

Lockington cum
Hemington
Neighbourhood Plan
Regulation 16 Consultation

Prepared by Fisher German LLP on
Behalf of the Smisby Parochial Charity



Project Title:

Hemington Land - Smisby Parochial Charity

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01 Introduction

- 1.1 These representations have been prepared on behalf of the Smisby Parochial Charity in respect of their land interests at 'Daleacre Hill Hemington' (Appendix 1). This land is proposed as 'Local Green Space' (LGS) in the Regulation 16 draft Lockington cum Hemington Neighbourhood Plan. As evidenced within these representations it is considered that the proposed LGS does not meet the criteria of Paragraph 102 of the NPPF and should be deleted as a LGS from the emerging Plan.



Figure 1: Google Earth Extract Illustrating our client's land interests

02 Policy Context

- 1.1 National policy in relation to Local Green Spaces can be found at paragraphs 101-103 of the National Planning Policy Framework (NPPF) (2021). The NPPF allows communities to identify and protect green areas of 'particular importance to them' as LGS. The Framework is clear that LGS should only be designated when a Plan is prepared or updated, and the LGS should be capable of enduring beyond the end of the defined Plan period (paragraph 101). Areas should only be designated as LGS if the following criteria are met (paragraph 102).
- In reasonably close proximity to the community it serves;
 - Demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
 - Local in character and is not an extensive tract of land.
- 1.2 Where designated, LGS should be managed in a manner commensurate with Green Belt. The Planning Practice Guidance (PPG), which supports the NPPF, particularly the 'Open space, sports and recreation facilities, public rights of way and local green space' chapter provides additional guidance. Paragraph 005 sets out that the LGS designation is a way to provide special protection against development for green areas of particular importance to local communities. It is noted that Paragraph 013 sets out some examples of land which may be appropriate for designation, including *"sports pavilions, boating lakes or structures such as war memorials are located, allotments, or urban spaces that provide a tranquil oasis"*.
- 1.3 Paragraph 11 of the PPG confirms that if land is already covered by existing designation, regard needs to be given as to whether any additional local benefit would be gained by designation as Local Green Space.
- 1.4 In respect of the size of a Local Green Space, associated guidance is deliberately vague and does not provide definitive sizes in respect of maximum and minimum sizes that the designation can be and allows for a degree of judgement. The PPG (Paragraph 15) however reaffirms that LGS should not be an extensive tract of land. It goes on to state that *"blanket designation of open countryside adjacent to settlements will not be appropriate"* and that LGS should not deliver what

would in essence amount to a new area of Green Belt by another name.

- 1.5 The PPG confirms at Paragraph 18 that “there is no need to designate linear corridors as Local Green Space simply to protect rights of way, which are already protected under other legislation.”

03 Representations

1.6 The Neighbourhood Plan proposes the designation of two Local Green Spaces, which whilst classified separately, are immediately adjacent to each other and, in effect form a continuous area of LGS between Hemington on the west and Lockington on the East. The Neighbourhood Plan group provides the rationale for designation within Appendix 5 of the Plan.



Figure 2: Appendix 5 - Main Features of the Two Local Green Spaces (our client's interest comprise western parcel)

1.7 Appendix 5 sets out that our client's land interests (site ref 024/025) comprises two areas of permanent pasture with vegetation on the hill separating the two parcels. The public right of way splits and travels north easterly through the site before leaving the site and entering the neighbouring field (site ref 022/023) which is also a proposed Local Green Space designation. Public access is limited to the public right of way and use of the land beyond the established footpaths is essentially trespass.

- 1.8 The two pastoral parcels (024/025) are described as containing ridge and furrow, with the southernmost parcel described as the best preserved in the parish.
- 1.9 It is further noted that the site is covered by Local Wildlife Sites LWS 71744 Hemington pasture for mesotrophic grassland and 62232 (part; see 023/024) Hemington grassland for mesotrophic grassland, scrub, woodland, *Trifolium striatum*.
- 1.10 The appraisal concludes that the site's character is derived from the quality and diversity of trees and hedgerows, presumably at the sites boundaries and the central vegetated area.
- 1.11 To establish whether the site should reasonably qualify as LGS, it is necessary to consider the site against the criteria contained at Paragraph 102 of the NPPF.

In reasonably close proximity to the community it serves

- 1.12 The site, along with the proposed neighbouring LGS predominantly form the area between Lockington and Hemington, south of Lockington/Hemington Lane. As such, it is considered that the land is reasonably close to the communities it serves, albeit the character of the site, particularly the middle, benefits from a rural/agricultural open countryside character, not linked with either settlement.

Demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife

- 1.13 Whilst it is clear that the site has some localised value, the entire proposed designation does not benefit from the significant local value necessary to justify designation as LGS.
- 1.14 The Neighbourhood Plan group's description of the site sets out various elements where value may be derived. However, when scored these attributes are only scored a 3/5, which is not commensurate for designation as LGS. Our experience (engagement with multiple LGS sites in the past 5 years at both District and Neighbourhood level) has demonstrated 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. Instead, the community value should be inherent to the site and clearly defined. We do not consider this to have been demonstrated in respect of proposed LGS.

- 1.15 An example is the presence of ridge and furrow on the site. Ridge and furrow is not an uncommon occurrence within the vicinity of Hemington and Lockington. The Environmental Directory confirms at least 14 examples of it within the Plan area. Its commonality across the Plan area must dilute the specific localised value which has been placed on it. Within the methodology for scoring sites, ridge and furrow is acknowledged to be a lower order historic asset. It alone is not sufficiently rare or valuable to justify designation.
- 1.16 Whilst the site is covered by a LWS designation, this has not necessitated a high score and it is not clear what benefits would be brought in that regard in relation to the proposed LGS designation, particularly having regard to the PPG and its guidance on how to assess areas with existing designations including LWS. In this case we agree with the scoring afforded by the group, which suggests a level of local value but not demonstrable local community value necessary to justify the allocation of land as Local Green Space.
- 1.17 The site is predominantly enjoyed via the public rights of way which cross the centre of the site; public access beyond the public rights of way is essentially trespass. The PPG confirms that it is not necessary to designate land covered by public rights of way, as they already benefit from existing legal protections. Wider site value is noted, but not commensurate to designation as Local Green Space and is not noticeably different to surrounding land.
- 1.18 For the reasons set out above, we do not believe proposed site (Daleacre Hill, Hemington) should qualify as a LGS under criterion B of Paragraph 102 of the NPPF.

Local in character and is not an extensive tract of land

- 1.19 The final test, criterion C, states that any LGS designation should not be an extensive tract of land and be local in character.
- 1.20 The NPPF and PPG are conscious not to define the term extensive tract of land, as ultimately that will depend on the site being considered and the specific context, which logically must include considerations such as the size of the settlement/s it and community it serves. Whilst there is deliberate ambiguity relative to the criterion to allow some discretion on the part of the Neighbourhood Planning Groups, Council's, 3rd parties and Examiners, we consider that proposed LGS certainly qualifies as being both an extensive tract of land and moreover should be considered a blanket designation of a large area of countryside. This is clearly in conflict with the provisions

of the NPPF and PPG.

- 1.21 This is particularly evident when considered in conjunction with the proposed adjacent LGS. If both designations are confirmed, the LGS would in effect and operation become an even larger connected (via the public rights of way) and continuous LGS designation. In isolation, our client's land interests (Daleacre Hill, Hemington) amounts to a significant designation of 17.2 acres. This means the land forms around 70% of the built areas of Lockington and Hemington. It is on its own a disproportionately large LGS designation, not commensurate with the size of either settlement. When taken with the neighbouring proposed LGS designation (Daleacre Hill, Lockington), the two sites form a continuous area of LGS equating to c.52 acres (21ha). This would create an LGS larger than either of the villages of Lockington and Hemington. In this context, the proposed LGS must clearly contribute an extensive tract of land, both purely in terms of its size when taken in isolation, but also when compared to the communities it serves.
- 1.22 The terminology of the PPG is clear it was never the intention of the LGS designation to designate large countryside fields and similar. The examples provided by the PPG are by no means definitive, but they do provide a consistent typology of community space, similar in scale. At no point is it indicated or expected that large swathes of pastoral or agricultural land would be designated. Again, in the context of the proposed LGS designation adjacent to the site, which would form a single larger LGS designation if advanced, this issue is only compounded, and the impact exacerbated.
- 1.23 Moreover, given the large area of the site which is comprised of open pastoral fields (particularly when considering the two designations together), forming part of a wider landscape and countryside, would result in the blanket designation of land which is for all intense and purposes open countryside and forms an integral part of a wider network of open countryside that extends to the north to the A50 and to East Midlands International Gateway to the south. The blanket designation of land is specifically restricted within the PPG and these designations form an extensive blanket of land between both settlements, not commensurate with the size of either village.
- 1.24 In terms of character, the proposed development is clearly rural in character, relating far more to the wider countryside than either Lockington or Hemington, with our client's land interests in particular being located entirely separate from Hemington. As such we do not consider the site as

designated to be classifiable as 'local in character'.

- 1.25 It is noticeable that North West Leicestershire District Council Officers share our concerns, as demonstrated in the group's Consultation Statement submitted with the Plan, and object to the proposed designation. In particular the Council allege correctly that the subdivision of the LGS into two sites does not reduce its impact when assessing the site under the tests of the NPPF. This is of course clearly correct, despite the assertion of the group that both LGS designations form a coherent site with common characteristics and in single ownerships. It is clear that there are characteristics that are common across both sites. Ownership on the other hand is simply not a consideration when assessing LGS boundaries.
- 1.26 The group are correct that that the NPPF does not define extensive. As set out above, it is our view that it is clear that this is a deliberate choice. The group continue to state that tract implies a substantial area of a 'landscape scale'. We do not agree with this conclusion and would make the following comments. The assertion that tract should equate to landscape scale is simply illogical. If it was the intention of the NPPF, now on its 3rd revision, for the test to be that LGS can be any size up to a size equitable with an entire landscape, it is reasonable to assume by this point after 12 years this terminology would be within the Framework. Extensive tract of land is vague, but it is not and should not be considered synonymous with a landscape scale, which could cover many hundreds of hectares.
- 1.27 As set out in representations, our view is that there is a deliberate vagueness associated with the terminology within the NPPF to allow a planning judgement as to whether land is an extensive tract. This judgement must logically consider matters such as size relative to the host community. It is telling however that both ourselves, and the Council, have reached a similar conclusion relating to the size of the proposed designation. This is particularly when compared to the size of the host settlements.
- 1.28 The PPG however adds further detail to this test. This sets out that consequently [of the requirement to not designate an extensive tract of land (paragraph 100)] **blanket designation of open countryside adjacent to settlements will not be appropriate** [our emphasis]. It is entirely clear when visiting the site, including a number of large open fields, that this is exactly what is proposed here.

- 1.29 Moreover, as per the PPG requirement that LGS should not be used to deliver Green Belt through the 'back door', by simply giving it another name. The designations entirely fill the area between the two settlements, creating an area with Green Belt between the two settlements, given the protections afforded. Again, directly in conflict with the PPG.
- 1.30 For the reasons set out above, we do not believe proposed LGS (Daleacre Hill, Hemington) qualifies as a LGS under criteria C of Paragraph 102 of the NPPF.
- 1.31 We trust that the above representations set out our comprehensive position in relation to the site and that proposed LGS (Daleacre Hill, Hemington) is not progressed through the remainder of the review process due to aforementioned conflicts with NPPF Chapter 102, particularly criterion B and C, and associated guidance within the PPG.