

**Linby Parish Council**

# **Linby Neighbourhood Development Plan**

A report to Gedling Borough Council of the Independent Examination of the Linby Neighbourhood Development Plan

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## Overall Finding

This is the report of the Independent Examination of the Linby Neighbourhood Development Plan. The plan area comprises the entire civil parish of Linby within the Gedling Borough Council area. The plan period is 2018 - 2032. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for residential development.

This report finds that subject to specified modifications the Neighbourhood Plan meets the basic conditions and other requirements. It is recommended the Plan should proceed to a local referendum based on the plan area.

## Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.*”<sup>1</sup>
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Linby Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Linby Parish Council (the Parish Council). The draft Plan has been submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Linby Neighbourhood Area which was formally designated by Gedling Borough Council (the Borough Council) on 25 April 2016. The Neighbourhood Plan has been produced by a Neighbourhood Plan Steering Group (the Steering Group), made up of members of the Parish Council supported by other local community volunteers.
4. The submission version of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Parish Council for submission of the plan and accompanying documents to the Borough Council. The submission was made on 15 November 2018. The Borough Council arranged a period of publication between 11 January 2019 and 5pm on 22 February 2019. The Borough Council has submitted the Neighbourhood Plan to me for independent examination.

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<sup>1</sup> Paragraph 183 National Planning Policy Framework (2012) (See paragraph 214 of the NPPF 2019 for an explanation why this Independent Examination is being undertaken in the context of the NPPF 2012)

## Independent Examination

5. This report sets out the findings of the independent examination into the Neighbourhood Plan.<sup>2</sup> The report makes recommendations to the Borough Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The Borough Council will decide what action to take in response to the recommendations in this report.
6. The Borough Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and the decision taken to put the plan to a referendum, it must be taken into account when determining a planning application, in so far as the policies in the plan are material to the application<sup>3</sup>.
7. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area<sup>4</sup> unless the Borough Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan<sup>5</sup>. The Framework is very clear that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted<sup>6</sup>.
8. I have been appointed by the Borough Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the Borough Council. I do not have any interest in any land that may be affected by the

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<sup>2</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

<sup>3</sup> Paragraph 216 of the National Planning Policy Framework 2012 explains full weight is not given at this stage

<sup>4</sup> Section 3 Neighbourhood Planning Act 2017

<sup>5</sup> Section 156 Housing and Planning Act 2016

<sup>6</sup> Paragraph 198 National Planning Policy Framework 2012

Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of Neighbourhood Plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years professional planning experience and have held national positions and local authority Chief Planning Officer posts.

9. As independent examiner, I am required to produce this report and must recommend either:

- that the Neighbourhood Plan is submitted to a referendum, or
- that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
- that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.

10. I make my recommendation in this respect and in respect to any extension to the referendum area,<sup>7</sup> in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.<sup>8</sup>

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>9</sup> The Planning Practice Guidance (the Guidance) states “*it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.*”

12. The examiner has the ability to call a hearing for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had opportunity to state their case. As I did not consider a hearing necessary, I proceeded on the basis of written representations.

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<sup>7</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>8</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>9</sup> Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

## Basic Conditions and other Statutory Requirements

13. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.<sup>10</sup> A neighbourhood plan meets the Basic Conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>11</sup>

14. As the final basic condition, on 28 December 2018, replaced a different basic condition that had previously been in place throughout the period of preparation of the Neighbourhood Plan I asked the Borough and Parish Councils to jointly confirm the Neighbourhood Plan meets the new basic condition. On 7 January 2019 I received this confirmation in the form of an Addendum 2 to the Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Report which subsequently formed part of the Regulation 16 consultation. I refer to this matter later in my report.

15. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights.<sup>12</sup> All of these matters are considered in the later sections of this report titled

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<sup>10</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

<sup>11</sup> This basic condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018. This basic condition replaced a basic condition “the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects”.

<sup>12</sup> The Convention Rights has the same meaning as in the Human Rights Act 1998

‘The Neighbourhood Plan taken as a whole’ and ‘The Neighbourhood Plan Policies’.

16. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.<sup>13</sup> I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 (the Regulations) which are made pursuant to the powers given in those sections.
17. The Neighbourhood Plan relates to the area that was designated by the Borough Council as a neighbourhood area on 25 April 2016. A map of the Neighbourhood Plan boundary is included on page 9 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Linby parish boundary. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>14</sup> and no other neighbourhood development plan has been made for the neighbourhood area.<sup>15</sup> All requirements relating to the plan area have been met.
18. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;<sup>16</sup> and the Neighbourhood Plan does not include provision about excluded development.<sup>17</sup> I am able to confirm that I am satisfied that each of these requirements has been met.
19. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.<sup>18</sup> The front cover of the Submission Plan clearly states the plan period to be 2018-2032. The Borough Council has stated *“The strategic policies of the Aligned Core Strategy and the Local Planning Document have a plan period of up to 2028. As a matter of consistency with the Aligned Core Strategy and Local*

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<sup>13</sup> In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

<sup>14</sup> Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

<sup>15</sup> Section 38B (2) Planning and Compulsory Purchase Act 2004

<sup>16</sup> Section 38A (2) Planning and Compulsory Purchase Act 2004

<sup>17</sup> Principally minerals, waste disposal, and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

<sup>18</sup> Section 38B (1)(a) Planning and Compulsory Purchase Act 2004



*Planning Document, and the neighbourhood plans for Calverton, Papplewick and Burton Joyce it is requested that the plan period is amended up to 2028. If the examiner agrees with this then all references to a plan period up to 2032 require amending (pages 1, 2, 4, 7, 10, 63, 88)."* Whilst alignment of the plan periods of the Development Plan documents would be convenient for Plan users, I am unable to recommend a modification in this regard as the change is not necessary to meet the Basic Conditions. I would, however, have no objection to the adjustment of the Plan period so as to run to 2028.

20. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.<sup>19</sup> It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.
21. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
22. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
23. Apart from minor corrections, updates, and consequential adjustment of text (referred to in the Annex to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan

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<sup>19</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

meets the Basic Conditions and the other requirements I have identified.<sup>20</sup>

## Documents

24. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:

- Linby Neighbourhood Development Plan 2018-2032 Submission Version November 2018.
- Linby Neighbourhood Plan Basic Conditions Statement, Urban Vision Enterprise CIC, October 2018 [*In this report referred to as the Basic Conditions Statement*]
- Linby Neighbourhood Development Plan Consultation Statement November 2018 [*In this report referred to as the Consultation Statement*]
- Linby Neighbourhood Development Plan Strategic Environmental Assessment Screening Report February 2018 (also includes Habitats Regulations Assessment Screening) [*In this report referred to as the SEA and HRA screening report*]
- Addendum to the Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Report 19 December 2018 [*In this report referred to as the Addendum to the SEA and HRA screening report*]
- Addendum 2 to the Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Report 7 January 2019 [*In this report referred to as the Addendum 2 to the SEA and HRA screening report*]
- Evidence Base documents available on the Neighbourhood Plan part of the Linby Parish Council website
- Representations received during the Regulation 16 publicity period and a summary of responses report prepared by the Borough Council.
- Correspondence between the Independent Examiner and the Borough and Parish Councils (available on the Borough Council website)
- Greater Nottingham Aligned Core Strategy Part One Local Plan (adopted 2014) (ACS)
- Local Planning Document Part Two Local Plan adopted 18 July 2018
- National Planning Policy Framework (27 March 2012) [*In this report referred to as the Framework*]
- Permitted development rights for householders' technical guidance DCLG (April 2017) [*In this report referred to as the Permitted Development Guidance*]

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<sup>20</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014) [*In this report referred to as the Guidance*]
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- The Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act 2011
- The Housing and Planning Act 2016
- The Neighbourhood Planning Act 2017
- The Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations*].
- The Neighbourhood Planning (General) (Amendment) Regulations 2015
- The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016
- The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

## Consultation

25. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the Submission Plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.

26. Following actions to publicise the Neighbourhood Plan preparation process and attract volunteers the first meeting of the Neighbourhood Plan Steering Group, made up of Parish Councillors and other people, was held on 31 March 2016. Key issues were surfaced through a questionnaire delivered to every household. Consultation on early issues was undertaken in May 2016.

27. Other early consultation included a drop-in workshop; a stall at the Summer fete; a school focus group; and communications with key

stakeholders. Communication methods used throughout the plan preparation process have included posters on notice boards; Parish Council minutes; creation of a dedicated section of the Parish Council website; email updates; a drop-in event; and press releases. Topic specific consultations have also been undertaken in respect of: a heritage and character assessment; traffic and transport options; a green space audit; community assets; and the Parish Council's Top Wighay Masterplan for Safeguarded Land.

28. Pre-submission consultation in accordance with Regulation 14 was undertaken in the period between 18 June 2018 and 30 July 2018. The consultation included use of noticeboards and the dedicated website pages; a leaflet and response form delivered to all premises in the parish; and placing of hard copies of the Plan at Hucknall Library, Brooke Farm, and at the village hall. The representations arising from the consultation are comprehensively presented within Appendix 5 of the Consultation Statement where responses, and amendments to the Neighbourhood Plan, are set out. The suggestions made have, where considered appropriate, been reflected in a number of changes to the Plan that was approved by the Parish Council, for submission to the Borough Council.
29. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 11 January 2019 and 5pm on 22 February 2019. Representations from 15 different parties were submitted during the period of publication. I have been provided with copies of each those representations, and a summary of responses report prepared by the Borough Council.
30. Where representations include comment on the policies of the Neighbourhood Plan, I have taken these into consideration when considering each of the plan policies later in my report. In preparing this report I have taken into consideration all of the representations submitted during the Regulation 16 period so far as they are relevant to my remit even though they may not be referred to in whole, or in part.
31. National Grid has commented that it has no electricity or gas transmission apparatus in the Neighbourhood Area that would necessitate any representation. Natural England, Sport England, and the Canal and River Trust have no specific comments. Historic England confirm no comments beyond those made earlier in the plan

preparation process.

32. The Borough Council has set out a comprehensive set of comments on the Neighbourhood Plan including representations in respect of several policies, and an assessment of the proposed Local Green Space designations. Whilst some of the comments of the Borough Council have been made to *“make minor suggestions for the benefit of the Neighbourhood Plan”* I have only recommended modifications, in those respects, where necessary to ensure the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. The Borough Council also suggested minor revisions to the Neighbourhood Plan in respect of a number of factual updates and typographical errors. I have dealt with these in the Annex to my report.
33. Ashfield District Council have commented on several policies of the Neighbourhood Plan. A representation on behalf of Hallam Land Management Ltd comments on Policy HSG1. Severn Trent Water has commented on Policy NE2. I refer to these representations when considering the relevant policies later in my report. Ashfield District Council has also suggested it should be added to the list of local partners in the Implementation and Delivery section, and additional matters should be referred to in general text in the Neighbourhood Plan. Where those suggestions are not necessary to meet the Basic Conditions or other requirements of the Neighbourhood Plan, I am unable to recommend modifications.
34. Nottinghamshire County Council has made representations in respect of waste; minerals; travel and transport; education provision; healthy communities; flood risk management; strategic highways; and public health. These representations do not necessitate any modification of the Neighbourhood Plan. The County Council has commented on non-planning matters contained in Section 2 of the Neighbourhood Plan. I refer to these comments later in my report.
35. An individual commented on existing traffic conditions and expressed the view that *“the only real answer is to build a by-pass to route traffic around the village”*. The Environment Agency has commented that *“There are no sites specifically allocated, however we note you have highlighted site allocations previously proposed within the Gedling Part Two Local Plan. One of these in particular is situated within flood*

zones 2 and 3 and the Environment Agency would expect that the site has already been through the sequential test assessment process as part of the site allocation review process undertaken by the LPA for their local plan. Given that there are flood zones situated within the parish we expect that any development would also be subject to policy LPD3 – Managing Flood Risk taken from the Gedling Local Plan Part Two”. Highways England has commented that “The adopted Gedling Borough Local Plan Part Two indicates that the projected growth for Linby Parish will be concentrated at the strategic allocated sites on the outskirts of Hucknall to the south (Top Wighay and Land North of Papplewick Lane). Highways England has been consulted on these sites through the Local Plan process, advising that where an individual development has a significant impact on the operation of the SRN, as identified through an appropriate Transport Assessment, mitigation should be identified by the applicant. From review of the Neighbourhood Plan we understand there to be no further significant housing and employment growth planned in Linby, and due to this we do not consider that there will be any material impact on the operation of the SRN.” These representations and those of The Coal Authority do not necessitate any modification of the Neighbourhood Plan.

36. A submission on behalf of Harworth Group who have interests in 'Land to the North of Wighay Road, Linby' states “the site should be specifically allocated for small scale residential development and public open space.” There is no requirement for a Neighbourhood Plan to allocate land for any form of development.
37. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. I placed no obligation on the Parish Council to offer any comments but such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. I have not received any comments from the Parish Council in this respect.
38. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:
- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
  - b) explains how they were consulted;



- c) summarises the main issues and concerns raised by the persons consulted; and
- d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.<sup>21</sup>

39. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

## **The Neighbourhood Plan taken as a whole**

40. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and Human Rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the Development Plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this. In considering all of these matters I have referred to the background and supporting documents and copies of the representations provided to me.

Consideration of Convention Rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017

41. The Basic Conditions Statement states “*An Equalities Impact assessment has been undertaken and is included at Appendix 2. It has indicated that the impact of the plan on protected characteristics is either neutral or positive*”. I have considered the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14

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<sup>21</sup> Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

(discrimination); and Article 1 of the first Protocol (property).<sup>22</sup> I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. From my own examination, the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics.

42. The objective of EU Directive 2001/42<sup>23</sup> is *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”* The Neighbourhood Plan falls within the definition of ‘plans and programmes’<sup>24</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>25</sup>

43. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to the Borough Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.

44. The submitted Basic Conditions Statement refers to a Strategic Environmental Assessment Screening Statement prepared by the Borough Council. The Screening Statement has been prepared on behalf of the Parish Council. The Screening Statement includes ‘Table 1 Establishing the requirement for a full SEA’ and ‘Table 2 Assessment of the likely significant environmental effects’. The Screening Statement states at paragraph 4.8 that *“As a result of the assessment at Table 1 and Table 2, it is concluded that there are no significant environmental effects arising from the draft Linby Neighbourhood Plan, as such a full SEA is not required.”*

45. The Screening Statement includes a statement of reasons which states *“Gedling Borough Council has reached this conclusion on the Linby Neighbourhood Plan for the following reasons:*

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<sup>22</sup> The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

<sup>23</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

<sup>24</sup> Defined in Article 2(a) of Directive 2001/42

<sup>25</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012



- *The Plan does not allocate land for development.*
- *The Plan has been written to be in general conformity with the Part One and Part Two (emerging) Local Plan and, as a result, characteristics and issues related to the strategic policies and allocations in the neighbourhood area have been considered through the Local Plan process (including Habitats Regulations Assessment and Sustainability Appraisal). The Plan does not seek to alter the development strategy proposed in the Local Plan.*
- *The policies in the Plan are considered to have a generally positive environmental impact at local level, particularly through the inclusion of local design considerations.*
- *The analysis undertaken in Section 4 of the SEA Screening Report supports the conclusion reached, and has been confirmed through consultation with the statutory consultees.”*

46. The Screening Statement confirms the three statutory bodies: Historic England, Natural England, and the Environment Agency, were consulted on a draft prepared at pre-submission stage. The statutory bodies have been consulted again at the Regulation 16 stage of Plan preparation. I am satisfied the requirements in respect of Strategic Environmental Assessment have been met.

47. The Screening Statement document in part relates to Habitats Regulations Assessment. This is confirmed at paragraph 4.4 which includes the statement *“The Borough Council has prepared this screening assessment to determine whether .... a Habitats Regulation Assessment (HRA) is required in accordance with Article 6(3) of the EU Habitats Directive and with Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended).”* In answer to the question *“Will the PP, in view of its likely effect on sites, require an assessment for future development under Article 6 or 7 of the Habitats Directive?”* Table 1 of the Screening Statement states *“No. The Aligned Core Strategy (Part One Local Plan) and emerging Local Planning Document (Part Two Local Plan) have been subject to a Habitats Regulations Assessment (HRA). Given that the Part Two Plan is in general conformity with the Part 1 Plan, no significant effect was revealed. Similarly, the draft NP has been written to be in general conformity with the Local Plan. The draft NP does not promote more development than the Local Plan and, as a result, the conclusions of*

*'no likely significant effect' of the Local Plan HRA are applicable to the Linby neighbourhood area. Therefore, it is considered that a separate HRA is not required for the draft NP.*" Table 2 states "The neighbourhood area is within the in-combination assessment area for the Sherwood Forest Prospective Special Protection Area (pSPA), however the pSPA does not cover land within the neighbourhood area boundary. As concluded at Stage 4 of the SEA Screening (Table 1) it is considered that there is no requirement for a Habitats Regulations Assessment for the draft NP as this has been undertaken through the Local Plan process." Section 5 of the Screening Report sets out a consultation response from Natural England as follows "Habitats Regulations Assessment Screening - Natural England notes the screening process applied to this Neighbourhood Plan. We agree with the Council's conclusion of no likely significant effect upon European designated sites: Sherwood Forest Potential Special Protection Area (pSPA). We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us". The Screening Report states "It has also been concluded that the Linby Neighbourhood Plan does not require a Habitats Regulation Assessment (HRA)."

48. *The Addendum to the SEA and HRA Screening Report dated 19 December 2018 was prepared in the context of the EU Court of Justice ruling in People Over Wind and Sweetman v Coillte Teoranta. (Judgement of the Court Seventh Chamber 12 April 2018), and the Court of Justice (Second Chamber) judgement of 25 July 2018 Grace, Sweetman, and National Planning Appeals Board Ireland (ECLI:EU:C2018:593). The Addendum concluded "in consultation with Natural England, that this addendum should be published confirming that the HRA Screening and addendum of the draft Linby Neighbourhood Plan takes appropriate account of the need for HRA when considering the rulings...". The reasons for the conclusion are set out in section 2 and section 3 of the Addendum.*
49. On 20 December 2018 I wrote to advise the Borough Council that The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 was to come into force on 28 December 2018. The effect of the Regulations with respect to the making of Neighbourhood Plans (Regulation 3) is that the basic condition "The making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or

*projects*” is replaced by a basic condition *“The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.”* The Borough Council subsequently prepared Addendum 2 to the SEA and HRA Screening Report dated 7 January 2019 on behalf of the Parish Council.

50. The District and Parish Councils have jointly confirmed the Neighbourhood Plan meets the new basic condition through production of Addendum 2 to the Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Report. Addendum 2 to the SEA and HRA Screening Report states *“This addendum responds to the new basic condition for the purpose of the examination of the Linby Neighbourhood Plan”* and sets out the Borough Council response with respect to Regulation 105 (1-6) within Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017. The response includes *“The Strategic Environmental Assessment (SEA) Screening Report (February 2018) and Addendum (December 2018) conclude that the Linby Neighbourhood Plan has no likely significant effect on sites applicable to HRA. Assessments have taken place before the plan is given effect.”* It is also stated consultation on Addendum 2, including with Natural England, will take place as part of the Regulation 16 consultation. I conclude the Neighbourhood Plan meets the requirements of the EU Habitats Regulations.
51. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.
52. I conclude that the Neighbourhood Plan is compatible with the Convention Rights; does not breach, and is otherwise compatible with, EU obligations; and the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
53. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. Gedling Borough Council as local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations:

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).<sup>26</sup>

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

54. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans<sup>27</sup> which requires plans to be “*consistent with national policy*”.

55. Lord Goldsmith has provided guidance<sup>28</sup> that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”

56. Section 2.2 of the Basic Conditions Statement includes a table that sets out a series of statements that seek to demonstrate how the Neighbourhood Plan has regard to identified parts of the Framework. A reference is also made to Planning Practice Guidance.

57. The revised National Planning Policy Framework was published on 24 July 2018 and sets out the government’s planning policies for England and how these are expected to be applied. A further revised version

<sup>26</sup> Planning Practice Guidance paragraph 080 Reference ID: 41-080-20150209

<sup>27</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

<sup>28</sup> The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the House of Lords Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

that includes minor clarifications to the 24 July 2018 version was published on 19 February 2019. This revised Framework replaces the previous National Planning Policy Framework published in March 2012. Paragraph 214 of the revised Framework states *“The policies in the Framework published in March 2012 will apply for the purpose of examining plans, where those plans were submitted<sup>29</sup> on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.”* I have undertaken this Independent Examination of the Neighbourhood Plan in the context of the Framework published in March 2012.

58. The Neighbourhood Plan includes a positive vision for Linby *“where change is embraced”*. The vision includes economic components with reference to sustainable infrastructure and to the employment contribution of planned developments. Social components are referred to in respect of *“high quality homes”*; *“quality of life for all”*; *“accessible transport”* and *“a cohesive, integrated community with strong community services and facilities”*. The vision also refers to environmental matters including protection and enhancement of *“the historic character of the existing village”* and *“high environmental standards”*. These statements are consistent with the underlying principles of the Framework, specifically, the need to jointly and simultaneously seek economic, social and environmental gains through the planning system.
59. The vision is supported by five objectives. These objectives relate to: maintenance of the distinctive character of a historic rural settlement; ensuring the village is not adversely affected by strategic developments; ensuring Linby is a sustainable community offering a balanced mix of land uses; provision of appropriate housing developments; and shaping the design of development at Top Wighay. These community objectives are consistent with the Framework and provide a link between the vision and the policies of the plan.
60. The Neighbourhood Plan includes *“Section 2 Non-Planning Matters”* which states *“This section does not form part of the statutory development plan”*. Section 2 includes a statement of 13 community

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<sup>29</sup> Footnote 69 of the Revised Framework states that *“for neighbourhood plans, ‘submission’ in this context means where a qualifying body submits a plan proposal to the local planning authority in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012.”*



aspirations presented under the three headings of “*managing the impact of traffic*”; “*protect and enhance Linby’s natural and historical environment and setting*”; and “*involvement in major planning applications*”. A representation on behalf of Hallam Land Management Ltd raises concerns regarding the part of Section 2 that relates to Top Wighay Safeguarded Land including parts of the Site Brief presented. The representation also states Policy DES1 should ensure that a high-quality development is achieved at Top Wighay Farm. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on matters considered important in the local community. Those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The Guidance states, “*Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements.*” The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning is consistent with this guidance and represents good practice. The Guidance states, “*Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.*” I am satisfied that the presentation of the community aspirations in a separate section of the Neighbourhood Plan adequately differentiates these matters from the policies of the Plan and has sufficient regard for national policy. Whilst Section 2 of the Neighbourhood Plan is not subject to Independent Examination there is cause for me to recommend a modification in respect of that section in the interests of achieving clarity in the interpretation of the preceding section of the Neighbourhood Plan. The Site Brief set out as Aspiration 13 and the introductory paragraph (the final paragraph on page 90) that precedes the Site Brief should be modified to make it clear that the text presented is an aspirational draft site brief to be subject to amendment following discussions with relevant landowners; developers; other key stakeholders; and with Gedling Borough Council. I have recommended a modification in this respect and have recommended the term “Community Aspirations” should be used as a section title rather than Non-Planning Matters so as to more accurately describe the status and content of the section.

**Recommended modification 1:**

- **change the title of, and references to, Section 2 to “Community Aspirations”.**
- **change the title of the Site Brief set out as Aspiration 13 and the introductory paragraph (the final paragraph on page 90) that precedes the Site Brief to make it clear that the text presented is an aspirational draft site brief to be subject to amendment following discussions with relevant landowners; developers; other key stakeholders; and with Gedling Borough Council.**

61. I have noted Nottinghamshire County Council has commented that “*a number of community transport aspirations*” such as road widening, traffic calming, car parking and traffic management in and around the village are matters for which the County Council is the relevant highway authority and are “*not within the gift of the Linby Parish Council to deliver. Although these matters cannot form part of the statutory Neighbourhood Plan it is confirmed that Nottinghamshire County Council has worked closely with Linby parish council (and their appointed transport consultant) to both understand their concerns and evaluate the (8 number) transport aspirations and possible schemes of highway mitigation to address these. In so doing it must be understood that the County Council would need to consider the feasibility, priority and funding opportunities around future highway proposals and makes no firm promises in this regard.*”

62. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to ‘*have regard to*’ national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.*”

63. At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread

running through both plan-making and decision-taking.<sup>30</sup> The Guidance states, “*This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions*”<sup>31</sup>.

64. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.
65. The Framework states there are three dimensions to sustainable development: economic, social and environmental. Paragraphs 18 to 219 of the Framework, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system. The Basic Conditions Statement sets out in Section 2.3 a summary of how the Neighbourhood Plan delivers growth and sustainability with reference to specific Neighbourhood Plan policies.
66. I consider every policy of the Neighbourhood Plan seeks to have a positive effect in at least one of the environmental, social and economic dimensions. The inclusion of implementation and delivery intentions, and monitoring and review arrangements in the Neighbourhood Plan represents good practice in seeking to ensure sustainable development is being achieved throughout the plan period.
67. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable

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<sup>30</sup> Paragraph 14 National Planning Policy Framework 2012

<sup>31</sup> Planning Practice Guidance (Ref ID:41-072-20140306)



development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes are of an appropriate quality; will enhance community facilities and economic prospects; and will protect important features of the built and natural environment. In particular, I consider the Neighbourhood Plan seeks to:

- Protect landscape and rural character and enhance biodiversity;
- Establish design principles for development;
- Ensure housing mix meets local needs;
- Facilitate safe and efficient movement including active travel;
- Protect heritage and local green space assets;
- Promote and protect community facilities;
- Facilitate effective electronic communications;
- Achieve appropriate employment opportunities; and
- Establish guidance for use of developer contributions.

68. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

69. The Framework states that the ambition of a neighbourhood plan should “*support the strategic development needs set out in Local Plans*”.<sup>32</sup> “*Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and*

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<sup>32</sup> Paragraph 16 National Planning Policy Framework 2012

*neighbourhoods should plan positively to support them. Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies”.*<sup>33</sup>

70. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”<sup>34</sup>

71. In this independent examination, I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). The Borough Council has informed me that the Development Plan applying in the Linby neighbourhood area and relevant to the Neighbourhood Plan comprises:

- Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) (ACS) and Policies Map; and
- Gedling Borough Local Planning Document (Part Two Local Plan) (2018) and Policies Map.

The Borough Council has confirmed that all of the policies in these documents are considered to be strategic for the purpose of neighbourhood planning.

72. The Neighbourhood Plan acknowledges support received from the Borough Council and Nottinghamshire County Council during the plan preparation process. This good practice enabled the Neighbourhood Plan and Local Plan Part Two to be developed in parallel for a time with the intention of avoiding conflict between the two emerging Plans. Section 2.4 of the Basic Conditions Statement seeks to identify how policies of the Neighbourhood Plan respond to strategic policies.

73. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. In considering a now-repealed provision that “a local plan shall be in general conformity with the structure plan” the Court of Appeal stated “the adjective ‘general’ is there to introduce a degree of flexibility.”<sup>35</sup> The use of ‘general’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited.

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<sup>33</sup> Paragraph 184 National Planning Policy Framework 2012

<sup>34</sup> Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20140306

<sup>35</sup> Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P &CR 31

The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

74. The Guidance states, “When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”<sup>36</sup>*

My approach to the examination of the Neighbourhood Plan policies has been in accordance with this guidance.

75. Consideration as to whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and each of the plan policies below. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

## **The Neighbourhood Plan Policies**

76. The Neighbourhood Plan includes 11 policies as follows:

Policy HSG1 – Housing Mix

Policy DES1 - Design

Policy CBH1 – Heritage and Local Green Space

Policy CBH2 – Historic Character

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<sup>36</sup> Planning Practice Guidance (ID ref: 41-074 201 40306)

Policy NE1 – Habitats, Trees and Hedgerows

Policy NE2 – Landscape and Rural Character

Policy TRA1 – Traffic and Transport

Policy EMP1 – High Speed Connectivity

Policy EMP2 – Employment

Policy COM1 – Community Facilities

Policy DC1 – Developer Contributions

77. The Framework states *“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.” “Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.”*<sup>37</sup>

78. The Guidance states *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*<sup>38</sup>

79. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.*<sup>39</sup>

80. *“A neighbourhood plan must address the development and use of land. This is because if successful at examination and referendum the*

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<sup>37</sup> Paragraphs 184 and 185 National Planning Policy Framework 2012

<sup>38</sup> Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306

<sup>39</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211

*neighbourhood plan will become part of the statutory development plan once it has been made (brought into legal force) by the planning authority. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004)."*<sup>40</sup>

81. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is made, they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn. I have considered any inter-relationships between policies where these are relevant to my remit.

### **Policy HSG1 – Housing Mix**

82. This policy seeks to establish that residential developments of 15 or more homes must include a balanced mix of house types to meet local need, and affordable housing within the development. The policy sets out types of homes to be included, and states proportions of different house types must be based on evidence of local need.
83. In a representation Ashfield District Council state *"The supporting text to Policy HSG1 Housing Mix identifies that the policy does not seek to modify the affordable housing requirements in the Gedling Local Plan in terms of numbers. However, it does make clear that affordable housing should be provided as an integral part of new development, rather than making financial contributions for affordable housing elsewhere. Ashfield District Council is supportive that affordable housing should be provided on the relevant allocated sites in the Parish of Linby."* A representation on behalf of Hallam Land Management Ltd states *"In respect of Top Wighay Farm...the approved Development Brief identifies that some affordable housing may be provided off-site, to meet strategic needs elsewhere in the Borough"* and *"There were only 232 residents and 101 homes in Linby at the time of the 2011 census, the strategic allocation is for 1,000 homes to meet the needs of the HMA."*

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<sup>40</sup> Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20140306

84. The Borough Council states *“The principle of proposals securing a ‘balanced mix’ of house types is supported by Policy ACS 8, part 4 and Policy LPD 37 which sets out how an ‘appropriate mix’ of house types will be informed. Policy LPD 36 sets out that proposals for residential development of 15 or more dwellings will require 30% affordable housing in the ‘Gedling Rural North’ sub-market area, within which Linby Parish is situated”* and the requirement of Policy HSG1 *“is that proposals must include affordable housing contributions within the development. This is contrary to section 6.2 of the Top Wighay Farm Development Brief SPD (final paragraph) which states that ‘some or all of the affordable housing may be met off site’ to ensure that the Borough’s affordable housing need is distributed in accordance with the Council’s Housing Strategy. Paragraph 50 (third bullet) of the NPPF (2012) is clear that policies for affordable housing should aim to meet affordable housing on site ‘unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified’ and that the policy approach should be ‘sufficiently flexible’. In the context of the Borough Council’s Housing Strategy and Paragraph 50 of the NPPF it is requested that the third bullet of HSG1 is removed as a ‘must’ requirement and referred to separately, acknowledging that off-site affordable housing contributions will be sought on site but that off-site provision may be acceptable.”*
85. Ashfield District Council also state *“The policy refers to ‘evidence of local housing need’. This is set out in detail in Gedling Local Plan Part Two. Policy LPD 37 - Housing Type, Size and Tenure. The two allocations, which geographically are located in the Neighbourhood Plan area, are Top Wighay Farm and Hayden Lane. While these sites should consider the requirements of the village of Linby, they also need to consider the wider local context that is Hucknall. It is considered that it would be helpful for the supporting text to Policy HSG1 to clarify that the evidence of the local need is not confined to the Neighbourhood Area. The supporting text refers to the Gedling Borough Council, Affordable Housing Supplementary Planning Document, December 2009. As the SPD reflects the previously adopted local plan policies presumably it will be replaced at some stage in the near future. Consequently, does this need to be reflected by appropriate wording in the supporting text.”* A representation on behalf of Hallam Land Management Ltd states it is not clear how local housing need is to be defined and suggests a similar paragraph to 11.3.5 of the Part Two Local Plan would provide helpful commentary



*“to ensure that the application of the policy will be dependent on the site and the area it is to serve”.*

86. The Framework states *“To deliver a wide choice of high-quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:*

- plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes)*
- identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand*
- where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.”<sup>41</sup>*

87. The approved Top Wighay Farm Development Brief SPD does envisage some or all provision of affordable homes will be made off-site. There is no requirement for the Neighbourhood Plan to be in conformity with the approved Top Wighay Farm Development Brief SPD. Policy HSG1 requires affordable housing to be provided *“within the development”* and *“mixed in with standard market housing”*. The requirement is that a proposed development of 15 or more homes must include affordable housing within the development. Even though the policy does not require all affordable housing provision associated with a development to be made on-site such an approach does not sufficiently reflect national policy set out in Paragraph 50 of the Framework. I have recommended a modification such that the policy recognises and accepts that off-site affordable housing provision, or a financial contribution of broadly equivalent value, may be robustly justified.

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<sup>41</sup> Paragraph 50 National Planning Policy Framework (2012)

88. It is appropriate for a neighbourhood plan policy to relate to local housing needs and to identify types of housing required. The supporting text to Local Plan Policy LDP 37 states “*The extent of the local area will be considered on a site by site basis.*” It is appropriate for Policy HSG1 to require proposals to demonstrate the proportions of different house types to be based on evidence of local housing need. The extent of the local area will be determined in accordance with Policy LDP37.
89. The term “*balanced*” is imprecise, and is unnecessary as the final sentence of the policy explains how the proportions of different house types are to be determined. The policy is without consequence. I have recommended a modification in these respects so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
90. The policy includes the term “*specialist accommodation suitable for the elderly, vulnerable or disabled persons*”. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these.<sup>42</sup> The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: “*From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings*”. The word “*Specialist*” is in any case imprecise. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
91. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Local Planning Document (Part Two Local Plan) (2018) and Policies Map,

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<sup>42</sup> <https://www.gov.uk/guidance/housing-optional-technical-standards>



and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

92. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework including those concerned with delivering a wide choice of high-quality homes. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 2:  
In Policy HSG1**

- **commence the Policy with “To be supported”**
- **delete “balanced”**
- **continue the first sentence with “(unless off-site provision of affordable housing or a financial contribution of broadly equivalent value is robustly justified)”**
- **delete “Specialist”**

**Policy DES1 – Design**

93. This policy seeks to establish that new development must be well designed and sustainable, and sets out 8 design principles. The policy also welcomes innovative architectural and building design.
94. Ashfield District Council state *“The Council is supportive of the requirement for links to the urban area of Hucknall set out in Point 7 of the policy”* and *“The policy in Point 7 should also identify cycle links. This would support the reference to cycling in Policy TRA1: Traffic and Transport.”* The policy does not specifically refer to Hucknall nor is there a requirement for it to do so. The inclusion of reference to cycle links would assist in clarifying the imprecise term *“balanced range of transport options”* and would reinforce confirmation of general conformity with strategic policy, not least in respect of Aligned Core Strategy Policy 15 and Part Two Local Plan Policy LDP 58. I have recommended a modification in this respect. Ashfield District Council also state the supporting text should cross reference the non-planning policies. This is not necessary to meet the Basic Conditions. I refer in the annex to my report to other adjustments to supporting text suggested by Ashfield District Council.

95. In a representation the Borough Council states *critterion 5 “should make reference within the policy text to the key views and vistas identified on the Map on page 20, rather than stating this in the interpretation section in order to provide sufficient clarity”*. I agree this clarification is necessary and have recommended a modification in this respect. The Borough Council also drew attention to instances where the interpretation section requires update and introduces elements of policy not in the policy itself, which it may not. I refer to these necessary corrections in the Annex to my report.
96. The policy as a whole and its constituent parts are without consequence. The term *“particularly welcomed”* does not provide a basis for the determination of planning applications. The terms *“well designed and sustainable”*; *“includes”*; *“adequate”*; and *“significant views and landmarks”* are imprecise. The terms *“townscape”* and *“urban form”* are confusing in the context of the characteristics of the Neighbourhood Area. Planning policy relating to protection of views must operate in the public interest. I have recommended a modification in these respects so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
97. The Framework states *“design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally”* and *“planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness”*<sup>43</sup>. The policy has regard for these elements of national policy.
98. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Local Planning Document (Part Two Local Plan) (2018) and Policies Map, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

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<sup>43</sup> Paragraphs 59 and 60 National Planning Policy Framework 2012

99. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with requiring good design; promoting sustainable transport; meeting the challenge of climate change and flooding; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

### **Recommended modification 3:**

#### **In Policy DES1**

- **replace the text before 1. with “To be supported development proposals must comply with the following design principles:”**
- **in part 1 replace “townscape” with “development”, and replace “urban form” with “layout”**
- **in part 3 delete “Provide adequate” and insert “Include” and after “spaces” insert “, and does not result in additional on-road car parking”**
- **replace part 5 with “Not significantly harm the key views and vistas identified on the Map on page 20 of the Neighbourhood Plan where viewed from locations that are freely accessible to the general public”**
- **in part 7 delete “and convenient and safe pedestrian links, including” and insert “including convenient and safe pedestrian and cycle links, and”**
- **delete “particularly welcomed” and insert “supported”**

### **Policy CBH1 – Heritage and Local Green Space**

100. This policy seeks to establish that designated Local Green Spaces must remain as open space for community use and states criteria for small-scale development to be allowed. The policy also seeks to maintain the open setting provided by local green spaces around named heritage assets.

101. The Borough Council states *“The policy wording is not consistent with paragraph 78 of the NPPF (2012) which is clear that ‘local policy for managing developments within a Local Green Space should be consistent with policy for Green Belts’. The policy makes provisions for certain types of small-scale development which is not consistent with the purpose of Local Green Space designation. In*

*addition, the interpretation section to CBH1 further sets out criteria for desired small-scale development. It is therefore considered that the implications of Local Green Space designation (i.e. determining applications in line with Green Belt policy) may not be the Parish's intended consequence. In their Consultation Statement (page 24) the Parish responded to this point stating that CBH1 should not repeat the NPPF. However, the NPPF at paragraph 78 concisely establishes how development should be managed. The NPPF is an important material consideration and clear statement of government planning policy, local planning authorities and Parish Councils are required to take it into account and any departure would need sound justification. In addition, given that all of the proposed Local Green Spaces are within the Green Belt there is a clear conflict between this Policy as drafted and NPPF Green Belt policy. In the interest of providing sufficient clarity the policy should list all of the designated Local Green Spaces (set out on pages 22/23 and the appended maps), rather than just three of them. It is requested that the policy is re-drafted ..." and "15 Local Green Spaces are proposed. The Borough Council has provided an assessment of each of the proposed Local Green Space designations at Appendix 1 of these comments. This assessment has been undertaken as a comparative exercise, and takes account of national policy and planning practice guidance. Appendix 1 sets out whether or not the sites would have been supported for designation had they been assessed consistently alongside other sites proposed through the Local Planning Document process. Where the Borough Council's recommendation differs to that of the neighbourhood plan, it is acknowledged that it is ultimately the examiner's role to determine the acceptability of all of the proposed designations. The recommendations of the Local Green Space assessment are summarised in the table at paragraph 12 of Appendix 1.*

- LGS 14 and 15 are already designated in the Local Planning Document*
- Proposed LGS 1, 5, 6 and 8 are supported*
- Proposed LGS 13 falls within a strategic housing allocation. The proposed boundary is based on indicative boundaries and are not consistent with housing development that is currently being constructed. The proposed LGS13 if adopted would overlap several new homes which would not be appropriate. Practice Guidance (para 008, ID 37-008-20140306) states that LGS designation is rarely appropriate for land that has planning permission for development. It is requested that LGS13 is removed.*

- *Proposed LGS 2, 3, 4, 7, 9, 10, 11 and 12 are not supported for LGS designation given that Planning Practice Guidance (para 011, ID 37-011-20140306) and Planning Practice Guidance (para 008, ID 37-008-20140306) state that consideration should be given to ‘additional local benefit’ where proposed LGS are designated Scheduled Monuments/ within a conservation area or are within the Green Belt. Such benefit is unclear, in particular in conjunction with other designations on these sites.”*

102. The Framework states *“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.”*

103. The policy does not propose the designation of Local Green Spaces although it is clear from the Neighbourhood Plan (not least the designation statement commencing on page 22) that this is the intention. I have recommended a modification in this respect. The wording of the policy does not reflect the terms of the designation of Local Green Spaces set out in paragraph 76 of the Framework where it is stated communities will be able to rule out development other than in very special circumstances. It is not appropriate for the policy to seek to establish an alternative description of the designation. I have recommended a modification in this respect also. The part of the policy that seeks to maintain the open setting provided by Local Green Spaces around named heritage assets is unnecessary and confusing. I have recommended this part of the policy is deleted and the policy title adjusted to reflect the policy content.

104. Two of the proposed Local Green Space designations relate to land that is already designated as Local Green Space in the Part Two Local Plan. A duplicate designation would serve no clear purpose and would be confusing, and fail to provide a practical framework for Plan users as required by paragraph 17 of the Framework. I have proposed a modification so that proposed Local Green Spaces LGS14 and

LGS15 should not be designated as Local Green Space in the Neighbourhood Plan. The interpretation text below the policy and the maps in Appendix 2 should refer to the designated status of the areas referred to as LGS14 and LGS15 as Local Green Space in the Part Two Local Plan. Proposed Local Green Space LGS13 is part of a development site. The area of land proposed as Local Green Space includes residential plots forming part of planning permission reference 2017/0201 (Application for Approval of Reserved Matters in relation to Appearance, Landscaping, Layout and Scale of Outline Planning Permission no: 2013/1406 granted subject to conditions 20 July 2017). Whilst the planning permission includes a 30-metre-wide Ecology Corridor between the plots on the eastern side of the site and the River Leen this does not correspond with LGS13. The Guidance states “*Local Green Space designation will rarely be appropriate where the land has planning permission for development. Exceptions could be where the development would be compatible with the reasons for designation or where planning permission is no longer capable of being implemented.*”<sup>44</sup> I have proposed a modification such that LGS13 should not be designated as Local Green Space. I have proceeded to assess the suitability of the other areas (LGS1 to LGS12 inclusive) proposed for designation as Local Green Space.

105. Designation of Local Green Space can only follow identification of the land concerned. In a representation Ashfield District Council suggests reference is made in the policy or supporting text to a plan identifying the areas concerned. For a designation with important implications relating to development potential it is essential that precise definition is achieved. The proposed Local Green Spaces are presented on the ‘Maps of Local Green Space Designations’ in Appendix 2 of the Neighbourhood Plan at a scale that is sufficient to identify the precise boundaries of each Local Green Space proposed for designation.

106. The interpretation section that follows the policy seeks to explain the term “*small-scale built development may be allowed*” included in the policy. I have given consideration to the possibility of the policy including explanation of “*very special circumstances*”. Such circumstances may be that development is proposed that would clearly enhance the Local Green Space for the purposes for which it was designated, or proposals are made for essential infrastructure that

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<sup>44</sup> Planning Practice Guidance Paragraph: 008 Reference ID: 37-008-20140306



cannot be located elsewhere. I have concluded such explanation would necessarily be incomplete and that decision makers must rely on paragraph 78 of the Framework that states “*local policy for managing development within a Local Green Space will be consistent with policy for Green Belts*” and the part of the Framework that relates to ‘protecting Green Belt land’, in particular paragraphs 87 to 91 inclusive. I have recommended a modification in this respect.

107. The Framework states “*the Local Green Space designation will not be appropriate for most green areas or open space*”. Designating a green area as Local Green Space would give it protection consistent with that in respect of Green Belt, but as the Neighbourhood Plan area is washed over as Green Belt it is necessary to consider whether any additional local benefit would be gained by designation as Local Green Space. It is also necessary to consider whether additional benefit is achieved where other designations apply.

108. All of the proposed Local Green Spaces are in Green Belt. Paragraph 79 of the Framework states “*the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence*”. The Framework states local policy for managing development within a Local Green Space should be consistent with policy for Green Belts. The Guidance states “*One potential benefit in areas where protection from development is the norm (eg villages included in the green belt) but where there could be exceptions is that the Local Green Space designation could help to identify areas that are of particular importance to the local community.*”<sup>45</sup> Whilst Appendix 2 does not specifically consider the case for additional benefit it does confirm that the sites proposed for designation are demonstrably special to the local community. The proposed designations have been subject to extensive public consultation. I am satisfied designation is appropriate under these circumstances.

109. The proposed Local Green Spaces LGS1, LGS2, LGS3, LGS4, LGS5, and part of LGS9 are situated in the Linby Conservation Area. The regime set out in paragraphs 131, 137, and 140 of the Framework, relevant to the conservation and enhancement of a Conservation Area (including assessment of the desirability of new development; looking for opportunities for new development making a

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<sup>45</sup> Planning Practice Guidance Paragraph: 010 Reference ID:37-010-20140306

positive contribution to local character and distinctiveness; and assessment of the benefits of enabling development) together provide a very different approach to that arising from designation as Local Green Space which is seeking to rule out new development other than in very special circumstances. Similarly, where the proposed Local Green Spaces are protected open space (LGS9 and LGS11) or include Scheduled Monuments (LGS2 and LGS3) these designations do not precisely replicate the aims of, nor preclude, a designation as Local Green Space.

110. The Framework states *“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them”* and *“Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed and be capable of enduring beyond the end of the plan period.”*
111. In respect of the areas intended for designation as Local Green Space I find the Local Green Space designations are being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designations are not capable of enduring beyond the end of the plan period. The intended designations have regard to the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework.
112. I am only able to recommend a modification so that the Neighbourhood Plan meets the Basic Conditions or other requirements I have identified. Whilst the Borough Council has offered an opinion that suggests nine of the proposed Local Green Spaces would not be designated *“had they been assessed consistently alongside other sites proposed through the Local Planning Document process”* that is not a basis for my consideration. The factors leading to the conclusion of the Borough Council are however matters for my consideration.
113. The Framework states that: *“Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*



- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land.*<sup>46</sup>

I find that in respect of each of the intended Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves, is local in character, and is not an extensive tract of land.

114. I now consider whether there is sufficient evidence for me to conclude that the areas proposed for designation as Local Green Space are demonstrably special to a local community and hold a particular local significance. The Neighbourhood Plan sets out in Appendix 2 a description of each proposed Local Green Space which acts as a summary of the reason for designation. The proposals have been subject to comprehensive consultation. I conclude each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance.

115. With the exception of LGS13, LGS14, and LGS15 I find all the areas proposed as Local Green Space are suitable for designation and have regard for paragraphs 76 and 77 of the Framework concerned with the identification and designation of Local Green Space. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Local Planning Document (Part Two Local Plan) (2018) and Policies Map, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

116. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting healthy communities; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

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<sup>46</sup> Paragraph 77 National Planning Policy Framework 2012

**Recommended modification 4:**

**Replace Policy CBH1 with**

**“The following areas (identified on maps in Appendix 2) are designated as Local Green Spaces where new development is ruled out other than in very special circumstances:**

**LGS1 Village Green (area in front of Stone Cottages)**

**LGS2 Green Space surrounding the Bottom Cross**

**LGS3 Green space surrounding the Top Cross**

**LGS4 Linby Docks**

**LGS5 School Plantation**

**LGS6 Linby Meadow**

**LGS7 Grassed area on the south side of Linby Lane**

**LGS8 Playing field behind the Horse and Groom public house**

**LGS9 Football Field – Linby Football Club**

**LGS10 Paddock**

**LGS11 Blackpad**

**LGS12 Area next to Waterloo Road and the football field. (Houses the old colliery wheel)”**

**In the Interpretation text below the policy and on the Maps in Appendix 2 refer to the Local Green Space designation in the Part Two Local Plan of those parts of Moor Pond Wood and Dam Banks, and of Dam Wood that fall within the Neighbourhood Plan Area. Delete references to LGS13, LGS14, and LGS15 throughout the Neighbourhood Plan.**

**Replace the policy title with “Designation of Local Green Spaces”**

**Policy CBH2 – Historic Character**

117. This policy seeks to establish that new development must respond to the character and appearance of the Linby Conservation Area. The Borough Council has stated *“This policy is interpreted as only applying within the designated conservation area and its setting. For example, development within allocated sites that are not within the setting of the conservation area would not be required to meet the criteria of this policy. It is requested that the policy is re-drafted to read ‘New development within the Conservation Area and impacting its setting...’ if the examiner considers this to be necessary.”*

118. It is evident from the interpretation section below the policy that it is intended the policy should apply within the Linby Conservation Area. The Framework makes it clear that the significance of a heritage asset will include any contribution made by its setting. The Framework seeks the conservation and enhancement of the significance of heritage assets. The policy is without consequence. The term “*authentic materials*” is imprecise. I have recommended a modification in these respects so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

119. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Local Planning Document (Part Two Local Plan) (2018) and Policies Map, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

120. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 5:  
In Policy CBH2**

- **replace the first sentence with “To be supported development proposals within, or affecting the setting of, the Linby Conservation Area, must demonstrate how they conserve and enhance the significance of that heritage asset by complimenting, but not imitating, the historic context.”**
- **delete “authentic”**

**Policy NE1 – Habitats, Trees and Hedgerows**

121. This policy seeks to establish that new development proposals should not have any significant adverse impacts on wildlife habitats, trees and hedgerows. The policy states this includes retaining existing

hedgerows and trees with equivalent replacement if removal is unavoidable.

122. *Ashfield District Council state “support of the principle of the Policy. However, it is unclear how this policy would be applied in relation to Top Wighay Farm and Hayden Lane allocations. It sets out retention of existing hedgerows and trees or, if removed, the hedges and trees are replaced. In the context of the wording of the policy, it is not clear what the implication of the last sentence is. ‘Any replacement hedgerow and trees must be in a similar location and of same species and type, unless otherwise agreed by the local planning authority.’ Is this intended to: enable the local planning authority to agree replacements within the application site or some other site close by the application site, or can the local planning authority agree that no replacement hedgerows or trees are required? The supporting text would appear to indicate the former. However, if this is the case does this policy have implications in relation to the housing allocations set out in the Development Plans, particularly in relation to the Top Wighay Farm? For substantial development sites, the retention of the existing hedges, which may have little value for wildlife, can make good design of a development very difficult. Further, it may be inappropriate to provide equivalent replacements. It is considered the policy should be amended to recognise that Top Wighay Farm is a strategic site where it may not be appropriate to retain all hedgerows and trees.”*

123. The Borough Council states *“In order to provide sufficient clarity it is requested that the emphasis of the policy is amended to read ‘Proposals should not have any significant adverse impacts... The retention of existing hedgerows and trees will be supported...’.”*

124. The term *“will be considered for approval”* does not provide a basis for decision making on planning proposals. The term *“similar location”* is imprecise. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

125. The policy includes provisions relating to hedgerows. The Hedgerows Regulations 1997 establish a balanced regime to protect hedgerows in specified locations but exclude any hedgerow which is within, or borders, a domestic garden. It is appropriate for the

Neighbourhood Plan to seek to introduce an additional regime of protection to apply in the context of development proposals. The Framework states the planning system should minimise impacts on biodiversity, and development resulting in the loss of aged or veteran trees found outside ancient woodland should be refused unless the need for, and benefits of, the development in that location clearly outweigh the loss. “*Equivalent*” replacement of a mature tree may not be practicable. Paragraph 173 of the Framework requires Plans to be viable and deliverable. I have recommended a modification so that the policy has regard for national policy in these respects.

126. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Local Planning Document (Part Two Local Plan) (2018) and Policies Map, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
127. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 6:**

**Replace Policy NE1 with “To be supported proposals for new development must not result in a net loss of, or deterioration of, wildlife habitats. Where hedgerows or trees are unavoidably lost, they must be replaced with the same species and type as close as possible to the position where the loss is to occur, unless it is demonstrated this is not practicable or viable.”**

**Policy NE2 – Landscape and Rural Character**

128. This policy seeks to establish that new development must respond, respect and enhance landscape and rural character including sustainable urban drainage systems and high-quality boundary treatments.
129. Severn Trent Water are supportive of the policy “*in particular the requirement for development to consider and where appropriate*

*incorporate Sustainable Urban Drainage systems into the site designs. The appropriate management of surface water is essential to prevent an increase in flood risk, and the reliance of existing infrastructure. Delivery of appropriate SuDS system can be aligned with Severn Trent process and the requirements of NPPF.”*

130. The Framework recognises “*the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes...*”. The policy is without consequence. The terms “*respond*” and “*the landscape and rural character of the parish*” are imprecise. I have recommended a modification in these respects.

131. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Local Planning Document (Part Two Local Plan) (2018) and Policies Map, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

132. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 7:**

##### **In Policy NE2**

- **commence the policy with “To be supported”**
- **delete “respond,”**
- **delete “the parish” and insert “it’s setting”**

### **Policy TRA1 – Traffic and Transport**

133. This policy seeks to establish that new development must incorporate sustainable transport provision, including six named features.

134. Ashfield District Council “*is supportive of the requirements in the policy for development to have convenient links to public transport, local cycle links and footpaths in terms of lay out and connectivity.*” I



refer, in the annex to my report, to other adjustments to supporting text suggested by Ashfield District Council.

135. The Borough Council states *“It is recommended that the critical junctions referred to at Appendix 3 of the neighbourhood plan, which are referred to in the supporting text and interpretation of TRA1, are referenced within the policy wording to give it policy weight. This would provide sufficient clarity on the status of this map.”*
136. The policy is without consequence. The Framework states *“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”* The policy includes the imprecise terms *“giving priority”* and *“sufficient”*. I have recommended a modification in these respects so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
137. Paragraphs 35 and 75 of the Framework states *“Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people”* and *“Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.”* Policy TRA1 has regard for these aspects of national policy.
138. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these.<sup>47</sup> The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*. Whilst the policy relates to all development types these include dwellings which are likely to be the most common type of development occurring in the plan area over the plan period. I consider provision of an electric

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<sup>47</sup> <https://www.gov.uk/guidance/housing-optional-technical-standards>

vehicle charging point is not a requirement relating to the construction, internal layout or performance of new dwellings. It is however necessary to recognise the need for attention to viability and deliverability as required by paragraph 173 of the Framework. I have recommended a modification in this respect.

139. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Local Planning Document (Part Two Local Plan) (2018) and Policies Map, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

140. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting sustainable transport and requiring good design. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 8:**

##### **In Policy TRA1**

- **commence the policy with “To be supported”**
- **in criterion 2 delete “Giving priority to” and insert “Provide for”**
- **in criterion 4 delete “significant”**
- **in criterion 4 after “safety,” insert “no severe impact in terms of “**
- **in criterion 5 after “families” insert “so that no additional on-road parking results”**
- **in criterion 6 after “vehicles” insert “subject to technical feasibility and viability considerations”**

#### **Policy EMP1 – High Speed Connectivity**

141. This policy seeks to establish that new development must incorporate high-speed internet connectivity and not impact negatively on the functionality of the existing telecommunications infrastructure. The policy also requires planning applications to include a connectivity statement.

142. The Borough Council states *“It is requested that the policy is amended to be triggered by the threshold of major residential development (i.e. proposals for 10 or more homes) or employment development comprising 1,000 sq. m of commercial floor space). As drafted, it appears to be onerous to apply the policy to smaller scale developments. It is also unclear how an assessment of the impact of proposals upon the functionality of telecommunications infrastructure would be obtained in practice. Paragraph 173 of the NPPF (2012) establishes the principle of ensuring plans are deliverable and ensuring that the scale of obligations and policy burdens does not threaten development viability”, and “The policy establishes a requirement to include a ‘connectivity statement’ for ‘all relevant planning applications’ but does not set out what the statement should include and what proposals this would apply to (see above requested change). For the avoidance of doubt, the connectivity statement should be required to demonstrate that the speed is ‘greater than 24 megabits per second’ – the government’s national target as established in the supporting text. Paragraph 17 of the NPPF sets out that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.”*

143. The policy is without consequence. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

144. The Framework states *“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable”*. I have recommended modification of the policy in this respect so that the policy has regard for national policy.

145. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these.<sup>48</sup> The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*. I have recommended modification of the policy in this respect so that the policy has regard for national policy.

146. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Local Planning Document (Part Two Local Plan) (2018) and Policies Map, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

147. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with supporting high quality communications infrastructure and requiring good design. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 9:**

**Replace Policy EMP1 with “To be supported residential and commercial development proposals must, unless it can be demonstrated to be not viable, establish that on-site provision for high speed broadband connection will be made prior to occupation of any building.”**

**Policy EMP2 – Employment**

148. This policy seeks to establish criteria for the support of proposals for new economic development. The policy also requires preparation of a master plan for the whole employment site on the

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<sup>48</sup> <https://www.gov.uk/guidance/housing-optional-technical-standards>

allocated site at Top Wighay prior to any individual development within the site being approved.

149. Ashfield District Council query the reference to Section 106 agreements in the policy interpretation section. The second paragraph of the interpretation section seeks to introduce an element of policy not referred to in Policy EMP2 which it may not. I have recommended a modification in this respect.
150. The Borough Council states *“In order to clarify the intentions of the policy, it is requested that the first sentence is amended to read ‘Proposals for employment related development, including for changes of use, should demonstrate that they meet the following criteria:’ (or similar).”* The term *“will be considered for approval”* does not provide a basis for the determination of planning applications. The term *“economic development”* is imprecise. I have recommended a modification in these respects so that the policy has regard for national policy and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
151. The Framework states *“to help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century”,* and *“Investment in business should not be over-burdened by the combined requirements of planning policy expectations.”* Given the scale of envisaged development on the allocated site at Top Wighay it is a reasonable requirement that a master plan should be prepared prior to approval of individual schemes within that area.
152. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Local Planning Document (Part Two Local Plan) (2018) and Policies Map, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
153. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy; supporting a prosperous rural economy; promoting sustainable transport; requiring good design; and

conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 10:**

**In Policy EMP2**

- **replace the text before the bullet points with “To be supported proposals for employment related development, including for changes of use, should demonstrate that they meet the following criteria:”**
- **replace “Causing” with “Cause”; “Locating” with “Locate”; and “Providing” with “Provide”**

**On page 56 delete the second paragraph of the Interpretation Section.**

**Policy COM1 – Community Facilities**

154. This policy seeks to establish support for proposals that affect existing community facilities providing they do not have any significant adverse impact on the community value of the facility. The policy also seeks to establish conditional support for new community facilities.

155. The Borough Council states *“In order to clarify the intentions of the policy, it is requested that the two policy text statements ‘will be considered for approval’ are amended to read ‘will be supported’”*. I agree the term *“will be considered for approval”* does not provide a basis for the determination of planning applications. It is unnecessary and confusing for the policy to state *“in the neighbourhood area”* as all of the policies of the Neighbourhood Plan apply within the neighbourhood area or a specified part of that area. The Framework states development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The Framework also states planning policies should plan positively for the provision of community facilities and *“guard against the unnecessary loss of valued facilities and services”*. The policy should accommodate circumstances where loss is necessary. The policy should clearly state the facilities to which it relates. I have recommended a modification in these respects so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.



156. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Local Planning Document (Part Two Local Plan) (2018) and Policies Map, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
157. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting healthy communities; requiring good design; and promoting sustainable transport. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 11:  
In Policy COM1**

- **on both occasions delete “considered for approval” and insert “supported”**
- **replace “Road capacity and safety” with “Road safety, and that the cumulative traffic impacts of the development are not severe”**
- **delete “existing community facilities in the neighbourhood area” and insert “the community facilities listed below”**
- **after “of the facility” continue “unless it is demonstrated the facility is no longer required and the premises have been marketed for that purpose for no less than 6 months; or alternative equivalent facilities are provided in a no less convenient location for users.”**
- **delete “listed in Table 1” and insert “Linby Colliery Welfare Football Club; St Michael Church; Cemetery of St Michael Church; Linby cum Papplewick Primary School; Hanson House community centre; Heritage Centre; Brook Farm shopping facility; and the Horse and Groom public house.”**

**Policy DC1 – Developer Contributions**

158. This policy seeks to establish that the Local Planning Authority should consider three named infrastructure priorities in considering Section 106 requirements or allocation of CIL monies.

159. Ashfield District Council state *“The list of infrastructure requirements in the policy is noted. However, the Neighbourhood Plan sets out the community’s concern over highway issues. Appendix three of the Plan identifies Critical Junctions. Given the emphasis on the wider transport infrastructure raised by the local community the policy should include the potential for contribution towards wider improvements to the highway infrastructure.”* It is beyond my remit to recommend additional items are added to the policy as this is not necessary to meet the Basic Conditions or other requirements.
160. It is appropriate for a community to use the Neighbourhood Planning process to agree an approach to the raising and utilisation of funds as a planning gain and to identify priorities for use of such funds.
161. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Local Planning Document (Part Two Local Plan) (2018) and Policies Map, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
162. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with planning obligations. This policy meets the Basic Conditions.

## Summary and Referendum

163. I have recommended 11 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.
164. I am satisfied that the Neighbourhood Plan<sup>49</sup>:
- is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and

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<sup>49</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

- subject to the modifications I have recommended, meets all the statutory requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and meets the Basic Conditions:
  - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
  - the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>50</sup>

**I recommend to Gedling Borough Council that the Linby Neighbourhood Development Plan for the plan period up to 2032 should, subject to the modifications I have put forward, be submitted to referendum.**

I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.<sup>51</sup> The Plan includes the whole Parish of Linby. I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”<sup>52</sup>. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

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<sup>50</sup> This basic condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018. This basic condition replaced a basic condition “the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects”.

<sup>51</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>52</sup> Planning Practice Guidance Reference ID: 41-059-20140306

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Gedling Borough Council as a Neighbourhood Area on 25 April 2016.**

Annex: Minor Corrections to the Neighbourhood Plan

165. A number of consequential modifications to the general text, and in particular the “*Interpretation*” of policies sections, of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies for example:

- delete the word “*Specialist*” from the final sentence of the interpretation section that follows Policy HSG1;
- replace the second paragraph of the interpretation section that follows Policy CBH1 with “Policies for managing development within a Local Green Space should be consistent with policy for Green Belts” so as to have regard for national policy; and
- delete the word “*authentic*” from the second paragraph of the interpretation section that follows Policy CBH2.

166. I am able to recommend modification of the Neighbourhood Plan in order to correct errors.<sup>53</sup> I recommend the following minor changes only in so far as it is to correct an error or where it is necessary so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework:

Page 13 clarify that should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area<sup>54</sup> unless the Borough Council subsequently decide the Neighbourhood Plan should not be ‘made’.

Page 14 update Part Two Local Plan status

Page 22 paragraph 99 not 90

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<sup>53</sup> Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

<sup>54</sup> Section 3 Neighbourhood Planning Act 2017

Page 33 Ashfield District Council request a clarification that allocated and safeguarded land includes that in the Gedling ACS and Local Plan Part Two. I have no objection to such a clarification.

Page 43 in the first interpretation paragraph update reference to the Local Plan

Page 43 in the first interpretation paragraph after “Guide” insert “or replacement documents”

Page 54 final sentence of the interpretation section after “Guide” insert “or replacement documents”

I recommend these minor updates and corrections are made.

The Borough Council has suggested a number of corrections are made to the Neighbourhood Plan as follows:

Page 19 2<sup>nd</sup> Paragraph – Clarify that the number of designated heritage assets is 27 (as non-designated assets will be identified in due course).

Page 21 (Map) – the map does not correctly show the boundary of the North of Papplewick Lane ACS allocation (see page 180 of the ACS) and changes made to the status of allocations/safeguarded land through the Local Planning Document. It is requested that the map is replaced with an extract of the Local Planning Document (2018) policies map showing housing allocations, employment allocations and safeguarded land.

Page 33, 1<sup>st</sup> Bullet Point – reference to a development brief for ‘Safeguarded Land Top Wighay Farm’ should be removed as no such brief exists or would be supported due to the status of the land (i.e. it is not allocated for development and this could only be achieved through a review of the Local Plan or Neighbourhood Plan). Also amend sentence above the bullets to reflect that the LPD has been adopted and sites have been allocated (not proposed).

Page 36, 1<sup>st</sup> Bullet – remove text ‘and Safeguarded Land’ as this land is not allocated for development.

Page 37, 7<sup>th</sup> Paragraph – sentence ‘Policy 10 of the ACS and Policy LPD34 in the adopted Local Plan, Part Two address small scale development’ should be removed as small-scale development is not limited to considerations of design and residential gardens. Appropriate policies depend on a site’s individual context (i.e. Green Belt, Historic Environment, Self-Build, etc).

Page 38, 1<sup>st</sup> Paragraph – delete quote from the Affordable Housing SPD which is a quote outlining the policy requirement of the now revoked East Midlands Regional Plan. Replace quote with statement ‘The requirement for affordable housing will be determined in line with

Policy LPD 36, Policy ACS 8 and the requirements set out in the Affordable Housing SPD'

Page 43 DES1 (Criteria 7 and 8 and Interpretation) – These requirements derive from Policy LPD 35 which gives greater detail on the policy requirement. The text in the first paragraph of the interpretation section 'Items 7 and 8 are in the Local Plan. However, this plan applies them until that plan is adopted' should be replaced with the text 'Policy LPD 35 provides further policy guidance in interpreting criteria 7 and 8 of DES1' in order to provide sufficient clarity..."

Page 43 (interpretation to Policy DES1) – Delete the third paragraph which refers to the use of high-quality materials, as the policy does not include a criterion on materials.

Page 44 (interpretation to Policy DES1) – It is unnecessarily prescriptive to require 'capable and skilled professional teams' to respond to DES1 as not all applicants will have access to this (i.e. minor applications) therefore it is requested that this sentence is removed. Paragraph 173 of the NPPF (2012) establishes the principle of ensuring plans are deliverable and that the scale of obligations and policy burdens that threaten development viability

Page 48 (interpretation) – remove current text as this justified the 'small-scale' approach. Replace text to reflect the Green Belt approach, which is consistent with the NPPF.

Page 59 (interpretation) – the statement 'where applications involve open space and recreation, paragraph 97 of the NPPF provides further guidance to avoid loss of such communities' does not make sense and is not relevant for interpreting COM1. It is requested that this sentence is deleted.

Page 62 (Table) – The reference in the table to Policy STP1 should be removed as this policy was removed through the drafting of the plan.

Glossary - It is requested that a caveat is added to the first sentence in the glossary to state 'Please note some definitions may have been revised in the NPPF 2018'. This avoids, for example, any ambiguity surrounding the amended definition of affordable housing.

I recommend these corrections are made.

The Borough Council also suggested minor revisions to the Neighbourhood Plan in respect of a number of factual updates and typographical errors as follows:



Foreword, Page 4, 1<sup>st</sup> Paragraph – Amend ‘2017’ to read ‘2018’ to reflect the plan period.

The Local Plan, Page 14, 1<sup>st</sup> Bullet – remove reference to the 2005 Local Plan

The Local Plan, Page 14, 2<sup>nd</sup> Bullet – amend to reflect the Local Planning Document (2018) is now adopted 18<sup>th</sup> July 2018.

Local Green Space, Page 22, 1<sup>st</sup> Paragraph – amend ‘paragraph 90’ to read ‘paragraph 99’.

Local Green Space, Page 22, 4<sup>th</sup> Paragraph – amend to note that paragraph 77 of the NPPF (2012) is effectively the same test as set out in the NPPF (2018).

Local Green Space, Page 23, 1<sup>st</sup> Paragraph – remove ‘and 9 local facilities were designated as community facilities’ which is not relevant to the Local Green Space designations.

Linby’s Policies, Page 33, 1<sup>st</sup> Paragraph – under sustainable development, ‘plan’ should read ‘planning’.

Linby’s Policies, Page 33, 5<sup>th</sup> Paragraph – after reference to ‘Local Planning Document’ insert text ‘Part Two Local Plan (adopted 2018) (LPD)’ to ensure consistent references within the paragraph.

Linby’s Policies, Page 34, 2<sup>nd</sup> Paragraph – amend page number reference to ‘pages 25-28’.

Housing, Page 35, 6<sup>th</sup> Paragraph – reference to ‘currently under construction’ should be removed as this development is now completed (Strata Homes site, north of Wighay Road).

Housing, Page 36, 1<sup>st</sup> Paragraph – amend reference to read ‘NPPF 2018’

Housing, Page 36, 5<sup>th</sup> Bullet – amend spacing typo.

Housing, Page 37, 4<sup>th</sup> Paragraph – LPD statement in relation to three safeguarded sites should reference ‘paragraph 6.6.5 of the Part Two Local Plan’.

Place, Page 41, 5<sup>th</sup> and 6<sup>th</sup> Paragraphs - amend reference to read ‘NPPF 2018’

NE1, Page 50, 3<sup>rd</sup> Paragraph – The reference to ‘Paragraph 11.5.3’ should be amended to read ‘Paragraph 11.6.3’.

NE1, Page 50, 5<sup>th</sup> Paragraph – The reference to the NPPF is incorrect and should be amended to reflect it is from Paragraph 170 of the NPPF (2018).

TRA1 Page 53, 1<sup>st</sup> and 3<sup>rd</sup> Paragraph – clarify that references are to NPPF (2018).

TRA1, Page 53, 5<sup>th</sup> Paragraph - The reference to ‘Paragraph 3.2.27’ should be amended to read ‘Paragraph 3.2.37’.

TRA1, Page 54, after the reference in the interpretation section to the ‘Parking Provision for Residential Developments SPD and 6 C’s Design

Guide' insert the text 'or their replacements/updates'. This is to reflect that reviews of these documents are currently underway.  
COM1, Page 58, 2<sup>nd</sup> Paragraph – The reference to the NPPF should be amended to read Paragraph 91c of the NPPF (2018).  
Glossary – the 'local planning authority' section of the glossary should refer to Linby rather than Calverton.

I recommend these updates and corrections are also made.

**Recommended modification 12:  
Modification of general text will be necessary to achieve consistency with the modified policies, and to correct identified errors including those arising from updates.**

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19 March 2019  
REPORT ENDS