

MELTON LOCAL PLAN - Matters and Questions for the Examination

Dear Inspector Mary Travers,

Important parts of the draft Melton Local Plan (MLP) and Focussed Changes are unsound for want of proportionate and reliable evidence. Some policies are unsupported by evidence and some ignore the evidence. In the worst cases evidence has been selected or even created retrospectively to justify policies already preferred and pre-determined.

This is most apparent in matters relating to housing numbers and site allocations and to assessments of environmental sustainability. Also to wrongly defining what is 'Strategic' and thus claimed as the exclusive gift of the Local Plan as against any Neighbourhood Plan.

Somerby Parish will be unavoidably prominent in this document simply because it is the place about which I know enough to write. However I believe other villages in the rural Borough have been similarly treated; please consider Somerby an example.

MATTER 1: Legal requirements and Duty to Co-operate

1.1 No comments.

1.2 **Has the Habitats Regulation Assessment and the Sustainability Appraisal (SA) adequately assessed the likely environmental, social and economic effects of the Melton Local Plan (MLP)? Does the SA demonstrate that the Plan has been tested against all reasonable alternatives?**

I found no document called '**Habitats Regulation Assessment**'. However the Melton Biodiversity and Geodiversity Report 2016 at Appendix J assesses all the sites as of Low, Medium or High ecological value based on presence of valued flora and fauna. This is reasonable though I would have expected presence of Great Crested Newts to result in High value, as by law their presence always necessitates mitigation or relocation.

As for the **Sustainability Appraisal (SA)** – With respect the question might be the wrong one because the SA *has not been meaningfully applied, if at all*, in drafting the Plan. My objection is not to the 'scorings' (- - to ++) in the SA but that the chosen policies do not follow from them. The SA does not demonstrate that the Plan has been tested against all reasonable alternatives because it is not meaningfully applied. Alternatives are stated but negative 'scores' have not shaped policy. (This will be argued further under **Matter 5** in relation to Site Assessments.)

Consider the important example of **Table 3 from the SA**:

Table 3: SA scores for the Spatial Strategy options for the Local Plan

SA objective	Q6. What level of growth should there be?			Q7. How should Melton Borough grow?				Q8. How do you think development in the Borough ⁴ should be provided?			Q12. What should be the approach to defining the roles of settlements?	
	195 dwellings/year	220 dwellings/year	245 dwellings/year	Melton Mowbray focus	Reduced Melton Mowbray focus	Dispersed development	The majority of development in one location	Single large development on the edge of town	A few large developments	Completely dispersed around the town	Based on size of communities and available services	Recognise relationships between communities
1. Housing	+	+++?	++	++/-	++/-	+/-	++/-	++	++	+	++?	+/-?
2. Education	-	+	++	++/-	+	-?	+/-	++/-	++/-	+/-	++?	++?
3. Sustainable transport	0	+?	+?	++	++	-?	+/-?	++	+	-?	++	-
4. Economy and employment	--	+	++	0	0	0	0	0	0	0	0	0
5. Landscape	-?	-?	--?	+/-??	+/-??	-?	+/-??	--?	--?	-?	?	?
6. Biodiversity and geodiversity	-?	-?	--?	+/-??	+/-??	+/-?	+/-??	--?	--?	-?	?	?
7. Cultural heritage	-?	-?	--?	--?	--?	-?	--?	+/-??	+/-??	-?	?	?
8. Efficient use of land and minerals	-?	-?	--?	--?	--?	-?	--?	--?	--?	-?	?	?
9. Access to services	0	0	0	++/-?	++/-?	-/+?	-/+?	++/-	++/-?	+/-	++	++?
10. Social and economic inclusion	--	+	++	--/+	--/+	-	--	+	++?	-	++	+/-
11. Crime	0	0	0	0	0	0	0	0	0	0	0	0
12. Waste	++?	++?	-?	0?	0?	?	+/-?	0	0	++?	0	0
13. Economic growth	--	++	++	++	++	-	-	+	+	-	0	0
14. Health	0	0	0	++/-	++/-	-	-/+?	++/-	++/-	-/+	++	+/-
15. Greenhouse gases and air quality	0	0	0	++	++	-?	+/-??	++	++	-/+	++	-
16. Flood risk	?	?	?	-?	-?	?	-?	--?	--?	+/-?	0	0
17. Water quality	0	0	0	?	?	?	?	?	?	?	0	0

Consider Q6. Do the scores justify a preference for 245 dpa over 220 dpa? The run of (- -?) scores for 245 dpa on environmental grounds strongly suggests not. Also I cannot see how if both options score (++) for economic growth, only 245 dpa achieves (++) for Economy and Employment? Similarly I do not think a faster building rate necessarily results in better education.

Consider Q12. Can these two alternatives be compared? I don't think they can, they are 'apples and pears'. The second alternative is token, presenting only an appearance of considering an alternative.

This will be the first of several examples where MBC show themselves absolutely committed to 245 dpa and their preferred development sites regardless of the SA or any other evidence.

Suggested change: Adopt a lower dpa to avoid the (- -?) scores under landscape, biodiversity, cultural heritage and efficient use of land. HEDNA provides a sound evidence for doing so. **(Matter 3).**

1.3 Does the plan as a whole accord with s19(A) of the Act by including policies that are designed to secure that the development and use of land in the Borough contribute to the mitigation of, and adaptation to, climate change?

No - The plan includes an excess of housing allocation where long journeys by car will be necessary to meet work, shopping and leisure needs. Greater concentration of housing development at or near proven or planned employment sites would be better for the mitigation of climate change.

Suggested change: Restore 'access to regular public transport' as a criterion for Service Centre status. This needs to be meaningful – a service reasonably usable to get to employment sites in time for work (the 2-hourly Somerby bus service, for example, entirely fails to

achieve this). When this criterion was removed from the 'settlement role' criteria we felt it was done deliberately to remove an obstacle to sites in villages lacking environmentally sustainable transport options.

Suggested change: Meaningfully assess – with evidence – the 'employment opportunity' criterion for settlement roles, and select sites accordingly. This will be discussed at **Matter 2**.

1.4 No comments at this time.

1.5 Does the plan set out a clear strategic policy framework for the preparation of Neighbourhood Plans? How will any inconsistencies between emerging NPs and the Plan be resolved?

No, the explanation as to how inconsistencies between NPs and the MLP will be resolved is completely unsound (inconsistent with national policy). It seeks to ensure primacy of the MLP over NPs at all times by grossly misconstruing the term 'strategic'. To explain:

At 1.9.1 the draft MLP says that NPs must be '*in general conformity with the strategic policies contained in the Local Plan.*' This is a correct statement of the NPPF para 184 but is only half of what must be said. NPPF para 185 makes it equally explicit that having demonstrated general strategic conformity, a NP '*takes precedence over non-strategic policies in that neighbourhood*'.

Suggested change: Having quoted NPPF para 184, the MLP should likewise quote para 185, to correctly and fairly state the relationship between the LP and any NP. One without the other is misleading to the reader and exaggerates the relative importance of the LP.

However, there is a much more serious difficulty which I consider truly grotesque:

At 1.9.4 the draft MLP says "**For the purpose of testing conformity of Neighbourhood Plans with the Local Plan, all policies included in the Local Plan up to Chapter 8 are regarded as strategic policies.**" (Bold is theirs not mine). This is a gross misuse of the word 'strategic', calculated to subordinate NPs to the LP in all important matters whether truly 'strategic' or not. 'The Local Plan up to Chapter 8' includes **every** policy except for three:

Design standards; Equestrian development; Agricultural Worker's Dwellings – that is all !

Every other policy in the Plan (about 40 policies) is deemed 'strategic' including every individual housing allocation.

This is unsound for being inconsistent with the NPPF paras 184 and 185. Those paragraphs are meaningless if the LPA has unlimited power to decide what is 'strategic'. I can accept that a housing target of 6,125 is 'strategic' but **not** that every single housing allocation under it – 19 houses exactly here, 15 houses exactly there - is a 'strategic policy'. MBC are very clear how they want inconsistencies to be resolved – they want the LP to prevail every time (unless discussing architectural features, horse-riding or a lone farmer...)

It is not open to MBC to arbitrarily decide that everything important is 'strategic' and therefore unchallengeable by any NP. The draft plan seek to subordinate any NP to it in all important matters whether truly 'strategic' or not.

Suggested change: Make clear that Policy C1(A) and Policy C1(B) are NOT 'strategic policies'. Policy SS2 and Policy SS3 are 'strategic' but **individual sites in C1(A) and C1(B) definitely are not**. They are important but not strategic – they are the detail.

Meeting of NPs with MBC on 11th September 2017

MBC made very clear their attitude to 'inconsistencies with emerging NPs' at a meeting on 11th September 2017. There were representatives present from I think 12 parishes, including me. MBC were represented by, among others, Edd de Coverly (Chief Executive), Councillor Leigh Higgins (Deputy Leader), Councillor John Illingworth (Chair, Planning Committee) and Jim Worley (Head of Regulatory Services). MBC also had a barrister giving legal opinion. It was a long meeting but three pieces of advice were memorable:

First – we should delay writing Neighbourhood Plans until after the MLP is passed, because NPs will have to do what the LP says anyway. The distinction between 'strategic' and 'non-strategic' policy was dismissed as a question of interpretation – interpretation to be by MBC.

Second – MBC would not change *any* policy because of anything that had been said by an emerging NP (or for that matter by a parish council). It was too late. This was a remarkable statement only 2 weeks after the 'focussed changes' consultation closed. MBC could not possibly have read and considered all the focussed change representations so quickly. They had simply decided to ignore them. Our perception was of a 'done deal'. Legal advice was that if we disagreed with anything our only recourse was to 'Take it to the Examiner'.

Third – If we objected to planning applications on 'plan' sites, MBC might have to increase our Council Tax bills in order to fight appeals. As a person objecting to a planning application at the time I perceived this as a threat. (Cllr Illingworth to his credit was very clear that as chair of the Planning Committee, he seeks to ensure that all applications are decided on merit).

With hindsight I do not think we were being given legal advice. We were being told to comply.

Conclusion

If I could only make four points from all of the above they would be:

- 4,250 not 6,125 is the soundly evidenced housing target for Melton Borough. HEDNA is more objective and thorough than TAHR and the addendum to TAHR which were commissioned solely to justify decisions already made.
- Serious environmental 'negatives' in the Sustainability Appraisal have been ignored or deliberately replaced in the MLP Evidence Base. Housing delivery is important, but the draft MLP elevates it unduly to the exclusion of many important paragraphs of the NPPF.
- In claiming every single one of its policies (except three in Chapter 9) to be a 'Strategic Policy' MBC seeks to monopolize control of all important planning and decision making. This is contrary to NPPF paras 184 and 185. In particular, calling every single site allocation a 'strategic policy' is untrue and unsound.

- The most important parts of the draft Plan are not based on the evidence. Evidence has been ignored, or even found retrospectively to justify policies already decided. This is the absolute opposite of soundness.

It was made abundantly clear to me at that meeting with MBC on 11th September 2017 that there was *nothing* I or my neighbours could say to MBC to change *anything* in the draft MLP, and if I didn't like that I should try telling the Inspector. So that is what I'm doing.

I have not asked to speak on my own behalf at the Examination but would endeavour to do so if invited. I am more than happy to discuss or explain by email anything I have written if thought useful. Thank you for reading.

Yours sincerely,

Carl Powell

28th December 2017

Carl Powell
Somerset
8th Jan 2018

Addendum – unsoundness for misuse of evidence

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Apologies but a short addendum is necessary. This is because of a published response by MBC to a Consultation representation by Somerset Parish NP and myself. It bears on all matters as it asserts unsoundness for misuse of evidence.

We represented that MBC should:

“Take into account the evidence gathered in preparation of the Somerset Parish NP Consultation.”

We had previously made the same request in the June 2017 document ‘Planning the future of Somerset Parish’. This wasn’t a point about the ‘weight’ of an emerging NP – it did not rely on any such weight – it was a point about *evidence*.

In asking them to do so we relied on NPPF (para 158) and the 2014 Government Guidance on the SHLAA process and Plan Preparation (para 008 Ref ID 3-008-20140306).

MBC’s published reply is:

“The data collected by Somerset has not been verified and is not available in a comparable form for the rest of the borough, and its use could introduce bias. The Council considers its evidence to be robust and proportionate.”

This is astonishing. It indicates unsoundness in preparation of the draft MLP (lack of justification by proportionate evidence). I accept there are limits to how much research and evidence-gathering MBC can reasonably be expected to undertake, but that *does not justify excluding best evidence when it is handed to them*.

A good example is the document ‘**Employment and Employment Opportunity in Somerset Parish**’ (submitted to this examination). When MBC said ‘*WE really don’t have much information on that*’ and ‘*Employers don’t usually share information*’ we went out and approached 30 employers in the Parish. 28 of them gave us detailed information, usually face-to-face. They were helpful and open and we passed all the evidence to MBC. The evidence is that Somerset does not have the ‘employment opportunity’ which MBC assumed (with no evidence) when designating it a Service Centre.

Another example would be the several papers on environmental and heritage matters submitted in consultation by Mary-Anne Donovan.

MBC’s only response to all this evidence has been the one above - they don’t want to use it.

Why not? They give three reasons:

1. **'The data has not been verified.'** What 'verification' is required? It has been verified and endorsed by our Parish Council, it has been seen by our Ward Councillor and MBC themselves, no-one has said it is 'wrong'. MBC have never required or defined a 'verification' process or standard when seeking representations.
2. **'It is not available in comparable form for the rest of the Borough'.** That is not our fault! No 'form' was specified or required when consultation was announced. They cannot insist on one now.

If there is a 'verification process' for consultation evidence and a 'form' in which it must be submitted then they must be secret. None have been published. I want to see them and be assured the same process and form were imposed on *all other consultees* and that their evidence was excluded (as ours has been) if it didn't comply.

I sound flippant. I don't really believe there is a secret 'process' or 'form'. It is simply that MBC excludes any evidence which disfavours any part of the draft MLP.

Conspicuously when I supported many parts of the draft MLP they simply said 'Support Noted'. They didn't need my comments 'verifying' then.

3. **'Its use could introduce bias'.** Why on Earth should it have that effect? Bias or the avoidance of it is in gift of MBC. Somerby produced the best evidence it could; we aren't responsible for ensuring the rest of the Borough does the same and in the same 'form'.

Excluding evidence does not prevent bias – excluding evidence *is* bias.

When we met MBC on 8th and 11th September 2017 we were told nothing in the draft MLP could now be changed without starting the whole LP process again. We now know that wasn't true; several changes have already been made since eg. To Policy EN11 after representations from LCC, and to EN1 after representations by the developer Gladman's. MBC just couldn't make *our* suggested changes.

The argument of my main paper is reinforced by MBC's reply to my consultation submission. Evidence will be embraced if supportive of decisions already made by MBC but excluded if adverse to them.

The NPPG (on Local Plans) says:

"The evidence needs to inform what is in the plan and shape its development rather than being collected retrospectively."

MBC have not used the best evidence in preparation of the draft MLP and in some cases (notably the TAHR 2017 report) have collected it retrospectively to 'justify' decisions made long before.