

# Asfordby Neighbourhood Development Plan

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## Asfordby Parish Council's response to Examiner's Clarification Note (25 January 2023)

### General

The first Asfordby Neighbourhood Plan was withdrawn following a High Court Order which quashed the plan, so the review process has been quite challenging. In that context, the Examiner's initial comments on the Draft Neighbourhood Plan are particularly welcome.

The Parish Council's response to each of the Examiner's clarification points are set out below in red.

### Policy A1

Am I correct in concluding that the principal intention of the policy is to provide geographic clarity to the Areas of Separation as included in Policy EN4 of the Local Plan?

Yes. The protection of the countryside between the Parish's three settlements is an important community objective and Policy A1 seeks to add clarity to the Melton Local Plan by clearly defining the boundaries of the Areas of Separation. Policy A1 also identifies an additional Areas of Separation between Asfordby Hill and Asfordby Valley.

If so, is this approach in general conformity with the Local Plan policy (and paragraph 7.4.4 of the Plan) which specifically decided not to define precise areas?

Local Plan paragraph 7.4.3 states that 'Areas of Separation (AoS) do not have a defined boundary because their purpose is not to prevent all development within the AoS, but rather to prevent development which would result in coalescence and harm to individual settlement character'. However, there is a tension between having a vague boundary and NPPF paragraph 16d which expects plans to 'contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals'.

The Parish Council is concerned that the way that the Local Plan illustrates the AoS is confusing and gives rise to uncertainty. For example, in Asfordby village the AoS appears to extend over the western part of the built-up area of the village at Cowman Close while at Asfordby Hill the AoS also includes parts of the existing built-up area as well as Local Plan housing allocations ASFH1 and ASFH2.

These two allocations have been the subject of an appeal (APP/Y2430/W/22/3296156) which followed the refusal of the local planning authority to grant outline permission for up to 90 dwellings (20/00470/OUT).

The AoS designation was a key issue for that appeal, yet it was unclear whether or not the appeal site was within the AoS.

The AoS boundaries have taken account of the ADAS 2006 Final Report Identifying Areas of Separation Criteria and Evidence Study (see Parish Council website).

Further, it is noted that both the Waltham on the Wolds & Thorpe Arnold and Burton & Dalby Neighbourhood Plans provide a more definitive boundary to the AoS.

The Parish Council considers that the precise spatial definition of the AoS provides a local dimension that compliments and clarifies Local Plan Policy EN4.

To what extent does the approach taken in the submitted Plan relate to the paragraphs 49-54 (on the relationship between the local plan and neighbourhood plans) and paragraph 184 (areas of separation) of Local Plan inspector's report?

See above.

#### Policy A4

This is a good policy underpinned by the information in Appendix 1.

Noted.

#### Policy A5

The first part of the policy defines a size threshold. Does the same threshold apply to the second part of the policy?

The Parish Council does not intend for the second part of Policy A5 to be applicable in all circumstances and for that reason it has used the term 'Where appropriate' leaving it for the development management process to determine whether this part of the policy is applicable.

In any event would the policy read better if the order of the two parts of the policy was reversed?

The Parish Council is open-minded on this.

#### Policy A9

This is another distinctive policy. In this case it responds positively to the Borough Council's Design of Development Supplementary Planning Document and provides a local response to Section 12 of the NPPF.

Noted.

## Policy A10

In general terms the policy takes a positive approach to windfall development.

However, should the policy acknowledge that policies SS2 and SS3 of the Local Plan would support development adjoining identified settlements (which include Asfordby)?

The strategic housing requirements for both Asfordby and Asfordby Hill have already been exceeded. Nonetheless, the Neighbourhood Plan responds positively to housing need issues by including support for the redevelopment of brownfield sites at Whitlock garages (Policy A11), Asfordby Storage & Haulage Depot (Policy A12) and Holwell Business Park (Policy A22).

Neighbourhood Plan Policy A14 supports the development of First Homes exception sites adjoining settlement boundaries. It should be noted that the Local Plan is out-of-date in respect of First Homes policy.

The second part of Policy A10 provides for a considerable range of housing development outside Settlement Boundaries.

With significant housing growth already planned that is in excess of requirements and a flexible approach to the development of First Homes and other housing adjoining settlement boundaries, the Neighbourhood Plan is in conformity with the strategic policies of the Local Plan.

## Policies A11/12

These are good local policies which positively promote residential use. In addition, the criteria are distinctive to the sites concerned.

Noted.

## Policy A14

The policy commendably responds to the national agenda on First Homes.

However, is the Parish Council satisfied that the figures in the second part of the policy are underpinned by robust and recent evidence and information?

The minimum discount of 30% against market value is aligned with national policy. However, the nationally set first sale price of a maximum £250,000 (after discount) is not appropriate to Asfordby where house prices are relatively low. National guidance is clear that neighbourhood planning groups have the discretion to set lower price caps if they can demonstrate a need for this.

The £83,000 cap was set having regards to Melton Borough Council's Housing Mix and Affordable Housing SPD- Appendices-

[https://www.meltonplan.co.uk/\\_files/ugd/c2f881\\_4564ce0ab087454a8bc4e2370caba91e.pdf](https://www.meltonplan.co.uk/_files/ugd/c2f881_4564ce0ab087454a8bc4e2370caba91e.pdf) (p20- 70% of LQ property price of £119,004).

In Asfordby, Jelson homes is currently selling 2bed homes at Station Lane for £229,950- <https://jelson.co.uk/developments/station-lane> At a 30% discount this would be £160,965. The Parish Council accepts that this is more than the £83,000 cap set by Policy A14 but it is also significantly less than the national cap.

The Parish Council would support a cap that is benchmarked to locally available 2/3 bedroom homes.

### Policies A20/A21

In both cases there appears to be a conflict between the general wording in the second part of the policies (which refer to B2 and B8 uses) and part A which refers to non-B class uses.

Please can the Parish Council explain its approach on these policies?

Melton Local Plan (adopted 2018) Policy EC1 allocates 10 hectares of employment land on brownfield land available at Asfordby Business Park for Class B employment uses, which at that time included uses B1, B2 and B8. Local Plan Policy EC3 refers to employment uses as Classes B1, B2 and B8 of the Use Classes Order.

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 amended the Town and Country Planning (Use Classes) Order 1987 and introduced significant changes to the system of 'use classes'. Use class B1 was removed, rendering Policies EC1 and EC3 out of date.

To reflect the 2020 amendments, criterion A of policies A20 and A21 allow for former B1 uses at Asfordby Business Park and Holwell Works and other uses compatible with these business areas.

To what extent is the Parish Council satisfied that the policies are in general conformity with Policy EC1 (Employment Growth in Melton Mowbray) and Policy EC3 (existing employment sites) of the Local Plan given their requirements for mixed use developments?

Criterion Aiv of policies A20 and A21 ensure that both business parks remain in predominantly in B (B2 and B8) classes use.

### Policy A23

This is an interesting and distinctive policy.

I can see the information in the supporting text. However, is criterion C reasonable? Is there a risk that its matter-of-fact application may prevent the overall vision which the Parish Council has for high-quality and sustainable development on the site?

Criterion C reflects the appeal decision (APP/Y2430/A/08/2078427) which concluded 'It is necessary to limit the number of lodges to the 59 proposed, and their use for holiday purposes, to prevent a greater visual impact occurring and to safeguard the countryside.' The whole of the Frisby Water Parks site now lies within Flood Zones 2 or 3.

## Representations

In response to the Examiner's invitation to comment on the representations made to the submission Plan, the Parish Council offers the following observations:

### Rotherhill (Asfordby) Ltd

Asfordby Parish Council and the wider community have been in discussions with Rotherhill (Asfordby) Limited regarding the redevelopment of Holwell Business Park. The Parish Council wants to see the redevelopment of the site for employment uses to go ahead so that it can provide job opportunities for local people and be put into active use. The Council recognises that new housing development may be required to enable this to happen.

### Deeley Homes

This representation concerns the Areas of Separation which is addressed above.

### Gladman Developments Limited

There is no requirement to review or update a neighbourhood plan. The Parish Council accepts that the policies in the Neighbourhood Plan may become out of date, for example if they conflict with policies in a new Melton Local Plan. When the Melton Local Plan is reviewed, the Parish Council will decide whether to review or update the Neighbourhood Plan.

Conformity with Policies SS2 and SS3 is addressed above.

Policy A12: Asfordby Storage and Haulage Depot is not a housing allocation as the Parish Council cannot be sure that there is a realistic prospect of housing development. Instead, Policy A12 provides encouragement for the site's redevelopment for housing.

The First Homes cap is addressed above.

The Parish Council would support developer contributions to improving existing play areas where they meet the locational requirements of Policy A17.

### Jelson Homes

This representation concerns the Areas of Separation which is addressed above. Evidence supporting the Areas of Separation is on the Parish Council website at <https://www.asfordbyparishcouncil.gov.uk/neighbourhood-plan.html>

## Melton Borough Council

Any of the Borough Council's representations are similar to those it made on the Pre-Submission Draft Neighbourhood Plan. It is therefore unfortunate that it did not review the Parish Council's response (set out in Consultation Statement Appendix 3) before repeating them. Nonetheless, the Parish Council's response to all of the Borough Council's comments is set out below.

Page number	Reference (policy/paragraph/section)	Importance (Minor, Moderate, Important or Critical)	Comment from officer ('Quotation', <u>Insertion</u> , Deletion, Important)	Asfordby Parish Council Response
<b>General</b>				
4	Paras 1.26 to 1.28	Minor	To be deleted/reworded in the referendum version of the document	Noted
22	Map 5 Biodiversity	Moderate	The Local Wildlife Site layer is not fully correct (as per LCC data), more specifically the site just above Asfordby Hill (39257, which also appears to be the wrong reference – 39275 being the correct number), also a couple of small missing areas which should lie just above Welby Lane and three small areas west of Asfordby (these appear to be hidden by the labels).	Local Wildlife Site 39275 is not correctly labelled but the designation area is correct (see attached). The Local Wildlife Sites to the north of Welby Lane and to the west of Asfordby are shown, but the scale of the map prevents them being shown clearly and that is why they are also hidden by the label.
25	Map 6 Heritage	Minor	Scheduled Monuments are listed on the key but there are none on the map.	There are no Scheduled Monuments within the Neighbourhood Area, so it is agreed that this feature could be deleted.
N/A	General note	Minor	All the policies refer to the Policies Map rather than their own specific map (i.e. why does POLICY A4: Local Green Spaces refer to the	The policies map should illustrate geographically the policies in the plan and be

			<p>Policies Map and not Map 3 Local Green Space?)</p>	<p>reproduced from, or based on, an Ordnance Survey map.</p> <p>Regulations 8 and 9 of the Town and Country Planning (Local Planning) (England) Regulations 2012 prescribe the general form and content of policies maps.</p> <p>The designations on the individual maps and the policies maps are identical.</p>
N/A	General note	Minor	<p>As mentioned on the previous note regarding the Local Wildlife Site (LWS) layers, several sites/layers on the policies map would benefit from a labelling revision. Many layers are being hidden partially or sometimes fully by the labels, making it hard to distinguish areas (Brownfield Housing Sites for example).</p> <p>Please see attachment for further clarification on the above comments regarding maps.</p>	<p>The Parish Council must work within the capabilities of its mapping system. More detailed maps can be made available.</p>
<b>Housing</b>				



35	Policy A10 and A22	Important	<p>How the settlement boundaries and the second part of the policy aligns with policy A22? In other words is the proposal in A22 covered by one of the exceptions listed in the second part of policy A10?</p> <p>Policies SS2 and SS3 in the Local Plan indicate that development could take place within and <b>adjoining</b> Service Centres, Rural Hubs and existing settlements. In the case of unallocated sites, as long as there is a proven need, would contribute to the protection of existing services and facilities. Consequently, recommend the modification of the policy and make explicit reference to the 'local proven needs' and to the land adjacent to the Settlement Boundaries.</p>	<p>Agree. Development in accordance with Policy A20 should be added to the list in the second part of Policy A10.</p> <p>Conformity with Polices SS2 and SS3 is addressed above.</p>
36	Policy A11	Minor	Whitlock Way site would provide a good opportunity for development and the Council hope to work on an affordable housing scheme there soon.	Noted.
37	Policy A12	Moderate	The site has a number of constraints including flood zone 2,	Although the Parish Council have prepared a development

			<p>adjacent to flood zone 3, and potentially contaminated land. Without the participation of the owner, the site is not available. New opportunities and constraints may arise once the site is considered available. Conditions stated in the policy could add unnecessary barriers to its redevelopment of the site; whilst a general brownfield-sites policy could be more supportive.</p>	<p>brief for the site, this has been done without the participation of the landowner. The Neighbourhood Plan concedes that the site has established use for storage and distribution and that it could be more actively used in the future. Nonetheless, Policy A11 and accompanying Development Brief encourages the site's redevelopment for housing. It is not a housing allocation, and the site does not need to be developed to meet local housing needs. Flood risk and other constraints are recognised by the Neighbourhood Plan, The criteria of Policy A11 and Development Brief ensure that the redevelopment of the Asfordby Storage and Haulage Depot site takes account of relevant</p>
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				constraints and opportunities.
38	6.28	Moderate	Recommendation for a sub heading under the Housing Mix heading focusing on newly forming households needing to access housing through smaller and more affordable dwellings, with text emphasising the importance of this, rather than just being a paragraph under the sub heading Housing Needs of Older People.	Paragraph 6.28 sits comfortably within the 'housing needs of older people' section.
<b>Affordable Housing and Housing Mix</b>				
38 and 39	6.30 and 6.31	Moderate	These sections need explaining in more detail because currently they are not clear and would be difficult to use for planning applications. Para. 6.30 references an older housing needs study from 2015 and seems to use the results from this for the dwelling size mix table on page 39 but it is not clear. This and 6.31 talks about existing housing stock but it is unclear at what date this is at. In the dwelling size mix table, the percentages given for the number of new developments with different size dwellings seem to be incorrect eg. it is stated that only 4%	The evidence supporting the 2016 housing needs assessment can be found on the Parish Council's website.

			of new builds are 3-bed dwellings, whereas the figure is higher. The housing type table at 6.31 is unclear eg. what is meant by 'upsizing houses'; 'bungalows etc' (is this to include lifetime homes and dormer bungalows) and 'with care' (is this to include eg. extra care, supported housing, care homes)?	
39	Policy A13	Moderate	Recommendation for this to be expanded to reflect more closely with the Melton Local Plan Housing Mix (C2) Policy and include sizes and tenures.	The Parish Council is open to the Examiner's conclusions on this.
39	6.32	Minor	This paragraph is perhaps not needed as it talks about market housing in the affordable housing section.	The Parish Council is open to the Examiner's conclusions on this.
<b>Design</b>				
30	Policy A9	Minor	We are pleased to see the inclusion of Policy A9. It aligns with policy D1 (Raising the Standard of Design) of the MLP along with the Design of Development SPD and is supported by chapter 6 of the NPPF.	Noted
<b>Transport and infrastructure</b>				
45	7.11 – Map 10	Moderate	The map boundary shows the horseshoes (pub) on Main Street however it is for Bradgate Lane	Bradgate Lane is a Local Centre that serves the local catchment area. The defined

			shops, please check/amend if this should be included. If so please clarify why the Indian restaurant (The Empress of India) and the pub (The Crown) are not also included, which are situated on Main Street.	Local Centre is based on Appendix A of Volume 2 of the Melton Borough Retail Study 2015 which excludes both The Crown and Empress of India.
46	Policy A16: Bradgate Lane Shops	Moderate	We recommend the removal/rewording of ' <i>Class E (commercial, business and service uses) should remain dominant use and development leading to an over-concentration of any other uses (such as hot food takeaways) will not be permitted.</i> ' By stating ' <i>will not be permitted</i> ' it makes the policy very restricted and would not align with the NPPF (2021); Chapter 6, paragraph 84 a). By being too prescriptive it wouldn't align with policy EC2 of the MLP, specifically points 5 and 7. We therefore recommend the policy is amended.	The Melton Local Plan pre-dates the introduction of Class E (Commercial, business and service uses) and is therefore out-of-date. Use Class E includes a broad and diverse range of uses which principally serve the needs of visiting members of the public and or are suitable for a Local Centre. Class E allows for a mix of uses which recognises that a building may be in several different uses concurrently or be used for different uses at different times of the day. The Policy does not prevent the introduction of other uses provided there is not an over-concentration of any other uses.

47	Policy A17: Children's Play Areas	Important	It may be useful to provide evidence of anti-social behaviour and intimidation at the play parks (page 46; 7.18). If the data was collected from 2011 consultation (page 7), this may be outdated.	The Parish Council regularly replaces and repairs play equipment that has been vandalised.
48	Policy A18: Travel Packs	Minor	We are pleased to see the inclusion of policy A18. It aligns with policy IN3 (Infrastructure Contributions and Community Infrastructure Levy) and policy EN8 (Climate Change) of the MLP. In accordance with NPPF - Set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.	Noted
48-49	Policy A19: infrastructure	Minor	We are pleased to see the inclusion of policy A19. It aligns with policy IN3 (Infrastructure Contributions and Community Infrastructure Levy) and policy EN8 (Climate Change) of the MLP. In accordance with NPPF - Set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.	Noted
52-53	Policy A20: Asfordby Business Park and Old Dalby Test Track	Critical	Policy A20 does not align with policy EC1 (Employment Growth in Melton Mowbray) and Policy EC3 (existing employment sites) of the MLP as it states it wants to have mixed use	Conformity with Policy A20 is addressed above.  Planning law requires that applications for planning

			not just large scale development. However, we note that if an application for the site came in for mixed use, it would be decided on own merits.	permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Currently, Policy A20 would not allow any use other than B2 or B8.
54	Policy A21: Holwell Works	Critical	Policy A21 does not align with Policy (EC1 Employment Growth in Melton Mowbray) and Policy EC3 (existing employment sites) of the MLP as it states it wants to have mixed use not just large scale development. However, we note that if an application for the site came in for mixed use, it would be decided on own merits.	Conformity with Policy A21 is addressed above.  Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Currently, Policy A21 would not allow any use other than B2 or B8.
55	8.14 and 8.16	Important	It would be helpful to have the planning viability and marketing report (2021) as supporting evidence to show the site is not viable as a standalone employment site.	The Viability and Marketing Report is available for download from the Parish Council website.
55-56	Policy A22: Holwell Business Park	Critical	Policy A22 does not align with policy EC3 (Existing Employment Sites), as it states provide no more than 100 dwellings which would conflict	Local Plan Policy EC3 provides for the change of use of all of part of an

			<p>with MLP policy EC3 for employment only. In addition, it does not align with policy (EC1 Employment growth in Melton Mowbray) and Policy EC3 (existing employment sites) as wants to have mixed use not just large scale development. However, if application for site came in for mixed use would be decided on own merits.</p>	<p>existing employment site or allocation to non-employment uses will be permitted where:</p> <ul style="list-style-type: none"><li>a) it can be demonstrated, through an acceptable viability study, that the site is no longer economically viable for employment purposes in the long term nor can be made so, and either: and</li><li>b) its release for other purposes would offer significant benefits to the local area, in particular where proposals have demonstrable community support, for example through an allocation in a made Neighbourhood Plan.</li></ul> <p>Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations</p>
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				indicate otherwise. Currently, Policy A22 would not allow any use other than B2 or B8.
57	Policy A23: Frisby Water Parks	Critical	We suggest amending policy A23 as it is very restrictive. Point C – <i>there is no increase in holiday accommodation above the 59 lodges already permitted.</i> Also, this would not align with point 8.20 which states it wants to contribute to the local economy. Policy A23 does not align with Policy EC2 (Employment Growth in the Rural Area (outside MM)) and EC8 (Sustainable Tourism) of the MLP. Furthermore, it does not align with NPPF – Chapter 6, paragraph 81 and 82.	Neighbourhood Plan Policy A23 supports the development of Frisby Water Parks as a countryside leisure facility in accordance with national and local planning policies. Criterion C reflects Appeal Ref: APP/Y2430/A/08/2078427 which imposed a limit on the number of lodges to the 59 proposed, and their use for holiday purposes, to prevent a greater visual impact occurring and to safeguard the countryside.
<b>Environment</b>				
10, 11 and 12	Policy A1, Paragraph 3.2 and Policies Map.	Important	The inclusion of the Area of Separation between the settlements of Asfordby Hill and Asfordby Valley does not seem to be supported by evidence. The 'Melton Borough Areas of Separation, Settlement Fringe Sensitivity and Local Green Space Study' recommends in para 4.71 (page 102) the following: 'The	There is strong support within the Parish for maintaining the gaps between the three settlements. The prevention of sprawl and the protection of landscape quality are well

			<p>area identified within the ADAS (2006) report is considered to have limited sensitivity to development. The settlements have similar characteristics to each other and are perceptibly seen as one settlement. It is not necessary to designate this area'. This is the most up to date evidence we have, therefore this recommendation (used during the production of the Local Plan) seems to be relevant. Consequently, we recommend the removal of this Area of Separation.</p>	<p>established planning objectives.</p> <p>The designation of an Area of Separation between Asfordby Hill and Asfordby valley was supported by the ADAS 2006 Final Report Identifying Areas of Separation Criteria and Evidence Study (see Parish Council website). The Melton Borough Areas of Separation, Settlement Fringe Sensitivity and Local Green Space Study' assessment that Asfordby Valley and Asfordby Hill 'have similar characteristics to each other and are perceptibly seen as one settlement' is incorrect. For example, the Melton Local Plan settlement hierarchy treats Asfordby Hill and Asfordby Valley as separate settlements.</p> <p>Local Plan policy EN4 is clear that Neighbourhood Plans</p>
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				can also designate Areas of Separation.
11 and 12	Paragraph 3.6 and Policies Map	Important	<p>The Areas of Separation (AoS) do not seek to prevent development and defining the boundaries could have a counterproductive effect. Our approach was supported in the Local Plan's examiner report (para 184): <i>'The resulting policy does not seek to prevent development in the identified areas; rather it aims to ensure that any development will respect the policy's objectives. It is appropriate therefore that the policy designation is shown as zig-zag lines on the Policies Map instead of a defined boundary. The policy is sound.'</i> With this in mind, we recommend the removal/rewording of some misleading information (i.e., 'some parts have already been developed') as it could be interpreted as the AoS will prevent development. We also recommend the retention of the zig-zag lines rather than the use of defined boundaries.</p>	<p>Policy EN4 clearly seeks to prevent development that would lead to the coalescence of settlements. Indeed, Policy EN4 has been used by the local planning authority to refuse development located in the Area of Separation- for example 20/00470/OUT.</p> <p>This representation concerns the Areas of Separation which is also addressed above.</p>
11	Paragraph 3.9	Moderate	The Melton Borough Areas of Separation, <a href="#">Settlement Fringe</a>	The Melton Borough Areas of Separation, Settlement

			<p><a href="#">Sensitivity and Local Green Space Study</a> (this is just the first part of five, the others can be viewed at our environmental evidence base) includes more detailed and updated information and divides the landscape around the three settlements in 'Landscape Character Zones', with detailed information about the areas and a summary of their sensitivity. You can have an overview of these in our policies map (or the interactive version).</p>	<p>Fringe Sensitivity and Local Green Space Study is based on The Landscape Character Assessment of Melton Borough Study of 2011 which has been used to inform the landscape character section of the Asfordby Neighbourhood Plan. The Settlement Fringe Sensitivity assessment was undertaken for the purposes of locating suitable sites for new development not character assessment.</p>
11 to 13	Landscape Character Section	Moderate	<p>The Melton Borough Areas of Separation, Settlement Fringe Sensitivity and Local Green Space Study, includes more detailed and updated information and divides the landscape around the three settlements in 'Landscape Character Zones', with detailed information about the areas and a summary of their sensitivity. You can have an overview of these in our policies map.</p>	<p>The Melton Borough Areas of Separation, Settlement Fringe Sensitivity and Local Green Space Study is based on The Landscape Character Assessment of Melton Borough Study of 2011 which has been used to inform the landscape character section of the Asfordby Neighbourhood Plan. The Settlement Fringe Sensitivity</p>

				assessment was undertaken for the purposes of locating suitable sites for new development not character assessment.
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