

Misterton with Walcote Parish Council

Misterton with Walcote Parish Neighbourhood Development Plan

A report to Harborough District Council of the Independent
Examination of the Misterton with Walcote Parish
Neighbourhood Development Plan

Independent Examiner Christopher Edward Collison

Christopher Edward Collison

BA (Hons) MBA MRTPI MIED MCMi IHBC

Planning and Management Ltd

collisonchris@aol.com

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Summary of Main Findings

This is the report of the Independent Examination of the Misterton with Walcote Parish Neighbourhood Development Plan. The plan area comprises the entire administrative area of Misterton with Walcote Parish Council within the Harborough District Council area. The plan period runs to 2031. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for residential development.

This report finds that subject to specified modifications the Neighbourhood Plan meets the Basic Conditions and other requirements. It is recommended the Plan should proceed to a local referendum based on the plan area.

Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities the power to develop a shared vision for their area*”.¹
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Misterton with Walcote Parish Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Misterton with Walcote Parish Council (the Parish Council). The draft plan has been submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Misterton with Walcote Parish Neighbourhood Area (the Neighbourhood Area) which was formally designated by Harborough District Council (the District Council) on 3 April 2017. The Neighbourhood Plan has been produced by an Advisory Committee made up of Parish Councillors, and other volunteers from the local community.
4. The submission draft of the Neighbourhood Plan and accompanying documents were submitted to the District Council on 24 June 2020. The District Council arranged a period of publication between 26 August 2020 and 7 October 2020 and subsequently submitted the Neighbourhood Plan to me for independent examination.

Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan.² The report makes recommendations to the District Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The District Council will decide what action to take in response to the recommendations in this report.

¹ Paragraph 29 National Planning Policy Framework (2019)

² Paragraph 10 Schedule 4B Town and Country Planning Act 1990

6. The District Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and a decision statement is issued by the local planning authority outlining their intention to hold a neighbourhood plan referendum, it must be taken into account and can be given significant weight when determining a planning application, in so far as the plan is material to the application.³
7. Should the Neighbourhood Plan proceed to local referendum⁴ and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area⁵ unless the District Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan.⁶ The Framework is very clear that where a planning application conflicts with an up-to-date neighbourhood plan that forms part of the Development Plan, permission should not usually be granted.⁷
8. I have been appointed by the District Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the District Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of neighbourhood plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years

³ Paragraph 48 of the National Planning Policy Framework 2019 explains full weight is not given at this stage. Also see Planning Practice Guidance paragraph: 107 Reference ID: 41-107-20200407 Revision date: 07 04 2020 for changes in response to the coronavirus (COVID-19) pandemic

⁴ The Local Government & Police & Crime Commissioner (Coronavirus) (Postponement of Elections & Referendums) (England & Wales) Regulations 2020 Regulation 13 states referendums that would have been held from 7 April 2020 up to 6 May 2021 will be held on 6 May 2021

⁵ Section 3 Neighbourhood Planning Act 2017

⁶ Section 156 Housing and Planning Act 2016

⁷ Paragraph 12 National Planning Policy Framework 2019

professional planning experience and have held national positions and local authority Chief Planning Officer posts.

9. As independent examiner, I am required to produce this report and must recommend either:

- that the Neighbourhood Plan is submitted to a referendum, or
- that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
- that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.

10. I make my recommendation in this respect and in respect to any extension to the referendum area,⁸ in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.⁹

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.¹⁰ The Planning Practice Guidance (the Guidance) states “*it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.*”

12. The examiner has the ability to call a hearing 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 adequate examination of the issue, or a person has a fair chance to put a case. All parties have had the opportunity to state their case. The Regulation 16 responses clearly set out any representations relevant to my consideration whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements. As I did not consider a hearing necessary, I proceeded on the basis of examination of the written representations and an unaccompanied visit to the Neighbourhood Plan area.

⁸ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁹ Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

¹⁰ Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

Basic Conditions and other Statutory Requirements

13. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.¹¹ A neighbourhood plan meets the Basic Conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.¹²

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights.¹³ All of these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’ and ‘The Neighbourhood Plan Policies’.

15. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.¹⁴ I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 as amended (the

¹¹ Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

¹² This Basic Condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 are amended. This basic condition replaced a basic condition “the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects”.

¹³ The Convention Rights has the same meaning as in the Human Rights Act 1998

¹⁴ In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

Regulations) which are made pursuant to the powers given in those sections.

16. The Neighbourhood Plan relates to the area that was designated by the District Council as a neighbourhood area on 3 April 2017. A map of the Neighbourhood Area is included as Figure 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Misterton with Walcote Parish Council boundary. The Neighbourhood Plan does not relate to more than one neighbourhood area,¹⁵ and no other neighbourhood development plan has been made for the neighbourhood area.¹⁶ All requirements relating to the plan area have been met.
17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;¹⁷ and the Neighbourhood Plan does not include provision about excluded development.¹⁸ I am able to confirm that I am satisfied that each of these requirements has been met.
18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.¹⁹ The front cover of the Submission Version Plan clearly states the Plan period is 2019 – 2031. Section 4 of the Neighbourhood Plan explains the end date of 2031 is aligned with the Harborough Local Plan.
19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the tests of soundness provided for in respect of examination of Local Plans.²⁰ It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.

¹⁵ Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

¹⁶ Section 38B (2) Planning and Compulsory Purchase Act 2004

¹⁷ Section 38A (2) Planning and Compulsory Purchase Act 2004

¹⁸ Principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

¹⁹ Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

²⁰ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with all land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.²¹ I refer to the matter of minor corrections and other adjustments of general text in the Annex to my report.

Documents

23. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:
- Misterton with Walcote Parish Neighbourhood Plan 2019-2031 Submission Version (including Annexes 1 to 9) June 2020
 - Misterton with Walcote Neighbourhood Plan Consultation Statement, including Appendix [*In this report referred to as the Consultation Statement*]
 - Misterton with Walcote Neighbourhood Plan Statement of Basic Conditions June 2020 [*In this report referred to as the Basic Conditions Statement*]
 - Strategic Environmental Assessment Screening Report Misterton with Walcote Neighbourhood Plan February 2020
 - Strategic Environmental Assessment Determination Misterton with Walcote Neighbourhood Plan July 2020
 - Information available on the Misterton with Walcote Parish Council and Harborough District Council websites
 - Representations received during the Regulation 16 publicity period

²¹ See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Correspondence between the Independent Examiner and the District and Parish Councils including: the initial letter of the Independent Examiner dated 21 December 2020; the Parish Council comments on the Regulation 16 representations of other parties dated 8 January 2021; the letter of the Independent Examiner seeking clarification of various matters dated 19 January 2021; and the joint response of the Parish Council and District Councils, dated 21 January 2021.
- Harborough Local Plan 2011 to 2031 adopted 30 April 2019
- National Planning Policy Framework (February 2019) and subsequently updated [*In this report referred to as the Framework*]
- Permitted development rights for householders' technical guidance MHCLG (10 September 2019) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated) [*In this report referred to as the Guidance*]
- Town and Country Planning (Use Classes) Order 1987 (as amended)
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Equality Act 2010
- Localism Act 2011
- Housing and Planning Act 2016
- Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations*]
- Neighbourhood Planning (General) (Amendment) Regulations 2015
- Neighbourhood Planning (General) incorporating Development Control Procedure (Amendment) Regulations 2016
- Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018
- Local Government & Police & Crime Commissioner (Coronavirus) (Postponement of Elections & Referendums) (England & Wales) Regulations 2020

Consultation

24. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local

community members, and other consultees, and how these have been addressed in the submission plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.

25. The Advisory Committee, comprising Parish Councillors and other volunteers from the community, that has led the preparation of the Neighbourhood Plan first met in August 2017. Minutes of all Advisory Committee meetings have been published on the Parish Council website. Three theme groups, considering housing, environment, and economy, transport and community assets were established in March 2018. The progress made by the Advisory Committee has been overseen by the Parish Council through a regular agenda item. Public participation has been achieved through regular updates in “The Walcote Word” parish e-newsletter. Updates and notice of Plan events and a comprehensive questionnaire were included in the Five parishes newsletter delivered to every household. Publicity has also been achieved through use of noticeboards, flyers, and deposit of documents at four well used locations. A housing needs survey was undertaken in autumn 2018 and open meetings have been held on five occasions.

26. In accordance with Regulation 14 the Parish Council consulted on the pre-submission version of the draft Neighbourhood Plan between 24 February 2020 and 20 April 2020. Publicity included notification in a paper special edition of the Walcote Word newsletter, and letters sent by post, email or hand delivered to all statutory consultees, landowners, and owners/occupiers of properties identified as non-designated heritage assets. All Plan documents were published on the Parish Council website, and arrangements were made to provide hard copy documents on request to the Parish Council clerk. The 15 representations received in response to the consultation are presented in the Appendix of the Consultation Statement. Action taken, including modification and correction of the emerging Neighbourhood Plan, is also set out in the Appendix. Suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was submitted by the Parish Council to the District Council.

27. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 26 August 2020 and 7 October 2020. This extended time period and adjusted arrangements for publicity and accessibility were adopted in response to the circumstances arising from the Covid 19 pandemic at that time.

Eleven representations were submitted in total.

28. I have been provided with copies of each of those representations. In preparing this report I have taken into consideration all of the representations submitted, in so far as they are relevant to my role, even though they may not be referred to in whole, or in part in my report. Some representations, or parts of representations, are not relevant to my role which is to decide whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. Where the representations suggest additional matters that could be included in the Neighbourhood Plan that is only a matter for my consideration where such additions are necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements that I have identified. Where relevant representations relate to specific policies, I have taken them into consideration later in my report when considering the policy in question.
29. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. Whilst I placed no obligation on the Parish Council to offer any comments, such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. On 8 January 2021 the Parish Council responded to the opportunity to comment by setting out a statement in respect of two of the Regulation 16 representations. I have taken the Parish Council comments into account in preparing my report.
30. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:
- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
 - b) explains how they were consulted;
 - c) summarises the main issues and concerns raised by the persons consulted; and
 - d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.²²

²² Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

31. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. In addition, sufficient regard has been paid to the advice regarding plan preparation and engagement contained within the Guidance. It is evident the Neighbourhood Plan Advisory Committee has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

The Neighbourhood Plan taken as a whole

32. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and Human Rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the Development Plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this. In considering all of these matters I have referred to the submission, background, and supporting documents, and copies of the representations and other material provided to me.

Consideration of Convention Rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017

33. The Basic Conditions Statement states the Neighbourhood Plan “*has regard to and is compatible with the fundamental rights and freedoms guaranteed under the European Convention on Human Rights.*”

34. I have considered the European Convention on Human Rights and in particular Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).²³ Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I

²³ The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. I am satisfied the Neighbourhood Plan has been prepared in accordance with the obligations for Parish Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010. Whilst no Equality Impact Assessment has been undertaken in respect of the Neighbourhood Plan, from my own examination the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

35. The objective of EU Directive 2001/42²⁴ is *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”* The Neighbourhood Plan falls within the definition of ‘plans and programmes’²⁵ as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.²⁶
36. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to Harborough District Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.
37. The Misterton with Walcote Neighbourhood Plan Strategic Environmental Assessment Determination July 2020 states *“As a result of the assessment in Section 4, it is unlikely there will be any significant environmental effects arising from the Misterton with Walcote Neighbourhood Plan Regulation 14 Draft as submitted at the date of this assessment, that were not covered in the Sustainability Appraisal for the Local Plan. As such, it is the determination of the Council that the Misterton with Walcote Neighbourhood Plan does not require a full SEA to be undertaken. The Environment Agency, Natural England and Historic England have been consulted on the Screening Report prior to the Councils determination and their responses have been made available as part of this Determination. If the issues addressed in the Neighbourhood Plan should change then a new*

²⁴ Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

²⁵ Defined in Article 2(a) of Directive 2001/42

²⁶ Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

screening process will need to be undertaken determine whether an SEA will be required.” I am satisfied the requirements regarding Strategic Environmental Assessment have been met.

38. The Basic Conditions Statement states “*The Misterton with Walcote NP area does not include or is not close to a European site that would require a Habitats Regulations Assessment.*” I have earlier in my report, in Footnote 12, referred to the replacement on 28 December 2018 of the Basic Condition relating to Habitats that had previously been in place throughout the early period of preparation of the Neighbourhood Plan. The Basic Conditions Statement is dated June 2020. The Table presented at section 4.2 of the Strategic Environmental Assessment Determination document states “*Misterton with Walcote NP is unlikely to have a substantial effect on the Natura 2000 network of protected sites. The Plan does not allocate sites for housing. A Habitat Regulations Assessment (HRA) has been undertaken as part of the Local Plan preparation. The assessment concludes that the Local Plan will not have a likely significant effect on any internationally important wildlife sites either alone or in conjunction with other plans and projects. These conclusions are based on the fact that no such sites are located within the district and no impact pathways were identified linking internationally important wildlife sites outside of the district (e.g. Rutland Water SPA/Ramsar site) to development within Harborough District. The Local Plan HRA considered but dismissed the following sites from the analysis due to a combination of distance and absence of impact pathways linking it to the District: • Ensor’s Pool SAC; • The Upper Nene Valley Gravel Pits SPA and Ramsar; and • River Mease SAC. The HRA looked into the potential effects of the plan on Rutland Water SPA and Ramsar site in more detail. However, it concluded that the Local Plan will not have a likely significant effect on the site as no impact pathways were identified linking it to development within Harborough District. Given that Misterton with Walcote lies some 40 km from Rutland Water SPA/Ramsar, it is considered that the NP will not affect any Natura 2000 sites in line with the findings of the HRA. Therefore, it is concluded that a full Appropriate Assessment is not deemed to be required.*” The Table presented in Appendix 3 of the Strategic Environmental Assessment Determination document states the nearest Natura 2000 site is Ensor’s Pool SAC which is reported to be 30 km away. The analysis does not identify any negative effects relating to Habitats Regulations arising from any policy of the Neighbourhood Plan. I am satisfied that the Neighbourhood Plan

meets the requirements of the revised Basic Condition relating to Habitats Regulations.

39. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.

40. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

41. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The District Council as Local Planning Authority must decide whether the draft neighbourhood plan is compatible with EU obligations:

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).²⁷

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

42. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the tests of soundness provided for in respect of examinations of Local Plans²⁸ which requires plans to be “*consistent with national policy*”.

²⁷ Planning Practice Guidance paragraph 031 Reference ID: 11-031-20150209 revision 09 02 2015

²⁸ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

43. Lord Goldsmith has provided guidance²⁹ that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”
44. The most recent National Planning Policy Framework published on 19 February 2019 (subsequently updated) sets out the Government’s planning policies for England and how these are expected to be applied. In my initial letter published by the District Council I confirmed that I would undertake this Independent Examination of the Neighbourhood Plan in the context of the Framework published in February 2019 (as updated) and the most recent Planning Practice Guidance.
45. The Basic Conditions Statement includes, in part 4.2, a general statement seeking to demonstrate that the Neighbourhood Plan “*has been developed in consideration*” of the Framework. The Table presented at section 4.4 of the Basic Conditions Statement sets out a summary of how each policy of the Neighbourhood Plan has regard to the Framework. I am satisfied the Basic Conditions Statement demonstrates how the Neighbourhood Plan has regard to relevant identified components of the Framework.
46. The Neighbourhood Plan includes, in Section 4, a positive vision for Misterton with Walcote Parish that has been “*prepared by the Advisory Committee based on community input*”. The vision includes economic dimensions (“*acknowledgement of the Strategic Development allocation; wider range of employment opportunities; broadband speeds to encourage home working; economic well-being; investment in economic life; support of services and facilities*”), and social components (“*housing mix provision to cater for the young to the retired; affordable homes; accessible sustainable housing; healthy community spirit; friendliness and sense of community; pedestrian routes and access to areas of natural beauty; a place for contemplation and quiet enjoyment; safety*”) whilst also referring to environmental considerations (“*retention of rural character and green*”).

²⁹ The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the House of Lords Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

spaces; areas of separation between settlements; open views of the countryside; a home for wildlife; characterful sustainable development; housing of quality design; and a managed traffic system ”). The vision statement and the analysis of key topics, provide a framework for the policies that have been developed.

47. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to *‘have regard to’* national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition *“having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.”*
48. At the heart of the Framework is a presumption in favour of sustainable development³⁰ which should be applied in both plan-making and decision-taking.³¹ The Guidance states, *“This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions”*³².
49. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some

³⁰ Paragraph 10 National Planning Policy Framework 2019

³¹ Paragraph 11 National Planning Policy Framework 2019

³² Planning Practice Guidance Paragraph 072 Ref ID:41-072-20190509 Revision 09 05 2019

alternative plan would make a greater contribution to sustainable development.

50. The Framework states there are three dimensions to sustainable development: economic, social and environmental. Section 4.3 of the Basic Conditions Statement presents the results of an analysis which demonstrates seven ways in which the Neighbourhood Plan “*contributes to achieving the economic, social and environmental aspects of sustainable development.*” The analysis does not highlight any negative impacts.

51. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes are of an appropriate nature and quality to contribute to economic and social well-being; whilst also protecting important environmental features of the Neighbourhood Area. In particular, I consider the Neighbourhood Plan as recommended to be modified seeks to:

- Establish conditional support for development proposals within identified limits to development;
- Establish areas outside the limits to development and outside the SDA will be treated as open countryside and establish criteria for rural exception sites;
- Establish requirements in respect of the part of the SDA within the Neighbourhood Area;
- Establish housing mix requirements for new developments;
- Establish design principles for residential development;
- Designate two Local Green Spaces;
- Protect sites of environmental significance;
- Establish criteria for loss of open spaces, sports and recreation sites;
- Identify locally valued heritage assets and establish criteria for assessment of proposals affecting those assets;
- Safeguard and enhance locally significant habitats and their connectivity;
- Identify and protect important local views;
- Establish conditional support for renewable energy generation infrastructure;
- Establish criteria for loss of community facilities;

- Establish conditional support for new or improved community facilities;
- Establish traffic related requirements for new development;
- Establish requirements for electric vehicle charging facilities;
- Establish a presumption against loss of commercial premises or land and establish criteria for support of such loss;
- Establish conditional support for new businesses and employment;
- Establish criteria for support of home working proposals;
- Establish conditional support for farm diversification and other rural enterprises; and
- Establish support for superfast broadband proposals.

;

52. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

53. The Framework states neighbourhood plans should “*support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies*”.³³ Plans should make explicit which policies are strategic policies.³⁴ “*Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area*”³⁵. *Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies*”.³⁶

54. The Guidance states, “*A local planning authority should set out clearly its strategic policies in accordance with paragraph 21 of the National*

³³ Paragraph 13 National Planning Policy Framework 2019

³⁴ Paragraph 21 National Planning Policy Framework 2019

³⁵ Footnote 16 National Planning Policy Framework 2019

³⁶ Paragraph 29 National Planning Policy Framework 2019

Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”³⁷

55. In this independent examination, I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). The District Council has informed me that the Development Plan applying in the Misterton with Walcote Parish Neighbourhood Area and relevant to the Neighbourhood Plan is the Harborough Local Plan 2011 to 2031 and that with the exception of Policies GD6; GD9; H3; RT3; HC2; HC3; GI3; GI4; and CC4 all the policies of the Local Plan are to be regarded as strategic. Paragraph 1.6.7 of the Local Plan states *“With the exception of these policies, neighbourhood plans should be in general conformity with all policies of this Local Plan.”*
56. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The Guidance states *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan”³⁸*. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.
57. In considering a now-repealed provision that *“a local plan shall be in general conformity with the structure plan”* the Court of Appeal stated *“the adjective ‘general’ is there to introduce a degree of flexibility.”³⁹* The use of *‘general’* allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.
58. The Guidance states, *“When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:*

³⁷ Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20190509 Revision 09 05 2019

³⁸ Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

³⁹ *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”⁴⁰*

My approach to the examination of the Neighbourhood Plan Policies has been in accordance with this guidance.

59. Consideration as to whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and each of the plan policies below. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

The Neighbourhood Plan Policies

60. The Neighbourhood Plan includes 23 policies as follows:

Policy HBE1 Limits to Development

Policy HBE2 East of Lutterworth SDA

Policy HBE3 Housing Mix

Policy HBE4 Windfall Sites

Policy HBE5 Rural Exception Sites

Policy HBE6 Design Standards

Policy ENV1 Protection of Local Green Space

Policy ENV2 Protection of Sites of Environmental Significance

⁴⁰ Planning Practice Guidance Paragraph 074 ID ref: 41-074 20140306 Revision 06 03 2014

Policy ENV3 Open Spaces, Sports and Recreation Sites

Policy ENV4 Non-Designated Local Heritage Assets

Policy ENV5 Ridge and Furrow

Policy ENV6 Biodiversity, Woodland, Hedges and Habitat Connectivity

Policy ENV7 Protection of Important Views

Policy ENV8 Renewable Energy Generation Infrastructure

Policy CF1 Retention of Community Facilities, Amenities, Assets

Policy CFA2 New or Improved Community Facilities

Policy TR1 Traffic Management

Policy TR2 Electric Vehicles

Policy BE1 Support for Existing Businesses & Employment Opportunities

Policy BE2 Support for New Businesses and Employment

Policy BE3 Home Working

Policy BE4 Farm Diversification

Policy BE5 Broadband Infrastructure

61. Paragraph 29 of the Framework states *“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies”*. Footnote 16 of the Framework states *“Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”*

62. Paragraph 15 of the Framework states *“The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”*

63. Paragraph 16 of the Framework states *“Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”*
64. The Guidance states *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*⁴¹
65. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.*⁴²
66. A neighbourhood plan should contain policies for the development and use of land. *“This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”*⁴³

⁴¹ Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306 Revision 06 03 2014

⁴² Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

⁴³ Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20190509 Revision 09 05 2019

67. *“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.”*⁴⁴ *“A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.”*⁴⁵
68. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is ‘made’ they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn. I have considered any inter-relationships between policies where these are relevant to my remit.

Policy HBE1 Limits to Development

69. This policy seeks to establish conditional support for development proposals on sites within identified Limits to Development, and that subject to rural exception sites provision, areas outside the Limits to Development and the SDA will be treated as open countryside where development will be carefully controlled in line with local and national strategic planning policies.
70. A representation identifies a parcel of land (Bufton Field) as being suitable for residential development and states consideration should be given to including this land within the Limits to Development boundary. It is not within my role to consider the merits of development proposals, or the relative merits of alternative development proposals, including those supported or promoted in Regulation 16 representations, nor is it within my role to balance those merits against detriments or shortcomings of development proposals. I have earlier in my report explained that my role is to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified.
71. A limit to development boundary can represent the dividing line between built areas and open countryside, and can follow clearly defined features such as walls, hedgerows or water courses. Extant

⁴⁴ Planning Practice Guidance Paragraph 040 Reference ID 41-040-20160211 Revision 11 02 2016

⁴⁵ Planning Practice Guidance Paragraph 042 Reference ID 41-042-20170728 Revision 28 07 2017

planning permissions and allocations can be included within a limit to development boundary. The definition of the envelope however does not have to relate to some observable land use difference or dividing feature. A limit to development boundary does not have to include the full extent of a settlement, and a limit to development boundary does not have to reflect land ownership boundaries or the precise curtilages of properties. A limit to development boundary can be used to identify the limits to future development of a settlement. One approach is to exclude curtilages of properties which have the capacity to extend the built form of a settlement in areas where this is not considered desirable. Such areas could include whole properties or parts of large residential gardens.

72. The Neighbourhood Plan explains that whilst the current Local Plan adopts a criteria-based approach to spatial policy, the previous Local Plan had adopted a limit to development approach and the defined Limits to Development for Walcote are considered to be still appropriate. The Limits to Development boundary referred to in Policy HBE1 has been subject to community engagement and consultation during the Neighbourhood Plan preparation process. The Limits to Development boundary does not define the built-up area of Walcote village as it excludes some adjacent buildings. I am satisfied the Limits to Development boundary indicates a physical limit to development within which infill development will be conditionally supported over the plan period, and outside which proposals will be subject to strategic and national policy. The policy recognises the allocated SDA. Policy HBE1 uses the Limits to Development boundary as a mechanism to define the area within which proposals for housing development will be conditionally supported, and will guide development to sustainable solutions. It is beyond my role to consider whether any alternative alignment of the limit to development boundary would offer a more sustainable solution. It is beyond my role to recommend modification of the Neighbourhood Plan where this is not necessary to meet the Basic Conditions or other requirements that I have identified. The Limits to Development boundary is clearly defined. The Neighbourhood Plan explains that Misterton is considered to be too small to require a Limits to Development. There is no requirement that Misterton should have a Limits to Development boundary defined. I am satisfied the approach adopted in Policy HBE1 has sufficient regard for national policy.

73. The term “*the above plan*” is imprecise. It is unnecessary and confusing for a policy to include the non-specific statement “*where it*

complies with the policies of this Neighbourhood Plan” as the Neighbourhood Plan should be read as a whole. I have recommended a modification in these respects so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

74. As recommended to be modified the policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

75. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes, and conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 1:

In Policy HBE1

- **replace “the above plan” with “Figure 2”**
- **delete “where it complies with the policies of this Neighbourhood Plan and”**

Policy HBE2 East of Lutterworth SDA

76. This policy seeks to establish requirements relating to the part of the East of Lutterworth Strategic Development Area that lies within the Neighbourhood Area.

77. In a representation Leicestershire County Council explain the role of the Authority in terms of highway matters and a Lead Local Flood Authority. A number of comments are made but it is not made clear which policies, or parts of policies, of the Neighbourhood Plan they

refer to. I am satisfied the approach adopted in Policy HBE2 has sufficient regard for national policy in these respects.

78. A representation on behalf of Leicestershire County Council states “a) *In relation to criterion a), Policy L1 of the Local Plan requires the SDA to provide for structural landscaping on the southern boundary; the provision of a community park and the protection of the setting of the listed church of St Leonard’s at Misterton. It is not necessary for the Neighbourhood Plan to repeat the requirements of the Local Plan. It should be noted that the submitted planning application provides for an area of separation between the proposed built development and Misterton, in accordance with L1, thereby protecting the setting and integrity of Misterton village.*

79. *Highway criteria (b to f) - The Transport Assessment submitted with the current planning application includes detailed mitigation measures that will be implemented as part of the development scheme fully addresses all highways issues to the satisfaction of Highways England and the Local Highway Authorities (as confirmed in their respective earlier consultation responses), including the need for a robust network of cycle and footpaths to provide connectivity between Lutterworth, the SDA and the wider area. In addition, the following comments are made to the following criteria:*

b) Policy L1 of the Local Plan requires access into the SDA from both the north and south of the A4304. The proposals in the submitted planning application have taken into account existing traffic travelling on the A4304, its projected increase during the development of the SDA and traffic from the SDA itself, to ensure that traffic in the area as a whole can be accommodated.

c) Policy L1 sets out a series of highway mitigation measures required by HE and the LHA necessary for the SDA. In addition, the National Planning Policy Framework (NPPF) states that mitigation is necessary where traffic to be generated by the development would otherwise result in an unacceptable impact on highway safety or severe residual cumulative impacts on the road network.

80. *Environmental criteria (g to i) - Local Plan policy L1 was developed in consultation with Historic England, Natural England and other stakeholders. The current planning application addresses environmental considerations in accordance with L1 through the proposed Parameters Plan and measures can be secured by appropriately worded conditions and section 106 obligations. The*

extent of appropriate buffering will be dealt with at the detailed application and/or condition discharge stage.

81. *Country Park - j) Policy L1 requires a community park to be provided for within the SDA. The current planning application proposes the Swift Valley Community Park within the development boundary. However, it is considered inappropriate to extend the area of the country park beyond the limits of the SDA due to the potential damage to valuable ecological assets and disturbance to farm stock that could occur as a consequence of giving full public access beyond the SDA. It is not a proposal that can be implemented by the SDA in and of itself due to the issue of third-party land ownerships nor is it necessary for the SDA. It is recognised that affording some protection to the land to the east of the SDA boundary would fulfil a number of important functions by protecting potentially important ecological, heritage and landscape features in addition to providing a greater area of separation between the SDA and neighbouring communities. Yet, the benefit to be derived from such an area of landscape and biodiversity importance has been compromised by the exclusion, within the current version of the plan, of those areas of land in private ownership. Access is already available for much of the area by both public rights of way and permissive routes, which should be maintained, although wider access has the potential to undermine the integrity of valuable ecological assets which may be sensitive to disturbance. To reiterate the wider area of land proposed in the earlier draft would best fulfil the need to provide separation between Walcote and development to the north west and achieve the objective of protecting the landscape and ecological assets, however, as the land is held in several ownerships, with a significant proportion active farms, it would be unrealistic to seek to give wider public access than already exists. Furthermore, maintaining viable agricultural units is an effective method of ensuring the existing landscape is retained.*
82. *Land to the South of the A4304 - l) The mitigation measures required have been addressed within the current planning application and will be secured by appropriately worded conditions. This will be addressed further during the detailed design stage for this parcel of land.” I understand this final comment relates to part k) not l) of the policy.*
83. *In a representation the District Council state “Criterion j: Refers to ‘land designated by LCC as a Country Park in the SDA’. Designated is probably not the appropriate word to use- ‘proposed’ or ‘indicated’.”*

84. Whilst a representation states the submitted planning application provides for separation between proposed development and Misterton, this does not prevent the Neighbourhood Plan establishing a policy approach for the Plan period regardless or not whether a particular proposal is pursued. Whilst parts l and m of Strategic Policy L1 specify access arrangements to the SDA, part b) of Policy HBE2 seeks to introduce an additional highway design consideration which is adequately explained and justified in supporting text. The SDA is a major project, part of which is proposed to be located within the Neighbourhood Area. Within the bounds of general conformity with strategic policy it is legitimate for the local community to seek to influence a design consideration of the SDA project. Parts a), b), d), e), f), g), and h) of Policy HBE2 serve a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies without undermining those strategic policies. I have recommended a typographical error in part f) is corrected.
85. Part i) of Policy HBE2 duplicates part u of Strategic Policy L1. In response to my request for clarification the District and Parish Council have agreed part i) of the policy can be removed. Paragraph 16 of the Framework states plans should avoid unnecessary duplication of policies that apply to a particular area. I have recommended part i) of Policy HBE2 is deleted. Paragraph 109 of the Framework states development should only be prevented or refused on highway grounds if there is an unacceptable impact on highway safety, or the residual impacts on the road network would be severe. Part c) of Policy HBE2 has not been adequately justified in these terms. I have recommended part c) is deleted. Whilst the threshold to become part of development plan policy has not been met it is important that concerns that are surfaced in the local community through the Neighbourhood Plan preparation process should not be lost sight of and I therefore recommend part c) is re-presented as a community aspiration. Such a proposal should be differentiated from the policies of the Neighbourhood Plan through use of a different typeface or text colour.
86. Part u of strategic Policy L1 refers to provision of a green space, such as a community park in the southern part of the SDA. Part j) of Policy HBE2 imprecisely refers to this as “*land designated*” as a Country Park. Part j) of the policy uses the term “*allocated*” without specifying the proposed use. The allocation of land requires detailed justification including demonstration of precise need, consideration of alternatives, and reasoning to support choice of the proposed allocation option. Part j) of the policy has not been adequately justified. I have recommended

this part of the policy should be deleted and reformulated and presented as a community aspiration. Such a proposal should be differentiated from the policies of the Neighbourhood Plan through use of a different typeface or text colour.

87. In part k) of Policy HBE2 the sentence *“The impact of development on air quality in the Plan area will be measured and mitigated”* has not been sufficiently justified; would represent an over-burdensome scale of obligation in respect of minor development; and is not in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) which sets out what is required from applicants when submitting planning applications. The ‘Guidance on Information Requirements and Validation’ document published by the Department for Communities and Local Government Department (DCLG) in 2010 provides more information on the mandatory national information requirements and states that a valid planning application should include *‘information to accompany the application as specified by the local planning authority on their local list of information requirements’*. The use of local lists of information was again promoted in the Framework requiring that local lists be reviewed on a frequent basis to ensure that they remain *‘relevant, necessary and material’*. The DMPO states that validation requirements imposed by local planning authorities should only be those set out on a local list which has been published within 2 years before the planning application is made to ensure information requirements are robust and justified on recent research. The Growth and Infrastructure Act 2013 makes clear that local planning authority information requirements must be reasonable having regard to the nature and scale of the proposed development and the information required must be a material consideration in the determination of the application. I have recommended a modification in these respects so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework. Whilst a representation states mitigation measures have been addressed within the current planning application this does not prevent the Neighbourhood Plan establishing a policy approach for the Plan period regardless or not whether a particular proposal is pursued.

88. As recommended to be modified the policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing

an additional level of detail or distinct local approach to that set out in the strategic policies.

89. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes, promoting sustainable transport; achieving well-designed places; conserving and enhancing the historic environment; conserving and enhancing the natural environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 2:

In Policy HBE2

- **in part f) replace “with” with “within”**
- **delete parts c) and j) and reformulate the text as community aspirations (distinguishable from the policies of the Neighbourhood Plan)**
- **delete part i)**
- **in part k) delete the sentence “The impact of development on air quality in the Plan area will be measured and mitigated”**

Policy HBE3 Housing Mix

90. This policy seeks to establish that new development should provide for a mixture of identified local housing needs. The policy also seeks to establish support for dwellings of three bedrooms or fewer, and single storey accommodation suitable for older people, and specifies dwellings of four or more bedrooms should not comprise more than 50% of new dwellings in any multi-house development.

91. A representation on behalf of Leicestershire County council states *“Policy HBE 3 limits the number of 4 or more-bedroom properties to no more than 50% in ‘multi-house development’. Firstly, it is recommended that clarification is provided in relation to multi-house development (Policy HBE 4 considers 4 units ‘small’). For instance, a relatively small site will develop differently to a larger site. Furthermore, considerations such as viability, layout and design and*

environmental factors should be taken into account.” The term multi-house is sufficiently clear to guide decision makers. Policy HBE3 is in general conformity with Strategic Policy H5 which requires major housing development to provide a mix of house types that is informed by up-to-date evidence of housing need.

92. Paragraph 61 of the Framework (which should be read in the context of paragraph 60) states the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. I am satisfied the approach adopted in Policy HBE3 has sufficient regard for national policy in this respect.

93. The term “*the above*” is imprecise. I have recommended a modification so that the policy is deliverable as required by paragraph 16 of the Framework. It is unnecessary and confusing for a policy to state “*where they are in accordance with other policies*” as the Development Plan should be read as a whole. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

94. As recommended to be modified the policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

95. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 3:
In Policy HBE3**

- **delete “the above”**
- **delete “where they are in accordance with other policies”**

- **continue the policy with “unless it is demonstrated this is not viable”**

Policy HBE4 Windfall Sites

96. This policy seeks to establish conditional support for small residential developments of four dwellings or less on infill and redevelopment sites within the Limits to Development.
97. In a representation the District Council state “*Definition of small has the potential for not making best use of sites that become available*”. Whilst the policy sees to establish criteria for support of small residential development schemes it is silent with respect to proposals of more than four dwellings. There is no requirement for the Neighbourhood Plan to include a policy relating to proposals of more than four dwellings. I am satisfied the approach adopted in Policy HBE4 has sufficient regard for national policy in this respect.
98. The policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
99. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of housing; making effective use of land; achieving well designed places; and conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. This policy meets the Basic Conditions.

Policy HBE5 Rural Exception Sites

100. This policy seeks to establish criteria for support of development proposals for rural exception sites.
101. In a representation the District Council state “*What is meant by small sites?*” I am satisfied decision makers are provided with sufficient

guidance in this respect by the criteria included in the policy, in particular that *“the scale of development would be in keeping with the role and function of the settlement”*. This approach mirrors that adopted in non-strategic Local Plan Policy H3.

102. The District Council representation also questions *“How is the market housing going to be prioritised in perpetuity for people with a local connection?”* Paragraph 77 of the Framework states *“In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local Planning Authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this.”* Annex 2 (Glossary) of the Framework defines rural exception sites as *“Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority’s discretion, for example where essential to enable the delivery of affordable units without grant funding.”* Policy HBE5 is appropriate having regard to the definition of rural exception sites in Annex 2 (Glossary) of the Framework and seeks to ensure schemes meet identified local housing need.
103. Part d) of Policy HBE5 does not duplicate non-strategic Local Plan Policy H3 as it provides an additional level of detail by stating local needs relate to people with a local connection to the Neighbourhood Area.
104. Part f) of Policy HBE5 refers to market homes essential to the delivery of affordable units. Part e) of the policy seeks to ensure both *“market and affordable housing is available with priority in perpetuity for people with a connection to the Parish”*. Paragraph 34 of the Framework states *“Plans should set out the contributions expected from development”* and *“Such policies should not undermine the deliverability of the Plan.”* Paragraph 31 of the Framework states *“The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focussed tightly on supporting and justifying the policies concerned, and take into account relevant market signals.”* The proposed policy approach relating to the market housing element of a scheme has not been sufficiently justified. I have recommended a

modification in this respect so that the policy has sufficient regard for national policy.

105. The representation of the NFU states *“Does this policy allow for agricultural dwellings to be built in or around farmsteads to house agricultural workers and family members coming into the business? Please can it be more explicit on this.”* It is not within my role to recommend a policy should relate to additional matters except where that is necessary to meet the Basic Conditions. There is no requirement for the policy to refer to agricultural dwellings as indicated in the representation.
106. As recommended to be modified the policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
107. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 4:
In Policy HBE5 delete “market and”**

Policy HBE6 Design Standards

108. This policy seeks to establish design principles for all housing proposals.
109. In a representation the District Council state *“Criterion E: Should ‘provision made for the upkeep’ only refer to new grass areas – is it not open space more generally?”*. In response to my request for clarification the District and Parish Councils suggest “new green spaces” as an alternative. The District Council *also suggest criterion F*

should refer to new development rather than applications. I agree with both of these suggestions and have recommended modifications in these respects in the interests of clarity and so that the policy “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

110. A representation by Severn Trent Water states support for the principles but recommend additions and adjustments however the suggestions are not necessary to meet the Basic Conditions.

111. A representation on behalf of Leicestershire County Council states *“Policy HBE 6 states that all development should be designed to category M4(2) Category 2 of the building regulations. This is not in accordance with the development plan. Local Plan policy H5, criterion 3, requires only 4% of all development over 100 dwellings to accord with this higher accessibility standard. This requirement is based on evidence of likely need, that was justified at the Local Plan examination. The Neighbourhood Plan has not demonstrated why all properties should be M4(2) Category 2, nor has it undertaken any assessment on the likely effect of such measures on the viability of development in accordance with national policy. It is noted that in the Neighbourhood Plan consultation statement that the plan has been changed to say ‘should’ rather than must, and that it is a requirement rather than an aspiration. In future, there is no certainty that this will remain clear to the decision maker if the wording remains as drafted.”* I have recommended a modification in this respect so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

112. Principle F) fifth bullet point refers to standards of performance. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these.⁴⁶ The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local*

⁴⁶ <https://www.gov.uk/guidance/housing-optional-technical-standards>

technical standards or requirements relating to the construction, internal layout or performance of new dwellings". I have recommended a modification in this respect.

113. Principle A) seeks to establish a parking standard. Paragraph 105 of the Framework sets out the factors that should be taken into account if policies seek to set local parking standards. Whilst part A) refers to Highway Authority requirements the introduction of a specific parking policy in the Neighbourhood Plan has not been sufficiently justified. Paragraph 110 of the Framework provides that in the stated context applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. In the context stated in paragraph 109 of the Framework I consider it appropriate that Policy HBE6 should seek to establish support for charging facilities rather than seek to establish a requirement in this respect. It may not always be feasible or viable for all new dwellings to have at least one electric vehicle charging point. Paragraph 16 of the Framework states plans should be deliverable. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.

114. As recommended to be modified the policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

115. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting sustainable transport, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 5:
In Policy HBE6**

- **replace the second and third sentences of part A with "The provision of charging ports for electric vehicles within residential curtilages will be supported."**

- delete part C
- in part E replace “grass areas” with “green spaces”
- in part F replace “Applications” with “Development proposals” and delete the fifth bullet point

Policy ENV1 Protection of Local Green Space

116. This policy seeks to designate two Local Green Spaces.
117. A representation states it is important that the definition of Green Space is properly understood as people and/or dogs going off the footpath would not be compatible with the organically farmed use of fields forming part of the Misterton Churchyard and Meadows proposed LGS. The Guidance states *“Designation does not in itself confer any rights of public access over what exists at present. Any additional access would be a matter for separate negotiation with land owners, whose legal rights must be respected.”*⁴⁷
118. Designation of Local Green Space can only follow identification of the land concerned. For a designation with important implications relating to development potential it is essential that precise definition is achieved. The proposed Local Green Spaces are presented on Figure 5 of the Neighbourhood Plan and on maps in Appendix 7. When viewed electronically the maps can be expanded to better reveal the line of boundaries of the green spaces in question. Appendix 7 also includes other information to assist identification including postal address with postcode and images of the sites. I am satisfied the areas of land proposed for designation as Local Green spaces have been adequately identified.
119. Severn Trent Water state *“Severn Trent understand the need for Local Green Space and the need for them to be protected, however local green spaces can provide suitable locations for schemes like flood alleviation to be delivered without adversely impacting on the primary function of the open space. If the correct scheme is chosen, the flood alleviation can result in additional benefits to the local green space in the form of biodiversity or amenity improvements. We would therefore recommend that the following point is added to Policy ENV ‘Development of flood resilience schemes within local green spaces will be supported provided the schemes do not adversely impact the*

⁴⁷ Planning Practice Guidance Paragraph: 017 Reference ID: 37-017-20140306
Revision date: 06 03 2014

primary function of the green space". It is beyond my role to recommend additional areas of planning policy are included in the Neighbourhood Plan except where these are necessary so that the Neighbourhood Plan meets the Basic Conditions. The suggestion of Severn Trent Water is not necessary to meet the Basic Conditions.

120. Policy ENV1 includes the imprecise term "loss of, or have an adverse effect on". Decision makers must rely on paragraph 101 of the Framework that states "*Policies for managing development within a Local Green Space should be consistent with those for Green Belts*" and the part of the Framework that relates to 'Protecting Green Belt land', in particular paragraphs 143 to 147. That part of the Framework sets out statements regarding the types of development that are not inappropriate in Green Belt areas. The policy seeks to introduce a more restrictive approach to development proposals than apply in Green Belt without sufficient justification, which it may not.⁴⁸ I have recommended a modification in this respect.
121. Paragraph 99 of the Framework states "*The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.*"
122. In respect of both of the areas proposed for designation as Local Green Space I find the Local Green Space designations are being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designations are not capable of enduring beyond the end of the plan period. The intended Local Green Space designations have regard to the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework.
123. Paragraph 100 of the Framework states "*The Local Green Space designation should only be used where the green space is: a) in reasonably close proximity to the community it serves; b)*

⁴⁸ *R on the Application of Lochailort Investments Limited v Mendip District Council. Case Number: C1/2020/0812*

demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and c) local in character and is not an extensive tract of land.” A representation on behalf of Leicestershire County Council states *“Policy ENV 1 identifies two areas of substantial areas of Local Green Space (LGS). Whilst this is supported, the Neighbourhood Plan should be mindful of the NPPF which states that LGS should be discreet areas of specific local importance rather than extensive tracts of land.”* I find that in respect of each of the intended Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves, is local in character, and is not an extensive tract of land. Misterton churchyard and meadows is stated to be 4.9 hectares and Walcote parkland is stated to be 7.3 hectares. In reaching the latter conclusion I have taken into account the fact that both areas of land are recognisable as, and can be viewed as, distinct, discrete, enclosed entities with high levels of internal intervisibility.

124. The Guidance states the Qualifying Body (Parish Council) *“should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan.”*⁴⁹ The areas proposed for designation as Local Green Space have been subject to extensive consultation with the local community.

125. The submission Neighbourhood Plan includes in Appendix 7 information that seeks to justify the proposed designations as Local Green Space. Relevant reasons for designation are stated in respect of each site including matters referred to in the Framework. Appendix 7 provides sufficient evidence for me to conclude that each of the two areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance.

126. I find that the areas proposed as Local Green Space are suitable for designation and have regard for paragraphs 99 to 101 of the Framework concerned with the identification and designation of Local Green Space.

127. As recommended to be modified the policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to

⁴⁹ Planning Practice Guidance Paragraph: 019 Reference ID:37-019-20140306 Revision date 06 03 2014

the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

128. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 6:

Replace Policy ENV1 with “The following areas (identified on Figure 5 and in Appendix 7) are each designated as Local Green Space:

- **Misterton churchyard and meadows (inventory site 1026)**
- **Walcote parkland (inventory site 1117)”**

Policy ENV2 Protection of Sites of Environmental Significance

129. This policy seeks to identify sites that have significant historical and/or natural features that are locally valued and seeks to establish that those features should be weighed against the benefits of development proposals affecting them.

130. In a representation Severn Trent Water state “*Severn Trent understand the need for Site of Environmental Significance and the need for them to be protected, however Site of Environmental Significance can provide suitable locations for schemes like flood alleviation to be delivered without adversely impacting on the environmental significance of the site. If the correct scheme is chosen, the flood alleviation can result in additional benefits to the local green space in the form of enhanced biodiversity or amenity improvements. We would therefore recommend that the following point is added to Policy ENV 2 ‘Development of flood resilience schemes within Site of Environmental Significance will be supported provided the schemes do not adversely impact the environmental importance of the site’*”. It is not within my role to recommend inclusion of additional policy matters

in the Neighbourhood Plan unless they are necessary to meet the Basic Conditions. The suggested addition does not meet that criterion.

131. A representation on behalf of Leicestershire County Council states *“Policy ENV 2 is supported, this accords with the Local Plan and the LCC’s existing land management practices.”*
132. I am satisfied the approach adopted in Policy ENV2 has sufficient regard for national policy as set out in paragraphs 170 and 175 of the Framework and that the balanced approach adopted is consistent with the achievement of sustainable development.
133. The policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
134. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. This policy meets the Basic Conditions.

Policy ENV3 Open Spaces, Sports and Recreation Sites

135. This policy seeks to establish that development proposals that result in the loss, or have a significant adverse effect on identified open spaces will not be supported unless equivalent or better replacement is made, or the amenity is demonstrated to be no longer required.
136. In a representation the District Council state *“Policy needs to refer to a map of the sites and it would be helpful if the boundaries could be seen in greater detail than currently shown in Figure 7”* and *“Key should make it clear that the amber sites are designated in Local Plan”*. As with other maps in the Neighbourhood Plan, I am satisfied that when viewed electronically they can be expanded to examine elements in greater detail. I agree it would be helpful to adjust the

legend to Figure 7 to include reference to the Local Plan. I refer to this matter in the annex to my report.

137. A representation proposes additional areas of land for protection but this is not a matter for my consideration.
138. In a representation Severn Trent Water state *“Severn Trent understand the need for Open Spaces, Sporting and Recreation sites and the need for them to be protected, however Open Spaces, Sporting and Recreation sites can provide suitable locations for schemes like flood alleviation to be delivered without adversely impacting on the primary function of the open space. If the correct scheme is chosen, the flood alleviation can result in additional benefits to the Open Spaces and Recreation sites in the form of biodiversity or amenity improvements. We would therefore recommend that the following point is added to Policy ENV 3 ‘Development of flood resilience schemes within Open Spaces, Sporting and Recreation sites will be supported provided the schemes do not adversely impact the primary function of the open space.’”* It is not within my role to recommend inclusion of additional policy matters in the Neighbourhood Plan unless they are necessary to meet the Basic Conditions. The suggested addition does not meet that criterion.
139. Paragraph 97 of the Framework states existing open space, sports and recreational buildings and land should not be built on unless specified circumstances exist. I am satisfied the approach adopted in Policy ENV3 has sufficient regard for national policy in this respect.
140. The policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
141. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. This policy meets the Basic Conditions.

Policy ENV4 Non-Designated Local Heritage Assets

142. This policy seeks to establish that 22 buildings and structures should be identified as non-designated heritage assets and that the benefits of development proposals should be judged against their significance.
143. A representation on behalf of Leicestershire County Council states *“Policy ENV 4 is supported. It should be noted that measures for to the protection of Park Lodge, Misterton will be secured through the proposed layout for the SDA and the proposed planning conditions and delivered as part of the overall SDA scheme.”* In a representation the District Council suggest consideration should be given to the importance of group value of entries 19 Misterton Hall and 20 The Old Rectory. I am satisfied the policy does recognise that significance can relate to individual structures or buildings or their significance as part of a coherent group. Another representation states that if the spinney opposite Hall Cottage Brook Street is developed that would have a detrimental impact on the nature of the cottage. I am satisfied setting will be considered when assessing the impact of development proposals on a heritage asset. Policy ENV4 seeks to identify local heritage assets precisely so the impacts of development proposals should be considered in the context of the policy.
144. The Guidance refers to advice on local lists published on Historic England’s website.⁵⁰ *Historic England Advice Note 11 Neighbourhood Planning and the Historic Environment (Published 16 October 2018) states “Preparing a list of locally-valued heritage assets. Independent (at least initially) of any local list endorsed or developed by a local planning authority, neighbourhood planning groups may wish to consider if any buildings and spaces of heritage interest are worthy of protection through preparing a list of locally-valued heritage assets that is referenced in neighbourhood plan policy. The use of selection criteria helps to provide the processes and procedures against which assets can be nominated and their suitability for addition to the local planning authority’s heritage list assessed. A list of locally-valued heritage assets can inform or be integrated within a local list maintained by the local authority, subject to discussion with them.”* I have recommended a modification in these respects so that the policy has sufficient regard for national policy and guidance and *“is clearly written and unambiguous, so it is evident how a decision maker*

⁵⁰ Planning Practice Guidance Paragraph: 040 Reference ID: 18a-040-20190723 Revision date: 23 07 2019

should react to development proposals” as required by paragraph 16d) of the Framework.

145. Paragraph 197 of the Framework states *“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”* I am satisfied the approach adopted in Policy ENV4 to assess impact on locally valued heritage assets as though they were non-designated heritage assets has sufficient regard for national policy in this respect.

146. As recommended to be modified the policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

147. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the historic environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 7:

In Policy ENV4 and in the policy title replace “Non-designated local heritage assets” with Locally-valued heritage assets”

Policy ENV5 Ridge and Furrow

148. This policy seeks to establish that the areas of ridge and furrow earthworks identified on Figure 9 are non-designated heritage assets and that any loss or damage arising from a development proposal is to be balanced against the benefits of such development.

149. The Guidance refers to advice on local lists published on Historic England's website.⁵¹ *Historic England Advice Note 11 Neighbourhood Planning and the Historic Environment (Published 16 October 2018)* states "Preparing a list of locally-valued heritage assets. Independent (at least initially) of any local list endorsed or developed by a local planning authority, neighbourhood planning groups may wish to consider if any buildings and spaces of heritage interest are worthy of protection through preparing a list of locally-valued heritage assets that is referenced in neighbourhood plan policy. The use of selection criteria helps to provide the processes and procedures against which assets can be nominated and their suitability for addition to the local planning authority's heritage list assessed. A list of locally-valued heritage assets can inform or be integrated within a local list maintained by the local authority, subject to discussion with them." I have recommended a modification in these respects so that the policy has sufficient regard for national policy and guidance and "is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" as required by paragraph 16d) of the Framework.

150. The approach adopted in Policy ENV5 is aligned with that in paragraph 196 of the Framework relating to less than substantial harm to designated heritage assets. Paragraph 197 of the Framework states "The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset." I have recommended a modification so that assessment of impact on locally valued heritage assets should be as though they were non-designated heritage assets so as to have sufficient regard for national policy and guidance in this respect.

151. As recommended to be modified the policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

152. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their

⁵¹ Planning Practice Guidance Paragraph: 040 Reference ID: 18a-040-20190723 Revision date: 23 07 2019

community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the historic environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 8:

In Policy ENV5

- **replace “non-designated heritage assets” with “locally-valued heritage assets”**
- **replace the second sentence with “In weighing applications that affect these heritage assets a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”**

Policy ENV6 Biodiversity, Woodland, Hedges and Habitat Connectivity

153. This policy seeks to establish that new development should safeguard and enhance locally significant habitats and species and where practicable create new habitats for wildlife. The policy also seeks to establish new development should retain or replace trees, woodland and species rich hedges, and not adversely affect habitat connectivity provided by identified wildlife corridors.

154. In a representation Severn Trent Water state “*Severn Trent would highlight the importance of watercourse of habitat connectivity and sustainable space management. These features are vital assets for wildlife and ecology. We would therefore recommend that watercourses are also referenced within Policy ENV 6.*” This representation does not necessitate any modification to meet the Basic Conditions.

155. A representation on behalf of Leicestershire County Council states “*Policy ENV 6 is supported. In respect of the County Council’s landholdings measures for the protection and enhancement of important ecological assets, green and wildlife corridors have been developed in consultation with Natural England, the Environment Agency and other stakeholders and will be implemented as part of the SDA scheme. However, the wildlife corridors in Figure 10, go beyond*

the extent of the habitats themselves. Whilst appropriate buffering to protect ecological features is accepted the extent of a buffer beyond the habitat will vary depending upon the development proposal. Figure 10 should be amended and/or the policy updated accordingly.” A representation by the NFU asks how have the wildlife corridors been developed and what evidence base was used? *Have farmers and landowners been consulted on this policy as their co-operation will help make it a reality and is therefore important. Schemes currently being developed to provide payments for public goods (ELMS – Defra Environmental Land Management Scheme in development) may be relevant as they come on stream – 2024 onwards.”*

156. In response to my request for clarification how the wildlife corridors and their boundaries on Figure 10 were identified the District and Parish Councils jointly responded *“Wildlife corridors were created to link sites of known ecological importance (SSSI and identified Priority Habitats) and to join these to locations where BAP species had been observed. Using water courses, hedgerows and lines of dense vegetation the corridors could provide routes allowing vulnerable species to spread more widely through the plan area. Figure 10 has not identified specific boundaries to these corridors, instead gradually shading the routes away from the central feature as the edges of the corridors are likely to be porous. Some species will prefer the protection of the central part of the feature, whilst others will use the edges and the adjacent farmland to travel. However, the Parish Council does acknowledge that the shading as seen on figure 10 may be a little wide and could be drawn more tightly to the physical features with no loss of value.”* I am satisfied the approach adopted of identifying wildlife corridors has sufficient regard for national policy but the gradual shading approach adopted introduces uncertainty. I have recommended the wildlife corridors are presented on Figure 10 with definite boundaries to provide greater clarity for parties formulating development proposals and also to assist decision makers. I have made this recommendation so that the policy has sufficient regard for national policy and guidance and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

157. It is unnecessary and confusing for a policy to state *“in Misterton and Walcote”* as all of the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a smaller area is specified. The replacement of trees, woodland, and species rich hedges off site has not been sufficiently justified in terms of deliverability and may be

reliant on a third party for realisation which it may not require. The Policy includes several provisions relating to hedgerows. The Hedgerows Regulations 1997 establish a balanced regime to protect hedgerows in specified locations but exclude any hedgerow which is within, or borders, a domestic garden. It is appropriate for the Neighbourhood Plan to seek to introduce an additional regime of protection to apply in the context of development proposals. Paragraph 175 of the Framework refers to ancient woodland and ancient or veteran trees. The application of Policy ENV6 to all trees and woodland does not have sufficient regard for national policy. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

158. As recommended to be modified the policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

159. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 9:
In Policy ENV6**

- **replace the second paragraph with “To be supported development proposals must retain, or replace on site, all ancient or veteran trees, ancient woodland and species rich hedgerows unless it is demonstrated that this is not practical or viable.”**
- **delete “in Misterton and Walcote”**

On Figure 10 present the wildlife corridors with definite boundaries.

Policy ENV7 Protection of Important Views

160. This policy seeks to establish that development proposals must not significantly harm identified important views and requires statements of proposed mitigation and/or protection.
161. In a representation the District Council state *“The second sentence of the policy is not clear. Significantly harm is not defined. Suggest development should respect these views and any proposals impacting on the views should demonstrate how this is achieved.”*
162. A representation on behalf of Leicestershire County Council states *“the designation and future protection of important views needs to take account of the likely changes to the landscape and built form of neighbouring settlements having regard to the policies of the Local Plan. The current planning application proposes the development of the area immediately north of the A4304, adjacent to the M1 for office uses, with height limits and structural planting to protect the setting of Misterton. Elsewhere the application proposes landscape mitigation which align with views 3, 4 and 8 in Figure 11.”*
163. Paragraph 170 of the Framework refers to protection of valued landscapes. To be valued landscape a landscape needs to be more than popular with local residents but must demonstrate physical attributes beyond “ordinary”.⁵² Policy ENV7 is not seeking to identify valued landscapes but is seeking to ensure development proposals must not significantly harm important views. The policy is not seeking to prevent sustainable development. The policy refers to mitigation and/or protection. Development proposals within the identified important views, through careful consideration to design, siting and landscaping, may be shown to not significantly harm the identified views. I am satisfied the approach adopted in Policy ENV7 has sufficient regard for national policy in these respects.
164. Planning policy must operate in the public interest. In response to my request for clarification the District and Parish Councils have jointly stated *“All the views can be seen from public highways: views 5, 6, 7 & 8 from roads; views 1, 2, 3, 4 & 8 from public footpaths or*

⁵² Stroud District Council vs. SSCLG [2015] EWHC 488 (Admin) and Forest of Dean DC v. SSCLG [2016] EWHC 2429 (Admin)

bridleways.” I have recommended a modification to clarify the locations referred to are freely accessible to the general public. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

165. As recommended to be modified the policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

166. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 10:
In Policy ENV7 after “views” insert “from publicly accessible locations”**

Policy ENV8 Renewable Energy Generation Infrastructure

167. This policy seeks to establish conditional support for development that incorporates environmentally sustainable energy generation and/or storage technologies, and conditional support for the development of small-scale renewable energy generation and energy storage facilities.

168. A representation by the NFU states *“The preamble for this policy talks about wind turbine and solar arrays appropriately scaled and sited will be considered. Should this be included in the wording of Policy ENV 8. Farming is well placed to host renewable energy projects and that is a fundamental part of how the industry will achieve*

net zero. A third of farm businesses in England are now involved in renewable energy and that is set to increase as we seek to combat and mitigate climate change.” This representation does not necessitate any modification of the policy to meet the basic conditions.

169. A representation on behalf of Leicestershire County Council states *“whilst the proposal that energy generation be encouraged is supported the policy should not constrain the scale of commercial generation of renewable energy should the opportunity exist, subject to the benefits of such a scheme outweighing any potential harm as detailed in the policy.”* I am satisfied the approach adopted in Policy ENV8 has sufficient regard for national policy, in particular providing a positive strategy for energy from renewable sources as set out in paragraph 151 of the Framework.

170. The policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

171. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with meeting the challenge of climate change and conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. This policy meets the Basic Conditions.

Policy CF1 Retention of Community Facilities, Amenities, Assets

172. This policy seeks to establish criteria for support of development proposals leading to the loss of an existing community facility.

173. Paragraph 92 of the Framework states planning policies should guard against the unnecessary loss of valued facilities and services. I am satisfied the approach adopted in Policy CF1 has sufficient regard for national policy in this respect.

174. The policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

175. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

Policy CFA2 New or Improved Community Facilities

176. This policy seeks to establish conditional support for proposals that improve the quality and/or range of community facilities.

177. In a representation the District Council state 'and' should be added after criterion c) to ensure proposals meet all criteria. I have recommended a modification in this respect so that the policy "*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*" as required by paragraph 16d) of the Framework.

178. The representation of the NFU states "*Support for a farm shop in the village is welcomed and will support more local supply chains*". Paragraph 92 of the Framework states planning policies should plan positively for the provision and use of shared spaces, community facilities and other local services. I am satisfied the approach adopted in Policy CFA2 has sufficient regard for national policy in this respect.

179. The policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

180. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their

community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 11:
In Policy CFA2 insert "and" after criterion c)**

Policy TR1 Traffic Management

181. This policy seeks to establish development principles relating to traffic management issues.
182. I am satisfied the approach adopted in Policy TR1 has sufficient regard for national policy in respect of walking and cycling networks as set out in paragraph 104 of the Framework. In a representation Leicestershire County Council set out general comments regarding funding of highway improvements and public transport. I am satisfied the reference in Policy TR1 to financial contributions does not undermine the deliverability of the Plan and has sufficient regard for paragraph 34 of the Framework.
183. The term "*be designed to minimise additional traffic generation and movement through the village*" is imprecise and does not provide a basis for the determination of development proposals. A representation on behalf of Leicestershire County Council states "*Policy TR 1, criterion c) requires existing off-road parking areas to be maintained or replaced with a suitable alternative. In certain circumstances, it may not be necessary to replace off-road parking areas if they are required for development, having regard to their use and the availability of other parking areas in the vicinity.*" Paragraph 16 of the Framework states plans should serve a clear purpose. Paragraph 109 of the Framework states "*development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*" I have recommended a modification in these respects so that the policy "*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*" as required by paragraph 16d) of the Framework.

184. As recommended to be modified the policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

185. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting sustainable transport, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 12:

In Policy TR1

- **delete part a)**
- **continue part c) with “or it is demonstrated the existing parking area is no longer required”**

Policy TR2 Electric Vehicles

186. This policy seeks to establish that where feasible residential development should provide for electric vehicle charging, and seeks to establish conditional support for communal vehicle charging points.

187. A representation on behalf of Leicestershire County Council states *“Policy TR 2, notes that electric vehicle charging will only be expected where feasible. The example in the explanation relates to off-road parking. For communal development such as apartments, where off-road parking will be provided, management and feasibility issues may still arise as they have elsewhere. Furthermore, there may be other reasons why charging points are not feasible or practicable which could helpfully be included in the explanation, such as network capacity, environmental considerations or viability.”*

188. Within the context of paragraph 109, paragraph 110 of the Framework states development should be designed to enable charging of plug-in and other ultra-low-emission vehicles in safe,

accessible and convenient locations. Subject to the recommended modification I am satisfied the approach adopted in Policy TR2 has sufficient regard for national policy in this respect.

189. The specification of a specific charging capacity has not been sufficiently justified. The policy is constructed so as to represent a technical requirement. The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*. I have recommended a modification in this respect. I consider it appropriate that Policy TR2 should seek to establish support for charging facilities rather than seek to establish a requirement in this respect. In a representation the District Council states it may not always be feasible or perhaps viable for all new dwellings to have at least one electric vehicle charging point. Paragraph 16 of the Framework states Plans should be deliverable. I have recommended a modification in this respect so that the policy has sufficient regard for national policy. It is confusing and unnecessary for a policy to state *“within the Parish”* as all of the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a lesser area is specified. I have recommended a modification in these respects so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

190. As recommended to be modified the policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

191. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting sustainable transport, the policy is appropriate to be

included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 13:

In Policy TR2 replace the first paragraph with “Proposals for new dwellings that incorporate facilities to enable the charging of electric vehicles in safe, accessible and convenient locations will be supported.”

Policy BE1 Support for Existing Businesses & Employment Opportunities

192. This policy seeks to guard against loss of employment premises or land and seeks to establish criteria for support of proposals for a change of use to an activity that does not provide employment.
193. A representation on behalf of Leicestershire County Council supports the policy.
194. Paragraph 80 of the Framework states planning policies should help to create the conditions in which businesses can invest, expand and adapt and paragraph 83 states planning policies should enable the sustainable growth and expansion of all types of business in rural areas. The requirement in Policy BE1 to test circumstances over the relatively short period of 6 months demonstrates flexibility as required by paragraph 81 of the Framework. I am satisfied the approach adopted in Policy BE1 has sufficient regard for national policy in these respects.
195. A “*strong presumption against*” does not provide a basis for the determination of development proposals. I have recommended a modification in this respect so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
196. As recommended to be modified the policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

197. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 14:

In Policy BE1 replace the text before a) with “Development proposals that will result in the loss of employment premises or land will not be supported unless it is demonstrated:”

Policy BE2 Support for New Businesses and Employment

198. This policy seeks to establish conditional support for additional employment opportunities outside the SDA.

199. A representation on behalf of Leicestershire County Council supports the policy.

200. Paragraph 83 states planning policies should enable the sustainable growth and expansion of all types of business in rural areas both through conversion of existing buildings and well-designed new buildings. Parts a), b), and d) of Policy BE2 do not have sufficient regard for national policy in this respect. Part e) of the policy has sufficient regard for the approach to noise and light pollution set out in paragraph 180 of the Framework but does not have sufficient regard for paragraph 183 regarding pollution generally which should be dealt with through separate pollution control regimes. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

201. As recommended to be modified the policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by

providing an additional level of detail or distinct local approach to that set out in the strategic policies.

202. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy and conserving and enhancing the natural environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 15:

In Policy BE2

- **delete parts a), b), and d)**
- **in part e) delete “or introduce any pollution”**

Policy BE3 Home Working

203. This policy seeks to establish conditional support for development related to home working.

204. A representation on behalf of Leicestershire County Council supports the policy and states *“it may be helpful to clarify, in the preceding explanation that the policy applies only where the proposed development results in a mixed use and requiring planning permission rather than it being ancillary to the predominant use.”* Policy BE3 does state *“where planning permission is required”*. Such a statement is normally unnecessary as all of the policies of the Neighbourhood Plan and the Development plan more widely only apply to development proposals requiring planning permission. In this instance the inclusion of the phrase in question does serve the purpose of adding clarity.

205. The policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

206. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

Policy BE4 Farm Diversification

207. This policy seeks to establish conditional support for farm diversification.

208. A representation by the NFU welcomes this policy and a representation on behalf of Leicestershire County Council supports the policy.

209. The approach adopted in part c) of the policy does not have sufficient regard for the more balanced approach of national policy in relation to impact on heritage and environmental features. I have recommended that part of the policy is deleted and that other policies of the Neighbourhood Plan are relied on to ensure sustainable development occurs in respect of the conservation of heritage and environmental features. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *"is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals"* as required by paragraph 16d) of the Framework.

210. As recommended to be modified the policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

211. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with

building a strong, competitive economy, promoting sustainable travel and conserving and enhancing the natural environment the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 16:
In Policy BE4 delete part c)**

Policy BE5 Broadband Infrastructure

212. This policy seeks to establish support for proposals to provide access to superfast broadband for businesses and households. The policy also supports network improvements and states new masts should be shared by providers where possible. The policy also requires infrastructure improvements to be integrated in the landscape.
213. A representation by the NFU states *"This is welcomed. Good connectivity will be particularly important for farm businesses going forward as digital and big data handling grow."* A representation on behalf of Leicestershire County Council supports the policy.
214. Paragraph 112 of the Framework states planning policies should support the expansion of electronic communications networks and paragraph 113 states the number of masts should be kept to a minimum consistent with the needs of consumers and other considerations. I am satisfied the approach adopted in Policy BE5 has sufficient regard for national policy in these respects.
215. It is confusing and unnecessary to state *"in Misterton with Walcote Parish"* and *"within the Parish"* as all of the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a smaller area is stated. I have recommended a modification in these respects so that the policy *"is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals"* as required by paragraph 16d) of the Framework.
216. As recommended to be modified the policy is in general conformity with the strategic policies included in the Harborough Local Plan 2011 to 2031 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

217. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy, and supporting high quality communications, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 17:

In Policy BE5 delete “in Misterton with Walcote Parish” and “within the Parish”

Conclusion and Referendum

218. I have recommended 17 modifications to the Submission Version Plan.

219. I am satisfied that the Neighbourhood Plan⁵³:

- is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the Statutory Requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and meets the Basic Conditions:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the

⁵³ The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

development plan for the area of the authority (or any part of that area);

- does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.⁵⁴

I recommend to Harborough District Council that the Misterton with Walcote Parish Neighbourhood Development Plan for the plan period up to 2031 should, subject to the modifications I have put forward, be submitted to referendum.

220. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.⁵⁵ I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”⁵⁶. I have seen nothing to suggest the referendum area should be extended for any other reason. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Harborough District Council as a Neighbourhood Area on 3 April 2017.

Annex: Minor Corrections to the Neighbourhood Plan

221. I have only recommended modifications and corrections to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.⁵⁷ If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or

⁵⁴ This basic condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 (5) are amended

⁵⁵ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁵⁶ Planning Practice Guidance Paragraph 059 Reference ID: 41-059-20140306 Revision 06 03 2014

⁵⁷ See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

information in the plan, the conflict must be resolved in favour of the policy.

222. Leicestershire County Council suggest a considerable number of additions to the scope of the Neighbourhood Plan including inclusion of a policy relating to developer contributions; and to other aspects of the natural environment including a local landscape assessment; and references to the significant growth in the older population and that development should respond to this. Modifications in these respects are not necessary to meet the Basic Conditions.

223. The District Council propose:

- the second paragraph on page 7 of the Neighbourhood Plan should be corrected to state *“Over the Local Plan period the SDA is to deliver 1,260 homes with the rest of the 2,750 to be delivered after 2031.”*
- Policy CF1 should be designated Policy CFA1 to reflect subsequent numbering
- In the second paragraph of Section 8 delete reference to CIL as new.
- References to planning obligations policies and priority projects should be consistent with the Local Plan.

As I am able to recommend the correction of errors, I recommend these changes are made.

224. The Parish Council has referred to uncertainty surrounding the name Washpit Lane, referred to in Policy HBE2 part c), suggesting the correct reference should be “Gilmorton Road (locally known as Washbrook Lane)”. When this matter is resolved any necessary correction should be made.

Recommended modification 18:

Modify policy explanation sections, general text, figures and images to achieve consistency with the modified policies, and to correct identified errors.

Chris Collison
Planning and Management Ltd
collisonchris@aol.com
25 January 2021
REPORT END