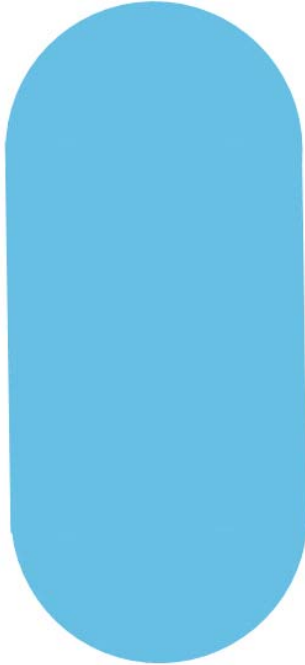


**REPRESENTATIONS IN RESPECT OF THE MELTON LOCAL
PLAN (PRE SUBMISSION DRAFT) NOVEMBER 2016**

On Behalf of Mary Anne Donovan



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- **Appendices**

- Appendix 1 – Copy of Representations made in respect of Melton Local Plan Emerging Options Consultation
- Appendix 2 – Legal Opinion and Legal Opinion Update prepared by Shakespeare Martineau LLP
- Appendix 3 – Heritage Statement prepared by Mary Anne Donovan
- Appendix 4 – Visual Interpretations of Application Site (Proposed and Existing)
- Appendix 5 – Independent Report on Geology and Hydrogeology prepared by Jefferson Consulting Ltd
- Appendix 6 – Original Appraisal of Somerby Conservation Area prepared by MA Donovan
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• INTRODUCTION

- These representations are made on behalf of Mary Anne Donovan in respect of the Melton Local Plan Pre Submission Draft November 2016 consultation, and specifically in relation to her interest in the proposed reserve housing allocation at Land off Burrough Road, Somerby (SOM3 or MBC/048/13), the proposed housing allocation at Land South of High Street, Somerby (SOM2 or MBC/023/16) and more generally as a resident of Somerby.
- In summary, these representations seek to demonstrate that there are significant flaws in the Melton Local Plan Pre-submission Draft that will prevent the plan from being found sound at examination stage. These flaws relate to a lack of justification and evidence of proper consideration of impacts in respect of the proposed allocation SOM2 and reserve allocation SOM3; a lack of consistency between the aims and objectives of the plan's environmental policies and the proposed allocation SOM2 and reserve allocation SOM3; and a lack of evidence in respect of the proposed distribution of development across the settlements.
- There are also significant concerns that there appears to be no evidence that previous representations on the plan have been considered or even read.
- These representations also seek to reiterate concerns raised in earlier Local Plan representations that the settlement of Somerby should be reclassified and the extent of proposed development to be directed to the settlement reduced accordingly, and also that the proposed reserved housing allocation at Land off Burrough Road, Somerby (SOM3 or MBC/048/13) will result in substantial harm to the significance of the Somerby Conservation Area.

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• BACKGROUND AND CONTEXT

- For a plan to be adopted it must pass an examination and be found to be ‘sound’.
- Paragraph 14 of the National Planning Policy Framework (NPPF) refers to the presumption in favour of sustainable development and makes specific reference to plan making stating that:
 - Local Planning Authorities should positively seek opportunities to meet the development needs of their area;
 - Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:
 - – any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - – specific policies in this Framework indicate development should be restricted.
- Paragraphs 154 and 157 of the NPPF identify (amongst other criteria) that Local Plans should be aspirational but realistic and should plan positively for development to meet the objectives, principles and policies of the NPPF.
- Paragraph 182 of the NPPF also sets out that the plans will need to be prepared in accordance with the duty to cooperate, legal and procedural requirements and that they must be ‘sound’. There are four tests of ‘soundness’, which are that each plan must be:
 - *Positively prepared* – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;

- *Justified* – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- *Effective* – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities;
- *Consistent with national policy* – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework (NPPF).



• PREVIOUS REPRESENTATIONS

- Emerging Options Melton Local Plan (Draft Plan)
- Representations were submitted in Spring 2016 as part of earlier consultation work undertaken by Melton Borough Council in respect of the Emerging Options Melton Local Plan. A full copy of these representations is enclosed at Appendix 1.
- In summary, the representations highlighted errors with the settlement scoring matrix used to classify settlements for the purposes of identifying how much development they can accommodate. The representations identified scoring errors in relation to an overstated public transport service, an overstated Post Office service and overstated association with a nearby civic amenities facility (tip). The representations thus demonstrated that amendments were needed to the Melton Local Plan Emerging Options (Draft Plan) to reclassify the settlement of Somerby as a Rural Supporter settlement in the context of Draft Policy SS2: Development Strategy, and as such the settlement's proposed housing allocation should be significantly scaled back accordingly.
- The earlier representations also concluded that should the settlement of Somerby continue to be classified as a Secondary Rural Settlement within the plan that Land off Burrough Road, Somerby (MBC/048/13) should be deleted from the plan, particularly in respect of Draft Policy C1: Housing Allocations, as other sites would represent more appropriate locations for housing growth within the village of Somerby. This was on the grounds that the potential housing allocation at Land off Burrough Road, Somerby (MBC/048/13) will represent substantial harm to the significance of the Somerby Conservation Area. The representations also conclude that there will be significant and demonstrable harm to the historic landscape in visual terms given the importance of the site in creating a landscape edge to the settlement and prominent gateway into the village.

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- Planning Application 16.00615.OUT
- Following identification of Land off Burrough Road, Somerby (MBC/048/13) as a draft allocation within the Emerging Options Melton Local Plan, a planning application was submitted by the landowner for residential development of the site (outline). In light of the serious concerns raised by our client in respect of the proposed allocation of the site within the Emerging Local Plan, detailed representations were submitted by Marrons Planning on behalf of our client in respect of the planning application. A full copy of the representations can be found at Appendix 8.
- The representations concluded that the proposed development would give rise to a number of significant heritage and landscape/visual concerns to the extent that the proposals would a) fail to protect and enhance the natural, built and historic environment, as required by paragraph 7 of the NPPF; b) fail to preserve or enhance the character or appearance of the Somerby Conservation Area or the Grade II Listed Vinery and Plant House as required by Section 72 of the Listed Buildings Act 1990; and c) significantly and demonstrably outweigh the benefits of granting consent within the context of paragraph 14 of the NPPF.
- The representations also identified that the proposed development would give rise to impacts relating to flood risk and ecology to the extent that the proposals would fail to *'mitigate and adapt to climate change'* and to help *'improve biodiversity'* respectively, again as required by paragraph 7 of the NPPF, and that such impacts would significantly and demonstrably outweigh the benefits of granting consent.
- The representations concluded that there were clear and overwhelming grounds for refusal of the application. The planning application remains undetermined to-date.



- **REPRESENTATIONS IN RESPECT OF THE MELTON LOCAL PLAN PRE SUBMISSION DRAFT NOVEMBER 2016 CONSULTATION**

- This section of the representations contain our detailed response, prepared on behalf of Mary Anne Donovan, in relation to the Melton Local Plan Pre Submission Draft Plan November 2016 (PSD). These representations MUST be considered alongside earlier representations referenced in section 3 above.

The Proportionate Approach to Distribution of Housing

- It is noted that the approach to development has been based on settlement size and population numbers rather than on sustainability credentials and land availability. It is submitted that the current approach is flawed as does not allow for higher levels of development in the most appropriate and sustainable locations.
- Rather, the distribution of housing should be allocated based on levels of sustainability and the capacity of SCRHS to accommodate further development. A key soundness test of Local Plans is that they must be justified (NPPF, paragraph 182), meaning they must be based upon **appropriate** and **proportionate** evidence.
- In this respect, a review of the SRRR identifies that some villages are substantially less sustainable than others, yet they have been allocated relatively high numbers of dwellings due to higher population levels. This is especially evident in SCRHS such as Wymondham, Croxton Kerrial and Asfordby Hill which are to receive 6.1%, 5.1% and 5.7% of proposed development respectively but only fulfil 6, 7 and 8 of the 43 categories of the SRRR respectively when assessing the sustainability of each village. In comparison, Waltham on the Wolds, for instance, is to receive only 8% of the proposed development but fulfils 15 of the 43 categories in the SRRR (when recalculated to take

account of the correct village services and facilities) and Harby is to receive only 8.9% of the proposed development but fulfils 15 of the 43 categories in the SRRR.

- Put simply, this approach to the distribution of housing is clearly flawed and could lead to the plan being found unsound. Local Plans also need to be effective in order to meet the soundness tests at paragraph 182 of the NPPF.
- It is also considered that there are significant flaws in the Council's evidence base in respect of the creation of a suitable settlement hierarchy. The Settlement Roles and Responsibilities Report (SRRR) identifies proximity to employment generating uses as part of the scoring considerations for the settlement hierarchy. However, there appears to be a complete absence of any proper investigation as to the size, nature and quality of the employment generating uses. This has serious implications as it could lead to the plan being found unsound on the grounds that its approach to the distribution of housing is not properly justified. For example, the proximity of John O Gaunt Employment Estate (4.6km away) is a consideration in identifying a) the suitability of Somerby as a Service Centre and b) the suitability of potential allocations within Somerby. However, it is understood from research conducted by our client that just circa 14 people are employed at John O Gaunt Employment Estate. Without proper investigation into the size, extent, nature and quality of employment generating uses on nearby employment/industrial estates, the Council's approach to the creation of a settlement hierarchy could be flawed and the plan could thus be found unsound at examination.

The Preferred/Reserve Sites for Allocation

- As stated in section 3 above, detailed representations in respect of reserve site SOM3 (Land off Burrough Road, Somerby) have already been made on behalf of our client and can be found at Appendix 1 and 8.
- Our client also objects to the proposed allocation SOM2 (Land off High Street,

Somerby) for circa 42 dwellings. The site appears to have been incorporated as a late afterthought and does not appear to have been subjected to a proper Sustainability Appraisal.

- As acknowledged by the Council as part of its evidence base in respect of Spatial Strategy (SS5o: Somerby), proposed allocation SOM2 is *'quite high for Somerby'*. This matter MUST be considered in the context of comments made as part of earlier representations that the sustainability credentials of Somerby are overstated and that development of this scale could lead to unsustainable commuting patterns and a significant impact on the character of the village and the setting, character and appearance of the Somerby Conservation Area.
- Furthermore, it is noted that SS5O: Somerby refers to heritage constraints in its assessment of SOM2; it is not clear why an assessment which states *'Part in a Conservation Area (North-eastern corner). The rest of the site is adjacent to this Conservation Area'* results in a ' + (positive)' score towards the site. The sentence in the assessment is also considered to be incomplete and should read *'The rest of the site is adjacent to and in the setting of the Conservation Area and Listed Buildings'*.
- Finally, it is considered that development of both SOM3 and SOM2 will result in a clear over-concentration of development in Somerby West and South, and in Landscape Character Zones 1/4, an area evidence shows to be environmentally important. Further comment on this is provided below in relation to environmental policies. In addition to this, the Council is currently considering applications 16/00146/OUT and 16/00616/FUL in relation to Southfields Farm, Somerby (a total of 13 dwellings); the Council must deduct these windfall dwellings from the total allocation for the village of Somerby. Furthermore, approving these applications will also increase the concentration of development in the Somerby West and South landscape character areas, to the detriment of their visual importance.

- Environmental Policies
- *Policy EN1 – Landscape*
- The intentions of the policy and points 1-6 of the policy are positive in approach. However, to be sound in the 'rich' local context, Policy EN1 should include Historic Landscapes in its criteria. This is supported by the landscape assessments that inform the Local Plan and also by NPPF Section 11 (Conserving and Enhancing the Natural Environment). In addition to this, paragraph 170 (Proportionate Evidence Base) of the NPPF clearly states that *'where appropriate, character assessments should also be prepared integrated with assessments of historic landscape character, and for areas where there are major expansion options assessment of landscape sensitivity.'* For example historic park land, a notable feature in the Borough is not overtly cited in Policy EN1; in Somerby Parish, it is a major historic landscape feature with park land at Burrough Hall, Burrough Hill House and Pinarium, the Grove, Somerby House, Somerby Hall (relict) and Pickwell Manor.
- Policy EN1 states the Areas of Separation, Fringe Sensitivity and Local Green Space Studies will be used to inform allocations and design guidance. A representation, submitted to the 4 April 2016 consultation (Appendix 2) and to the Conservation Officer, commented that the Fringe Sensitivity Study was flawed because it did not assess important natural and historic landscape areas in Somerby LCZ 1 and 4, which resulted in their suitability for development being increased. An amendment to the study was submitted using the study's criteria. The amendment is not reflected in the Draft Plan and no feedback was given. This leads to recommendations based on policy EN1, 5 and 6 and the Local Green Space statement being unjustified for Somerby.
- In the balancing act for Appeal Decision APP/Y2430/A/14/2221470 (Single Turbine/Southfields Farm/Somerby) the landscape character and visual quality of the surrounding area, including conservation areas/settings in LCZ 1/4, and open countryside shared with Harborough District to the south, were deemed to carry significant

weight in the refusal. The decision described the landscape and surrounding area as *'deeply rural and bucolic with no major detractors in its make-up'* and going on to say:

- *'The visual qualities appreciated by visitors and residents alike are at the high end of the scale. Although this is not a designated landscape as such, it has been described in representations as quintessentially English countryside, and it is easy to see why. It has great attractiveness in the juxtaposition of villages, farmsteads, undulating topography and the unspoilt pastoral/arable scene. I am satisfied that it has a significant degree of value as a landscape in its own right, and is a visual resource which is sensitive to change.'* (paragraph 10).
- The documented evidence supporting the Appeal Decision does not appear to have been considered in the judgement that allocations SOM2 and SOM3, and the outline/full planning applications, were acceptable for development.
- *Policy EN 3 Green Infrastructure and EN 4 Areas of Separation*
- Burrough Hills, rather than Burrough Hill 'Country Park' should be defined and adopted as the primary GI space in the southern region of the Borough and its policies applied throughout. Burrough Hills includes Somerby Parish, particularly the escarpment landscapes including those west and south which join up with the High Leicestershire area of Harborough District. Landscape and other studies would support GI value, including the Melton & Rushcliffe Study which rates the Burrough Hills as having *'quiet remote rural qualities compared to other areas within the borough.'* A representation outlining the GI assets of Somerby Parish, their contribution to tourism and community value was submitted 4 April, 2016 by Mrs. Ros Freeman and again appears to have been ignored by the Council.
- Burrough Hill Country Park is first and foremost an Ancient Monument and important archaeological site. Substantial harm can result inadvertently through inappropriate use, such as current dirt bike usage. The risk to Burrough Hill heritage value will increase with

population growth unless addressed in the Plan. Enhancement schemes should be supported only where they preserve and enhance the Significance of this important heritage asset as a priority.

- *Policy EN 4: Areas of Separation*
- This policy is not positive in its approach and not sound or justified given the major housing growth allocated to rural areas in Policy SS3 and industrial development in Policy EC2/A-B. Areas of Separation (AoS) for all Development Centres should be set in the Draft Plan according to Policy EN1 and EN5/7.6 Settlement Character. If not, the Plan risks being judged environmentally unsustainable.
- For example, the AoS between Somerby and Pickwell is not defined in the Draft Plan. Largely historic park land, the Fringe Study recommended it inappropriate for development. However, it is now subject to a residential/commercial planning application (hearing 22/12/16). It is probable that historic landscape, tranquillity, and local distinctiveness will be lost because no AoS policy has been set for rural Development areas.
- *Policy EN 5: Local Green Spaces*
- The Melton Plan should clearly state that Neighbourhood Plans (NP) are encouraged to designate Local Green Spaces according to the criteria in NPPF paragraph 77, supported where appropriate by evidence from other studies. Policy EN5 as worded appears to place professional consultations above local evidence. This is not consistent with the NPPF and should be rephrased.
- Please note Somerby Parish NP has completed and rated the Local Green Spaces for each village, according to NPPF, para 77 criteria. The Somerby village Local Green Space assessment in the Melton Draft Plan, Fringe Study Annexe 1, is neither robust nor justified with regard to proximity, community value and functionality of local Green Spaces. In particular, Burrough Road Paddocks (the site subject of planning application 16/00615/OUT) is not correctly described for proximity,

character, signs of positive usage, relationship to settlement. Our client requests that a meeting is held on this document before it is accepted as evidence for the Local Plan.

- *Policy EN 6: Settlement Character*
- The Policy is positive in approach. However the wording of points 2 and 3 is unclear. In Historic England's 'The Settings of Heritage Assets. Historic Environment Good Practise Advice in Planning Note 3', six actions are defined which constitute ways in which new developments contribute to the setting and key features of heritage assets including conservation areas. This guidance, supported by NPPF para 137, should be included in the Policy, and if not met development should be considered environmentally unsustainable and refused.
- Policy EN10:
- Representations for this Policy have been made in the 4 April 2016 Submission (Appendix 2) and by the SMART Decentralized Energy and Large Scale Renewable Energy consultation. These representations note it is not a requirement to identify suitable sites for renewable energy technologies as part of a local Plan unless as an aid to securing them. In addition, legislation has made clear the weight of local opinion on renewable energy sites.
- The Melton Draft Plan proposes a site in Great Dalby for wind turbines. There is a lack of evidence in relation to the affects of the wind turbines on the heritage significance of Burrough Hill and its sensitive panoramic views, a primary landmark identified by the Melton and Rushcliffe Sensitivity Study.
- Given the weight of past objections to wind turbines in the rural areas of Melton Borough, this policy which assigns turbine sites without a requirement to do so is not justified and raises questions as to whether community consultation responses have been duly considered.
- *Policy EN13: Heritage*

- The Draft Plan overall does not give sufficient weight to the Heritage strategy compared to other strategies in the Environmental section. In the context of ambitious residential and employment growth and the number of important assets in the Borough, there is little detail and clear priorities don't emerge. In accordance with NPPF paragraph 126 it does not state *'a positive strategy for conservation and enjoyment of the historic environment'*. For example, assets at risk are not identified with a priority for enhancement stated.
- Policy EN13 does not meet the intention of NPPF paragraph 132 which states *'When considering the impact of a proposed development on a designated heritage asset, great weight should be given to the asset's conservation.'* Policy language such as *'seeking to'* or *'where possible'* is not in accordance with paragraph 132.
- Paragraph 7.23.2 states the Conservation Area Appraisals and Management Plans are completed. However, it is not clear from the appraisals on the website, if they have been updated, and those on the website appear decades old and not at the standard of Historic England: *'Understanding Place: Historic Area Assessments in a Planning and Development Context.'* In the context of ambitious growth, the Significance of heritage assets and their settings should be included, against which developers and planners can judge development proposals. Without this, the sustainability of the historic environment is at risk in the Plan.
- An update to the Somerby Conservation Appraisal was submitted in August 2015 and again to the 4 April 2016 consultation (Appendix 1 and 6) which does not appear to have been considered as part of the appraisal informing the Plan; it is considered that this should be considered if the appraisal is to be deemed sound at examination.
- The development proposals SOM2 and SOM3, and indeed the planning applications at Southfield Farms, as described in point 4.12 will together affect a large number of the listed buildings at the south and west of Somerby as well as undesignated but related historic buildings

and archaeology. In Appeal Decision APP/2430/A/14/221470, it was stated in reference to Section S.66 that great weight should be given to conservation of the heritage assets. Those situated at the south and west of Somerby, and in particular the Grade I Church were included. In the balancing act undertaken by the Inspector, these assets were judged to experience as a result of the *development 'Less than substantial harm to the setting of heritage assets, but the harm identified carries substantial importance and weight.'* The Appeal noted that the STOP group had submitted a body of evidence to support this conclusion.

- The Draft Plan does not appear to have considered this appeal decision and the supporting evidence when favourably assessing the environmental sustainability of the concentration of development at the south and west of the village, for each individual SHLAA submission and planning application, or in the Local Green Space assessment for Somerby, in accordance with NPPF Paragraph 132.