

# Dunton Bassett Neighbourhood Development Plan 2021-2031

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## Submission Version

A Report to Harborough District Council on the Examination of the  
Dunton Bassett Neighbourhood Plan

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## Executive Summary

My examination has concluded that the Dunton Bassett Neighbourhood Area Plan should proceed to referendum, subject to the Plan being amended in line with my recommended modifications, which are required to ensure the plan meets the basic conditions. The more noteworthy include –

- The District Council should rescreen the neighbourhood plan under the SEA Regulations 2004 based on the deletion of the housing allocation policies and the proposed settlement boundary.
- That the District Council publishes a separate screening determination under the Conservation of Habitats and Species Regulations 2017.
- The housing allocation in Policy H1 be deleted.
- The reserve housing allocation in Policy H2 be deleted.
- The proposed settlement boundary policy, Policy H3 be deleted.
- Re-ordering the design quality requirements and removing the requirements to provide electric charging points which are now dealt with under the Building Regulations.
- Restricting Policy H8 to only cover street lighting.
- Extending the All Saints Churchyard LGS designation to include the adjacent burial ground extension.
- Removing from the list of important open spaces the proposed designations at All Saints Churchyard, Parish Field and the primary school field.
- Removing the requirements for the submission of a tree survey where trees are proposed to be felled.
- Refining the policy on locally significant historic sites to exclude the scheduled monument.
- Reducing the area of separation to exclude the enclave of housing on the east side of Dunton Road, adjacent to Broughton Astley, but extending it to include the land up to the Old Coach Road.
- Deleting the flood risk policy.
- Removing the requirements related to retaining employment floorspace.
- Allowing the location of new business floorspace on sites beyond the settlement boundary.
- Deleting the reuse of agricultural building policy.
- Allowing tourism uses away from the built-up area of the village.
- Amending the broadband policy to only relate to the installation of the necessary ducting and infrastructure to enable the delivery of superfast broadband.
- Removing the requirement for development to minimise additional traffic generation and movement.
- Removing the reference for the need to submit a transport assessment.

The referendum area does not need to be extended beyond the Plan area.

## Introduction

1. Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities an opportunity to create the policies that will shape the places where they live and work. A neighbourhood plan does provide the community with the ability to allocate land for particular purposes and to prepare the policies that will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the policies in the Harborough Local Plan 2011 to 2031, adopted in April 2019. Decision makers are required to determine planning applications in accordance with the development plan, unless material considerations indicate otherwise.
2. The neighbourhood plan making process has been undertaken under the supervision of Dunton Bassett Parish Council. A Steering Group was appointed to undertake the Plan's preparations and was made up of 3 theme groups.
3. This report is the outcome of my examination of the Submission Version of the Dunton Bassett Neighbourhood Plan. My report will make recommendations, based on my findings, on whether the Plan should go forward to a referendum. If the Plan then receives the support of over 50% of those voting at the referendum, the Plan will be "made" by Harborough District Council.

## The Examiner's Role

4. I was appointed by Harborough District Council in May 2022, with the agreement of Dunton Bassett Parish Council, to conduct this examination.
5. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 44 years' experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant and director of my neighbourhood planning consultancy, John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of Harborough District Council and Dunton Bassett Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.
6. Under the terms of the neighbourhood planning legislation, I am required to make one of three possible recommendations:

- That the Plan should proceed to referendum on the basis that it meets all the legal requirements.
  - That the Plan should proceed to referendum, if modified.
  - That the Plan should not proceed to referendum on the basis that it does not meet all the legal requirements.
7. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Dunton Bassett Neighbourhood Plan area.
  8. In examining the Plan, the Independent Examiner is expected to address the following questions:
    - Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
    - Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 - namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
    - Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and been developed and submitted by a qualifying body?
  9. I am able to confirm that the Plan only relates to the development and use of land, covering the area designated by Harborough District Council, for the Dunton Bassett Neighbourhood Plan, on 2<sup>nd</sup> March 2018.
  10. I can also confirm that it does specify the period over which the Plan has effect, namely the period from 2021 up to 2031, which coincides with the end date of the adopted Harborough Local Plan.
  11. I can confirm that the Plan does not contain policies dealing with any “excluded development”.
  12. There are no other neighbourhood plans covering the area covered by the neighbourhood area designation.
  13. I am satisfied that Dunton Bassett Parish Council as a parish council can act as a qualifying body under the terms of the legislation.

## **The Examination Process**

14. This section sets out the process of the examination and the chronology of events. One of the first tasks, once I had reviewed the submitted documents, was to conduct a site visit to the plan area. This was carried out on Monday 13<sup>th</sup> June 2022.
15. I initially drove around the parish, having approached through Lutterworth, noting the position of the church, the village pub, the school, the village hall as well as the location of the housing allocation and at the adjoining cricket club. I then drove out of the village to Leire and also went to the edge of

Broughton Astley, before venturing down the Old Coach Road to see the reserve housing allocation site, proposed in Policy H2.

16. I then parked up on the roadside, by the church and visited the churchyard, before crossing the road and walking the public footpath along the edge of The Beat. I then witnessed school collection time before finding the Well Lane local green space. I then ventured up the footpath off Main Street and discovered the village playground and the housing allocation site, noting the location of the scheduled monument which lies close by. During my site visit, I also visited most of the key viewpoints and the proposed local green spaces and the important open spaces. I ventured down Station Road and stopped at the derelict site of the former Indian restaurant before crossing the M1. Finally, I parked on Lutterworth Road to look to appreciate the allocation site from the east. Whilst stationary, I was able to observe the behaviour of traffic at the Lutterworth Road/ Station Road/Coopers Lane traffic lights.
17. Upon my return from Leicestershire, I prepared the document entitled Initial Comments of the Independent Examiner, dated 15<sup>th</sup> June 2022. In that document I posed a number of questions to the Parish Council, particularly questioning the process of site selection, but also picking up on a number of the other policies. I also sought clarification from the District Council on the SEA/HRA screening process. I received responses from the parties on 7<sup>th</sup> and 11<sup>th</sup> July 2022 which included an amended SEA determination from the District Council upon which, it said that it intended to consult the three statutory consultees.
18. This prompted me to issue a new document, entitled Further Comments of the Independent Examiner, dated 20<sup>th</sup> July 2022, which sought to clarify a number of my original questions, that may have been misinterpreted. It also asked number of additional questions or sought elaboration in terms of some of the responses that I had received.
19. On 22<sup>nd</sup> August 2022, I received a response from both the District Council and the Parish Council, along with some comments from Richborough Estates addressing issues which had been raised in my Initial Comments document which had been addressed to the Parish Council.
20. Upon receipt of the responses, I relayed a message to the District Council that I was minded to call for a public hearing and asked that discussion should take place with the Parish Council's Clerk regarding a suitable date and venue.
21. The general presumption is that the neighbourhood plan examination should proceed by way of the consideration of written evidence only. However, an Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or to give a person a fair chance to put forward a case. In this case, having had two exchanges of correspondence, I felt I needed to explore in greater detail the site selection methodology, the SEA requirements and the impact of the site allocation on the scheduled monument as well as the site's access arrangements, in view of the concerns expressed, at the Regulation 14 stage, by the Highway Authority.

22. These arrangements were confirmed in my document dated 25<sup>th</sup> August 2022, entitled Additional Comments of the Independent Examiner and Notice of Public Hearing.
23. This document notified parties of the matters that I wished to discuss at the hearing, which had been agreed would be held in the Village Hall on 11<sup>th</sup> October 2022. This note set out the agenda for the hearing and the questions that I wished to see addressed during the discussions and identified the parties that I wanted to be invited to participate. I also indicated that I needed to undertake an accompanied site visit on Site 10, which had been the subject of Regulation 16 representations. Arrangements were made for this site inspection to take place during the afternoon preceding the hearing.
24. The hearing took place in Dunton Bassett Village Hall, commencing at 10 am and it lasted into the afternoon. I am very grateful for the positive participation of members of the Steering Group and the Parish Council, officers of Harborough District Council, a Highway Officer from Leicestershire County Council, as well as the parties representing Richborough Estates and also the landowner, Mr Barby and his planning consultant, Andrew Gray, of a rival potential allocation site, off Lutterworth Road, which had not been selected and had been the subject of the site visit the day before the hearing. I had also invited a representative from Historic England to attend, but most regrettably, that invitation was declined, which subsequently had implications in terms of clarifying whether in its view an SEA was still required.
25. Following the hearing, I published my Post Hearing Note, dated 25<sup>th</sup> October 2022, which confirmed that at the conclusion of the hearing, I had asked the District Council to seek confirmation from Historic England, whether it still maintained its position as set out in its previous consultation response, that a strategic environmental assessment was still required.
26. The Note also set out my preliminary conclusions, based on what I heard during the hearing and my review of the documentation, namely that the site selection methodology adopted by the Housing Theme Group was fundamentally flawed. Furthermore, not only did the methodology lead to the allocation of the site identified in Policy H1, but it also was the basis for the allocation of the reserve housing allocation site. Equally the preferred site allocation was a key determinant as to where the limits of development was to be drawn, as the boundary was drawn to include that identified site. My preliminary view, based on the flawed methodology, was that the two housing allocations, as well as the policy defining the limits of development did not meet the basic conditions. Again, this is a matter that I will return to in-depth in my report.
27. However, it was the inclusion of these policies that was triggering the need for a Strategic Environmental Assessment to be carried out. In the absence of the preparation of an environmental report prepared in accordance with the requirements set out in Regulation or a definitive screening determination that an SEA was not required, it would be impossible for me to conclude that the plan met the basic conditions. However, I did signify that if I were to

recommend the deletion of these housing locational policies, namely Policy H1, H2 and H3, then the need to carry out such an assessment would no longer be needed.

28. I asked the Parish Council whether it would support a recommendation to remove the 3 policies and hence obviate the need for an SEA. This was a somewhat unusual request, as it is the examiner's role to make recommendations on the plan as submitted, but I felt that such a request was justified in this instance, as its response would have a direct implication in terms of whether an SEA would need to be carried out. If I had concluded that an SEA was required to be carried out at this late stage in the development of the neighbourhood plan, it would have significant implications for the examination process, not least because the assessment would need to be subject to the consideration of alternative sites and that needed to be the subject of an objective appraisal, based on sound criteria and would also require a degree of public consultation. Essentially these were the same matters that currently concern me.
29. The Parish Council's reaction to my suggested recommendations and my request for clarification as to whether it was prepared to undertake an SEA, was sent via an email dated 25<sup>th</sup> November 2022, which was forwarded to me by the District Council. It argued that the site selection process was not, in its consultants' view, a basic conditions issue. It also raised a number of questions.
30. I prepared a response in a note, dated 9<sup>th</sup> December 2022, which explained why I considered that the site selection methodology was flawed and why it had implications as to whether the making of the plan would have regard to Secretary of State policy and advice, as well as being the trigger to the need for an SEA having to be carried out.
31. Following my response, I was notified on 9<sup>th</sup> December 2022, by the Parish Council that "although disappointed, we will accept the plan to be put forward without the housing policies".
32. I am preparing this report on that basis. The legislation requires that I give reasons for each of my recommendations and also provide a summary of my main conclusions.

## **The Consultation Process**

33. Following the designation of the parish as the neighbourhood area, a Neighbourhood Plan Advisory Committee was recruited, at a public meeting held on 11<sup>th</sup> December 2017. Its terms of reference had previously been agreed by the Parish Council at a meeting held in August 2017.
34. Three theme groups were set up covering housing, environment and economy, transport and community assets. These met between August 2018 and November 2020. Their role was to explore the issues raised by residents in earlier questionnaires, sent out in 2016, as well as one circulating during



October 2018, in addition to matters raised a stakeholder event and also another open event

35. The public were informed on progress in the preparation of the plan through items in the parish newsletters and on the website. A comprehensive questionnaire was sent out in November 2019 and a household survey had earlier been conducted in July 2016. Consultation also took place with landowners within the parish as well as the owners of properties where there was the possibility that the plan may designate them as non-designated heritage assets.
36. All this activity culminated with the preparation of the Pre-Submission version of the Neighbourhood Plan which was the subject of a seven - week consultation, known as the Regulation 14 consultation, which ran from 15<sup>th</sup> February to 29<sup>th</sup> March 2021. The comments received from both residents and statutory and non-statutory bodies are set out in the appendix to the Consultation Statement.

## **Regulation 16 Consultation**

37. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation, which took place over a six- week period, between 30<sup>th</sup> March 2022 and 11<sup>th</sup> May 2022. This consultation was organised by Harborough District Council, prior to the Plan being passed to me for its examination. That stage is known as the Regulation 16 consultation.
38. In total, 12 responses were received, including: Severn Trent Water, Leicestershire County Council, Harborough District Council, Harborough District Council's Conservation Officer, Highways England, Natural England, Leicestershire Police's Designing Out Crime Officer, Sports England, Aitchison Rafferty on behalf of Mr S Blaby, Boyer Planning on behalf of Richborough Estates and Andrew Grainger and Co Ltd as well as one from a local resident.
39. I have carefully read all the correspondence and I will refer to the representations where relevant to my considerations and conclusions in respect of specific policies or the Plan as a whole.

## **The Basic Conditions**

40. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of "soundness". The Neighbourhood Plan is tested against what are known as the Basic Conditions as set down in legislation. It will be against these criteria that my examination must focus.
41. The five questions, which seek to establish that the Neighbourhood Plan meets the basic conditions test, are: -

- Is it appropriate to make the Plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State?
- Will the making of the Plan contribute to the achievement of sustainable development?
- Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
- Will the making of the Plan breach or be otherwise incompatible with EU obligations or human rights legislation?
- Will the making of the Plan breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

## Compliance with the Development Plan

42. The development plan currently comprises the Harborough Local Plan 2011-2031 which was adopted on 30<sup>th</sup> April 2019 and the Leicestershire Minerals and Waste Local Plan to 2031, which was adopted in September 2019. The latter document is not relevant to this examination as the matters to which it refers, are what is known as “excluded development”, which cannot be dealt with in neighbourhood plans. The Local Plan identifies all its policies, apart from nine policies identified, are to be treated as strategic policies, which the neighbourhood plan needs to be in general conformity with, to meet one of the basic conditions tests.
43. Policy SS1 sets out the spatial strategy for the district and it identifies Dunton Bassett as a “Selected Rural Village” within the settlement hierarchy, which are considered to be appropriate locations for managed planned growth, having two out of six key local services, namely a public house and a school. The policy sets out a housing requirement for land to deliver a minimum of 12,800 dwellings across the district and it goes on to identify that about 307 dwellings should be provided on non-allocated sites or on sites to be identified in neighbourhood plans, within rural centres and Selected Rural Villages. The policy is specifically to meet local needs in Selected Rural Villages, whilst protecting the character and environment of local areas.
44. Policy GD2: Settlement development, states that, apart from the sites allocated either by the local plan or neighbourhood plans, development within the built-up areas of the selected rural villages will be permitted where it respects the form and character of existing settlement and subject to other criteria. In addition, development adjoining the existing built-up area will be permitted, again subject to various criteria. Policies covering development in the wider countryside are dealt within Policy GD3.
45. Specific locations have minimum housing figures assigned to them. In the case of Dunton Bassett, the figure is 40 units. Affordable housing is covered by Policy H2 and Policy H3 deals the rural exception sites. Community facilities are protected by virtue of Policy HC2.

46. My overall conclusion is that the Neighbourhood Plan, apart from where I have noted in the commentary on individual policies, is in general conformity with these strategic policies in the Harborough Local Plan.

## Compliance with European and Human Rights Legislation

47. Another of the requirements of the basic conditions test relates to whether there has been compliance with European obligations and in particular those which are set out in the EU directive 2001/42/EC, which has been enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004” (SEA Regulations).

48. It appears that the Parish Council applied for a screening opinion immediately prior to the submission of the neighbourhood plan, at Regulation 15 stage. In a report initially prepared in January 2021, the District Council, who were carrying out the screening on behalf of Dunton Bassett Parish Council, concluded that the Regulation 14 draft of the plan was unlikely to cause any significant environmental effects, apart from those covered by the Local Plan Sustainability Appraisal.

49. In paragraph 6.2 of the report, it noted that the three statutory bodies, which the regulations require to be consulted before a formal screening determination can be issued, namely Historic England, Natural England and the Environment Agency, had not yet been consulted in coming to its view but they would be consulted.

50. However, once the District Council had consulted Historic England, it issued a further Strategic Environmental Assessment Determination dated March 2021, which concluded that the housing allocation would have significant environmental risks. It stated in paragraph 6.1 and 6.2 that “*the council agrees with a view of Historic England and a further appropriate assessment of the reasonable alternatives should be undertaken to assess the effects on the historic environment, especially in relation to the scheduled monument.*” That appears to have been treated by the Parish Council, according to Paragraph 3.1 of the Basic Conditions Statement as a screening opinion that a full SEA was not required but it was expecting a Strategic Heritage Assessment to determine whether there would be any harm to the significance of the Scheduled Monument, as set out in the final paragraph of section 8.1.2 of the plan would be sufficient.

51. Regulation 9 of the SEA Regulations only offers two possible options in terms of the screening of a plan, namely that it is likely to have, or will not have significant effects. If it does then a full SEA is required but if it considers that the plan is unlikely to have any significant effects and an SEA is not required to be produced, then it must produce a statement explaining its reasons.

52. It appears to me that the District Council was taking what could be described as an ambiguous position, seeking to reflect the views of Historic England,

without placing an obligation for a full SEA to be produced. That is not a position which is consistent with the Regulations, which, once it has been concluded that there could be “significant effects” requires an SEA to be produced in accordance with the Regulations. The scope and level of detail of that assessment can be established through the Scoping Determination, having consulted the three statutory consultees.

53. Upon receipt of Historic England comments, the District Council set out what it was seeking, in terms of further work concerning historic environment.

*“You will note that Historic England have made a comment regarding the Scheduled Monument and the proximity of the proposed housing site.*

*It is the view of the Council that the Qualifying Body should undertake some further work concerning the historic environment and seek to clarify the justification (or otherwise) for the allocated site adjacent to the Scheduled Monument. Historic England are concerned that the Plan may be at risk as ‘the harm to the significance of the designated heritage asset runs contrary to the NPPFs requirement for sustainable development’.*

*As you will be aware Heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. A scheduled monument is an asset of the highest significance so any harm to an asset of such significance should be wholly exceptional. Any harm to, or loss of, the significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification.”*

54. This was followed up, a week later, with a further email to the Parish Council which set out what it considered to be a suitable assessment, in particular the impact on the scheduled monument. This is set out as follows.

*“The Housing Site Sustainability Assessment has already been provided for Dunton Bassett and I believe that the work relating to the historic environment should be built upon to support the proposal in the Neighbourhood Plan. Any assessment needs to be proportionate, so it need not be a complex assessment if the issue it is considering is not complex.*

*Without prejudice, I would suggest that the suitable assessment covers the following:*

*1. Consider the amount of detail required in the Assessment (be proportionate)*

*2. Gather the evidence for the historic environment including character of the area (a planning application 16/01401/ already has some useful evidence for this – see attached)*

*3. An assessment of the reasonable alternative housing sites relating to impacts on the historic environment and its character now and in the future.*

*4. The harm to the scheduled monument of existing and future development. (I note that the scheduled monument is developed on at least two sides – what is the impact of further development?)*

*5. Assess whether the proposed development site is still a reasonable alternative or whether other sites need to be considered when all the other constraints are considered. Does the preferred option meet the NPPF requirement for sustainable development?*

*6. What policy amendments might be required to mitigate the harm of new development in the future?"*

55. Upon receipt of this email, sent to the Parish Council, it appears that Richborough Estates, who were the promoters of the allocation site, commissioned the RPS Group to prepare, what is described as a Strategic Heritage Assessment, which was submitted as part of the Regulation 15 submission.

56. This was the position which I was presented with at the start of the examination. In my Initial Comments document, I sought to clarify what the District Council had actually determined, in terms of the screening of the SEA. It clarified that the January 2021 screening was only a preliminary view, bearing in mind the need for the proposed screening to be subject to consultation with the three statutory bodies.

57. The District Council confirmed the position in a new document, entitled Dunton Bassett Neighbourhood Plan Strategic Environmental Assessment Determination Addendum, dated June 2022.

58. This addendum confirmed the neighbourhood plan is unlikely to have any significant negative environmental effects on the natural and historic environment. It considered that the RPS Strategic Heritage Assessment report had properly addressed the comments of Historic England.

59. The District Council conceded in its response to me, that at that stage it had not consulted the three consultation bodies on its latest screening determination but intended to now do so.

60. I therefore enquired in my Further Comments document, dated 20<sup>th</sup> July 2022, as to what the responses of the three bodies were, to the June Addendum screening. The District Council responded to that question on 22<sup>nd</sup> August 2022, by the issuing of a further screening determination, entitled Dunton

Bassett Neighbourhood Plan Strategic Environmental Assessment Determination Final Report. This reported that Historic England had responded to the consultation, on the Strategic Heritage Assessment produced by RPS, that there may be significant environmental impacts relating to the policies in the plan and a full SEA is, in its view, required.

61. The determination states:

- *“that a full Strategic Environmental Assessment is required for the Dunton Bassett NDP to assess the extent to which the plan, when judged against reasonable alternatives, will help to achieve environmental objectives.”*

62. It explained that the

*“The housing allocation site, which is adjacent to the Dunton Bassett Moated Site with Fish Pond Scheduled Monument will inevitably affect the setting of the monument and may harm its significance and we disagree with the conclusion in the screening report which advises that SEA will not be necessary. In our view the allocation will have significant environmental effects. We further advise that the presence of the allocation may present a risk to the plan, as harm to the significance of a designated heritage assets runs contrary to the NPPF’s requirements for sustainable development. An SEA will establish what effect the allocation would have and inform the neighbourhood group decision on whether to retain it”*

63. Historic England subsequently set out its latest views in an email stating that it would not be sending a representative to the 11<sup>th</sup> October hearing. The contents of its email are set out below.

*“Thank you for your message. Historic England will not be fielding a representative, but our position is straightforward, so we hope that further explanation will be unnecessary.*

*We are aware of the heritage assessment work that has been prepared as part of the NP. We do not disagree with the conclusion that the proposed site allocation would result in less than substantial harm to the significance of the SM and have not objected to the proposed allocation. We also note that Policy H1 for the site includes a criteria requiring a landscaping buffer zone in relation to the heritage asset and its setting.*

*Our concerns relate to the absence of evidence on the proposed measures the Plan might need to put in place in order to ensure that any harm is minimised. At present, the Parish cannot demonstrate that the site it is putting forward for possible development is compatible with the draft policies for the protection of the historic environment and housing quality set out in the draft NP or the requirements set out in the NPPF. The absence of any such evaluation of potential mitigation must bring into question the deliverability of the site and the amount of development it could accommodate.*

*We refer the Parish back to the Local Authority’s own heritage advisers in respect of our concerns. It is a matter that could potentially be addressed through an SEA.*

*I hope this clarifies our position on the matter sufficient for the purposes of the hearing.”*

64. At the hearing, there was a discussion as to what level of harm would be likely to be caused to the setting of the scheduled monument, by virtue of the proposed allocation. I heard from both Myk Flitcroft from RPS and Sally Hartshorne, the Conservation Officer at Harborough District Council

65. Both participants seemed to agree that the level of harm would be “less than substantial”. That accorded with the Strategic Heritage Assessment view that it was “at the modest level within the less than substantial harm category”.

66. The case being promoted by Richborough Estates on this issue at the hearing was that, effectively Historic England’s position was being diluted by the contents of the latest email and they speculated that affected whether Historic England still maintained its view that an SEA was required.

67. As it was not possible to clarify with confidence what was Historic England’s position, in the absence of their participation at the hearing, I indicated at the close of the session that I would need to establish precisely what Historic England’s current position was. Accordingly, I asked the District Council to write to Historic England on my behalf. That letter was sent on the 17<sup>th</sup> October 2022 and a response was received via an email to the District Council, dated 19<sup>th</sup> October 2022.

68. This stated

*“Our advice remains that an SEA would help to address the deficit of evidence regarding the impact of housing development in this location. Without this level of evidence, the plan may be at risk due to uncertainty regarding the impact and consequent test of sustainability in historic environment terms”*

69. This response was relayed to parties in my Post-Hearing note.

70. Therefore, it appears that the position has been reached, after numerous iterations, that the District Council has issued its final determination, namely that an SEA is required. That is a conclusion to which I concur. The key test is whether the plan is likely to have significant environmental effects. Planning Practice Guidance suggests that the question of “whether a neighbourhood plan proposal requires a strategic assessment and (if so) the level of detail needed will depend on what is proposed. The strategic environmental assessment may be required, for example, where:

- a neighbourhood plan allocates sites for development
- the neighbourhood area contains sensitive natural and or historic assets that may be affected by the proposals in the plan
- the neighbourhood plan is likely to have significant environmental effects that may not already have been considered and dealt with through a sustainability appraisal of the local plan or other strategic policies.”

71. In terms of this examination, the local planning authority, acting as the Responsible Body has confirmed, informed by the advice from Historic

England, that an SEA is required. This is due to the neighbourhood plan making its housing allocation in Policy H1, which will have an impact on the setting of a sensitive heritage site. It is not for the screening process to determine the extent of that impact, that is the role that the SEA will play, beyond the criteria set out in Schedule 1 of the SEA Regulations. Furthermore, it is the purpose of the Scoping Stage to identify the issues that the SEA should assess having regard to the requirements set out in Schedule 2 of the Regulations.

72. An Environmental Report should include the comparison of the plans proposals, including site allocations, against reasonable alternatives. The purpose of an SEA process is to inform the plan making process.
73. It is very unfortunate that the SEA screening was only requested, immediately prior to the Regulation 15 submission stage. Ideally it should have been done prior to the Regulation 14 public consultation, as that would allow the findings of the SEA's assessment to influence the public's consideration of the draft plans proposals. By seeking a screening opinion at that stage, the views of Historic England would have been known at this early stage.
74. As the community support organisation, Locality states in its guidance *"Screening a neighbourhood plan late undermines the effectiveness of any SEA process subsequently undertaken and can have implications for timescales for the neighbourhood plan itself"*
75. The robust assessment and comparison of potential sites against well-defined and robust planning criteria can help to ensure that potentially difficult choices to be made through the neighbourhood plan, can be supported by robust defensible evidence which justifies the choices being made. Certainly, for the reasons I have set out elsewhere in this report, in my view the Sustainable Site Assessment carried out by the Housing Theme Group, would not meet the normal expectations of an SEA, in terms of the objective scoring the sustainability of individual sites.
76. In my Post-Hearing note, I did offer the opportunity to the Parish Council to decide to commission an SEA, at this stage, but I advised that would have resource and time implications and, importantly, the results of that assessment would not be able to inform the submission version of the plan. As such it could be a somewhat academic exercise at the very least, or depending on its findings, it could require the plan to have to be withdrawn and go back to Regulation 14 stage, if changes were needed to the plan as a result of the assessment. It would also be challenging for the Parish Council to have to explain to the community why they were now being consulted on an environmental report, in respect of the neighbourhood plan, which has already been submitted and is the subject of examination.
77. However, faced with the knowledge of my proposed recommendations in respect of the three housing location policies, the Parish Council concluded not to pursue the preparation of an SEA and reluctantly accept the plan should go forward without these three housing policies.



78. In view of my proposed recommendations in respect to the three policies, it would be appropriate for Harborough District Council to consider the plan afresh based on my modifications and issue a new screening determination based on the revised plan, before a decision to “make” the plan, is made. Without the housing allocations, I am confident that the District Council will be able to conclude, subject to any comments of the three statutory consultees, that the plan would no longer have the potential to have significant environmental effects and it could therefore “screen out” the need for an SEA in terms of the Referendum version of the plan. That is conditional upon the District Council accepting my recommendations in respect of Policies H1, H2 and H3 in its Decision Statement.
79. In the interest of clarity, if the District Council does not accept my recommendations in terms of these three policies, and it maintains its final screening determination that an SEA is required, then a full SEA would have to be commissioned by the Parish Council, as Regulation 8 of the SEA Regulations 2004 states that a plan must not be formally made or adopted if an SEA is required but has not been undertaken.
80. Turning now to the Habitat Regulations, the District Council, as competent authority, is required to separately screen the neighbourhood plan under the Conservation of Habitat and Species Regulations 2017. That is a different screening exercise from the SEA screening and is one of the basic conditions introduced by an amendment to the Neighbourhood Planning (General Regulations) Regulations 2012, made in 2017, which requires that one of the basic conditions be amended to “confirm that the plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitat and Species Regulations 2017”. That includes the screening to ascertain whether the plan would have significant impacts on European protected sites.
81. I asked the District Council for a copy of that screening and was initially sent the Appropriate Assessment for the Local Plan. I was subsequently referred to the SEA screening report which refers to the neighbourhood plan policies being assessed at pre submission stage for its effects on the Habitat Regulations. It noted that there were no European sites within Harborough District and that the nearest European site was Rutland Water SPA and Ramsar Site. The Local Plan HRA concluded that development in the Harborough Local Plan will not have any significant effect on internationally important wildlife sites.
82. In paragraph 1.11 of the SEA screening determination, it stated that in terms of any harmful effects arising from the neighbourhood plan “the LPA believes they have been demonstrated to be nil or very minor to the natural and historic environment, Natura 2000 sites and Habitat Regulations. Natural England were consulted on that report and a subsequent letter from them confirmed:  
*“Natural England also agrees with the report’s conclusions that Dunton Bassett Neighbourhood Plan would not be likely to result in a significant effect on any European Site either alone or in combination and therefore*

*no further assessment work under the Habitats Regulations would be required.”*

83. The subsequent screening as set out in Appendix 3 of the document which set out the assessment of each policy against, inter alia, the potential for likely significant effects on Natura 2000 sites within 50 km and also conclusions related to the Habitat Regulations, stated that the policies do not give potential for significant detrimental effects on local historic or environmental sites, Natura 2000 sites or Habitat Regulations. However, the conclusion of that screening is that the LPA at that time concluded that a full Strategic Environmental Assessment is not required. Unfortunately, it did not explicitly state that the LPA as Competent Authority also determined that an Appropriate Assessment under the Conservation of Habitats and Species Regulation is not required. I am entirely satisfied that was the intention of the District Council and that conclusion is shared by Natural England. I would add that I entirely agree with that conclusion, but in my view, the documentation does not necessarily demonstrate legal compliance. I am therefore adding a second recommendation, for the District Council to issue a separate formal screening determination under the Habitat Regulations rather than it being obliquely referred to within the SEA Screening Determination. That can be done before the District Council issues its decision statement in terms of its views on the basic conditions.
84. I am satisfied that, subject to the District Council preparing the following two screening determinations, the basic conditions regarding compliance with European legislation, including the more recent basic condition regarding compliance with the Habitat Regulations, are met. I am also content that the Plan has no conflict with the Human Rights Act.

#### **Recommendation**

***That Harborough District Council undertakes a new screening under the Assessment of Plans and Programmes Regulations 2004 (the SEA Regulations) which assesses whether the neighbourhood plan will have a significant effect on the environment, based on the deletion of Policies H1, H2 and H3 of the Submitted Plan.***

***That Harborough District Council formally makes a determination under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations) to confirm its view that the neighbourhood plan will not have any significant impact on any European protected sites***

### **The Neighbourhood Plan: An Overview**

85. Whilst much of this examination and report have been dominated by the issues of the housing allocation (and the reserve site), beyond those issues, this is otherwise a well-balanced neighbourhood plan which addresses a range of issues which clearly are important to the Dunton Bassett community.

86. The Parish Council's response to my Post Hearing Note and subsequent correspondence, stated that whilst disappointed with my recommendations, it nevertheless accepted the removal of Policies H1, H2 and H3. That has removed a major hurdle to the examination proceeding, subject to the rescreening of the resultant plan by the District Council, relating to the need for a Strategic Environmental Assessment, the absence of which would have meant that the plan would not legally be able to proceed. Such an outcome would have meant that the neighbourhood plan, as a whole would not be able to proceed to referendum and the other policies would be lost. I am pleased that the Parish Council has taken this pragmatic view, which will ensure that much of the neighbourhood plan work has not been lost and residents will be able to have the final say on the neighbourhood plan, through the referendum.
87. I do hope that the Parish Council, despite what it may see as a setback, will not give up on the possibility of allocating housing sites in the parish in the next year or so. As I have set out elsewhere in this report, the methodology used by the Housing Theme Group to score the sites was so poor and not fit for purpose, that it could not form the basis of an objective assessment for selecting alternative sites. As such it would not provide an appropriate evidence base to justify whether the selected site(s) would be delivering sustainable development. I am satisfied that the methodology did not have proper regard to the weight which is required to be attached to planning constraints that are recognised as being important, in site allocation terms, as is set out in Secretary of State policy. That has undermined the whole site selection process in the neighbourhood plan.
88. Going forward, my strong recommendation is, that if the neighbourhood plan is successful at referendum, then the Parish Council, if it still wishes to allocate housing sites to meet the village's local plan requirements, should promote a modification to the plan which could revisit the housing allocation question and also allow the residents to be able to contribute to the choice of site(s). I would also highlight that the process of site allocations is likely to require the preparation of a Strategic Environmental Assessment, having regard to the sensitivity of some possible sites within the village and the process of preparing the SEA should be fully integrated into the plan making, to ensure that the comparison of alternative sites is undertaken objectively, the outcome of which could also inform the public's consideration of the alternatives. The Parish Council may also wish to seek professional advice from consultants who specialise in the preparation of an SEA, who may be able to provide a more robust methodology and scoring framework for this assessment work.
89. Beyond the housing allocation question, I have only needed to make relatively minor modifications to the remaining policies including the deletion of some, to ensure that in particular the basic condition relating to the plan having regard to Secretary of State policy and advice on it. I set up my reasoning in the relevant sections.
90. Beyond the housing allocation question, the plan will ensure that any housing that takes place should be a type that meets local needs as well as being of

good design, it encourages economic activity in the parish and seeks to protect important open spaces, community facilities and sites of historic and biodiversity interest. Overall, I have determined that subject to my modifications, the plan will deliver sustainable development and will be in general compliance with the strategic policies in the Harborough Local Plan. As modified, the plan as a whole when made will have had regard to the policy and advice set out at a national level by the Secretary of State.

91. The changes I have recommended will require some rewriting of the supporting text, so the plan reads as a coherent planning document. Similarly the deletion of policies will require the changes to the policy numbering as well as the numbering of the maps. I am afraid this work goes beyond my remit as an examiner, as I am required only to deal with the matters set out in legislation, which are predominantly basic conditions issues.
92. I will leave it to the Parish Council / Steering Group to work alongside the District Council planners to address these changes, when preparing the Referendum Version of the plan, which will have to be published alongside the District Council's Decision Statement.

## **The Neighbourhood Development Plan Policies**

### **Policy H1: Residential Site Allocation**

93. The ability of a neighbourhood plan to allocate land is one of the most powerful tools open to the community, allowing it to decide where development should take place. However, Secretary of State advice is that site allocations should be undertaken following the carrying out an appraisal of options and assessment of individual sites.
94. The plan authors did undertake a Sustainable Site Assessment exercise as outlined in Appendix E. It appears that the "recommendations made by the Neighbourhood Plan Steering Committee were informed by evidence collected and assessed by the Housing Theme Group, supported by independent consultants from Your Locale with substantial experience of this work."
95. The Housing Theme Group agreed 25 sustainability indicators as the criteria which would be used in the SSA scoring matrix and which would be relevant to the selection and allocation of sites, which it claimed were based on NPPF indicators. It also claimed that it used the SHLAA methodology created by Harborough District Council, along with the experience of its consultants. Each of the 25 criteria were then scored against specific factors, that were scored either as red, amber or green. The document states that red was scored for a negative assessment and amber was scored where mitigation will probably be required and green was a positive assessment. The supporting text does explain that a different scoring mechanism was considered, to give different weight to different criteria, but the Housing Theme Group dismissed this

approach as being more complicated, less transparent and it would be seen as more subjective and difficult to justify to the community.

96. The 11 sites which had been put forward by landowners or agents were assessed against the 25 criteria and scored simply as red, amber or green. The actual overall RAG score for each site was arrived at by totalling the number of reds and greens and the score was the difference between the two numbers e.g. eight greens and two reds would create a score of +6. The amber scores were ignored, even though the criteria did have planning implications including the need for site mitigation.
97. The Parish Council confirmed that was its scoring methodology, in its response to my questions raised following my initial site visit. It is quite common for some kind of scoring system to be conducted, when comparing sites, however it should allow for a more sophisticated use of judgement and refinement. This was an area which I identified early in my examination as being potentially problematic and it was the subject of much debate during the 11<sup>th</sup> October hearing.
98. What I needed to test was whether, once the 25 criteria were selected, it could allow the allocation of sites, which would be contrary to national policy advice. To illustrate my concerns, a site line within flood zone 3B would be scored red but that would be “cancelled out” by two greens due to the site being flat and in single ownership. That would be completely incompatible with Secretary of State policy. My concerns were compounded by the criterion for a site lying in flood zone 3a would be scored amber and therefore not even be included in the calculation, in terms of producing a net score, despite it not being considered a sustainable site to develop, where alternative sites not liable to flooding were available.
99. A similar argument could be made in respect of a development that caused substantial harm to a listed building or scheduled monument.
100. Moving beyond these concerns, the attribution of red/amber/green to particular criteria is similarly difficult to justify. I can see no basis for a developable site, which may have the capacity to accommodate 21 or more units, should necessarily be scored as red. Another example, is agricultural land which is assessed as falling within Grade 3A, where there is a national presumption against its loss to development, is included alongside Grade 3B in the assessment matrix, which is not subject to the same policy presumption and both of which are scored amber, which implies that the harm is capable of mitigation.
101. These are only examples of why I consider that the methodology used to compare and select the housing site(s) is not fit for purpose. When challenged on individual criteria at the hearing, I sensed there was a recognition that much of the categorisation could not be justified. I appreciate that site assessment and scoring can be difficult for lay people involved in making what are important decisions and that there is a need for such work to be proportionate. However, the Housing Theme Group were being advised by its consultants, so there should have been the ability to adopt a more sophisticated and

nuanced system of comparing sites. It appears that was deliberately rejected for a simpler methodology.

102. At the hearing, I heard concerns from an objector about how one of the sites had been scored. The site quoted was Site 10 – described as Rear of Spice 45 restaurant. This was scored as a sloping site and that it would require major mitigation, due to its current land use. This was the site that was the subject of a site meeting held on 10<sup>th</sup> October and my observation was that the land upon which the bungalow stood and the adjacent former smallholding/allotment to the rear were effectively level. I also heard that the land is effectively in the control of Mr Barby and so I could not see that it was justified as being scored as amber when it is available through the same family ownership. Again, I question the scoring in terms of site deliverability, as I am conscious that the Secretary of State’s advice is that “a site can be considered as available for development when, on the best basis of the best information available, there is confidence that there is no legal or ownership impediment to development.” On that basis I can see no reason why site 10 could not be considered available for development.
103. The Secretary of State is clear that neighbourhood plan policies should be backed up by evidence. He states that “proportionate, robust evidence should support choices made and the approach taken”. In this respect, my conclusion is that the site allocated in Policy H1 as being the most appropriate site in the parish, is not properly justified. I consider the methodology and the manner upon which it has been chosen is not fit for purpose. I can have no confidence that the site selection process that led to the site being selected has had proper regard to national policy.
104. It appears that the site selection was solely undertaken by members of the Housing Theme Group and the community as a whole was not offered an opportunity to express its preferences as to which site(s) should be developed, an exercise which could have been informed by relevant information as to the relevant constraints and opportunities that the allocation could have presented the village. I would have expected some form of community engagement with the public when it comes to which sites should be considered and chosen. I appreciate that the pandemic made public exhibitions or presentations difficult but that would not have ruled out seeking public views or preferences through either written material or online consultation.
105. At the hearing, as described in the earlier section, dealing with the need for an SEA, I heard evidence at the hearing about the level of harm to the scheduled monument. In that this regard, I am conscious of the advice in paragraph 199 of the Framework that in considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation ... irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. There was also a discussion about the harm to the ridge and furrow which would be lost, albeit that the earthworks within the allocation site is not as well defined as the land to the north.

106. There was also a discussion about the access arrangements off Lutterworth Road and I heard from the Highway Authority its concerns regarding the proposed right turn lane. However, in my view, access is not a determining factor in terms of the acceptability of allocation, nor are the concerns regarding the impacts of the proximity of the houses to the village cricket pitch, raised by Sport England. I am sure that these are matters that could be addressed at development management stage.
107. I understand that originally, the site put forward under the call for sites included all the land up to the Coopers Lane properties, but it was subsequently reduced through defining the allocation, so that the capacity would more closely relate to the local plan identified housing requirement of 40 houses, albeit that the plan is proposing more flexibility by referring to the allocation being for “around 50 units”. The original site assessment was for the full site and it also showed a capacity of 50 units.
108. The site boundary of the allocation is, in my view somewhat arbitrary having no regard to any features on the land such as field boundaries to create a logical boundary. It would leave an island of agricultural land which is bounded on all sides by residential properties.
109. However, my overarching concerns about the whole site identification process which is based on a flawed methodology and the absence of an SEA, means that I cannot be satisfied on the evidence submitted, that this is the most appropriate site for development within the parish and that it has not been chosen based on a robust methodology for comparing sites as advocated by the Secretary of State. I therefore do not believe the policy meets the basic conditions and accordingly I will be recommending that the proposed allocation set out in the policy be deleted.

### ***Recommendation***

***That the policy be deleted.***

### **Policy H2: Reserve Site**

106. The neighbourhood plan seeks to allocate a reserve site which would only be developed to remedy a shortfall in housing supply, if other sites did not get developed or the local plan requirements for Dunton Bassett were to change in a future version. The principle of allocating a reserve site to ensure housing delivery is not unusual and is supported by government advice.
107. I note that this site has been chosen through the Sustainable Site Assessment process and was ranked third after the Site 9. The highest scoring site was the Spice 45 Restaurant site, but this was discounted as an allocation as it had planning permission.
108. However, for the same reasons I used to criticise the site selection methodology, in respect of Site 9, I equally can have no confidence that this site, which scored a net 2 green, is according to the ranking scores the second most suitable site. If I was to conclude that Site 9 should not be allocated, the logic of the argument is that Site 3 should also not be allocated in terms of my

concerns about how the allocations are made having regard to Secretary of State policy.

109. I did have specific concerns regarding the impact of the development on the open countryside to the north west of the village, particularly approaching the village from Broughton Astley, which I believe is a view shared by Harborough District Council, but it is the principle of its allocation which is based on what I believe is a flawed methodology. I do not consider this reserve allocation has been arrived at via a robust consideration of alternatives as required by Secretary of State advice and if retained, as an allocation, through the consideration of reasonable alternatives that would be required as that would trigger the SEA process.
110. Accordingly, I will be recommending that the site allocation be deleted from the plan.

***Recommendation***

***That the policy be deleted.***

**Policy H3: Settlement Boundary**

110. I consider that it is perfectly appropriate for a neighbourhood plan to be identifying a settlement boundary, within which there will be a presumption in favour of residential development. However, the boundary shown in Figure 3 includes the allocation site to the rear of the village playground, which I am recommending should be deleted from the plan. I do consider that once the plan, possibly through the modification to the made plan, has allocated a site then that allocation site should be included within the settlement boundary. That could equally be dealt with by the modification process.
111. However, until a satisfactory site selection / allocation process has been conducted, possibly including the need for an SEA, I consider that it would be inappropriate for the neighbourhood plan to define a settlement boundary, which if drawn tight around the existing built-up area using the remaining criteria, could prevent the village from being able to meet its housing requirements. As such it could mean that the plan is not able to deliver sustainable development, particularly in terms of meeting its housing need and therefore does not meet the basic conditions.
112. In the absence of a settlement boundary, any housing proposal would have to be considered on the basis of the existing local plan policies, which currently apply to the village which allow development within or adjoining the built-up area subject to strict criteria.

***Recommendation***

***That the policy be deleted.***

**Policy H4: Housing Mix**

113. This policy seeks to ensure that any new housing within the parish should be a mixture of housing types and in particular at least 60% should be three bedroom or less. This figure is based on the findings of the Housing Needs Survey and



the policy ensures that the policy will remain relevant, if future studies show a change in that housing need. I consider the policy meets the basic conditions.

### **Policy H5: Design Quality**

114. This is a comprehensive design policy, currently with 17 specific elements. In considering these elements, I am guided by the Secretary of State stipulations as set out in the Written Ministerial Statement dated 25<sup>th</sup> March 2015, that neighbourhood plans should not set any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. However, the drafting of a number of policies, where this could be an issue, offer encouragement, rather than setting out requirements e.g. in criterion g).
115. The requirements in terms of the size of cabling required to serve home electric vehicle charging points, is a matter that is now covered by the new Part S of the Building Regulations. It is unnecessary to duplicate legislative requirements.
116. There is also some duplication between the policy requirements e.g. lighting is covered by criteria d), p) and q) and equally, fencing is covered by criteria f) and o). Innovative design is duplicated in criteria c) and m). It will be clearer if the requirements, as to heights set out in the second part of m) were included within the design requirements dealing with the scale of new dwellings as set out in a).
117. Subject to these amendments I do consider that the policy meets the basic conditions.

### **Recommendations**

***At the end of a), insert “On development of ten or more dwellings, development should be predominantly two- storey with any three storey dwellings being spread throughout the development.”***

***Delete criteria i), m), o), p) and q)***

***At the end of d) insert “Such security lighting, if essential, should be operated by intruder sensors and illuminated for no longer than 1 minute. Lighting design, location, type, lux levels and times of use should follow current best practise e.g. by applying the guidelines in Guidance Note 08/18 Bats and artificial lighting in the UK: Bat Conservation Trust / Institute of Lighting Professional 2018. Sports and commercial facilities lighting should be switched off during stipulated “curfew” hours between March and October.”***

***In c) insert at the end “including varied house types, building widths, styles, details, facing and roofing materials reflecting a varied street scene”***

***At the end of f) insert “walls or fences should include ground level gaps to maintain connectivity of habitat for hedgehogs and other terrestrial animals.”***

### **Policy H6: Affordable Housing Provision**

118. This policy seeks to ensure that the mix of tenure types, where affordable housing is to be provided, meets Dunton Bassett's local housing needs. This policy which will help address meeting the housing needs in the parish and hence will deliver sustainable development.
119. The policy does not require affordable housing to be allocated to those with local connection, as that would be a housing allocation policy rather than one of planning policy, but it does offer support for those schemes which provide that connection. I am satisfied that this policy is compatible with Policy H2 of the Harborough Local Plan which has a different tenure requirement i.e. it has a 75% affordable or social rented / 25% low-cost home ownership split, but that policy does allow variations based on the latest assessment of a housing need.

### **Policy H7: Windfall Sites**

120. This policy supports housing on infill and redevelopment sites. I consider the policy meets basic condition.

### **Policy H8: Use of Street Lighting and External Wall Mounted Lighting**

121. I consider that external wall mounted lights can best be dealt with through the criteria set out in Policy H5, but in view of the stated local concern regarding street lighting, over which admittedly, there is limited planning control, it is appropriate to differentiate between this form of lighting from other forms of illumination.

#### ***Recommendations***

***Re title the policy "Street Lighting"***

***Reword the policy "Any new street lighting should be well designed and should only be used where and when it is needed and should only shine where the light is needed and not create glare or light intrusion and may need to be shielded to direct light downwards in order to ensure this."***

### **Policy ENV1: Local Green Spaces**

122. The policy proposes three areas of open space, which are to be offered the highest level of protection as green spaces, as set out in the NPPF. Following my site visit, I did suggest to the Parish Council that All Saints Churchyard's designation should be extended to include the whole of the burial ground, including the extension, which is separately to be protected as an important open space. It agreed with my suggestion and I will recommend accordingly. In terms of the functionality and amenity considerations of the two areas, they are equally important.
123. I did raise with the Parish Council the issue of whether The Beats met the requirements as set out in paragraph 100 of the NPPF. It appeared to me that access to the public was likely to be restricted to the two public rights of way. I heard at the hearing, that the villagers also use the rest of the land, for example, by dog walkers following the perimeter of the field. I am also now satisfied that

the open space makes an important contribution to the setting and long-distance views of All Saints Church and retaining its openness will be important to the community.

124. The plan re-confers local green space status on the Well Lane green space, notwithstanding that it already enjoys that status through the Harborough Local Plan. I do not generally support the duplication of designations, but in this case, I accept the Parish Council's aspiration to include it within the neighbourhood plan in view of the fact that Local Plans are likely, in the future, to be more strategic in nature and local non-strategic matters, such as local green space designation, is best left to neighbourhood plans as an expression of community preference.

#### **Recommendation**

**Extend the LGS at All Saints Churchyard as shown in Figure 5 to include the Burial Ground extension.**

#### **Policy ENV2: Important Open Space**

125. I do not have any concerns with regard to the policy to designate important open spaces, which will have a lower status than local green space. This seems to be in line with the Secretary of State's approach as in paragraphs 98 and 99 of the NPPF.
126. However, in view of my recommendations to grant local green space status to both the All Saints Churchyard and the burial ground extension, I propose to exclude e) and f) from the list, as this will effectively duplicate control. I also questioned the inclusion of the primary school field, which is part of the school site, rather than being open space available to the whole community. I questioned the Parish Council on its inclusion, as the policy stipulations could potentially impact on school's ability to expand its facilities. The Parish Council agreed that this land could be excluded.
127. The plan is also proposing the inclusion of the Parish Council Field at the junction of Coopers Lane with Lutterworth Road. It appeared to me that the field does not currently have any community use. Its inclusion may have been justified in terms of a *potential* community use, bearing in mind the Parish Council ownership. However, in response to one of my questions at the Initial Comments stage, the Parish Council confirmed that "due to the location and access, this is unsuitable for community use, it is allocated as ridge and furrow and is used for grazing purposes on an annual lease to tenants – it is advertised each year". As such, I cannot see the justification for retaining as important open space within the plan.

#### **Recommendation**

**Delete from the policy and from Figure 6**

**"E: All Saints churchyard**

**F: All Saints Burial Ground extension**

**H: Parish Council field**

**I: Dunton Bassett School field"**

### **Policy ENV3: Protection of Sites of Natural Environment Significance**

128. This policy seeks to identify the sites within the parish which have significance in terms of the natural environment. It ranges from sites which are nationally designated through to local wildlife sites which have been identified by Leicestershire County Council, and regionally important geological sites, through to woodland habitat which has been identified by the neighbourhood plan process. The latter areas are specifically identified, as it is claimed that there is a shortage of such habitat in the parish.
129. I am content with the policy wording as it is seeking to balance the benefits of any new development with the significance of any species, habitats or features. I consider that balance of policy considerations is in line with the Secretary of State's expectations as stated in paragraph 179 of the Framework.

### **Policy ENV4: Woodland and Notable Trees**

130. This policy seeks to offer a presumption in favour of retaining woodland and notable trees and, where possible, to integrate them into any development. The policy does acknowledge that there will be circumstances where the loss is inevitable and allows for replacement planting. The policy does require applications where there is a loss of trees to have to be accompanied by a tree survey. A neighbourhood plan policy cannot dictate which documents need to accompany a planning application. That is a matter to be stipulated by the District Council in its local validation checklist, which covers the whole district.

#### **Recommendation**

***Delete the “\*” and the second paragraph “\* Proposals to fell or remove trees should be accompanied by a tree survey (BS 5837 standard or its equivalent) to confirm the condition of affected trees”***

### **Policy ENV5: Biodiversity and Habitat Connectivity**

131. This policy is seeking to protect wildlife corridors and Figure 8 maps these within the parish. This is an accordance with the Secretary of State aspiration set out in paragraph 179 of the Framework.
132. I have been informed that the first part of the policy essentially seeks to apply to biodiversity requirements to development which is not on sites which are otherwise identified in Policy ENV3. That is not clear from the text and accordingly I will be making recommendations to reflect the aspirations of the Parish Council.

#### **Recommendation**

***At the end of the first sentence insert “not just on those sites identified in Figures 7 and 8”***

### **Policy ENV6: Protection of Sites of Historical Environment Significance**

133. Figure 9 shows four sites which are of local significance in terms of their archaeological and historical significance which have been identified by the

Leicestershire Historical Environment Records, in addition to the one scheduled monument in the parish, which lies adjacent to the village playground.

134. I consider that it is perfectly valid for the neighbourhood plan to offer specific protection to sites of local importance, but the scheduled monument is designated at a national level and is subject to its own legislative and policy protection. Whilst I have no concerns with the site being identified on the map, I do consider it unhelpful for it to be covered by the same policy designed to reflect the significance of locally designated remains. That would not, in my view, adequately reflect the importance attached to the protection of the scheduled monument. I will therefore propose amendments to the policy which clarifies that the sites shown in yellow are sites which are designated for their local significance but the supporting text can point out the additional level of protection according to the scheduled monument.

#### ***Recommendation***

***After “mapped” insert “in yellow”***

#### **Policy ENV7: Local Built Environment Character Area**

135. This is, in my view a locally distinct policy, which identifies the centre of the village shown in blue in Figure 11, as locally significant, based on the “arrangements of buildings, the mediaeval village layout, streetscape views and the characteristic and eclectic mix of architectural styles represented”. It did occur to me that the quality of this part of the historical centre would warrant conservation area status. Such a designation would offer additional levels of protection, in terms of requirements for development to preserve and enhance the area and its setting and are subject to additional controls over extensions and other alterations, for example.
136. I enquired of the District Council whether it was its intention is to formally consider designating the central village as a conservation area. I was informed that it was not a priority in terms of areas to be subject to review, which would also require the preparation of the necessary appraisals and management proposals to be put forward.
137. In the absence of the conservation area designation, I consider this policy is an imaginative attempt to ensure that applicants and decision-makers assess the impact of development on the special characteristics of this part of the parish, which has been identified as being of particular significance and importance.
138. As such I am satisfied policy does meet basic conditions.

#### **Policy ENV8: Ridge and Furrow**

139. In my experience, it is quite common particularly in the Midlands area, for areas of well-preserved ridge and furrow earthworks be designated as non-designated heritage assets in neighbourhood plans. It is perfectly acceptable for the area to be designated, as identified in Figure 12.2, as non-designated heritage assets and the policy requirements, covering such features are

consistent with the approach advocated by the Secretary of State in paragraph 203 of the Framework.

### Policy ENV9: Protection of Important Views

140. It is open for the community to be able to identify important views in the parish which are cherished and warrant particular protection. I do note that the requirements are for proposals “to retain and respect, where practicable the views”.

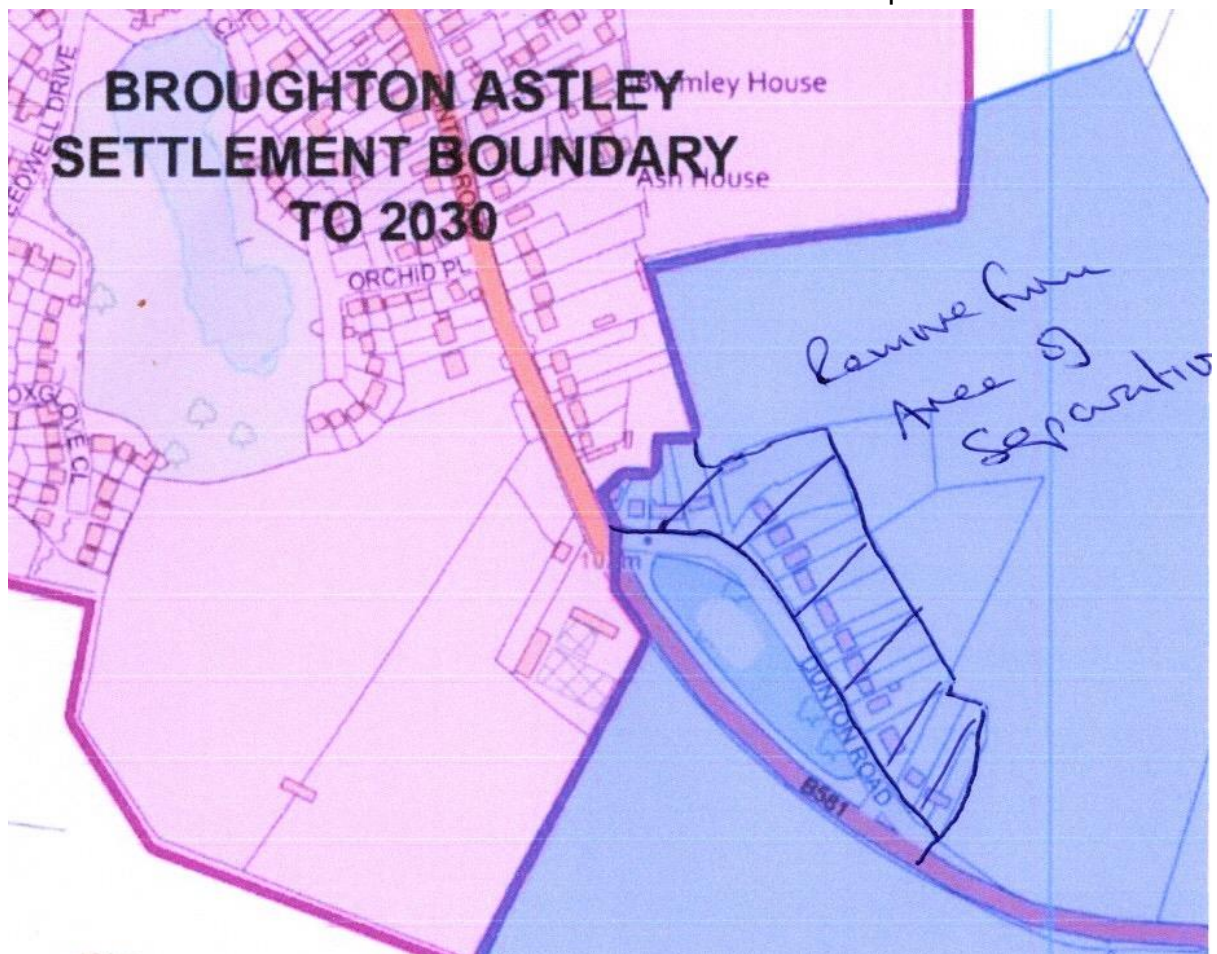
141. In terms of viewpoint 5, the policy seeks to protect the views to the parish boundary and beyond. A neighbourhood plan policy can only protect land within the neighbourhood area i.e. Dunton Bassett parish. I will recommend that “and beyond” be omitted.

#### Recommendation

**At the end of 5. delete “and beyond”**

### Policy ENV10: Area of Separation

142. The area of separation shown in Figure 14 includes the row of houses on the east side of Dunton Road, close to the edge of the neighbouring village of Broughton Astley. As this residential enclave is already fully developed, it does not perform any function of separating the two settlements. I will recommend that this residential area should be omitted from the area of separation.



143. It appears that close to the village of Dunton Bassett there is a small area which is excluded from the area of separation, presumably to reflect the reserve site,

but it is smaller than the area shown as B in Figure 2. In view of my recommendation to remove that reserve site allocation in Policy H2, I propose to extend the area of separation up to the edge of The Old Coach Road. Reference to the Dunton Bassett Settlement Boundary should also be removed from Figure 14, again as I am proposing the removal of Policy H3 from the plan.



#### **Recommendation**

***Amend the plan in Figure 14 to exclude the enclave of housing adjacent to Broughton Astley but include the land shown in white above, extending to The Old Coach Road within the Area of Separation.***

#### **Policy ENV 11: Managing Flood Risk**

144. This policy introduces an additional level of policy, covering areas at risk from flooding beyond the requirements already set out in the NPPF and the Planning Practise Guidance issued by the Secretary of State and in Policy CC3 and CC4 of the Harborough Local Plan, which are both strategic policies.
145. I do not consider that this policy, which offers the ability for a development proposal to be able to demonstrate that the benefits of development outweigh any adverse impact on climate change targets and locally applicable flood mitigation strategies and infrastructure, is consistent with the strict policy which is not to allow inappropriate development in areas at risk of flooding. I do not consider the balance of benefits consideration would be consistent with, for example, the exception test, set out by the Secretary of State which includes the requirement that the development must be safe for its lifetime, if development is to be exceptionally allowed.
146. I consider that all the other elements of the policy are already part of the existing policy which covers the parish, including those set out in the Local Plan Policy CC3 and CC4. The Framework, in paragraph 16, states that plans “should avoid unnecessary duplication of policies that apply to particular area of (including policies in this Framework, wherever relevant)”.
147. Accordingly, I conclude the policy does not meet the basic conditions and I recommend that it be deleted.

#### **Recommendation**

***That the policy be deleted.***

### **Policy ENV12: Footpaths and Bridleways**

148. I have no comments to make on this policy which meets basic conditions.

### **Policy CF1: The Retention of Community Facilities and Amenities**

149. I have no comments to make in this policy.

### **Policy CF2: New and Improved Community Facilities**

150. My only concern with this policy is the need for parking is covered in both requirements a) and b) of the policy. This could cause confusion as to which policy is to be applied. I therefore propose to allow criteria a) to concentrate on the impact of traffic movements associated with the new facility and let the parking be covered by requirement b), but that its wording should be amended so that it refers to additional parking being accommodated within the curtilage of the property or in nearby off- road locations.

#### ***Recommendations***

***In a) delete all the text after “residential properties”***

***At the end of b) insert “within the curtilage of the property or in nearby off-road locations”***

### **Policy CF3: Primary School**

151. I have no comments to make on this policy.

### **Policy E1: Support for Existing Employment Opportunities**

152. My concern with this policy is that the acceptability of a proposal is dependent on whether the site is providing employment. This is a difficult criterion, because the issue is whether a site is, at the time of determination, providing employment is not always possible to ascertain. For example, if a company is proposing to move to larger premises, possibly because existing centres are inadequate, then according to the policy, the employment use will be expected to be continued.

153. I do recognise that business floorspace should be protected, but equally there is no value in retaining unsuitable and vacant premises for which there is no market interest. I consider that the aspirations of policy can be achieved by adapting the criteria set out in the second part of the policy, which would allow for it to be demonstrated that the property has been vacant for at least 12 months and evidence of lack of market interest through a report outlining the management marketing campaign which has been carried out for at least six months.

#### ***Recommendations***

***In the first paragraph delete text after “commercial premises”***



***In the second paragraph, replace “for an activity that does not provide employment opportunities” with “in business use” and delete “commercial” and replace “employment – generating” with “business”***

### **Policy E2: Support for New Employment Opportunities**

154. This policy supports new employment opportunities in the parish, subject to a number of caveats being met.
155. The first requirement is that it should lie within the planned limits of development, which is a policy which I propose to delete. Alternatively, it allows for small-scale leisure and tourist activities or other forms of commercial/employment - related development appropriate for a countryside location” or where exceptional circumstances exist.
156. The Secretary of State’s policy is not as restrictive as this policy, when it comes to business uses in rural areas, in that it states, in paragraph 84 of the Framework, that plans should enable the sustainable growth and expansion of all types of businesses in rural areas, either through conversions or “well designed new buildings”. I therefore believe that criteria a) is inconsistent with national policy which is to encourage business in rural areas which may be located either adjacent to or beyond existing settlements.
157. I will propose a policy that is more supportive of business activity in the countryside. In line with paragraph 85 of the Framework, I will recommend that support, where possible, for development in existing buildings or on areas of previously developed land will be retained.
158. The final requirement, that new development should be “well integrated and complement existing businesses” is not achievable under planning powers which looks at the use of buildings, under the Use Class Order, rather than the identity of individual businesses that occupy the premises and an application could not be refused, if the business who was to occupy it, had no connections with existing businesses in the parish.

#### ***Recommendations***

***Delete a)***

***In b) after “or” insert “in well-designed new buildings situated”***

***Delete h)***

### **Policy E3: Working from Home**

159. This is an imaginative policy which enables business carried out from residential properties, whether it be an office or a light industrial use, to go beyond what would be the normal categorisation of persons working from home, which ordinarily, would not constitute development. This is a bold policy, which allows the employment to take place in people’s homes, beyond what would normally be viewed as incidental to the residential use of the property, and is subject to sensible caveats.

### **Policy E4: Reuse of Agricultural Commercial Buildings**

160. In effect, this policy is merely duplicating policy either to which allows business uses and leisure recreation uses or tourism uses in existing buildings or well-designed new buildings in the countryside. I therefore feel that if retained it could cause confusion as to which policies should apply. Accordingly, I recommend that the sake of clarity that this policy being deleted as unnecessary duplication.

#### ***Recommendation***

***That the policy be deleted.***

### **Policy E5: Tourism**

161. Under the terms of Policy E2, there is no requirement for tourist uses to be restricted to being within or adjoining Dunton Bassett village e.g. a farmer who wish to introduce bed and breakfast accommodation could do so even though it did not lie within the settlement boundary.

162. Whilst clearly desirable, it will be over onerous to suggest that support will only be granted for tourist business, if it can demonstrate that there is benefit to the local community. Where such benefits exist there is something that should be encouraged. Similarly, there will be tourist uses which could come forward which do not necessarily form part of the farm diversification projects, such as a new fishing lake. Also the restriction to the reuse of existing buildings is unnecessary as Policy E2 allows for the construction of well-designed new buildings for new business ventures, including tourism related.

#### ***Recommendations***

***Delete a), d), e) and f)***

### **Policy E6: Broadband Infrastructure**

163. The prohibition of new infrastructure on open landscapes, which are not actually defined, would be inconsistent with the broad support being offered to improve broadband facilities within the rural area, which is also a feature of national policy.

164. Requirement for developers to ensure that the occupiers of new buildings have access to superfast broadband, goes beyond what can be expected - that is a service for the telecommunications operators to deliver, however it is entirely appropriate for the developers to be expected to provide the necessary infrastructure such as ducting, so the broadband can be delivered to the new properties.

#### ***Recommendations***

***At the end of the first paragraph, delete “and not be located in or near to open landscapes”.***

***Replace a) with “All new development should include the provision of the necessary ducting and infrastructure so as to allow superfast broadband (of at least 30 Mbps) to be capable of being delivered to the premises.”***

### **Policy T1: Traffic Management**

165. I consider the policy is too vague to be used as a tool for decision-making. It refers to the need to minimise additional traffic generation and movements. The threshold set by the Secretary of State is that “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”, as set out in paragraph 112 of the Framework.
166. The need to provide sufficient off-road parking is already dealt with by other policies. The requirements to provide or fund necessary site access and improvements to the highway network are legitimate, as is the need to consider whether appropriate links to key village services through the creation of footpaths and cycleways.

#### **Recommendations**

***In the first paragraph, delete all the text up to “vehicular traffic”  
Delete a) and b)***

### **Policy T2: Car Parking**

167. This policy deals with proposals that lead to the loss of street parking. In caveat a), it refers to their being no longer any “potential” for the continued use of the land for parking. I consider the policy would be clearer if the wording allowed the applicant to be able to demonstrate that there is no need for the continued use of the land for car parking.

#### **Recommendation**

***Replace “potential” with “need”***

### **Policy T3: Transport Assessments**

168. I have concluded that the title of this policy is misleading. The policy applies to all housing development in the parish, yet Harborough District Council only requires the submission of a transport assessment for major schemes i.e. those over 10 units. The contents of such transport assessments are already specified in the Leicestershire Highway Design Guide.
169. I am satisfied that the requirements of the policy are legitimate objectives for major development which can be sought without needing to reference transport assessments, which can only be required if included in the Local Validation Checklist. I therefore propose to amend the title of the policy and also its requirements, so that is applicable to all new major housing development.

#### **Recommendations**

***Retitle the policy “Transport Implications of Major Housing Development”  
Delete in the first paragraph “transport assessments for” and after  
“housing development” insert “of over 10 units”***

## The Referendum Area

170. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Dunton Bassett Neighbourhood Plan as designated by Harborough District Council on 2<sup>nd</sup> March 2018 is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

## Summary

171. I congratulate Dunton Bassett Parish Council on reaching a successful outcome to the examination of its neighbourhood plan.

172. It is clear that a huge amount of hard work has gone into this plan by volunteers on behalf of the local community and I am pleased to recognise their sterling work. I know there will be residual disappointment about my recommendations on the housing allocations and settlement boundary but I have hopefully offered a route to allow the community to choose its housing sites but in a way that would allow me to conclude that the basic conditions are met.

173. To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.

174. I am therefore delighted to recommend to Harborough District Council that the Dunton Bassett Neighbourhood Plan, as modified by my recommendations, should proceed, in due course, to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI  
John Slater Planning Ltd  
25<sup>th</sup> January 2023