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and examinations

# **Report on the Lockington-Hemington Neighbourhood Plan 2023 – 2031**

**An Examination undertaken for North West Leicestershire District Council with the support of Lockington-Hemington Parish Council on the May 2023 submission version of the Plan.**

Independent Examiner: Andrew S Freeman BSc (Hons) DipTP DipEM FRTPI

Date of Report: 9 October 2023

Intelligent Plans and Examinations (IPE) Ltd, 3 Princes Street, Bath BA1 1HL  
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## Main Findings - Executive Summary

From my examination of the Lockington-Hemington Neighbourhood Plan (the Plan) and its supporting documentation, including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- the Plan has been prepared and submitted for examination by a qualifying body – Lockington-Hemington Parish Council;
- the Plan has been prepared for an area properly designated – Figure 1 on Page 6 of the Plan;
- the Plan (with modifications) specifies the period to which it is to take effect – 2023 - 2031; and
- the policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

## 1. Introduction and Background

### Lockington-Hemington Neighbourhood Plan 2023 - 2031

- 1.1 This report relates to the draft Neighbourhood Plan for the Parish of Lockington cum Hemington. Throughout the report the commonly used abbreviated version "Lockington-Hemington" is used for both the Neighbourhood Plan and the Parish.
- 1.2 Lockington and Hemington are two villages that give their name to a civil parish in the district of North West Leicestershire. The Parish is roughly pear shaped, with the southern tip crossing the centre of the runway to East Midlands Airport. The Parish then extends to the north between Castle Donington to the west and the M1 motorway and Kegworth to the east. In turn, the M1 passes through the broader northern part of the Parish which then reaches as far as the River Trent and the border with Nottinghamshire.
- 1.3 The Neighbourhood Plan Area was designated in May 2021 since when work has been progressed by an advisory committee. An open event was held in October 2021 and a community questionnaire analysed in November 2021. From February 2022, various "theme groups" were set up with their output contributing to the building of the Plan, the subject of

a further consultation event in November 2022. The resultant draft Plan has a vision for 2031, nine objectives and 27 policies.

### The Independent Examiner

- 1.4 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Lockington-Hemington Neighbourhood Plan by North West Leicestershire District Council, with the agreement of Lockington-Hemington Parish Council.
- 1.5 I am a chartered town planner and former government Planning Inspector with over forty years' experience. I have worked in both the public and the private sectors. I am an independent examiner and do not have an interest in any of the land that may be affected by the draft Plan.

### The Scope of the Examination

- 1.6 As the independent examiner, I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
  - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
  - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.7 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ("the 1990 Act"). The examiner must consider:
- Whether the plan meets the Basic Conditions.
  - Whether the plan complies with provisions under Section 38A and Section 38B of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act"). These are:
    - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
    - it sets out policies in relation to the development and use of land;
    - it specifies the period during which it has effect;
    - it does not include provisions and policies for 'excluded development'; and
    - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.

- Whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum.
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) (“the 2012 Regulations”).

1.8 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

### The Basic Conditions

1.9 The “Basic Conditions” are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan for the area;
- be compatible with and not breach European Union (EU) obligations (under retained EU law)<sup>1</sup>; and
- meet prescribed conditions and comply with prescribed matters.

1.10 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Neighbourhood Development Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>2</sup>

## 2. Approach to the Examination

### Planning Policy Context

2.1 The Development Plan for this part of North West Leicestershire District Council, not including documents relating to excluded minerals and waste development, is the North West Leicestershire Local Plan 2021 – 2031 (as amended by the partial review) and adopted in March 2021. There is an

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<sup>1</sup> The existing body of environmental regulation is retained in UK law.

<sup>2</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

emerging Local Plan in the form of the New Local Plan but this is at an early stage of preparation.

- 2.2 Planning policy for England is set out principally in the National Planning policy Framework (NPPF) and is accompanied by the Planning Practice Guidance (PPG) which offers guidance on how this policy should be implemented. All references in this report are to the latest iteration of the NPPF<sup>3</sup> and the accompanying PPG.

### Submitted Documents

- 2.3 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the draft Lockington-Hemington Neighbourhood Plan 2023 - 2031, May 2023;
  - a map (Figure 1 in the Plan) which identifies the area to which the proposed Neighbourhood Development Plan relates;
  - the Consultation Statement, undated;
  - the Basic Conditions Statement, March 2023;
  - the Strategic Environmental Assessment (SEA) & Habitats Regulations Assessment (HRA) Screening Report prepared by North West Leicestershire District Council, January 2023;
  - all the representations that have been made in accordance with the Regulation 16 consultation; and
  - the request for additional clarification sought in my letter dated 21 August 2023 and the response dated 4 September 2023 from Lockington-Hemington Parish Council.<sup>4</sup>

### Site Visit

- 2.4 I made an unaccompanied site visit to the Neighbourhood Plan Area on 11 September 2023 to familiarise myself with it and visit relevant sites and areas referenced in the Plan and evidential documents.

### Written Representations with or without Public Hearing

- 2.5 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum.

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<sup>3</sup> A new version of the NPPF was published during the examination on 5 September 2023. It sets out focused revisions (to the previously published version of 20 July 2021) only to the extent that it updates national planning policy for onshore wind development. As such, all references in this report read across to the latest 5 September 2023 version.

<sup>4</sup> View at:

[https://www.nwleics.gov.uk/pages/locking\\_cum\\_hemington\\_neighbourhood\\_plan](https://www.nwleics.gov.uk/pages/locking_cum_hemington_neighbourhood_plan)

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## Modifications

- 2.6 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

## 3. Procedural Compliance and Human Rights

### Qualifying Body and Neighbourhood Plan Area

- 3.1 The Lockington-Hemington Neighbourhood Plan has been prepared and submitted for examination by Lockington-Hemington Parish Council, which is a qualifying body for an area that was designated by North West Leicestershire District Council on 5 May 2021.
- 3.2 It is the only Neighbourhood Plan for the Lockington-Hemington Neighbourhood Plan Area and does not relate to land outside the designated Neighbourhood Plan Area.

### Plan Period

- 3.3 Paragraph 21 of the Plan states that the Plan covers the period up to 2031. No start date is mentioned. The Parish Council has confirmed<sup>5</sup> the period to which the Neighbourhood Plan is to take effect, which is from 2023 to 2031. However, for clarity and to conform with the legislation<sup>6</sup>, the date should be added to the front cover of the Plan and Paragraph 21 amended (proposed modification **PM1**).

### Neighbourhood Plan Preparation and Consultation

- 3.4 Details of plan preparation and consultation are set out in the Parish Council's Consultation Statement. Designation of the Neighbourhood Area was made by North West Leicestershire District Council on 5 May 2021. Plan preparation was then progressed by an advisory committee consisting of Parish Councillors and local volunteers assisted by professional support from external consultants.
- 3.5 Key activities are summarised in Appendix 1 of the Consultation Statement. Communication was effected through Parish Council meetings, a local free magazine, posters and flyers, the Parish Council's website, Facebook and word of mouth. A residents' survey, open events (two) and the work of three different theme groups were also central to the preparation of the Plan.

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<sup>5</sup> See the Parish Council's response to my request for additional clarification.

<sup>6</sup> Section 38B(1)(a) of the 2004 Act.



- 3.6 Formal consultation under Regulation 14 took place between 30 January 2023 and 13 March 2023. Details of the representations made, and actions taken, are set out in the Consultation Statement. Sixteen responses were received from various residents, landowners and public bodies.
- 3.7 At the Regulation 16 stage (16 June 2023 to 28 July 2023), 16 representations were received from a range of organisations including public bodies and landowners. None were received from local residents.
- 3.8 I am satisfied that, at both the Regulation 14 and the Regulation 16 stages, the consultation process met the legal requirements and there has been procedural compliance. Regard has been paid to the advice on plan preparation and engagement in the PPG.

### Development and Use of Land

- 3.9 The Plan sets out policies in relation to the development and use of land in accordance with Section 38A of the 2004 Act.

### Excluded Development

- 3.10 The Plan does not include provisions and policies for “excluded development”.<sup>7</sup>

### Human Rights

- 3.11 Lockington-Hemington Parish Council is satisfied<sup>8</sup> that the Plan does not breach Human Rights (within the meaning of the Human Rights Act 1998). From my independent assessment, I see no reason to disagree.

## 4. Compliance with the Basic Conditions

### EU Obligations

- 4.1 The Neighbourhood Plan was screened for Strategic Environmental Assessment (SEA) by North West Leicestershire District Council, which found that it was unnecessary to undertake SEA. Having read the Strategic Environmental Assessment Screening Report, I support this conclusion.
- 4.2 The Lockington-Hemington Neighbourhood Plan was further screened for Habitats Regulations Assessment (HRA), which also was not triggered. The site is not in close proximity to a European designated nature site.

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<sup>7</sup> As defined in section 61K of the 1990 Act.

<sup>8</sup> See the Parish Council’s response to my request for additional clarification.

Natural England agreed with this conclusion.<sup>9</sup> From my independent assessment of this matter, I have no reason to disagree.

## Main Issues

- 4.3 Having regard for the Lockington-Hemington Neighbourhood Plan, the consultation responses and other evidence, and the site visit, I consider that there are eight main issues relating to the Basic Conditions for this examination. These concern:
- Housing and Design
  - Nature and Location of Development
  - Open Space and the Natural Environment
  - Historic Environment
  - Flood Risk
  - Renewable Energy
  - Community Facilities
  - Employment
- 4.4 Before I deal with the main issues, I have a few observations to make with regard to the representations. First, the Lockington-Hemington Neighbourhood Plan should be seen in the context of the wider planning system. This includes the North West Leicestershire Local Plan as well as the NPPF and PPG. It is not necessary to repeat in the Neighbourhood Plan matters that are quite adequately dealt with elsewhere.<sup>10</sup> Having said that, there may be scope to give emphasis to matters particularly relevant in the context of Lockington-Hemington.
- 4.5 Secondly, the Neighbourhood Plan does not have to deal with each and every topic raised through the consultation. In this regard, the content of the Neighbourhood Plan and the scope of the policies is largely at the discretion of the qualifying body, albeit informed by the consultation process and the requirements set by the Basic Conditions.
- 4.6 Thirdly, my central task is to judge whether the Neighbourhood Plan satisfies the Basic Conditions. Many of the representations do not demonstrate or indicate a failure to meet those conditions or other legal requirements. Similarly, many of the suggested additions and improvements are not necessary when judged against the Basic Conditions.
- 4.7 The following section of my report sets out modifications that are necessary in order to meet the Basic Conditions. Some of the proposed modifications are factual corrections.<sup>11</sup> Others are necessary in order to have closer regard to national policies and advice. In particular, plans should be succinct and contain policies that are clearly written and

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<sup>9</sup> Email dated 6 January 2023 in Appendix 2 of the Screening Report.

<sup>10</sup> See NPPF Paragraph 16 f).

<sup>11</sup> Modifications for the purpose of correcting errors is provided for in Paragraph 10(3)(e) of Schedule 4B to the 1990 Act.

unambiguous.<sup>12</sup> In addition, the policies should be supported by appropriate evidence.<sup>13</sup>

## Issue 1 – Housing and Design

- 4.8 Policy H1 indicates that new development should provide for a mix of housing types as evidenced by the Housing Needs Assessment (or more recent documents updating this report). For my part, I find that the Housing Needs Assessment does not set out a specific housing mix; and although Policy H1 refers to bungalows for the elderly and dwellings of up to three bedrooms for young families, the actual required mix is unclear. Clarity would be achieved through proposed modification **PM2**.
- 4.9 Policy H2 concerns design quality. Amongst other things, there is reference to considering the prevailing character area in which the proposal resides; but the character areas are not defined anywhere. The Parish Council has stated that this is a drafting error<sup>14</sup> and that the phrase should be removed. Such an amendment would be effected through proposed modification **PM3**.
- 4.10 Given that Policy H2 cross-refers to the Design Guidelines and Codes, I have given consideration to a related representation from the District Council. This suggests that Figure 41 of the Design Guidelines and Codes should refer to a variable carriageway width whereas a 6m carriageway is shown. For my part, I note that the caption refers to “a suitable edge lane”. It does not suggest that this is the only solution. I find no breach of the Basic Conditions.
- 4.11 Policy H3 addresses affordable housing provision. With regard to rural exception sites, the District Council has questioned the conformity of the policy and the supporting evidence given that the Local Plan calls for sites to be “well related” to the built-up area rather than “adjacent to” as in the Neighbourhood Plan. In this regard, I note that “adjacent to” is the wording used in analogous circumstances in the NPPF (Paragraph 72). In addition, I would say that a site that is adjacent to the built-up area would be well related to that built-up area. I find there to be no issue concerning the Basic Conditions.
- 4.12 Policy H3 continues by stating that, for First Homes, the discount should be 40% (instead of 30%). On this point, the District Council has questioned the evidence on build and infrastructure costs. Notwithstanding, I have no reason to believe that the assumed build costs are unreliable or that other costs of development would materially affect the calculations.

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<sup>12</sup> NPPF, Paragraphs 15 and 16 d).

<sup>13</sup> PPG Reference ID: 41-041-20140306.

<sup>14</sup> See the Parish Council’s response to my request for additional clarification.

- 4.13 The Housing Needs Assessment states that, "It is recommended that in Lockington-Hemington, First Homes are delivered at a 40% discount. This makes the product comfortably affordable to households on mean incomes." In addition, the provision would be "subject to viability" (incorrectly referred to in the policy as "subject to availability").<sup>15</sup> Subject to proposed modification **PM4** on the viability matter, I find that the policy meets the Basic Conditions.
- 4.14 One of the provisions of Policy H4: Windfall Sites is that any traffic generation or parking impact shall not result in a severe direct or cumulative impact on congestion or pedestrian safety. This wording suggests that less severe impacts could be acceptable. In this regard, Paragraph 111 of the NPPF talks about unacceptable impact on highway safety and severe residual cumulative impacts on the road network. In paying regard to national policy, reference to unacceptable impacts would cover the subject matter of the policy (proposed modification **PM5**).

## Issue 2 – Nature and Location of Development

- 4.15 Policy ENV 1 calls on development proposals to demonstrate that they are fully and locally sustainable taking into account the disproportionately large area of land within the Parish that has already been developed for economic reasons. The policy is intended to reflect the strong feeling of residents that the Parish is seen as a strategic location for retail hubs, freight terminals, associated housing and the like at the expense of the rural landscape and countryside, heritage assets and biodiversity.
- 4.16 Be that as it may, I can see that this area benefits from strategic transport links, the presence of East Midlands Airport and proximity to Derby and Nottingham. This renders the area of particular interest for commercial development.
- 4.17 At the moment, the Parish enjoys the protection of countryside policies; and residents are fully entitled to rely on such policies. Any change in the future should follow the fundamental principles of the plan making system with opportunities for participation in that process and examination and testing of emerging proposals. However, I have no way of knowing what would be the outcome of that process.
- 4.18 As for Policy ENV 1, this is not a policy that is clear and unambiguous. It has not been drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications.<sup>16</sup> In particular, the policy cannot be used to pre-determine future plan making and decision taking. However, it would be appropriate to emphasise existing constraints and to reflect on-going expectations with regard to development management. This approach is addressed in proposed modification **PM6**.

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<sup>15</sup> See the Parish Council's response to my request for additional clarification.

<sup>16</sup> See PPG Reference ID: 41-041-20140306.

- 4.19 A second policy concerning the nature and location of development is Policy ENV 12: Local Areas of Separation. This relates to an area between Castle Donington and Hemington. I appreciate that the area is covered by countryside policy. Nevertheless, the separation could be compromised by developments that would be supported under Local Plan Policy S3. A locally-specific policy aimed at maintaining separation would be appropriate given justifiable local concerns and support.
- 4.20 The District Council has a strategic policy (Policy En5) that deals with Areas of Separation that are important at the district level. For clarity, and to distinguish the Neighbourhood Plan policy from that in the Local Plan, Policy ENV 12 should refer to *Local* Areas of Separation as in proposed modification **PM7**.

### Issue 3 – Open Space and the Natural Environment

- 4.21 Under Policy ENV2, two areas are identified as Local Green Space. These are Daleacre Hill, Lockington (14.8 ha) and Daleacre Hill, Hemington (6.8 ha). Both are privately owned (Daleacre Hill, Hemington is in the ownership of a charity). They are contiguous spaces located between the villages of Lockington and Hemington.
- 4.22 Given the criteria set out in Paragraph 102 of the NPPF<sup>17</sup>, I have considered whether the spaces are (in summary):
- in reasonably close proximity to the communities that they serve;
  - demonstrably special to a local community and hold a particular local significance; and
  - local in character and not an extensive tract of land.
- 4.23 On the first point, there is general agreement that the spaces are reasonably close to the communities served. Bearing in mind the adjacency of the villages of Lockington to the east and Hemington to the west, I concur with this conclusion.
- 4.24 As to whether the spaces are demonstrably special to a local community and hold a particular local significance, this has been challenged in representations. In this regard, I have carried out my own assessment paying particular regard to the example considerations set out in the NPPF (beauty, historical significance, recreation value, tranquillity or richness of wildlife).
- 4.25 I saw that both sites have a certain inherent beauty stemming from a familiar agricultural landscape with blocks of trees and mature hedgerows; also, from the panoramic views that are available over surrounding open countryside. A certain tranquillity can also be enjoyed by users of the sites. The spaces afford plenty of opportunities for quiet contemplation and calm reflection.

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<sup>17</sup> See also Paragraph 101 and PPG Reference IDs: 37-005-20140306 to 37-022-20140306.

- 4.26 Many activities are demonstrative of the sites' recreational value and include the passive value of enjoying the attractive and healthy outdoors as well as the available views. Walking and dog-walking can be enjoyed along the public rights of way that cross both sites. The Lockington site has been a traditional venue for village events as well as for sledging. The Hemington site has long provided a rich supply of blackberries for local people.
- 4.27 Evidence of historical significance includes several surviving examples of ridge and furrow on the grazed pasture fields including, on the Hemington site, some of the best examples in the area. In addition, the Lockington site has historical associations with the former Bainbrigg's Folly and an icehouse that gave its name to Icehouse Wood. I am told that the spaces have been part of a manorial, agricultural and recreational landscape since Medieval times.
- 4.28 On richness of wildlife, the whole of the Hemington site is a Local Wildlife Site (Hemington pasture). The Hemington grassland Local Wildlife Site covers parts of both spaces. The hedge along the southern boundary of both sites is species rich and is of locally high biological value. The Lockington site contains Priority Habitat (deciduous woodland) and is home to several BAP<sup>18</sup> species birds and other wildlife.
- 4.29 The Parish Council's site selection methodology and categorisation as Local Green Space has been criticised in representations. It has been stated that, "it is simply not sufficient for a site to qualify as LGS because it has some value in a variety of categories which 'pool' to create a value".<sup>19</sup> I do not agree. In my experience, it is often a combination of factors that can be summed to justify designation albeit that one particular attribute may be more important than others.
- 4.30 In summary, I would describe the two Daleacre Hill sites as green spaces, locally beautiful and tranquil, with a rich wildlife and historical associations, well used for permitted recreation, both active and passive, and highly valued by and of particular importance to the local community.
- 4.31 I now turn to the vexed question of whether the spaces are local in character and not an extensive tract of land. In so doing, I perceived the two spaces to have the appearance of a single site, a site with a combined area of 21.6 ha.
- 4.32 Be that as it may, I would say that the sites have a strong local character. They were the sites at the forefront of the minds of most respondents from the local community when it came to nominating and rating local open spaces. I saw that the sites are on the doorstep of the communities that they serve; they are connected to the villages by the footpaths that cross the hill; and they are well used by local inhabitants.

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<sup>18</sup> UK Biodiversity Action Plan (BAP).

<sup>19</sup> Regulation 16 representation submitted on behalf of Smisby Parochial Charity.

- 4.33 Daleacre Hill may also be distinguished visually and physically from other open land in the area. The hill is contained by Hemington to the east and Lockington to the west, by Hemington Lane to the north and Dark Lane to the south. As a hill, it has a separate topographical identity, different from the flatter agricultural land that it overlooks to the north.
- 4.34 I conclude that, in the circumstances of this case, Daleacre Hill is not an extensive tract of land but an area with local identity, distinguishable from the wider open landscape of the surrounding countryside. I would add that, whilst the sites would enjoy protection consistent with the Green Belt, I have seen no evidence to suggest that this is a “back door” move to achieve such status.<sup>20</sup>
- 4.35 As to the wording of Policy ENV 2, this indicates that development on the sites will not be supported “other than in very special circumstances”. However, this phrasing does not allow for the fact that the development may be “not inappropriate”. A change is needed to pay appropriate regard to the NPPF as in proposed modification **PM8**. Otherwise, I am satisfied that the two sites meet the criteria appropriate to designation in the NPPF as Local Green Space. I am also satisfied that both are capable of enduring beyond the end of the Plan period.
- 4.36 Policy ENV 3 deals with important open spaces. I have compared the wording in the policy with that set out in Paragraph 99 of the NPPF. I am satisfied that there is regard for national policy and that no modifications are necessary to meet the Basic Conditions..
- 4.37 Through Figure 6 and Policy ENV 4, sites and features of at least local significance for the natural environment have been identified. Having regard to the information in Paragraph 124 of the Neighbourhood Plan, and to Appendix 4 (inventory of environmentally significant sites), I am satisfied that the sites and features should be safeguarded under the policy (subject to extant planning permissions). However, amended wording is appropriate given the provisions of Paragraph 180 of the NPPF (proposed modification **PM9**).
- 4.38 With regard to Policy ENV 5 (Biodiversity and Habitat Connectivity), I have the following observations:
- The policy should not apply to *all* habitats and species but to those of at least local significance.
  - To have regard to the NPPF, and to be consistent with Policy ENV 4, amended wording should be used in the policy.
  - It is inappropriate to refer to best practice regarding plant disease and aftercare in circumstances where no appropriate sources are identified.

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<sup>20</sup> See PPG Reference ID: 37-016-20140306.

- I would expect there to be movement by wildlife through the corridors identified in Figure 7 notwithstanding a degree of severance by built development.
- The Policy does not refer to the minimum 10% biodiversity net gain as set out in the Environment Act 2021.

4.39 Necessary amendments to the policy are set out in proposed modification **PM10**.

4.40 A further policy under the Open Space and Natural Environment heading is Policy ENV 9: Important Views. The views are illustrated on Figure 15 and described in the policy. Subject to one clarification, in my opinion, the policy adequately sets out expectations with regard to development management. These are to respect and wherever possible protect the identified views (important to the setting and character of the village). Development having an adverse impact on the views will not be supported.

4.41 I am aware that, in other neighbourhood plans, similar policies have acted more as a countryside protection policy (a strategic matter). However, in Lockington-Hemington, I see the intention as avoiding unsympathetic development within the identified views, rather than precluding the sorts of development that would be supported under Local Plan Policy S3 – Countryside.<sup>21</sup>

4.42 For the avoidance of doubt, and compliance with the legal requirements<sup>22</sup>, I recommend proposed modification **PM11** to make clear in the policy wording that the protection afforded is confined to the extent of the designated Neighbourhood Plan Area boundary (albeit I recognise this is illustrated in Figure 15).

#### Issue 4 – Historic Environment

4.43 Policy ENV 7 identifies ridges and furrows that are to be regarded as non-designated heritage assets. However, the policy uses the term non-designated *local* heritage assets. For the avoidance of any confusion, the term non-designated heritage assets should be used (as in the NPPF). Proposed modification **PM12** refers.

4.44 Policy ENV 8 proposes 10 buildings and structures as non-designated heritage assets which are shown in Figure 14. Supporting information is provided in Appendix 6. I am content that the process of identification has taken into account Historic England's published advice<sup>23</sup> and the policy raises no issues of compliance with the Basic Conditions.

<sup>21</sup> See also Policy ENV 7 in the made Blackfordby Neighbourhood Plan (North West Leicestershire).

<sup>22</sup> See Section 38A(2) of the 2004 Act.

<sup>23</sup> [Local Heritage Listing: Identifying and Conserving Local Heritage | Historic England](#)

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## Issue 5 – Flood Risk

- 4.45 Two modifications to Policy ENV 11: Flood Risk Resilience, Watercourses and Climate Change are necessary. The first relates to Paragraph a. of the policy. Amendment is necessary to have appropriate regard to Paragraph 162 of the NPPF. Secondly, evidence from the Environment Agency (Regulation 16 representations) indicates that a replacement map of areas susceptible to flooding should be used. Other amendments are necessary to reflect policy and guidance in the NPPF and PPG. Appropriate modifications are set out in proposed modification **PM13**.

## Issue 6 – Renewable Energy

- 4.46 With regard to Policy ENV 13: Renewable Energy Generation Infrastructure, the District Council is concerned that the considerations applied are general in nature and not sufficiently transparent. For my part, I note that the process is described in Paragraphs 154 to 158 of the Neighbourhood Plan. First, the landscape sensitivity of the Plan area was assessed by the community (Figure 19). A smaller area representing the least sensitive space was then identified having regard to distance from visual receptors and land use (Figure 20). Finally size thresholds were selected based on an appreciation of existing installations and their visual impact.
- 4.47 To my mind, the methodology adopted by the Parish Council is clear and robust. However, in the body of the policy, there is reference to avoiding harmful effects on “identified species and habitat sites”. I take this to be a reference to the sites and species identified in Policies ENV 4 and ENV 5; also, to such other species and sites of significance that might be revealed in an ecological survey. Clarification should be added to the policy as in proposed modification **PM14**.

## Issue 7 – Community Facilities

- 4.48 Policy CFA1 aims to safeguard community facilities and amenities against unacceptable loss. The provisions cover community facilities *including* seven facilities that are mentioned in the policy. However, use of the word “including” indicates that there are (or could be) other facilities that are not identified.
- 4.49 It would be inappropriate for the policy to cover facilities that have not been identified. There will have been no opportunity to test the suitability of such premises against the provisions of the policy. In addition, the owners of potential candidate facilities will not have had the opportunity to make relevant representations. An alternative form of wording should be used as in proposed modification **PM15**.
- 4.50 To gain the support of Policy CFA2: New and Improved Community Facilities, proposals will have to take *full account* of the needs of people with disabilities. In other circumstances, the NPPF (Paragraphs 62 and

112) talks of reflecting the needs of the disabled. This is considered to be a more appropriate test and is included in proposed modification **PM16**.

## Issue 8 - Employment

- 4.51 Amongst other things, Policy BE1 on employment states that, "There will be a strong presumption against the loss of commercial premises or land within the Parish that provides employment or potential employment opportunities." In this regard, there is no definition of commercial premises. The Parish Council has suggested reference to Use Class B.<sup>24</sup> Reference to the Use Classes Order would indeed provide clarity. What would constitute land or premises with employment potential defies reliable definition and should be deleted from the policy.
- 4.52 The policy continues by indicating that applications for a change from commercial use will only be supported if the premises or land in question has not been in active use for at least six months *and* there is no potential for either reoccupation or redevelopment for an employment-generating use. In this regard, there is no evidence to suggest that both the requirements are necessary. Appropriate amendments to the policy are set out in proposed modification **PM17**.
- 4.53 Policy BE2 sets out criteria that will need to be satisfied in supporting additional employment opportunities. These include "Not involving the loss of dwellings". This is a requirement that goes further than Local Plan Policy S3 (Countryside) and is not supported by appropriate evidence. In the circumstances, the requirement should be deleted (proposed modification **PM18**).

## Other Policies

- 4.54 There remain a number of policies that have not been the subject of commentary in the above report. These are Policy ENV 6 (Sites of Historic Environment Significance), ENV 10 (Footpaths and Other Walking Routes), BE3 (Home Working), BE4 (Farm Diversification), BE5 (Tourism), BE6 (Broadband and Mobile Phone Infrastructure), T1 (Traffic Management) and T2 (Electric Vehicles).
- 4.55 To a greater or lesser extent, these topics are covered in NPPF Sections 6 (Building a strong, competitive economy), 8 (Promoting healthy communities), 9 (Promoting sustainable transport), 10 (Supporting high quality communications) and 16 (Conserving and enhancing the historic environment). I find that there has been regard for national policy and that the Basic Conditions have been met.

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<sup>24</sup> See the Parish Council's response to my request for additional clarification.  
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## Other Matters

- 4.56 All policy areas have been considered in the foregoing discussion. With the modifications that I have recommended, the Plan would meet the Basic Conditions. Other minor changes (that do not affect the Basic Conditions)<sup>25</sup>, including those suggested by the District Council as well as consequential amendments, corrections and up-dates, could be made prior to the referendum at the Councils' discretion.

## 5. Conclusions

### Summary

- 5.1 The Lockington-Hemington Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the Neighbourhood Plan and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

### The Referendum and its Area

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The Lockington-Hemington Neighbourhood Plan as modified has no policy or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

### Overview

- 5.4 It is evident that a considerable amount of time and effort has been devoted to the development and production of this Plan and I congratulate those who have been involved. The Plan should prove to be a useful tool for future planning and change in Lockington-Hemington over the coming years.

*Andrew S Freeman*

Examiner

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<sup>25</sup> See PPG Reference ID: 41-106-20190509.

## Appendix: Modifications

<b>Proposed modification number (PM)</b>	<b>Page no/ other reference</b>	<b>Modification</b>
PM1	Front cover and Page 7	Add the Plan period date "2023 – 2031" to the front cover. In Paragraph 21, replace "up to 2031" with "2023 to 2031".
PM2	Page 18	Replace the second sentence of Policy H1 with the following: "The predominant need is for three-bed dwellings; also for bungalows and smaller dwellings suitable for young families."
PM3	Page 20	In the second paragraph of Policy H2, delete the words "consider the prevailing character area in which the proposal resides and".
PM4	Page 21	At the end of Policy H3 b), change "availability" to "viability".
PM5	Page 22	In Policy H4 d, replace "a severe" with "an unacceptable".
PM6	Pages 23 and 24	Replace Policy ENV 1 with the following: "Development proposals will help deliver the objectives for sustainability as set out in Section 2 of the NPPF. In taking decisions on applications, account will be taken of past contributions to the economic objective and to countryside policy that is to be applied as set out in Policy S3 of the Local Plan."
PM7	Page 49	In the second line of Policy ENV 12, insert "Local" before "Area of Separation".
PM8	Page 28	In Policy ENV 2, replace "other than in very special circumstances" with "unless consistent with policies for managing development in Green Belts".
PM9	Page 32	Replace the second paragraph of Policy ENV 4 with the following: "If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less

		harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.”
PM10	Page 34	<p>In the first sentence of Policy ENV 5, replace the words “including those of local significance” with “of at least local significance, and to deliver a minimum of 10% biodiversity net gain.”</p> <p>Substitute the following for the second sentence: “If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.”</p> <p>In the second paragraph, insert “appropriate” before “account”. Delete “current best practice regarding”.</p>
PM 11	Page 43	In Policy ENV 9, replace “them” at the end of the first sentence of the policy with “the identified views within the boundary of the Neighbourhood Plan”.
PM12	Page 37	In Policy ENV 7, delete the word “local”.
PM13	Pages 46 and 47	<p>Replace the third paragraph of Policy ENV 11 with the following: “All development proposals shall demonstrate that:”.</p> <p>In the first sentence of sub-paragraph a., insert “reasonably” before “available”. Then add “Within the site, the most vulnerable development is located in areas of lowest flood risk.”</p> <p>Add a new criterion (j): “New development shall be designed to remain safe for occupants/users of the site in times of flood in accordance with the NPPF and PPG.”</p> <p>Replace Figure 17 with a figure based on the Flood Zones map included in the Environment Agency’s Regulation 16 representations.</p>

PM14	Page 52	Substitute the following for the first sentence of the fourth bullet point of Policy ENV 13: "adverse effect on biodiversity or species and habitat sites of at least local significance (Policies ENV 4 and ENV 5 or as revealed in relevant ecological surveys)."
PM15	Page 60	For the first paragraph of Policy CFA1, substitute the following: "Development leading to the loss of Hemington Primary School, the Village Hall, St Nicholas' Church, The Jolly Sailor Public House, the war memorial, Hemington Park, the sports field or the play areas (as described in this Neighbourhood Plan) will not be supported unless it can be demonstrated that:".
PM16	Page 61	In Policy CFA2, criterion e), replace "Takes into full account" with "Reflects".
PM17	Page 62	In the first Paragraph of Policy BE1, replace "that provides employment or potential employment opportunities" with "(Use Classes B2, B8 and E(g))".  At the end of Policy BE1 a., replace "and with "or".
PM18	Page 63	In Policy BE2, delete criterion d).  Relabel the 3 criterion from e) onwards d), e) and f).