

# **FOXTON NEIGHBOURHOOD DEVELOPMENT PLAN 2016 - 2031**

**The Report of the Independent Examiner to Harborough District Council on the  
Foxton Neighbourhood Development Plan**

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30<sup>th</sup> November 2016 (supersedes the Report dated 18<sup>th</sup> November 2016)**

## Summary

I was appointed by Harborough District Council in September 2016 to undertake the Independent Examination of the Foxton Neighbourhood Plan.

The Examination has been undertaken by written representations. I visited the Neighbourhood Area on 26<sup>th</sup> September 2016.

The Neighbourhood Plan proposes a local range of policies and seeks to bring forward positive and sustainable development in the Parish. There is an evident focus on safeguarding the very distinctive character of the village, its industrial revolution heritage and its rural setting.

The Plan has been underpinned by extensive community support and engagement. The social, environmental and economic issues identified have been brought together into a coherent plan which adds appropriate local detail to sit alongside the Harborough District Core Strategy 2006 - 2028.

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

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

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## **Introduction**

This report sets out the findings of the Independent Examination of the Foxton Neighbourhood Plan 2016-2031. The Plan was submitted to Harborough District Council by Foxton Parish Council in its capacity as the qualifying body responsible for preparing the Neighbourhood Plan.

Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently incorporated within the National Planning Policy Framework (NPPF) in 2012 and this continues to be the principal element of national planning policy.

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

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

The Examiner's role is to ensure that any submitted neighbourhood plan meets the legislative and procedural requirements. I was appointed by Harborough District Council, with the consent of the Foxton Parish Council, to conduct the examination of the Foxton Neighbourhood Plan and to report my findings. I am independent of both the Harborough District Council and the Foxton Parish Council. I do not have any interest in any land that may be affected by the Plan.

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

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

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

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

If recommending that the Neighbourhood Plan should go forward to referendum, I must then consider whether or not the referendum area should extend beyond the Foxton Neighbourhood Area to which the Plan relates.

In examining the Plan, I am also required, under paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 Act (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

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

In undertaking this examination I have considered the following documents:

- Foxton Neighbourhood Plan as submitted
- Foxton Neighbourhood Plan Basic Conditions Statement.
- Foxton Neighbourhood Plan Consultation Statement
- Foxton Neighbourhood Plan Strategic Environmental Assessment Screening Report (March 2016)
- Representations made to the Foxton Neighbourhood Plan
- Evidence files at <http://foxtonndp.weebly.com>
- Harborough District Local Development Framework Core Strategy 2006-2028
- National Planning Policy Framework (March 2012)
- Neighbourhood Planning Regulations (2012)
- Planning Practice Guidance (March 2014 and subsequent updates)
- Ministerial Statement March 2015
- Ministerial Statement June 2015.

I carried out an unaccompanied visit to the Plan area on 26<sup>th</sup> September 2016. I looked at the village of Foxton within the larger Plan area, Foxton Locks and the rural hinterland. I also viewed the relationship of the village to the location to the proposed new settlement to the south-east, the character of the village Conservation Area and at all the sites identified in the Plan policies; I paid particular attention to the north-western edge of the village settlement boundary since this features in the representations.

The legislation establishes that, as a general rule, neighbourhood plan examinations should be held without a public hearing, by written representations only. Having considered all the information before me, including the representations made to the submitted plan which I felt made their points with clarity, I was satisfied that the Foxton Neighbourhood Plan could be examined without the need for a public hearing and I advised Harborough District Council accordingly. The District Council has provided me with a few extra facts to meet my needs.

### **Foxton Neighbourhood Area**

A map showing the boundary of the Foxton Neighbourhood Area is provided on page 2 of the Neighbourhood Plan; I comment on the title of this map later. Further to an application made by Foxton Parish Council, Harborough District Council approved the designation of Foxton as a Neighbourhood Area on 29<sup>th</sup> October 2012. This satisfied the requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G(1) of the Town and Country Planning Act 1990 (as amended).

## **Consultation**

In accordance with the Neighbourhood Planning (General) Regulations 2012, the Parish Council has prepared a Consultation Statement, dated May 2016. This records that a Neighbourhood Planning Committee was appointed by the Parish Council to progress the plan-making, and after a Parish referendum in July 2014 the decision was taken to proceed with a Neighbourhood Plan. The Committee has reported back to the Parish Council at all decision-making points and that is shown in the records of the meetings of the Parish Council.

It is clear that community involvement has been at the heart of the Plan's production. The summary in the Plan document shows a varied and extensive approach to community engagement and the range of approaches used to invite participation is impressive. I note in particular that in April 2015 "questionnaires were distributed to local households" and "a separate questionnaire for children aged 12 to 15 years" was used. Then in February 2016 a "summary of the Draft Plan was delivered to all premises within the Parish" alongside drop-in sessions. This degree of commitment by all participants illustrates the potential of neighbourhood planning to give "communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need" (para 183, National Planning Policy Framework). In addition the Parish Council has made good use of its website with Neighbourhood Plan pages ensuring that progress could be monitored and related materials examined by all interested parties (<http://foxtonndp.weebly.com>).

The impact of public input and consultation responses is clearly set out over 87 pages in Appendix 3 to the Consultation Statement. I noted the Response comment on page 43 relating to a planning application (15/01895/OUT) for land to the north-east of North Lane that is now the subject of a planning Appeal (APP/F2415/W/16/3156226): "If planning permission is granted for this development, the Parish Council would withdraw the Neighbourhood Plan as it would provide for a higher level of housing growth than is appropriate for the area".

From all the evidence provided to me for the examination, I can see that an inclusive and comprehensive approach has been made to obtaining the input and opinions of all concerned throughout the process. Comments were pro-actively sought and those received were duly considered. I can see that there has been a documented record of the ways that consultation has benefitted the Foxton Neighbourhood Plan. I am accordingly satisfied that the consultation process has complied with the requirements of the Regulations.

## **Representations Received**

Consultation on the submitted plan, in accordance with Neighbourhood Planning Regulation 17, was undertaken by the District Council from 4<sup>th</sup> July to 15<sup>th</sup> August 2016. I have been passed representations received from the following persons or organisations:

- Carl Bedford
- Andrew Granger & Co on behalf of Mr J Carter
- Mrs Donna Nye
- Marton Bagshaw on behalf of Mr & Mrs King
- Mr Oliver Bates
- Sport England
- Leicestershire County Council
- The Environment Agency
- Anglia Water
- Jon Fox
- Mrs Angela Gubbins
- Mr Sam Matts

- Pegasus Planning on behalf of Cliffe Investments Limited
- The Canal & River Trust

## **The Neighbourhood Plan**

The Foxton Parish Council are to be congratulated on their extensive efforts to produce a Neighbourhood Plan for their area that will guide development activity over the period to 2031. It is evident that a sustained effort has been put into the dialogue with the Foxton community to arrive at actions and policies that can “ensure that the area develops in a way that meets the needs of everyone”. The Plan document is well presented with a combination of images and text that is engaging for the reader and, subject to the specific points that I make below, set out in logical and clearly themed sections. The Plan has been kept to a manageable length, both by not overextending the coverage of the potential subject matter and also by helpfully combining narrative text and coloured text boxes as appropriate.

Having considered all the evidence and representations submitted as part of the Examination I am satisfied that the submitted Plan has had regard to national planning policies and guidance in general terms. It sets out a positive vision for the future of the Neighbourhood Area and promotes policies and growth that are proportionate and sustainable. The Plan sets out the community needs it will meet whilst safeguarding Foxton’s distinctive features and character. The plan-making had to find ways to reconcile differences of view, in particular on meeting the housing needs identified with Harborough District Council in parallel to their own preparation of a new Local Plan. All such difficult tasks were approached with transparency and care, with input as required and support from the District Council.

However, in the writing up of the work into the Plan document, it is often the case that the phraseology is imprecise, or it falls short in justifying the selected policy, and I have been obliged to recommend modifications so as to ensure both clarity and meeting of the ‘basic conditions’. In particular, Plan policies as written may not meet the obligation to “provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency” (NPPF para 17). I bring this particular reference to the fore because it will be evident as I examine the policies individually and consider whether they meet or can be amended to meet the ‘basic conditions’.

### **Basic Conditions**

The Independent Examiner is required to consider whether a neighbourhood plan meets the “basic conditions”, as set out in law following the Localism Act 2011. In order to meet the basic conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan for the area;
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

The Basic Conditions Statement has very helpfully been set out in the same order as above and, where appropriate, has tabulated the relationship between the policy content of the Plan and its higher tier equivalents. Whilst in summarising, the phraseology adopted does not always match between the Plan and its representation in the Conditions Statement, nonetheless the comprehensive approach to assessing the Plan content is impressive. I have examined and will below consider the Neighbourhood Plan content against all of the Basic Conditions above, utilising the material provided in the Conditions Statement and the website evidence base as appropriate.

## The Plan in Detail

I will address the aspects of the Neighbourhood Plan content that are relevant to the Examination in the same sequence as the Plan. Recommendations are identified with a bold heading and italics, and numbered; I have pulled all the recommendations together into a listing at the end of this Report.

### Front cover

A neighbourhood plan must specify the period during which it is to have effect. I note that there is an early reference to the end date in the Plan at para 1.4, but I believe it would be helpful for the cover to include a clear reference to the 2016 – 2031 period that the Plan will span.

**Recommendation 1:** *Add “2016-2031” to the cover page title.*

### 1. Introduction

Setting out a brief background to the preparation of the Plan is helpful both to provide a context for the themed sections that follow but also to signpost to related documents with which the Plan ought to be read for completeness. Some modifications ought to be made for accuracy and to ensure that the wording is appropriate for the submission version (rather than for the previous consultations).

1.4 The map showing the boundary of the Foxton Neighbourhood Area should be referenced here. Whilst the Parish Boundary and the Neighbourhood Area are the same, the purpose of including the map is to define the Plan area and it would therefore be appropriate for the references to say that. It ought also to be made clear that the Parish Council has had responsibility for Plan preparation as the ‘Qualifying Body’

#### **Recommendations 2,3 & 4:**

*Add in para 1.4 a reference in brackets after the first sentence to read: “see page 2 for the map of Neighbourhood Plan area”.*

*Amend the title of the map on page 2 to “Neighbourhood Plan Area”; amend the legend on the map to read: “Neighbourhood Area & Parish Boundary”.*

*Reword the second sentence of para 1.4 as: “The Neighbourhood Plan has been prepared by Foxton Parish Council as the ‘Qualifying Body’”.*

1.5 The wording here needs to be updated to reflect the fact that the Plan is at submission stage.

#### **Recommendation 5:**

*Reword para 1.5 as:*

*“The Foxton Neighbourhood Plan website (<http://foxtonndp.weebly.com>) has been used to provide information and updates on the Plan progress and is now a source of the material and evidence used in the Plan preparation.”*

1.6 The new section head also ought to be updated.

#### **Recommendation 6:**

*Reword the subheading above para 1.6 from ‘What we have done so far’ to (say) “How we prepared the Plan”.*

1.10 Again the wording needs updating.

#### **Recommendation 7:**

*Reword the opening of para 1.10 to read: “The comments received were considered by Foxton Parish Council .....*

1.11 Again the wording needs updating and it can be simplified now the submission has been made:

**Recommendations 8 & 9:**

*Remove the sub-heading 'What happens next' and reword paras 1.11-1.13 as (say):  
"Subsequently, the Plan was submitted to Harborough District Council for the formal public consultation and Independent Examination and, subject to the outcome from the examination, a referendum. Once the Plan is 'made' it forms part of the Development Plan against which planning applications within the Parish are assessed."*

*Renumber subsequent paragraphs and revise the Contents page.*

1.15 This is the appropriate point to cross-refer to the Basic Conditions Statement as a supporting document for the Plan:

**Recommendation 10:**

*Add to para 1.15: "Further details are included in the Basic Conditions Statement, available to view on the Foxton Neighbourhood Plan website (<http://foxtonndp.weebly.com>)."*

**Policy F1: Countryside**

In effect this Policy serves a double function in that it seeks to protect the countryside whilst defining the built areas but its clarity is presently deficient in three respects:

- the area of Foxton Locks is not addressed
- local amenities such as the school are not addressed
- the revision to the 'Limits to Development' boundary from the Core Strategy is neither acknowledged nor justified – as one of the consultation respondents has noted and another two have queried as to the validity of the reasoning.

I note that this Policy is in general conformity with the strategic objectives of Harborough District Core Strategy 2006-2028 Policy CS17: Countryside, Rural Centres and Rural Villages. However it does not allow for special circumstances set out in the NPPF.

A consultation representation has commented that Policy F1 (and F11) lacks flexibility to deal with situations of undersupply in the District. I will address this point appropriately under Policy F11. Another representation has asserted that basic conditions are not met because the proposed amendments to the village boundary are not consistent with the adopted Core Strategy – but I note above that the basic condition requirement is less absolute. The requirement is that the Neighbourhood Plan and its policies must be in "general conformity with the strategic policies of the development plan for the area" and so this Policy is aiming to achieve an appropriate balance, here between the obligation to provide sufficient new homes and the obligation to afford protection to the countryside.

**Recommendations 11 & 12:**

*Reword Policy F1 as:*

*"The Countryside (land outside the Foxton Limits to Development and the Foxton Locks Area as defined on the Policies Map) will be protected for the sake of its intrinsic character, beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all. Development in the Countryside will be limited to that which supports community uses, essential infrastructure and that which requires a rural location (including the special circumstances set out in paragraph 55 of the NPPF)."*

*Add a paragraph headed "Explanation" immediately below the F1 Policy box:*

*"The Foxton Limits to Development generally follow the boundary defined in the Harborough District Core Strategy 2006-2028, except in two respects:*

- an area to the north-west presently occupied by agricultural buildings, known as Fisher's Farm, has been included within the Limits (see Policy F13) to encompass the prospective redevelopment of the site;
- a small area to the north, known as land at 22 Main Street, has been excluded to retain this open aspect and to respect the decision of the Planning Inspector in June 2014 regarding this land (ref: APP/F2415/A/14/2216078).

The Foxton Locks Area has been defined as in the Foxton Locks Masterplan 2009 (see here: [http://www.foxtonvillagehall.org.uk/pickup/foxton\\_locks\\_masterplan\\_report.pdf](http://www.foxtonvillagehall.org.uk/pickup/foxton_locks_masterplan_report.pdf)).

As amended the Policy F1 meets the basic conditions.

### **Policy F2: Renewable Energy**

Paragraph 2.7 is unnecessarily repetitious.

#### **Recommendation 13:**

Edit para 2.7 to:

*"The landscape in Foxton Parish is one of the most sensitive landscapes in Harborough district and is unable to accommodate wind turbines without degradation of the existing landscape. Large-scale solar farms can also have a negative impact on the local landscape. We do not believe that people will want to visit and spend their money in an area they regard as spoiled by wind or solar farms."*

The approach to wind farm location has appropriate regard for the relevant Ministerial Statement of 18<sup>th</sup> June 2015 (Written Statement HCWS42). However, the related part of the Policy F2 is written as an assertion rather than an operational planning policy.

National policy is more nuanced in relation to solar farms particularly because "the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively" (Planning Practice Guidance 5-013-20150327). I believe that element C of Policy F2 as written might be read to exclude the whole of the Parish and element B is also very sweeping without any related justification (either here or at Policy F4). Having appropriate regard for national policy, the solar farm element of Policy F2 needs to be amended.

#### **Recommendations 14 & 15:**

Reword Policy F2:

*"Small scale ground-mounted solar photovoltaic farms will be supported where:*

- A. *They are on previously developed and non-agricultural land;*
- B. *Their location is selected sensitively and well-planned so that the proposals do not impact on any heritage asset (including views important to the setting of those heritage assets), in particular Foxton Locks, Foxton Village Conservation Area, and the Grand Union Canal;*
- C. *The proposal's visual impact has been fully assessed and addressed in accordance with Planning Practice Guidance on landscape assessment (Planning Practice Guidance ref: 5-013-20150327); and*
- D. *The installations are removed when no longer in use and the land is restored to its previous use.*

*Because of their greater visual impact, wind turbine farms will not generally be supported."*

Add a paragraph of "Explanation" immediately below the F2 Policy box:

*"For solar farms national guidance says specifically (Planning Practice Guidance 5-013-20150327): "Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset". National planning policy provides for local people to have the final say on wind farm applications (Written Statement HCWS42)."*

As amended the Policy F2 meets the basic conditions.

### **Policy F3: Tranquillity**

I can see why tranquillity is important to a rural community but in planning policy terms it is an imprecise concept and Policy F3 as written does not provide any detail to “provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency” (NPPF para 17) eg the threshold for element B would appear to be zero, no noise.

National Planning Practice Guidance (Ref: 30-010-20140306) does provide for “local planning authorities working with local communities and business [to] decide to develop and include in their Local Plans specific [noise] standards to apply to various forms of proposed development and locations in their area”; but no guidelines have been developed or justified for use with Policy F3. Pending any further developments within the emerging Local Plan, to retain consideration of tranquillity the wording of Policy F3 needs to be amended.

### **Recommendations 16 & 17:**

*Reword Policy F3:*

*“Development proposals must consider and address their potential impact on local tranquillity; accordingly the following will not be supported:*

- A. Industrial, commercial, leisure, recreation and sporting proposals that introduce sources of noise, particularly night-time noise, above the ambient level; and*
- B. Developments requiring floodlights, security lights and streetlights.*

*Planning conditions will be applied to ensure appropriate control.”*

*Add a paragraph of “Explanation” immediately below the F3 Policy box:*

*“National Planning Practice Guidance (Ref: 30-011-20140306) confirms that “noise concerns can be relevant to neighbourhood planning, and it is important to consider potential changes in the acoustic environment when drawing up a neighbourhood plan or considering a neighbourhood development order”. On artificial light the guidance acknowledges (Ref: 31-001-20140306) that “artificial light is not always necessary, has the potential to become what is termed ‘light pollution’ or ‘obtrusive light’ and not all modern lighting is suitable in all locations”.”*

As amended the Policy F3 meets the basic conditions.

### **Policy F4: Foxton Green Zone**

Having already examined Policy F1 which relates to the countryside I have to consider what Policy F4, as written, adds and I have to conclude that the only additional element relates to separation, the quality of the countryside having already been addressed. The term Green Zone has heavy overtones, in both words and intent, of Green Belt and ‘Local Green Space’ and on the latter the NPPF specifies (para 77): “The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used .....where the green area concerned is local in character and is not an extensive tract of land”. The proposed Foxton Green Zone must be considered to be an ‘extensive tract of land’. There is therefore potential for a conclusion that Policy F4, despite the different terminology, does not have appropriate regard for national policy (Planning Practice Guidance 37-015-20140306 is relevant).

However, I note that the Harborough Core Strategy utilises the spatial concept of Areas of Separation (Policy CS1: Spatial Strategy) to safeguard the identity of communities and since, at its heart, that is what the description of Policy F4 says it is addressing then I conclude this is the appropriate way for it to be titled and detailed. Whilst no Area of Separation has been applied around Foxton in the Core Strategy it would be reasonable for the concept to be adopted within a neighbourhood plan at an appropriate scale to achieve a comparable purpose.

A representation from the Canal & River Trust, whilst supporting “the aim of retaining the character and identity of Foxtton village by preventing coalescence with the locks area, and which by inference helps to maintain the character and identity of the locks area as well”, expresses concern about the “explicit aim of preventing tourism development associated with Foxtton Locks”. I cannot agree that the Policy as worded has the very sweeping consequence now suggested. I note that the response to a similar objection raised in an earlier consultation was that tourism development might be made to the north, south and west of the locks area, the Plan policy was intended to address expansion to the east, toward the village. However, the representation goes on to make a number of more detailed points, as well as a suggested rewording of Policy F4:

- Paragraph 28 of the NPPF advocates support for economic growth in rural areas in order to create jobs and prosperity. This includes supporting sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside.
- At paragraph 5.125, the supporting text to Core Strategy Policy CS11 is clear in its support for further development of the tourism and recreational potential of Foxtton Locks, and also the wider canal network, and does not seek to restrict this support to certain locations only.
- The wording of Policy F4 and its supporting text appear to require the introduction of a restriction within the Green Zone on any tourism development associated with Foxtton Locks in order to achieve non-coalescence, without explaining why.
- The Policy itself specifically refers to restricting uses of land for caravan sites or holiday lodges, except where they do not conflict with the purposes of the policy, but the supporting text appears to preclude any such uses if they are associated with Foxtton Locks. Neither the policy nor the supporting text offers an explanation why such uses are intrinsically incompatible with avoiding coalescence or facilitating the retention of the character and identity of Foxtton village if associated with the Locks.
- “We do not believe that it can be reasonably argued that any tourism development associated with Foxtton Locks that might take place within the Green Zone would necessarily result in either coalescence, or the erosion of the character and identity of Foxtton village, nor that such development could never be considered to be sustainable development.”
- Amendments would help achieve greater consistency with other policies contained within the Neighbourhood Plan, specifically Policy F6 which offers clear support for the role of the Grand Union Canal (of which Foxtton Locks is a part) as an important recreation and tourism resource.

I believe that many of the Trust’s comments do not show an appropriate regard for Plan Policy F20, which is clearly supportive of development of the Locks for tourism purposes. I can agree that no specific case has been argued or justified for the specific exclusion of “new caravan (including lodges) sites” but I can see that this provides an illustration of the Policy concern for the potential impact of new, non-rural structures which might give the appearance of coalescence. I agree that some rewording is required and, although rather lengthy, I accept that elements of the rewording suggested by the Trust can provide that “practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency”, which is what the NPPF requires.

***Recommendations 18, 19, 20 & 21:***

*Retitle Policy F4 as: “Foxtton Areas of Separation”.*

*Reword para 2.13 as: “The countryside separating these places is particularly vulnerable and the community wishes to ensure that its undeveloped character, providing a distinct rural border to the built up area, is maintained. The Foxtton Areas of Separation aim to check the potential encroachment from Market Harborough and from the expansion of tourism*

development associated with Foxton Locks towards Foxton. They will help to safeguard the scale, setting and special character of Foxton village.”

Reword Policy F4 as: “The open character of the two Foxton Areas of Separation, as defined on the adjacent map and the Policies Map, will be retained. The construction of new buildings or inappropriate uses of land which adversely affect this open character or the character and setting of Foxton village will not be supported. Any development proposal within the Areas of Separation must assess and address its impact on the setting of Foxton Village, (as appropriate) the historic Foxton Locks and the objective of separation and give specific attention to location, design and landscaping appropriate to the character of the area.” Amend the adjacent map and the Policies Map accordingly.

Add a paragraph of “Explanation” immediately below the F4 Policy box:  
“The Spatial Strategy (Policy CS1) of the Harborough Core Strategy 2006 – 2028 includes “a continuing commitment to the principle of .... Areas of Separation across the district”.”

As amended the Policy F4 meets the basic conditions.

### **Policy F5: Ecology and Biodiversity**

Without any definition of the ‘network of local ecological features and habitats’ Policy F5 can add little to the related content of the NPPF which is clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieving net gains for nature, and that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution (Planning Practice Guidance ref: 8-007-20140306). However, local policy cannot ignore the provision for mitigation set out within national policy and therefore the blanket approach suggested by Policy F5 must be tempered.

A representation from the Environment Agency made a specific suggestion for a reference to the Water Framework Directive that should be incorporated.

### **Recommendations 22 & 23:**

Reword Policy F5 as:

“Development must have appropriate regard for the network of local ecological features and habitats. New development will be expected to maintain and enhance existing ecological and landscape features (such as watercourses, hedgerows and treelines) for biodiversity. Development proposals shall support the delivery of the Water Framework Directive and its objectives as set out in the Anglian River Basin Management Plan.”

Add a paragraph of “Explanation” immediately below the F5 Policy box:

“A core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution (Planning Practice Guidance ref: 8-007-20140306).”

As amended the Policy F5 meets the basic conditions.

At this point in the Plan document the headings become somewhat confusing. The Heritage heading comes after The Canal and yet the latter is a declared Conservation Area and many of its structures are listed. The later heading Conservation Area relates solely to the village and yet the map on p14 merges the two Conservation Areas together, so it doesn’t relate well to the text. Although I can see that the Canal section may have been seen as a transition between the Ecology and Biodiversity and Heritage sections, I believe it would be clearer if:

### **Recommendations 24 & 25:**

*Move the “Heritage” heading to page 12 before ‘The Canal’ and reduce the latter to a sub-heading; place a sub-heading “History” above para 2.23; reword the existing ‘Conservation Area’ sub-heading as “Foxtton Conservation Area”; alter the Contents page in line with these changes.*

*On the map on p14 show the two Conservation Areas as they were declared at different dates.*

I had thought further to recommend that Section 6 also be brought under the Heritage heading but I have concluded that the cross-reference is sufficient (see later reference also under Policy F20).

### **Policy F6: The Canal**

As with F5 above, which overlaps to a degree, I am unsure that Policy F6 adds anything to the national and local protections already afforded to the Canal corridor. However, it is evident that the Canal is a defining element of the Foxtton Parish and therefore that the community is keen to fully acknowledge that.

#### **Recommendations 26 & 27:**

*Reword Policy F6:*

*“The Grand Union Canal is recognised as a heritage asset, a key strategic Green Infrastructure and wildlife corridor, and a recreation and tourism resource that can be enjoyed for its contribution to the quality of life of this and future generations. It is a key feature that contributes to the character of Foxtton and the location and design of new development must have appropriate regard for the significance of this asset and its setting.”*

*Add a paragraph of “Explanation” immediately below the F6 Policy box:*

*“The appropriate conservation of heritage assets forms one of the ‘Core Planning Principles’ (NPPF Paragraph 17 bullet 10) that underpin the planning system.”*

As amended the Policy F6 meets the basic conditions.

### **Policy F7: Local Heritage Assets**

Planning Practice Guidance (Ref: 18a-039-20140306) recognises that there are buildings, monuments, sites, places, areas or landscapes identified as having a degree of significance meriting consideration in planning decisions but which are not formally designated heritage assets. Your list therefore has the status of non-designated (but locally important) heritage assets.

A few corrections and additions would complete Policy F7 more satisfactorily.

#### **Recommendations 28, 29, 30 & 31:**

*The sub-heading above para 2.31, the legend on the three Policies maps and the entry on the Contents Page are all incorrect and need to be brought in line with the Policy title “Local Heritage Assets”. The heading to the related map is also incorrect as it is not limited to the Local Assets now scheduled but all the recognised heritage assets.*

*It is confusing in para 2.31 to refer back to “the previous version of the Village Design Guide” and that paragraph should more simply say:*

*“The Neighbourhood Plan has given local people their chance to give their views on local heritage assets which might be recognised in addition to nationally designated heritage assets.”*

*There is a need for brief detail that explains the basis for the inclusion of each local asset, but this might be best done within a second Appendix to the Plan where individual*

*photographs could also be included. I am aware that brief details can be derived from The History of Foxtton Buildings by D. T. Chambers and those would be very suitable.*

*Add a paragraph of "Explanation" immediately below the F7 Policy box:*

*"The properties now scheduled as Local Heritage Assets are derived from 'The History of Foxtton Buildings' (2012) by D. T. Chambers O.B.E and brief details about each property from the book are included as Appendix 2."*

As amended the Policy F7 meets the basic conditions.

### **Policy F8: Design**

Planning Practice Guidance (Ref: 26-001-20140306) notes that "the National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development" and that "Good design responds in a practical and creative way to both the function and identity of a place".

A few corrections and additions would complete Policy F8 more satisfactorily.

### **Recommendations 32, 33, 34 & 35:**

*The heading above para 2.32 would better read as "Local Design".*

*Within the Village Design Statement (VDS) there is no content listed as 'requirements' and that is entirely appropriate, but the wording of the Policy F8 needs to be brought in line with the VDS as follows:*

*"All new developments should reflect the distinctive character of Foxtton and explicitly address the guidance set out in the Foxtton Village Design Statement (Appendix 1)."*

*Within the VDS itself:*

*There is a stray 'that' in paragraph 4;*

*On page 51 the photograph and its positioning need to be corrected. Also on that page the last two bullet points say the same thing in different words; one of these should be deleted.*

*Add a paragraph of "Explanation" immediately below the F8 Policy box:*

*"Planning Practice Guidance (Ref: 26-001-20140306) acknowledges that "Good design responds in a practical and creative way to both the function and identity of a place". The Village Design Statement is a practical and creative guide for Foxtton."*

As amended the Policy F8 meets the basic conditions.

### **Policy F9: Local Green Spaces**

The NPPF provides for local communities to designate areas as 'Local Green Space' (para 76) but such sites need to meet specific criteria and, the Planning Policy Guidance notes, "If land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space" (Ref: 37-011-20140306). The NPPF specifies (para 77):

"The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- where the green space is in reasonably close proximity to the community it serves;
- where the green area 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
- where the green area concerned is local in character and is not an extensive tract of land."

Details of how the chosen sites meet the NPPF criteria have been included on the Foxtton Neighbourhood Plan website (<http://foxttonndp.weebly.com>) but I believe it would be

appropriate to include a summary table as an Appendix to the Plan, which should also address the matter of any existing designations of sites. The map 'Policies II' should then be cross-referenced to the table which can also serve as a schedule of the designated spaces.

A consultation representation has been made in relation to the proposed Local Green Space indicated as the grounds to the Manor House; an objection is raised on the grounds that:

- no evidence has been provided that the site meets the NPPF criteria
- external views of the site are limited
- Harborough District Council has already ruled out such a designation
- there is no public access
- a hard-surfaced tennis court is located centrally within the site
- a planning permission is extant on part of the site to convert a barn to a residential dwelling
- other designations affecting the site already offer sufficient protection.

The justifications for this particular site designation shown on the Neighbourhood Plan website include:

- presents particularly attractive views from other parts of the village, as well as contributing to the current attractive southern approach to the village
- it allows views of the [listed] Church Tower
- in its present form this is arguably the most attractive and picturesque part of Foxton
- contributes to the openness characterising this part of the village
- setting for the Historic Manor House
- mature gardens and paddocks give an air of tranquillity
- visual value
- possible wildlife on the side bordering the canal
- links up with Church open land
- additionally, in addressing a submission to a previous consultation, part of the response was: "In our 2015 questionnaire survey, 106 respondents wanted to see the area protected, there was just one who wanted to see the site developed and 45 with no strong opinion".

I have already above addressed the issue of evidence of matching with criteria. I do not view the noted survey result as other than showing that a majority of the community would not wish to see the site developed; it is another question as to whether a majority would wish to see *additional* protections. Planning Practice Guidance does helpfully address some of the other matters raised:

- Land could be considered for designation even if there is no public access (e.g. green areas which are valued because of their wildlife, historic significance and/or beauty). Designation does not in itself confer any rights of public access over what exists at present (Ref: 37-017-20140306).
- Green areas could include land where sports pavilions, boating lakes or structures such as war memorials are located, allotments, or urban spaces that provide a tranquil oasis (Ref: 37-013-20140306).
- Local Green Space designation will rarely be appropriate where the land has planning permission for development. Exceptions could be where the development would be compatible with the reasons for designation (Ref: 37-008-20140306)
- If land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space (Ref: 37-011-20140306).

I note that the use of this particular site is already constrained by:

- The Grade II listing of the Manor House

- The inclusion of the whole site within the Foxton Village Conservation Area
- The inclusion of part of the site in the Grand Union Canal Conservation Area
- The designation of the site as Important Open Land in the Harborough Core Strategy
- The location adjacent to the Grade II\* listed St Andrew's Church
- The location adjacent to the Grand Union Canal the importance of which to the network of natural spaces was recognised in the 6C's Green Infrastructure Strategy (2010) and in the Harborough Core Strategy (para 5.95)
- Additionally, the Neighbourhood Plan proposes a further protection for open and residential garden spaces in Policy F12.

The starting point provided by the NPPF is that "the Local Green Space designation will not be appropriate for most green areas or open space". On balance I have concluded that the site is valued less for its intrinsic local significance than for its position, providing an open setting for the Church, the Manor House itself and the village Conservation area from the south. This aspect is a core feature of the protections afforded by the planning system to designated heritage assets, including Conservation Areas, and their settings; there is existing evidence that Planning Inspectors have supported the Local Planning Authority in affording the appropriate protections. Particularly I also note that a significant feature of Plan Policy F12 (addressed later) is that gardens and space about buildings more generally are valued and to be protected. Accordingly, I cannot conclude that "any additional local benefit would be gained by designation as Local Green Space" of the garden of the Manor House.

A separate consultation representation has been made in relation to the land between Middle Street and Vicarage Drive; an objection is raised on the grounds that Harborough District Council has already ruled out the same designation and that the criteria set out in the NPPF have not been met.

As I have noted above, the Neighbourhood Plan is the means through which local communities can, optionally, get directly involved in setting planning policy and the designation of Local Green Space is an opportunity presented as part of the Plan-making. Such designations are not strategic policy matters and are not therefore reserved to the District Council and there is no issue of general compliance with a higher level plan. Having decided that a Neighbourhood Plan should be prepared, the Parish Council as the qualifying body was at liberty to select and designate Local Green Space provided that the NPPF criteria, as noted above, are met in full.

Turning to the criteria, the bases for the objection are not specified but I do not believe that it can be disputed that the modestly sized site between Middle Street and Vicarage Drive is other than "in reasonably close proximity to the community it serves" and "is local in character and is not an extensive tract of land". That therefore leaves two issues to be considered: is the site demonstrably special to the local community and with a particular local significance; and, if land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space.

The justifications for this particular site designation shown on the Neighbourhood Plan website include:

- site with space for mature trees in keeping with the character of Foxton
- currently classed as Important Open Land [a retained policy from the 2001 Harborough Local Plan (HS/9) reflected in the Core Strategy through policy CS8 Protecting and Enhancing Green Infrastructure]
- the site is within the village and visible from all surrounding streets and from the northern approach to the village

- provides a pleasant contrast to the heavily managed surrounding countryside and residential development
- of local significance because of its beauty and/or tranquillity
- its value lies in its openness allowing a wedge of countryside into the heart of the village
- a sanctuary for wild life within the village
- links up with open space at North Lane/ Main Street junction.

It is clear that the community assessment is that in several regards the site is “demonstrably special” with “particular local significance”. However there is also an objective view, also quoted in the on-line assessment, from a Planning Inspector when determining a planning appeal (APP/F2415/A/11/2161416 15<sup>th</sup> February 2012 para 10); the Inspector noted in the Appeal Decision: “Whilst the holding is overgrown its value lies in its openness which allows the countryside to reach in towards the centre of the village and provides a contrast to the residential development which surrounds it. This area of open land is an important feature of the pattern of development within the Conservation Area.”

I therefore conclude that the NPPF criteria have been met but it remains to be considered, as the site is already protected within the Conservation Area and by the Important Open Land designation, “whether any additional local benefit would be gained by designation as Local Green Space”. Relevant to the consideration of this site also is the Neighbourhood Plan Policy F12 which proposes a further protection for open and residential garden spaces in Foxtan. And again I must be mindful that the starting point provided by the NPPF is that “the Local Green Space designation will not be appropriate for most green areas or open space”. However, on balance I have concluded that the designation of the land between Middle Street and Vicarage Drive (as shown on the Policies Map) as Local Green Space is justified because:

- the other protections are more meagre when compared to the Manor House site considered above (and see further below regarding Important Open Land);
- an adjacent part of the wider plot is allocated through the Neighbourhood Plan for housing; it is right that there be a clear planning indication that the release for housing is a restricted one;
- an alternative policy treatment available would have been the one adopted for the land at 22 Main Street, with which the Middle Street/ Vicarage Drive site is visually aligned, where the boundary of the Limits to Development was adjusted; but I assess this site, although on the periphery, as being more integrated within the settlement and therefore more appropriately Local Green Space;
- although it is proposed through the allocation of the adjacent housing land to impose a planning obligation to keep the land as open space (see Policy F14 where further representation matters are addressed), that obligation cannot be effective until a planning consent is sought and granted;
- when the current Harborough Core Strategy is superseded there may be a withdrawal of the Important Open Land designation (since the Neighbourhood Plan and new Local Plan will then dovetail as the Development Plan for Foxtan) but it is essential that the contributory value of this site to the distinctiveness of Foxtan and the Conservation Area is appropriately recognised.

Additionally I note that in the representation it is fully agreed that the site should be retained as open space and I trust there may be some reassurance in the fact, as noted above, that “Designation does not in itself confer any rights of public access over what exists at present” (Planning Guidance ref: 37-017-20140306).

***Recommendations 36, 37 & 38:***

*Omit the site of the Manor House from the Local Green Space designations indicated in Policy Maps I & II.*

*For the remainder of the designated Local Green Space sites, add a table as a new Appendix 3 summarising how each matches up to the criteria provided in the NPPF (para 77) and Planning Practice Guidance; cross reference the tabulation and Policy Map II.*

*Add a paragraph of "Explanation" immediately below the F9 Policy box:  
"The NPPF provides for local communities to designate areas as 'Local Green Space' (para 76) provided that such sites meet specific criteria."*

As amended the Policy F9 meets the basic conditions.

### **Policy F10: Trees**

As with F5 & F6 above I am unsure that Policy F10 adds anything to the national and local protections already afforded to trees; some of the existing protections are noted in the preamble but the guidance on trees in Conservation Areas in particular is extensive (Ref: 36-114-20140306). It is problematic that the terms 'inadequate' and 'inappropriate', used in relation to landscape proposals, are open to subjective interpretation. The Policy opens with an expectation that all "significant" trees must be retained and concludes with a requirement that every felled tree must be replaced; the two may be difficult to bring together when accommodating development.

The following recommendation is based on guidance available on the Harborough Neighbourhood Planning website and an example that has passed a Plan examination elsewhere.

### **Recommendations 39 & 40:**

*Reword the Policy F10 as:*

*"Development that damages or results in the loss of ancient trees or trees of good arboricultural and amenity value will not normally be supported. Proposals should be designed to retain ancient trees or trees of arboricultural and amenity value as these help to define the character of Foxton. Proposals should be accompanied by a tree survey that establishes the health and longevity of any affected trees and indicates replanting where appropriate."*

*Add a paragraph of "Explanation" immediately below:*

*"One of the Core Planning Principles (NPPF para 17) is that good planning should "take account of the different roles and character of different areas, ... recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it".*

As amended the Policy F10 meets the basic conditions.

### **Policy F11: Housing Provision**

Parts of the introductory paragraphs for this Policy are problematic. As the Basic Conditions Statement notes, it is an absolute requirement of the NPPF that housing need is established by "objective" assessment; "consulting local people on the appropriate level of housing development for Foxton" – as written at para 3.3 - does not amount to objective assessment. Whilst I appreciate the need for community awareness and support for the commitment to address housing needs, I am also aware that in reality the process of determining an appropriate level of housing provision started with the work being done for the forthcoming Harborough Local Plan. This is established in the paper 'Foxton Housing Needs Assessment 2015 - 2031' (included on the Foxton Neighbourhood Plan website <http://foxtonndp.weebly.com>). That paper therefore ought properly to provide the basis for the preamble to the Policy.

Planning Practice Guidance indicates (Ref: 41-040-20160211) that it is perfectly proper for the Plan to draw from current work being undertaken by the Local Planning Authority, albeit

that in this instance the work is at an interim stage and therefore it has been only possible to reach an interim conclusion. This ought to be acknowledged within the Neighbourhood Plan Policy.

A consultation representation has commented on Policy F11:

- The Policy should be more positive and have greater flexibility to assist the delivery of new homes and in particular it should provide for 'a minimum of 27 dwellings' – I note that the submission version of the Policy does actually say 'The minimum ...is 27 dwellings', but I agree that the wording could be more positive.
- There is no flexibility in the Policy to provide for situations of undersupply in the District, contrary to the presumption in favour of sustainable development and contrary to Policy CS2 of the adopted Harborough Core Strategy – I note that current Planning Practice Guidance (ref: 41-009-20160211) does say "Neighbourhood plans should consider ..... allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan"; the words used here are 'should consider' not 'must'. I also note that Policy F11 does incorporate an element of flexibility in allowing for windfall sites to come forward within the area of the limits to development (and Policy F17 adds the potential for rural exception sites to provide additional affordable housing). Fundamentally, the Neighbourhood Plan has addressed the best available indication of objective housing need, and I am sure that the Qualifying Body was aware of the consequences if the NPPF presumption in favour of sustainable development comes to be applied. Allowing for some deliberate headroom in housing numbers would have helped to ensure that community preferences can continue to provide the basis for planning decisions in changing circumstances for Harborough District. But I further note Planning Practice Guidance says (ref: 41-082-20160211): "Where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, decision makers may still give weight to relevant policies in the emerging neighbourhood plan, even though these policies should not be considered up-to-date". Considering all these matters together I have considered it appropriate to recommend a particular review for Policy F11 reflecting the current interim position.
- An available site off North Lane should be added to the site allocations; this would be capable of supporting a scheme of 13 dwellings alongside a large area of open space –  
On the matter of the process adopted for site selection it is always possible to argue that should a different weight be given to a certain factor it would suggest another site might be selectable or preferable, but the input from the community has been considerable and productive and it is the very hallmark of neighbourhood planning. From my understanding of the site selection undertaken, nothing in the representation has convinced me that the process used to inform the final choice of sites for allocation was flawed or so badly flawed that the Plan fails to comply with the basic conditions. The test is whether the proposed site allocations represent sustainable development not whether some alternative might, with an adjustment to factors considered, be somehow more sustainable. However, I do accept that transparency requires that the pre-ambles to the Policy should briefly set out the selection approach undertaken rather than that this be confined to other supporting documents.

**Recommendations 41, 42, 43, 44, 45 & 46:**

*Replace para 3.2 with:*

*"Harborough Local Plan work has examined 11 draft options for the distribution of 475 dwellings per annum across the District over the period to 2031. These options suggest that Foxton should provide for a range between 0 and 51 dwellings. The average of these 11*

options for Foxton is a figure of 27 dwellings. It should be noted that the new Harborough Local Plan is not expected to be completed until 2017 at the earliest. Nevertheless, it is known that the new Local Plan is likely to require more housebuilding in Foxton, so it makes sense to use its assessment work to date, and averaging the options is a pragmatic response for the purposes of neighbourhood planning.”

Rewrite para 3.3 as:

“In the preparation of this Neighbourhood Plan the community was consulted about the housing potential of 24 sites; the six most promising sites were the subject of detailed appraisals (see <http://foxtonndp.weebly.com>) and ultimately four sites were assessed as best able to meet the objectives of the Plan, sustainable, deliverable and, collectively, capable of delivering the housing quantity required over the Plan period (with an allowance for site windfalls).”

Update Table 1 on Housing Commitments to 2016 with revised content as follows:

<b>Planning application</b>	<b>Address</b>	<b>Dwellings</b>	<b>Status at 30<sup>th</sup> September 2016</b>
08/01657/FUL (25/03/09), Revised Scheme 10/01274/FUL (11/11/10) 15/00308/INIT	Land adj 20 Vicarage Drive	1	Now completed
14/00241/FUL (16/04/14) 14/00242/LBC (16/04/14)	The Old School House, Woodgate	1	Commenced
10/00167/ETF (01/04/10), 11/01185/FUL (14/10/11)	The Manor House, Swingbridge St	1	Commenced
13/01556/FUL (20/12/13)	28 Middle St	1	Not started
10/00155/FUL (11/03/10)	43 Main St	1	Now completed
14/00761/FUL (25/07/14)	27 Main Street	1	Not started

Rewrite para 3.5 as:

“Of the 27 new homes being planned for there are already 6 either completed or in the pipeline as single sites (see Table 1 above). This means that sites must be identified or allocated for at least 21 more.”

Rewrite the opening sentence of Policy F11 as:

“This Plan makes provision for a minimum of 27 additional dwellings.”

Add immediately below the F11 Policy box:

*“This Policy will be subject to review in the light of the published Harborough Local Plan when available and the actual delivery of new dwellings at that date.*

*Explanation:*

*The approach adopted follows Planning Practice Guidance (Ref: 41-040-20160211) which says that neighbourhood planning “should take account of latest and up-to-date evidence of housing need. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.”*

As amended the Policy F11 meets the basic conditions.

### **Policy F12: Infill Housing**

Given that part of the purpose of the Policy is to better direct the additional housing provided within the Limits to Development I believe that the title is unhelpful; I suggest a better title would be ‘Windfall Housing’ (for a definition see NPPF Glossary:

<http://planningguidance.communities.gov.uk/blog/policy/achieving-sustainable-development/annex-2-glossary/>).

Element C in your Policy must have regard to what the NPPF (para 53) actually says on the matter and aim to guide development to achieve what is appropriate in Foxton.

Element D can go only as far as national planning law allows, and there is no value in repeating matters covered in other policies and Plans.

### **Recommendations 47 48, 49 & 50:**

*Retitle the heading above para 3.6 as “Windfall Housing”.*

*Retitle the Policy F12 as “Windfall Housing” and briefly explain the concept in the pre-amble.*

*Rewrite the Policy as:*

*“Individual housing developments within the Foxton Limits to Development, as defined on the Policies Map, will be supported if the development:*

*A. Is in keeping with the scale, grain and character of its surroundings and has appropriate regard for the Conservation Area; the Statement for the latter notes: “The character of the village is the mixture of old and new buildings, the many roads and the dispersed open areas. These spaces are important and are predominantly large garden areas or paddocks”.*

*B. Protects important features such as traditional walls, hedgerows and trees;*

*C. Does not result in the inappropriate loss of residential garden space to the detriment of the dispersed village pattern, the area south of the canal being more dispersed than the remainder of the village; reuse or internal reconfiguration of existing buildings will generally be preferred;*

*D. Has safe and suitable access;*

*E. Addresses the other Policies in this Plan as appropriate to the proposal.”*

*Add immediately below the F12 Policy box:*

*“Explanation:*

*There is a consistent record of windfall housing sites becoming available within Foxton’s Limits to Development (see Table 1 above) and therefore the Plan is entitled to rely on the provision of para 48 of the NPPF relating to the inclusion of windfall sites within housing supply.”*

As amended the Policy F12 meets the basic conditions.

### **Policy F13: Fisher’s Farm, North Lane**

This site has been made available by adjusting the line of the Limits to Development (see Policy F1) to incorporate a collection of soon-to-be redundant farm buildings which can be demolished to make way for additional housing on the north-west edge of Foxton. The site is

constrained by its proximity to Foxton Brook, which has a history of flooding, and the need for access improvements.

There were two representations about this site: Anglian Water commented about the detail of one aspect of the policy conditions; the Environment Agency also made some detailed comments but further made a more fundamental point about a failure to comply with NPPF procedures for sites at risk of flooding. Evidence has been provided that the owners of the site commissioned a reputable firm of Consultant Engineers to undertake a 'Preliminary Flood Risk & Highway Assessment' (October 2015) which concluded that "Flood Zones 2 and 3 are largely contained within the banks of Foxton Brook" and that development could be configured so that none of it is in the flood plain. Upon my request the Environment Agency has clarified that its comments did not imply "that the Environment Agency objects to this allocation site on flood risk grounds" but they note they have yet to be presented with a proposal within a site that excludes the flood plain. At the scale that the Policies Map is produced it is impossible for me to judge whether the site boundary has been suitably amended. But it is vital that the input from the Environment Agency is heeded, and I am satisfied that an adjusted site is possible that need not reduce housing capacity.

National Policy, after a clarification in the Court of Appeal, exempts sites of 10 dwellings or fewer from the obligation to provide affordable housing (ref: 23b-031-20160519); the requirement to include affordable housing will therefore only be applicable if eleven or more dwellings are constructed on the Fisher's Farm site.

The NPPF also requires (para 173) that the sites and the scale of development identified in a plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. Whilst it is reasonable that the Plan sets out a layout brief to which the developer must have regard, the specification of the size of dwellings and their specific location is over-prescriptive and, having regard to the aim of Policy F16, could quickly become out-of-date; therefore the Policy should rely on a cross-reference to Policy 16.

Having regard to all these matters a redraft of Policy F13 is required.

***Recommendations 51, 52 & 53:***

*Remove from para 3.10 the phrase 'therefore the site will be subject to passing the sequential test' since the flooding issue has been addressed via another route.*

*Rephrase Policy F13 as:*

*"Some 0.83 hectares of land at Fisher's Farm, to the north of North Lane, as shown on the Policies Map, is allocated for housing development and suitable proposals will be supported subject to the following:*

- A. The development shall provide for up to 12 dwellings;*
- B. At least 40% of these shall be Affordable Houses unless it can be demonstrated that this requirement would make the development undeliverable;*
- C. The development boundary shall exclude any land within the Flood Zones 2 or 3;*
- D. The layout and design of the site should incorporate the construction of a row of terraced and/or semi-detached houses along the southern frontage to the site;*
- E. A new pavement should be constructed along the full frontage onto North Lane so as to link into the safe, continuous pedestrian route to the village shop;*
- F. The hedge along the southern boundary of the site shall be retained or replaced;*
- G. The existing footpath within the site shall be retained;*
- H. Improvements to the junction of North Lane and Main Street shall be required to the satisfaction of the highway authority;*
- I. The site shall be completely cleared and any contamination present safely remediated prior to the commence of any development;*

*J. Surface water and foul water drainage strategies shall be devised and implemented in consultation with the relevant infrastructure bodies prior to any construction and this should incorporate an appropriately designed, constructed and maintained sustainable drainage system as well as liaison with the Welland Rivers Trust to explore appropriate interventions to assist the resilience of the adjacent river; and*  
*K. Proposals shall address all other relevant Policies in this Plan, in particular Policies F5, 8, 10, & 16.”*

Add immediately below the F13 Policy box:

*“Explanation:*

*The development of this site for housing will contribute to meeting the local housing requirements as set out in Policy F11”.*

As amended the Policy F13 meets the basic conditions.

#### **Policy F14: Land at Middle Street and Vicarage Drive**

As noted under Policy F13, the NPPF requires that the sites and the scale of development identified in a plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. As explained below under Policy F17, this Policy cannot require an element of affordable housing by virtue of the small size of the site. Whilst it is reasonable that the Plan sets out a layout brief to which the developer must have regard, the specification of the size of dwellings and their specific location is over-prescriptive and, having regard to the aim of Policy F16, could quickly become out-of-date; therefore the Policy should rely on a cross-reference to Policy 16. A representation has expressed a concern that the development of this site (as well as that at Policy F15) will adversely affect the Conservation Area. The planning history of this site does demonstrate that special considerations must apply and appropriate regard for the Conservation Area ought to be included alongside the particular obligation to set out and retain as open space the vacant land to the north of the site.

Another representation, whilst welcoming the allocation of the site for housing, expresses the following concerns about the criteria attached to the support for development:

- National Planning Practice Guidance advises that contributions for affordable housing should not be sought from small scale developments of 10 units or less – I addressed this above.
- Given the context of existing single and 2 storey dwellings along Middle Street, and in the village as a whole, it is not considered justified to limit building heights along Middle Street as proposed – I note above that there should be a limit to prescriptive requirements and I further note that a prospective developer is already constrained to consider the obligations attaching to a Conservation Area location and the content of the Village Design Statement. There may be a number of suitable design approaches to obtain an appropriate development outcome, whilst still respecting the Design Statement guidance, and so I agree that over-specific detailing ought to be omitted from the Plan requirements.
- There is not sufficient evidence to justify limiting dwelling sizes on the site – I addressed this above.
- LCC Highways previously raised no objections to the scheme, subject to the imposition of conditions, and no highways improvements were considered necessary at that time – I agree that the matter of junction improvements must be left with the Highway Authority to determine.
- Agreed that a footpath can be provided to link Middle Street and Vicarage Drive.
- Whilst it is agreed that the land to the north of the site should be retained as open space, its designation as Local Green Space is not considered appropriate – I addressed this within the consideration of Policy F9. I note that within Policy F14 it is

proposed that there should additionally be an obligation to provide a community orchard on the site. The representation makes it clear that discussions as to the future open space use of this site are yet to be concluded and I think it therefore inappropriate for the Plan to be more prescriptive than the designation as Local Green Space allows.

- Agreed that the retention of the majority of existing trees and hedgerows on site should be accommodated.

Having regard to all these considerations I am recommending revisions to the Plan text and the Policy F14 as follows:

**Recommendations 54, 55 & 56:**

*Rewrite paragraph 3.12 to read:*

*“As a result we have allocated a part of the site for housing development. The larger, northern part shall be retained as open space (and in accordance with Policy F9 designated as a Local Green Space). The community has expressed an interest in the site being used as a community orchard; this would be a link to Foxton’s past when local orchards were known to grow the local apple variety “Foxton Pride”.”*

*Rewrite Policy F14 as:*

*“Policy F14: Land at Middle Street and Vicarage Drive*

*Some 0.38 hectares of land between Middle Street and Vicarage Drive, as shown on the Policies Map, is allocated for a housing development of up to six dwellings which will be supported if:*

*A. The layout and design of the development addresses and respects the location within the Village Conservation Area, the character of the adjacent range of farm buildings on the west side of Middle Street and the important boundary with the retained open space to the north of the site;*

*B. Appropriate highway improvements are included at the junctions of Vicarage Drive/Main Street and Middle Street/Main Street to the satisfaction of the highway authority;*

*C. A new footpath is provided linking Middle Street and Vicarage Drive;*

*D. A landscaping scheme is undertaken which includes the retention or replacement of trees and hedges of native species along the boundary of the site;*

*E. Proposals address all other relevant Policies in this Plan, in particular Policies F5, 7, 8, 10, 16 & 19; and*

*F. A binding obligation is entered into to retain and maintain the land immediately to the north as open space, now designated as Local Green Space (and identified as such on the Policies Map).”*

*Add immediately below the F14 Policy box:*

*“Explanation:*

*The development of this site for housing will contribute to meeting the local housing requirements as set out in Policy F11”.*

As amended the Policy F14 meets the basic conditions.

**Policy F15: Land at junction of Vicarage Drive and Hog Lane**

Following the same logic as for Policy F14 above, but for a site without the same planning history, results in a slightly briefer Policy for this smaller site:

**Recommendations 57 & 58:**

*Rewrite Policy F15 as:*

*“Policy F15: Land at Junction of Vicarage Drive and Hog Lane*

*Some 0.08 hectares of land at the junction of Vicarage Drive and Hog Lane, as shown on the Policies Map, is allocated for housing development for up to three dwellings which will be supported if:*

- A. The layout and design of the site addresses and respects the location within the Village Conservation Area and incorporates two-storey dwellings along the Vicarage Drive frontage of the site with the buildings set back so that they are no further forward than the building line established by nos. 11 and 13 Vicarage Drive;
- B. A landscaping scheme is undertaken which includes the retention or replacement of trees and hedges of native species along the boundary of the site; and
- C. Proposals address all other relevant Policies in this Plan, in particular Policies F5, 7, 8, 10, 16 & 19.”

Add immediately below the F15 Policy box:

*“Explanation:*

*The development of this site for housing will contribute to meeting the local housing requirements as set out in Policy F11”.*

As amended the Policy F15 meets the basic conditions.

### **Policy F16: Housing Mix**

This Policy as written is in general conformity with the Strategic Policy CS2 of the Harborough Core Strategy and ensures that developments, whenever they are built out across the plan period, are appropriately to Foxton and informed by the latest assessments of local housing need.

Policy F16 meets the basic conditions.

### **Recommendation 59:**

Add immediately below the F16 Policy box:

*“Explanation:*

*In line with the Strategic Policy CS2 of the Harborough Core Strategy Policy F16 ensures that developments, whenever they are built out across the plan period, are appropriately to Foxton and informed by the latest assessments of local housing need.”*

### **Policy F17: Affordable Housing**

To meet the basic conditions this Policy has to have appropriate regard for national Policy which, after a clarification in the Court of Appeal, exempts sites of 10 dwellings or fewer from the obligation to provide affordable housing (ref: 23b-031-20160519); the NPPF will override any other obligation set down in the Harborough Core Strategy. One consultation representation drew attention to this position.

### **Recommendations 60, 61, 62 & 63:**

*Amend the preamble to the Policy F17 as follows:*

*Delete para 3.22 which is out of date; renumber subsequent paragraphs.*

*Amend para 3.23 to read:*

*“The Harborough Core Strategy requires 40% of new dwellings to be affordable; under present national policy only the development at Fisher’s Farm would be required to meet this obligation.”*

*Replace the opening paragraph of Policy F17 with:*

*“Affordable housing will be provided through the obligation attaching to Policy F13 and through Rural Exception Sites; proposals for the latter will be supported within or adjoining the Limits to Development where:”.....*

Add immediately below the F17 Policy box:

*“Explanation:*

*The NPPF limits the circumstances where an obligation to include affordable housing within a development may be sought and only one of the allocated sites falls outside that restriction.”*

As amended the Policy F17 meets the basic conditions.

### **Policy F18: Retention of Key Services and Facilities**

A neighbourhood plan should plan positively to support appropriate local development (as outlined in paragraph 16 of the NPPF). One representation supported the intent of this Policy. Whilst the pre-ambule to the Policy is clear, the Policy itself could be more positively written and needs to be explanatory of the “facilities”.

#### **Recommendations 64 & 65:**

*Rewrite the Policy F18 as:*

*“Proposals that ensure the retention and improvement of key local facilities will be supported. Any redevelopment will only be supported if the facility affected is replaced by an equivalent or better provision in an equally suitable location. These facilities (as at 2016) are: primary school, pubs, village hall, church, allotments, recreation ground and shop.”*

*Add immediately below the F18 Policy box:*

*“Explanation:*

*The Government’s policy intention when introducing neighbourhood planning was to provide a powerful set of tools for local people to ensure they get the right types of development for their community” (Planning Practice Guidance 41-083-20160211).”*

### **Policy F19: Water Management**

It is appropriate for the Plan to encourage good practice approaches to reducing the risk of flooding; this inclusion has been commended in two submitted representations. However, this may not be feasible as an approach for smaller sites and therefore the Policy needs amendment.

#### **Recommendations 66 & 67:**

*Reword the Policy F19 as:*

*“Where feasibility assessments are positive, new developments should incorporate Sustainable Drainage Systems (SuDS) with attenuation, storage and treatment capacities incorporated.”*

*Add immediately below the F19 Policy box:*

*“Explanation:*

*In line with Government Policy (Written Statement HCWS161) SuDS should be prioritised for managing surface water flows.”*

As amended the Policy F19 meets the basic conditions.

### **Policy F20: Foxton Locks**

As this section may be read by some in isolation from the other Plan sections the opening paragraph to the preamble ought to start with:

#### **Recommendation 68:**

*Amend para 6.1 so that it reads:*

*“Foxton Locks are situated about half a mile to the west of Foxton. The Locks area includes a significant number of heritage assets and this aspect is addressed in more detail in Section 2: Heritage.”*

*Move the balance of para 6.1 to 6.2.*

It is unclear what is meant by “giving priority to” in the introductory sentence; this reads more like a response to the Locks Masterplan than setting down a policy for the Neighbourhood Plan. It is also problematic that there are two separate A, B, C elements within this Policy. It

is also confusing that there is a reference back to the Foxtton Green Zone Map on p11 when there is a more relevant and less busy map exclusively related to the Locks Area on p44 and then a specific (and larger scaled) Policy Map on p 56. For the purposes of illustrating the policy considerations it is sufficient to use the related map on p44; however, I believe that the map should, despite the repetition, include the outline of the area designated a Scheduled Monument, indicate the building within the Locks area that currently have a listed building status and show the outline of the Canal Conservation Area. But further, the Policy Map on p56 ought to be slightly reduced in scale so that the (renamed) Foxtton Locks Area of Separation can be shown in full, both to the south and the east.

**Recommendation 69:**

*Amend the maps presently included as pages 44 & 56 as follows:*

*p44: add the outline of the area designated a Scheduled Monument, indicate the building within the Locks area that currently have a listed building status and show the outline of the Canal Conservation Area;*

*p56: alter the scale of the map so that the outline of the (renamed) Foxtton Locks Area of Separation is shown in full.*

A consultation representation has submitted: “The point [in the Policy] with regard to the creation of new overnight accommodation appears to be in conflict with HDC Local Plan Policy LR19 concerning Canal Basin Recreation Facilities and Policy LR14 concerning Self-Catering Accommodation; both of which would appear to allow the possibility of such new building.” My role is to consider whether the neighbourhood plan meets the basic conditions and is “in general conformity with the strategic policies of the development plan for the area”; the Local Plan and its policies are not yet adopted but even so, and after looking to the content of the current Core Strategy, I cannot conclude that there is a strategic restraint that inhibits Policy F20 from providing specifically for Foxtton Locks. However, I am not provided with any evidence to suggest that there is an identifiable issue around additional overnight accommodation, and I note that such provision in existing buildings would not directly be restricted; the community impact of any additional buildings, already significantly constrained by the heritage status, has been addressed with Policy F4: (renamed) Foxtton Areas of Separation.

Another representation expresses concern for a lack of flexibility in Policy F20 “that would stifle appropriate business opportunities”; there is also concern about the extended reference to the “shelved” Foxtton Locks Masterplan. I address the first point in the recommended revisions below; I agree that there is no value in the Neighbourhood Plan repeating what can be read, if desired, in the original 2009 document (referenced at Policy F1) and therefore I recommend reducing the introduction so that it concentrates on current Plan considerations.

A representation from the Canal and River Trust accepts that Policy F20 seeks to sustain the value of the Locks Area, by giving priority to specific criteria but comments: “we feel that the policy would benefit from greater clarity and precision, particularly in explaining more clearly what the Plan considers the value of the Locks to be”. The Trust comments that it has undertaken work on a Destination Management Plan which will supersede the Masterplan and set out an updated vision for the locks area. In relation to the criteria on sustaining the value of the locks area, the Trust expresses a concern that there is a lack of clarity in Criterion B and Criterion C: Criterion B prioritises “quiet enjoyment” of the locks area but this appears to be open to a number of different interpretations; with Criterion C there is a concern that it may inadvertently require new development within the locks area to achieve a reduction of existing visitor impacts on Foxtton village. Turning to the second part of Policy F20, which sets out criteria against which development proposals in the locks area should be tested, the Trust comments:

- Criterion A is clear in its aims and intentions;

- B should be deleted for clarity and to ensure that the Plan does not restrict sustainable development or lack conformity with the Development Plan;
- C meets the Basic Conditions but for greater clarity amendments are suggested;
- D is appropriate;
- E lacks clarity and there appears to be a significant overlap with Criterion F;
- F, where it does not overlap with E, should be omitted.

Whilst I can agree with the general thrust of most of these comments, and agree that amended wording is required to meet the basic conditions, I cannot agree that Criterion B should be deleted as indicated in the bullet point summary above. As stated earlier, I cannot conclude that there is a strategic policy restraint that, within the bounds of general conformity, inhibits Policy F20 from providing specifically for Foxton Locks. Further, as the Trust has noted, “it is likely that many proposals for new visitor attractions will have at least some degree of association with Foxton Locks, or the canal”. It is entirely proper for the Foxton Plan to provide a local context for the application of national and district policies and as a companion to other (accepted) aspects of this Policy and other related Policies in the Plan, Policy F20 appropriately indicates that any additional visitor attractions should build from the intrinsic value of the Locks Area. Indeed, given the nature of community comments expressed through the Plan consultations, this aspect had to be addressed. To be clear, it is not the purpose of Policy F20 to set down any one determining factor “in establishing the sustainability of a rural tourism or leisure proposal in this [specific] location” (quotation taken from the Trust representation); rather the Policy sets out parameters within which appropriate proposals are encouraged. This is certainly in line with the NPPF (para 16) expectation that a neighbourhood plan should “plan positively to support local development, shaping and directing development in their area”.

**Recommendation 70:**

*Amend the tense in the second sentence of para 6.10 to say “set” in place of “sets”; delete para 6.12 and renumber subsequent paragraphs; amend the opening line of (existing) para 6.13 to say: “Some of the Masterplan proposals have the support of the local community but there are concerns that.....”; replace the final sentence with: “The Canal and River Trust has indicated that the Masterplan will be replaced with a Destination Management Plan”.*

The appropriate protection for designated heritage assets is provided through the NPPF and other planning legislation; a neighbourhood plan must have regard to the approach around ‘significance’ and the exclusions allowed for there.

After consideration of all the above matters I therefore conclude that Policy F20 ought to be edited and amended so that it can “provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency” (NPPF para 17).

**Recommendations 71 & 72:**

*Rewrite Policy F20 as:*

*“Development proposals which contribute to and support the conservation, presentation, interpretation and positive management of the Foxton Locks Area (as defined on the adjacent map), and allow for waterside and countryside recreational enjoyment, will be supported where:*

*A. New visitor attractions are directly associated with Foxton Locks;*

*B. Proposals have appropriate regard for the significance of the heritage assets of the Locks Area and their setting;*

*C. Proposals address all other relevant Policies in this Plan, in particular Policies F3, 4, 5, 6, 7 & 10;*

*D. Traffic implications, including those for the nearby Foxton village, are assessed and addressed; related measures that may need to be considered include traffic management, public transport improvements, road signage and junction improvements.”*

*Add immediately below the F20 Policy box:*

*“Explanation:*

*This Plan seeks a sustainable future for the Locks Area having regard to the many interests that it serves both locally and nationally.”*

**Monitoring**

There is an implication given here that a review of the Plan may become necessary to bring it into line with future changes in the NPPF and the new Local Plan when adopted. In reality no review is automatically required because the NPPF will always carry the greatest weight in planning decision making and section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that any conflict between a Neighbourhood Plan and a Local Plan must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the local development plan. However I noted under Policy 11 above an instance where new neighbourhood choices may need to be made.

The Plan need only address its own monitoring and therefore the final sentence of para 7.1 should be deleted as should paras 7.2 and 7.3.

***Recommendation 73:***

*Delete the final sentence of para 7.1 and paras 7.2 & 7.3; amend the Contents page accordingly.*

## **Other matters raised in representations**

A number of representations to the consultation on the submitted plan in accordance with Neighbourhood Planning Regulation 17 included suggestions of other matters that the Plan might usefully address. However, a neighbourhood plan must specifically address the development and use of land (Planning Practice Guidance ref: 41-004-20140306). And within that constraint there is no checklist of content that a Neighbourhood Plan must contain or subject matter that it must address; the range of content is entirely at the discretion of the local community and the local issues as they see them. It is not my role as Examiner to test the soundness of a Plan in terms of its coverage but rather to consider the content presented against the Basic Conditions. I cannot therefore recommend additional content in the manner that some representations have suggested.

One representation expresses a concern that proposed developments within the village contradict the objectives of the Plan to conserve Foxton's character, history and local surroundings and to protect the intrinsic character and beauty of Foxton's countryside and to enhance Foxton's environment. Furthermore it is argued that proposed developments would be contradictory to the Plan's own Policies F3 & F5. By its very nature the planning process seeks to achieve an appropriate balance between social, economic and environmental aspirations for a community, accepting that a balance will only be struck over time, and accepting that there may be discontinuities at any one moment in time. It is evident that the preparation of Foxton Neighbourhood Plan has been undertaken with an awareness of and has addressed with care the difficulties of achieving an appropriate balance. There have been many opportunities for the community to inform the appropriateness of the balance. A referendum will be the ultimate test of whether there is community support for the Plan.

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

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

A Strategic Environmental Assessment (SEA) screening was carried out by Harborough District Council on behalf of Foxton Parish Council. This reflected the findings of the full Habitat Regulations Assessment (HRA) screening report, carried out as part of the Harborough Core Strategy preparation process in 2011, and the Sustainability Appraisal of the New Local Plan in 2015. As a result of the screening it was concluded that it is unlikely there will be any significant environmental effects arising from the Foxton Neighbourhood Plan and, as such, the Foxton Neighbourhood Plan does not require a full SEA to be undertaken.

The SEA screening was submitted to the statutory environmental bodies (English Heritage, Natural England and the Environment Agency) for consultation. All consultees agreed with Harborough District Council's conclusion that an SEA was not required. No issues were raised in relation to Harborough District Council's conclusion that a full HRA screening report was not required, on the basis that there would be no harmful impacts to any European sites resulting from proposals within the Foxton Neighbourhood Plan.

The Foxton Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998. No evidence has been put forward to demonstrate that this is not the case.

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

## Conclusions

This Independent Examiner's Report recommends a range of modifications to the Policies, as well as to some of the supporting text and maps, in the Plan. Modifications have been recommended to effect corrections, to ensure clarity and in order to ensure that the basic conditions are met. Whilst I have proposed a significant number of modifications, the Plan itself remains fundamentally unchanged in the role and direction set for it by the Qualifying Body, the Parish Council. Where deletions have been recommended because of inappropriate repetition of Local Plan content, the policy requirements within the Harborough District Core Strategy will still be effective.

I therefore conclude that, subject to the modifications recommended, the Foxton Neighbourhood Plan:

- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies of the development plan for the area;
- is compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

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

### Referendum Area

As noted earlier, part of my Examiner role is to consider whether the referendum area should be extended beyond the Plan area. I consider the Neighbourhood Area to be appropriate and no evidence has been submitted to suggest that this is not the case. I therefore ***recommend*** that the Plan should proceed to referendum based on the Neighbourhood Area as approved by the Harborough District Council on 29<sup>th</sup> October 2012.

## **Recommendations:** (this is a listing of the recommendations included in the Report)

1. Add “2016-2031” to the cover page title.
2. Add in para 1.4 a reference in brackets after the first sentence to read: “see page 2 for the map of Neighbourhood Plan area”.
3. Amend the title of the map on page 2 to “Neighbourhood Plan Area”; amend the legend on the map to read: “Neighbourhood Area & Parish Boundary”.
4. Reword the second sentence of para 1.4 as: “The Neighbourhood Plan has been prepared by Foxton Parish Council as the ‘Qualifying Body’”.
5. Reword para 1.5 as:  
“The Foxton Neighbourhood Plan website (<http://foxtonndp.weebly.com>) has been used to provide information and updates on the Plan progress and is now a source of the material and evidence used in the Plan preparation.”
6. Reword the subheading above para 1.6 from ‘What we have done so far’ to (say) “How we prepared the Plan”.
7. Reword the opening of para 1.10 to read: “The comments received were considered by Foxton Parish Council .....
8. Remove the sub-heading ‘What happens next’ and reword paras 1.11-1.13 as (say):  
“Subsequently, the Plan was submitted to Harborough District Council for the formal public consultation and Independent Examination and, subject to the outcome from the examination, a referendum. Once the Plan is ‘made’ it forms part of the Development Plan against which planning applications within the Parish are assessed.”
9. Renumber the subsequent paragraphs after removing 1.12 & 1.13 and revise the Contents page.
10. Add to para 1.15: “Further details are included in the Basic Conditions Statement, available to view on the Foxton Neighbourhood Plan website (<http://foxtonndp.weebly.com>).”
11. Reword Policy F1 as:  
“The Countryside (land outside the Foxton Limits to Development and the Foxton Locks Area as defined on the Policies Map) will be protected for the sake of its intrinsic character, beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all. Development in the Countryside will be limited to that which supports community uses, essential infrastructure and that which requires a rural location (including the special circumstances set out in paragraph 55 of the NPPF).”
12. Add a paragraph headed “Explanation” immediately below the F1 Policy box:  
“The Foxton Limits to Development generally follow the boundary defined in the Harborough District Core Strategy 2006-2028, except in two respects:
  - an area to the north-west presently occupied by agricultural buildings, known as Fisher’s Farm, has been included within the Limits (see Policy F13) to encompass the prospective redevelopment of the site;
  - a small area to the north, known as land at 22 Main Street, has been excluded to retain this open aspect and to respect the decision of the Planning Inspector in June 2014 regarding this land (ref: APP/F2415/A/14/2216078).The Foxton Locks Area has been defined as in the Foxton Locks Masterplan 2009 (see here: [http://www.foxtonvillagehall.org.uk/pickup/foxton\\_locks\\_masterplan\\_report.pdf](http://www.foxtonvillagehall.org.uk/pickup/foxton_locks_masterplan_report.pdf)).”
13. Edit para 2.7 to:  
“The landscape in Foxton Parish is one of the most sensitive landscapes in Harborough district and is unable to accommodate wind turbines without degradation of the existing landscape. Large-scale solar farms can also have a negative impact on the local landscape. We do not believe that people will want to visit and spend their money in an area they regard as spoiled by wind or solar farms.”
14. Reword Policy F2:  
“Small scale ground-mounted solar photovoltaic farms will be supported where:

- A. They are on previously developed and non-agricultural land;
  - B. Their location is selected sensitively and well-planned so that the proposals do not impact on any heritage asset (including views important to the setting of those heritage assets), in particular Foxton Locks, Foxton Village Conservation Area, and the Grand Union Canal;
  - C. The proposal's visual impact has been fully assessed and addressed in accordance with Planning Practice Guidance on landscape assessment (Planning Practice Guidance ref: 5-013-20150327); and
  - D. The installations are removed when no longer in use and the land is restored to its previous use.
- Because of their greater visual impact, wind turbine farms will not generally be supported."
15. Add a paragraph of "Explanation" immediately below the F2 Policy box:  
 "For solar farms national guidance says specifically (Planning Practice Guidance 5-013-20150327): "Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset". National planning policy provides for local people to have the final say on wind farm applications (Written Statement HCWS42)."
  16. Reword Policy F3:  
 "Development proposals must consider and address their potential impact on local tranquillity; accordingly the following will not be supported:
    - A. Industrial, commercial, leisure, recreation and sporting proposals that introduce sources of noise, particularly night-time noise, above the ambient level; and
    - B. Developments requiring floodlights, security lights and streetlights.
 Planning conditions will be applied to ensure appropriate control."
  17. Add a paragraph of "Explanation" immediately below the F3 Policy box:  
 "National Planning Practice Guidance (Ref: 30-011-20140306) confirms that "noise concerns can be relevant to neighbourhood planning, and it is important to consider potential changes in the acoustic environment when drawing up a neighbourhood plan or considering a neighbourhood development order". On artificial light the guidance acknowledges (Ref: 31-001-20140306) that "artificial light is not always necessary, has the potential to become what is termed 'light pollution' or 'obtrusive light' and not all modern lighting is suitable in all locations"."
  18. Retitle Policy F4 as: "Foxton Areas of Separation".
  19. Reword para 2.13 as: "The countryside separating these places is particularly vulnerable and the community wishes to ensure that its undeveloped character, providing a distinct rural border to the built up area, is maintained. The Foxton Areas of Separation aim to check the potential encroachment from Market Harborough and from the expansion of tourism development associated with Foxton Locks towards Foxton. They will help to safeguard the scale, setting and special character of Foxton village."
  20. Reword Policy F4 as: "The open character of the two Foxton Areas of Separation, as defined on the adjacent map and the Policies Map, will be retained. The construction of new buildings or inappropriate uses of land which adversely affect this open character or the character and setting of Foxton village will not be supported. Any development proposal within the Areas of Separation must assess and address its impact on the setting of Foxton Village, (as appropriate) the historic Foxton Locks and the objective of separation and give specific attention to location, design and landscaping appropriate to the character of the area." Amend the adjacent map and the Policies Map accordingly.
  21. Add a paragraph of "Explanation" immediately below the F4 Policy box:  
 "The Spatial Strategy (Policy CS1) of the Harborough Core Strategy 2006 – 2028 includes "a continuing commitment to the principle of .... Areas of Separation across the district"."
  22. Reword Policy F5 as:  
 "Development must have appropriate regard for the network of local ecological features and habitats. New development will be expected to maintain and enhance existing

*ecological and landscape features (such as watercourses, hedgerows and treelines) for biodiversity.*

*Development proposals shall support the delivery of the Water Framework Directive and its objectives as set out in the Anglian River Basin Management Plan.”*

23. Add a paragraph of “Explanation” immediately below the F5 Policy box:  
*“A core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution (Planning Practice Guidance ref: 8-007-20140306).”*
24. Move the “Heritage” heading to page 12 before ‘The Canal’ and reduce the latter to a sub-heading; place a sub-heading “History” above para 2.23; reword the existing ‘Conservation Area’ sub-heading as “Foxton Conservation Area”; alter the Contents page in line with these changes.
25. On the map on p14 show the two Conservation Areas as they were declared at different dates.
26. Reword Policy F6:  
*“The Grand Union Canal is recognised as a heritage asset, a key strategic Green Infrastructure and wildlife corridor, and a recreation and tourism resource that can be enjoyed for its contribution to the quality of life of this and future generations. It is a key feature that contributes to the character of Foxton and the location and design of new development must have appropriate regard for the significance of this asset and its setting.”*
27. Add a paragraph of “Explanation” immediately below the F6 Policy box:  
*“The appropriate conservation of heritage assets forms one of the ‘Core Planning Principles’ (NPPF Paragraph 17 bullet 10) that underpin the planning system.”*
28. The sub-heading above para 2.31, the legend on the three Policies maps and the entry on the Contents Page are all incorrect and need to be brought in line with the Policy title “Local Heritage Assets”. The heading to the related map is also incorrect as it is not limited to the Local Assets now scheduled but all the recognised heritage assets.
29. It is confusing in para 2.31 to refer back to “the previous version of the Village Design Guide” and that paragraph should more simply say:  
*“The Neighbourhood Plan has given local people their chance to give their views on local heritage assets which might be recognised in addition to nationally designated heritage assets.”*
30. There is a need for brief detail that explains the basis for the inclusion of each local asset, but this might be best done within a second Appendix to the Plan where individual photographs could also be included. I am aware that brief details can be derived from The History of Foxton Buildings by D. T. Chambers and those would be very suitable.
31. Add a paragraph of “Explanation” immediately below the F7 Policy box:  
*“The properties now scheduled as Local Heritage Assets are derived from ‘The History of Foxton Buildings’ (2012) by D. T. Chambers O.B.E and brief details about each property from the book are included as Appendix 2.”*
32. The heading above para 2.32 would better read as “Local Design”.
33. Within the Village Design Statement (VDS) there is no content listed as ‘requirements’ and that is entirely appropriate, but the wording of the Policy F8 needs to be brought in line with the VDS as follows:  
*“All new developments should reflect the distinctive character of Foxton and explicitly address the guidance set out in the Foxton Village Design Statement (Appendix 1).”*
34. Within the VDS itself:  
*There is a stray ‘that’ in paragraph 4;  
On page 51 the photograph and its positioning need to be corrected. Also on that page the last two bullet points say the same thing in different words; one of these should be deleted.*
35. Add a paragraph of “Explanation” immediately below the F8 Policy box:

*“Planning Practice Guidance (Ref: 26-001-20140306) acknowledges that “Good design responds in a practical and creative way to both the function and identity of a place”. The Village Design Statement is a practical and creative guide for Foxton.”*

36. Omit the site of the Manor House from the Local Green Space designations indicated in Policy Maps I & II.
37. For the remainder of the designated Local Green Space sites, add a table as a new Appendix 3 summarising how each matches up to the criteria provided in the NPPF (para 77) and Planning Practice Guidance; cross reference the tabulation and Policy Map II.
38. Add a paragraph of “Explanation” immediately below the F9 Policy box:  
*“The NPPF provides for local communities to designate areas as ‘Local Green Space’ (para 76) provided that such sites meet specific criteria.”*
39. Reword the Policy F10 as:  
*“Development that damages or results in the loss of ancient trees or trees of good arboricultural and amenity value will not normally be supported. Proposals should be designed to retain ancient trees or trees of arboricultural and amenity value as these help to define the character of Foxton. Proposals should be accompanied by a tree survey that establishes the health and longevity of any affected trees and indicates replanting where appropriate.”*
40. Add a paragraph of “Explanation” immediately below:  
*“One of the Core Planning Principles (NPPF para 17) is that good planning should “take account of the different roles and character of different areas, ... recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”.*
41. Replace para 3.2 with:  
*“Harborough Local Plan work has examined 11 draft options for the distribution of 475 dwellings per annum across the District over the period to 2031. These options suggest that Foxton should provide for a range between 0 and 51 dwellings. The average of these 11 options for Foxton is a figure of 27 dwellings. It should be noted that the new Harborough Local Plan is not expected to be completed until 2017 at the earliest. Nevertheless, it is known that the new Local Plan is likely to require more housebuilding in Foxton, so it makes sense to use its assessment work to date, and averaging the options is a pragmatic response for the purposes of neighbourhood planning.”*
42. Rewrite para 3.3 as:  
*“In the preparation of this Neighbourhood Plan the community was consulted about the housing potential of 24 sites; the six most promising sites were the subject of detailed appraisals (see <http://foxtonndp.weebly.com>) and ultimately four sites were assessed as best able to meet the objectives of the Plan, sustainable, deliverable and, collectively, capable of delivering the housing quantity required over the Plan period (with an allowance for site windfalls).”*
43. Update Table 1 on Housing Commitments to 2016 with revised content as follows:

<b>Planning application</b>	<b>Address</b>	<b>Dwellings</b>	<b>Status at 30<sup>th</sup> September 2016</b>
08/01657/FUL (25/03/09), Revised Scheme 10/01274/FUL (11/11/10) 15/00308/INIT	Land adj 20 Vicarage Drive	1	Now completed

14/00241/FUL (16/04/14) 14/00242/LBC (16/04/14)	The Old School House, Woodgate	1	Commenced
10/00167/ETF (01/04/10), 11/01185/FUL (14/10/11)	The Manor House, Swingbridge St	1	Commenced
13/01556/FUL (20/12/13)	28 Middle St	1	Not started
10/00155/FUL (11/03/10)	43 Main St	1	Now completed
14/00761/FUL (25/07/14)	27 Main Street	1	Not started

44. Rewrite para 3.5 as:

*“Of the 27 new homes being planned for there are already 6 either completed or in the pipeline as single sites (see Table 1 above). This means that sites must be identified or allocated for at least 21 more.”*

45. Rewrite the opening sentence of Policy F11 as:

*“This Plan makes provision for a minimum of 27 additional dwellings.”*

46. Add immediately below the F11 Policy box:

*“This Policy will be subject to review in the light of the published Harborough Local Plan when available and the actual delivery of new dwellings at that date.*

*Explanation:*

*The approach adopted follows Planning Practice Guidance (Ref: 41-040-20160211) which says that neighbourhood planning “should take account of latest and up-to-date evidence of housing need. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.”*

47. Retitle the heading above para 3.6 as “Windfall Housing”.

48. Retitle the Policy F12 as “Windfall Housing” and briefly explain the concept in the pre-  
amble.

49. Rewrite the Policy as:

*“Individual housing developments within the Foxton Limits to Development, as defined on the Policies Map, will be supported if the development:*

*A. Is in keeping with the scale, grain and character of its surroundings and has appropriate regard for the Conservation Area; the Statement for the latter notes: “The character of the village is the mixture of old and new buildings, the many roads and the dispersed open areas. These spaces are important and are predominantly large garden areas or paddocks”.*

*B. Protects important features such as traditional walls, hedgerows and trees;*

*C. Does not result in the inappropriate loss of residential garden space to the detriment of the dispersed village pattern, the area south of the canal being more dispersed than the remainder of the village; reuse or internal reconfiguration of existing buildings will generally be preferred;*

*D. Has safe and suitable access;*

*E. Addresses the other Policies in this Plan as appropriate to the proposal.”*

50. Add immediately below the F12 Policy box:

*“Explanation:*

*There is a consistent record of windfall housing sites becoming available within Foxton's Limits to Development (see Table 1 above) and therefore the Plan is entitled to rely on the provision of para 48 of the NPPF relating to the inclusion of windfall sites within housing supply."*

51. *Remove from para 3.10 the phrase 'therefore the site will be subject to passing the sequential test' since the flooding issue has been addressed via another route.*
52. *Rephrase Policy F13 as:*
  - "Some 0.83 hectares of land at Fisher's Farm, to the north of North Lane, as shown on the Policies Map, is allocated for housing development and suitable proposals will be supported subject to the following:*
  - A. The development shall provide for up to 12 dwellings;*
  - B. At least 40% of these shall be Affordable Houses unless it can be demonstrated that this requirement would make the development undeliverable;*
  - C. The development boundary shall exclude any land within the Flood Zones 2 or 3;*
  - D. The layout and design of the site should incorporate the construction of a row of terraced and/or semi-detached houses along the southern frontage to the site;*
  - E. A new pavement should be constructed along the full frontage onto North Lane so as to link into the safe, continuous pedestrian route to the village shop;*
  - F. The hedge along the southern boundary of the site shall be retained or replaced;*
  - G. The existing footpath within the site shall be retained;*
  - H. Improvements to the junction of North Lane and Main Street shall be required to the satisfaction of the highway authority;*
  - I. The site shall be completely cleared and any contamination present safely remediated prior to the commence of any development;*
  - J. Surface water and foul water drainage strategies shall be devised and implemented in consultation with the relevant infrastructure bodies prior to any construction and this should incorporate an appropriately designed, constructed and maintained sustainable drainage system as well as liaison with the Welland Rivers Trust to explore appropriate interventions to assist the resilience of the adjacent river; and*
  - K. Proposals shall address all other relevant Policies in this Plan, in particular Policies F5, 8, 10, & 16."*
53. *Add immediately below the F13 Policy box:*
  - "Explanation:*
  - The development of this site for housing will contribute to meeting the local housing requirements as set out in Policy F11".*
54. *Rewrite paragraph 3.12 to read:*
  - "As a result we have allocated a part of the site for housing development. The larger, northern part shall be retained as open space (and in accordance with Policy F9 designated as a Local Green Space). The community has expressed an interest in the site being used as a community orchard; this would be a link to Foxton's past when local orchards were known to grow the local apple variety "Foxton Pride"."*
55. *Rewrite Policy F14 as:*
  - "Policy F14: Land at Middle Street and Vicarage Drive*
  - Some 0.38 hectares of land between Middle Street and Vicarage Drive, as shown on the Policies Map, is allocated for a housing development of up to six dwellings which will be supported if:*
  - A. The layout and design of the development addresses and respects the location within the Village Conservation Area, the character of the adjacent range of farm buildings on the west side of Middle Street and the important boundary with the retained open space to the north of the site;*
  - B. Appropriate highway improvements are included at the junctions of Vicarage Drive/Main Street and Middle Street/Main Street to the satisfaction of the highway authority;*
  - C. A new footpath is provided linking Middle Street and Vicarage Drive;*

- D. A landscaping scheme is undertaken which includes the retention or replacement of trees and hedges of native species along the boundary of the site;
- E. Proposals address all other relevant Policies in this Plan, in particular Policies F5, 7, 8, 10, 16 & 19; and
- F. A binding obligation is entered into to retain and maintain the land immediately to the north as open space, now designated as Local Green Space (and identified as such on the Policies Map).”
56. Add immediately below the F14 Policy box:  
 “Explanation:  
 The development of this site for housing will contribute to meeting the local housing requirements as set out in Policy F11”.
57. Rewrite Policy F15 as:  
 “Policy F15: Land at Junction of Vicarage Drive and Hog Lane  
 Some 0.08 hectares of land at the junction of Vicarage Drive and Hog Lane, as shown on the Policies Map, is allocated for housing development for up to three dwellings which will be supported if:  
 A. The layout and design of the site addresses and respects the location within the Village Conservation Area and incorporates two-storey dwellings along the Vicarage Drive frontage of the site with the buildings set back so that they are no further forward than the building line established by nos. 11 and 13 Vicarage Drive;  
 B. A landscaping scheme is undertaken which includes the retention or replacement of trees and hedges of native species along the boundary of the site; and  
 C. Proposals address all other relevant Policies in this Plan, in particular Policies F5, 7, 8, 10, 16 & 19.”
58. Add immediately below the F15 Policy box:  
 “Explanation:  
 The development of this site for housing will contribute to meeting the local housing requirements as set out in Policy F11”.
59. Add immediately below the F16 Policy box:  
 “Explanation:  
 In line with the Strategic Policy CS2 of the Harborough Core Strategy Policy F16 ensures that developments, whenever they are built out across the plan period, are appropriately to Foxton and informed by the latest assessments of local housing need.”
60. Amend the preamble to the Policy F17 as follows:  
 Delete para 3.22 which is out of date; renumber subsequent paragraphs.
61. Amend para 3.23 to read:  
 “The Harborough Core Strategy requires 40% of new dwellings to be affordable; under present national policy only the development at Fisher’s Farm would be required to meet this obligation.”
62. Replace the opening paragraph of Policy F17 with:  
 “Affordable housing will be provided through the obligation attaching to Policy F13 and through Rural Exception Sites; proposals for the latter will be supported within or adjoining the Limits to Development where:”……
63. Add immediately below the F17 Policy box:  
 “Explanation:  
 The NPPF limits the circumstances where an obligation to include affordable housing within a development may be sought and only one of the allocated sites falls outside that restriction.”
64. Rewrite the Policy F18 as:  
 “Proposals that ensure the retention and improvement of key local facilities will be supported. Any redevelopment will only be supported if the facility affected is replaced by an equivalent or better provision in an equally suitable location. These facilities (as at 2016) are: primary school, pubs, village hall, church, allotments, recreation ground and shop.”
65. Add immediately below the F18 Policy box:

*“Explanation:*

*The Government’s policy intention when introducing neighbourhood planning was to provide a powerful set of tools for local people to ensure they get the right types of development for their community” (Planning Practice Guidance 41-083-20160211).”*

66. *Reword the Policy F19 as:*

*“Where feasibility assessments are positive, new developments should incorporate Sustainable Drainage Systems (SuDS) with attenuation, storage and treatment capacities incorporated.”*

67. *Add immediately below the F19 Policy box:*

*“Explanation:*

*In line with Government Policy (Written Statement HCWS161) SuDS should be prioritised for managing surface water flows.”*

68. *Amend para 6.1 so that it reads:*

*“Foxton Locks are situated about half a mile to the west of Foxton. The Locks area includes a significant number of heritage assets and this aspect is addressed in more detail in Section 2: Heritage.”*

*Move the balance of para 6.1 to 6.2.*

69. *Amend the maps presently included as pages 44 & 56 as follows:*

*p44: add the outline of the area designated a Scheduled Monument, indicate the building within the Locks area that currently have a listed building status and show the outline of the Canal Conservation Area;*

*p56: alter the scale of the map so that the outline of the (renamed) Foxton Locks Area of Separation is shown in full.*

70. *Amend the tense in the second sentence of para 6.10 to say “set” in place of “sets”;*

*delete para 6.12 and renumber subsequent paragraphs; amend the opening line of (existing) para 6.13 to say: “Some of the Masterplan proposals have the support of the local community but there are concerns that.....”; replace the final sentence with: “The Canal and River Trust has indicated that the Masterplan will be replaced with a Destination Management Plan”.*

71. *Rewrite Policy F20 as:*

*“Development proposals which contribute to and support the conservation, presentation, interpretation and positive management of the Foxton Locks Area (as defined on the adjacent map), and allow for waterside and countryside recreational enjoyment, will be supported where:*

*A. New visitor attractions are directly associated with Foxton Locks;*

*B. Proposals have appropriate regard for the significance of the heritage assets of the Locks Area and their setting;*

*C. Proposals address all other relevant Policies in this Plan, in particular Policies F3, 4, 5, 6, 7 & 10;*

*D. Traffic implications, including those for the nearby Foxton village, are fully assessed and addressed; related measures that may need to be considered include traffic management, public transport improvements, road signage and junction improvements.”*

72. *Add immediately below the F20 Policy box:*

*“Explanation:*

*This Plan seeks a sustainable future for the Locks Area having regard to the many interests that it serves both locally and nationally.”*

73. *Delete the final sentence of para 7.1 and paras 7.2 & 7.3; amend the Contents page accordingly.*