

MELTON LOCAL PLAN EXAMINATION
STATEMENT OF MELTON BOROUGH COUNCIL
8th January 2018

MATTER 9
Policies for the environment

QUESTION 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?

9.1.1 EN1 Landscape

9.1.1.1 Yes – Policy EN1 provides clear guidance for the enhancement and protection of Borough’s landscape. The policy makes it clear through its clauses how it will ensure new development is sensitive to the landscape setting through taking into account the Melton Landscape Character Assessment ([MBC/LC1b](#) and other earlier reports) and requires proposals to respond to design guidance in the individual assessments within the ‘Areas of Separation, Settlement Fringe Sensitivity Study (MBC/LC3a, [MBC/LC3b](#) and [MBC/LC3c](#)) reports. The policy provides a firm foundation for Neighbourhood Plan site allocation and design guidance policies through its reference to evidence in MBC/LC3.

9.1.1.2 Through its clear guidance, the policy helps achieve the high-level strategic environment objectives and priorities (16, 17 and 18) outlined in the submitted Plan in Chapter 3 and helps address the environment issues (no. 7) identified in Table 1 of the Pre-submission draft Melton Local Plan.

9.1.1.3 The policy has been based on proportionate evidence (as mentioned above) as well as tested against reasonable alternatives through the iterations of the Sustainability Appraisal (SA) right from the outset of the plan-making. This is explained in 4.9 on page 39 of the SA report, [MBC/WP2e](#).

9.1.1.4 The policy will take effect through the development management process and will be monitored regularly through the Authority Monitoring Report. As it stands, the reasoned justification could be clearer about the areas where the dark skies element of criterion 6 would apply – a minor modification is therefore suggested to reference to CPRE’s dark skies map in paragraph 7.1.6 in the submitted Local Plan, and in Policy EN 1.

“7.1.6 One valuable aspect of the rich, natural environment of the Borough is its dark skies. There are two astronomical societies in the Borough which consider dark skies to be a valuable asset for residents and an important aspect of tranquillity. The Campaign to Protect Rural England (CPRE) have produced a map for England’s light pollution and dark skies¹. National planning policy requires local planning authorities to encourage good design in order to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. Sources of light pollution can include advertisements and floodlighting of buildings and sports facilities.”

¹ <http://nightblight.cpre.org.uk/maps/>

“Policy EN1

In addition, new developments will be supported where they:

6. Do not adversely affect areas of tranquility, including those benefiting from dark skies, unless proposals can demonstrate how it is intended to contribute towards minimising light pollution. ~~be adequately mitigated through the use of buffering~~

9.1.1.5 These are in addition the suggested modifications included in the document, [ID1c](#).

9.1.1.6 The policy is deliverable and is based on evidence base that provides guidance for effective joint working between the Council and Neighbourhood Plan Groups, and through engagement with developers during the pre-application process. As explained above, is justified and effective as per the national guidance (para 182, NPPF). This is also explained in various sections of the report [MBC/LC3c](#), and summarised in paragraph 2.1 of the report.

9.1.2 EN2 Biodiversity and Geodiversity

9.1.2.1 Policy EN2 provides clear guidance for the protection and enhancement of biodiversity and geodiversity throughout the Borough. The Policy aims to achieve ‘net gains’ in the number and quality of ecologically valuable areas and links between them by requiring the design of future development to contribute to strengthening existing wildlife networks.

9.1.2.2 The policy helps meet strategic objectives 20 and 22 of the submitted Local Plan (at paragraph 3.3.4).

9.1.2.3 The policy has been tested through the SA process and is based on proportionate evidence – an updated Biodiversity and Geodiversity Study, [MBC/BG1a](#) that identifies designated habitats and geological sites in the Borough. The study also identifies Wildlife corridors and Biodiversity Enhancement Sites which could provide opportunities for biodiversity offsetting in the Sustainable Neighbourhoods as well as potential Local Wildlife Sites that are worthy of designation.

9.1.2.4 The policy is deliverable through the development management process, asking developers to take into account material that is already published. This will also be measured against the baseline information provided in the published reports.

9.1.2.5 The policy is deliverable and is based on evidence base that has been consulted with the partners through Local Plan consultations, and as explained above, is justified and effective as per the national guidance (para 182, NPPF).

9.1.3 EN3 The Melton Green Infrastructure Network

- 9.1.3.1 Policy EN3 provides clear guidance for the protection and enhancement of green infrastructure in the Borough. The policy seeks to achieve this by supporting the enhancement of the green infrastructure areas identified in the 6Cs GI Strategy, MBC/GI2a-e through a series of measures outlined in the policy. The policy is also informed by Green Infrastructure Strategy for Melton ([MBC/GI3](#)).
- 9.1.3.2 The policy helps meet the strategic objective 16 of the submitted Local Plan.
- 9.1.3.3 The policy has been tested against the reasonable alternatives through the iterations of the SA since the outset of the plan-making. An explanation of this is included in Table 4.10 on page 40 of the SA report [MBC/WP2e](#).
- 9.1.3.4 The policy is deliverable through the development management process, asking developers to take into account material that is already published, and any monitoring done by third parties, such as Woodland Trust for woodland cover, and reporting of schemes to enhance the Green Infrastructure network as outlined in the Policy as well as the study.
- 9.1.3.5 Taking into account all of the above, the Council considers that the policy is clear and is justified and effective in line with para 182 of the NPPF.

9.1.4 EN6 Settlement Character

- 9.1.4.1 The Policy relates to open areas identified within the AoS, Settlement Fringe Sensitivity and Local Green Space study (MBC/LC3a-c) which have the 'potential' for Local Green Space designation. The Policy should be read alongside Policy EN5 for the protection of these areas. A minor modification within paragraph 7.6.1 is suggested to cross-refer to paragraph 7.5.3 as below.

"7.6.1 In addition to Local Green Space designations there are many open areas of land within or adjoining the general built up area of settlements which make an important contribution to the character of the street scene or the physical environment of the settlement as a whole. These include those spaces which have the potential for Local Green Space designation in future as mentioned in paragraph 7.5.3."

In response to the representations received during the PSD stage as included in the [schedule](#) of responses to representations for Environment Chapter, page 47 under EN6, a minor modification is suggested to add a paragraph 7.6.3 in the supporting text of the policy to make reference to Historic England's Advice Note 3 as below.

"7.6.3 The guidance set out in Historic England's Advice Note 3 should be given due consideration for managing change within the settings of heritage assets including historic buildings, sites, areas and landscapes."

- 9.1.4.2 As the settlement character is a locally important feature, therefore for local influence, the Policy is also reliant on Neighbourhood Plans that are encouraged to identify features within settlements which contribute positively towards settlement character. The four most advanced Neighbourhood Plans (Asfordby, Wymondham, Clawson Hose & Harby, and Broughton & Dalby) have all proposed designating additional Local Green Spaces.
- 9.1.4.3 The policy meets the environment objectives 16, 17, 18 and 20 of the submitted Local Plan. The policy has been tested through the SA process and has performed well against SA objectives.
- 9.1.4.4 The effectiveness of the Policy will be checked through the number of schemes granted planning permission contrary to the Policy in accordance with the Monitoring Framework [MBC/G4d iii](#).
- 9.1.4.5 As explained above, the Policy provides clear, justified and effective guidance for the protection of settlement character in the Borough.

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

- 9.2.1 Policy EN4 is based on the 'Areas of Separation, Settlement Fringe Sensitivity Study and Local Green Space Study 2015; 2016' (MBC/LC3a-c). The study assessed a number of areas within the borough and identified some that are particularly important in terms of preventing coalescence and protecting an important landscape.
- 9.2.2 The Study recognises that some development may be acceptable in these Areas of Separation (AoS), provided that the principles of maintaining separation and tranquillity are maintained. It goes on to provide guidance for each area, which should be used to inform the masterplanning of future proposals and the consideration of planning applications. The application of this policy has been explained with reference to Burton Lazars and Melton Mowbray as well as Eye Kettleby and Melton Mowbray in Matter 4 (Question 4.5ii).
- 9.2.3 The policy has been tested and appraised throughout the SA process and is covered in detail in Appendix 10 of the main SA report of the PSD stage ([MBC/WP2e, page 924](#))

- 9.2.4 The effectiveness of the policy will be reviewed through regular monitoring as outlined in the Monitoring Framework of the submitted Local Plan on page 13 of appendix 5 in [MBC/G4d iii](#) document.
- 9.2.5 The identified AoSs are marked on the Policies Map through zig zig lines - these do not have a defined boundary because their purpose is not to prevent all development, but rather to prevent development which would result in coalescence and harm to individual settlement character. They are not landscape designations, but areas which are identified as being particularly vulnerable to the effects of development. As such, this policy is positively prepared and flexible.
- 9.2.6 Taking into account all the above, the Council's view is that the policy is soundly based, as it is positively prepared, justified, and effective and helps deliver sustainable development in accordance with national planning policy.

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

- 9.3.1 The policy is informed by the 'Areas of Separation, Settlement Fringe Sensitivity Study and Local Green Space Study 2015; 2016' (MBC/LC3a-c). The policy is positively prepared as the study identifies sites worthy of Local Green Space (LGS) designation which score well against the NPPF criteria² **as well as** those spaces which may have the potential for LGS designation in future subject to enhancement to make them more robust with regard to Local Green Space criteria. The Policy also encourages Neighbourhood Plans to designate additional Local Green Spaces as evidenced in the Study.
- 9.3.2 The policy is justified as it has undergone the SA process through its iterations throughout the plan-making process and has been tested against reasonable alternatives. Option 2 (designating specific land through the Local Plan as opposed to developing a criteria based policy approach) was taken forward following the SA assessment of the Policy. This is explained in Table 4.11 in SA report [MBC/WP2e](#). The policy is based on the evidence that has been consulted on during the Local Plan consultations.
- 9.3.3 The policy is effective and will be tested by monitoring the number of schemes granted planning permission contrary to the policy as outlined in the Monitoring Framework, on page 13 of appendix 5 in [MBC/G4d iii](#) document. As with Policy EN6, Policy EN5 is also reliant on Neighbourhood Plans that are encouraged to identify and designate additional Local Green Spaces as evidenced in the Areas of Separation study. The four most advanced Neighbourhood Plans (Asfordby, Wymondham, Clawson Hose & Harby, and Broughton & Dalby) have all proposed designating additional Local Green Spaces

² Para 77, NPPF

- 9.3.4 The identified Local Green Space areas within the study are based on the criteria set out for these in para 77 of the NPPF.
- 9.3.5 For the reasons set out above, the Council's view is that the policy is soundly based.
- 9.3.6 The number of designated Local Green Spaces is 61. These are not named within the Policy but are identified on the Policies Map. The Policy refers to the Study, and to Neighbourhood Plans which must be read alongside the Local Plan policies for determination of applications to protect the Local Green Spaces in the Borough. A minor modification within the policy is suggested to include the wording as below:

"Development proposals will be required to protect designated Local Green Spaces in the Borough as shown on the Policies Map..."

QUESTION 9.4 Regarding Policy EN7 (Open Space, Sport and Recreation), are the threshold of 10 dwellings or more, the quantity standards and requirements and the policy criteria soundly based?

- 9.4.1 Policy EN7 is informed by Melton Open Space Assessment ([MBC/OS1](#)), Melton Open Space Study Standards Paper ([MBC/OS2](#)), Playing Pitch Strategy (MBC/Sr1a-b), and Sports Facilities strategy 2017 (MBC/SR2a-zb).
- 9.4.2 The specific facilities and provision identified in A to G. of the policy (as amended by Focused Change 9) are based on a robust assessment of need for open space, sport and recreation facilities in Melton and the consideration of existing and future demand for provision based on population distribution and forecasts, in accordance with national guidance³ as well as in accordance with paragraphs 73 and 74 of the NPPF. The quantity standards and the requirements within the table in the Policy are informed by the methodology outlined in the 'Open Space Standards Paper' ([MBC/OS2](#), pages 15-22). The applicants can find information on identifying deficiencies for open space typologies in the same report, [MBC/OS2, pages 5-7. Information on accessibility standards for the open space typologies can be found on the same report on pages 12-13.](#) Melton Playing Pitch Strategy, [MBC/SR1b](#) should be referred to for identifying deficiencies in playing pitches and football pitches. The threshold of 10 dwellings or more is based on viability, development smaller than 10 dwellings may not be viable to provide the open, space and recreation facilities. This was considered a reasonable threshold reflecting the level of demand and use that would arise from smaller developments. The criteria within the policy are also informed by the evidence base.

³ National Planning Policy Guidance (<https://www.gov.uk/guidance/open-space-sports-and-recreation-facilities-public-rights-of-way-and-local-green-space>), and Paragraph 73 in NPPF.

- 9.4.3 Various sections of the policy are tested in the SA throughout its iterations. These can be seen in detail in the tables in Section 4 of the main SA report of the PSD stage, [MBC/WP2e](#).
- 9.4.4 The effectiveness of the policy will be tested through annual monitoring as outlined in the Monitoring Framework through the amount of open space and sport and recreation facilities in the Borough.
- 9.4.5 The policy has been positively prepared, based on proportionate evidence, is justified and will be delivered through effective joint working between the partners. Taking this into account, the policy is soundly based.

QUESTION 9.5 In the case of Policy EN9 (Ensuring Energy Efficient and Low Carbon Development), is the proposal to apply almost all of the policy criteria to all development, regardless of its size or type, reasonable and consistent with national planning policy and guidance? Is the requirement for a statement as set out in the 7th bullet point reasonable and proportionate? What would constitute 'major development' in the 11th bullet point?

- 9.5.1 Policy EN9 is the key means of complying with s19(1A) of the Act, this has been explained in detail in the response to Question 1.3 in Matter 1.
- 9.5.2 Both NPPF and NPPG encourage use of energy efficiency and low carbon development methods. Apart from referring to 'low carbon economy' in the 'environment' role of sustainable development, paragraphs 93-98 of the NPPF promote proactive strategies to mitigate and adapt to climate change and support the move to a low carbon future.
- 9.5.3 NPPG has a whole section on renewable and low carbon energy that provides guidance for local planning authorities for developing a strategy for renewable and low carbon energy. The Policy (EN9) suggests various methods that can be used in future developments to encourage use of low carbon energy methods. Although not all of the criteria within the Policy are found in the national guidance, the policy does say '*...subject to viability...*' As mentioned in paragraph 7.18.5 in the submitted Local Plan, the sustainability statements accompanying the development proposals will show how the matters have been considered and explain what sustainable features are proposed as part of the development. The schemes will not be necessarily expected to demonstrate all of the matters listed in the policy. The sustainability statements would be proportionate to the size of the proposed scheme. A minor modification to paragraph 7.18.5 is suggested to add the word 'proportionately' as shown below:

"7.18.5 All development proposals will be expected to be accompanied by a proportionate statement of their sustainability. The statement will show..."

- 9.5.4 The policy is not prescriptive, but says 'will be supported', so not all of the criteria within the policy are to be applied to future proposals, and some of the criteria only ask that an element has been considered.
- 9.5.5 Major development as such in the local plan has been taken considered for a development of 10 dwellings or more (see document [ID1b](#), para 6.1)

Is Policy EN10 (Energy Generation from Renewable Sources) consistent with the Written Ministerial Statement concerning wind energy development (June 2015) and with Planning Practice Guidance? Does the policy require clarification to refer to the identification of the LCUs on the Policies Map and to explain how criterion 17 of the policy will be applied? Is clarification also required about the point at which criterion 18 will need to be addressed by an applicant?

- 9.6.1 It is considered consistent with the WMS as it identifies areas suitable for wind energy development in a Local Plan –it is not, for example, only showing the wind resource as favourable to wind turbines that the WMS advises against. It is somewhat complex because the Policy's use of LCU's has delivered different outcomes in different areas, but proceeds to relate these to types (Heights) of turbines and their clustering based on landscaped sensitivity., which itself is a consequence of the scale and diversity of our rural area.
- 9.6.2 Criterion 17 would benefit from clarification by the inclusion of the Landscape Character Assessment Units on the Policies Map and in order to avoid the need to cross reference the Melton and Rushcliffe Landscape Sensitivity Study 2014 for the spatial definition of the areas referred to. The criterion addresses only the height and cluster size of wind turbine proposals which are considered to be clear in the related table that concludes Policy EN10. This criterion - along with 15, 16 and 18 - are specific to wind energy and are introduced in the introductory text to criteria 15 as "planning permission **will only** be granted if" which it is considered offers sufficient clarity.
- 9.6.3 Criterion 18 reflects the wording in the WMS. Planning Applications for turbines are unusual in that they carry the responsibility for the applicant to carry out 'pre application' consultation under the Development Management Procedure Order 2015, which is then followed by statutory consultation requirements undertaken by the LPA. This offers more than one opportunity for impacts to be raised and equally for applicants to demonstrate responsiveness to issues raised by the local affected community (i.e to 'address' them). It is not considered appropriate to constrain this by specifying stage(s) at which they should do so. In our experience there is inconsistency between the impacts raised at pre application and post application consultation stages, and, in the constructive spirit required by NPPF para 187, there should be provision to allow opportunities for solutions to be found during the application process.

QUESTION 9.7 Are Policies EN11 (Minimising the Risk of Flooding) and EN12 (Sustainable Drainage Systems) soundly based? Are the policy criteria clearly expressed, justified and consistent with national planning policy?

- 9.7.1 Paragraph 165 of NPPF mentions that local plans may require Strategic Flood Risk Assessment amongst other assessments. Paragraphs 99-104 provide guidance on minimising the risk of flooding. Paragraph 104 suggests use of sustainable drainage systems. National planning policy requires a risk based sequential approach to flood risk.
- 9.7.2 Policies EN11 and EN12 are positively prepared and are designed to minimise flood risks in the Borough through different methods. Policy EN11 will direct development to areas of lower flood risk, and Policy EN12 promotes the use of SuDS in new development which will help to mitigate the potential effects of development on greenfield land in relation to reduced infiltration. Both policies are informed by the Strategic Flood Risk Assessment (SFRA) reports ([MBC/FR1a](#) and its appendices, and the updated report [MBC/FR1c](#) and its appendices). The SFRA reports provide evidence to make informed decisions including detailed assessments for large and small scale site allocations, as well as recommendations on the likely acceptability of different types of sustainable drainage systems.
- 9.7.3 The policies encourage working in partnership with the Environment Agency, Leicestershire County Council as Lead Local Flood Authority, Internal Drainage Boards, utility providers, developers and landowners.
- 9.7.4 The policies have been assessed and scored well against the sustainability objectives within the Sustainability Appraisal.
- 9.7.5. The policies' effectiveness will be tested by considering the decisions on development proposed in flood risk areas and through large scale development incorporating sustainable drainage systems. This is explained in the Monitoring Framework published alongside the submitted Local Plan on page 15 of Appendix 5 in document, [MBC/G4d \(iii\)](#).
- 9.7.6 Note that the Plan's objective 19, 'to reduce the risk of flooding and avoid development in areas prone to flooding has also been taken into account in the site allocation selection process – in the assessments themselves ([MBC/HA1a-c](#)) and the ([MBC/FR2a- b](#)).
- 9.7.7 As explained above, the policies and the criteria are positively prepared, justified, effective and consistent with the national policy.

Does Policy EN13 (Heritage Assets) provide appropriate protection for the Borough's heritage assets, consistent with national planning policy? Is the need to update conservation area appraisals an impediment to effective application of the policy?

- 9.8.1 The NPPF encourages the conservation of heritage assets in a manner appropriate to their significance in the core planning principles⁴. Policy EN13 aligns with the NPPF guidance in paragraphs 126-141 and paragraph 169. The policy is positively prepared and provides appropriate protection for the Borough's heritage assets. Policy EN13 augments Chapter 12 of the NPPF through the identification of Melton Borough Council's heritage assets that are currently at risk through neglect or decay. This supports Paragraphs 131-132 of the NPPF which requires the Local Authority to secure the optimum viable use of heritage assets, listed or non-designated. Furthermore Policy EN13 allows for the consideration of the reuse of buildings through sustainable tourism. Once the demand for their original use has expired an alternative use must be found and this policy can be used in accordance with Paragraphs 131, 132, 135 and 137 of the NPPF. Melton Borough Council currently has one Article 4 Direction placed on a non-designated heritage asset within Melton Mowbray Town Centre at St Marys Hospital and this has proved an effective deterrent in seeking to prevent the loss of non-designated heritage assets on the site. The acknowledgment in Policy EN13 that Article 4 Directions may be used in future provides the Local Authority with the opportunity adopt a proactive approach when seeking to preserve its historic environment.
- 9.8.2 Melton Borough Council's Conservation Area Appraisals are comprehensive documents that inform the consideration of every planning application that affects the special interest of a Conservation Area or designated heritage assets within it.
- 9.8.3 There have been no revisions to Conservation Area Appraisals over the last ten years. The setting of some heritage assets will have evolved since the CAA documents were completed.
- 9.8.4 Therefore, a site visit is carried out to provide detailed comments on every planning application affecting a Conservation Area in conjunction with the supporting material of the MBC Conservation Area Appraisals. This is carried out by the Conservation Officer and a site specific appraisal is formulated in accordance with Section 72 of the Listed Building and Conservation Areas Act (1990) and Paragraph 135 and 137 of the National Planning Policy Framework (NPPF).
- 9.8.5 In this way, CAAs are effectively being updated in parts, where development pressure is greatest.

⁴ Para 17, NPPF

9.8.6 The lack of up to date CAAs is not an impediment.

END