappropriate for a neighbourhood plan to seek provision above the requirements of the strategic policy. Policy H3 is not in general conformity with the strategic policy. I have recommended a modification in this respect.</p> <p>Strategic Policy H5 requires affordable housing units to be suitably integrated throughout a development site. Policy H3 requires, wherever possible, affordable housing to be “pepper-potted throughout the development”. I understand the intention is to achieve a sprinkling of affordable housing throughout a development site so that it is fully integrated throughout the development and not located in an identifiable cluster. I have recommended a modification in this respect.</p>	Agree to modify the text as indicated to comply with the examiner’s recommendations
3.7 Business, Commerce and Employment (BCE)				
BCE1: New Business and Employment Development				
M13 – Recommended Modification 13	Policy BCE1: New Business and Employment Development, page 49	Replace Policy BCE1 with “New employment development will be supported where it does not adversely affect visual or residential amenity including through noise or traffic generation”	The term “is encouraged and should seek to” does not provide a basis for the determination of planning applications. The terms “if applicable”; “be appropriate”; “respect”; and “minimise” are imprecise. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high	Agree to modify the text as indicated to comply with the examiner’s recommendations

			degree of predictability and efficiency as required by paragraph 17 of the Framework.	
M14 – Recommended Modification 14	Throughout the Plan	Modification of general text will be necessary to achieve consistency with the modified policies, and to correct identified errors including those arising from updates.	<p>A number of consequential modifications to the general text, and in particular the justification of policies sections, of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies.</p> <p>I am able to recommend modification of the Neighbourhood Plan in order to correct errors.⁵³ I recommend the following minor changes only in so far as they are to correct an error or where it is necessary so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.</p>	