

# **THURCASTON AND CROPSTON NEIGHBOURHOOD PLAN**

Thurcaston and Cropston Neighbourhood Plan Examination,  
A Report to Charnwood Borough Council

by Independent Examiner, Nigel McGurk BSc(Hons) MCD MBA MRTPI

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August 2016

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## **1. Introduction**

### The Neighbourhood Plan

**Where modifications are recommended, they are presented as bullet points and highlighted in bold print, with any proposed new wording in *italics*.**

This Report provides the findings of the examination into the Thurstaston and Cropston Neighbourhood Plan (referred to as the Neighbourhood Plan).

Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

*“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”*

(Paragraph 183, National Planning Policy Framework)

Thurstaston and Cropston Parish Council is the *qualifying body* responsible for the production of this Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).

This Examiner’s Report provides a recommendation as to whether or not the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by Charnwood Borough Council. The Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Thurstaston and Cropston Neighbourhood Area.

## Role of the Independent Examiner

I was appointed by Charnwood Borough Council, with the consent of the qualifying body, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.

I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.

As the Independent Examiner, I must make one of the following recommendations:

- a) that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
- b) that the Neighbourhood Plan, as modified, should proceed to Referendum;
- c) that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether or not the Referendum Area should extend beyond the Thurstaston and Cropston Neighbourhood Area to which the Plan relates.

## Neighbourhood Plan Period

A neighbourhood plan must specify the period during which it is to have effect. The front cover of the Neighbourhood Plan clearly specifies the plan period as *“2015 - 2028.”*

In addition, the Foreword to the Neighbourhood Plan, on page 3, refers to it setting out a *“vision for the Parish until 2028”* and page 7 of the Neighbourhood Plan includes a reference to it covering *“the period up to 2028.”*

Taking the above into account, the Neighbourhood Plan satisfies the relevant requirement in this regard.

## Public Hearing

According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.

However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.

Further to consideration of all of the relevant information, I confirmed to Charnwood Borough Council that I was satisfied that the Thurcaston and Cropston Neighbourhood Plan could be examined without the need for a Public Hearing.

## 2. Basic Conditions and Development Plan Status

### Basic Conditions

It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*<sup>1</sup> following the Localism Act 2011. A neighbourhood plan meets the basic conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.<sup>2</sup>

An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>3</sup>

In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);

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<sup>1</sup> Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

<sup>2</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007.

<sup>3</sup> The Convention rights has the same meaning as in the Human Rights Act 1998.

- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

Subject to the content of this Report, I am satisfied that these three points have been met.

In line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

## European Convention on Human Rights (ECHR) Obligations

I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.

## European Union (EU) Obligations

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal<sup>4</sup>. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.

With the above in mind, draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.

*“Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”* (Planning Practice Guidance<sup>5</sup>).

This process is often referred to as a screening report, opinion, statement or assessment. If the screening report identifies likely significant effects, then an environmental report must be prepared.

A Screening Report was undertaken by Charnwood Borough Council. This was submitted alongside the Neighbourhood Plan. This stated that:

*“...it is unlikely that there will be any significant environmental effects arising from the Thurstaston and Cropston Neighbourhood Plan...that were not considered during the Sustainability Appraisal of the Core Strategy... the Thurstaston and Cropston Neighbourhood Plan will not require a full SEA to be undertaken.”*

Each of the statutory consultees, Natural England, Historic England and the Environment Agency, were consulted on the Neighbourhood Plan. With specific regard to the above, Natural England stated that:

*“We agree with the conclusions of the (SEA) Screening Report that a full SEA and Appropriate Assessment are not required.”*

No other statutory body raised any concerns in this regard.

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<sup>4</sup> Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance

<sup>5</sup> Paragraph 027, ibid

A Habitats Regulations Assessment is required if the implementation of the Neighbourhood Plan may lead to likely negative significant effects on protected European sites.

Charnwood Borough Council, in its “Habitats Regulations Assessment Screening Report,” published in May 2016 and submitted alongside the Neighbourhood Plan, notes that the Charnwood Local Plan 2011-2028 Core Strategy was accompanied by a Habitats Regulations (HRA) Screening Report, which concluded that the Core Strategy is not likely to have a significant effect on any European site, including the River Mease Special Area of Conservation (SAC) and Rutland Water Special Protection Area (SPA)/Ramsar site, either alone or in combination with other plans or projects, and that, therefore, an Appropriate Assessment was not required. The Screening Report went on to conclude that the Core Strategy is not likely to have a significant effect upon any European site.

Having regard to this, Charnwood Borough Council states:

*“...it is not considered that the Neighbourhood Plan will further affect any European site in addition to the impacts identified in the HRA Screening Report undertaken in 2013 for the Core Strategy. Therefore, it is considered that an Appropriate Assessment is not required.”*

Further to consultation, none of the statutory bodies has raised any concerns with the above conclusion. Further, Natural England has stated:

*“Natural England does not consider that the plan will have any likely significant effects on any internationally or nationally designated nature conservation sites...We agree with the conclusions of the...Habitats Regulations Assessment (HRA) Screening Report...”*

In addition to all of the above, national guidance establishes that ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations is placed on the local planning authority,

*“The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations.”* (Planning Practice Guidance<sup>6</sup>)

In undertaking the work that it has, Charnwood Borough Council has considered the Neighbourhood Plan’s compatibility with EU obligations and, like the statutory consultees above, has raised no concerns in this regard.

Taking all of the above into account, I am satisfied that the Neighbourhood Plan is compatible with EU obligations.

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<sup>6</sup> Paragraph 031, Reference: 11-031-20150209, Planning Practice Guidance

### **3. Background Documents and the Thurcaston and Cropston Neighbourhood Area**

#### **Background Documents**

In undertaking this examination I have considered various information in addition to the Thurcaston and Cropston Neighbourhood Plan. This has included the following main documents:

- National Planning Policy Framework (the Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Plan Regulations (2012) (as amended)
- Charnwood Local Plan 2011-2028 Core Strategy (2015)
- Borough of Charnwood Local Plan (2004) (Saved Policies)
- Basic Conditions Statement
- Consultation Statement
- Strategic Environmental Assessment Screening Report and Habitats Regulations Assessment Screening Report

Also:

- Representations received

In addition, I spent an unaccompanied day visiting the Thurcaston and Cropston Neighbourhood Area.

## Thurcaston and Cropston Neighbourhood Area

There is no clear, specific plan in the Neighbourhood Plan specifying the boundary of the Thurcaston and Cropston Neighbourhood Area. A separate attachment, entitled “Proposals Map” was submitted alongside the Neighbourhood Plan. This provides a clearly presented boundary. For clarity, I recommend:

- **Insert the Proposals Map into the Neighbourhood Plan (rather than include it as a separate attachment). Alter Contents page to reflect change.**

Page 7 of the Neighbourhood Plan confirms that the Neighbourhood Area comprises the whole of the Parish of Thurcaston and Cropston.

Further to an application made by Thurcaston and Cropston Parish Council, Charnwood Borough Council approved the designation of Thurcaston and Cropston as a Neighbourhood Area on 9 May 2014.

This satisfied a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

## **4. Public Consultation**

### Introduction

As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.

Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

### Thurcaston and Cropston Neighbourhood Plan Consultation

A Consultation Statement was submitted to Charnwood Borough Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*<sup>7</sup>.

The Consultation Statement provides information to demonstrate that community engagement was at the heart of the plan-making process and that it was carried out in a comprehensive manner.

The Neighbourhood Plan was produced by a Steering Group comprising members of the local community, including Parish Councillors.

At the start of the consultation process, in September 2014, two drop-in events were held and were attended by a total of 132 people. At the events, people were informed about the neighbourhood planning process and local issues and priorities were identified. This enabled the production of a subsequently published report.

The drop-in events were followed by a stakeholder meeting, held in December 2014 and attended by 39 people representing various stakeholders. This meeting included a number of workshops, enabling further consideration of issues, priorities and concerns.

Youth consultation, with Richard Hill C of E Primary School, in July 2015, was followed by two further community engagement drop-in events, in November 2015. These were attended by 63 people and the results informed the production of the draft plan.

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<sup>7</sup>Neighbourhood Planning (General) Regulations 2012.

The pre-submission plan underwent six week public consultation during January and February 2016.

The plan-making process was widely publicised, including through the distribution of leaflets, flyers, information on the Thurston and Cropston Parish Council website, Public Notices and articles in local newsletters.

The Consultation Statements provide evidence to demonstrate that engagement was encouraged, matters raised were considered and the reporting process was transparent.

Taking everything into account, I am satisfied that the consultation process was robust.

## **5. The Neighbourhood Plan – Introductory Section**

The policies of the Neighbourhood Plan are considered against the basic conditions in Chapter 6 of this Examiner’s Report. This Chapter considers the Introductory Section of the Neighbourhood Plan.

The Introduction and “*How the Neighbourhood Plan was Prepared*” sections are clear and accurate. For clarity, I recommend that the following minor changes are made to the “*How the Neighbourhood Plan fits into the Planning System*” section:

- **Page 6, Para 5, line 5, change to “...and which the Plan must be *in general conformity with.*”**
- **Page 7, Para 3, line 1, change to “...Plans must *be compatible with European...*”**

At the top of page 9, it states that the Neighbourhood Plan:

*“...will change over time in response to new and changing needs and requirements.”*

No indication is provided in respect of how the Neighbourhood Plan will change. Once “*made,*” the Neighbourhood Plan will be in place until the end of the plan period, unless it is replaced by another Neighbourhood Plan. For clarity, I recommend:

- **Page 9, change first sentence to “The Plan will be kept under *review.*”**

For consistency, I recommend:

- **Page 10, line 1, change to “...there are two *Conservation Areas...*”**

As presented, the most important part of the Neighbourhood Plan, the Policy section, is not especially distinguishable from the Introductory sections. For clarity, I recommend:

- **Start the Policy section (from Section 6 onwards) on a new page, headed “*Neighbourhood Plan Policies*” (this also reflects the Contents page)**

## **6. The Neighbourhood Plan – Neighbourhood Plan Policies**

### **A Presumption in Favour of Sustainable Development**

#### **Policy T&C1: Presumption in favour of sustainable development**

As recognised on page 10 of the Neighbourhood Plan, national policy establishes an assumption in favour of sustainable development. The National Planning Policy Framework (the Framework) could not be clearer in this regard:

*“The purpose of planning is to help achieve sustainable development...Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.”*  
(Ministerial Foreword)

Policy T&C1 has regard to this. However, it is inappropriate for the Policy to rely on documents not under the control of the Neighbourhood Plan. I recommend:

- **Policy T&C1, delete “...contained in national and Borough-wide plans and policies.”**

Subject to the above, Policy T&C1 meets the basic conditions.

## **Policy T&C2: General Policy Principle**

Whilst the supporting text above it is clear, Policy T&C2 itself is confusing in that it fails to reflect the fact that applications for development will be considered against the development plan taken as a whole. They will not, for example, be considered against the Neighbourhood Plan in isolation. In this regard, the Policy fails to have regard to Planning Practice Guidance, which requires land use planning policies to be precise and concise<sup>8</sup>.

Further to the above, the Neighbourhood Plan has no control over national planning policies or those contained in Borough-wide plans. It is not the role of the Neighbourhood Plan to state when and how applications for development will be considered against policies and documents outside of its control.

I recommend:

- **Retain the supporting text above Policy T&C2 (which is clear), but delete Policy T&C2, which is imprecise**

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<sup>8</sup> Ref: Planning Practice Guidance 41-041020140306.

## Directing Development to the most Sustainable Locations

There are a number of errors in the supporting text on pages 11-14. Also, the last paragraph of supporting text on page 14 reads as though it were a Policy, which it is not.

For clarity, I recommend:

- **Page 11, penultimate line, change to “...residents’...”**
- **Page 13, Para 2, line 3, change to “...to Development *is designated on the...*” (NB, I recommend earlier that the Proposals Map be inserted into the Neighbourhood Plan)**
- **Page 14, Para 2, line 4, change to “...special and *distinctive* character...The consultation process also demonstrated that these views, such as those along Anstey Lane in Thurcaston, are highly prized by the local community.”**
- **Page 14, Para 2, line 1, change to “*The Neighbourhood Plan seeks to protect and where possible, enhance, special views and vistas.*”**

## Policy T&C3: Thurcaston Limits to Development

As set out, Policy T&C3 imposes twelve separate requirements upon any development taking place within the Thurcaston Limits to Development area. Rather than provide for sustainable growth, the Policy presents a series of hurdles for development to overcome. These hurdles include there being no harm to amenity. Such an approach fails to allow for the balanced consideration of a development proposal, whereby benefits can be weighed against harm.

In addition, it is not clear why a Policy to control development within “*Limits for Development*” needs to refer to the preservation of the separation of two settlements, especially as the supporting text states that the Limits for Development are based on “*best practice.*” Along similar lines, no indication is provided of how a development can retain and enhance the landscape in which Thurcaston is located.

Also it is unclear why all infill development and conversions need to preserve, and where possible, enhance heritage assets. Such an approach fails to take account of national policy, which requires the conservation of heritage assets in a manner appropriate to their significance (Paragraph 126, the Framework). The black and white approach set out in Policy T&C3 does not allow for a balanced approach and fails to contribute to the achievement of sustainable development.

Further, no evidence is provided to demonstrate that all such development can maintain views and vistas. Without substantive evidence setting out precisely what the views and vistas to be “*maintained*” are, the Policy fails to provide a decision maker with a clear indication of how to react to a development proposal.

However, the overall intention of Policy T&C3 has regard to national policy and is in general conformity with Charnwood Local Plan 2011-2028 Core Strategy (Core Strategy) Policy CS1, which together amongst other things, seek to protect local character. Having regard to this, the above, and the Neighbourhood Plan’s stated assumption in favour of sustainable development, I recommend:

- **Policy T&C3, line 4, change to “...buildings *will be supported*. A proposal should demonstrate that they have taken into account the following, that it:”**
- **Criterion d, change to “*Considers important views...*”**
- **Delete Criterion e**
- **Change Criterion f to “*Considers the distinctive qualities...*”**
- **Change Criterion g to “*Considers the conservation of heritage assets, including their settings, in a manner appropriate to their significance.*”**
- **Delete Criterion h**
- **Change Criterion j to “*Considers the amenity of neighbouring occupiers*”**

Subject to the above, Policy T&C3 meets the basic conditions.

**Policy T&C4: Broadnook Development**

The first part of the Policy seeks to impose another Policy from another document. It is not the role of neighbourhood plans to do this and I address this in the recommendations below.

Generally, Policy T&C4 supports sustainable growth. It supports the Broadnook Development, subject to taking local character and movement into account. I am mindful that, in respect of transport, Leicestershire County Council has confirmed that its previous comments have been taken into account and has no objection to Policy T&C4.

Taking the above into account, for clarity, I recommend:

- **Policy T&C4, Para 1, change to “*For that part of the Broadnook Development within the Neighbourhood Area:*”**
- **Criterion a, change to “*A landscaping area...*”**

Subject to the above, Policy T&C4 contributes to the achievement of sustainable development and is in general conformity with Core Strategy Policy CS20. It meets the basic conditions.

## Development in the Countryside

The supporting text to Policy T&C5 does not provide an accurate description of national policy, which does not, for example, limit development in the countryside to “*exceptional circumstances.*”

I recommend:

- **Page 18, delete fourth paragraph “It is national and local planning policy...sport and recreation.”**

## Policy T&C5: Development in the Countryside

Whilst the Framework (Chapter 11, “*Conserving and enhancing the natural environment*”) and local policies (Core Strategy Policy CS11) require the planning system to support and protect the character of our landscape and countryside, they do not limit all development in the countryside to “*exceptional circumstances.*”

Both national and local planning policies support all kinds of development in the countryside. For example, the Framework sets out that:

*“To promote a strong rural economy, local and neighbourhood plans should: support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings; promote the development and diversification of agricultural and other land-based rural businesses; support sustainable rural tourism and leisure developments...”*  
(Paragraph 28)

Policy T&C5 fails to have regard to this and seeks to rely on other Policies in other documents. As noted earlier, it is not the role of Neighbourhood Plans to do this. In any case, the Policy fails to properly reflect the content and approach of these other Policies.

Policy T&C5 seeks to prevent development in the countryside, regardless of whether or not it is sustainable. The Policy does not contribute to the achievement of sustainable development. It does not have regard to national policy and it is not in general conformity with the Core Strategy.

Policy T&C5 does not meet the basic conditions. I recommend:

- **Delete Policy T&C5**

## Housing Development

### **Policy T&C6: Small Infill and Redevelopment Sites**

Policy T&C6 is a positive Policy that supports the development of small sites within Thurcaston. It supports sustainable growth and contributes to the achievement of sustainable development.

As worded, Policy T&C6 refers to other Policies in the Neighbourhood Plan and to other Policies not under the control of the Neighbourhood Plan. With regards the former, the Neighbourhood Plan already states, on page 8, that all of its Policies should be read together. There is no need for Policies to cross-reference other Policies in the Neighbourhood Plan, thus avoiding a cumbersome approach that would detract from the clarity of each Policy.

I recommend:

- **Policy T&C6, delete “...where they are in accordance...policies”**

## New Housing Mix

There is a mistake in the supporting text on page 23. I recommend:

- **Page 23, Para 5, line 1, change to “...also supported by...”**

## Policy T&C7: Housing Mix

The Framework supports the delivery of a wide choice of high quality homes and that housing mix should be planned for on the basis of current and future trends (Para 50).

The Neighbourhood Plan provides some evidence of a need for more smaller homes, as opposed to larger homes and Policy T&C7 seeks to support this. However, as set out, the Policy states that “*Priority should be given*” without providing any indication of how this will be achieved, who will monitor it and on what basis. Consequently, the Policy fails to provide a decision maker with a clear indication of how to react to a development proposal.

Whilst maintaining the intention of the Policy, which has regard to national policy, I recommend:

- **Policy T&C7, change to “...in the Parish. *The provision of smaller homes, especially for young families and young people and for older people who wish to downsize, will be supported.*”**

## Affordable Housing

There is a mistake in the supporting text on page 24. I recommend:

- **Page 24, Para 4, line 4, change to “...they concluded that while there *was not a...*”**

## Policy T&C8: Affordable Housing

Largely, Policy T&C8 seeks to repeat the content of Core Strategy Policy CS3. It is not the role of neighbourhood plans to repeat existing policy.

Notwithstanding the above, Planning Practice Guidance establishes that contributions for affordable housing should not be sought from small scale development. This follows a Court of Appeal decision from the 13 May 2016, which gave legal effect to the national policy requirement that

*“...contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1000sqm.”<sup>9</sup>*

Consequently, Policy T&C8 does not have regard to national policy.

The Policy goes on to state that “*priority*” should be given to Parish residents in terms of the allocation of affordable housing, but provides no detail in respect of how this will be achieved. The Policy is imprecise in this regard.

Taking all of the above into account, I recommend:

- **Delete Policy T&C8**
- **(NB, the supporting text can be retained for background information)**

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<sup>9</sup> Ref: Para 031. Reference ID: 23b-031-20160519.

## Community Facilities

### **Policy T&C9: Community Facilities**

Chapter 3 of the Framework, “*Supporting a prosperous rural economy*,” promotes economic growth in rural areas, including the development of local services and community facilities in villages and Paragraph 28 of the Framework goes on to support the retention of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.

Policy T&C9 seeks to protect community facilities and has regard to national policy. It meets the basic conditions.

The Policy contains an error and I recommend:

- **Policy T&C9, change to “...an equivalent or *by* better provision...”**

### **Policy T&C10**

Policy T&C10 is also a Community Facilities Policy. It is a positive Policy that supports the provision of community facilities and like Policy T&C9, it has regard to national policy and meets the basic conditions.

- **No changes recommended.**

## Assets of Community Value

### **Policy T&C11: Assets of Community Value**

There is no information to indicate that there are any Assets of Community Value in the Neighbourhood Area. A land use planning policy cannot protect something that does not exist.

Notwithstanding the above, I note that, once registered, an Asset of Community Value is afforded relevant and appropriate protection.

I acknowledge that, at some stage in the future, there might be one or more Assets of Community Value in the Neighbourhood Area. Taking this and the above into account, I recommend:

- **Delete Policy T&C11**
- **Replace with “*Community Action 1*” (NB, this will have a knock-on impact on Community Actions that follow)**
- **Provide new text “*The Parish Council will support the listing of Assets of Community Value and once listed, will work to support their longevity.*”**

## Design

### **Policy T&C12: Design**

Good design is recognised by national policy as comprising

*“a key aspect of sustainable development...indivisible from good planning”*  
(Paragraph 56, The Framework)

In addition, national policy requires good design to contribute positively to making places better for people (Chapter 7, The Framework) and Core Strategy Policy CS2 promotes good design.

The opening sentence of the Policy is clear, has regard to national policy and is in general conformity with the Core Strategy.

The remainder of the Policy is confusing in parts, due to grammar, and more fundamentally, goes well beyond the requirements of national and local policy, without any substantive evidence to justify why this is the case.

Nowhere – not even in Conservation Areas - does national or local planning policy always require development to enhance local character. Consequently, as set out, Policy T&C12 does not meet the basic conditions.

In addition to the above, there is no indication of how all development can protect the amenity of people who live or work “nearby,” or why it should need to. Consequently, as set out, the Policy does not have regard to Paragraph 173 of the Framework, which requires plans to be deliverable and discourages such a scale of obligations and policy burdens as to threaten the viability of development.

It is not clear what the phrase “*function well and add to the quality of an area*” actually means and this part of the Policy is therefore imprecise and fails to provide a decision maker with a clear indication of how to react to a development proposal. Further, it is not clear why all development should provide public and private spaces – or whether such a requirement is actually possible. This would, for example, be irrelevant for, say a development that changes the windows on a Listed Building.

Criterion g, is reliant on another planning document not under the control of the Neighbourhood Plan.

Taking all of the above into account, whilst the overall intention of Policy T&C12 meets the basic conditions, the wording of the Policy, as set out, does not. I recommend:

- **Policy T&C12, retain first sentence. Delete the rest of the Policy and replace with *“Development should respect local character, having regard to scale, density, massing, height, landscape, layout, materials and access, as appropriate. It should also take into account the amenity of neighbouring occupiers. Where appropriate, development proposals should provide attractive and safe public and private spaces, and well defined and legible streets and spaces that are easy to get around for all, including those with disabilities. Proposals within a Conservation Area or its setting should have regard to the guidelines set out in the Thurcaston and Cropston Conservation Area Character Appraisals.”***

## The Natural and Historical Environment

### **Policy T&C13: Important Local Green Spaces**

The Framework enables local communities to identify, for special protection, green areas of particular importance to them. Paragraph 76 states that

*“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”*

Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. Effectively, Local Green Spaces, once designated, provide protection that is comparable to that for Green Belt land. Notably, the Framework is explicit in stating that

*“The Local Green Space designation will not be appropriate for most green areas or open space.”* (Para 77)

Consequently, when designating Local Green Space, plan-makers should demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

To support Policy T&C13, which designates Local Green Space, a significant amount of background work was undertaken, including the production of an *“Inventory of sites of high environmental significance.”* This background work, combined with robust public consultation, provides the evidence base in support of Policy T&C13 and demonstrates that each of the areas of Local Green Space identified meet the requirements set out in the Framework and have regard to national policy.

However, as worded, Policy T&C13 does not properly reflect the advice in the Framework. Furthermore, it relies on other policies in other documents. I also note that the diagram provided on page 33 of the Neighbourhood Plan is of poor quality, such that the areas of Local Green Space are difficult to identify. I address these matters in the recommendations below.

I recommend:

- **Policy T&C13, change Policy title to “Local Green Space”**

- **Delete Policy wording and replace with “*Within the areas of Local Green Space identified on the Proposals Map and below, development is ruled out, other than in very special circumstances.*”**
- **Provide a new plan, or plans, showing each of the areas of Local Green Space on a clear OS base, such that the boundaries can be clearly identified.**
- **Name each area of Local Green Space on the plan(s) and the Proposals Map**

I note that the fact that land may be privately owned and/or predominantly used for agricultural purposes does not prevent it from comprising Local Green Space, nor does a Local Green Space designation necessarily result in land being used any differently. Further, the fact that a Local Green Space adjoins other land does not necessarily mean that it becomes “*extensive.*”

I note that the land identified as 9-01 and 9-02 has fundamentally different characteristics to land considered for designation as Local Green Space in Chapel-en-le-Frith - in particular, a key consideration in the designation of fields 9-01 and 9-02 relates to their location between Thurstaston and Cropston - and there is no substantive evidence to the contrary. There is evidence to demonstrate that the fields are special to the local community and their designation as Local Green Space meets the basic conditions.

I also note that designation of land as Local Green Space simply protects it from development. It does not mean that the land becomes public open space or that the use of it necessarily changes.

## Other Important Green Spaces

### **Policy T&C14: Other Important Green Spaces**

This Policy seeks to identify other areas of land for protection. As set out, it is not clear on what basis the land identified is being protected – no substantive evidence is provided to demonstrate that the proposed approach has regard to national policy or is in general conformity with the Core Strategy. Further, no indication is provided with regards what might happen if development proposals did not protect or enhance identified significant features.

However, the Framework requires the planning system to contribute to and enhance the natural and local environment (Paragraph 109). By seeking to retain and enhance elements of the Neighbourhood Area's natural beauty, Policy T&C14 has regard to this. Also, by supporting the conservation and enhancement of biodiversity, the Policy has regard to Chapter 11 of the Framework, "*Conserving and enhancing the natural environment.*"

Taking all the above into account, I recommend:

- **Policy T&C14: change text to *"The protection and enhancement of the identified significant features of sites shown on the Proposals Map as "Other sites of high environmental and community significance" and detailed in the Environmental Inventory (available on the Parish website) will be supported."***

## Ridge and Furrow

### **Policy T&C15: Ridge and Furrow Fields**

Chapter 12 of the Framework, “*Conserving and enhancing the historic environment,*” states that:

*“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”* (Paragraph 135)

In general terms, Policy T&C15 seeks to identify Ridge and Furrow Fields as non-designated heritage assets and afford them protection. Overall, the approach has regard to national policy and is in general conformity with Core Strategy Policy CS14 (*Heritage*). However, as worded, the Policy is confusing and imprecise.

The Policy does not designate the Ridge and Furrow Fields, but refers to something that might happen in the future, according to something not within the control of the Neighbourhood Plan. It then introduces a “*strong presumption against development*” which fails to have regard to Paragraph 135 of the Framework, above.

I note that the plan accompanying Policy T&C15 is poor quality such that it is difficult to identify the areas of land referred to. The Policy also seeks to prevent non-land use planning activities – which is beyond the capability of a land use planning policy.

Taking all of the above into account, I recommend:

- **Policy T&C15, change to “*The twelve surviving areas of Ridge and Furrow fields are non-designated heritage assets and any harm arising from a development proposal will need to be balanced against their significance as heritage assets.*”**
- **Provide a new plan, or plans, clearly identifying on an OS base, each of the twelve areas of Ridge and Furrow. Each area should be named, to ensure clear identification.**

## Other Historical and Archaeological Sites

### **Policy T&C16: Other Historical and Archaeological Sites**

Policy T&C16 refers to other historical and archaeological sites identified on the Proposals Map. In this regard, the Proposals Map simply includes several yellow lines and is entirely unclear. It provides an inappropriate basis upon which to found a land use planning policy.

Further to the above, the wording of Policy T&C16 does not have regard to Paragraph 135 of the Framework, in respect of non-designated heritage assets.

Taking the above into account, Policy T&C16 is imprecise and it does not meet the basic conditions. In making the recommendation below, I note that Core Strategy Policy CS14 and the Framework afford protection to designated and non-designated heritage assets.

I recommend:

- **Delete Policy T&C16**
- **Page 35, Para 3, line 4, change to “...fieldwork, *the Parish Council will seek to identify these sites as non-designated heritage assets in accordance with national planning policy, and will work to safeguard their future.*”**

## Biodiversity

### **Policy T&C17: Biodiversity**

Core Strategy Policy CS13 (Biodiversity and Geodiversity) supports development that protects biodiversity and national policy, in Chapter 11 of the Framework, *“Conserving and enhancing the natural environment,”* states that:

*“The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity where possible...”* (Paragraph 109).

Policy T&C17 has regard to national policy and is in general conformity with the Core Strategy. It contributes to the achievement of sustainable development.

The final part of Policy T&C17 refers to something not under the control of the Neighbourhood Plan and it is not the role of neighbourhood plans to set out requirements that are the responsibility of another body.

I recommend:

- **Policy T&C17, Criterion c, delete “...in accordance with...will be undertaken.”**

## Zones of Separation

### **Policy T&C18: Zones of Separation**

Core Strategy Policy CS11 (Landscape and Countryside) seeks to protect the predominantly open and undeveloped character of identified Areas of Local Separation.

Policy T&C18 affords protection to Areas of Local Separation and is in general conformity with the Core Strategy. I am mindful that the Policy does not seek to prevent development, but, in general conformity with the Core Strategy, requires development to maintain separation between built-up areas.

The Policy meets the basic conditions.

For clarity, I recommend:

- **Proposals Map, delete “proposed” under “Zones of Separation”**
- **Page 38, supporting text, Para 5, line 7, change to “...of Separation, *the Parish Council would like to emphasise the important role...*”**

## Trees and hedgerows

### **Policy T&C19: Important Trees and Hedgerows**

As established above, national policy protects and supports biodiversity. In addition, Core Strategy Policy CS13 seeks to conserve and enhance the natural environment.

Generally, Policy T&C19, which seeks to protect important trees and hedgerows, has regard to national policy and is in general conformity with the Core Strategy. However, as worded, the grammar of the Policy is such that the Policy is confusing and imprecise. It states that proposals that may result in the loss of trees should ensure trees are protected – this does not make any sense.

For clarity, I recommend:

- ***Policy T&C19, change to “Trees and hedgerows of good arboricultural, biodiversity and amenity value should be protected from loss or damage as a result of development. Wherever possible, they should be integrated into the design of development proposals and their enhancement will be supported. Proposals should be accompanied...affected trees.”***

## Transport

### **Policy T&C20: Traffic Management**

Paragraph 32 of the Framework states that:

*“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”*

The fact that a development might increase the volume of traffic does not in itself mean that the cumulative impacts of development are severe and there is no substantive evidence to the contrary. Consequently, the first part of Policy T&C20 does not have regard to national policy and does not meet the basic conditions.

The Parish Council is not the Highway Authority and the Neighbourhood Plan does not control the direction of traffic. The second part of Policy T&C20 is beyond the control of the Neighbourhood Plan.

I recommend:

- **Delete Policy T&C20**
- **Retain supporting text, as it relates to the Community Action on page 43**

## Congestion, Speeding and Parking

### **Policy T&C21: Congestion, Speeding and Parking**

“Speeding” is not a land use planning matter, it is a traffic offence. I recommend:

- **Delete “Speeding” from the title on page 44, and from that of Policy T&C21**

The first part of Policy T&C21 requires a traffic management plan for new residential development comprising more than 5 dwellings. This has regard to Paragraph 36 of the Framework, which states:

*“All developments which generate significant amounts of movement should be required to provide a Travel Plan.”*

There is evidence to demonstrate that, in the context of the Neighbourhood Area, a development of more than 5 dwellings would be likely to generate significant movement. However, a travel plan is different to a traffic management plan and it is not clear why, or how, a residential development can manage traffic. I recommend below that the term used in national planning policy replaces that used in the Policy.

Further to the above, it is not clear why only a developer should fund a travel plan. The purpose of the Policy is to ensure that a travel plan is provided. Whether it is paid for by an applicant, a landowner, a developer or anyone else, is irrelevant.

The second part of Policy T&C21 seeks to impose car parking standards. However, no substantive evidence is provided to demonstrate that all new dwellings, including say, one bedroom apartments, can provide two off-road car parking spaces. Consequently, this part of the Policy fails to have regard to Paragraph 173 of the Framework, which requires careful attention to be paid to viability and costs in plan-making and decision-taking. In this regard, I am mindful that, elsewhere, the Neighbourhood Plan seeks to promote the development of small residential units. I find that Policy T&C21 appears to conflict with this aim and there is no evidence to the contrary.

Further to the above, the second part of Policy T&C21 is confusing and imprecise as it requires off-road parking spaces to be located “*on the main road network.*”

Taking all of the above into account, I recommend:

- **Policy T&C21, change first line to “*Travel plans are to be...*”**
- **Policy T&C21, delete “...and funded by the developer”**
- **Delete Criterion b**

## Footpaths and Cycleways

### Policy T&C22: Footpaths and Cycleways

Paragraph 75 of the Framework establishes that:

*“Planning policies should protect and enhance public rights of way and access.”*

As set out, Policy T&C22 is not a land use policy. It states that something will be encouraged in the future and suggests that, somehow, developer contributions might be involved. However, the Policy provides no clarity in this respect and there is nothing to demonstrate that it has regard to Paragraph 204 of the Framework, which requires planning obligations to be necessary, directly related to development and fairly and reasonably related in scale and kind to development.

However, having regard to the supporting text and taking national policy into account, I recommend:

- **Policy T&C22, change to *“The provision of a new cycle way on Cropston Road will be supported.”***

In making the recommendation above, I note that Figure 3 on page 47 is not a particularly clear diagram.

## Developer Contributions

### **Policy T&C23: Developer Contributions**

As set out above, Paragraph 204 of the Framework determines when planning obligations should be sought. Insufficient detail is provided to demonstrate that the use of financial contributions envisaged by Policy T&C23 has regard to national policy in this regard, or in respect of Paragraph 173 of the Framework, which requires attention to viability and costs. Consequently, Policy T&C23 appears as a vague aspiration, rather than a deliverable land use planning policy.

However, I note that the Parish Council has identified a number of general priority areas and the recommendation below takes this into account:

- **Delete Policy T&C23**
- **Replace with “*Community Action: Developer Contributions*”**
- **Add “*The Parish Council will seek to prioritise the use of financial contributions, whether from Community Infrastructure Levy or negotiated obligations, for improvements to and enhancement of community facilities; improvements to traffic management; and enhancement of footpaths and cycleways.*”**

## **7. The Neighbourhood Plan: Other Matters**

I note that the recommendations made in this Report will have a subsequent impact on page numbering and Contents. I recommend:

- **Update the Contents page (page 2) to reflect the recommendations above**

## **8. Summary**

I have recommended a number of modifications further to consideration of the Thurcaston and Cropston Neighbourhood Plan against the basic conditions.

Subject to these modifications, I confirm that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

Taking the above into account, I find that the Thurcaston and Cropston Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

## **9. Referendum**

I recommend to Charnwood Borough Council that, subject to the modifications proposed, the **Thurcaston and Cropston Neighbourhood Plan should proceed to a Referendum.**

### **Referendum Area**

I am required to consider whether the Referendum Area should be extended beyond the Thurcaston and Cropston Neighbourhood Area.

I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

Consequently, I recommend that the Plan should proceed to a Referendum based on the Thurcaston and Cropston Neighbourhood Area approved by Charnwood Borough Council on 9 May 2014.

**Nigel McGurk, August 2016**  
**Erimax – Land, Planning and Communities**

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