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Report on the Hugglescote and Donington le Heath Neighbourhood Plan 2019 – 2031

An Examination undertaken for North West Leicestershire District Council with the support of the Hugglescote and Donington le Heath Parish Council on the October 2020 submission version of the Plan.

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Main Findings - Executive Summary

From my examination of the Hugglescote and Donington le Heath Neighbourhood Plan (HDHNP/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 – Hugglescote and Donington le Heath Parish Council;
- The Plan has been prepared for an area properly designated – the Parish of Hugglescote and Donington le Heath, as shown on Figure 1 on page 5 of the submitted Plan;
- The Plan specifies the period during which it is to take effect: 2019–2031; 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

Hugglescote and Donington le Heath Neighbourhood Plan 2019–2031

- 1.1 The Parish of Hugglescote and Donington le Heath, containing the village of Hugglescote and the smaller hamlet of Donington le Heath, adjoins the southern edge of the built up area of Coalville. Ashby de la Zouch is just over 8km to the north west. The population of the Parish in 2011 was 4,466.¹ Hugglescote and Donington le Heath are sited on a gently southwards facing slope which is part of the River Sence valley and over which views of attractive open countryside are obtained.
- 1.2 The formal decision to prepare the HDHNP was taken by Hugglescote and Donington le Heath Parish Council (HDHPC) in April 2017 and the subsequent designation of the Plan area took place on 7 June 2017. The first meeting of the Neighbourhood Plan Advisory Committee was held on 6 July 2017. The Advisory Committee met on six further occasions, including the latest in March 2020. The Plan was finally submitted to North West Leicestershire District Council (NWLDC) in March 2021 and represents over four years work by those involved.

¹ 2011 Census.

The Independent Examiner

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the HDHNP by NWLDC, with the agreement of HDHPC.
- 1.4 I am a chartered town planner and former government Planning Inspector and have experience of examining neighbourhood plans. I am an independent examiner, and do not have an interest in any of the land that may be affected by the Plan.

The Scope of the Examination

- 1.5 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.
- 1.6 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 s.38A and s.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').

1.7 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

1.8 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);² and
- Meet prescribed conditions and comply with prescribed matters.

1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Plan does not breach the requirement of Chapter 8 Part 6 of the Conservation of Habitats and Species Regulations 2017 ('the 2017 Regulations').³

2. Approach to the Examination

Planning Policy Context

2.1 The Development Plan for this part of NWLDC, excluding policies relating to minerals and waste development, includes the North West Leicestershire Local Plan (NWLLP), initially adopted in November 2017, which sets out a strategy for delivering homes, jobs and infrastructure needed in the district between 2011 and 2031. However, Policy S1 of the NWLLP, which considered future housing and economic development needs, included the statement that a review of the Local Plan would

² The existing body of environmental regulation is retained under EU law.

³ 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.

commence by the end of January 2018 or within 3 months of its adoption (whichever is the later) and it would be submitted for examination within two years from the commencement of the review.

- 2.2 The review of the Local Plan is being undertaken in two parts, a Partial Review and a Substantive Review. The Partial Review, which sought only to amend Policy S1 and its supporting text, has been completed and the North West Leicestershire Local Plan (as amended by the Partial Review) was adopted by the Council on 16 March 2021.
- 2.3 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented. A revised NPPF was published on 19 February 2019 and all references in this report are to the February 2019 NPPF and its accompanying PPG.

Submitted Documents

- 2.4 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including:
- the Hugglescote and Donington le Heath Neighbourhood Plan 2019–2031;
 - the map on page 5 of the Plan, which identifies the area to which the proposed Neighbourhood Plan relates;
 - the Consultation Statement (undated);
 - the Statement of Basic Conditions (February 2020);
 - all the representations that have been made in accordance with the Regulation 16 consultation;
 - the Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment Screening Report (January 2021); and
 - the request for additional clarification sought in my letters of 6 May and 17 May 2021 and the responses dated 7 May and 28 May 2021 from NWLDC and dated 1 June 2021 from HDHPC together with the jointly prepared map received on 17 June.⁴

Site Visit

- 2.5 I made an unaccompanied site visit to the HDHNP area on 11 May 2021 to familiarise myself with it and visit relevant locations referenced in the Plan and evidential documents.

Written Representations with or without Public Hearing

- 2.6 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

⁴ View at: https://www.nwleics.gov.uk/pages/hugglescote_neighbourhood_plan

arguments for and against the Plan's suitability to proceed to a referendum. No requests for a hearing session were received.

Modifications

- 2.7 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 Hugglescote and Donington le Heath Neighbourhood Plan has been prepared and submitted for examination by Hugglescote and Donington le Heath Parish Council, which is a qualifying body. The HDHNP extends over all the Hugglescote and Donington le Heath Parish. This constitutes the designated area of the Plan approved by NWLDC on 7 June 2017. The HDHNP includes a map on page 5 on which the area of the Plan is delineated.

Plan Period

- 3.2 The period of the Plan, prominently displayed on the front cover of the document, is between 2019 and 2031. The end date of the period aligns with that of the NWLLP.

Neighbourhood Plan Preparation and Consultation

- 3.3 The Consultation Statement and the accompanying appendices indicate the thorough process of Plan preparation from 2017 to submission to NWLDC in March 2021. Following the decision to proceed with the Neighbourhood Plan in 2017 and the formation of an Advisory Committee, several consultations took place, including a community consultation event in September 2017, the distribution of questionnaires to every household and to young persons in March 2018 and a further community consultation event in November 2019. Three theme groups were also created: the Housing & the Built Environment Group; the Environment & Heritage Group and the Community & Facilities (Employment and Transport) Group. Each group met at least five times during the period of preparing the Plan. The methods of communication included the village notice boards, leaflets/flyers, the Parish newsletter and the Parish Council web site. In addition, letters were sent to individual stakeholders in September 2017 and October 2019.
- 3.4 The Plan was published for consultation under Regulation 14 of the 2012 Regulations for a period of 6 weeks from 6 November until 18 December 2019 which resulted in 11 representations, summaries of which are

described in Appendix 8 of the Consultation Statement together with the action to be taken by the Parish Council with respect to the Plan.

- 3.5 Consultation in accordance with Regulation 16, when the Plan was submitted to NWLDC, was carried out for a period of 6 weeks between 12 March and 23 April 2021. 16 responses were received. I am satisfied that a transparent, fair and inclusive consultation process has been followed for the HDHNP, that has had regard to advice in the PPG on plan preparation and engagement and is procedurally compliant in accordance with the legal requirements.

Development and Use of Land

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

Excluded Development

- 3.7 The Plan does not include provisions and policies for 'excluded development'.

Human Rights

- 3.8 The Statement of Basic Conditions advises that the HDHNP has regard to and is compatible with the fundamental rights and freedoms guaranteed under the European Convention on Human Rights which is transposed into UK law by the Human Rights Act 1998. The Plan has been prepared with extensive input from the community and stakeholders. Considerable care was taken throughout the preparation and drafting of the Plan to ensure that the views of the whole community were embraced to avoid any unintentional negative impacts on particular groups. NWLDC has not alleged that human rights might be breached. I have considered this matter independently and I have found no reason to disagree with that position.

4. Compliance with the Basic Conditions

EU Obligations (under retained EU law)

- 4.1 The HDHNP was screened for Strategic Environmental Assessment (SEA) by NWLDC. The report was submitted with the Plan in accordance with the legal requirement under Regulation 15(e)(i) of the 2012 Regulations. As a result of the SEA screening assessment, the Council found that the Plan is unlikely to have a significant environmental effect and, therefore, an SEA would not be required. The Environment Agency (EA)⁵, Historic England

⁵ Undated (See Appendix 2 of SEA and HRA Screening Report (January 2021)).
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(HE)⁶ and Natural England (NE)⁷ when consulted, agreed with that assessment.

- 4.2 The HDHNP was also screened for Habitats Regulation Assessment (HRA) by NWLDC. The Screening Report noted that the River Mease Special Area of Conservation (SAC) is about 7km from the western boundary of the Plan area with the edge of the catchment area of the river about 1.7km from where development might potentially impact on the River Mease itself. Nevertheless, the Screening Report concluded that the Plan is unlikely to have any significant effects upon the River Mease SAC or any other Natura 2000 sites and so a full HRA is not required. NE agreed with the Screening Report's conclusions.
- 4.3 Having read the SEA and the HRA Screening Report, the other information provided, and considered the matter independently, I agree with those conclusions. Therefore, I am satisfied that the HDHNP is compatible with EU obligations under retained EU law.

Main Issues

- 4.4 Having considered whether the Plan complies with various procedural and legal requirements, it is now necessary to deal with whether it complies with the remaining Basic Conditions, particularly the regard it pays to national policy and guidance, the contribution it makes to the achievement of sustainable development and whether it is in general conformity with strategic development plan policies. I test the Plan against the Basic Conditions by considering specific issues of compliance of all the Plan's policies.
- 4.5 As part of that assessment, I consider whether the policies are sufficiently clear and unambiguous, having regard to advice in the PPG. A neighbourhood plan policy should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence.⁸
- 4.6 Accordingly, having regard to the Hugglescote and Donington le Heath Neighbourhood Plan, the consultation responses, other evidence and the site visit, I consider that the main issues in this examination are whether the HDHNP policies (i) have regard to national policy and guidance, (ii) are in general conformity with the adopted strategic planning policies and (iii) would contribute to the achievement of sustainable development? I shall assess these issues by considering the policies within the topics in the sequence in which they appear in the Plan.

⁶ Dated 22 January 2021.

⁷ Received on 19 February 2021.

⁸ PPG Reference ID: 41-041-20140306.

Vision and Objectives

- 4.7 The HDHNP includes a vision, the gist of which is to promote and present a sustainable and vibrant future for the Parish, to balance its distinct heritage, the demands of planned development and future development and to protect or increase visual, recreational and environmental amenities for all. The full text of the vision can be read on page 14 of the Plan.

General Policies (Policies G1, G2 & G3)

- 4.8 Policy G1 identifies Limits to Development (LtD) around Hugglescote and Donington le Heath which are then delineated on Figure 2.1 of the Plan. As the NWLLP explains, the LtD are a means of distinguishing between areas of potential for new development and areas which can be regarded as countryside where development will be considered having regard to the provisions of Policy S3 of the Local Plan.⁹
- 4.9 The policy has regard to national advice¹⁰, is in general conformity with Policy S3 of the NWLLP and meets the Basic Conditions. However, NWLDC indicated in the Regulation 16 consultation response that there were anomalies between the LtD in the Neighbourhood Plan and those in the adopted Local Plan. A comparison of Figure 2.1 with the Local Plan Inset Map 10 shows the discrepancies. Although some changes may be due to recently granted planning permissions for housing, I consider that, to enable effective development management and to minimise inaccuracies, it is important for the LtD to be as up to date as possible. Following my request, the Parish Council and NWLDC have agreed a map of the LtD which I recommend should be substituted for that at Figure 2.1. **(PM1)**
- 4.10 Policy G2 considers the South East Coalville Development Scheme, a major strategic housing allocation for Coalville, and sets out requirements for the development in clauses a) to f). The policy generally conforms with the strategy of the NWLLP and especially Policy H1, has regard to national guidance¹¹ and meets the Basic Conditions.
- 4.11 Policy G3 lists design criteria to be met where appropriate and proportionate. The policy has regard to national guidance¹² and generally conforms with Policy D1 of the NWLLP, subject to the following three points. Firstly, I consider that the requirement of design analysis for small scale schemes of more than one unit in clause b) is too onerous. I shall recommend the phrasing suggested by NWLDC, with the exclusion of the application of the criterion to "more than one unit" because it seems to me that avoiding an adverse negative impact on the local beauty of the countryside should apply to all development and not be limited to two or more units. **(PM2)**

⁹ NWLLP: paragraph 5.23.

¹⁰ NPPF: paragraph 79.

¹¹ NPPF: paragraph 18.

¹² NPPF: Section 12 Achieving well designed places.

- 4.12 Secondly, clause p) requires all properties of three bedrooms or less to be provided with one electric vehicle charging point and all properties of four or more bedrooms to be provided with at least two connections where viable and appropriate to do so. I consider that this is excessively prescriptive and the clause should reflect NPPF advice to enable charging facilities to be located in safe accessible and convenient locations. My recommended modification will take that phraseology into account. **(PM3)**
- 4.13 Thirdly, I shall recommend that clause r) be modified so that not only is adequate provision made for storage of waste and recyclables, but that the bins should be convenient and accessible for collection and emptying. **(PM4)**

Housing Policies (Policies H1, H2, H3 & H4)

- 4.14 Policy H1 supports a mixture of housing types but expects those with four or more bedrooms to make a minor contribution within a development proposal. The Local Plan used a Housing and Economic Developments Needs Assessment (HEDNA) 2017 as part of its evidence base to support Policy H6 "House types and mix" and included in the text a table indicating a need for 10%-20% of 4 bed homes.¹³ However, the Local Plan continues to state: *"It is recognised that there may be a need for local variations and therefore the above percentages are not intended to be prescriptively applied to every site. Other relevant factors include population profiles, location, balancing recent local delivery, rebalancing the current mix and the turnover of properties at the local level as well as the nature of the development site and the character of the area"*. Therefore, I consider that Policy H1 is being too prescriptive by commenting on the expectation of 4 bedroomed homes making a minor contribution and, in order to generally conform with NWLP Policy H6, I shall recommend the deletion of the second of the two paragraphs. **(PM5)** Policy H1 will also then have regard to national guidance¹⁴ and meet the Basic Conditions.
- 4.15 Subject to one modification which I shall recommend, Policy H2 considers affordable housing and has regard to national guidance¹⁵, generally conforms with Policy H4 of the NWLLP¹⁶ and meets the Basic Conditions. The change would amend the reference in Policy H2 to the availability of the affordable housing to those with a connection to the Plan area. I note the comparison made with the affordable housing policy (Policy H2) of the adjoining Ellistown and Battleflat Neighbourhood Plan (EBNP), but I consider that there is a difference between "a connection to the Plan area" in the HDHNP and "a local connection" in the EBNP. "The Plan area" is quite specific to the Parish; "a local connection" can be interpreted more widely as applicable to within the District. Therefore, my recommendation

¹³ NWLLP: paragraph 7.46 Table 3.

¹⁴ NPPF: paragraphs 60–62.

¹⁵ NPPF: paragraph 63 & 64.

¹⁶ Policy H4 of the NWLLP aims for 20% affordable housing on proposals for 11 or more houses in the Coalville Urban Area, which under Policy S2 of the NWLLP includes Hugglescote and Donington le Heath.

is to modify the policy by altering the final sentence so that it applies to those with a local connection, according to the eligibility criteria of NWLDC. **(PM6)**

4.16 Policy H3 deals with windfall sites and would have regard to national guidance¹⁷, generally conform with the strategic need in the NWLLP to provide for additional housing and meet the Basic Conditions subject to the removal of the limitation of up to five dwellings, which is contrary to the NPPF Annex 2 definition of “Windfall sites” which has no numeric qualification. **(PM7)**

4.17 Policy H4 supports brownfield development. The policy has regard to national guidance¹⁸, generally conforms with Policy S2 of the NWLLP and meets the Basic Conditions.

Natural and Historic Environment Policies (Policies ENV1, ENV2, ENV3, ENV4, ENV5, ENV6 & ENV7)

4.18 Policy ENV1 defines five areas of Local Green Space (LGS), the supporting evidence for which is described in Appendix 6.¹⁹ I note the eligibility criteria and the scoring rationale explained in the comprehensive and lengthy environmental inventory in Appendix 5 from which the LGS were derived and the criticisms of the criteria and scoring by NWLDC.²⁰

4.19 NPPF (paragraph 100) states the circumstances where the LGS designation may be used. In general, I accept that the attempt to quantify the subjectivity of LGS designation has its merits. However, I have some reservations about the details. I am not convinced that both beauty and tranquillity can each have a score range less than other criteria. For example, having visited each LGS on my inspection, I fail to see how Donington Fields is judged to be of equal tranquillity to the Kelham Bridge Nature Reserve or Hugglescote Cemetery.

4.20 Furthermore, unlike the eligibility criteria in the Plan, reference is not made to accessibility in the NPPF. Nevertheless, I realise that access may result in a candidate LGS being more demonstrably special to a local community. In addition, I do not endorse the cumulative method of assessing the land for LGS designation in Appendix 5 which I believe includes some double counting. For example, “special to the local community” is quite rightly identified as an eligibility criterion, but the components of what makes that land special are then scored individually.

4.21 Despite my reservations about the method of selecting the LGS, based on my site inspection and a scrutiny of Appendix 5, I consider that those

¹⁷ NPPF: paragraph 70.

¹⁸ NPPF: paragraph 84.

¹⁹ Appendix 6 omitted a reference to the LGS at Public Open Space at Dennis St/Station Rd. However, similar details for the site were available in the environmental inventory at Appendix 5.

²⁰ Regulation 16 consultation response by NWLDC.

designated at Hugglescote Cemetery, Millfield recreation ground and playpark, the Public open space (gardens) Dennis Street/Station Rd and Kelham Bridge Nature Reserve meet the NPPF criteria of being reasonably close to the community they serve, demonstrably special to the local community, hold a local significance and are local in character and not extensive tracts of land. My concern about Donington Fields is that, at 11.7ha, it is extensive in nature and that the northernmost two plots owned by the Thomas Harley Charities may not endure beyond the Plan period, contrary to advice in paragraph 99 of the NPPF. Furthermore, some of the individual plots of land scored significantly below the threshold set by the Plan for eligibility for LGS, notably plots 097 and 97A. Therefore, in accepting that most of Donington Fields meets the other designation criteria, I shall recommend that this LGS is modified by the exclusion of the northern most plots of land. **(PM8)**.

- 4.22 Subject to that modification, Policy ENV1 would have regard to national guidance and generally conform with the strategic policies of the NWLLP.²¹ I realise that under a revised scoring system with corrected defects which I identified above, other sites may have been eligible for LGS designation, but I have considered sites proposed in the Plan rather than sites omitted from it and have concluded that with the modification proposed Policy ENV1 would meet the Basic Conditions and, therefore, I need not deal with the matter further.
- 4.23 Policy ENV2 protects sites of environmental significance which have been identified through the environmental inventory at Appendix 5. The sites are recorded on Figures 5.1 (Sites of historic environmental significance) and 5.2 (Sites of natural environmental significance). The policy seeks to balance the value of the environmental sites with the benefits of proposals which might affect them. The policy has regard to national guidance²², generally conforms with Policy S3 of the NWLLP and meets the Basic Conditions, subject to the deletion of the exhortation "damage or destruction of the identified environmental features should be avoided", which is not compatible with either the balanced approach of the remainder of the policy or national guidance. In addition, the superfluous qualification of the application of the policy to "strategic" development misses the point that any development, not just strategic development, could cause harm to the features which the policy is designed to protect. I shall recommend modifying the final paragraph of Policy ENV2. **(PM9)**
- 4.24 I realise that a small number of locations occur on Figures 5.1 and 5.2 which would be protected, in any event, as LGS under Policy ENV1, but there should be no confusion for development management purposes. However, I consider that to secure the effectiveness of the policy, the locations in Figures 5.1 and 5.2 should be listed and referenced. Indeed, the policy refers to sites "listed and mapped". I realise that the information can be sought in the Environmental Inventory: Appendix 5,

²¹ NWLLP: paragraphs 10.5 & 10.6.

²² NPPF: paragraphs 170 & 171.

but the 477pp document is unwieldy as a supporting document for the Development Plan of which the Plan will become part, when made. Therefore, to be an effective development management tool, I shall recommend that each site on Figures 5.1 and 5.2 should be numbered, listed and referenced to its location in Appendix 5. **(PM10)**

- 4.25 In addition, NWLDC comments that some of the sites shown for protection on Figures 5.1 and 5.2 have planning permission for residential development. I accept that the permissions may have been granted after the initial drafting of the maps but, nevertheless, the sites should be removed from the areas delineated in Figures 5.1 and 5.2, in the interests of effective development management. **(PM11)**
- 4.26 Policy ENV3 identifies important public open spaces which will be protected from development, unless equivalent or better provision is made or there is no longer a community requirement for the open space in question. The policy has regard to national guidance²³, generally conforms with Policy IF3 of the NWLLP and meets the Basic Conditions.
- 4.27 Policy ENV4 lists Local Heritage Assets which, as NWLDC agrees and the HDHPC accepts, should be described as non-designated heritage assets. **(PM12)** As part of the helpful response to one of my clarification questions, the Parish Council explained that the buildings and structures identified in the policy were all taken from lists provided by NWLDC and Leicestershire County Council (LCC). Therefore, no new non-designated heritage assets are proposed. The NPPF advises that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.²⁴ The policy has regard to national guidance, generally conforms with Policy He1 of the NWLLP and meets the Basic Conditions.
- 4.28 Policy ENV5 provides for the safeguarding of the ridge and furrow non designated heritage assets shown on Figure 9.3. The policy also has regard to national guidance²⁵, generally conforms with Policy He1 of the NWLLP and meets the Basic Conditions, subject to similar comments to those in paragraph 4.23 above about the phraseology in Policy ENV2 and the subsequent recommendation. NWLDC commented on the absence from Figure 9.3 of the ridge and furrow south west of Snibston and I do not dispute the evidence illustrated on the submitted photograph. But my task is confined to examining the Plan to determine whether it meets the Basic Conditions rather than to consider detailed exclusions which are not central to this consideration. In this particular case, I have concluded that Policy ENV5 passes the appropriate tests, subject to the recommended deletion of the phrase at the beginning of the second sentence **(PM13)**, and that I need not deal with the matter further.

²³ NPPF: paragraph 97.

²⁴ NPPF: paragraph 197.

²⁵ NPPF: paragraph 197.

- 4.29 Policy ENV6 seeks to safeguard biodiversity and habitat connectivity and defines a wildlife corridor in Figure 10. I agree with the comments from NWLDC about the ambiguity of the second sentence of the second paragraph of the policy. Accordingly, in order to ensure that Policy ENV6 has regard to paragraph 175 of the NPPF, Policy En1 of the NWLLP and meets the Basic Conditions, I shall recommend a modification to make the policy consistent with paragraph 175. **(PM14)**
- 4.30 In addition, I consider the wildlife corridor shown in Figure 10 lacks sufficient clarity for effective development management purposes. I agree that wildlife in its various forms does not normally have regard to property boundaries or similarly delineated areas. Nevertheless, the development management process can take into account the presence of the defined core wildlife corridor without necessarily including the gradation in value away from it in much the same way as the setting of a listed building is protected but not usually defined. Therefore, I shall recommend the deletion of the "fuzzy" outer margins of the wildlife corridor from Figure 10. **(PM15)**
- 4.31 Policy ENV7 identifies important views on Figure 11 which are to be protected. In justification of the policy, the Plan states that a widely held wish was expressed by residents to protect what remains of Hugglescote's rural setting and its relationship with the surrounding countryside. The rural and environmentally important areas to the south and west of the Parish were emphasised due to the recent loss of similar areas in the east of the Plan area due to the South East Coalville Development Scheme.
- 4.32 When I visited the area, I stood at each of the viewpoints identified on Figure 11 and can appreciate the rural setting of the Parish which is in stark contrast to the large scale development permitted to the east of Hugglescote. I can fully understand the desire of residents to avoid being overwhelmed by new housing. However, I found the protection of the views as seen from most of the viewpoints would be so widespread that they would constitute a barrier to further development around Hugglescote and Donington le Heath which would effectively create a strategic policy inappropriate for a neighbourhood plan.
- 4.33 In addition, I found most of the views to be of general countryside, albeit very pleasant, rather than of, for example, iconic landmarks or structures such as a church. Views from The Green (Viewpoint 4) appeared very restricted by housing to the north or the hillside to the south. I appreciate the volume of photographic evidence in Appendix 7, but consider it should support a rephrased more general policy which I shall recommend as a necessary alternative to the use of the photographs from the viewpoints as the focal points of the policy. Therefore, Policy ENV 7 in its current form should be replaced with a policy which will safeguard the rural setting of the villages without recourse to the protection of specific views.

This policy would generally conform with Policy S3 of the NWDLP, have regard to national guidance²⁶ and meet the basic Conditions. **(PM16)**

Transport and Access Policies (Policies T1, T2 & T3)

4.34 Policy T1 considers transport assessments for new housing development. Policy T2 deals with parking. Policy T3 supports the provision of public transport on the former Leicester to Burton railway line. Each policy generally conforms with the NWLLP (Policies IF4, IF7 and IF5 respectively), has regard to national guidance (see NPPF paragraphs 108, 105 and 102) and meets the Basic Conditions. However, clause e) of Policy T1 includes a reference to Policy H8 of the Plan, where there is no such policy. Accordingly, I shall recommend deletion of the erroneous reference.²⁷ **(PM17)**

Community Facilities and Amenities Policies (Policies CF1, CF2, CF3 & CF4)

4.35 Policy CF1 seeks to safeguard community facilities and amenities, Policy CF2 supports expanding existing schools, and Policy CF3 supports the expansion of the General Practitioner (GP) facilities and services. Each policy generally conforms with Policy IF2 of the NWLLP, has regard to national guidance²⁸ and meets the Basic Conditions.

4.36 Policy CF4 supports “noisy sports” subject to three criteria related to mitigating the impact of noise on neighbours. HDHPC clarified that the noise is meant to be that which emanates from participants rather than spectators, but there is no definition in planning practice of what constitutes a noisy sport even though I can conceive of examples in team games such as five a side football, which might be considered noisy, and tennis, which might not. Furthermore, a skateboard park could be construed as noisy, even though it is a recreational activity rather than normally a sport. However, the ambiguity would be removed by altering the references from “noisy sport” to “sport and recreation” which would make it applicable to all proposals for the permanent use of land for sport or recreation which would then be consistent with the supporting justification.

4.37 In addition, I agree with the NWLDC comment that the 10.00pm time limit on the permitted activities should be altered so that a condition would more reasonably be judged on the appropriate circumstances of the location and sport concerned. I shall recommend a rephrasing, as set out in modification **PM18**. The policy would then have regard to national guidance²⁹, generally conform with Policies IF3 and D2 of the NWLLP and meet the Basic Conditions.

²⁶ NPPF: paragraph 170.

²⁷ Modifications for the purpose of correcting errors is provided for in Paragraph 10(3)(e) of Schedule 4B to the 1990 Act.

²⁸ NPPF: paragraph 92.

²⁹ NPPF: paragraphs 54 & 92.

Employment and Shopping Policies (Policies E1, E2, E3, E4 & E5)

- 4.38 Policy E1 provides support for existing employment opportunities. The policy seeks to prevent the loss of "... commercial premises or land (B Class) which provides employment or future potential employment opportunities." However, the Use Classes Order has been amended to introduce a new Class E which includes previous Classes B1a, B1b and B1c in addition to previous Classes A1 (part), A2, A3, D1 (part) and D2 (part). Therefore, rather than refer to the details of the specific Classes, I shall recommend that the policy is modified to include "offices, industry, storage/distribution", which would seem to me to fulfil its aims. **(PM19)**
- 4.39 Furthermore, the first bullet point of Policy E1 requires that, as part of the case for retaining existing employment facilities, the loss of commercial premises will only be permitted if they have not been in active use for at least 12 months, whereas the NWLLP requires a period of at least 6 months. Accordingly, I shall recommend that the vacancy period in Policy E1 should be reduced to 6 months. **(PM20)** The policy would then generally conform with Policy Ec3 of the NWLLP, have regard to national guidance³⁰ and meet the Basic Conditions.
- 4.40 Policy E2 supports small scale employment related development. Policy E3 supports working from home. Policy E4 supports the re-use of agricultural and commercial buildings. Each policy generally conforms with Policy Ec2 of the NWLLP, has regard to national guidance³¹ and meets the Basic Conditions. Policy E5 seeks to safeguard existing shopping uses. The policy generally conforms with Policy IF2 of the NWLLP, has regard to national guidance³² and meets the Basic Conditions.

Overview

- 4.41 Accordingly, on the evidence before me, with the recommended modifications, I consider that the policies within the HDHNP would be in general conformity with the strategic policies of the NWLLP, would have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.
- 4.42 A consequence of the acceptance of the recommended modifications would be that amendments would have to be made to the explanation within the Plan in order to make it logical and suitable for the referendum. These might include incorporating factual updates or correcting minor inaccuracies. In addition, improvements may be considered desirable to the formatting so that it enables effective use of the HDHNP as a statutory document that will be part of the Development Plan for the area. None of these alterations would affect the ability of the Plan to meet the Basic Conditions and could be undertaken as minor, non-material changes.³³

³⁰ NPPF: paragraph 80.

³¹ NPPF: paragraph 81.

³² NPPF: paragraph 83

³³ PPG Reference ID: 41-106-20190509.

5. Conclusions

Summary

- 5.1 The Hugglescote and Donington le Heath 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 to all the responses made following consultation on the HDHNP, and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies 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 HDHNP as modified has no policy or proposal 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.

Concluding Comments

- 5.4 The Parish Council and the associated volunteers are to be commended for their efforts in producing a Plan which is well supported by the accompanying documentation. A special mention is deserved to those who undertook the compilation of the Environmental Inventory and also to the constructive comments of NWLDC. The Plan is comprehensive, very informative and I enjoyed reading it, especially the details of the countryside around Hugglescote and Donington le Heath which I saw on my site visit. Incorporating the modifications I have recommended, the HDHNP will make a positive contribution to the Development Plan for the area and should enable the character and appearance of the Parish to be maintained whilst enabling sustainable development to proceed.

Andrew Mead

Examiner

Appendix: Modifications

Proposed modification no. (PM)	Page no./ other reference	Modification
PM1	Policy G1 Figure 2.1	Replace the map at Figure 2.1 with the map agreed between the HDHPC and NWLDC. ³⁴
PM2	Policy G3 b)	Replace second sentence of b) with: “All new proposals for development should not cause an adverse negative impact on the local beauty of the countryside.”
PM3	Policy G3 p)	Replace p) with: “development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.”
PM4	Policy G3 r)	Replace r) with: “all properties will ensure appropriate provision for the storage of waste and recyclable materials and adequate space for household storage bins in locations convenient and accessible for collection and emptying.”
PM5	Policy H1	Delete the second paragraph.
PM6	Policy H2	Replace the final sentence with: “Where possible, new affordable housing shall be made available to eligible households with a local connection according to the eligibility criteria administered by NWLDC.”
PM7	Policy H3	Delete: “... (individual dwellings or small groups of dwellings up to 5) ...”.
PM8	Policy ENV1	Amend the Donington Fields Local Green Space by the deletion of land other than plot nos. 086, 087, 088 and

³⁴ Map provided to the examination by HDHPC and NWLDS on 17 June 2021: https://www.nwleics.gov.uk/files/documents/limits_to_development_map/Limits%20to%20Development%20map.pdf

		089 as shown in Appendix 5, Survey 5, dated 4 April 2018.
PM9	Policy ENV 2	Replace the second paragraph with: "The environmental value of these sites (See Appendix 5) will be balanced against the benefits of any proposed development affecting them."
PM10	Policy ENV2 Figures 5.1 & 5.2	Add beneath each map a list of the sites identified with a reference to their location in Appendix 5.
PM11	Policy ENV2 Figures 5.1 & 5.2	Delete from the maps sites which have planning permission for development.
PM12	Policy ENV4	Replace "Local Heritage Assets" with "Non designated heritage assets" in the policy heading and within the policy.
PM13	Policy ENV5	At the beginning of the second sentence, delete the phrase at: "Any loss or damage arising from a development proposal (or a change of use requiring planning permission) is to be avoided;".
PM14	Policy ENV6	Replace the second sentence of the second paragraph with: "Significant harm to biodiversity should be avoided. If significant harm cannot be avoided, on-site mitigation is preferable to compensation measures elsewhere (e.g. habitat creation of equal value elsewhere). Development should also facilitate biodiversity net gain."
PM15	Policy ENV6 Figure 10	Delete from the map the "fuzzy" coloured areas outside the delineated wildlife corridors.
PM16	Policy ENV7	Replace the policy with: "The rural setting of Hugglescote and Donington le Heath in the south and west of the Plan area is illustrated in Appendix 7. Development proposals which would significantly harm the rural

		<i>setting of the villages will not be supported.</i>
PM17	Policy T1	Delete from clause e): `....and Neighbourhood Plan Policy H8'.
PM18	Policy CF4	Replace topic and policy titles with: "Sport and Recreation." Replace the phrase "noisy sport" in the first sentence of Policy CF4 with "sport and recreation" . Replace c) with: "Planning conditions are used to define the operating hours to control any adverse impacts on residential amenity."
PM19	Policy E1	Replace "... (B – Class) ..." with: "... (offices, industry, storage/distribution) ..." .
PM20	Policy E1	Replace in the first bullet point "...for at least 12 months." with: "... for at least 6 months;" .