

Lubenham Neighbourhood Development Plan 2016 – 2031

Submission Version to HDC for Consultation - January 2016

Final Report March 2017 to Harborough District Council of the Examination into the Lubenham Neighbourhood Development Plan 2016 – 2031.

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1.0 INTRODUCTION AND ROLE OF THE INDEPENDENT EXAMINER

- 1.1** Neighbourhood Planning is an approach to planning which provides communities with the power to establish the priorities and policies to shape the future development of their local areas. This Report sets out the findings of the examination of the Lubenham Neighbourhood Plan, Submission Version to HDC for Consultation, January 2016 (the Plan) which is intended to cover the period up to 2031.
- 1.2** The rural Parish of Lubenham, comprising the village of Lubenham and the smaller areas of Gartree, Bramfield and Greenacres, lies within the Harborough District Council's administrative area of Leicestershire to the west of the town of Market Harborough. The main village is approximately 2 miles (3.2 km) west of the town on the Leicestershire/Northants border and lies on the route of the A4304 which connects the town to the M1.
- 1.3** The Plan refers to noteworthy local recreational features and character buildings within the village, defining the housing composition and population of both the main village and the areas of Gartree, Bramfield and Greenacres, plus recent planning permissions granted for up to 1500 new homes and a business area with agricultural showground in the Strategic Development Area (SDA) to the north west of Market Harborough.
- 1.4** The Plan advises that the population of the Parish in 2011 was 1735 persons (including the inmates of Gartree Prison) of whom some 1300 were of employment age.
- 1.5** The Designated Area and Designation Statement explains that Lubenham Parish Council (LPC) voted to undertake the preparation of a Neighbourhood Plan in October 2011 and following application of the entire Parish to be included within the Neighbourhood Plan Area, this was approved on 10th June 2013 by Harborough District Council (HDC). The Parish Council have with the assistance of local residents, professional consultants and the District Council undertaken progressive and extensive consultation exercises, conducted a Housing Need Survey and prepared both the draft and submission versions of the Neighbourhood Plan.
- 1.6** My role as an Independent Examiner, when considering the content of a Neighbourhood Plan, is limited to assessing whether the submission version of the Neighbourhood Plan meets the 'basic conditions', and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended). The role is not to test the soundness of a Neighbourhood Plan or to examine other material considerations. Paragraph 8 of Schedule 4B to the Town & Country Planning Act 1990 (as amended) [excluding 2b, c, 3 to 5 as required by 38C (5) of the Planning and Compulsory Purchase Act 2004 (as amended)], states that the Plan must meet the following 'basic conditions':
- it must have appropriate regard for national policy;
 - it must contribute towards the achievement of sustainable development;
 - it must be in general conformity with the strategic policies of the development plan for the local area;
 - it must be compatible with human rights requirements and
 - it must be compatible with EU obligations.

- 1.7** In accordance with Schedule 4B, section 10 of the Town & Country Planning Act 1990 (as amended), the Examiner must make a report on the submission version of the plan containing recommendations and reaching one of the following three concluding recommendations:
- (a) that the submission version of the Plan is submitted to a referendum, on the basis it meets all the legal requirements, or
 - (b) that subject to modifications specified in the Examiner's report being made to the submission version of the Plan and that the modified submission version of the plan proceeds to a referendum, or
 - (c) that the submission version of the Plan does not proceed to referendum on the basis that it does not meet the legal requirements.
- 1.8** If recommending that the Plan proceeds to a referendum, I am also then required to consider whether the Referendum Area should extend beyond the LNDP Area, to which the Plan relates. I make my recommendations on this aspect at the end of this Report.
- 1.9** I am independent of the qualifying body, associated residents, business leaders and the local planning authority. I do not have any interest in any land that may be affected by the Plan and I possess the appropriate qualifications and experience required to undertake the Examination.

2.0 BASIC CONDITIONS

- 2.1** I now consider the extent to which the Plan meets the "basic conditions". A Basic Conditions Statement was prepared in April 2016 and explains the requirements of the Lubenham Neighbourhood Plan must meet to satisfy the basic conditions tests, what these comprise and how the Plan meets these tests, including the contribution that the Plan makes towards the achievement of sustainable development and its conformity with the strategic policies for the development of the area. This Statement has been supplied to me by Harborough District Council, together with the other examination documents including the Submission Version of the Plan, the Consultation Statement, the replies to the Regulation 16 consultation and Strategic Environmental Assessment Screening Report.
- 2.2** The Basic Conditions Statement demonstrates how the Neighbourhood Plan conforms with provision made under sections 61E (2), 61J and 61L of the Town & Country Planning Act 1990, as amended by Localism Act 2011. I am content Lubenham Neighbourhood Plan (Lubenham NDP), has been submitted by a qualifying body, Lubenham Parish Council, in accordance with requirements of Localism Act 2011. Lubenham Parish Council as a qualifying body is thus entitled to prepare a Neighbourhood Plan.
- 2.3** Lubenham NDP covers the entire Parish. I am content that the Lubenham NDP meets the requirements of The Town & Country Planning Act 1990, s 61 G in relation to the designation of the Plan area and that the proposed Neighbourhood Plan does not relate to more than one neighbourhood area and that there are no other Neighbourhood Development Plans in place within this neighbourhood area.
- 2.4** In relation to the Plan period it is essential that the Lubenham NDP contains explicit reference to its starting point as well as its end point. Currently there is reference to its end point 2031 but no mention of its starting point. This may reasonably be deduced to be 2016 as the year in which the full Submission Version was published. The omission may

readily be remedied by inclusion of the starting point on the front cover page and by inclusion of appropriate explanatory text confirming same within The Foreword to the Plan.

2.5 The Foreword to the Submission Version of the Lubenham NDP explains that the primary objective of the Parish Council in commencing the preparation of the Plan in 2013 was *"because they wanted all the people of Lubenham to have a say in many aspects of the parish's future but most importantly it wanted local people to have their say on where new housing should go rather than leaving this decision entirely to the planning authority."* In addition, the Foreword also explains the Parish Council, *"believe that the policies in this plan will help to ensure that new developments within the village will be designed sensitively, will provide the types of houses that residents have told us are needed by local people and will contribute to the rich diversity that exists within and around the parish"*.

2.6 I note that the Harborough Local Plan (LP) was adopted in 2001 and a Core Strategy (CS) 2006 - 2028 was adopted in 2011 which either replaced or saved policies contained within the Local Plan. The Council advises on its own website that "The Core Strategy is now considered out of date in terms of policies relating to housing and economic development following the publication of the National Planning Policy Framework." It also advises that their revised, intended timetable for preparation of a replacement Local Plan for the District is as follows:

At its meeting on 31 October 2016 the council's Executive committee approved a new timetable for the preparation of the Local Plan. The approved timetable is:

- *July 2017: Council approval of pre-submission Local Plan for publication*
- *November 2017: Submission of Local Plan to Secretary of State for public examination*
- *February 2018: Examination hearing*
- *July 2018: Receipt of inspector's report*
- *September 2018: Adoption of the Local Plan*

Appropriate Regard to national policies and advice (including the National Planning Policy Framework (NPPF))

2.7 Presumption in favour of sustainable development: the NPPF advises that all plans should be based upon this presumption with clear policies that will guide how the presumption should be applied locally. Paragraph 16 of the NPPF acknowledges that the application of the presumption in favour of sustainable development will have implications for how communities engage in neighbourhood planning. Neighbourhoods are encouraged to develop plans that support the strategic development needs set out in Local Plans (including policies for housing and economic development) and plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan. The Basic Conditions Statement asserts the Neighbourhood Plan is planning positively, delivering new housing on allocated sites that meets the target set for Lubenham by the District Council, accepting its designation in the CS as a 'Rural Village' needing to accommodate some housing growth and recognising that a large area of the Parish is to be taken up by the Strategic Development Area (SDA) (Policy CS13) to the North West of Market Harborough and provide 1500 homes within the easternmost part of Parish closest to the town.

2.8 The Basic Conditions Statement refers to the requirement in the NPPF at paragraphs 183-185. The NPPF explains at paragraph 183, that neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver

the sustainable development they need. Parishes and neighbourhood forums can use neighbourhood planning to:

- set planning policies through neighbourhood plans to determine decisions on planning applications; and
- grant planning permission through Neighbourhood Development Orders and Community Right to Build Orders for specific development which complies with the order.

2.9 The Lubenham NDP immediately follows its Foreword with a statement establishing a clear Vision for the Parish that has been guided by extensive and progressive rounds of community consultation and engagement. In considering the overall reaction to the draft Pre-Submission version of the Plan the Consultation Statement (updated February 2016) indicates that of the responses received at that stage predominantly minor changes to the text of the Pre-Submission Draft Plan were required. The Parish Council has sought to translate the vision into a series of meaningful planning policies to plan for housing growth, protect the character of the area and to determine future planning applications as part of the Development Plan for the District.

2.10 Paragraph 184 of the NPPF requires that the ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area and that neighbourhood plans must be in general conformity with the strategic policies of the Development Plan. Furthermore, neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Provided that neighbourhood plans do not promote less development than set out in the relevant Development Plans, or undermine the strategic policies, neighbourhood plans may shape and direct sustainable development in their area. It is clear from the Basic Condition Statement that the District and Parish Councils believe the Lubenham Neighbourhood Plan is in general conformity with the strategic policies of the 2011 Core Strategy, striking a positive balance between the physical and policy constraints of the Parish and the requirement to meet local housing demand. Helpfully, the Basic Conditions Statement sets out how each of the thematic policies supports relevant policies contained in the Core Strategy and Local Plan and conforms with the provisions of the NDPPF in a tabular format. The Submission Version of the Plan also clarifies from the outset that its life span has been matched to that of the emerging Local Plan (ie to 2031) so that it may reasonably rely on the evidential background documentation used in its preparation. The Lubenham NDP also references the more recent Strategic Housing Land Availability Assessment (SHLAA) in its reasoning behind the selection of specific housing sites for allocation within the Lubenham NDP.

2.11 The Lubenham NDP Basic Conditions Statement systematically sets out how the Submission Version of Neighbourhood Plan meets the NDPPF guidance based on the principal topic areas cross referenced to the Core Strategy and Local Plan policies. Subject to my comments in section 5 of this report, in relation to various policies of the Plan, I am generally satisfied that the Plan has adequate regard to both national guidance and the Development Plan.

Contribution to towards achievement of Sustainable Development

2.12 At paragraph 7, the NDPPF defines the three dimensions to sustainable development as being, economic, social and environmental; the NDPPF sets out the roles that the planning system is expected to perform in relation to each. The Lubenham NDP contributes to the

achievement of sustainable development as defined within the NDPPF, as outlined in the Sustainability Appraisal contained within Section 4 and Appendix 3 of the Lubenham NDP Strategic Environmental Assessment Screening Report of 14th March 2016 prepared by Harborough District Council in respect of the Submission Version of the Plan.

- 2.13** I consider that this approach offers a clear analytical framework to test the credentials of the Submission Version of the Plan and consider that the Plan would properly contribute to the objective of sustainable development, subject to various policy amendments that I have recommended below.

General Conformity with the Strategic Policies for the local area

- 2.14** The statutory development plan currently relating to the Lubenham NDP area currently comprises the Core Strategy adopted by Harborough District Council in 2011 which replaces/saves certain policies from the Local Plan adopted by the Council in 2001. The approach to the preparation of the Lubenham NDP has been to ensure general conformity with both the saved policies of the adopted Local Plan (LP) and those new/replacement policies contained in the Core Strategy (CS) to ensure that the Plan remains relevant for the period of the CS prior to its replacement by a new, emerging Local Plan for the District. This is demonstrated within the Basic Conditions Statement, Section 7 Explanation of Conformity with National Planning Policy Framework and Local Plan, which sets out clearly how the Lubenham NDP conforms with each of the relevant strategic policies of both the CS and the LP. I am, therefore, satisfied that the Neighbourhood Plan is in general conformity with the strategic policies in the Harborough Core Strategy.

Compatibility with European Union Obligations

- 2.15** In relation to the Lubenham NDP, Harborough District Council provided a Screening Report in June 2016 completing the required Strategic Environmental Assessment (SEA) for the Lubenham NDP. The SEA Report explains the reasons why the Sustainability Appraisal incorporating SEA had been undertaken and the method employed and the reasons for that approach. The Report confirms the advice in the National Planning Policy Guidance (NPPG), February 2015, which clarifies where a SEA may be required for a neighbourhood plan. Two such instances are where sites are being allocated for development in a neighbourhood plan and that plan is likely to have significant environmental effects not already been considered through a sustainability appraisal of the Local Plan. Sensibly Harborough District Council undertook the SEA to properly address both these areas.
- 2.16** Harborough District Council website advises that as part of the emerging replacement Local Plan they also undertook an interim Sustainability Appraisal in respect of nine alternative sites considered for housing and employment allocation in the District.
- 2.17** The Regulation 16 consultations did not indicate any parties were discontent with the methodology or finding of the SEA undertaken in respect of the Lubenham NDP.
- 2.18** It is therefore apparent that the primary reason for the Lubenham Neighbourhood Plan requiring the undertaking of a SEA was to fully consider and appraise the reasonable alternatives available for potential housing allocation sites against a sustainability framework. This requirement has been fully met as can be seen from Section 4 and Appendix 3 of the Lubenham Neighbourhood Plan SEA. I therefore consider that a

proportionate and focussed approach has been taken through the SEA process for the Lubenham Neighbourhood Plan.

- 2.19** The SEA Directive and NPPG guidance is clear in that a SEA Environmental Report need only be as detailed as appropriate to the content and level of detail of the neighbourhood plan. An environmental report must identify, describe and evaluate the likely significant effects on the environment of implementing the neighbourhood plan policies and of the reasonable alternatives taking into account the objectives and geographical scope of the neighbourhood plan. NPPG guidance goes on to state that reasonable alternatives must also be sufficiently distinct, realistic and deliverable.
- 2.20** The SEA regulations and guidance does not require reasonable alternatives for each/every policy area in a neighbourhood plan and it is clear both Councils consider the proportionate requirement for neighbourhood plan SEA's to appraise 'reasonable alternatives' had been met.
- 2.21** On the issue of sustainability appraisal, Regulation 12 (2) of The Environmental Assessment of Plans and Programmes Regulations 2004, requires the preparation of an environmental report that identifies, describes and evaluates the likely significant effects on the environment of implementing the plan or programme and reasonable alternatives taking into account the objectives and geographical scope of the plan or programme. The SEA needs to compare the alternatives including the preferred approach, and assess these against the baseline environmental characteristics of the area and the likely situation if the neighbourhood plan were not to be made and that the SEA should predict and evaluate the effects of the preferred approach and reasonable alternatives.
- 2.22** The advice in the NPPG on SEA is set out in paragraphs 026-045 inclusive. Paragraph 029 states; *"Where it is determined that a neighbourhood plan is likely to have significant effects on the environment and that a strategic environmental assessment must be carried out, work on this should start at the earliest opportunity. This is so that the processes for gathering evidence for the environmental report and for producing the draft neighbourhood plan can be integrated, and to allow the assessment process to inform the choices being made in the plan."* In the case of the Lubenham NDP, it would appear this has been undertaken retrospectively as the SEA Report date of issue is some five months after the date of the publication of the Submission Version of the Plan. This is not an ideal solution since the assessment process inevitably is likely to involve some post hoc justification, but this is not to say that this would not be objective and I am aware that this approach has been undertaken successfully elsewhere. I therefore consider the assessment has been completed in a timely fashion.
- 2.23** Furthermore, the guidance in the NPPG at paragraph 030, is that *"The strategic environmental assessment should only focus on what is needed to assess the likely significant effects of the neighbourhood plan proposal. It should focus on the environmental impacts which are likely to be significant. It does not need to be done in any more detail, or using more resources, than is considered to be appropriate for the content and level of detail in the neighbourhood plan"*. Based on this advice to take a proportionate approach, the process adopted (even if regarded as 'light-touch') appears reasonable in this context. The NPPG advises, at paragraph 030, that it is for the local planning authority to ensure that the strategic environmental assessment requirements have been met and whether the neighbourhood plan proposal is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive).

- 2.24** I consider in relation to sustainability appraisal, including Strategic Environmental Assessment, the analysis undertaken is sufficient in a neighbourhood planning context and following on from the recent work undertaken in informing policy development for the emerging replacement Local Plan that the Basic Conditions have been met in contributing to sustainable development and meeting this component of EU regulation.

Habitat Regulations Assessment

- 2.25** No separate Habitats Regulations Assessment Screening Report appears to have been deemed necessary by Harborough District Council officers to determine whether the Neighbourhood Plan was likely to impact on the integrity of European protected sites within and surrounding the Neighbourhood Plan Area. Due to the lack of evidence of any relevant designated sites likely to be impacted upon, I am inclined to agree that the neighbourhood development plan is unlikely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or any 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.

Compatibility with human rights requirements

- 2.26** The Equalities Impact Assessment prepared in February 2016 considers that Plan has due regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and that the Plan also complies with the rights from that Convention which are contained in the Human Rights Act 1998. I concur with that assessment.

3.0 BACKGROUND DOCUMENTS

- 3.1** In examining the Lubenham Neighbourhood Plan, I have had particular regard to the following documents which include the Submission Version of the Plan:

- a) National Planning Policy Framework, March 2012
- b) National Planning Policy Framework, Planning Practice Guidance
- c) Town and Country Planning Act 1990 (as amended)
- d) The Planning and Compulsory Purchase Act 2004 (as amended)
- e) The Planning Act 2008
- f) The Localism Act (2011)
- g) The Neighbourhood Planning Regulations (2012)
- h) The Housing & Planning Act (2016)
- i) Harborough Core Strategy
- j) Lubenham NDP Designated Area & Designation
- k) Lubenham NDP Statement of Basic Conditions
- l) Lubenham NDP SEA Screening Report
- m) Lubenham NDP Equalities Assessment
- n) Lubenham NDP Consultation Statement
- o) Lubenham NDP Step by Step Post Submission Process
- p) Lubenham NDP Area of Separation Appraisal FPCR Nov 2015
- q) Lubenham NDP Submission Version to HBC
- r) Lubenham NDP Submission Version Consultation Responses – received under cover of email of 30th June 2016 from Harborough District Council.
- s) Harborough District Council Feedback on Draft Examiner's Report and Examiner's Response

4.0 PUBLIC CONSULTATION AND THE CONSULTATION STATEMENT

- 4.1** Part 5 of The Neighbourhood Planning (General) Regulations 2012, "the Regulations", makes provision in relation to procedure for making neighbourhood development plans.

To fulfil the legal requirements of Section 15(2) of Part 5 of the Neighbourhood Planning regulations 2012, the consultation statement should contain the following:

- details of people and organisations consulted about the proposed Neighbourhood Plan;
- details of how they were consulted;
- a summary of the main issues and concerns raised through the consultation process, &;
- descriptions of how these issues and concerns were considered and addressed in the proposed Neighbourhood Plan.

- 4.2** The Consultation Statement should also demonstrate that there has been proper community engagement and that it has informed the content of the Plan. It should also make it clear and transparent that those producing the plan have sought to address the issues raised during the consultation process. Consultation and community engagement is a fundamental requirement of the Neighbourhood Planning Regulations, the process of plan-making being almost as important as the plan itself. Such engagement with the community during the plan-making process has raised awareness and encouraged the community in the Parish to understand/question both the proposed policies as well as the Plan's scope/limitations.
- 4.3** The Consultation Statement sets out in some considerable detail the events that took place to secure public engagement in the Plan area and with statutory consultees, with the assistance of private consultants and officers of Harborough District Council. The Consultation Statement charts the progress and activities to the point where Harborough District Council finally indicated general satisfaction with the proposed Plan.
- 4.4** I note that the Pre-Submission Plan Regulation 14 Consultation Period ran for the requisite six-week time-period during October to November 2015 and that during that period an impressive programme of information dissemination about the draft Plan was undertaken together with further meetings to explain the emerging proposals. At the end of the consultation period, the detailed responses were analysed. The Consultation Statement demonstrates that of the 62 total responses from 12 individuals and organisations mainly commented on relatively minor details all of which were addressed by adjustments to the text of the Neighbourhood Plan prior to its finalisation and formal Submission to Harborough District Council in January 2016.
- 4.5** The Consultation Statement records the Regulation 14 responses to the draft policies and reflects the views from the statutory consultees and assistance from private consultants and Harborough District Council on draft policy formulation. Importantly, the Consultation Statement explains in a tabular form the actions taken in relation to the comments received with a view to responding to local concerns with the intention of enhancing the quality of the Plan. I further note that the Parish obtained further advice from highway consultants in the preparation of the Plan.
- 4.6** The Consultation Statement does not cover the Regulation 16 Consultation. However, the requisite procedural details have been made available to me by Harborough District Council in a completed proforma entitled 'Step by Step Submission Process including Examination of LNDP' produced in April 2016. This confirms that the Regulation 16 Consultation ran between 25th April 2016 and 6th June 2016. In addition, Harborough District Council has emailed me copies of the representations received from this round of consultation. I have taken these details into consideration in the examination of the Plan and in making my observations on the proposed policies (see below).

4.7 I am satisfied that the Consultation Statement complies with Section 15(2) of part 5 of the 2012 Neighbourhood Planning Regulations and that the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act, in accordance with 15(1) of part 5 of the 2012 Neighbourhood Planning Regulations.

5.0 LUBENHAM NEIGHBOURHOOD DEVELOPMENT PLAN 2016–2031 – LAND USE PLANNING POLICIES

5.1 I now turn to consider the land use planning policies of the Lubenham NDP. It was established in R. (Maynard) v Chiltern District Council¹ that it is wrong to consider each policy within a neighbourhood development plan examination, in the context of compliance with the strategic policies of the development plan and the NDPPF, in relation to Basic Conditions a) and e), but rather it is the Plan as whole that needs to be considered in the context of such policy guidance, in terms of “general conformity”. Similarly, in *Woodcock*², paragraph 8(2)(e) of Schedule 4B of the 1990 Act only required the LPA to consider whether the draft Neighbourhood Plan, as a whole, is in general conformity with the adopted Development Plan. It is not appropriate to consider whether there is a tension between one policy of the Neighbourhood Plan and one element of the Local Plan or Core Strategy. I have used this approach in assessing whether the Plan meets the Basic Conditions.

5.2 However, I consider that it is still prudent from an implementation perspective, to briefly review each of the policies to ensure that they are genuine land use planning policies and that they will serve the Parish in future for development management purposes, should the Plan be made.

Character, Culture & Heritage

5.3 Policy LNP01: Character, Culture & Heritage - Separation Area

The Separation area between Lubenham and the SDA and between Gartree and the SDA and shown in green on Map 2 shall be maintained in order to preserve a visual gap between the built form of the settlements to maintain both Lubenham and Gartree's distinctiveness and separate identity. Development in this area shall be limited only to that appropriate in the countryside, such as agriculture, green infrastructure and recreation, and that which would detract from the open character of this area or reduce the visual separation of Lubenham and Gartree from Market Harborough shall not be permitted.

5.4 The principle idea in endeavouring to formally define a Separation Area (SA) within the proposed Lubenham NDP is supported by reference to Core Strategy Policy CS13 and the SDA Masterplan, yet these only refer to providing a SA between Lubenham (village) and the SDA and does not make any reference to its extension to between Gartree and the SDA. I note the detailed response provided by consultants on behalf of the landowner of a major component of the proposed SA and their supply of a landscape character analysis providing a visual assessment of the landscape around Lubenham. Reference is made to the lack of detailed character analysis prepared/provided in support of the proposed NDP policy or the extent of the extended SA as drawn on Map 2 of the Lubenham NDP, notwithstanding the explanatory text which precedes it. Nor has any citation of precise wording in the Core Strategy policy reference been provided to identify explicit intent for extension of the proposed SA referred to in the Core Strategy northwards to specifically separate Gartree from the SDA.

¹ [2015] EWHC 3817 (Admin), Holgate J, 16th November 2015

² Woodcock Holdings Ltd v Secretary of State for Communities and Local Government, [2015] EWHC 1173 (Admin), [2015] JPL 1151, Holgate J, 1st May 2015.

- 5.5** As the consultants highlight, the NPPF specifies within paragraph 77 that: "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". Clearly, the proposed extension of the Lubenham SA must be recognised as an 'extensive tract of land' in its own right. There is therefore potential for a conclusion that Policy LNP04 does not have appropriate regard for national policy (Planning Practice Guidance 37-015-20140306 is relevant) and does not accord with local policy either.
- 5.6** However, the Core Strategy incorporates the use of the spatial concept of SA within Policy CS1: Spatial Strategy to safeguard the identity of communities and it is this purpose that the proposed wording of Policy LNP04 clearly states the policy seeks to address. Whilst no SA has been applied around Garside in the Core Strategy it would still be reasonable for the concept to be adopted within a neighbourhood plan at an appropriate scale to achieve a comparable purpose as a supplement to the SA proposed for Lubenham which is included in the Core Strategy.
- 5.7** The consideration given to the assessment of the proposed extension to the Separation Area in the Regulation 16 consultation response has sought to review and express doubt as to the rigorousness of the approach adopted in drawing up the precise boundary for the proposed area. However, there are no obligations upon neighbourhood plans to provide detailed landscape character analysis to support such policies or designations.
- 5.8** Lubenham LDP claims a special quality to the local community to the extent that the extension proposed would preserve a visually sensitive gap between Gartree and the SDA, thereby being of particular, local significance in preserving Gartree's distinctiveness from the extension of the built-up area of Market Harborough and offering an attractive outlook. Whilst there may be no other provisions (such as a stewardship scheme) in place for the management of this land as in the future and the current landowner has a clear antipathy to the proposed designation, neither are necessary for the policy to be effective for development management purposes.
- 5.9** Clearly the current phrasing of the final sentence of the policy is wholly negative. An accepted requirement of development management policies is that they are positively worded as enabling tools, avoiding the use of such directive phrases as "shall not be permitted". Thus, taking the representations and issues into account, I recommend firstly that Policy LNP01 requires amendment to be appropriate for development management purposes for the enabling/achievement of sustainable development and accordingly would suggest the following amended wording to render the policy more robust and effective for development management purposes:

Policy LNP01: Character, Culture & Heritage - Separation Area

"The open character of the Lubenham & Garside Area of Separation, as defined on Map 2, shall be maintained, to preserve a visual separation from the settlement of Market Harborough and retain the distinctive character and separate identities of Lubenham and Gartree. Development within this area will be permitted if (a) it would not diminish the physical or visual separation between built up areas associated with these settlements; and (b) it would not compromise, either alone or in conjunction with other existing or proposed development, the effectiveness of the Area of Separation in protecting the identity and distinctiveness of these settlements. Any development proposal within the Area of Separation must be accompanied by an analysis and proposals for mitigation of likely impact on settlement setting and the objective of visual separation, giving specific attention to use of location, design and landscaping appropriate to the character of the area."

5.10 Policy LNP02: Character, Culture & Heritage - Public Access & Open Space

New residential development that improves access to public open space or provides new publicly accessible open space in the parish will be supported provided it does not worsen flood risk. In particular access to;

- a. the River Welland making it more accessible to the public while protecting its natural features and species and not interfering with its ability to function as a flood flow route and flood plain and;*
- b. the disused railway line making it more accessible for walking or cycling while protecting its natural features and species and;*
- c. footpaths and footways leading into the open countryside and linking the community and;*
- d. new areas of public open space within the SDA; will be encouraged where it also accords with other relevant policies in the development plan.*

- 5.11 Policy LNP02 is clear in its positive desire to see improved access to existing and provision of new publicly accessible space and between community areas with the Neighbourhood as part of new residential development where such development, access or space is not compromised by increased flood risk. The wording and structure of the policy provides a degree of potential confusion for those endeavouring to use it for development management purposes. This confusion may readily be remedied by minor changes and to render the policy more robust and acceptable for development management purposes accordingly suggest the following alternative wording:

Policy LNP02: Character, Culture & Heritage - Public Access, Open Space & Community Cohesion

New residential development that improves access to existing or provides new publicly accessible open space will be supported provided it does not increase flood risk. Provision will be particularly encouraged where it improves/provides new access to;

- a. River Welland - making it more accessible to the community while protecting its natural features and species and not interfering with its ability to function as a flood flow route and flood plain;*
- b. disused railway line - making it more accessible to the community for walking and/or cycling while protecting its natural features and species;*
- c. footpaths and footways - leading into the open countryside and linking the Neighbourhood community residential areas and new areas of public open space within the SDA.*

5.12 Policy LNP03: Character, Culture & Heritage - Design Quality

All new residential developments should be of a high standard of design and layout:-

(i) they should reflect the height, scale and mass of existing neighbouring buildings and;

(ii) they should reflect the quality of material finishes found in the vicinity and;

(iii) they should utilise features of vernacular architecture more commonly found in the vicinity.

Development close to and within the Lubenham Conservation Area in particular shall be designed to the highest standards to ensure the character and appearance of the Lubenham Conservation Area and its setting are preserved and enhanced.

- 5.13 The visual character of new development proposed within the Neighbourhood has tremendous potential to positively enhance the quality of the built environment, particularly in relation to the designated Conservation Area for the historic core of Lubenham village and the Listed Buildings within it. I recommend that Policy LNP03 requires amendment to be appropriate for development management to remove repetition and enhance clarity to support development which provides the high-quality design and layout required to protect and/or enhance the visual character and setting of existing development and accordingly would suggest the following amended wording to render the policy more robust and acceptable for development management purposes:

Policy LNP03: Character, Culture & Heritage - Design Quality

All new residential developments should be of a high standard of design and layout:

(i) respecting the height, scale and massing of existing neighbouring buildings;

(ii) reflecting the quality of material finishes found in the vicinity;

(iii) utilising features of more common local vernacular architecture, and;

(iv) incorporating measures to avoid or mitigate adverse impact upon landscape character and biodiversity both within and around the site.

Development close to and within the Lubenham Conservation Area shall be designed to the highest standards and ensure the visual character and appearance of the Lubenham Conservation Area and its setting are preserved and enhanced.

5.14 Policy LNP04: Character, Culture & Heritage: Habitats & Biodiversity

New residential developments of five or more dwellings shall be required to demonstrate that they are designed to incorporate measures that will protect and enhance natural habitats and bio-diversity within the site or within the vicinity of the site.

- 5.15 The policy aims to support the quality of the natural environment within and around development sites and the supporting text makes it clear its intention to secure enhancements where possible. However, the policy would be more effective if applied as an additional caveat to Policy LNP03 (as above) covering all residential development (regardless of scale) and is therefore recommended for deletion along with its associated supporting text.

Housing

5.16 Policy LNP05: Housing – Site Allocations

Residential development on each of the three allocated sites (E) Land north of Laughton Road (9 dwellings), (I) Land north of Foxton Road (27 dwellings) and (A) Land south of Main Street (36 dwellings) shall be permitted subject to the following criteria:-

- (i) On all sites of more than 5 dwellings at least 30% of the houses shall be affordable housing or in exceptional cases a contribution towards affordable housing for Lubenham Parish.*
- (ii) All sites shall include a mix of housing types that will be informed by the most up to date Strategic Housing Market Assessment and local evidence of housing need.*
- (iii) Development on all sites shall include comprehensive landscaping schemes including effective street planting and enhanced planting for boundaries with the open countryside.*
- (iv) Developments of more than 10 dwellings shall include on site provision of natural open space in accordance with HDC open space standards (Provision for Open Space, Sport and Recreation (March 2009 or any later versions of this policy) and financial contributions towards the upkeep and enhancement of current village open spaces and play areas reasonably related to the scale of the development.*
- (v) Developments of 10 dwellings or less shall either include provision of on-site natural open space or shall make a financial contribution reasonably related to the scale of the development in accordance with HDC open space standards (Provision for Open Space, Sport and Recreation March 2009) or any later versions of this policy) proposed towards the upkeep and enhancement of current village open spaces and play areas*
- (vi) All new residential developments shall include schemes for the enhancement of habitats and bio-diversity.*
- (vii) All new residential developments shall have target design speeds of a maximum 20 mph and because they will result in additional traffic on village roads shall make a financial contribution reasonably related to the scale of the development proposed for the express purpose of funding traffic speed reduction measures within the settlements in the Neighbourhood Plan area.*
- (viii) All new residential developments shall be designed to high standards by respecting the form, scale and massing of existing buildings and spaces in the sites' surroundings and in terms of the appearance and use of materials present in the vicinity.*
- (ix) All proposed developments shall make adequate provision for off-street car parking and cycle parking in accordance with HDC standards.*
- (x) All proposed developments shall provide safe links with the existing roads and footpaths in the vicinity of the site.*
- (xi) All proposed developments shall be energy efficient and designed for water efficiency, with initiatives such as rainwater collection and use incorporated into new designs.*
- (xii) All proposed developments shall be designed to avoid flood risk to new homes as determined by appropriate flood risk assessments which shall accompany planning applications.*
- (xiii) All proposed developments shall make adequate provision for foul water drainage and undertake improvements as necessary and shall demonstrate as a part of the application process that capacity within the foul sewerage network can be made available.*
- (xiv) All proposed developments of over 10 dwellings shall contribute towards measures to mitigate the adverse impacts of projected increased traffic levels passing through the Lubenham main settlement. These mitigation measures shall be proportionate to the impacts of the development and may include (but need not be limited to), contributions towards a pedestrian/cycle fully controlled crossing point on the A4304, and localised junction improvements.*

- 5.17 The policy aims primarily to ensure appropriate/proportionate benefits are secured, where possible, for the local community from any new residential development permitted within the Neighbourhood Area. In addition, it supports high quality design which effectively mitigates any potential adverse impacts. The current wording of the policy overlaps with the provisions of other individual policies (e.g. flood risk and biodiversity) contained

elsewhere in the plan and provides overly prescriptive requirements (e.g. in relation to maximum traffic speeds) which are unnecessary and are more properly the domain of the Local Highway Authority. In addition, on two of the key sites detailed permissions have now been granted which supersede the numbers of dwellings provided for in the proposed policy wording. I recommend the precise wording is amended to (a) adjust dwelling numbers and add reference to permissions granted, (b) remove unnecessary and confusing repetition of requirements already contained in other proposed policies contained within the Plan and (c) provide the necessary flexibility to allow for potential enhancement where practicable or essential given the specific nature of the habitat or protected species involved in each case in order to make the policy more streamlined, better coordinated with other policies proposed elsewhere in the Plan and thus more effective and accordingly suggest the following rewording:

Policy LNP05: Housing – Site Allocations

Residential development on each of the three allocated sites (E) Land north of Laughton Road (6 dwellings, as most recently granted under 16/00101/FUL), (I) Land north of Foxton Road (27 dwellings) and (A) Land south of Main Street (28 dwellings, as most recently granted under 15/01471/OUT & 16/01467/REM) shall be permitted, subject to meeting the following criteria:

- (i) 30% affordable housing provision on site, for developments of more than 5 dwellings, or where this proves impracticable a contribution towards provision of affordable housing elsewhere within Lubenham Parish, at a level determined by a robust viability assessment of the development proposed;*
- (ii) mixture of housing types/sizes, meeting needs identified within the District's Strategic Housing Market Assessment and local evidence of housing need (e.g. Housing Needs Survey);*
- (iii) comprehensive landscaping scheme, including (for example) effective street and enhanced, open countryside boundary planting;*
- (iv) natural, public open space provision, within developments of more than 10 dwellings, in accordance with HDC open space standards (e.g. 'Provision for Open Space, Sport and Recreation - March 2009', or its successor) and/or financial contributions towards the enhancement of existing village open spaces and play areas, reasonably related to the anticipated additional demand likely to be generated;*
- (v) securing provision of essential off-site mitigation (e.g. speed reduction measures, A4304 pedestrian/cycle fully controlled crossing point and localised junction improvements) dependent on the anticipated traffic and highway safety impact;*
- (vi) on-site, off-street car parking and cycle parking provision in accordance with HDC standards;*
- (vii) safe access to and links with the existing network of highways and public rights of way;*
- (viii) energy and water conservation measures (e.g. rainwater collection and re-use), and;*
- (ix) foul sewerage provision/enhancement as required by a robust foul drainage capacity assessment and strategy.*

5.18 Policy LNP06: Housing - Reserve Site

Land to the south of Laughton Road (J) is identified as a reserve site for residential development. This site will be made available for residential development if:

- i) it is required to remediate a substantial shortfall in the supply of residential land due to the failure of other identified residential sites in Lubenham to deliver the anticipated scale of development permitted; or*
- ii) it becomes necessary to provide for additional homes in Lubenham in accordance with any new development plan document that replaces the Harborough Core Strategy.*

5.19 Policy LNP06 is pragmatic in endeavouring to account for circumstances where allocated sites may not, for whatever reason, deliver the anticipated numbers of new housing required to meet the requirements of the current District Local Plan, which might otherwise open the door to less sustainable proposals for new, unallocated housing development sites on an ad hoc basis. I consider adjustment is needed to remove unnecessary reference to a successor to the existing Core Strategy and to simplify interpretation and thus potential effectiveness of the policy for development management purposes and accordingly suggest following amended wording:

Policy LNP06: Housing – Reserve Site

Land to the south of Laughton Road (J) is identified as a reserve site for new residential housing which will be considered favourably if brought forward for development provided it is required to address a substantial shortfall in the anticipated supply of housing from other allocated residential housing sites in Lubenham within the Neighbourhood Development Plan period.

5.20 Policy LNP07: Housing – Gartree

Exceptionally some very limited residential development or residential infill at Gartree will be supported in order to maintain the vitality of that community. Where new residential development of five or more dwellings is proposed on environmentally acceptable sites within Gartree it should provide additional facilities or enhancements to the existing settlement (such as improvements to roads and footpaths, play space or other community benefits) at a level proportionate to the impacts of the development.

- 5.21 Policy LNP07 endeavours to secure community benefits in a location where medium scale residential development might otherwise be allowed without such positive benefits. The use of 'infilling' is confusing as it is an accepted planning term for a particular form of 'small scale or minor' development of no more than two dwellings within a small gap in an otherwise developed frontage but contradicts the policy's own reference to 'five or more dwellings'. Its removal and substitution would not change the purpose or effect of the policy but would provide a simpler, clearer form with less opportunity for confusion. The inclusion of reference to demand and scale would also provide further qualification and clarity. I consider the adjustment is necessary to enhance the clarity and thus effectiveness of the policy for development management purposes and accordingly suggest the following amended wording:

Policy LNP07: Housing – Gartree

New small scale or minor residential development at Gartree will be supported to maintain the vitality of that community, provided new residential development of five or more dwellings on environmentally acceptable sites makes provision for additional community infrastructure, facilities or enhancements (such as improvements to roads and footpaths, play space or other community benefits) at a level proportionate to the anticipated impacts of, or demand to be generated by, the scale of development proposed.

5.22 Policy LNP08: Housing - Affordable Housing

All affordable housing will be subject to conditions or a planning obligation to ensure that when social rented homes are allocated to qualifying candidates first priority is given to people with a familial or work connection to Lubenham Parish and second priority is given to those with connections to surrounding Parishes and third priority to all other qualifying candidates.

- 5.23 Planning conditions attached to (or included within) formal decision notices issued by the Local Planning Authority may not reasonably contain conditions which relate to the retention in perpetuity of affordable housing but may reasonably include conditions (as in Policy LNP05) which secure the initial provision of such housing as part of the development's completion. The relevant control over the future management of such provision as may be secured is more appropriately dealt with by way of a formal planning obligation (or legal agreement) made between the applicant/developer and the Local Planning Authority and completed prior to the issue of any planning permission to which it relates. Qualification is also required to acknowledge the policy solely relates to new residential development within the Neighbourhood Area. I consider the adjustment is necessary to enhance the clarity and thus effectiveness of the policy for development management purposes and accordingly suggest the following amended wording:

Policy LNP08: Housing – Affordable Housing

All affordable housing provided from new residential development within the Neighbourhood Area shall be subject to a planning permission which has been granted only after the completion of a planning obligation which ensures all affordable tenure homes are allocated to qualifying candidates on the basis that first priority is given to those with a familial or work connection to Lubenham Parish, second priority is given to those with connections to immediately adjoining surrounding Parishes and third priority to all other qualifying candidates.

5.24 Policy LNP09: Traffic – Target Design Speeds

The layout of all new residential and business developments in the Neighbourhood Plan area shall incorporate speed reducing design measures with target design speeds of a maximum 20 mph.

5.25 Policy LNP09 clearly aims to secure the highest degree of safety possible in all new development. A specific target of 20 mph is typically a figure which would be the responsibility of the Local Highway Authority to justify, particularly in the event of an appeal against refusal of planning permission based solely on such a figure. The supporting documentation presented with the NDP does not currently appear to provide the robust evidence based justification for selection of such a specific figure for all such forms of development throughout the Neighbourhood Area. Accordingly, the wording of the policy should be amended to provide greater flexibility and greater robustness for development management purposes whilst still containing the ideal preferred target speed for reference and the following amended wording is suggested.

Policy LNP09: Traffic – Target Design Speeds

The layout of all new residential and business developments in the Neighbourhood Plan area shall incorporate speed reducing design measures with target design speeds (e.g. a maximum 20 mph).

5.26 Policy LNP10: Traffic – Pedestrian & Cycle Safety

The layout of streets and open spaces within and approaching the SDA shall be designed to maximise opportunities:

a. for children to walk and cycle safely to school;

b. for existing and new residents to access community facilities and services safely on foot and bicycle.

5.27 Policy LNP10 clearly aims to promote alternative forms of transport other than motorised vehicles both from a safety and health promotion perspective. Only minor adjustments are required and the following is suggested as amended wording to remove unnecessary repetition and enhance the policy's usability for development management purposes:

Policy LNP10: Traffic – Pedestrian & Cycle Safety

The layout of streets and open spaces within and approaching the SDA shall be designed to maximise opportunities for safe pedestrian and cycle access routes for:

a. children attending school, and;

b. existing and new residents utilising community facilities and services.

5.28 Policy LNP11: Traffic – SDA Development Traffic Mitigation

Development of the SDA shall provide measures to mitigate the adverse impacts of projected increased traffic levels associated with the SDA passing through the Lubenham main settlement. These mitigation measures shall be proportionate to the impacts of the development and may include (but need not be limited to), a pedestrian/cycle fully controlled crossing point on the A4304, and localised junction improvements.

5.29 The traffic study work undertaken in support of the Plan has provided advice on the likely increase in traffic passing through Lubenham village along the A4304 and provides a necessary highlighting of the necessary highway safety improvements/measures required to address the increased risk to highway safety (particularly for cyclists and pedestrian in relation to crossing the A4304) both during the construction and occupation phases of the development of the SDA. A minor adjustment to the wording of this policy is suggested to provide the clarity that the measures likely to be required should form part of any future applications for planning permission.

Policy LNP11: Traffic – SDA Development Traffic Mitigation

Proposals for development of the SDA shall provide measures to mitigate the adverse impacts of projected increased traffic levels associated with the SDA passing through the Lubenham main settlement. These mitigation measures shall be proportionate to the impacts of the development and may include (but need not be limited to), a pedestrian/cycle fully controlled crossing point on the A4304, and localised junction improvements.

5.30 Policy LNP12: Traffic – Travel Plans

New, large scale, business, residential and school developments within the Neighbourhood Plan area shall be required to provide Travel Plans to reduce reliance upon the motor car and encourage alternative modes of travel.

- 5.31** The scale of development for which travel plans may reasonably be required needs to be qualified to provide proportionality in terms of the burden upon individual developments the clarity when such measures will be required and should form part of any future applications for planning permission. It would be unreasonable to provide travel plans to be provided for all developments regardless of scale. Accordingly, to make the policy more effective for development management purposes the following amended wording is suggested:

Policy LNP12: Traffic – Travel Plans

New, large scale, business, residential and school developments within the Neighbourhood Plan area shall be required to provide Travel Plans to reduce reliance upon the motor car and encourage alternative modes of travel.

5.32 Policy LNP13: Traffic – Electric Vehicle Charging Points

The Neighbourhood Plan encourages the installation of electric vehicle charging points at appropriate locations.

- 5.33** This policy's promotional and encouraging nature provides no need for consideration of any amendment to make it more useable for development management purposes.

5.34 Policy LNP14: Environment, Landscape & Diversity – Environmental Quality & Biodiversity

The development of new housing and new business space within the Neighbourhood Plan Area should include measures to positively enhance the natural environment and biodiversity of the area. In particular developments should where appropriate provide:-

- a. boundary screen planting that is sympathetic to its setting and uses native plant species;*
- b. multifunctional areas of greenspace, providing for recreation and also water management and increased opportunities for biodiversity;*
- c. opportunities for innovative areas for greenspace such as roof gardens and green/living walls;*
- d. opportunities for wildlife such as bat boxes and owl boxes where appropriate.*

- 5.35** Policy LNP14 provides a logical complement to other design quality and landscape protection/enhancement policies elsewhere within the plan. Only minor adjustments to the wording of the policy are required (e.g. insertion of reference to 'surface/groundwater' and 'habitats') to make it more effective for development management purposes and according the following amended wording is suggested:

Policy LNP14: Environment, Landscape & Diversity – Environmental Quality & Biodiversity

The development of new housing and new business space within the Neighbourhood Plan Area should include measures to positively enhance the natural environment and biodiversity of the area. Development proposals should where appropriate provide:

- a. boundary screen planting that is sympathetic to its setting and uses native plant species;*
- b. multifunctional areas of greenspace, providing for recreation and surface/groundwater management and increased opportunities for biodiversity;*
- c. opportunities for innovative areas for greenspace such as roof gardens and green/living walls, and;*
- d. habitats for wildlife such as bat boxes and owl boxes where appropriate.*

5.36 Policy LNP15: Environment, Landscape & Diversity – Access & Views

Proposals for new residential and business development should look to explore opportunities to provide for and/or enhance access to and views of the open countryside and in particular towards the River Welland, the disused railway line and towards Market Harborough, Bramfield and Gartree.

- 5.37** This policy's promotional and encouraging nature provides no need for consideration of any amendment to make it more useable for development management purposes.

5.38 Policy LNP16: Business/Employment – New Business/Employment Development

Proposals for new business/employment uses should:

- a. be of a scale, density and design appropriate to its setting such that it would not cause damage to the qualities, character and amenity of the area and its residents;*
- b. include the provision of adequate vehicle and cycle parking, turning and manoeuvring space;*
- c. incorporate safe and inclusive design and access suitable for all;*
- d. shall include/encourage links to existing walking and cycling networks;*
- e. on larger developments shall include a framework sustainable travel plan and;*
- f. on larger developments shall explore opportunities for inclusion of electric vehicle charging points.*

- 5.39** Policy LNP16 only requires removal of repetitive words, minor punctuation corrections and the exchange of the word 'uses' for 'development' to be more effective for development management purposes, as 'development' is a more comprehensive term encompassing 'buildings, engineering works, parking facilities and changes of use' and so the following amended wording is suggested:

Policy LNP16: Business/Employment – New Business/Employment Development

Proposals for new business/employment development should:

- a. be of a scale, density and design appropriate to its setting such that it would not cause damage to the qualities, character and amenity of the area and its residents;*
- b. include the provision of adequate vehicle and cycle parking, turning and manoeuvring space;*
- c. incorporate safe and inclusive design and access suitable for all;*
- d. include/encourage links to existing walking and cycling networks;*
- e. on larger developments include a framework sustainable travel plan, and;*
- f. on larger developments explore opportunities for inclusion of electric vehicle charging points.*

5.40 Policy LNP17: Business/Employment – Conversion/Re-Use of Farm Buildings

The conversion or re-use of redundant farm buildings for light industrial, tourism or office purposes will be permitted:-

- a. where the buildings to be converted or re-used are of a construction that is suitable for the development proposed without the need for major additional construction works;*
- b. where the development will not have an adverse impact on the nature conservation and biodiversity or wildlife of the area;*
- c. where development is in keeping with the scale, form and character of its surroundings;*
- d. where it does not create significant additional traffic movements;*
- e. where it provides a safe and inclusive design and access for all.*
- f. where the noise generated will not have an adverse effect on the surroundings.*

- 5.41** Policy LNP17 only requires removal of repetitive words, minor punctuation corrections and the exchange of the word 'suitable' for 'accommodate' to be more effective for development management purposes, as 'suitable' is too subjective a term and so the

following amended wording is suggested:

Policy LNP17: Business/Employment – Conversion/Re-Use of Farm Buildings

The conversion or re-use of redundant farm buildings for light industrial, tourism or office purposes will be permitted where:

- a. buildings to be converted or re-used are of a construction able to accommodate the development proposed without the need for major additional construction works;*
- b. development will not have an adverse impact on the nature conservation and biodiversity or wildlife of the area;*
- c. development is in keeping with the scale, form and character of its surroundings;*
- d. it does not create significant additional traffic movements;*
- e. it provides a safe and inclusive design and access for all, and;*
- f. noise generated will not have an adverse effect on the surroundings.*

5.42 Policy LNP18: Business/Employment – Loss of Community Facilities

Business/employment developments that would result in the loss of a community building or site, or one last used for the provision of community facilities, services, leisure or cultural activities will be supported only if;

- a. an assessment has taken place that demonstrates that there is an excess of such provision and the site or building is not needed for any other community facility or;*
- b. alternative provision of at least an equal standard is made in its place.*

5.43 Policy LNP18 endeavours to ensure community cohesion and resist the incremental loss of facilities where no alternatives are to be provided and only requires minor punctuation correction and the insertion of the word 'active' and the phrase 'in the Neighbourhood Area' to be more effective for development management purposes and so the following amended wording is suggested:

Policy LNP18: Business/Employment – Loss of Community Facilities

Business/employment developments that would result in the loss of an active community building or site, or one last used for the provision of community facilities, services, leisure or cultural activities will be supported only if:

- a. an assessment has taken place that demonstrates that there is an excess of such provision in the Neighbourhood Area and the site or building is not needed for any other community facility, or;*
- b. alternative provision of at least an equal standard is made in its place.*

5.44 Policy LNP19: Gartree

Limited and small-scale employment/business development may be supported on environmentally acceptable sites in Gartree only if the resultant effect will ensure:

- a. no adverse impact upon the living conditions of nearby residents from noise nuisance, odour nuisance, likely excessive disturbance or traffic generation;*
- b. retention and viability of rural services or land based businesses, positive farm diversification;*
- c. conversion and re-use of appropriately located and suitable constructed existing buildings;*
- d. viability and vitality of community facilities;*
- e. provision/enhancement of links to community facilities/services and;*
- d. improvement of roads and pathways in and around the settlement at a level proportionate to the anticipated impact development proposed.*

5.45 Policy LNP19 endeavours to support community cohesion and enhancement of local facilities for the Gartree area whilst protecting against undue adverse impacts and requires removal of repetition, minor punctuation correction and adjustment of phraseology to provide greater clarity and be more effective for development management purposes and so the following amended wording is suggested:

Policy LNP19: Gartree

Limited and small-scale employment/business development may be supported on environmentally acceptable sites in Gartree only if the resultant effect will involve:

- a. conversion and re-use of appropriately located and structurally robust existing buildings;*
- b. no adverse impact upon the living conditions of nearby residents from nuisance or disturbance caused by odour, noise, vibration or traffic movement;*
- c. retention of rural/community services/facilities, land based businesses or positive farm diversification without harm to their viability and vitality;*
- d. provision/enhancement of links to community facilities/services through the improvement of roads and pathways in and around the settlement at a level proportionate to the anticipated impact development proposed.*

5.46 Policy LNP20: Bramfield

Any proposed expansion of the Bramfield Mobile Home Park site beyond its existing boundaries into the surrounding countryside shall be strictly controlled and shall only be permitted if;

- a. it will provide for/enhance links to community facilities/services and;*
- b. the visual impacts of the development are mitigated by appropriate landscaping and screening &;*
- c. it will contribute towards upgrading the roads and paths in and around the site; and*
- d. it would have no adverse effects on highway safety.*

- 5.47** Policy LNP20 endeavours to support community cohesion and enhancement of existing facilities at Bramfield whilst protecting against undue adverse impacts and requires minor textual and punctuation adjustment to be more effective for development management purposes and so the following amended wording is suggested:

Policy LNP20: Bramfield

Any proposed expansion of the Bramfield Mobile Home Park site beyond its existing boundaries into the surrounding countryside shall be strictly controlled and shall only be permitted provided it will;

- a. provide for/enhance links to community facilities/services;*
- b. mitigate the visual impacts of the development effectively by appropriate landscaping and screening;*
- c. contribute towards upgrading the roads and paths in and around the site, and;*
- d. have no serious adverse effects on highway safety.*

5.48 Policy LNP21: Greenacres Gypsy & Traveller Site

The continued provision of the Greenacres site for its present use is supported. Any proposed expansion of the site beyond its existing boundaries into the surrounding countryside shall be strictly controlled and shall only be permitted if:

- a. the need for additional gypsy and traveller sites within the neighbourhood plan area is demonstrably proven and;*
- b. the visual impacts of the development are mitigated by appropriate landscaping and screening and;*
- c. it will provide/enhance links to community facilities/services, or; contribute to upgrading roads and pathways in and around the site.*

- 5.49** Policy LNP21 endeavours to support minority community cohesion and enhancement of existing facilities for minority ethnic communities whilst protecting against undue adverse impacts and requires minor textual and punctuation adjustment to be more effective for development management purposes and so the following amended wording is suggested:

Policy LNP21: Greenacres Gypsy & Traveller Site

The continued provision of the Greenacres site for its present use is supported. Any proposed expansion of the site beyond its existing boundaries into the surrounding countryside shall be strictly controlled and shall only be permitted provided it:

- a. demonstrates need for additional gypsy and traveller sites within the neighbourhood plan area;*
- b. mitigates the visual impacts of the development by appropriate landscaping and screening, and;*
- c. will provide/enhance links to community facilities/services or contribute to upgrading roads and*

pathways in and around the site.

5.50 Policy LNP22: The Showground Site

The provision of an agricultural showground is supported if planning conditions mitigating the impacts of the development and controlling its use are imposed at application stage.

5.51 This policy's promotional and encouraging nature provides no need for consideration of any amendment to make it more useable for development management purposes.

5.52 Policy LNP23: Superfast Broadband & Mobile Connectivity

Telecommunications developments that would improve internet and mobile telephone services within the Neighbourhood Plan Area will be supported unless they would have a seriously adverse effect upon the landscape or the setting of heritage assets.

5.53 This policy's promotional and encouraging nature provides no need for consideration of any amendment to make it more useable for development management purposes.

5.54 Policy LNP24: Energy & Water Efficiency

New residential and business developments within the Neighbourhood Plan Area shall incorporate a range of sustainability measures where viable including, but not limited to, the following initiatives;

- 1. low energy public street lighting and time controlled street lighting allowing the lighting to be switched off/reduced for periods where a road safety audit allows.*
- 2. small-scale renewable energy technologies such as photo-voltaic installations;*
- 3. use of sustainable drainage systems;*
- 4. grey-water recycling and rain water harvesting and water efficient appliances;*
- 5. Specification of energy efficient and water efficient appliances.*

5.55 Policy LNP24 laudably endeavours to echo and compliment the aims of other eco-friendly policies within the Plan but, as is highlighted in response received to the Regulation 16 Consultation, places overly onerous requirements upon applicants/developers which are neither supported by the NPPF, NPPG and Core Strategy policies referred to in the NDP or the Basic Conditions Statement and are not only covered by other regulatory bodies under other primary regulation (such as the Local Highway Authority and the Local Building Regulation Authority) but also in small part already dealt with by other policies elsewhere within the NDP. The policy is vaguely worded, leaving open-ended and undetermined the actual level of requirement for any development. I do not consider any amendment to the wording of the policy could remedy its shortcomings and thus recommend its deletion along with its supporting text.

6.0 SUMMARY

6.1 In accordance with Schedule 4B to the Town and Country Planning Act 1990, paragraph 10(6), b), I set out the summary of my findings below.

6.2 I am satisfied that Lubenham Parish Council is the qualifying body and accordingly entitled to submit a Neighbourhood Development Plan for the designated plan area and that this area is one which is appropriate for designation as a Neighbourhood Area. Formal designation was confirmed by Harborough District Council on 17 July 2013.

6.3 The policies proposed within the Neighbourhood Development Plan relate to development and use of land within the designated Neighbourhood Area.

- 6.4 The plan period of the Neighbourhood Development Plan is 2016 to 2031 and it does not contain policies relating to "excluded development" as defined s61K of the Town & Country Planning Act 1990 (as amended).
- 6.5 I am also satisfied that the Lubenham Neighbourhood Development Plan 2016 – 2031 does not relate to more than one neighbourhood area and that there is no other NDP in place within this neighbourhood area.
- 6.6 The Plan has been examined against current national and adopted local planning policy.
- 6.7 The Plan has also been subject to a Sustainability Assessment (incorporating a Strategic Environmental Assessment) in compliance with EU Directive 2001/42 on Strategic Environmental Assessment to inform the consideration of the Submission Version of the plan. The policies within the Submission Version of the Lubenham Neighbourhood Development Plan generally appraised well on a retrospective assessment against the sustainability framework. The SA/SEA appraisals of the policies were supportive of the Plan as a whole and give confidence that the Plan, if made, should make a positive contribution to sustainable development within the Plan area.

Habitat Regulations Assessment

- 6.8 No Habitats Regulations Assessment Screening Report appears to have been undertaken by Harborough District Council officers to determine whether the Neighbourhood Plan was likely to impact on the integrity of European protected sites within and surrounding the district. The lack of any evident protected sites likely to be affected by the allocation proposals contained within the Plan means it appears evident no screening or further assessment was required. I agree therefore that the neighbourhood development plan is unlikely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) 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).
- 6.9 As to public consultation, the process and management of the community consultation appears thorough and I am confident that the Consultation Statement outlining the terms of reference and actions of the Parish Council, the supporting evidence from the workshops, consultation correspondence and feedback leading to the formulation of draft policies, subsequent pre-submission and submission plan consultation on the Plan policies adequately fulfils Section 15 (2), Part 5 of the Neighbourhood Planning Regulations 2012.

Compatibility with Human Rights Requirements

- 6.10 The Basic Conditions Statement confirms that the Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998.
- 6.11 I am satisfied the Plan is compatible with EU obligations and will contribute to achieving sustainable development within the Lubenham Neighbourhood Development Plan area.
- 6.12 I am satisfied that subject to the recommended policy revisions being accepted, that the draft Lubenham Neighbourhood Plan 2016-2031, has given adequate regard to the policies in the National Planning Policy Framework (NPPF) and other relevant national planning guidance and would be in conformity with the strategic policies of the adopted Harborough District Local Plan 2001 and Core Strategy adopted in 2011. If these

recommended changes are accepted (and the necessary associated modifications are made to the supporting text by the Parish Council to ensure consistency within the document) I believe that the Lubenham Neighbourhood Development Plan 2016-2031 will make a positive contribution to sustainable development, promoting economic growth, supporting social wellbeing, whilst conserving the natural and historic environment within the designated area.

7.0 RECOMMENDATIONS

Modifications to meet the basic conditions

7.1 For the reasons set out above and subject to the modifications indicated in the preceding sections of this examination report being accepted and incorporated into a revised version of the Plan which includes a clear statement of its start date on the cover page, I consider that the Plan would meet the basic conditions in terms of:

- having appropriate regard to national planning policy;
- contributing to the achievement of sustainable development;
- being in general conformity with the strategic policies in the development plans for the local area;
- being compatible with human rights requirements; and
- being compatible with European Union obligations.

7.2 I therefore recommend that in accordance with Schedule 4B to the Town and Country Planning Act 1990, paragraph 10 (2), b) that the modifications specified in this report are made to the Lubenham Neighbourhood Development Plan 2016-2031 and that the Submission Version of the Plan as modified may be submitted to a referendum.

7.3 Referendum Area

7.4 It is the Independent Examiner's role to consider the referendum area appropriate should event that the Parish Council wishes to proceed to the referendum stage.

7.5 In the event that the Parish Council wishes to proceed to the referendum stage with this Plan, I consider that the referendum area should extend to the full extent of the originally designated Plan Area, as confirmed on 10th June 2013 and as identified edged red on Map 1 on page 8 of the Lubenham Neighbourhood Development Plan 2016–2031.

8.0 Conclusions

8.1 I conclude that, subject to the recommendations in this report being accepted, the Plan would meet the basic conditions as defined in the Localism Act 2011, Schedule 10 and Schedule 4B, 8 (2) of the Town and Country Planning Act 1990.

8.2 In accordance with the Town and Country Planning Act 1990, Schedule 4B 10 (2) (b), I recommend that the modifications specified in this report are made to the draft Neighbourhood Plan and if accepted, the Lubenham Neighbourhood Development Plan 2016 – 2031 is submitted to a referendum.

Martin S. Lee, MA MRTPI AMInstLM MTCPA NPIERS
5th March 2017