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Report on Ab Kettleby Parish Neighbourhood Plan 2018 - 2036

An Examination undertaken for Melton Borough Council with the support of the Ab Kettleby Parish Council on the Regulation 15 submission version of the Plan.

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Main Findings - Executive Summary

From my examination of the Ab Kettleby Parish Neighbourhood Plan (the Plan/AKNP) and its supporting documentation, including the representations made, I have concluded that, subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- the Plan has been prepared and submitted for examination by a qualifying body – the Ab Kettleby Parish Council;
- the Plan has been prepared for an area properly designated – the whole of the Parish of Ab Kettleby as shown on page 10 of the submitted Plan;
- the Plan specifies the period in which it is to take effect: 2018 – 2036; and
- the policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to Referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

1. Introduction and Background

Ab Kettleby Parish Neighbourhood Plan 2018 - 2036

- 1.1 Ab Kettleby Parish, with a population of 529¹, is a parish in north eastern Leicestershire, about 5km north of Melton Mowbray, and about 30 km from both Nottingham and Leicester. The village of Ab Kettleby, together with the nearby hamlets of Holwell and Wartnaby, are the settlements in which most of the population of the parish lives. It is a rural parish with an agricultural landscape of very gently undulating countryside.
- 1.2 The process to commence preparation of the Ab Kettleby Parish Neighbourhood Plan began in November 2015 when the Ab Kettleby Parish Council (AKPC) applied to Melton Borough Council (MBC) to designate the neighbourhood area. The AKPC formally decided to prepare the AKNP in June 2016 and an Advisory Committee was set up which met for the first time in September 2016 and twelve times thereafter. Three themed groups were also established. Amongst the various activities within the preparation process, a questionnaire was distributed, two public

¹ 2011 Census.

events were held to publicise the Plan and a dialogue was developed and meetings held with MBC officers. The AKNP now represents nearly three years' work by those involved.

- 1.3 The vision for Ab Kettleby as agreed by the local community is described in the Plan (p.7), the gist of which is to diversify the rural economy without developing new commercial estates ; increase the levels of home-based working; improve community facilities; create more off street parking and discourage through traffic; create more sustainable housing with an appropriate mix; protect open spaces and restore the practical and historic links between the three villages.
- 1.4 The Plan then states a series of policies and community actions which are intended to deliver the vision and which are grouped into the themes of housing, the environment, community facilities, transport and business and employment, preceded by a strategic framework which has defined Limits to Development (LTD) for Ab Kettleby.

The Independent Examiner

- 1.5 As the Plan has now reached the examination stage, I have been appointed as the examiner of the AKNP by MBC, with the agreement of the AKPC.
- 1.6 I am a chartered town planner and former government Planning Inspector with previous experience of examining neighbourhood plans. I am an independent examiner and do not have an interest in any of the land that may be affected by the draft Plan.

The Scope of the Examination

- 1.7 As the independent examiner, I am required to produce this report and recommend either:
 - (a) that the neighbourhood plan is submitted to a referendum without changes; or
 - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
 - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.8 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
 - Whether the Plan meets the Basic Conditions;

- Whether the Plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
 - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
 - it sets out policies in relation to the development and use of land;
 - it specifies the period during which it has effect;
 - it does not include provisions and policies for 'excluded development';
 - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area;
 - whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to referendum; and
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').

1.9 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

The Basic Conditions

1.10 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the AKNP must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan for the area;
- be compatible with and not breach European Union (EU) obligations; and
- meet prescribed conditions and comply with prescribed matters.

- 1.11 Regulation 32 and Schedule 2 to the 2012 Regulations prescribe a further Basic Condition for a neighbourhood plan. This requires that the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.²

2. Approach to the Examination

Planning Policy Context

- 2.1 The Development Plan for MBC, not including documents relating to excluded minerals and waste development, is the Melton Local Plan (MLP) adopted in October 2018.
- 2.2 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented. A revised NPPF was published on 24 July 2018 (and a further revised version on 19 February 2019), replacing the previous NPPF 2012. The transitional arrangements for local plans and neighbourhood plans are set out in paragraph 214 of the NPPF 2018 (and subsequent 2019 version), which provides 'The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019'. A footnote clarifies that for neighbourhood plans, 'submission' in this context means where a qualifying body submits a plan to the local planning authority under Regulation 15 of the 2012 Regulations. The AKNP was submitted to MBC in November 2018. Thus, it is the policies in the original NPPF that are applied to this examination and all references in this report are to the March 2012 NPPF and its accompanying PPG.

Submitted Documents

- 2.3 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted, which comprise:
- the Ab Kettleby Parish Neighbourhood Plan 2018 – 2036;
 - Figure 1 (on page 10) of the Plan which identifies the area to which the proposed Neighbourhood Plan relates;
 - the Consultation Statement, August 2018;

² This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

- the Statement of Basic Conditions, June 2018 (including the update of March 2019 which refers to the Melton Local Plan adopted in October 2018);
- all the representations that have been made in accordance with the Regulation 16 consultation;
- the Strategic Environmental Assessment (SEA) & Habitats Regulations Assessment (HRA) Screening Report prepared by MBC, January 2019 (updated); and
- the requests for additional clarification sought in my letters of 16 and 20 May 2019 and the responses of 17 May 2019 (provided by the Parish Council) and 22 May (provided by the Borough Council), which are available on the Borough Council's website.³

Site Visit

2.4 I made an unaccompanied site visit to the Neighbourhood Plan Area on 14 May 2019 to familiarise myself with it, and visit relevant sites and areas referenced in the Plan and evidential documents.

Written Representations with or without Public Hearing

2.5 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum. As noted in paragraph 2.3 above, AKPC and MBC helpfully and promptly answered in writing the questions which I put to them in my letters of 16 and 20 May 2019.

Modifications

2.6 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

3.1 The AKNP has been prepared and submitted for examination by the AKPC which is a qualifying body. It extends over the whole of the Ab Kettleby Parish which constitutes the area of the Plan designated by MBC on 18 January 2016.

³ View at: <https://www.meltonplan.co.uk/abkettleby>

- 3.2 It is the only neighbourhood plan for Ab Kettleby Parish and does not relate to land outside the designated Neighbourhood Plan Area.

Plan Period

- 3.3 The Plan specifies clearly the period during which it takes effect, which is between 2018 and 2036. The date aligns with the end date of the MLP, which is also 2036.

Neighbourhood Plan Preparation and Consultation

- 3.4 The concise and comprehensive Consultation Statement dated August 2018 indicates that the Parish Council first considered producing a neighbourhood plan in 2015 when an application was made to MBC to designate the Parish as a neighbourhood area for the purposes of the preparation of the AKNP. The AKPC then took the decision in June 2016 to proceed with its preparation. An AKNP Advisory Committee was set up in August 2016 which met regularly until at least 31 July 2018.
- 3.5 In April 2017, a community open event took place and a questionnaire was circulated, available to be completed electronically, or on paper. The questionnaire had a response rate of 40% from households of the Parish. The results are presented in a Questionnaire Analysis document dated May 2017. 3% of the responses were from people who lived outside the parish. In May 2017, three theme groups on (a) housing, (b) the environment and (c) community facilities, employment and transport were created to develop ideas resulting from the first consultation. The draft policies were presented at a public exhibition in June 2018.
- 3.6 Throughout the process, communications have been thorough and widespread, using the noticeboards in the villages and the Sugar Loaf public house. Leaflets, flyers and hard copies of the questionnaires were distributed to every household. The "Village Life" parish newssheet was used to inform readers of the progress of the Plan and the Parish Council website included details of the various meetings and a monthly update. Regular meetings were held with planning officers of MBC.
- 3.7 The formal consultation on the AKNP under Regulation 14 of the 2012 Regulations took place over a period of six weeks between 11 May and 21 June 2018. Thirty-one responses were received to the consultation. The AKNP was then submitted to MBC in November 2018 and was subject to consultation under Regulation 16 between 25 January 2019 and 11 March 2019. Six representations were received. Therefore, I am satisfied that a transparent, fair and inclusive consultation process has been followed for the AKNP that has had regard to advice in the PPG on plan preparation and is procedurally compliant in accordance with the legal requirements.

Development and Use of Land

- 3.8 Subject to my recommendation made by way of PM12 below, the Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

Excluded Development

- 3.9 The Plan does not include provisions and policies for 'excluded development'.

Human Rights

- 3.10 The Statement of Basic Conditions (SBC) comments that the Plan has regard to and is compatible with fundamental rights and freedoms guaranteed under the European Convention on Human Rights. The SBC states that the AKNP has been prepared with extensive input from the community and stakeholders as set out in the Consultation Statement. Considerable care was taken to ensure that the views of the whole community were embraced to avoid any unintentional negative impacts on particular groups. The MBC has not raised any issues concerning breach of, or incompatibility with, EU Obligations and Convention rights (within the meaning of the Human Rights Act 1998). I have considered the matter independently and I have found no reason to come to a different view.

4. Compliance with the Basic Conditions

EU Obligations

- 4.1 The AKNP was screened for SEA by MBC, the conclusions of which were included in the updated Statement of Basic Conditions. The Screening Report is available on the web site of MBC.⁴ The Council found that it was unnecessary to undertake SEA. Neither Historic England (HE), Natural England (NE) nor the Environment Agency (EA), when consulted, disagreed with that assessment. Having read the SEA Screening Opinion, and considered the matter independently, I agree with that conclusion.
- 4.2 The AKNP was further screened by MBC for HRA, which concluded that HRA was not required. NE agreed with that conclusion and had no further comments in its Regulation 16 consultation response. Based on my independent consideration on the information provided, I support the above conclusions.

⁴ View at: <https://www.meltonplan.co.uk/abkettleby>

Main Issues

- 4.3 Following the consideration of whether the Plan complies with various procedural and legal requirements, it is now necessary to deal with whether it complies with the Basic Conditions; particularly the regard it pays to national policy and guidance, the contribution it makes to the achievement of sustainable development and whether it is in general conformity with strategic development plan policies. I test the Plan against the Basic Conditions by considering specific issues of compliance with all the Plan's policies.
- 4.4 As part of that assessment, I consider whether the policies in the AKNP are sufficiently clear and unambiguous, having regard to advice in the PPG. A policy should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence.⁵
- 4.5 Accordingly, having regard to the AKNP, the consultation responses, written evidence⁶ and the site visit, I consider that the main issues for this examination are whether the Plan policies (i) have regard to national policy and guidance, (ii) are in general conformity with the adopted strategic planning policies and (iii) would contribute to the achievement of sustainable development? Following the sequence within the Plan, I shall assess these issues on the basis of broadly grouping the themes which have been identified in the AKNP into: (a) housing; (b) environment; (c) community facilities and transport and (d) business and employment.

Topic (a): Housing (Policies S1, H1, H2, H3 and H4)

- 4.6 Policy SS2 of the recently adopted MLP sets out the development strategy for the Borough and states that provision will be made for at least 6,125 new homes between 2011 and 2036. Melton Mowbray Main Urban Area is the priority focus for growth and will accommodate about 65% of the Borough's housing need, with 35% (1822 homes) accommodated in 12 Service Centres and 7 Rural Hubs on a proportional basis. The policy states that this will be delivered by planning positively for the development of sites allocated within and adjoining the Service Centres and Rural Hubs by 2036, and by encouraging small scale residential development, where it would represent sustainable development under Policy SS1 above or would enhance the sustainability of the community in

⁵ PPG Reference ID: 41-041-20140306.

⁶ The other evidence includes my letter of 16 and 20 May 2019 to the Ab Kettleby Parish and Melton Borough Councils seeking clarification and the replies of 17 and 22 May 2019.

accordance with Policy SS3. Ab Kettleby is defined in the MLP as a Rural Hub.

- 4.7 Holwell and Wartnaby are two of 56 Rural Settlements⁷ where, under MLP Policy SS2, a proportion of the Borough's housing need will be accommodated by allowing "windfall" sites within and adjoining the settlements. They will be small unallocated sites which meet the needs and enhance the sustainability of the settlement in accordance with MLP Policy SS3.
- 4.8 Policy S1 of the AKNP defines Limits to Development (LTD) as shown on Figure 2 of the Plan. The aim of the policy is to distinguish between land within the LTD where development proposals would normally be acceptable and land outside the LTD which would be treated as open countryside consistent with local and national policies. There are no references to LTD for settlements within the MLP. Nevertheless, they are not precluded and the LTD for Ab Kettleby would help to safeguard the adjacent countryside from unnecessary development whilst enabling the village to fulfil its function as a Rural Hub by being the focal point of development including site ABK1, allocated for housing in the MLP. I consider the policy would generally conform with MLP Policy SS1 and has regard to national guidance to recognise the intrinsic character and beauty of the countryside and support thriving rural communities within it.⁸
- 4.9 Policy H1 allocates two sites for residential development. Site A, within the LTD, is designated ABK1 in the MLP and, in providing for about 10 dwellings, is in general conformity with MLP Policy C1(A). Site B is outside the LTD on the western edge of Ab Kettleby village and provides for about 12 dwellings. It is, in effect, a reserve site and would be considered for housing development should there be a shortfall of housing land supply in the event of the failure to deliver Site A, or a revision of the housing need due to any forthcoming review of development plan documents.
- 4.10 The definition of Site B closely follows the philosophy of MLP Policy C1 (B) which allocates 7 reserve sites in the Local Plan. One of the three criteria to be used in the assessment of proposals for housing on the reserve sites in the MLP is community support through allocations in a neighbourhood plan. Although that particular consideration applies to the reserve sites in the MLP, there is consistency with the AKNP, in that the Plan has allocated Site B, thereby indicating it has community support. Therefore, with reservations, the definition of Site B is in general conformity with the strategic policies of the MLP. The reservations are that, firstly, as suggested by MBC in its Regulation 16 consultation response, the more accurate phrasing of a subsequent development plan document within the

⁷ See MLP Appendix 3.

⁸ NPPF: Core planning principles: paragraph 17 bullet point 5.

policy is that it would take priority over it rather than replace it. Secondly, the reference to a criterion of a minimum 33% affordable housing is contrary to the data supporting MLP Policy C4 Affordable Housing Provision, which describes Ab Kettleby as being in Value Area 3 within which the minimum affordable housing provision is 25%.

- 4.11 Therefore, I shall recommend modifying the section of AKNP Policy H1 (Site B) by the use of a more appropriate reference to future development plan documents and the substitution of 25% for 33% in the affordable housing requirement. **(PM1)** Policy H2 provides for a mix of housing types. The policy is in general conformity with MLP Policy C2 and has regard to national guidance.⁹
- 4.12 Policy H3 supports windfall residential development on infill and redevelopment sites. It is a confused policy. The preceding justification states that space has been identified for potential windfall sites around Ab Kettleby and Wartnaby, but then seeks to restrict such development to within the LTD. Only Ab Kettleby has a delineated LTD. Policy H3 then states that windfall development will be restricted to filling a gap in the continuity of an otherwise built up frontage, or on other sites within the built-up area of Ab Kettleby, Wartnaby and Holwell. The justification then states that windfall development should be of no greater size than two new properties on any single site.
- 4.13 The policy contradicts the MLP in several respects. MLP Policy SS3 provides for residential development in sustainable locations on the edge of existing settlements on unallocated sites. As part of the justification of the policy, paragraph 4.2.17 states that where no sites are allocated for new housing, schemes may be permitted where they represent sustainable development or demonstrably meet identified needs and/or help to sustain local services or facilities. Schemes of up to about 10 dwellings may be appropriate within or on the edge of Service Centres, schemes of up to about 5 dwellings for Rural Hubs, and schemes of up to about 3 dwellings for Rural Settlements.
- 4.14 Given that Ab Kettleby is a Rural Hub but Wartnaby and Holwell are Rural Settlements, the appropriate numbers for windfall housing development should be up to about 3 dwellings each for Wartnaby and Holwell. Furthermore, paragraph 4.2.17 does not restrict windfall development to within the built-up area, it may be on the edge of the settlement. Site A and Site B have been allocated for new housing at Ab Kettleby under AKNP Policy H1 and the LTD has been defined in order to protect the nearby open countryside from unnecessary development. Therefore, windfall development beyond the LTD at Ab Kettleby would not normally be supported.

⁹ NPPF: paragraph 50.

- 4.15 Consequently, I shall reword Policy H3 to enable windfall development within the LTD of Ab Kettleby for not more than five dwellings and within and on the edge of Wartnaby and Holwell for no more than three dwellings. **(PM2)** The policy would then conform generally with the aims of MLP Policy SS3 and would avoid the ambiguity of "... about up to..." in the MLP. The policy would also have regard to national guidance promoting sustainable development in rural areas.¹⁰
- 4.16 Policy H4 lists eight design criteria necessary for the support of proposals for housing development. Criteria a), b), c), f), g) and h) are in general conformity with MLP Policy D1 Raising the Standards of Design and have regard to national guidance requiring good design.¹¹ However, criterion d) seeks to restrict any new lighting in areas that are currently dark. This issue is dealt with in MLP Policy EN1 ii 6 but, whereas AKNP Policy H4 d) has the same general aim, the restriction of new lighting does not have regard to national guidance to create safe and accessible environments in that public lighting can assist in reducing crime.¹² In addition, there is no evidence to justify the definition of night time darkness as being more than 50m from an existing street light. Therefore, I shall recommend the deletion of the two relevant sentences from d). **(PM3)**
- 4.17 Criterion e) seeks the provision of 7KW cabling to each home in order to facilitate the subsequent charging of electric vehicles. MLP Policy EN9 (8) requires development proposals to provide charging points for cars, subject to viability. I consider AKNP Policy H4 e) is too detailed and prescriptive in that as the technology evolves other charging devices and facilities may become preferable. Therefore, it does not generally conform with MLP Policy EN9 (8), nor does it have regard to national guidance and I shall recommend the deletion of e). **(PM4)**
- 4.18 Therefore, overall, on the evidence before me, with the recommended modifications PM1, PM2, PM3 and PM4, I consider that the housing policies of the AKNP are in general conformity with the strategic policies of the MLP, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Topic (b) Environment (Policies ENV1, ENV2, ENV3, ENV4, ENV5, ENV6, ENV7, ENV8 and ENV9)

- 4.19 Policy ENV1 defines five Local Green Spaces (LGS). National guidance advises that LGS will not be appropriate for most green areas or open space. The designation should only be used where the green space is

¹⁰ NPPF: paragraph 55.

¹¹ NPPF: Section 7.

¹² NPPF: paragraph 58 bullet point 5.

reasonably close to the community it serves; where it is demonstrably special to the local community, where it is local in character and is not an extensive area of land.¹³ Appendix 8 of the AKNP supporting documentation assesses each of the designated LGS against ten eligibility criteria derived from the NPPF. Together with the accompanying evidence, the appendix provides a full description of each LGS. In response to one of my questions, the AKPC usefully provided the hectareage of each LGS.¹⁴

- 4.20 I accept that the "Noticeboard Field (W35)" and the "Front Paddock (W36), both in Wartnaby, meet the criteria for the definition of LGS. At 3.00ha and 0.7ha respectively, they are not extensive areas of land. The Church Field (A59) (0.8ha) also meets the eligibility criteria. However, the Field south of the Church (A63) is 3.1ha in area and, when added to the adjoining LGS A59, both LGS have an accumulated hectareage of 3.9ha. Whereas, the combined area is not necessarily a tract of land which is unacceptably extensive for the purposes of NPPF paragraph 77, I consider that A63 is not particularly local in character and is basically an open field over which residents along Chapel Lane have views towards the Church and countryside. In my opinion, it relates more to the wider landscape than the local community. Therefore, I shall recommend the deletion of A63 as a LGS, noting that the field is outside the LTD of Ab Kettleby and so will have protection as open countryside, in any event.
- 4.21 The LGS at Brown's Nature Reserve is a combination of P53 and P55. It has an area of 8.37ha. Although the LGS meets some of the NPPF eligibility criteria for designation, I consider that it is relatively detached, it constitutes an extensive area of land and is not appropriate for LGS. The land would have a large degree of protection from development under AKNP Policy ENV2 and I noted on my visit the public warning about danger from underground mine working which would deter most, if not all, potential developers from further investigations. Therefore, together with A63, I shall recommend the modification of Policy ENV1 by the deletion of P53/P55. **(PM5)** The remaining areas of LGS generally conform with MLP Policy EN5 and meet the criteria in national guidance.
- 4.22 Policy ENV2 aims to safeguard sites and features of environmental significance and generally conforms with MLP Policy EN2 and has regard to national guidance.¹⁵ Policy ENV3 seeks to protect and enhance thirteen important open spaces. The protection element of the policy is effectively very similar to Policy ENV1 Local Green Spaces in that it implies a blanket restriction on the loss of the open space to development on land which failed to qualify as LGS using the criteria listed in AKNP Appendix 6.

¹³ NPPF: paragraph 77.

¹⁴ Response from AKPC dated 17 May 2019.

¹⁵ NPPF: paragraph 117.

4.23 I consider that when the policy is used alongside Policy ENV1, it would be contrary to national guidance because of the extensive nature of the restriction which would then create a virtual Green Belt. PPG explains that designation of LGS should not be proposed as a “back door” way to try to achieve what would amount to a new area of Green Belt by another name.¹⁶ Therefore, rather than enabling the widespread restriction of development, I shall recommend a modification to the policy which seeks to safeguard the characteristics of the open spaces which make them important. Four of the open spaces have an added description of “also proposed as LGS” which would be superfluous as a consequence of my recommendation on Policy ENV1, if it is accepted, and should be removed. **(PM6)**

4.24 Policies ENV 4 and ENV 5 seek to safeguard biodiversity and wildlife corridors. Both policies generally conform with MLP Policy EN2 and have regard to national guidance.¹⁷ Policy ENV 6 designates ten local assets of historical and architectural interest. Whereas, I have no adverse comments to make about the items on the list, PPG implies that only local planning authorities may identify non designated heritage assets.¹⁸ The PPG continues with the statement that a substantial majority of buildings have little or no heritage significance and thus do not constitute heritage assets. Only a minority have enough heritage interest for their significance to be a material consideration in the planning process. In response to a question from me, MBC commented that it would not be appropriate at this stage to include a list of local assets of historical and architectural interest.¹⁹ Therefore, with regret, I shall recommend the deletion of the policy. **(PM7)**

4.25 Policy ENV 7 aims to protect areas of ridge and furrow earthworks. I am treating the earthworks as heritage assets, rather than landscape assets, given the reference in the Plan (p 39) to the recognition of some ridge and furrow fields as Scheduled Monuments and the title of Figure 17b in the Plan. Figure 17b of the Plan shows that the areas specified by the policy are extensive. I consider it is possible that earthworks might not cover the whole of the delineated areas and, therefore, rather than seek to protect an entire area unjustifiably, I shall recommend that, firstly, there should be an assessment. Furthermore, Policy ENV 7 states that any proposal must achieve a substantial public benefit in order for the development to be supported. However, the need for any public benefit to be substantial applies to a designated heritage asset.²⁰ Therefore, so that the policy has regard to national guidance, I shall recommend modifying the policy to

¹⁶ PPG Reference ID: 37-015-20140306.

¹⁷ NPPF: Section 11 Conserving and enhancing the natural environment.

¹⁸ PPG Reference ID: 18a-039-20140306.

¹⁹ Response from MBC dated 22 May 2019.

²⁰ NPPF: paragraph 133.

assess the significance of any earthworks that might be affected, then to pursue a balanced judgement having regard to the scale of any harm or loss with the significance of the asset. This would be consistent with the status of the earthworks as non-designated heritage assets.²¹ **(PM8)** The policy would also generally conform with MLP Policy EN13.

- 4.26 Policy ENV 8 seeks to safeguard important views which are shown on Figure 18 of the Plan. The policy lists ten views and, although they are mostly panoramic, the specific viewpoints are described. The policy does not require an outright ban on any development which would be contrary to national guidance, especially given the widespread coverage of the views and vistas. However, the use of the phrase “an unacceptably detrimental impact” is impractical. What is acceptable to one person may be unacceptable to another. Therefore, I shall recommend rephrasing the policy by including a test of significance and the correction of the typographical error reference to Figure 17.²² **(PM9)** The policy would then generally conform with MLP Policy EN1 and have regard to national advice.²³
- 4.27 Policy ENV 9 considers renewable energy generation infrastructure. Nine criteria are listed against which development proposals will be assessed, three of which use the word “unacceptably” which I shall recommend changing to “significantly” for the reasons in the paragraph above in relation to Policy ENV 8. In addition, criterion e) seeks “an appropriate minimum separation between wind turbines over 25m to blade tip and residential properties.” Firstly, the criterion as expressed is too imprecise for effective development management and, secondly, if it were more precise by the inclusion of a specific distance, it might be either inaccurate or unreasonable depending on the circumstances of the particular case. Therefore, I shall recommend removing criterion e). **(PM10)** Consequently, the policy would have regard to national guidance and generally conform with MLP Policy EN10.²⁴ Those who may consider that the deletion of e) might result in wind turbines being built too close to dwellings may be placated by MLP Policy 10 (3) which would also result in an assessment of the impact of the proposed development on residential amenity.
- 4.28 Therefore, overall, on the evidence before me, with the recommended modifications PM5, PM6, PM7, PM8, PM9 and PM10, I consider that the policies of the AKNP for the environment are in general conformity with the strategic policies of the MLP, have regard to national guidance, would

²¹ NPPF: paragraph 135.

²² Noting that Figure numbers might have to change, in any event, if PM7 is accepted.

²³ NPPF: paragraph 109.

²⁴ NPPF: paragraph 97.

contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Topic (c) Community Facilities and Transport (Policies CFA1, CFA2, T1 and T2)

- 4.29 The Plan lists the various community facilities and amenities found in Ab Kettleby, Holwell and Wartnaby and then continues in Policy CFA1 by selecting about a dozen of them, each of which is intended to be retained other than in circumstances where it can be demonstrated there is no longer any need or demand for it, or it is not viable, or there is a proposal for an alternative which is equally appropriate and accessible. Policy CFA2 supports the provision of new or improved community facilities, subject to meeting five criteria.
- 4.30 Both policies have regard to national guidance²⁵. They also conform generally with strategic policies in the MLP, subject to the exclusion of Policy CFA2 c) which, in effect, states that the development proposed should not generate a need for parking which cannot be met. I appreciate the desirability of avoiding parking congestion which could be caused by new or improved community facilities failing to provide sufficient on-site parking. However, in my experience, the use of community facilities in a village has peaks and troughs depending on the facility and the event. If parking on site is provided for a peak event, there would be a significant amount of surplus land for the period until the next major event. Therefore, it would be impractical and unreasonable to plan for on site parking to cater for the maximum demand in a village where space is constrained. The MLP indicates that parking standards used to be provided in the 6Cs Design Guide.²⁶ This has been replaced by Leicestershire Highway Design Guide (LHDG) which is an interim guide, but which includes parking standards. I shall recommend a modification to Policy CFA2 c) to indicate that parking provision should be in accordance with the LHDG. **(PM11)** Subject to that modification, Policy CFA1 and CFA2 would generally confirm with MLP Policy C7 Rural Services.
- 4.31 Policy T1 seeks to minimise the adverse impacts of traffic and parking caused by new housing and commercial development. Policy T2 aims to resist development proposals which would result in a loss of, or have a significant adverse effect on, the footpath and bridleway network. Both policies are in general conformity with MLP Policy IN2 and have regard to national guidance²⁷, subject to two comments. The first is that Policy T2 includes intentions a), b), and c) which are akin to Community Actions rather than a land use based policy and I shall recommend transferring into the Community Action T2 section. **(PM12)**

²⁵ NPPF: paragraph 28 bullet point 4 and paragraph 70.

²⁶ MLP: paragraph 6.3.22.

²⁷ NPPF: Section 4 Promoting sustainable transport and paragraph 75.

4.32 The second comment is that new development has only to mitigate its own residual impact. It cannot be expected that developers mitigate existing concerns. Therefore, Policy T1 e) which seeks the improvement and creation of footpaths and cycleways to key village services should not be a requirement of new development. For example, it may involve land which is not under the control of the developer and may prejudice the viability and deliverability of any proposed development. However, rather than deleting the objective from the Plan, I consider it should be transferred to the following section on footpaths, bridleways and cycle routes where it would become a T2 Community Action, together with items a), b) and c) from Policy T2. **(PM13)**

4.33 Accordingly, on the evidence before me, with the recommended modifications PM11, PM 12 and PM13, I consider that the policies of the AKNP for community facilities and transport are in general conformity with the strategic policies of the MLP, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Topic (d) Businesses and Employment (Policies BE1, BE2, BE3, BE4, BE5 and BE6)

4.34 Policy BE1 provides support for existing businesses and employment opportunities. Policy BE2 provides support for new business and employment. Policy BE3 supports proposals for the use of part of a dwelling, or a small free-standing building in its curtilage, for home working. Policy BE4 supports farm diversification. Policy BE5 supports proposals to enhance tourism. Policy BE6 supports proposals to enhance broadband infrastructure and mobile phone signals. All six policies generally conform with MLP Policy EC2, together with MLP Policy EC8 in the case of Policy BE5 and MLP Policy IN4 in the case of Policy BE6. The six policies have regard to national guidance for supporting a prosperous rural economy and, in the case of broadband improvements, supporting high quality communications infrastructure.²⁸

4.35 Therefore, on the evidence before me, I consider that the policies of the AKNP for business and employment are in general conformity with the strategic policies of the MLP, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Community Actions

4.36 The Plan includes several Community Actions described in various relevant sections following the policies. As the Plan recognises in the Foreword,

²⁸ NPPF: paragraphs 28, 42 and 43.

these are aspirations that will benefit the Parish and will be considered and progressed as far as practicable by the Parish Council. They may also require the involvement of other groups, organisations and stakeholders. The Community Actions set out how the Parish Council will work alongside other parties to ensure the needs of the community are delivered. A Community Action is not within the scope of neighbourhood planning or the examination. Nevertheless, together, they demonstrate the positive involvement of the community in the neighbourhood planning process and the wider aspects of life in Ab Kettleby Parish.

5. Conclusions

Summary

- 5.1 The Ab Kettleby Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard to all the responses made following consultation on the Neighbourhood Plan, and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

The Referendum and its Area

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The Ab Kettleby Neighbourhood Plan, as modified, has no policy which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the boundary of the Plan.
- 5.4 I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

Overview

- 5.5 In conducting the examination, I enjoyed reading the Plan and visiting Ab Kettleby, Holwell and Wartnaby. The Plan is concise and comprehensive. The Consultation Statement and especially the updated Statement of Basic Conditions were extremely helpful. The Parish Council, the supporting Advisory Committee and other volunteers are to be commended for their efforts in producing the document which, incorporating the modifications I have recommended, will make a positive

contribution to the Development Plan for Ab Kettleby and will assist in creating sustainable development.

Andrew Mead

Examiner

Appendix: Modifications

Proposed modification number (PM)	Plan reference	Modification
PM1	Policy H1	<p>Replace second bullet point development consideration at site B with “it becomes necessary to provide additional homes in the Parish in accordance with any development plan document which takes priority over the Melton Local Plan.”</p> <p>In second criterion for site B, delete: “... 33% ...”, replace with “...25%...”.</p>
PM2	Policy H3	<p>Delete criterion a) and replace with:</p> <p>“a) Fills a gap in an otherwise built up frontage or on other sites within the Limits to Development of Ab Kettleby with no more than five dwellings; fills a gap in an otherwise built up frontage or on other sites within or on the edge of Wartnaby and Holwell with no more than three dwellings;”.</p>
PM3	Policy H4 d)	Delete the second and third sentences.
PM4	Policy H4 e)	Delete criterion e).
PM5	Policy ENV 1	Delete d) Field south of church, Ab Kettleby (A63) and e) Brown’s Hill Nature Reserve, Holwell (P53/P55).
PM6	Policy ENV 3	<p>Rephrase the first section of the policy: “The policy lists Important Open Spaces below. Their significant features as described in Appendix 6 will be safeguarded and, where appropriate, enhanced: ...”.</p> <p>Delete: “also proposed LGS” from</p>

		W35, W36 A59 and A63.
PM7	Policy ENV 6	Delete the policy.
PM8	Policy ENV 7	Delete the first paragraph and replace with: “Development proposals which may affect areas of ridge and furrow earthworks shown in Figure 17b should include an assessment of the presence and significance of the heritage asset. In weighing applications that affect the earthworks directly or indirectly, a balanced judgment will be required having regard to the scale of any harm and the significance of the asset.”
PM9	Policy ENV 8	Replace the policy with: “Development proposals should respect the open views and vistas as shown in Figure 18. Proposals which would have a significantly detrimental impact on these views and vistas will not be supported.”
PM10	Policy ENV 9	Replace “... an unacceptably ...” with “... a significantly ...” in criteria a), b) and c). Delete criterion e).
PM11	Policy CFA2	Replace criterion c) with: “provides parking facilities which meet the standards required by, or as otherwise advised by, the local highway authority;” .
PM12	Policy T2	Transfer the second sentence of the policy and the three subsequent items a), b) and c) to Community Action T2.
PM13	Policy T1	Transfer e) to Community Action T2.