

2018

MELTON LOCAL PLAN EXAMINATION

MATTER 9: POLICIES FOR THE ENVIRONMENT

PLANIT-X ON BEHALF OF ASFORDBY PARISH COUNCIL

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9.1 Do Policies EN1, EN2, EN3 and EN6 provide clear, justified and effective guidance for the protection and enhancement of the Borough's landscape, its biodiversity and geodiversity, and delivery, protection and enhancement of the green infrastructure network, and protection of settlement character?

Asfordby Parish Neighbourhood Plan

1. Planit-X Town and Country Planning Services Ltd has supported Asfordby Parish Council (APC) throughout the preparation of the Asfordby Parish Neighbourhood Plan (APNP).
2. The APNP relates to the Parish of Asfordby and has been prepared by APC who are the Qualified Body. The Plan Area was formally designated by Melton Borough Council (MBC) on 30 January 2013. The APNP covers the period to 2036 and has been prepared following extensive consultation with the local community and others with an interest in the area.
3. The Draft APNP was submitted to MBC in October 2016 for publication. The Draft APNP was sent to an Independent Examiner in February 2017.
4. On 5 June 2017, the Examiner recommend that the APNP be modified to meet the 'Basic Conditions' and then submitted to a referendum. The Examiner was Brian Dodd, who was formerly a Director responsible for all development plan and transport casework at the Planning Inspectorate.
5. The APNP was passed by referendum on 28 September 2017.
6. In October 2017, Jelson Ltd gave notice to MBC of its intention to apply for judicial review regarding the APNP. Pending final disposal of the legal challenge, MBC has agreed to take no further steps to progress the APNP.

MLP Policy EC1 Landscape

7. The last two paragraphs of MLP Policy EC1 refer to the 'Areas of Separation, Settlement Fringe Sensitivity and Local Green Space Study' (MBC/LC3a-c) and hereafter referred to as 'The Study'.
8. The Study is an evidence document that is intended to support the preparation of the policies in the MLP. It is not a Development Plan Document or Supplementary Planning Document. It has not been the subject of consultation or Sustainability Appraisal. Therefore, it should not form the basis for the determination of applications for planning permission.
9. In the first of the last two paragraphs, the policy states 'proposals will be required to respond to design guidance in the individual assessments of settlement fringe sensitivity in' The Study. It is not the role of the MLP to impose policy from another document- especially one that has not been subject to

appropriate scrutiny. This same issue is repeated throughout the document and not just in relation to The Study. For example, Policies C6 Gypsies and Travellers, EN2 Biodiversity and Geodiversity, EN3 The Melton Green Infrastructure Network, EN7 Open Space, Sport and Recreation.

10. With regard to the final paragraph of Policy EC1, NPPF paragraph 154 states 'Local Plans should set out the opportunities for development and clear policies on what will or will not be permitted and where. Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan.' In the final paragraph of Policy EC1, Qualifying Bodies are encouraged to use The Study to help them prepare their Neighbourhood Plans. While this may be useful information, this paragraph does not perform the function of a Local Plan policy as set out in the NPPF.

Policy EN3 The Melton Green Infrastructure Network

11. Policy EN2 identifies the River Wreake and River Eye strategic corridor primary as a green infrastructure area. However, the full extent of the corridor is not shown on the Policies Map.

9.2 Is Policy EN4 (Areas of Separation) soundly based? Is its definition/notation on the Policies Map sufficiently clear?

Area between Asfordby Hill and Asfordby Valley

12. When asked to identify the three most important issues for the APNP, over 70% of the Parish's households wanted to see the countryside between settlements protected. This is because there are concerns that development may lead to the loss of community identity through the coalescence of settlements.
13. The settlement of Asfordby Hill is distinctly separate from Asfordby Valley and is surrounded by open countryside. As the area between Asfordby Hill and The Valley slopes significantly and there are extensive views from the south, any development of this area would have an impact on the quality of the surrounding countryside and affect the existing relationship with the Valley.
14. The area between Asfordby Hill and Asfordby Valley is therefore identified as an Area of Separation in the APNP. Its significance is recognised in 'Identifying Areas of Separation Criteria and Evidence' 2006 (ADAS), a report commissioned by MBC and referred to by The Study but not in the MLP list of evidence.
15. This matter was also considered by Appeal Ref: APP/Y2430/A/14/2228080 Land adjacent to 39 Melton Road, Asfordby Hill, Melton Mowbray, Leicestershire LE14 3QX where an appeal against a refusal to grant outline planning permission for 28 residential properties with associated parking facilities and new vehicular access off Melton Road, Asfordby Hill was dismissed. The inspector noted:

'New dwellings on the site would be largely contained in views from the south and east by existing dwellings, while the site is contained to the north by the railway. They would, however, even with landscaping to the front of the site, be clearly visible in the outlook from dwellings on Brook Crescent, and from the recreation ground, in Asfordby Valley below as well as from Melton Road on the approach to the village. They would markedly extend the built form of Asfordby Hill to the north, across the open hillside, and appear as an incongruous block of development that would be seen as an incursion into the village's rural setting.'

16. The Study disagrees with the ADAS Report (20016) and concludes that it is not necessary to designate the area an Area of Separation. The Study (p102) is of the view that the 'area identified within the ADAS (2006) report is considered to have limited sensitivity to development. The settlements have similar characteristics to each other and are perceptibly seen as one settlement.'
17. APC disagrees with this assessment and its conclusion. Asfordby Hill and Asfordby Valley are distinctly separate settlements and are treated as such by the above appeal decision, the MLP (see 'Review of the Settlement Roles and Relationships Report' (MBC SS3)) and the APNP.
18. The last sentence of Policy EN4 states 'In addition, new development proposals will be supported where they respect any Areas of Separation identified in a Neighbourhood Plan.' To be consistent with the APNP, the area between Asfordby Hill and Asfordby Valley should be identified by Policy EN4.

Definition/Notation

19. NPPF paragraph 154 states 'Local Plans should set out the opportunities for development and clear policies on what will or will not be permitted and where.' The Policies Map Area of Separation designations have no obvious boundaries and as a result it is not clear where Policy EN4 applies.

9.3 Is Policy EN5 (Local Green Space) soundly based? Should the designated areas be identified in the policy?

20. NPPF paragraph 76 provides the context for the identification of Local Green Spaces (LGS)- 'Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.'
21. NPPF paragraph 77 then sets out the circumstances when the designation can be used: 'The designation should only be used:
 - where the green space is in reasonably close proximity to the community it serves;

- where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
 - where the green area concerned is local in character and is not an extensive tract of land.'
22. Protected Open Areas (POA) designated in the Melton Local Plan 1999 (which clearly pre-dates the NPPF) formed the starting point for The Study assessment of LGS. There has been no community input into the process of identifying of LGS other than through normal Local Plan consultation. The Study does not show that any of the designated LGS are 'demonstrably special to a local community and holds a particular local significance'. Nor can it be certain that the rejected LGS are not special and significant to the local community.
23. The Study takes a 'top down' approach to the LGS designation process which the NPPF clearly expects to be 'community led'. The MLP approach to LGS designation is fundamentally flawed.