

2018

MELTON LOCAL PLAN EXAMINATION

MATTER 1: LEGAL REQUIREMENTS AND THE DUTY TO
CO-OPERATE

PLANIT-X ON BEHALF OF ASFORDBY PARISH COUNCIL

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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?

Introduction

1. Neighbourhood planning was introduced by the Localism Act 2011, and is an important part of the Government's commitment to let local people have more say on local planning. Over 2,200 communities have taken the decision to produce a neighbourhood development plan or an order. Over 410 successful neighbourhood planning referendums have taken place, with an average 'yes' vote of 88%, on an average turnout of 33%. Over 500,000 votes have been cast.
2. Neighbourhood Plans are a well-established part of the English planning system.

The Relationship between the Local Plan and Neighbourhood Plans

3. This is usefully addressed in Planning Practice Guidance (PPG) (ID: 12-013-2070728, 41-076-20140306, 41-077-20140306 and 41-009-20160211).
4. Neighbourhood plans can be developed before, after or in parallel with a Local Plan, but the law requires that they must be in general conformity with the strategic policies in the adopted Local Plan for the area. A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework (NPPF) and provide details of these to a qualifying body and to the independent examiner.
5. Neighbourhood plans are not tested against the policies in an emerging Local Plan although the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.
6. Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body. This could include sharing evidence and seeking to resolve any issues to ensure the draft Neighbourhood plan has the greatest chance of success at independent examination.
7. The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the

conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan.

8. Where a neighbourhood plan has been brought into force, the local planning authority should take it into account when preparing the Local Plan strategy and policies, and avoid duplicating the policies that are in the neighbourhood plan.

Neighbourhood Planning in Melton

9. Eight Neighbourhood Plan Areas have been designated in Melton Borough. Four have successfully passed examination- Asfordby; Broughton and Old Dalby; Clawson, Hose and Harby; and Wymondham. Two of these- Asfordby and Wymondham have passed referendum stage.
10. To comply with Basic Conditions, these plans are in general conformity with the strategic policies of the development plan in the area- the 1999 Melton Local Plan which sets out the basis for future development in the Borough up to 2006. Several of its policies were saved in 2007. Plainly the adopted Local Plan pre-dates the publication of the NPPF. However, it remains the Plan against which neighbourhood plans in Melton Borough are assessed.
11. All four neighbourhood plans that have passed examination have been prepared within the evolving context of the Melton Local Plan (MLP). In doing so they have used up-to-date information and research that has underpinned the emerging MLP. This is good practice and reflects key elements in PPG on this matter.
12. A neighbourhood plan comes into force as part of the statutory development plan once it has been approved at referendum. Therefore, both the Asfordby and Wymondham Neighbourhood Plans are in force as part of the statutory development plan. They are the only up-to-date parts of the development plan for Melton.

Asfordby Neighbourhood Plan

13. Planit-X Town and Country Planning Services Ltd has supported Asfordby Parish Council (APC) throughout the preparation of the Asfordby Parish Neighbourhood Plan (APNP).
14. 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.
15. The Draft APNP was submitted to MBC in October 2016 for publication. The Draft APNP was sent to an Independent Examiner in February 2017.
16. 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.

17. The APNP was passed by referendum on 28 September 2017.
18. 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.

Strategic Policy Framework

Strategic Policies

19. At paragraph 1.9.4, the emerging MLP states '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'. Consequently, MBC regard all policies other than D1, D2 and D3 as 'strategic'.
20. PPG paragraph: 076 Reference ID: 41-076-20140306 provides a useful list of matters to be considered in reaching a view on whether a policy is a strategic policy. The MLP policies are considered against these matters at Appendix 1. It is quite clear that fewer of MLP policies are truly strategic in nature than set out in MLP paragraph 1.9.4.

Housing Provision

21. In line with the NPPF, the MLP should provide the strategic framework within which any neighbourhood plans may be prepared to shape development at the community level.
22. The Housing White Paper proposed to amend national policy so that local planning authorities are expected to provide neighbourhood planning groups with a housing need figure to allow progress to be made with neighbourhood planning.
23. Policy SS2 fails to identify the housing provision for individual settlements and therefore fails provide a sound basis for the preparation of neighbourhood plans.

Inconsistencies

24. Throughout the plan preparation process APC has attempted to liaise with MBC to minimise any conflicts between policies in the neighbourhood plan and those in the emerging MLP. This has not always been easy:
 - During the preparation of the new MLP, the plan period, housing provision, settlement hierarchy and housing allocations have all been subject to significant change;
 - During the preparation of the APNP, there have been five different officers leading the preparation of the new MLP; and
 - MBC has never proactively approached APC with a view to minimising conflicts.

25. Consultation on the Pre-Submission MLP commenced in November 2016. APC subsequently made representations highlighting various inconsistencies between the emerging MLP and the submitted APNP.
26. In July 2017, MBC published Focussed Changes to the Draft MLP. Again, APC made representations highlighting inconsistencies with the APNP which had by then successfully passed examination.
27. In October 2017, the MLP was submitted. At that time the APNP had successfully passed referendum.
28. Despite having had several opportunities to resolve matters, significant inconsistencies exist between the emerging MLP and the APNP which is now in force. These are addressed in turn below (and will be presented under other matters at the Examination as appropriate):

Village Envelopes

29. The MLP makes no provision for the identification of Village Envelopes, yet updated Village Envelopes have been designated through the APNP and other neighbourhood plans in the Borough.

Asfordby Hill Housing Allocations ASFH1 and ASFH2

30. MLP FC4.2 allocates housing sites ASFH1 and ASFH2. The APNP has chosen not to allocate these sites but has instead allocated alternatives:
 - APNP Policy A15 proposes a site for 14 dwellings off Crompton Road/Melton Road, Asfordby Hill. Planning permission has subsequently been granted;
 - APNP Policy A27 proposes that land to the south of Holwell Works should be used for business, industrial, storage and residential purposes (up to 100 dwellings). Persimmon Homes (North Midlands) confirm that they are progressing towards an option agreement with the landowners to bring forward a planning application for the early part of 2018.

Asfordby Housing Allocation ASF2

31. MLP FC 4.2 allocates housing sites ASF2 for 60dw. APNP Policy A12 has allocated a smaller part of this site for 55dw. The site is the subject of an outline planning application for 55dw (16/00539/OUT).
32. Planit-X is aware of conflicts between the MLP and other Neighbourhood Plans on matters relating to housing allocations. For example, the Broughton and Old Dalby Neighbourhood Plan Examiner has recommended the inclusion of a housing allocation at Station Lane, Old Dalby. The site is not an allocation in the MLP.

Policy C2 Housing Mix

33. MLP FC5 refers to housing mix table 9. APNP paragraphs 6.26-6.29 and Policy A17 sets out a very different 'optimum' mix of housing required to best fit the future needs of Asfordby Parish.

Policy C4 Affordable Housing

34. MLP Pre-Submission Policy C4 set a target of 37% affordable housing on new development across the Borough. FC 6 reduces the minimum target to 25% (which includes Asfordby parish). APNP Policy A12 sets 30% target.

Policy EC1 Employment Growth in Melton Mowbray

35. MLP Policy EC1 allocates 10 hectares of employment land within Asfordby Business Park for class B employment uses. APNP Policy A27 proposes that the same site should be used for business, industrial, storage and residential purposes (up to 100 dwellings).

Policy EC3 Existing Employment Sites

36. The MLP Policies Map incorrectly shows the extent of Asfordby Business Park by including agricultural land to the north-west of the site. Harworth Estate's planned extension of Asfordby Business Park onto this land was considered as part of the preparation of the APNP and rejected following Historic England advice. APNP Policies Map shows the correct extent of Asfordby Business Park.

Policy EC7 Retail Development in the Borough

37. MLP Policy EC3 generally supports 'Town Centre' developments in Asfordby regardless of location. APNP Policy A20 focusses such uses at Bradgate Lane Shops.

Policy EN3 Landscape

38. MLP Policies Map does not show the full extent of the River Wreake and River Eye strategic corridor referred to in Policy EN3. APNP Policy A4 refers.

Policy EN4 Areas of Separation

39. MLP Policy EN4 fails to identify land between Asfordby Hill and Asfordby Valley as an Area of Separation contrary to APNP Policy A1.

Policy EN5 Local Green Space

40. MLP Policy EN5 refers to the Areas of Separation, Settlement Fringe Sensitivity and Local Green Space Study (MBC/LC3). MBC/LC3 states that there are no spaces within Asfordby or Asfordby Hill that are considered to meet the criteria for being protected as a Local Green Space. The APNP (Policy A5) identifies seven Local Green Spaces.

Conclusions

41. The MLP does not set out a clear strategic policy framework for the preparation of Neighbourhood Plans as:
 - fewer of its policies are truly strategic in nature than set out in MLP paragraph 1.9.4; and
 - it fails to identify the housing provision for individual settlements.
42. The MLP has created inconsistencies with the APNP and other emerging Neighbourhood Plans. Neighbourhood Plans that have been brought into

force have not properly been considered when preparing the MLP. The MLP duplicates policies that are in neighbourhood plans.

43. The APNP has empowering local people to shape their surroundings with a plan that sets out a positive vision for the future of the Asfordby. The local community, both as individuals and through the APC, have been actively involved in its preparation. As it stands, the MLP could render futile the work done by the APC and the contributions made by the local community, thereby reducing public confidence in the planning process. In the interests of good planning, any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan should be resolved in favour of the former unless there are important strategic policy reasons for not doing so.

Appendix 1: Melton Local Plan Policies that are 'Strategic'

Policy Ref.	Policy title	Strategic?	Comments
SS1	Presumption in favour of Sustainable Development	Yes	Policy sets out an overarching direction or objective
SS2	Development Strategy	Yes	Policy sets out an overarching direction or objective
SS3	Sustainable Communities (unallocated sites)	No	PPG Reference ID: 41-001-20140306: Neighbourhood planning gives communities power to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like and what infrastructure should be provided.
SS4	South Melton Mowbray Sustainable Neighbourhood (Strategic Development Location)	Yes	Bringing the site forward is central to achieving the vision and aspirations of the Local Plan Local Plan identifies the policy as being strategic
SS5	Melton Mowbray North Sustainable Neighbourhood	Yes	Bringing the site forward is central to achieving the vision and aspirations of the Local Plan Local Plan identifies the policy as being strategic
SS6	Alternative Development Strategies and Local Plan Review	Yes	Local Plan identifies the policy as being strategic
C1 (A)	Housing Allocations	No	PPG ID: 41-042-20170728: A neighbourhood plan can allocate sites for development. The identified site allocations are not central to achieving the vision and aspirations of the Local Plan
C1 (B)	Reserve Sites	No	PPG ID: 41-042-20170728: A neighbourhood plan can allocate sites for development. The identified site allocations are not central to achieving the vision and aspirations of the Local Plan
C2	Housing Mix	Part	PPG Reference ID: 41-001-20140306: Neighbourhood planning gives communities power to choose where they want new homes, shops and offices to be built, have their say on what those new buildings

Policy Ref.	Policy title	Strategic?	Comments
			should look like and what infrastructure should be provided.
C3	National Space Standard and Smaller Dwellings	Yes	Neighbourhood Plans cannot be used to apply the new national technical standards.
C4	Affordable Housing Provision	Yes	Policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan.
C5	Affordable Housing through Rural Exception Sites	No	NPPF para 54: local planning authorities should be responsive to <u>local</u> circumstances and plan housing development to reflect <u>local</u> needs
C6	Gypsies and Travellers	Yes	Policy sets out an overarching direction or objective.
C7	Rural Services	Part	Assets of Community Value (England) Regulations 2012 give communities a right to identify a building or other land that they believe to be of importance to their community's social well-being.
C8	Self-Build and Custom Build Housing	Yes	Policy sets out an overarching direction or objective
C9	Healthy Communities	Yes	Policy sets out an overarching direction or objective
EC1	Employment Growth in Melton Mowbray	Yes	Bringing the site forward is central to achieving the vision and aspirations of the Local Plan Local Plan identifies the policy as being strategic
EC2	Employment Growth in the Rural Area (Outside Melton Mowbray)	No	PPG ID: 41-042-20170728: A neighbourhood plan can allocate sites for development.
EC3	Existing Employment Sites	Yes	Policy sets a framework for decisions on how competing priorities should be balanced
EC4	Other Employment and Mixed-use Proposals	No	PPG ID: 41-042-20170728: A neighbourhood plan can allocate sites for development.
EC5	Melton Mowbray Town Centre	Yes	Local planning authorities should plan positively, to support town centres to generate local employment, promote beneficial competition within and between town centres, and create attractive, diverse places where

Policy Ref.	Policy title	Strategic?	Comments
			people want to live, visit and work.
EC6	Primary Shopping Frontages	Yes	Local planning authorities should plan positively, to support town centres to generate local employment, promote beneficial competition within and between town centres, and create attractive, diverse places where people want to live, visit and work.
EC7	Retail Development in the Borough	No	PPG Reference ID: 41-001-20140306: Neighbourhood planning gives communities power to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like and what infrastructure should be provided.
EC8	Sustainable Tourism	Yes	Policy is intended to operate at strategic scale
EN1	Landscape	Part	NPPF para 76: Local communities through ... should be able to identify for special protection green areas of particular importance to them.
EN2	Biodiversity and Geodiversity	Yes	Policy is intended to operate at strategic scale
EN3	The Melton Green Infrastructure Network	Yes	Policy is intended to operate at strategic scale
EN4	Areas of Separation	No	APNP Examiner's Report para 4.1.2: Gladman assert that areas of separation are a strategic policy beyond the remit of the APNP. However, I see nothing in legislation, policy or guidance to suggest that to be the case. It is true that the DMLP shows areas of separation diagrammatically, without precise boundaries, but I do not think that it is beyond the powers or the purpose of the NP to seek to define such areas bearing in mind local knowledge and the vision and purpose of the APNP.

Policy Ref.	Policy title	Strategic?	Comments
EN5	Local Green Space	No	NPPF para 76: Local communities through ... should be able to identify for special protection green areas of particular importance to them.
EN6	Settlement Character	No	PPG Reference ID: 41-001-20140306: Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area.
EN7	Open Space, Sport and Recreation	Part	Policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan. NPPF para 76: Local communities through ... should be able to identify for special protection green areas of particular importance to them.
EN8	Climate Change	Yes	Policy is intended to operate at strategic scale
EN9	Ensuring Energy Efficient and Low Carbon Development	Yes	Policy is intended to operate at strategic scale
EN10	Energy Generation from Renewable Sources	Part	Written Statement made by: Secretary of State for Communities and Local Government (Greg Clark) on 18 Jun 2015.: Local residents must have the final say over whether onshore wind farm applications get the go-ahead in their area.
EN11	Minimising the Risk of Flooding	Yes	Policy is intended to operate at strategic scale
EN12	Sustainable Drainage Systems	Yes	Policy is intended to operate at strategic scale
EN13	Heritage Assets	Yes	Policy is intended to operate at strategic scale
IN1	Transport & Strategic Transport Infrastructure	Part	PPG Reference ID: 41-001-20140306: Neighbourhood planning gives communities power to choose where they want new homes, shops and offices to be built, have their say on what those new buildings

Policy Ref.	Policy title	Strategic?	Comments
			should look like and what infrastructure should be provided.
IN2	Infrastructure Contributions and Community Infrastructure Levy	Part	PPG Reference ID: 41-001-20140306: Neighbourhood planning gives communities power to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like and what infrastructure should be provided.
IN3	Broadband	Yes	Policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan
D1	Raising the Standard of Design	Part	PPG Reference ID: 41-001-20140306: Neighbourhood planning gives communities power to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like and what infrastructure should be provided.
D2	Equestrian Development	Yes	Policy sets out an overarching direction or objective
D3	Agricultural Workers' Dwellings	Yes	Policy sets out an overarching direction or objective