

EAST LANGTON NEIGHBOURHOOD DEVELOPMENT PLAN

(Submission Version April 2011-2031)

**Report of the Examination into the East Langton Neighbourhood
Development Plan**

Timothy Jones, Barrister, FCI Arb,

Independent Examiner



No 5 Chambers,

Birmingham - London - Bristol - Leicester

1st February 2018.

<u>Contents</u>	Page(s)
1. Introduction	1 - 2
- Neighbourhood planning	1
- Appointment and role	1 - 2
2. Preliminary Matters	2
- Public consultation	2
- Other statutory requirements	2
3. The Extent and Limits of an Examiner's Role	2 - 4
4. Consideration of Objections	4 - 5
5. Public Hearing	5
6. The Basic Conditions and Human Rights	5 - 7
- Regard to national policies and advice	5
- Contributing to the achievement of sustainable development	5 - 6
- General conformity with the development plan	6 - 7
- EU obligations	7
- European sites	7
- Human rights	7
7. The contents of the Draft NDP	8 -
- Chapters 1 to 6	8
- Chapter 7	8 - 15
- Chapter 8	15
- Updating	15
8. Referendum Area	15 - 16
9. Summary of Main Findings	16
Appendix A: Recommended Modifications	18 - 21
Appendix B: Abbreviations	22

Report of the Examination into the East Langton Neighbourhood Development Plan

1. Introduction

Neighbourhood planning

1. The Localism Act 2011 Part 6 Chapter 3 introduced neighbourhood planning, including provision for neighbourhood development plans. A neighbourhood development plan should reflect the needs and priorities of the community concerned and should set out a positive vision for the future, setting planning policies to determine decisions on planning applications. If approved by a referendum and made by the local planning authority, such plans form part of the Development Plan for the neighbourhood concerned. Applications for planning permission should be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

*Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Parishes ... can use neighbourhood planning to: set planning policies through neighbourhood plans to determine decisions on planning applications...*¹

2. This report concerns the Submission Version of the East Langton Neighbourhood Development Plan (“the Draft NDP”).

Appointment and role

3. Harborough District Council (“HDC”), with the agreement of East Langton Parish Council (“ELPC”), has appointed me, to examine the Draft NDP. I am a member of the planning bar and am independent of HDC, ELPC, and of those who have made representations in respect of the Draft NDP. I have been trained and approved by the Neighbourhood Planning Independent Examiner Referral Service (NPIERS). I do not have an interest in any land that may be affected by it.

4. My examination has involved considering written submissions and an unaccompanied site visit on Monday 5th June 2017. The site visits included the villages of Church Langton and East Langton, all footpaths in the immediate vicinity of the villages and the wider setting of the parish. I entered St Peter’s Church, a grade II* listed building.

5. My role may be summarised briefly as to consider whether certain statutory requirements have been met, to consider whether the Draft NDP meets the basic conditions, to consider human rights issues, to recommend which of the three options specified in paragraph 12 below applies and, if appropriate, to consider the referendum area. I must act

¹ The Framework, paragraph 183.

proportionately, recognising that Parliament has intended the neighbourhood plan process to be relatively inexpensive. In seeking to act proportionately I have borne in mind the small population of the parish – 393 in the 2011 census.

2. Preliminary Matters

Public consultation

6. I am satisfied that ELPC took public consultation seriously and that sufficient consultation resulted from this approach. I bear in mind that parish councillors are democratically accountable, subject to a code of conduct and likely to be in close contact with the community they represent. There has been adequate opportunity for interested parties to take part in the preparation of the draft NDP. I do not consider there has been any failure in consultation, let alone one that would have caused substantial prejudice. The consultation met the requirements of the Neighbourhood Planning (General) Regulations 2012 (“the General Regulations”) Part 5.

Other statutory requirements

7. I am satisfied of the following matters:

- (1) The Draft NDP area is the parish of East Langton. ELPC is authorised to act in respect of this area (Town and Country Planning Act 1990 (“TCPA”) s61F (1) as read with the Planning and Compulsory Purchase Act 2004 (“PCPA”) s38C;
- (2) The Draft NDP does not contain provision about development that is excluded development (as defined in TCPA s61K), and does not relate to more than one neighbourhood area (PCPA s38B (1));
- (3) No other neighbourhood development plan has been made for the neighbourhood area (PCPA s38B (2));
- (4) There is no conflict with PCPA s38A and s38B (TCPA Sch 4B para 8(1)(b) and PCPA s38C (5)(b)); and
- (5) The draft NDP specifies the period for which it is to have effect as required by PCPA s38B(1)(a).

3. The Extent and Limits of an Examiner's Role

8. I am required to consider whether the Draft NDP meets all the basic conditions specified in TCPA Sch 4B para 8(2) as varied for neighbourhood development plans, namely:

- (a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Plan;

- (d)² The making of the Plan contributes to the achievement of sustainable development;
- (e) The making of the Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- (f) The making of the Plan does not breach, and is otherwise compatible with, EU obligations; and
- (g) Prescribed conditions are met in relation to the Plan and prescribed matters have been complied with in connection with the proposal for the Plan.

9. There is one prescribed basic condition:³ *“The making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (either alone or in combination with other plans or projects)”*.

10. The combined effect of TCPA Sch 4B para 8(6) and para 10(3)(b) and the Human Rights Act 1998 means that I must consider whether the Draft NDP is compatible with Convention rights. ‘*Convention rights*’ are defined in the Human Rights Act 1998 as (a) Articles 2 to 12 and 14 of the European Convention on Human Rights (“the Convention”), (b) Articles 1 to 3 of its First Protocol, and (c) Article 1 of its Thirteenth Protocol, as read with Articles 16 to 18 of the Convention. The Convention rights that are most likely to be relevant to town and country planning are those under the Convention’s Article 6(1), 8 and 14 and under its First Protocol Article 1.

11. In my examination of the substantial merits of the Draft NDP, I may not consider matters other than those specified in the last three paragraphs. In particular I may not consider whether any other test, such as the soundness test provided for in respect of examinations under PCPA s20, is met. Rather it is clear that Parliament has decided not to use the soundness test, but to use the, to some extent, less demanding tests in the basic conditions. It is not my role to write or to rewrite a neighbourhood development plan to reflect my personal views.

12. Having considered the basic conditions and human rights, I have three options, which I must exercise in the light of my findings. These are: (1) that the Draft NDP proceeds to a referendum as submitted; (2) that the Draft NDP is modified to meet basic conditions and then the modified version proceeds to a referendum; or (3) that the Draft NDP does not proceed to referendum. If I determine that either of the first two options is appropriate, I must

² The omission of (b) and (c) results from these clauses of paragraph 8(2) not applying to neighbourhood development plans (PCPA s38C (5)(d)).

³ Sch 2 paragraph 1 of the General Regulations prescribes this.

also consider whether the referendum area should be extended. My power to recommend modifications is limited by statute in the following terms:

The only modifications that may be recommended are—

- (a) modifications that the examiner considers need to be made to secure that the draft [NDP] meets the basic conditions mentioned in paragraph 8(2),*
- (b) modifications that the examiner considers need to be made to secure that the draft [NDP] is compatible with the Convention rights,*
- (c) modifications that the examiner considers need to be made to secure that the draft [NDP] complies with the provision made by or under sections 61E(2), 61J and 61L,*
- (d) modifications specifying a period under section 61L(2)(b) or (5), and*
- (e) modifications for the purpose of correcting errors.⁴*

13. The word “only” prevents me recommending any other modifications. The fact that a modification is desirable is not a sufficient ground to recommend it. So, for example, a proposed modification which gives additional information cannot be justified simply because some would find that information helpful. It is not within my powers to recommend avoidance of repetition or other matters that some may consider unnecessary, unless it happens to come with one of the categories specified in paragraph 12 above.

4 Consideration of Objections

14. I have given all objections careful consideration, but have not felt it necessary to comment on most of them. Rather in accordance with the statutory requirement I have mainly concentrated on giving reasons for my recommendations.⁵ Where I am required to consider the effect of the whole Draft NDP, I have, of course, borne it all in mind.

15. A central issue is a familiar problem in the field of town and country planning: a tension (and sometimes a conflict) between on the one hand those who consider that green fields should be retained and a settlement's growth substantially limited to previously developed land and on the other hand those who consider that the community should contribute more substantially to local and national need for housing provision. It is not my role to determine the relative merits of these in some generalised sense, although I must bear in mind national policies and advice including those that seek more homes and economic development in appropriate locations; nor is it my role to say, whether, if I had been responsible for drawing up the Draft NDP, I would have reconciled the differences in the

⁴ TCPA Sch 4B, para 10(3).

⁵ TCPA Sch 4B, para 10(6). I do not consider that this require express reasons to be given for corrections to obvious minor errors, since these speak for themselves. These minor errors are dealt with in the Appendix A, but not in the body of this report. When I say I have no other concerns about a chapter I am not referring to these minor errors.

same way. Rather it is my role to consider the basic conditions and other matters specified above. These conditions are considered more fully in section 6 below.

5. Public Hearing

16. The general rule is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However an examiner must cause a hearing to be held for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure (1) adequate examination of the issue or (2) a person has a fair chance to put a case. The latter does not apply: no persons have shown themselves unable to put their case in writing. In particular, there is no reason to believe that any person who wished to make representations lacked adequate literacy in the English language. Having considered the written material and having undertaken an unaccompanied site visit, I concluded that a hearing was not necessary for an adequate examination of the issues.

6. Basic conditions and human rights

Regard to national policies and advice

17. The first basic condition requires that I consider whether it is appropriate that the plan should be made "*having regard to national policies and advice contained in guidance issued by the Secretary of State*". A requirement to have regard to policies and advice does not require that such policy and advice must necessarily be followed, but it is intended to have and does have a significant effect.

18. The principal document in which national planning policy is contained is the National Planning Policy Framework (March 2012) ("the Framework") and I have borne that in mind. I have also borne in mind national Planning Practice Guidance ("NPPG"). The phrase "local plan" in national policies and advice does not include "neighbourhood plan".

Contributing to the achievement of sustainable development

19. The second basic condition means that I must consider whether the making of the Plan contributes to the achievement of sustainable development. Unless the Draft NDP, or the Draft NDP as modified, contributes to sustainable development, it cannot proceed to a referendum. This condition relates to the making of the Plan as a whole. It does not require that each policy in it must contribute to sustainable development. It does require that the Plan as a whole must contribute to the achievement of sustainable development. That means, among other things that the combined effect of policies must not prevent the level of new development that is needed. In assessing the combined effect of policies I have found Figure 12 on page 59, the Environmental Proposals Map, helpful.

20. The bulk of the Framework constitutes guidance on sustainable development. Its paragraph 6 says, “*The policies in paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development... means in practice for the planning system.*”

21. I note the draft NDP’s references to older residents and elderly persons and its mention of disabled people and younger people.⁶ These contribute to the social element of sustainable development. I am satisfied that nothing in the draft NDP involves a conflict with any duty under the Equality Act 2010, the principle of equality inherent in EU law, or the human rights of disadvantaged people.

22. I also note the references to walking and cycling.⁷ Support for walking and cycling contributes to the environmental element of sustainable development.

23. The references to trees⁸ contribute to the environmental element of sustainable development and complement HDC’s duty under TCPA s197.

24. The draft NDP contains many references to the historic heritage of the parish. In general I welcome this concern as being consistent with the duties imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 and contributing to the environmental element of sustainable development. It must not however be taken so far in respect of undesignated heritage assets as to prevent the level of sustainable development that is needed. I deal with the details under specific parts of the draft NDP.

General conformity with the development plan’s strategic policies

25. The third basic condition means that I must consider whether the Draft NDP is in general conformity with the strategic policies contained in the development plan for the area of the authority. The development plan means the adopted development plan, not the emerging Local Plan. The latter is not relevant to basic condition (e).

26. The adjective ‘*general*’ allows a degree of (but by no means unlimited) flexibility and requires the exercise of planning judgement. This condition only applies to strategic policies - there is no conformity requirement in respect of non-strategic policies in the development plan or supplementary policy. In assessing whether a policy is strategic, I have borne in mind the advice in NPPG para 074.⁹

27. General condition (e) has required me to pay particular attention to Harborough District Local Development Framework Core strategy 2006 – 2028 (adopted 14th November

⁶ Pages 3, 22, 23, 40 and 62.

⁷ Pages 14, 21, 32 and 42.

⁸ Pages 21, 40, 41 and 50.

⁹ NPPG, Neighbourhood Planning, para 074, Reference ID: 41-074-20140306.

2011). This places Church Langton and East Langton in the 'Harborough Rural North and Central housing sub-market area' and identifies Church Langton as a selected rural village because it has two relevant services (a school and a pub). A minimum of 40% of the total number of dwellings in this sub-area should be affordable. At least 2,420 dwellings should be delivered in rural centres and the selected rural villages between 2006 and 2028 with development in the selected rural villages being on a smaller scale than in the rural centres. "[D]evelopment will be on a scale which reflects the size and character of the village concerned, the level of service provision and takes into account recent development and existing commitments." "Outside these rural settlements, new development in the Countryside and other settlements not identified as selected rural villages will be strictly controlled." East Langton is one of the "other settlements".

EU obligations

28. The fourth basic condition requires me to consider whether the Draft NDP breaches or is otherwise incompatible with, EU obligations. I have in particular considered the following Directives: the Strategic Environmental Assessment Directive (2001/42/EC); the Environmental Impact Assessment Directive (2011/92/EU); the Habitats Directive (92/43/EEC); the Wild Birds Directive (2009/147/EC); the Waste Framework Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); and the Water Framework Directive (2000/60/EC). I am satisfied that no issue arises in respect of equality under general principles of EU law or any EU equality directive.

29. I am satisfied that the making of the NDP would not breach, and be otherwise incompatible with, EU obligations and that it is not necessary to consider the matter further in this report.

European site and European offshore marine site

30. I am satisfied that the making of the NDP would not breach, and be otherwise incompatible with the prescribed basic condition and that it is not necessary to consider the matter further in this report.

Human Rights

31. English Planning law in general complies with the Convention. This matter can also be dealt with briefly in advance of detailed consideration of the contents of the Draft NDP. I have considered whether anything in the Draft NDP would cause a breach of any Convention right. In particular I have considered the Convention's Articles 6(1), 8 and 14 and its First Protocol Article 1 ("FPA1"). Article 8 requires a proportionate approach to the interests of homeowners and occupiers and FPA1 to those of property owners. Properly applied English planning law and practice does that. I am satisfied if modified in accordance with my recommended modifications, there would be no breach of any Convention right.

7. The contents of the Draft NDP

32. This section of the report comments on the contents of the draft NDP. It makes a series of recommended modifications to ensure that this meet the basic conditions and avoids conflict with Convention rights.

33. It will be apparent from the above that, having been satisfied in respect of basic conditions (f) and (g) and that a proper application of English planning law and practice will avoid the need for a separate consideration of human rights, I have therefore needed to concentrate on basic conditions (a), (d) and (e) while making some further comment on human rights. My recommended modifications are those that I consider need to be made to secure that the Draft NDP meets these basic conditions and to correct errors.

34. Before moving to the details, it may help to point out that I have been concerned about the totality of constraints. This has resulted in my recommending a reduction in those constraints in order to avoid a conflict with the basic conditions.

Chapters 1 to 6

Page 8

35. The second complete paragraph is out of date and requires updating.

Recommended modification

Update the second complete paragraph on page 8.

Page 11

36. The page ends “... *six buildings plus a boundary wall are ‘Listed’ as being of special architectural and historic interest*”. This is incorrect. There are eight listed buildings as explained in my comments in respect of page 35. In law, walls are buildings.

Recommended modification

Page 11 should end:

“... *eight buildings (specified in 7.5(a) below) are ‘Listed’ as being of special architectural and historic interest*”.

37. I have no other concerns about chapters 1 to 6.

Chapter 7

Page 19

38. The level of housing need will be determined through the Local Plan process. In that process the local planning authority and the inspector will have the advantage of being able to

compare the various settlements in the district and determine the distribution of development, bearing that comparison in mind. I note the indication of numbers on page 18 and 19 of the draft NDP and the statement on page 19 that the *“the potential increase in numbers required called into question the ability of the Plan to deliver the numbers of new house required up to 2031”*. I consider this to be an indication of a possibility that is more than fanciful.

39. Policy H1 deals with housing provision, a matter of great importance in national policy and something to which great attention must be paid when considering whether an NDP contributes to the achievement of sustainable development. It provides that the Local Plan determined housing need will be met through windfall sites and in-fill development. The statement just quoted on page 19 indicates that it is far from certain and cannot be said to be likely that the need will be met in this way. The policy therefore requires modification. I recommend that this be done by adding the words *“so far as practicable”*.

Recommended modification

Policy H1 should be modified to read:

“POLICY H1: HOUSING PROVISION - The Neighbourhood Plan provides for the development of sufficient new homes as required for completion in the period from 2015 to 2031, to be determined once housing distribution targets have been finalised by Harborough District Council, to be met, so far as practicable, through Windfall Sites in line with Policy H3 and in-fill development in line with the definition of Selected and Sub-Selected Rural Villages within the emerging Local Plan.”

Page 21

40. Policy H2(a) refers to “the existing built up area of the villages of Church Langton and East Langton (as defined by the Limits to Development identified, see fig 2)”. There is no figure 2. The explanation that the Limits to Development have been removed as explained on page 19 and that the necessary consequential alteration to policy H2 (a) was not made. The approach of the policy is nonetheless appropriate for windfall development. I am satisfied that the extent of the built-up area of the villages is sufficiently clear for a policy.

Recommended modification

Policy H2(a) should be modified to read:

“It is within the existing built-up area of the villages of Church Langton and East Langton”.

41. In addition to their being no figure 2, there is also no figure 3.

Recommended modification

Figure 4 and subsequent figures are renumbered to reflect the absence of any figure 2 or 3.

Page 26

42. No reason is given why small-scale development for Class B8 that does not have an adverse impact or conflict on surrounding residential and community amenity and uses should only be permitted in exceptional circumstances. While I recognise that large-scale B8 uses, particularly for distribution, can have an adverse impact, that does not just justify such a restrictive policy. Concerns in respect of small-scale development can be dealt with by conditions, such as limitations on days and hours of use. The words “or conflict” seem unnecessary and could cause confusion by implying that something that did not have an adverse impact was against the policy. I am satisfied that this is not an area where B2 use should be permitted other than in exceptional circumstances.

Recommended modification

Replace policy E1 with

“Policy E1: EMPLOYMENT - Proposals for small-scale development for Class B1 Light Industrial purposes and Class B8 distribution and storage will be supported where it can be demonstrated that there would be no adverse impact on surrounding residential and community amenity and uses. Proposals for General Industrial use (B2) uses will not be permitted unless in exceptional circumstances.

Page 27

43. The final sentence refers to repealed legislation and so is out of date.

Recommended modification

Replace the final sentence on page 27 with:

“The Town and Country Planning (General Permitted Development) (England) Order 2015 allows, under certain circumstances, the change of use of agricultural buildings to residential use and change of use of agricultural buildings to registered nurseries providing childcare or state-funded schools, under the prior approval system.”

Page 33

44. It is not appropriate to express an opinion on the conclusion of a statutory procedure that HDC will have to carry out without fettering its discretion and with an open mind considering all material factors.

Recommended modification

Replace the second complete sentence on page 33 with:

“The following community services and assets are expected to be considered for designation as Assets of Community Value and more may come forward over the life time of the Plan.”

Page 35

45. The War Memorial, mentioned as a locally listed building, is a listed building under the Planning (Listed Buildings and Conservation Areas) Act 1990.¹⁰

Recommended modifications

Replace “currently 7 structures” with “currently 8 structures” and add “War Memorial” to the indents.

Pages 38-39

46. In principal, the inclusion of “locally listed buildings” in an NDP is appropriate. The War Memorial should be deleted because it is a listed under the Planning (Listed Buildings and Conservation Areas) Act 1990. I have considered the evidence in respect of the remaining buildings including the document headed “Buildings of Importance for local Listing” and my site visit. I have no reason to doubt the former, although I do not consider it appropriate to give weight to rumour and am satisfied that all the buildings detailed in it (other than the War Memorial) should be included in the local list.

47. I have taken particular care in respect of the proposed local listing of the allotment wall and took some time viewing it on my site visit. While (as mentioned in paragraph 53 below), I accept the Hanbury Charity’s Local Green Space objection, I consider that the wall is an undesignated heritage asset that merits protection as an historic structure in a central village location and close to listed and other historic buildings.

48. The “House on green in East Langton” is an ambiguous description, the intended building being “The Maltings”.

Recommended modification

The indents that start on page 38 and continue on page 39 should read:

- Ledclune Court stable block
- ‘The Maltings’, East Langton
- The Grange
- Deene Cottage
- Brooke House and adjoining property ‘The Cottage’
- Allotment wall and Churchyard wall
- Langton Arms public house.”

¹⁰ List Entry Number 1437759.

49. While not making a recommendation to this effect, consideration might be given to a figure that shows the listed buildings and the locally listed buildings. This would be a minor matter that would not necessitate further consultation.

Pages 44-45

50. The Framework's paragraph 76 states that neighbourhood plans should be able to identify for special protection green areas by designating land as Local Green Space ("LGS"). Such land should be of particular importance to the local community. Because this designation rules out new development other than in very special circumstances particular care needs to be taken to ensure it does not (in conjunction with other policies) prevent an NDP providing needed sustainable development. Because they should "*be capable of enduring beyond the end of the plan period*" they should not be applied to land that may be needed for development after 2031. As page 14 of the draft NDP says "*Local Green Spaces and important views are maintained for the enjoyment of future generations.*" Only sites that meet the Framework's paragraph 77 should be designated as LGSs. There is no bar on private land being designated; but, before concluding that such a designation is appropriate, the human rights of the owners and occupiers must be properly considered.

51. I was able to look at and get a clear view of all the proposed local green spaces on my site visit.

52. I am satisfied the sites described as 'Village 'green' Church Langton (12) and Coronation Gardens, East Langton (19) comfortably accord with the Framework's criteria and do not otherwise conflict with any basic condition and should be identified as LGSs. Each has at least *de facto* public access and the community's view on them is supported by each having the feel of being a the sort of site that would be "demonstrably special to a local community". The cricket ground (16) also meets each of the criteria in the indents in the Framework's paragraph 77.

53. The Church Langton allotments are privately owned and there appears to be no right of access (or *de facto* access) to them on the part of the general public. Allotments legislation may apply to them, they are in the Conservation Area and they adjoin the churchyard of the Grade 2* listed St Peter's Church and are very close to the church itself and close to the Old Rectory walls. I am not recommending modification of the inclusion of the allotment wall as a locally listed building. These factors will impact on the ability to develop the allotments. However I am not persuaded that the allotments satisfy paragraph 77's second indent.

54. The land described as 'Thorpe Path' Open Space, Church Langton (6) is an attractive green area that satisfies paragraph 77's first and third indents. However it does not satisfy the second indent. Further the sustainable location of this land (not least in being within easy

walking distance of the primary school, which suffers significant “school-run” problems¹¹) in the more sustainable of the two villages, means that I must consider whether its designation as an LGS might prevent the making of the Plan from contributing to the achievement of sustainable development. Its western half is within the Church Langton Conservation Area and it is an Open Space Sports and recreation site, matters that anybody determining a planning application would have to bear in mind. However it is not in the most sensitive area of the village. There is a real prospect that it could be needed for development within the plan period. As such it should not be subject to a policy, intended to last beyond that period that would prevent development (other than in very special circumstances) during that period and be capable of enduring beyond the period.

Recommended modification

Page 44, last paragraph of supporting text:

Replace “the six highest scoring (70% and over) are proposed as those best representing the Plan Area’s most important, characteristic and valued open spaces” with “three of the highest scoring (70% and over) are important, characteristic and valued open spaces and are designated as Local Green Spaces.

Pages 44-45, Policy ENV 1

Replace this with:

“Policy ENV 1: PROTECTION OF LOCAL GREEN SPACES - The following sites are designated as Local Green Spaces (LGS). Development proposals that result in their loss, or in any harm to their biodiversity, historical features, character, setting, accessibility or amenity value will not be permitted.

- Village ‘green’, Church Langton (site 12)
- Cricket Ground, East Langton (site 16)
- Coronation Gardens, East Langton (site 19).”¹²

Pages 45-46

55. I am satisfied that the evidence justifies the identification of the “other environmentally significant sites” and the moderate wording of policy ENV 2. However the final sentence on page 45 goes too far for sites whose importance is secondary.

¹¹ Page 60.

¹² It may be convenient to renumber these remaining LGSs and that should not be interpreted as being in conflict with my recommendation.

Recommended modification

Replace the final sentence on page 45 with:

“Development that threatens or damages natural or historic features of value on these sites should be justified.”

Page 49

56. The NDP cannot make policy outside its area. The wildlife corridor along Stonton Brook should be limited to land within the East Langton parish.

Recommended modifications

The annotation in blue on Figure 8 of the wildlife corridor along Stonton Brook should be reduced by removing it from land that is outside the parish of East Langton.

Pages 50-53

57. The policy in respect to of ridge and furrow is unusual. That does not mean it is necessarily inappropriate,¹³ but it is a ground for particular care especially when it involves substantial areas of land some of which may be needed for sustainable development. The arguments in respect of ridge and furrow are not devoid of any merit, but neither are they strong. I have concluded that the policy is too strong, but that some recognition should be given to the community's valuing this feature.

Recommended modification

Policy ENV 4 should be modified to read

“Ridge and furrow earthworks are capable of being non-designated heritage assets. Development proposals that are not necessary to provide needed sustainable development and that adversely affect or damage an identified surviving area of ridge and furrow will be resisted.”

Page 54 - 56

58. The basis for these pages is a desire on the part of the community to protect views. In the absence of a professional assessment, I looked at each view on my site visit. I saw countryside that, like much of the rural English Midlands is attractive, but not exceptional. In the light of the weakness of evidence in support of policy ENV 5 and my conclusion that the totality of constraints in the draft NDP places it in breach of basic condition (d), I recommend the deletion of the whole of this part of the NDP.

¹³ The same might be said of the St Ives NDP policy upheld in *R. (RLT Built Environment Ltd) v Cornwall Council* [2016] EWHC 2817 (Admin), [2017] JPL 378, Hickinbottom J, 10th November 2016.

Recommended modification

Delete pages 54 to 56 entirely.

Page 59

59. Figure 12 illustrates some of the extent of site-specific constraints and I share the view of Andrew Granger that the total effect of these constraints is highly restrictive and constrains development on all reasonable development sites within or adjacent to the existing settlements. Without modification the total effect of the NDP's policies would be to prevent the NDP from contributing to the achievement of sustainable development and hence place it in breach of basic condition (d). However, with the modifications that I am recommending, this concern is met.

Recommended modification

Delete the arrows indicating "important views of open countryside" and the reference to these in the key.

Only show "Riverine habitat corridor" within the parish.

60. I have no other concerns in respect of chapter 7.

Chapter 8

Page 63

61. The phrase "for a period of 15 years" is uncertain in the context and should be replaced with the precise end date.

Recommended modification

Replace "for a period of 15 years" with "until 31st March 2031".

62. I have no other concerns in respect of chapter 7

Updating

63. It may be that certain passages need updating. Where there is an indisputable matter of primary fact, no further consultation will be required in respect of it

8. The Referendum Area

64. As stated on page 9 of the draft NDP a "*small number of homes are within the village of Church Langton but in the Parish of West Langton*". These homes adjoin Melton Road and lie north of the public footpath to Kibworth Beauchamp. They extend from and include 'Hollies Farm' in the south to 'Home Farm' in the north. Their connection with the rest of Church Langton is so close that the referendum area should be extended to add these homes. Apart from that, I see no reason for the referendum area to be extended beyond the

designated plan area, namely the parish of East Langton. I therefore recommend that the referendum area be limited to that area and the homes that are within the village of Church Langton but in the Parish of West Langton.

9. Summary of Main Findings

65. I have been appointed by HDC to carry out the independent examination of the draft NDP. The examination was undertaken by written representations together with an unaccompanied site visit.

66. I commend the Draft NDP for being well written, logical, clear, appropriately concise and intelligible to a reasonably intelligent lay reader with no expertise in town and country planning.

67. I recommend that the draft NDP be modified in the terms specified in Appendix A to this report in order to meet basic conditions and to correct errors. I am satisfied with all parts of the draft NDP to which I am not recommending modifications.

74. With those modifications the draft NDP will meet all the basic conditions and human rights obligations. Specifically

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the NDP;
- The making of the NDP contributes to the achievement of sustainable development;
- The making of the NDP is in general conformity with the strategic policies contained in the development plan for the area of ELPC (or any part of that area);
- The making of the NDP does not breach, and is not otherwise incompatible with, EU obligations;
- The making of the NDP is not likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects).
- The modified draft NDP is in all respects fully compatible with Convention rights contained in the Human Rights Act 1998.

75. I recommend that the modified NDP proceed to a referendum, the referendum area being the parish of East Langton together with a few houses in the village of Church Langton, but just outside the parish boundary.

Timothy Jones, Barrister, FCI Arb,

Independent Examiner,

No 5 Chambers

1st February 2018.

Appendix A: Recommended Modifications

1. Page 8

Update the second complete paragraph.

2. Page 11

Replace “six buildings plus a boundary wall are ‘Listed’ as being of special architectural and historic interest” with “eight buildings (specified in 7.5(a) below) are ‘Listed’ as being of special architectural and historic interest”.

3. Page 19

Replace Policy H1 with:

“POLICY H1: HOUSING PROVISION - The Neighbourhood Plan provides for the development of sufficient new homes as required for completion in the period from 2015 to 2031, to be determined once housing distribution targets have been finalised by Harborough District Council, to be met, so far as practicable, through Windfall Sites in line with Policy H3 and in-fill development in line with the definition of Selected and Sub-Selected Rural Villages within the emerging Local Plan.”

4. Page 21

Replace H2(a) with:

“It is within the existing built-up area of the villages of Church Langton and East Langton”.

5. Page 24

Replace “H5” with “H4”.

6. Page 26

Replace policy E1 with:

“Policy E1: EMPLOYMENT - Proposals for small-scale development for Class B1 Light Industrial purposes and Class B8 distribution and storage will be supported where it can be demonstrated that there would be no adverse impact on surrounding residential and community amenity and uses. Proposals for General Industrial use (B2) uses will not be permitted unless in exceptional circumstances.

7. Page 27

Replace the final sentence with:

“The Town and Country Planning (General Permitted Development) (England) Order 2015 allows, under certain circumstances, the change of use of agricultural buildings to residential

use and change of use of agricultural buildings to registered nurseries providing childcare or state-funded schools, under the prior approval system.”

8. Page 33

Replace the second complete sentence with:

“The following community services and assets are expected to be considered for designation as Assets of Community Value and more may come forward over the life time of the Plan.”

9. Page 35

Replace “currently 7 structures” with “currently 8 structures” and add “War Memorial” to the indents.

10. Pages 36 and 37

Replace “meters” on each page with the British English “metres”.

11. Page 36 and subsequent pages containing figures

Renumber figure 4 and subsequent figures to reflect the absence of any figure 2 or 3 and the recommended deletion of figure 10.

12. Pages 38 and 39

Replace the indents that start on page 38 and continue on page 39 with:

- Ledclune Court stable block
- ‘The Maltings’, East Langton
- The Grange
- Deene Cottage
- Brooke House and adjoining property ‘The Cottage’
- Allotment wall and Churchyard wall
- Langton Arms public house.”

13. Page 40

Replace “east” in the 7th line from the bottom with “East”

14. Page 44

Replace the end of the last paragraph of supporting text “the six highest scoring (70% and over) are proposed as those best representing the Plan Area’s most important, characteristic and valued open spaces” with “three of the highest scoring (70% and over) are important, characteristic and valued open spaces and are designated as Local Green Spaces.

15. Pages 44 and 45

Replace Policy ENV 1 with:

“Policy ENV 1: PROTECTION OF LOCAL GREEN SPACES - The following sites are designated as Local Green Spaces (LGS). Development proposals that result in their loss, or in any harm to their biodiversity, historical features, character, setting, accessibility or amenity value will not be permitted.

- Village ‘green’, Church Langton (site 12)
- Cricket Ground, East Langton (site 16)
- Coronation Gardens, East Langton (site 19).”

16. Page 45

Replace the final sentence with: “Development that threatens or damages natural or historic features of value on these sites should be justified.”

17. Page 49

The annotation in blue on Figure 8 of the wildlife corridor along Stonton Brook should be reduced by removing it from land that is outside the parish of East Langton.

18. Page 50

After “all in Church Langton” in the second paragraph, close the brackets.

19. Page 52

Replace the text of Policy ENV 4 with

“Ridge and furrow earthworks are capable of being non-designated heritage assets. Development proposals that are not necessary to provide needed sustainable development and that adversely affect or damage an identified surviving area of ridge and furrow will be resisted.”

20. Pages 54 to 56

Delete these pages entirely

21 Page 59 (Figure 12)

Delete the arrows indicating “important views of open countryside” and the reference to these in the key.

Only show “Riverine habitat corridor” within the parish.

22 Page 63

Replace “for a period of 15 years” with “until 31st March 2031”.

Updating

If necessary, there should be appropriate minor updating relating to uncontroversial matters.

Appendix B: Abbreviations

The following abbreviations are used in this report:

Convention	European Convention on Human Rights
Draft NDP	draft East Langton Neighbourhood Development Plan 2011-2031
EU	European Union
FPA1	First Protocol Article 1 of the European Convention on Human Rights
Framework	National Planning Policy Framework (DCLG, March 2012)
General Regulations	Neighbourhood Planning (General) Regulations 2012 (as amended)
ELPC	East Langton Parish Council
LGS	Local Green Space
NDP	Neighbourhood Development Plan
NPPG	national Planning Practice Guidance
para	paragraph
PCPA	Planning and Compulsory Purchase Act 2004 (as amended)
s	section
HDC	Harborough District Council
Sch	Schedule
TCPA	Town and Country Planning Act 1990 (as amended)

Where I use the verb 'include', I am not using it to mean 'comprise'. The words that follow are not exclusive.