

**INDEPENDENT EXAMINATION OF THE LOCKINGTON - HEMINGTON
NEIGHBOURHOOD DEVELOPMENT PLAN**

EXAMINER: Andrew S Freeman BSc (Hons) DipTP DipEM FRTPI

Councillor Darren Green
Lockington-Hemington Parish Council

Gary Kirk
Lockington-Hemington Parish Council

Sarah Lee
North West Leicestershire District Council

Via email

Examination Ref: 01/AF/LHNP

21 August 2023

Dear Councillor Green, Mr Kirk and Ms Lee

LOCKINGTON - HEMINGTON NEIGHBOURHOOD DEVELOPMENT PLAN EXAMINATION

Following the submission of the Lockington-Hemington Neighbourhood Plan (the Plan) for examination, I would like to clarify several initial procedural matters. I also have a number of questions for Lockington-Hemington Parish Council (the Qualifying Body/Parish Council) to which I would like to receive a written response by **Friday 8 September 2023**, if possible.

1. Examination Documentation

I can confirm that I am satisfied I have received the draft Plan and accompanying documentation, including the Basic Conditions Statement, the Consultation Statement, the Strategic Environmental Assessment/Habitats Regulations Assessment Screening Opinion and the Regulation 16 representations, to enable me to undertake the examination.

Subject to my detailed assessment of the Plan, I have not at this initial stage identified any very significant and obvious flaws in it that might lead me to advise that the examination should not proceed

2. Site Visit

I will aim to carry out a site visit to the neighbourhood plan area during the week beginning 11 September 2023. The site visit will assist in my assessment of the draft Plan, including the issues identified in the representations.

The visit will be undertaken unaccompanied. It is very important that I am not approached to discuss any aspects of the Plan or the neighbourhood area, as this may be perceived to prejudice my independence and risk compromising the fairness of the examination process.

I may have some additional questions, following my site visit, which I will set out in writing should I require any further clarification.

3. Written Representations

At this stage, I consider the examination can be conducted solely by the written representations procedure, without the need for a hearing. However, I will reserve the option to convene a hearing should a matter(s) come to light where I consider that a hearing is necessary to ensure the adequate examination of an issue, or to ensure that a person has a fair chance to put a case.

4. Further Clarification

From my initial assessment of the Plan and supporting documents, I have identified a number of matters where I require some additional information from the Parish Council.

I have 17 questions seeking further clarification, which I have set out in the Annex to this letter. I would be grateful if you can seek to provide a written response by **Friday 8 September 2023**.

5. Examination Timetable

As you will be aware, the intention is to examine the Plan (including conduct of the site visit) with a view to providing a draft report (for 'fact checking') within around 6 weeks of submission of the draft Plan. However, as I have raised a number of questions, I must provide you with sufficient opportunity to reply. Consequentially, the examination timetable may be extended. Please be assured that I will aim to mitigate any delay as far as is practicable. The IPE office team will seek to keep you updated on the anticipated delivery date of the draft report.

If you have any process questions related to the conduct of the examination, which you would like me to address, please do not hesitate to contact the office team in the first instance.

In the interests of transparency, may I prevail upon you to ensure that a copy of this letter is placed on the Parish Council and North West Leicestershire District Council websites.

Thank you in advance for your assistance.

Yours sincerely

Andrew Freeman

Examiner

ANNEX

From my initial reading of the Lockington-Hemington Neighbourhood Plan, the supporting evidence and the representations that have been made to the Plan, I have the following questions for the Qualifying Body. I have requested the submission of responses **by Friday 8 September 2023**, although an earlier response would be appreciated if practicable. All of the points set out below flow from the requirement to satisfy the Basic Conditions.

1. Basic Conditions Statement – Section 3.13: Please confirm that the Parish Council is satisfied that the Plan does not breach Human Rights (within the meaning of the Human Rights Act 1998).

We are satisfied and have had no concerns expressed to the contrary as far as we are aware. We have involved the community at each stage in the process.

2. What is the Plan period? Should it be taken as 2023 – 2031?

Yes.

3. Policy H1 – mixture of house types as evidenced by the Housing Needs Assessment: For clarity, is it possible to state the requirements in the policy? Is the need for three-bed dwellings predominantly; also for bungalows and smaller dwellings suitable for young families?

That is correct and we are happy for this balance to be included in the policy.

4. Policy H2: Where specifically are the ‘prevailing character areas’ identified?

This is a drafting error. The phrase ‘consider the prevailing character area in which the proposal resides and ...’ can be deleted so that the paragraph reads ‘Any new development application should make specific reference to how the design guide and codes (as detailed in Appendix 3) has been taken into account in the design proposals. New development should seek to contribute to and enhance the existing character’.

5. Policy H2: Please comment on the objection of North West Leicestershire District Council (NWLDC) regarding the Design Guide and Codes (Figure 41).

We are content for this change to be made.

6. Policy H3: Please comment on the objection of NWLDC regarding the wording “adjacent to”.

The NPPF at para 72 criterion b) requires exception sites to ‘be adjacent to existing settlements’. We would prefer to retain this term therefore. It may be that the Local Plan is not in conformity with the NPPF.

7. Policy H3 – First Homes – 40% discount: Please comment on the objection of NWLDC regarding the sufficiency of the evidence.

We have relied on the evidence supplied by AECOM in the Housing Needs Assessment. The evidence provided in the HNA in paragraphs 99-102 is comprehensive. Looking at clause b in Policy H3 it should say ‘subject to viability’ not ‘availability’.

8. Policy H3: Is only one rural exceptions site contemplated?

It is unlikely that there will be more than one site delivered through the lifetime of the NP given the size of the community.

9. Policy H4 d – *severe* impact on congestion and safety: Is this an appropriate test? Would the requirement be better expressed as material or significant impact?

We are content for this revised form of words to be used. We used the term ‘severe’ as this is the word used in the NPPF para 113.

10. Policy ENV 1 – I’m not sure what are the intended implications of this policy for developers. Is large-scale ‘economic’ development to be resisted but ‘environmental’ and ‘social’ development favoured? What does the policy mean in terms of determining planning applications? Please give examples of compliant/non-compliant development.

Thank you for pointing out a possible difficulty in applying this policy – which we acknowledge. The intention (as set out in para. 104 of the accompanying narrative) is to note that:

- NWLDC strategic planning and a majority of recent planning decisions affecting the L&H NP Area have demonstrably (intentionally, strategically?) failed to have regard for the ‘sustainability balance’ implicit in NPPF 2021 page 5.
- The economic agenda in the NP Area has overwhelmingly outweighed the environmental and social objective*.
- As a result, about 33% of the Plan Area (which was previously open, rural countryside with landscape history, heritage, biodiversity and access for recreation) is now covered by warehousing, parking areas, roads and railways.

Residents of Lockington and Hemington, and with justification in the context of their lived experience in the Plan Area, feel very strongly that they have taken more than their fair share of loss of rural landscape, restricted access to the countryside, destruction of heritage assets, biodiversity net loss, etc. and that no more of this should happen in their home parish. They recognise that, at the time of drafting of the NP, the NWLDC Local Plan designates most of the rest of the NP Area as Open Countryside, but are also acutely aware that strategic thinking, nationally and at NWLDC, is inclined toward an apparently inexorable logic saying that retail hubs, freight terminals, etc. should be concentrated in strategically designated locations with existing transport infrastructure, and that housing for employees should be located close to these employment sites. They expect this logic to be applied in the Plan Area within the lifetime of the Neighbourhood Plan.

Policy ENV 1 is therefore conformable/applicable while the current Local Plan policy and geographical scope for Open Countryside remains as it is, but could be in conflict with NPPF and NWLDC in future iterations.

At the broadest level, *non-compliant* development would be strategic allocations or proposals for large-scale, regional/national, economic/employment/infrastructure/residential developments, while *compliant* development would be that appropriate for Open Countryside.

*bearing in mind that these are not presented on NPPF p5 as three types of development but as *objectives*, i.e. component factors of equal importance to be balanced/taken into account to ensure that all (?) development is *sustainable* (does not make things worse for future generations), Although ‘economic development’ – its objective is to deliver growth and employment – is such a type, we don’t think there are environmental or social development types, rather that the environmental and social agendas (although they have intrinsic value) are intended here to provide reasonable checks on

economic development, so as to protect people's quality of life, heritage, biodiversity, etc. when necessary economic development goes ahead.

11. Policy ENV 2 – Were the landowners of the proposed Local Green Space at Daleacre Hill, Lockington (023) contacted at an early stage about the proposed designation?¹ Please provide full details of any responses received. Are the sites protected by any other designations (other than local wildlife site/priority habitat)? Please comment on the representations submitted on behalf of the Smisby Parochial Charity.

Landowners (and/or tenants and agents, as applicable) of the two proposed Local Green Spaces were contacted by letter in August 2022 (copies appended). This was at the earliest possible stage in evidence-gathering and drafting the NP for the candidate sites to have been identified with high confidence. We believed this timing to be consistent with PPG 37-019-20140306, although there is some ambiguity in the wording of the guidance: is 'at an early stage' meant to require this to be *before* landowners 'have opportunities to make representations' (which we took to mean at Regulation 14, formally) or are these actions one and the same? In the event we took the safe option and gave landowners notice and opportunity to comment twice, informally in response to the letters and formally at R14.

To our knowledge the sites are not protected by other designations, and this seems to have been confirmed by the absence of any contradiction from NWLDC or statutory consultees at R14 and 16.

We commented on the Regulation 14 representations submitted by Fisher German on behalf of the landowner (Smisby Parochial Council) to the best of our ability, and we believed this to present a strong case to support the proposed LGS designation against the agent's objections and counter-arguments. Their representations at Regulation 16 are mainly a restatement of their earlier position, although we note (their para 1.26-on) additional comments with respect to NPPF para 100 and the related PPG. The semantics of 'extensive tract' and 'landscape scale' are indeed too vague to provide definition of how big – absolutely or in proportion to a 'host' settlement – a Local Green Space may be. The logic or otherwise of matching the size of a LGS to its host settlement is also false; if small settlements can only have small LGSs, does that mean Ashby de la Zouch can have a LGS 35 times larger than Hemington's? We had regard to the PPG that 'blanket designation of open countryside adjacent to settlements will not be appropriate', and continue to hold that the proposed Hemington LGS is neither a blanket designation, landscape scale or an extensive tract. Finally, the reference to 'Green Belt through the back door' is spurious, as (although NPPF 103 says 'policies for managing development within a LGS should be consistent with those for Green Belts') it misunderstands the purpose and scale of Green Belts, the protection afforded to them in the planning system and the difference between them and LGSs. By making the Hemington Local Green Space designation under policy ENV 2 we are not 'managing development within it' but precluding all development other than in 'very special circumstances'.

Fisher German's representation 1.26 refers to NWLDC's objection about 'the subdivision of the LGS into two sites'. We anticipated this as a possible objection to the designation of two adjacent LGSs; but after much consideration decided that the accident of the adjacency of Hemington and Lockington (two similar-sized settlements, 750 metres apart, each with its own community interests, concerns and value) should not preclude designation of one LGS each, which only happened, because of proximity and geography, to butt together. Would an extra 50 metres between the villages, and so between the LGSs, have made the problem go away? The fact is that the two areas of community-valued land do happen, by this accident of geography, to be adjacent. If the objection to designation of Hemington LGS is upheld (no objections to Lockington LGS having been received) that seems to us to be unfair to the

¹ See Planning Practice Guidance Reference ID: 37-019-20140306.

residents of Hemington, while deletion of both LGSs just to provide equal treatment would be unfair to both communities, based as it would be on an arguable technicality rather than the acknowledged, evidence-supported, environmental and community values of the sites.

12. Policy ENV 3: Please comment on the representations of Sport England.

The sentence '*unless it can be demonstrated that the open space is no longer required by the community*' in Policy ENV 3 is in general conformity with NWLDC current Local Plan policy IF3 (6). The NP adds local detail to the NWL policy by defining which sites in the Plan Area the policy is to be applied. The community is content to allow genuinely redundant OSSR sites to provide locations for redevelopment to deliver a local need. We are slightly puzzled as to why Sport England would suggest this change.

13. Policy ENV 5: How are habitats and species of significance to be recognised by developers? Where are they recorded? Where is 'best practice' concerning plant disease and aftercare to be found?

These queries are related to the difference between ENV 4 and ENV 5. While ENV 4 maps existing habitat designations and Appendix 4 provides species data where it exists, ENV 5 requires developers to recognise that there will be habitats/species of significance on a site even when there are no existing designations/records. We believe this to be the crux of the biodiversity net gain (BNG) approach now included in NPPF and PPG: the onus is on developers to commission/provide the baseline (the existing biodiversity) data from observations and species records against which the BNG target can be planned for and subsequently measured/demonstrated.

We deliberately did not specify best practice or references to it, so as to avoid quoting specific, potentially out-of-date, standards. Again, the intention is that it should be the developer's responsibility, supervised by the planning authority, to obtain this information and act upon it.

14. Policy ENV 11: Please comment on the representations of the Environment Agency.

We are happy for the changes to policy ENV 11 as recommended by the Environment Agency to be made.

We are happy for the updated reference to the *National Flood Risk and Coastal Erosion Risk Management Strategy 2022* to be substituted.

15. Policy ENV 13 – fourth bullet point: What are the identified species and habitat sites?

As for #13 above, the onus should be on the development proposer to establish this (whether the site has an existing designation for biodiversity or not) as a preliminary to compliance with BNG requirements.

16. Policy CFA1: Please identify any other community facilities, not listed, that would be the subject of the policy.

The only possible additions could be the old telephone box in Hemington (Main St) now a community library and the bus shelter at the T Junction of Main St and Lockington Lane in Hemington. As an update since the Plan was submitted :- The Green Room in Lockington has closed, St Nicholas Church is closed for services and 'Fields Farm' Farm Shop will replace 'Love Our Earth' and be based on Rycroft Rd in Hemington.

17. Policy BE1: How would you define “commercial premises”? How is an applicant to know what the competent authorities would regard as ‘land providing potential employment opportunities’?

This would refer to B class uses and this can be incorporated into the policy.

We are content for the phrase ‘land providing potential employment opportunities’ to be deleted.

Lockington cum Hemington Parish Council
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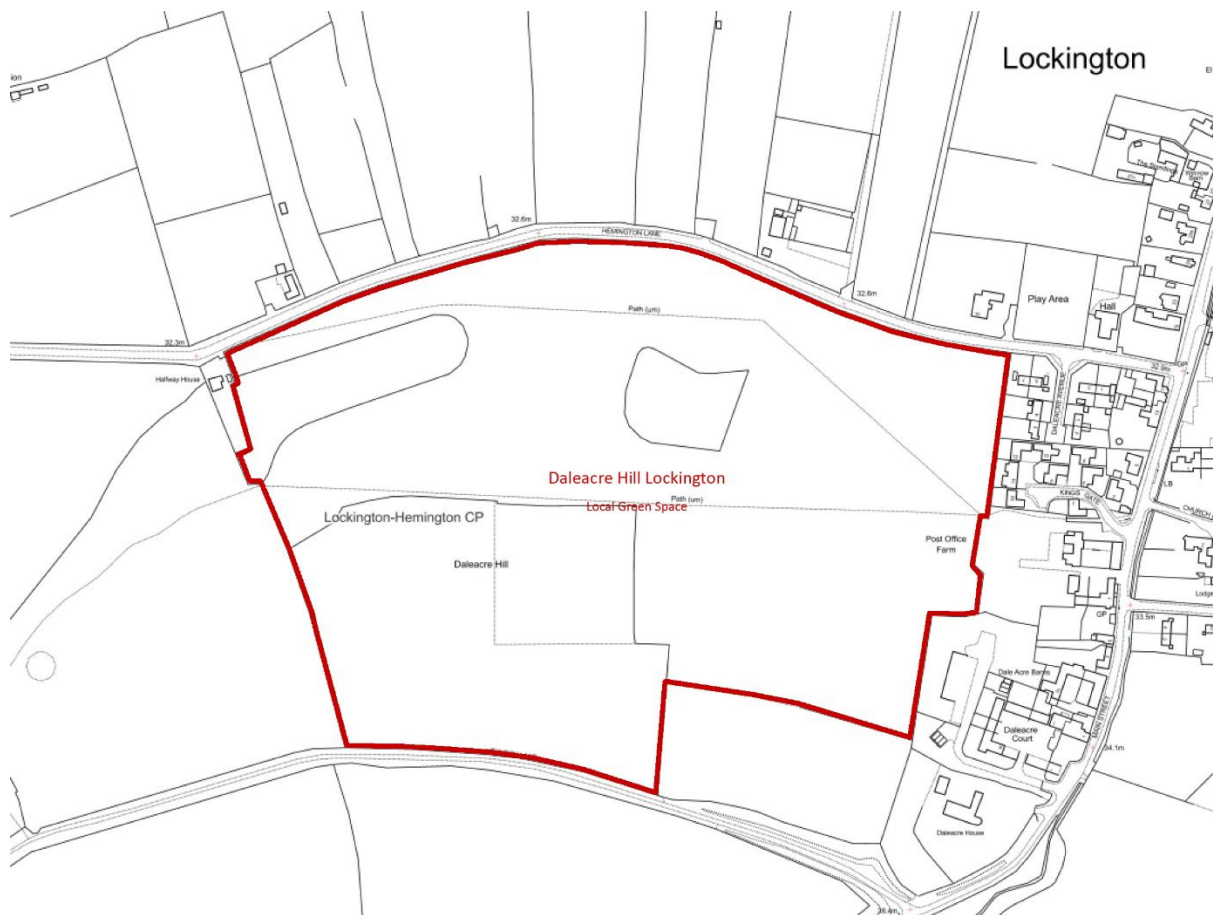
August 2022

Dear Sir or Madam

Lockington cum Hemington Neighbourhood Plan: Proposed Local Green Space

Lockington cum Hemington Parish Council is preparing a Neighbourhood Plan for submission to North West Leicestershire District Council. Once 'made' following two formal consultations and a referendum, the Neighbourhood Plan will become a statutory planning document comprising designations and policies that will be used, together with those in the North West Leicestershire Local Plan, when planning decisions are made about development proposals across the Parish.

One of the proposed policies will designate the land shown here as Local Green Space.



We understand that you are the agents for the owner of this land which is currently offered for sale.

The policy (which is in full conformity with National and North West Leicestershire Planning Policy, guidance and practice) protects Local Green Space as follows:

POLICY ENV 1: LOCAL GREEN SPACE - Development proposals that would result in the loss of, or have an adverse effect on Daleacre Hill Lockington (details Appendix X; location figure X) will not be permitted other than in very special circumstances.

We are informing you, as agents of the land covered, of the Plan's intention in this regard now, before publication and the start of the formal consultations, as a matter of courtesy and for your information.

If you have any questions or wish to comment, please contact me at the above address.

Yours faithfully

Gill Simkiss
Clerk to the Council

Lockington cum Hemington Parish Council

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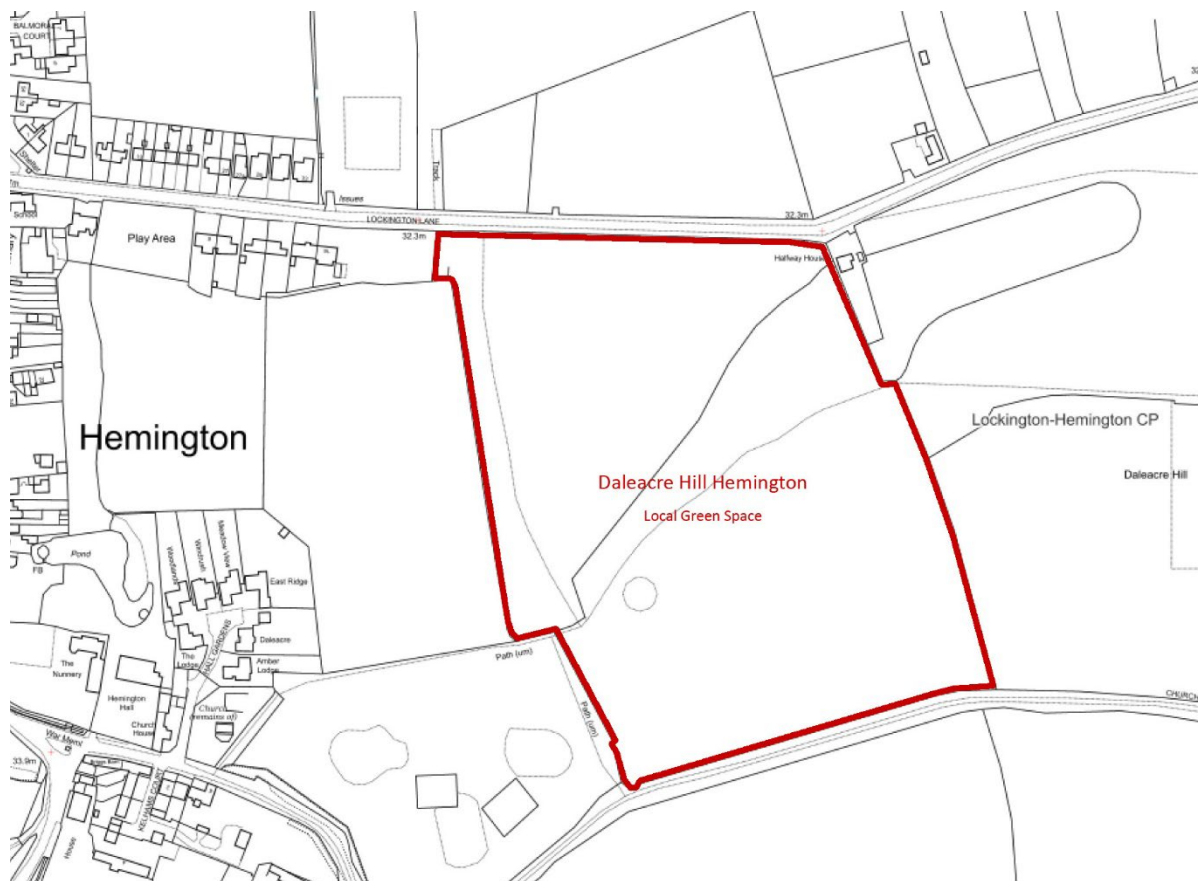
August 2022

Dear Mrs Heap

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One of the proposed policies will designate the land shown here as Local Green Space.



We understand that Smisby Parochial Charity owns this land which is currently rented by a local farmer. We will also be writing to him.

The policy (which is in full conformity with National and North West Leicestershire Planning Policy, guidance and practice) protects Local Green Space as follows:

POLICY ENV 1: LOCAL GREEN SPACE - Development proposals that would result in the loss of, or have an adverse effect on Daleacre Hill Hemington (details Appendix X; location figure X) will not be permitted other than in very special circumstances.

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