

Stathern Neighbourhood Plan 2020-2036

Submission Version

A Report to Melton Borough Council on the Examination of the Stathern Neighbourhood Plan

John Slater BA (Hons), DMS, MRTPI

John Slater Planning Ltd

johnslaterplanning@gmail.com

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Executive Summary

My examination has concluded that the Stathern Neighbourhood Plan should proceed to referendum, subject to the Plan being amended in line with my recommended modifications, which are required to ensure the plan meets the basic conditions. The more noteworthy include –

- Retaining the Limits to Development policy.
- Including within the definition of windfall, development which meets the circumstances set out in para 80 of the NPPF.
- Require financial contributions in lieu of on-site affordable housing to have to be robustly justified.
- Not to designate Local Green Space which has already been designated in the Local Plan.
- Remove from the list of Important Open Spaces those sites which are also Local Green Spaces.
- Remove the flood risk element from the policy covering Woodland, Trees and Hedgerows.
- Remove 2 sites of historical significance as they do not meet the plan's criteria for inclusion.
- Delete the flood risk resilience policy
- Removing the Grantham Canal from the list of community assets but adding the village “garage, café and general store”
- Delete the Toft's Hill Policy.
- Removing the restrictions on new businesses having to be located within the Limits to Development.
- Remove the need for tourism uses to be within the limits of development
- Amend the broadband policy to remove the requirements for developers to deliver high speed broadband services.

The referendum area does not need to be extended beyond the plan area.

Introduction

1. Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the adopted Melton Local Plan. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.
2. The neighbourhood plan making process has been undertaken under the supervision of Stathern Parish Council. A Neighbourhood Plan Steering Group was appointed to undertake the plan's preparations, which was made of Parish Councillors and local residents.
3. This report is the outcome of my examination of the Submission Version of the Stathern Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be "made" by Melton Borough Council.

The Examiner's Role

4. I was appointed by Melton Borough Council in February 2021, with the agreement of Stathern Parish Council to conduct this examination.
5. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 43 years' experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant and director of John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of Melton Borough Council and Stathern Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.
6. Under the terms of the neighbourhood planning legislation, I am required to make one of three possible recommendations:
 - That the plan should proceed to referendum on the basis that it meets all the legal requirements.
 - That the plan should proceed to referendum, if modified.

- That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements
7. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Stathern Neighbourhood Plan area.
 8. In examining the Plan, the Independent Examiner is expected to address the following questions
 - Do the policies relate to the development and use of land for a designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
 - Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 - namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
 - Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has the plan been developed and submitted by a qualifying body?
 9. I am able to confirm that the Plan, if modified in accordance with my recommendations, does only relate to the development and use of land, covering the area designated by Melton Borough Council, for the Stathern Neighbourhood Plan, on 7th May 2019.
 10. I can also confirm that it does specify the period over which the plan has effect, namely the period from 2020 up to 2036.
 11. I can confirm that the plan does not cover any “excluded development”.
 12. There are no other neighbourhood plans covering the area identified by the neighbourhood area designation.
 13. I am satisfied that the Stathern Parish Council as a parish council can act as a qualifying body under the terms of the legislation.

The Examination Process

14. The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.
15. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.
16. Firstly, I am satisfied that I can properly examine the plan without the need for a hearing.
17. Upon my appointment there was a short delay before I could make a site visit to the parish due to the COVID-19 restrictions then in place. However, I was able to

make a visit on Monday, 15th March 2021. I approached Stathern from the road from Melton Mowbray and I drove initially through the village and noted the two local plan allocation sites, Point Farm and land adjacent to Levesley House. During my visit, I paid particular attention to where the neighbourhood plan was proposing to define the limits to development. I was able to gain an appreciation of the different building types within the village, which had been ably illustrated in Table 1 of the plan.

18. I viewed each of the local green spaces as well as the important open spaces. I saw for myself most of the proposed non designated heritage assets and I was able to identify the parish's community facilities, which are referred to in the document.
19. I then parked my car up by the church and walked up the path to Toft's Hill.
20. I then drove out the village and saw the Local Plan reserve site at Blacksmiths End. I was able to tour around the countryside parts of the parish, noting the disused railway line and the route of Grantham Canal. I was able to take in a number of the important viewpoints which are highlighted in the plan.
21. Following my return from Leicestershire, I issued the document entitled "Initial Comments of the Independent Examiner" dated 16th March 2021. I received a response from the Borough Council on 12th April 2021 and from the Parish Council on 13th April 2021.
22. On 22nd April 2021, I received an unsolicited letter from Marrons Planning Limited which raised important matters relating to an appeal decision which had been the subject of a recent Section 288 challenge by Melton Borough Council. That challenge related to an appeal decision which had allowed the erection of nine dwellings at Blacksmiths End, which was part of the proposed reserve site. The issues surrounded the wording of one of the policies, as published on the Borough Council's website compared to the wording in the version of the Local Plan which had been formally adopted. I also received a further letter from the owner of the site at Toft's Hill, which has been the subject of a Regulation 16 representation and which was the subject of a planning appeal.
23. On 4th May 2021, I issued another document entitled "Further Comments of the Independent Examiner" which referred to this correspondence and asked the number of questions, primarily of Melton Borough Council. In response I was sent a copy of the Borough Council's claim, on 1st June 2021, but I was advised, based on counsel's advice that the Borough Council would not be able to fully address my questions until the end of June.
24. The Borough Council asked for the examination of the neighbourhood plan to not progress until the matter under challenge had been determined by the Courts. The Parish Council on 1st June 2021 argued that the examination process should not have to wait for the outcome of the Section 288 challenge.
25. On 8th June 2021, I issued "Additional Comments of the Independent Examiner" which summarised the responses I had received and, in the document, I recorded that I had agreed to the need to allow the legal proceedings to take their course,

as the outcome would be very pertinent to one of the sites referred to in the neighbourhood plan.

26. On 23rd June 2021, I was advised that the Borough Council had been successful in being granted permission to challenge the decision, which meant that the case would actually be considered by the Court. On 6 July 2021, I was advised by the Borough Council that it would not be able to respond to any of my questions until the legal proceedings have been finally disposed of. I was later advised that the date had been set for the hearing, specifically 7th October 2021.
27. On 5th October 2021, I proposed a sequence of events relating to how the examination would proceed, once the hearing had been held and the judgement issued. These were confirmed in a document I issued on 10th November 2021 entitled "Programme for the Next Stages of the Examination."
28. The actual judgement was published on 29th November 2021. It allowed the Borough Council's challenge and the appeal decision was remitted to the Planning Inspectorate.
29. The receipt of the judgement allowed the Borough Council to be able to finally respond to the questions I had raised, back in April, in my "Further Comments" document. These were received on 16th December 2021. On 17th December I issued the document entitled Consultation on Melton Borough Council's Responses to the Examiners questions and Marrons Planning Ltd letter dated 22nd April 2021. This was distributed to Marrons Planning and Stathern Parish Council.
30. The Parish Council's response was received on 11th January 2022 and that from Marrons Planning Ltd was received on 17th January 2022. I then allowed for a further round of consultation over a two- week period which would allow these final comments to be considered in all parties. On 1st February 2022, the Parish Council submitted its final comments. The Borough Council's response to the Parish Council and Marron Planning's submission were received on the 2nd February 2022 and this included further suggested amendments to Policies H1 and H2. This prompted a further letter from Marron Planning Ltd, after the deadline, which proposed further amendments to the Borough Council's proposed modifications.
31. All the relevant documentation has been placed on the respective neighbourhood plan websites.

The Consultation Process

32. Once the Parish Council decided to embark upon a neighbourhood plan, a Steering Group was appointed and met for the first time on 17th April 2019. It organised an open event to inform the community of the neighbourhood plan process and to get initial views from stakeholders and residents. This was held on 29th September 2019 and was publicised by a leaflet flyer which was distributed to every household in the parish on 4th August 2019. Approximately 70 people attended.
33. A further public feedback event was due to be held on 27th March 2020 but that had to be cancelled due to COVID-19 restrictions. However, owners of the

proposed local green spaces, important open spaces and local heritage assets were contacted on the 28th May 2020.

34. Despite the pandemic, the Steering Group used a variety of other means to publicise its work on the neighbourhood plan including use of the village/ Parish Council noticeboard, the Stathern Star newsletter, social media and the Parish Council website.
35. All this activity culminated with the preparation of the Pre-Submission version of the neighbourhood plan which was the subject of a six - week consultation, known as the Regulation 14 consultation, which ran from 1st August to 18th September 2020. In total, responses were received from 30 persons and organisations, which are fully set out in Appendix CS4 of the Consultation Statement, which both records the comments made and the resultant changes made to the plan as a result of consultation responses.
36. Whilst clearly hampered by the COVID 19 pandemic, which limited face to face consultation, I am satisfied that the Parish Council has actively sought the views of local residents and other stakeholders and this input has helped shape the plan.

Regulation 16 Consultation

37. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation which took place over a 6-week period, between 11th November 2020 and 23rd December 2020. This consultation was organised by Melton Borough Council, prior to the plan being passed to me for its examination. That stage is known as the Regulation 16 Consultation.
38. In total, 16 responses were received including, `Natural England, Historic England, Anglian Water, Severn Trent, Highways England, Melton Borough Council, Leicestershire County Council, Environment Agency, The Coal Authority, National Grid, Marrons Planning Ltd, Connelly Land and Development, Vale Planning on behalf of Redmile Developments Ltd and 3 local residents, some of whom own land which they were promoting for development.
39. I have carefully read all the correspondence and I will refer to the representations where it is relevant to my considerations and conclusions in respect of specific policies or the plan as a whole.

The Basic Conditions

40. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.
41. The five questions, which seek to establish that the Neighbourhood Plan meets the basic conditions test, are: -

- Is it appropriate to make the Plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State? For the sake of clarity, this examination will look at how the plan has regard to the most up to date version of the NPPF, published on 20th July 2021 and the paragraph numbers of that version will be quoted throughout this report.
- Will the making of the Plan contribute to the achievement of sustainable development?
- Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
- Will the making of the Plan breach or be otherwise incompatible with EU obligations or human rights legislation?
- Will the making of the Plan breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

Compliance with the Development Plan

42. For the purpose of this neighbourhood plan, the overarching strategic policy context is provided by the Melton Local Plan, which was adopted in October 2018. That is the development plan for the consideration of one of the basic conditions.
43. The Melton Local Plan designates Stathern as a Service Centre.
44. Policy SS2 states that Service Centres and Rural Hubs will deliver approximately 35% of the borough's residual housing requirement, which is a minimum of 6,125 units, on a proportionate basis, with the remaining 65% being provided in the Melton urban area. It goes on to state that that 35% will be delivered "by planning positively for the development of sites allocated within or adjoining Service Centres" and by encouraging small scale residential windfall development where it would represent sustainable development under Policy SS1 or would enhance the sustainability of the community in accordance with Policy SS3. The High Court judgement clarified that the adopted plan did include "windfall" development under this part of the policy.
45. Policy SS1 refers to the presumption in favour of sustainable development as set out in the NPPF and also to approve development which accords with policies in the development plan and it then addresses how applications are to be treated if the development plan is either silent or the policies are out of date.
46. Policy SS3 then states that beyond the allocated sites, new residential development will be allowed in the rural areas within or on the edge of existing settlements, providing it meets a number of criteria including where the development provides housing which meets a proven local need as identified by substantive evidence, for example within a Neighbourhood Plan or a housing assessment or other evidence provided by the applicant.
47. Table 6 shows that Stathern, as a service centre, should deliver, on the basis of having 5% of the borough's population, a total of 91 dwellings, but discounting

existing commitments and completions, left a residual requirement of 71 dwellings.

48. The plan allocates two sites in the Stathern, namely Site STAT1 – Point Farm for 65 units and Site STAT2 – Land adjacent to Laversley House, for 10 dwellings as set out in Policy C1(A). These allocations will provide for more housing than the residual requirement as shown in Table 6.
49. In Policy C1(B) the plan identifies a number of reserve sites, including STAT3 - land west of Blacksmith End, Stathern- for 45 dwellings. The policy sets out clear criteria for triggering the release of the reserve sites, including where it helps meet the identified housing requirement and development needs of the settlement. The support for the release of the reserved sites includes evidence of the extent of community support including “through allocation of reserve site in Neighbourhood Plans”.
50. Policy C2 sets out requirements for housing mix. Affordable housing requirements vary across Melton Borough and Stathern Parish falls within Value Area 2, where there is a requirement that at least 32% affordable housing should be provided on sites of 11 units or more. Policy C5 supports rural exception sites.
51. Policy C7 seeks to protect, retain and enhance existing community services and sets down criteria for proposals that involve the loss of such facilities.
52. Policy EC2 deals with employment growth outside Melton Mowbray and allows the reuse of existing farm buildings and the construction of well-designed new buildings, farm diversification, small-scale tourism and the expansion and of existing rural businesses.
53. Policy EN5 is a policy which covers local green space, again recognising the role neighbourhood plans can play in their designation. The plan identifies a number of local green spaces within the village.
54. Policy EN6 deals with protecting the individual character of settlements, their historic features and conservation areas and entrance/gateway features and highlights the role that neighbourhood plans play in identifying features that contribute to settlements character.
55. Policy EN13 deals with heritage assets, including non-designated heritage assets.
56. My overall conclusion is that the neighbourhood plan, apart from where I have noted in the commentary on individual policies, is in general conformity with these strategic policies in the Melton Local Plan.

Compliance with European and Human Rights Legislation

57. Melton Borough Council issued a Screening Opinion, in a report dated 23rd September 2020 which concluded that a full strategic environmental assessment, as required by EU Directive 2001/42/EC, which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”, would not be required.

58. The Council, as the competent authority, in the same report also screened the plan under the Conservation of Habitat and Species Regulations 2017. This report also considered the neighbourhood plan in terms of the impact on the nearest European protected site, which is the Rutland Water SPA / Ramsar and it concluded that there were no significant impacts and the plan could be screened out.
59. I am satisfied that the basic conditions regarding compliance with European legislation, including the newly introduced basic condition regarding compliance with the Habitat Regulations, are met. I am also content that the plan has no conflict with the Human Rights Act.

The Neighbourhood Plan: An Overview

60. I must firstly commend Stathern Parish Council on the quality of the submission documents. The plan is well laid out and an easy read, making good use of maps and photographs. The plan document is fit for purpose.
61. One of the important issues that the examination has had to grapple with, has been the consequence of the adopted Melton Local Plan no longer recognising limits to development as a tool of planning policy and instead expecting new development to take place in villages designated as service centres, such as Stathern, on sites within or adjacent to the settlement. That inevitably creates a tension with the village's desire, when preparing its own planning policies which do establish settlement boundaries, with limits to development policies which seek to differentiate between areas where development will be encouraged and outside, where countryside policies should apply.
62. I believe that it is one of the strengths of the neighbourhood planning system that it does allow a community to set out its own vision and write the planning policies which set the parameters as to how the village will develop, albeit within the strategic framework of the development plan. The strategic policies in the Melton Local Plan set out the indicative housing figures for Stathern and also allocate two strategic housing allocations which will deliver the housing needs that the village is required to accommodate and that can take place within the proposed settlement boundary. The local plan also identifies a reserve site and include a specific policy requirement which have to be met before that land should be released for housing development, which is linked to the delivery of the strategic allocations which are designed to meet the village's housing requirements.
63. I do not consider that this neighbourhood plan in any way undermines the strategic policies in the local plan, but has been guided by the overall strategy, bearing in mind Stathern's role in the settlement hierarchy. It is entitled to establish the locational criteria as to where development should take place, beyond the strategic allocations. That inevitably creates a tension between a neighbourhood plan policy which seeks to contain development within a village settlement boundary and the local plan approach, which would allow

development outside that settlement. However, that is a consequence of a parallel neighbourhood plan/ local plan system.

64. I have for the reasons set out in this report, not accepted the suggestions put forward by the Borough Council which would, as a general generality, allow residential development adjacent to, but which would lie outside the proposed limits to development. In my opinion that would essentially undermine the purpose of a village envelope.
65. Similarly, I believe that the matter of the release of the reserve site is not a matter that the neighbourhood plan should be forced to address, if that is not the wish of the Parish Council and its residents. I do however have a view as to whether a site identified in the local plan, should also at the same time be treated as windfall, as suggested by one party's representations.
66. In coming to my conclusions, I am required to look at the basic condition of whether the making of the neighbourhood plan as a whole will be in general conformity with the strategic policies in the Melton Local Plan and in my view the Stathern Neighbourhood Plan does, indeed, meet that test, as it delivers the strategic aspirations for the village as set out in the local plan, particularly in terms of housing numbers.
67. I have made a number of recommended modifications, so that individual policies have regard to the Secretary of State policy and advice and I identify these in my report. However, in my experience, this neighbourhood plan has been written with a clear appreciation of what the NPPF and other Secretary of State advice has laid down and a considerable number of policies emerge from the examination "unscathed".
68. I also need to consider whether the neighbourhood plan will deliver sustainable development. In this regard the policy plan has policies which deal with windfall sites, housing mix and affordable housing, to ensure that the housing that does take place within the parish meets local needs. The plan protects green spaces and community facilities which are valued by local residents. The neighbourhood plan seeks to protect the parish's heritage and biodiversity assets and recognises the important views. It has policies for renewable energy and supports the move to electric vehicles. The needs of the businesses in the parish are supported both in terms of supporting new businesses and the protection of existing employment land as well as encouraging farm diversification and it includes a locally distinctive policy to allow businesses to be based in residential properties. Overall, I am satisfied that the plan will deliver sustainable development
69. My recommendations have concentrated particularly on the wording of the actual policies against which planning applications will be considered. It is beyond my remit as examiner, to comprehensively recommend all editorial changes to the supporting text. These changes are likely as a result of my recommendations, so that the plan will still read as a coherent planning document. It is also an opportunity to make the textual changes suggested by the Parish Council in its response to the Reg 16 comments.

70. Following the publication of this report, I would urge the Parish Council and the Melton planners to work closely together to incorporate the appropriate changes which will ensure that the text of the Referendum Version of the neighbourhood plan matches the policy, once amended in line with my recommendations. There will also need to be editorial matters to resolve such as policy numbering, as a consequence of my recommended changes.

The Neighbourhood Development Plan Policies

Policy H1: Limits to Development

71. I propose to focus firstly on the principle of having a limit to development defined in the plan, before discussing the actual boundary and finally to discuss the policy's provisions.
72. Whilst the Borough Council, in its latest local plan, has moved away from the principle of settlement boundaries, it is clear that the concept of having a clear division between where development is ordinarily allowed and beyond, where countryside policies are applied, is supported by the community. It is a policy that provides a degree of certainty as to where residential development will be allowed. Whilst the local plan policies refer to sites within and adjacent to settlements, that does not in my view prevent a neighbourhood plan from adopting settlement boundaries. This is a practice used by many neighbourhood plans across the country and is an approach which has been adopted by a number of neighbourhood plans in Melton Borough. As such I do not see that the principle of defining a limited development is in conflict with strategic policies in the local plan.
73. Turning to the actual establishment of the limits around Stathern, I note that the plan establishes a clear methodology for drawing the boundary and I have no concerns regarding the criteria which have been chosen. I note that the two local plan allocation sites are shown as falling within the boundary, but the reserve site, STAT 3, lies outside. That is appropriate as Policy C1 (B) will signify under what circumstances, it can be developed. Should those conditions be met in the future and the site is allowed to be developed, I consider that the most appropriate course of action would be for the Parish Council to review the limits to development at a future neighbourhood plan review.
74. I note that the conditions set by the Local Plan to trigger development of Blacksmith End reserve site are not currently met. At the time of my site visit, the development of allocation site STAT 2 was well on the way to its completion and I understand the development of Point Farm, STAT 1, has now commenced.
75. Furthermore, the level of other commitments in the parish indicates that the housing targets for Stathern are being exceeded, as set out in Policy SS2 of the Local Plan, Table 6. I also note that if there had been the level of community support for the Blacksmith End site, as suggested by part (iii) of Policy C 1 (B),

then the neighbourhood plan could have promoted its allocation, but it has clearly not chosen to do so.

76. In view of the above, I do not see that there is a case for expanding the limits to development beyond that set out in the current version of the plan.
77. I have given very careful consideration to the recent submissions, but I am not convinced that the Borough Council's suggested modification or the proposed wording promoted by Marrons Planning Ltd which would support development outside of the Limits to Development would meet the community's desire to restrict development to within the settlement boundary and it could be used to promote other sites, beyond the Blacksmith End reserve site, for residential development. I will not be recommending any changes to the policy.

Policy H 2: Windfall Sites

78. There is a fundamental question which has delayed this examination and which my report needs to address. That is whether windfall sites should be limited to sites which fall within the limits to development. This question has been prompted by the representations submitted by Melton Borough Council. It is also a point made by the promoters of the Blacksmith End site in their representations.
79. The issue is whether the neighbourhood plan policy, as submitted is in general conformity with the strategic policies in the Melton Local Plan. There is a specific issue in that Policy SS2 states that in the case of service centres such as Stathern, that as well as on housing allocation sites, the policy encourages small-scale windfall residential development which would meet Policies SS1 and SS3. In terms of Policy SS3, it states planning permission will be granted for new residential development in the rural area, within or on the edge of existing settlements, subject to it meeting six criteria.
80. This issue of local plan conformity has been addressed in other neighbourhood plans where there are limits to development and their examination reports and it has been held that policies limiting windfall sites to sites within the limits to development, can still be in general conformity with the strategic policies of the Melton Local Plan. I share this view and note that the most significant development to contribute to the housing targets for Stathern is being provided at site STAT1, which is located on land which lies adjacent to the existing settlement, in line with the local plan policy requirement. A similar case could be made also for STAT2. However, I am not satisfied that a convincing case has been made, based on proven local need supported by substantive evidence, which requires the development of land outside the village boundary, in order to meet local housing need, which is a requirement of Policy SS3. The Local Plan provides for a residual figure for Stathern which will be exceeded and that figure does not need to be further retested at this examination, as set out in paragraph 66 of the NPPF.
81. The examination has been significantly delayed due to the need for the High Court to determine whether Policy SS2 does or does not require small-scale residential development to apply to just windfall sites or whether it includes other

sites including those which are allocated. However, the matter has now been resolved by His Honour Justice Worster's judgement, which was published at the end of November 2021. The Inspectors appeal decision for development of part of the reserve site at STAT3 has now been quashed and the appeal has been remitted for redetermination.

82. These matters will, no doubt, be debated at length, at the reconvened appeal proceedings. However, my view for the purpose of this examination, and having considered all the correspondence I have received, is that it would not be appropriate to treat part of a site, which is specifically identified as a reserve site in a Local Plan, as windfall development. In coming to this conclusion, I have had specific regard to the definition of windfall development as set out in both the NPPF and the Melton Local Plan. I am also conscious that paragraph 69 of the Framework refers to plans supporting windfall sites – giving great weight to the benefits of using suitable sites *within* existing settlements for homes.
83. The NPPF refers to “sites not specifically identified in the development plan”. In this case the site at Blacksmith's End is identified, as part of a larger parcel as a reserve housing site.
84. The Local Plans definition is “sites which have not been specifically identified for housing development through the planning process but which may come forward during the course of the planned period.” Again, I point out to the fact that Blacksmith End is specifically identified in the development plan.
85. If part of a reserve site were to be treated as windfall development, the fundamental concept of identifying reserve sites, would be unworkable, as the site could be developed on an incremental basis and the tests which would justify its release, from its reserve site status, could never be met.
86. The supporting text refers to small sites coming forward, such as redundant or underutilised buildings, including former farm buildings. There will be instances where development comes forward, which can be supported based on agricultural need or where there is support for housing in the countryside based on NPPF policies such as the reuse of redundant or disused buildings. I propose to include reference to windfall developments on land outside limits to development being acceptable, if it meets the requirements set out in paragraph 80 of the Framework. I also concur with the Borough Council that the threshold for considering harm to the neighbouring occupiers is set too low and the policies should reflect the practicality of the individual situations.

Recommendations

At the end of the first paragraph add “meets, where practical, all the following criteria”

In a) add at the end “or the residential development meets the circumstances set out in paragraph 80 of the NPPF”

In f) after “result in”, insert “an unacceptable” and replace “a” with “of”

Policy H3: Housing Mix

87. It is appropriate for a neighbourhood plan to identify the size type and tenure of housing required to meet the housing needs of the plan area. I am satisfied that the evidence presented by the Parish Council supports the needs for small homes in Stathern parish.

Policy H 4: Affordable Housing

88. This policy, to a large extent, replicates the provisions of Policy C4 of the Local Plan, but it requires development to have regard, for example, to the local needs the village and it also allows the possibility of making equivalent financial contributions. I will include that additional flexibility, but will caveat it by stating that any such contributions will have to be robustly justified

89. The policy does not *require* housing allocations to only provide social housing for those with a local connection but it does *support* schemes that would provide for allocations to be those with the local connection. Such policies would be beyond the scope of a neighbourhood plan policy, which is required to be a policy of the development and use of land capable of being used to determine a planning application. The allocation of social housing is a matter for the Housing Authority, not the Local Planning Authority and decisions will be based on its published allocation policy and will include making allocations based on the assessment of housing need.

Recommendation

After “in lieu” insert “where robustly justified”

Policy H 5: Housing Design

90. This is a comprehensive design policy and I have only one concern which I highlight below.

91. The Secretary of State in a Written Ministerial Statement dated 25th March 2015 stated the neighbourhood plan should not set “any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings.” These can only be imposed by a local plan policy and must be viability tested and in any event Stathern is already covered by Policies C2 and EN9 of the Local Plan. I will therefore be proposing that requirements m) and o) should be deleted from the policy. Beyond that I believe the policy meets the basic conditions.

Recommendation

Delete criteria m) and o)

Policy ENV1: Local Green Space

92. The adopted local plan has already conferred local green space status on three of the five green spaces – sites 182, 185 and 189. As the sites are already designated in a development plan, there is no value in supporting the protection by also designating them in a neighbourhood plan as well and such duplication is a practice discouraged by paragraph 16 f) of the NPPF.

93. The two other sites, Toft Hill Cemetery and Church Lane Cemetery do meet the criteria set out in the NPPF as being demonstrably special to the local community. I am content with the wording of the policy itself, which reflects generally national policy for controlling development in the Green Belt, although I do question the need for flood resilience schemes for cemeteries both of which are situated on raised ground!

Recommendation

Delete sites 182,185 and 189 and amend Figure 4 accordingly.

Policy ENV2: Important Open Space

94. I visited each of the proposed open spaces. I note that a number are accorded greater protection through being designated local green space and I propose that these should be removed from the policy.

95. As the sites, whilst recognised by Melton Borough Council in its Open Space Inventory, they are not identified in, or are protected by, a development plan policy and so I will be recommending that there is no need to differentiate between those spaces recognised by the Borough Council and those identified by the neighbourhood plan.

Recommendation

Delete sites 182,185,186,187 and 189 and amend Figure 5 accordingly.

Policy EN3: Sites and Features of Natural Environmental Significance

96. I am pleased to note that the policy replicates the approach promoted by Secretary of State and I can confirm that this policy meets basic conditions.

Policy ENV4: Woodlands, Trees and Hedgerows

97. Again, I consider this to be a proportionate policy with regard to the provisions covering matters referred to in the title of the policy. I do believe that provisions to reduce flood risk are not appropriately dealt with in a policy related to woodland, trees and hedgerows. I will be recommending that the last paragraph be removed from this policy to assist the clarity and utility of the policy.

Recommendation

That the final paragraph be deleted.

Policy ENV5: Biodiversity and Habitat Connectivity

98. It appears that there is a degree of duplication with Policy ENV 3, which also seeks to safeguard habitats and species. It is unclear whether a proposal affecting a specific habitat or species will be expected to comply with Policy ENV 3 or ENV 5. I consider that it would be more straightforward for a decision maker, if only one policy covered these matters and I suggest that Policy ENV 3 is clearer as it refers to the protection related to its site's status.

99. I do recognise that the policy's title and its supporting text is aimed at securing the retention of wildlife corridors, where they exist and that is entirely consistent

with Secretary of State advice and I consider that this part of the policy can be retained.

Recommendation

Delete all but the last sentence of the policy

Policy ENV6: Sites of Historic Environmental Significance

100. This policy seeks to offer policy protection to sites which are described as having historic environmental significance and are shown in Figure 8. Some of these may be capable of designation as non-designated heritage assets but others are not necessarily suitable under that designation, but could be protected to some extent by this bespoke policy.
101. The plan's approach is to include sites within this policy if it scores at least 3 out of 5 on the criteria set out in Appendix 6. However, I was surprised to note, on closer examination, the inclusion of site MLE 4014, which is identified as site 150 on the Key Map A, which only scored a 2 and therefore does not meet the plan's criteria for inclusion. Similarly, the site of the World War II anti-aircraft battery, MLE4164 which appears now as crop marks, according to the inventory, again only scored 2. I therefore propose to remove these two sites from the policy and the map.
102. I consider the remaining locations have been justified based on their historical significance and the policy allows that their significance can be balanced against the local benefits of any development which affects them.

Recommendation

Remove site MLE4014 and MLE4164 from Figure 8

Policy ENV7: Local Heritage Assets

103. This policy is used to identify the parish's non designated heritage assets and I am satisfied that Appendix 8 provides the necessary evidence of their heritage significance.
104. In terms of the requirements of the policy, I believe the test is not in alignment with that as set out by the Secretary of State in Paragraph 203 of the Framework which requires the balancing of any loss or harm against the significance of the asset. I will propose a minor amendment to bring the policy into line with the approach set out by the Secretary of State.

Recommendation

Delete the text of the first paragraph after "settings" and replace with "will be assessed having regard to the scale of any harm or loss resulting from the development and significance of the heritage asset"

Policy ENV8: Ridge and Furrow

105. Whilst the policy is also proposing identification of existing ridge and furrow earthworks, which are shown in Figure 11.3 (not Figure 13) as non-designated heritage assets, I did give thought to whether they should remain as a standalone policy or whether it should be included within Policy ENV 7. I have

concluded that they are so significant in extent, as shown on Figure 11.3 that they can be dealt with as a standalone policy.

Recommendation

In the first sentence replace “13” with “11.3”

Policy ENV9: Important Views

106. I consider that it is entirely appropriate for the community to be able to identify what it considers are important views in the parish and these are well illustrated by the photographs included in Appendix 10.
107. My only reservation regarding the policy is to recognise that the impact on views can, in certain circumstances, be mitigated. I do consider the policy is too restrictive by saying that development which would have an unacceptable impact will not be supported, as the first part of the policy recognises that there must be some flexibility through the use of the phrase “whenever possible”. As an absolute stance it could prevent the delivery of sustainable development. I will therefore refer to these being caveated by the insertion of “without appropriate mitigation”

Recommendation

At the end of the first paragraph insert “without appropriate mitigation”.

Policy ENV 10: Footpaths, Bridleways and Other Walking Routes

108. I have no comments to make on this policy, which meets basic conditions

Policy ENV 11: Flood Risk Resilience

109. The Parish Council in response to the Regulation 16 consultations proposed a reworded version of the policy. That policy has not been the subject to any public consultation, although I did seek the views of Melton Borough Council on the issue of general conformity with Policy EN11 of the Local Plan. Its response was as follows.

“We believe the policy’s scope is greater than that required by national policy without being justified by adequate evidence. The use of “local knowledge” is potentially ambiguous unless reinforced to become evidence based, or contribute to a body of evidence. To apply a sequential test or the threshold of “one or more dwellings” and “all employment development” are unjustified in terms of compatibility with the NPPF and PPG thresholds for “major development”. The reference to “as appropriate” on criteria d) regarding Sustainable Drainage Systems (SUDS) would benefit from explanation. It is assumed it is with reference to excluding extensions and the drainage hierarchy.”

110. My starting point in considering this policy is that there are already clear and comprehensive flood risk policies set out in the NPPF and the PPG, which are supplemented by a comprehensive local plan policies EN11 and EN12. These policies already cover Stathern parish.

111. The Neighbourhood Plan policy departs from this as it refers to areas of surface water flooding that are not identified by the Environment Agency but are based on local knowledge. I am afraid that does not provide an adequate basis for decision making and to be an effective tool in development management decision taking. It could result in a planning refusal on flooding grounds in respect of land which had not been supported by evidence and land that had not been identified by the Environment Agency or indeed the Local Lead Flood Authority, who record instances of surface water flooding. I was intrigued to note that Figure 14.2 includes, supposedly based on observations, fields that are claimed to have been flooded, that lie on the slopes of Toft's Hill.
112. The second area of divergence is that the policy would allow the benefits of development to outweigh the harm to climate change targets and flood resilience strategies. That would be contrary to the stricter approach set out by the Secretary of State, which is incorporated in the exception test for allowing development in areas at risk of flooding which includes the need for the development to be safe for its lifetime, without increasing flood risk elsewhere and where possible the development will reduce flood risk overall.
113. Overall, I am not satisfied that the plan has provided a justification for adopting a localised approach to this important issue and that the existing policy framework actually provides a more robust set of policies for protecting the village from flooding. I will be recommending that the policy be deleted.
114. In terms of the supporting paragraphs, I consider that it would be illogical to retain all the supporting text as it refers to support for the policy, which I am proposing should be deleted. I suggest that the first paragraph on page 50 could be moved to the Community Action section of the plan and the next paragraph be replaced with "Development in the parish on sites which have been identified as being at risk from flooding as shown on Figure 14.1 will be judged against the Policies EN11 and EN12 of the Melton Local Plan and national planning policy." Figure 14.2 should be omitted. These are matters that can be resolved between the Parish Council and the Borough planners when amending the plan for the Referendum Version to take account of my recommended policy changes.

Recommendation

That the policy be deleted.

Policy ENV 12: Renewable Energy Generation Infrastructure

115. I have no comments to make on this policy

Policy CFA 1: Retention of Community Assets and Facilities

116. I visited each of the proposed community assets and facilities. Apart from the Grantham Canal, I consider they all can be treated as community assets based on the description set in paragraph 6.1.1. Notwithstanding the Parish Council's comments, which stress that it is a picturesque canal side recreation walk, I do not believe the Grantham Canal meets the expectations of what would ordinarily

be expected to be a community facility, in the same way that other footpaths and rights of way in the countryside are not listed as community facilities. It is clearly a historical asset and a valued part of the Parish's countryside as is Toft Hill but, as what is now a linear route, a proposal will never be able to meet the test set out in a) to c) of the policy. I will therefore be recommending that the Grantham Canal be excluded from the policy and I will instead insert the "garage services, cafe and general store" which was omitted in error from the policy.

117. I did give serious consideration as to whether the Red Lion should be included within the list as it has been closed for some years and there have been proposals for its conversion to residential accommodation. However, I do recognise the community's desire to see the public house retained and, bearing in mind the terms of the policy, matters of economic viability and/or lack of demand or need for the business can be considered and addressed at the development management stage.

Recommendations

In the first paragraph replace "the Grantham Canal" with "garage services, café and general store"

Add "and either b) or c)" to the end of a)

Policy CFA2: New and Improved Community Facilities

118. My only concern is that the policy gives no guidance to a decision maker as what would be considered to be "unacceptable traffic movements". I propose to adopt the threshold set by Secretary of State in Paragraph 111 of the NPPF, namely that "residual cumulative impact on the road network will be severe".
119. Beyond that, I consider policy meets the basic conditions.

Recommendation

In b) remove "traffic movement or other" and add at the end "or result in an increase in traffic to the extent that the residual impact on the road network would be severe"

Policy CFA3: Stathern Primary School

120. I have no comments to make on this policy

Policy CFA4: Protection of Toft Hill's Environment

121. I appreciate and understand the importance attached to the Toft Hill area by residents of Stathern, and the desire to have a policy which seeks to recognise and protect that character. However, the countryside above the village is protected, as it lies beyond the limits to development. I have noted that the appeal relating to the development of the redundant farm buildings at the lower section of the hill was dismissed last year, showing the robustness of existing policy.
122. The policy as submitted is vague, as it really refers to "land contiguous with and accessed from Toft's Hill". Whilst points A and B are shown in LiDAR image in Figure 16, the plan does not show the extent of the land, where the policy restrictions apply. I am unsure as to how far north and south the policy would

apply, especially higher up the hillside. The only guidance for the decision maker is that a policy proposal will be considered in the light of a description which is set out in the Appendix to the Local Plan which addresses Stathern's site allocations, describing the constraints on development. That statement does not just apply to the Toft's Hill area but also other sites rising up from Stathern, for example. It is not written as a statement of planning policy in my view.

123. I am afraid that the policy as drafted does not comply with Secretary of State guidance in the Neighbourhood Planning section of the Planning Practice Guidance which says "A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that the decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence".
124. It could have been possible for the Parish Council to have prepared a locally distinctive policy which met the community's desire to recognise the importance of Toft's Hill. However, the plan is not clear as to what forms of development will be allowed or will not be allowed and where the policy would be applied. It may be that this is an area that the Parish Council will wish to revisit in a future review of the neighbourhood plan, but I have to conclude, on the basis of the policy as submitted, that it is not a workable development plan policy and does not meet basic conditions. It would have been inappropriate for me to introduce a new, different policy which would not have been subject to any public consultation.
125. I appreciate that my conclusion to delete the policy will disappoint the Parish Council and the Steering Group, but as proposed it does not meet the basic conditions. I have no concerns regarding the retention of the remaining supporting text as this articulates why the community places a particular value on this part of the parish.

Recommendation

That the policy be deleted.

Policy TR 1: Parking and Road Safety

126. I have no comments to make on this policy, which meets basic conditions.

Policy TR2: Traffic Management

127. The receipt of any financial contribution for providing necessary improvements to "site access, communal parking and the highway network" will have to be able to meet the three tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 including that the financial contribution is necessary to make the development acceptable in planning terms.

Recommendation

At the end of b) add "which are necessary to make the development acceptable in planning terms, are directly related to the development and

which are fairly and reasonably related in scale and kind to the development”

Policy TR3: Electric vehicles

128. I have no comments to make on this policy.

Policy BE1: Support for Existing Businesses and Employment

129. My only comment is that the policy needs to be clear that a development would be expected to comply with both requirements, for the policies to be considered acceptable for alternative uses.

130. There will be some changes of use where business premises could be converted to residential uses, so I will propose to caveat the policy “where permission is required”.

Recommendations

At the start of the second sentence insert “Where planning permission is required”

At the end of a) insert “and”

Policy BE2: Support for New Business and Employment

131. I have a concern that the requirements set out in a) are not in accordance with Secretary of State policy, which is set out in Paragraph 84 for the Framework. This allows for the growth and expansion of all types of businesses in rural areas including through “well-designed new buildings”.

132. I noted on my site visit the variety of new businesses which have been located around the old railway station.

133. Beyond that I consider the policy makes basic conditions

Recommendations

Delete a)

In b) after “existing buildings” insert “or well-designed new buildings”

Policy BE3: Homeworking

134. I would like to congratulate the Parish Council on this innovative policy, which not only provides for the homeowner to work from home, but as clarified by the answer to a question I raised at the Initial Comments stage, would allow other persons to work from these premises. This is a novel employment policy which will encourage the creation of new jobs through the use of parts of “dwelling or freestanding buildings within the curtilage” subject to conditions being met.

135. I am content that it meets basic conditions.

Policy BE4: Farm Diversification

136. I consider that this policy meets the basic conditions.

Policy BE5: Tourism

137. This policy seeks to promote tourism, but I do not consider that the requirement that this should only take place within the village would necessarily be consistent with Policy BE4, farm-based tourism could assist agricultural diversification. The policy does need to make it clear that the policy requires compliance with all the policy elements.

Recommendations

Delete a)

Insert “and” at the end of b) - e)

Policy BE6: Broadband and Telecommunications

138. I do not consider that it is appropriate to place the onus on the developer to be providing broadband services at a specific speed. I consider the responsibility for that should be placed on the broadband provider, but the developer can should be expected to provide the ducting and other infrastructure to allow new residents to be able to access high speed broadband delivered by the telecommunications provider.

139. Beyond that, I consider the policy meets the basic conditions.

Recommendation

Delete the text in a) after “housing” and insert “shall be provided with the ducting and other infrastructure to enable a telecommunication provider to provide high speed broadband connections to the new homes”

The Referendum Area

140. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Stathern Neighbourhood Plan as designated by Melton Borough Council on 7th May 2019, is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended

Summary

141. I congratulate Stathern Parish Council on reaching this important stage in the preparation of the neighbourhood plan. I appreciate the Parish Council’s patience in the length of time this examination has taken through delays outside of its control.

142. I appreciate that a lot of work has gone into its production and the Parish Council can be proud of the final document. It is a comprehensive plan that covers a wide range of issues that are clearly important to the local community. The plan

will provide a sound basis for determining planning applications in Stathern Parish into the future.

143. To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.
144. I am therefore delighted to recommend to Melton Borough Council that the Stathern Neighbourhood Plan, as modified by my recommendations, should proceed, in due course, to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI
John Slater Planning Ltd
22nd February 2022