

**NWLDC OFFICER RESPONSE TO REG 14 PRE-SUBMISSION DRAFT
LOCKINGTON-CUM-HEMINGTON NEIGHBOURHOOD PLAN**

Plan Section/ Policy Number (Page Number in brackets)	Type of comment	NWL comment
About this Neighbourhood Plan		
Paragraph 17	Comment	This appeal was allowed in January 2023.
Housing and the Built Environment		
Para 69 (page 16)	Comment	For clarity, consider inserting the date after 'Strategic Housing and Employment Land Availability Assessment (2021).
Para 71 (page 16)	Comment	Para. 71 states "the Advisory Committee decided after careful consideration not to introduce Settlement Boundaries for the villages of Lockington and Hemington". To note, including settlement boundaries for the two villages would have created a conformity issue with the adopted Local Plan Policy S2. Lockington and Hemington are identified as 'Small Villages' in the settlement hierarchy in Policy S2 and this category of settlement does not have Limits to Development. The statement at paragraph 71 should be omitted.
Policy H1 – Housing Mix	Evidence; conformity	<p>Re second paragraph of the policy: this approach is not supported by the Housing Needs Assessment 2022 (Appendix 1) which, whilst acknowledging the need for choice, recommends a significant increase in 3-bed properties and an increase in the proportion of 4-bed homes (paragraphs 203-205).</p> <p>Further, Examiners have responded in different ways to similarly worded neighbourhood plan policies. The Blackfordby Examiner retained a similarly worded policy whereas the Examiners for Hugglescote & Donington le Heath NP (July 2021) and Swannington NP (Dec 2022) considered the wording too prescriptive and required its deletion to conform with Local Plan Policy H6. The council agrees that H3 as currently worded is not in conformity with the strategic Local Plan Policy H6 and, in addition, is not adequately justified by the evidence.</p> <p>If the second part of the policy is retained, the supporting text should explain how the policy should be applied to a one or two dwelling scheme.</p>

<p>Policy H2 Design Quality (page 19)</p>	<p>Effective decision making</p>	<p>This policy is lengthy and contains duplication which will make it difficult to apply in practice. Clear and succinct policies which can be easily understood by applicants, planning officers and members are likely to be more effective.</p> <p>The council recommends that the policy wording is rationalised, for example</p> <ul style="list-style-type: none"> • For a user of the plan, what is the practical difference between Design Principles and Design Guidelines? Could they be combined and, if not, can the distinction be explained in the text? • DP g) – what is meant by ‘retained features’? Does this relate to heritage or to something else? • DG b) duplicates DP d) • Overlap between DGc) and DPb); between DPc), e) and DGd); • DPh), DGk) & l) & n) could be combined. • DPe) and DGf) and g) could be combined. • DPf) duplicates DGj).
	<p>Comment</p>	<p>All the other policies in this chapter deal with housing only. H2 is the only one which is concerned with commercial development as well. Coupled with the fact that it has the prefix ‘H’, there is a risk that non-residential applicants will mistakenly assume that this policy is not relevant to their proposal.</p> <p>To avoid this, policy could be moved to a different chapter or, alternatively, insert ‘Design’ as a chapter in its own right.</p>
<p>Policy H3 Affordable Housing (page 22)</p>	<p>Conformity, evidence</p>	<p>Criterion a) does not conform with the adopted Local Plan Policy H5 or NPPF and NPPG. The adopted LP policy H5(1)(b) requires development to be <u>well related</u> to a settlement, not to adjoin it.</p> <p>Criterion b) states that “If First Homes are provided, the discount should be 40%”. This is an increase from the 30% national minimum discount and is based on the findings of the Neighbourhood Plan Housing Needs Assessment 2022 (e.g. paragraph 101).</p> <p>National Planning Practice Guidance on Viability recognised that planning policy requirements should not render sites undeliverable.</p> <p><u>“Policy requirements, particularly for affordable housing, should be set at a level that takes account of affordable housing and infrastructure needs and allows for</u></p>

		<p>the planned types of sites <u>and development to be deliverable</u>, without the need for further viability assessment at the decision-making stage”. (emphasis added, Paragraph: 002 Reference ID: 10-002-20190509)</p> <p>The HNA acknowledges this and identifies that viability is one of a number of considerations to think about in the development of housing mix policy:</p> <p>“F. Viability: HNAs cannot take into consideration the factors which affect viability in the neighbourhood area or at the site-specific level. Viability issues are recognised in the Local Plan and it is acknowledged that this may affect the provision of affordable housing, the mix of tenures provided and the discounts that can be sought on First Homes properties” (paragraph 124).</p> <p>The HNA does give an initial consideration to the viability implications of increasing the First Homes discount level:</p> <p>“Note that discounted market sale homes may be unviable to develop if the discounted price is close to (or below) build costs. Build costs vary across the country but as an illustration, the build cost for a 2 bedroom home (assuming 70 sq. m and a build cost of £1,750 per sqm would be around £122,500. This cost excludes any land value or developer profit. This would appear to be an issue in Lockington-Hemington with First Homes at a 50% discount.” (HNA Appendix 1, paragraph 278)</p> <p>This analysis may not be sufficient evidence for the Examiner to conclude that the 40% discount level is deliverable. For example;</p> <ul style="list-style-type: none">• The build costs quoted a) relate to the UK as a whole; and b) are at the bottom of an indicative range. How would the position change if more local figures were used?• The analysis does not consider other costs on development e.g. infrastructure costs <p>The council recommends that a more specific viability assessment is undertaken before the plan is submitted. Subject to its findings, this will give the Examiner evidence that the 40% discount is achievable.</p>
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Policy H4 Windfall sites (page 22)	Comment	a) is unnecessary. It duplicates Policy H1 b) &c) are unnecessary. They duplicate H2
NATURAL, HISTORIC & SOCIAL ENVIRONMENT		
Policy ENV1 Sustainable development (page 23/24)	NPPF; effective decision making	<p>The concept of development being 'locally' sustainable is not reflected in the NPPF. Also, NPPF paragraph 16d) requires policies to be clearly written and unambiguous so that decision makers know how to apply the policy in practice.</p> <p>It is unclear how this policy could be used in decision-making. The supporting text states that development be balanced against what is already in the area, but how should that be done?</p> <p>It would be better to rely on identifying and protecting specific qualities rather than a notion of a more equalised allocation of development to an area. Development is never equally spread because different locations have different planning attributes and constraints. With its strategic transport links, the airport and its proximity to Derby and Nottingham, this area will be of particular interest for commercial development. The policy as drafted appears not to acknowledge this wider context.</p>
Policy ENV2 – Local Green Space (page 28)	Evidence, NPPF compliance	<p>Appendix 4 uses 7 criteria whereas the NPPF (paragraph 102) specifies 3</p> <ul style="list-style-type: none"> • Proximity to community • Special significant to the local community (e.g beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife) • Local in character and not an extensive tract of land <p>By the approach used, a green space which is locally very important for recreation, could not score as well as a site which is medium importance for other factors.</p> <p>The NP identifies Daleacre Hill as a LGS (Figure 4). It is split into Dalacre Hill Hemington and Daleacre Hill Lockington but, the result is the designation of an expansive area spreading from the western fringes of Lockington much of the way to Hemington to south of Hemington/Lockington Lane and north of Church Lane/Dark Lane. This is an area in the region of 20.5Ha. Splitting the area into two area does not overcome the net effect that it is a continuous area for which LGS designation is being sought.</p>

		<p>The NPPG confirms that: “There are no hard and fast rules about how big a Local Green Space can be because places are different and a degree of judgment will inevitably be needed”.</p> <p>But it continues:</p> <p>“However, paragraph 100 of the National Planning Policy Framework is clear that Local Green Space designation <u>should only be used where the green area concerned is not an extensive tract of land</u>. Consequently <u>blanket designation of open countryside adjacent to settlements will not be appropriate</u>.” (emphasis added, Paragraph: 015 Reference ID: 37-015-20140306)</p> <p>This is an extensive tract of land lying between the two villages and the council considers that its proposed designation does not comply with the NPPF criteria.</p>
Fig 6 - sites and features of natural environment significance	Evidence	<ul style="list-style-type: none"> • In the absence of information about the current biodiversity value of Historic LWS, these should be omitted • LWS 11958 and 92015 are not included in NWL’s records of LWS. The latter area is part of the site which has planning permission for up to 78,967sqm of storage and distribution (20/00316OUT Land At Netherfields Lane Sawley) <p>For accuracy, the Council recommends that the Group checks the status of all these with the LCC Ecology team.</p> <p>Also, the scale of the map means it is not particularly easy to read. Consider whether to replace Figure 6 with two or more larger scale maps, rather than users of the plan having to resort to supporting documents.</p>
ENV4 sites and features of natural environment significance (page 32)	NPPF compliance	<ul style="list-style-type: none"> • Suggest moving the first two sentences into the supporting text as they are scene-setting rather than policy. • Biodiversity net gain, when introduced, will apply to certain forms of development. Until the full details are known, suggest “Development should also facilitate biodiversity net gain” would comply with NPPF paragraph 179b. • The correct NPPF reference in the final sentence of the policy is <u>paragraph 180a</u>
Para 126	Comment	First sentence. The SSSI is of national importance.
Figure 7 Wildlife Corridors	Evidence, effective decision making	<ul style="list-style-type: none"> • Changes to Fig 6 may need to be carried forward to Fig 7 • What is the evidence for the biodiversity corridors shown? A corridor is shown to run through the built-up area of two villages – is this supported by evidence? Lockington Brook and Hemington Brook perhaps?

		<ul style="list-style-type: none"> Examiners' feedback on such wildlife corridors has been mixed. The Blackfordby Examiner was content with the approach whereas the Hugglescote & Donington le Heath Examiner judged that presentation of the wildlife corridors – which is similar to that in the L&H plan - lacked sufficient clarity for effective development management purposes and he required the figure to be amended to show the core corridor (see paragraph 4.30 of the Examiners report).
ENV5 Biodiversity & habitat connectivity	Effective decision making	<p>ENV4 and ENV5 have elements of duplication and either should be rationalised into a single policy, or biodiversity could be covered in its own policy to deal with both identified nature conservation sites and biodiversity in general in one place. It is important that the policies are clear and straightforward to apply. This will make decision-making more efficient and effective. Currently the policies have different but similar wording, for example:</p> <p>ENV4 says If significant harm to biodiversity cannot be avoided (through relocating to an alternative site with less harmful impacts), <u>adequately mitigated by net gain as above or compensated for</u>, planning permission should be refused, in conformity with <u>paragraph 175</u> of the NPPF (2021).</p> <p>ENV5 says If significant harm to biodiversity cannot be avoided (through relocating to an alternative site with less harmful impacts), <u>adequately mitigated, or dealt with through onsite or offsite enhancement (via biodiversity net gain) or compensation</u>, planning permission should be refused, in conformity with <u>paragraph 180a</u> of the NPPF (2021).</p>
ENV9 – Important Views (page 43)	Conformity, effective decision making	<p>The views shown in Figure 15 are generally over tracts of open countryside. In this respect the council considers that the policy acts more as a countryside protection policy which is a function performed by Local Plan Policy S3 – Countryside (page 27) and is a strategic matter. Strategic matters should not be replicated in the Neighbourhood Plan.</p> <p>Further, the policy would be difficult to apply effectively in development management decisions without a clear understanding of what it is specifically about these views that the Neighbourhood Plan is aiming to safeguard and what types of development would adversely impact on the view. Is it nothing in that line, something small etc? Appendix 7 does not, of itself, provide clear justification for why the views have been identified (e.g.</p>

		<p>which are the distinctive features in the view which make it notable) and also does not provide an idea of their extent.</p> <p>The Hugglescote NP Examiner considered a similarly worded policy (see paragraphs 4.31-4.33 of his report) and required its replacement with a policy focused on protecting the rural setting of the villages. The Swannington NP Examiner also recommended a form of words based on significant harm to the rural setting of the village within the Important Views</p>
ENV11 – Flood risk, climate change	Conformity; NPPF compliance	<p>First paragraph - planning for flood risk is a strategic matter which is dealt with in Policy Cc2 of the adopted Local Plan. Strategic matters do not need to be replicated in the Neighbourhood Plan.</p> <p>Also, planning for flood risk is explained in quite a lot of detail in the NPPF and NPPG which also don't necessarily need repeating (or paraphrasing) at a more local level [and that would equally apply to the new Local Plan which is something we are considering].</p> <p>If the policy is retained, the sequential test is applied to 'Major' and 'Non-major development' in areas at risk of flooding, but there are exceptions (see https://www.gov.uk/guidance/flood-risk-and-coastal-change#the-sequential-approach-to-the-location-of-development including Paragraph: 027 Reference ID: 7-027-20220825)</p> <p>A more accurate first sentence could be “A sequential test will be required for development in areas at risk from flooding as set out in National Planning Practice Guidance.”</p> <p>Third paragraph a) this is different to what the NPPF says at paragraph 162 “Development should not be allocated or permitted if there are <u>reasonably available sites appropriate for the proposed development</u> in areas with a lower risk of flooding.”</p>
ENV12 - Area of Separation	Conformity; effective decision making	<p>Retaining the separation between settlements is a strategic matter which is covered in criterion (ii) of Local Plan Policy S3 – Countryside “it does not undermine...the physical and perceived separation and undeveloped character between nearby settlements...”. Policy ENV12 introduces different criteria which do not confirm with Policy S3.</p>

		<p>There is some precedent, however. The Examiner for the Blackfordby Neighbourhood Plan considered an Area of Separation Policy, albeit applying to a much smaller area. (see page 14 of the Examiners Report). He concluded that “notwithstanding the fact that countryside policies would apply, the policy serves to reinforce the function of this local space.</p> <p>What kind of development could ‘enhance’ separation? The policy as worded would be difficult to apply in decision making.</p>
<p>ENV13 – Renewable energy (page 51)</p>	<p>Conformity, evidence</p>	<p>The Local Plan identifies areas potentially suitable for small scale/medium and larger scale wind energy generation extending to much of the NP area with the exclusion of the villages themselves. The assessment is based on 3 headline planning constraints (see paragraph 12.11 of the Local Plan) and the Local Plan confirms that further detailed assessment would be required as part of the planning process and that proposals will need to be assessed on a site-by-site basis. Local Plan Policy Cc1 - Renewable energy sets out the considerations which will apply to renewable energy proposals.</p> <p>Figure 20 is out of conformity with the areas identified in the Local Plan.</p> <p>The NP does not explain the basis for the identification of sensitive and less sensitive areas and areas suitable for renewables development in Figures 19 & 20. What planning factors were used and how have they been assessed? Further, turbine and solar arrays are very different forms of development which would have very different landscape impacts yet they are treated the same in Fig 20.</p> <p>The size thresholds in the policy (30m/10ha) also have no clear basis leaving the last sentence of the policy without a clear justification.</p> <p>“POLICY ENV 13: RENEWABLE ENERGY GENERATION INFRASTRUCTURE – During the lifetime of this Neighbourhood Plan (i.e. until any Review’s submission) proposals for....”. This sentence is incorrect as a ‘made’ NP is still extant (i.e. it is part of the Development Plan) until a revised/replacement NP is itself ‘made’. For accuracy, the first part of the sentence should simply be deleted.</p> <p>Bullet 4 – see comments above re 10% biodiversity net gain</p> <p>The penultimate paragraph of the policy talks about assessments of matters that are dealt with in the first part of the policy (e.g. ecological impacts, landscape impact,</p>

		heritage). Also, it is not clear why these assessments would be required for solar arrays but not for turbines.
Community Sustainability		
Policy CFA2 – new and improved community facilities	NPPF	The NPPF requires planning policies to reflect the housing needs and transport needs of people with disabilities (paragraphs 62 and 112). Criterion e) as currently worded exceeds national planning policy. Matters such as disabled access into community buildings is a matter for the Building Regulations regime, not planning applications/policy.
Policy BE1 – Active encouragement for Existing businesses and employment opportunities	Effective decision making	<ul style="list-style-type: none"> • The policy or supporting text should specify what is meant by ‘commercial premises’. Is it offices, industrial and warehousing uses or would the policy apply to, for example, self-catering holiday accommodation, B&Bs, shops etc? • The second sentence of b) explains how the first sentence could be demonstrated and it could be part of the supporting text instead.
Policy BE2 – active encouragement for new business and employment	NPPF, conformity, effective decision making	<ul style="list-style-type: none"> • For clarity, rephrase first sentence to “new development which provides additional employment will be supported where...” [subsequent criteria will need to be amended] • d) does not accord with NPPF or the Local Plan
Policy T2 - electric vehicles	NPPF	The first sentence exceeds NPPF requirements (paragraph 112e) and is considered too prescriptive in the absence of any specific NP evidence. The Hugglescote Examiner took a similar view and recommended that it is replaced with “Development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations”. The Swannington Examiner identified that electric vehicle charging is now covered by Building Regulations Part S (June 2022) and recommended the deletion of the requirement for 7kW cabling.
General		
	Comment	There will be occasions when cross-references to the NPPF paragraphs/Local Plan policies are necessary. However its worth bearing in mind that some of these will become outdated when both documents are replaced