

John Slater Planning Ltd

Broughton and Old Dalby Neighbourhood Plan 2017 - 2036

Submission Version

A Report to Melton Borough Council on the Examination of the
Broughton and Old Dalby Neighbourhood Plan

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Introduction

Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the Melton Local Plan. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

The neighbourhood plan making process has been led by Broughton and Old Dalby Parish Council. A Neighbourhood Plan Group Advisory Committee (NPAC) was appointed to undertake the plan's preparation. Broughton and Old Dalby Parish Council is a "qualifying body" under the Neighbourhood Planning legislation.

This report is the outcome of my examination of the Submission Version of the Broughton and Old Dalby Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be "made" by Melton Borough Council, the Local Planning Authority (LPA) for the neighbourhood plan area.

The Examiner's Role

I was formally appointed by Melton Borough Council in August 2017, with the agreement of Broughton and Old Dalby Parish Council, to conduct this examination. My role is known as an Independent Examiner. My selection has been facilitated by the Neighbourhood Planning Independent Examiner Referral Service which is administered by the Royal Institute of Chartered Surveyors (RICS).

In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 39 years' experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both Melton Borough Council, and Broughton and Old Dalby Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

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Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

- That the plan should proceed to referendum on the basis that it meets all the legal requirements.
- That the plan should proceed to referendum if modified
- That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.

Furthermore, if I am to conclude that the Plan should proceed to referendum I need to consider whether the area covered by the referendum should extend beyond the boundaries of area covered by the Broughton and Old Dalby Neighbourhood Plan area.

In examining the Plan, the Independent Examiner is expected to address the following questions

- a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
- b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
- c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body.

I am able to confirm that the Plan, if amended in line with my recommendations, does relate to the development and use of land, covering the area designated by Melton Borough Council, for the Broughton and Old Dalby Neighbourhood Plan on 23rd November 2015.

I can also confirm that it does specify the period over which the plan has effect namely the period from 2017 up to 2036.

I can confirm that the plan does not cover any “excluded development”.

There are no other neighbourhood plans covering the area covered by the Plan designation.

Broughton and Old Dalby Parish Council as a parish council is a “qualifying body” (QB) under the terms of the legislation.

The Examination Process

The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.

I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

I am satisfied that I am in a position to properly examine the plan without the need for a hearing.

I carried out an unaccompanied visit to the villages of Nether Broughton, Old Dalby and the settlement of Queensway, the industrial estates as well as the surrounding countryside on 9th October 2017. I spent over three hours driving and walking around the area. I did have some questions that arose from my site visit, which I referred to both the Parish Council and the Local Planning Authority, to which I received separate replies on 24th and 27th October 2017. Whilst writing this report I sought clarification of the issue of the attribution of housing completions to settlements, to which I received a composite reply from both on 6th November 2017. There was a subsequent exchange of questions prompted by a letter from Gladman Developments Ltd regarding the Parish Council's list of Community Assets as well as responses to some preliminary conclusions I shared in a document entitled Further Comments of the Independent Examiner dated 21st November 2017. Copies of all the correspondence has been put on the respective websites.

The Consultation Process

Once work on the neighbourhood plan was underway, three drop in sessions were held in each of the settlements In March 2016, which were attended by over 80 people. The purpose was to explain the concept of the neighbourhood plan and to recruit volunteers. Further recruitment took place via open meetings held that May and June resulting in the formation of the Advisory Committee. The work was divided up into three theme groups.

The group used a software package known as Vocal Eyes to sound out and generate ideas for policies in the plan. This was launched on 28th October 2016. This was supplemented by paper forms for those who did not have access to the online facility. Other methods of communications included flyers, the parish magazine, noticeboards and an email distribution list.

Emerging policies were publicised in public sessions in the 3 settlements in February 2017, which over 150 people attended.

The consultation culminated in the publication of the Pre-Submission Version of the plan. This is known as the Regulation 14 Consultation and ran for six weeks from 18th April 2017 until 30th May 2017. The results of this formal consultation are set out fully in the Consultation Statement that accompanied the submission.

Regulation 16 Consultation

I have had regard, in carrying out this examination, to all the comments made during the period of final consultation, which took place over a 6-week period between 20th July 2017 and 30th August 2017. This consultation was organised by Melton Borough Council, prior to it being passed to me for its examination. That stage is known as the Regulation 16 Consultation.

In total 15 individual responses were received from Historic England, Natural England, Melton Borough Council, Highways England, Environment Agency, Anglian Water, The Coal Authority, Gladman Developments Ltd, Leicestershire County Council, Defence Infrastructure Organisation, Trent Valley Internal Drainage Board, Network Rail, planning consultants on behalf of Connolly Land and Development (North Midlands)Ltd, a planning consultant on behalf of Mrs Grey, the owner of the reserve housing allocation site and also from a local resident.

I have carefully read all the correspondence and I will refer to the representations where it is relevant to my considerations and conclusions in respect of specific policies or the plan as a whole.

The Basic Conditions

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

The six questions which constitute the basic conditions test seek to establish that the Neighbourhood Plan: -

- Has had regard to the national policies and advice contained in the guidance issued by the Secretary of State and it is appropriate to make the Plan?
- Will the making of the Plan contribute to the achievement of sustainable development?

- Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
- The making of the Plan does not breach or is otherwise incompatible with EU obligations or human rights legislation?
- Whether prescribed conditions are met and prescribed matters have been complied with?
- Whether the making of the Plan will have a significant effect upon a European site or a European offshore marine site, either alone or in combination with other plans and projects?

Compliance with the Development Plan

To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the adopted Development Plan, which in this case is the Melton Local Plan adopted, as long ago as 1999. The majority of these policies are no longer relevant whilst others have been “saved”. Work is underway on a new Local Plan which has been the subject of its Pre-Submission consultation. At the July meeting of the Borough Council, the Council agreed to an Addendum of Focussed Changes to a number of policies based on updated evidence. These focussed changes have been subject to further consultation which ended in September. These form the Proposed Modifications to the emerging Melton Local Plan and will be the subject to a public examination before the Examiner Mary Travers, which runs from 30th January 2018 to 9th February 2018.

For the basis of the basic conditions test, it is not possible to place great reliance on the evolving local plan in terms of the statutory requirements for the neighbourhood plan to be in compliance with its strategic policies. However, the Borough Council is basing its emerging policies on up to date evidence and this has been used by the Qualifying Body in its submission document. However, some of the draft local plan policies have changed since its Regulation 15 submission and I have had regard to these changes in my examination. I consider that this approach follows the Government advice on the relationship between an emerging local plan and a neighbourhood plan set out in the online Planning Practice Guidance (PPG).

Compliance with European and Human Rights Legislation

Melton Borough Council carried out a Screening Opinion on the Submission Version of the Plan and produced an initial screening reported dated 12th July 2017, followed by an amendment on 15th August which included consultee responses. The report concluded that it is unlikely that there will be any significant effect arising from the Plan and a full Strategic Environmental Assessment (SEA) as required by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004” ,would not be required.

The Borough Council, as competent authority, carried out on 10th May 2017, a screening opinion under the Habitat Regulations. The assessment concluded that the Plan will not likely have any significant effects on any internationally protected wildlife sites, the nearest of which is the Rutland Water Special Protection Area, which is also a Ramsar site nor any Natura 2000 protected sites.

I am satisfied that the basic conditions regarding compliance with European legislation are met. I am also content that the plan has no conflict with the Human Rights Act.

The Neighbourhood Plan: An Overview

The neighbourhood plan group have faced a challenging task in producing such a well written, locally distinct neighbourhood plan in less than two years and should be congratulated for their drive and their commitment. Their task has not been assisted by having a constantly evolving local plan, which was under preparation in parallel with the neighbourhood plan. In addition, the plan area included different communities, which did not have the same status in the settlement hierarchy and so had different housing policy requirements to accommodate.

The difficulty in seeking to enshrine emerging local plan policy into a neighbourhood plan is, firstly, the local plan polices evolve and are refined as they go through their consultation and examination stages, but also the problem is that it could enshrine into the development plan (by being in a made neighbourhood plan) a draft local plan policy. I have accordingly had to make some recommendations that at least update the policy where the emerging local plan has moved on. It is perfectly in order for the neighbourhood plan to have regard to an emerging local plan, so long as it is based on robust and up to date evidence.

Equally, planning applications will continue to be submitted and have to be determined as the neighbourhood plan work is progressing. This is inevitable and I

have had to make some recommendations to ensure the plan reflects these decisions.

I have had to make an important recommendation to change the status of the site at Station Lane from being a reserve site to a full housing allocation. The housing figures that have to be accommodated are *minimum* figures and it is clear that where brownfield sites are available and deliverable, it is not sustainable to hold back its development, especially when green field sites are having to be built upon to meet housing need.

I note that the plan is to be reviewed in 5 years' time and I would strongly support that, otherwise the plan could become less relevant as the national and the strategic local context change. The neighbourhood plan is the vehicle to allow the community to influence how the plan area continues to change so it is important that it remains up to date.

My examination has to be focussed entirely on the question of the basic conditions. In a number of instances, I have recommended revisions to the wording of policies to bring the plan into line with national policies and I have not been faced with sufficient sound reasons to depart from national policy. In a small number of cases I have not been able to modify the policy to meet basic conditions and I have had to recommend individual policies or parts of policies to be deleted.

My consideration of the plan has concentrated on the development plan policies and I consider it beyond my remit as examiner to be proposing changes to the supporting text, which are not used for the determination of planning applications. However, for the final version of the plan to read as a coherent document, it will be necessary for some of the supporting text to be amended or removed. This is a matter for the Qualifying Body in conjunction with Melton Borough Council planners.

The Neighbourhood Plan Policies

Policy S1: Limits of Development

The plan has taken the opportunity to review the settlement boundaries, known as Limits to Development, across the plan area, specifically covering the 2 villages of Old Dalby, Nether Broughton and the settlement of Queensway plus three small employment sites and one large employment area. The plan has 4 criteria for revising the Limit of Development, including whether planning permission has been granted for residential or employment floorspace. Since the publication of the Submission Version of the Neighbourhood Plan, there have been a number of planning permissions granted for developments outside but on the edge of the designated settlements, that based on the stated criteria, should now be included with the Limit of Development. This should include the front part of the Central Field

site in Middle Lane, Nether Broughton, where planning permission has recently been granted for three residential units, under reference 17/00950/OUT. In redrawing that boundary, I recommend the inclusion of the whole parcel of land within the settlement boundary, including the area to the rear, which will remain as Local Green Space as proposed in Policy ENV1, as it is a logical parcel and is protected by that designation. Equally, the Limit of Development in Old Dalby should include the land for which planning permission has been granted for 7 dwellings at Longcliff Hill, under reference 17/00743/OUT.

I did initially raise with the Qualifying Body, whether the enclave of housing between the Crown and Old Dalby Business Park and the railway test track, should also be identified as a settlement worthy of its own designation. Whilst at the present time, there are approximately 15 properties, fronting Station Road, and in the cul-de-sac off Station Lane, I am aware that planning consent has been granted for an additional 25 dwellings and separately 15 and 4 units, adjacent to the Woodlands. In addition, the plan proposes a reserve site allocation, covered by Policy H2, to which the plan allocates a capacity of 42 units. The initial response from the Qualifying Body was that it wished the plan to concentrate development within the main settlements and for that reason had not sought to set a new Limit of Development for that area. However, this part of the plan area, will be accommodating a significant amount of development over the coming years which would justify having its own settlement boundary. It appears that the Qualifying Body now accepts the logic of that position.

The stated purpose of the Limit of Development is to ensure that there is sufficient land for development, so that it did not impinge on the countryside. In addition, my interpretation is that part of the justification of having a differentiation between settlements and other areas, is that the areas outside the settlement boundaries, are classed as "countryside" and are therefore covered by policies applicable to the countryside. In this case, much of this land off Station Road, is previously developed land and the NPPF has a general presumption in favour of its development as a means of delivering sustainable development, so long as it is not of high environmental quality. There appears to be a degree of public support for development in this particular part of the plan area in preference to other parts of the Plan area. I have therefore concluded that this enclave would warrant being included as an additional settlement area that should have its own limit of development. I will make that recommendation. One option would have been to enlarge the employment area shown on Figure 3, so as to include the remainder of the land up to the test track, but that may lead to pressure for the change of use of employment land to residential uses. I have concluded that this residential enclave should have its own Limit of Development, so that it is differentiated from the employment areas which are protected by Policy BE1.

The Defence Infrastructure Organisation has, in its Regulation 16 representation, suggested that the Limit of Development should be extended to include the MOD Old Dalby site. I believe, as partially previously developed land which is now surplus to MOD requirements, that this is likely to be available for development during the lifetime of the plan. However, I am conscious that there will have been no public consultation on such a proposal and it would not have been screened as part of the SEA process. In their response to similar DIO representations at Regulation 14 stage, the neighbourhood plan group indicated the position would be reconsidered when the plan is reviewed in 5 years' time. I think that is an appropriate response, unless it is the subject of a planning application in the meantime.

Moving on from the actual extent of the settlement boundaries, the policy wording supports development proposals within the Limits of Development, or adjacent to them in the case of recreational and sporting activities, "where they are in compliance with the policies of the neighbourhood plan, subject to design and amenity considerations". Any planning application would have to comply not just with neighbourhood plan policies but also relevant policies in the Local Plan, which will inter alia, cover amenity and design issues. I propose to remove all the text after "supported" as this wording is unnecessary and imprecise. One representation has pointed out that the emerging Local Plan policy allows development on the edge of settlements however the policy goes on to say that a scheme for housing should meet a housing need assessed by a neighbourhood plan and I do not consider that this plan identifies a need that needs to be met from outside the settlement boundaries.

Recommendations

Amend the plan in Figure 2 to include the site granted planning permission for 8 houses under 17/00315/OUT and 7 houses under reference 17/00743/OUT.

Amend the plan in Figure 6 to include all the land at Middle Lane, Nether Broughton including the land to the rear of the site granted planning permission for 3 dwellings under reference 17/00950/OUT.

Replace and retitle Figure 4 to become a new "Limit of Development for Station Road, Old Dalby and Station Lane Housing Allocation" to include all the land that is shown as the reserve site (the site to become a Housing Allocation under Policy H2 and shaded as such) with the Limit of Development to follow the edge of the allocation site and then extended northward along the west side of Bolfols Road, turning westward along the Station Road frontage and then to return following the boundary of the test track facility.

Delete all text in policy wording after "supported".

Policy S2: Development Proposals Outside Defined the Limits to Development

I have no comments to make on this policy.

Policy H1: Housing Provision

The adopted local plan is out of date in terms of providing for the level of housing needs/requirements for such settlements as Old Dalby and Nether Broughton. The most reliable source of the evidence as to the level of objective housing need is contained in the emerging Melton Local Plan. The Submission Version of the Neighbourhood Plan which is the subject of this examination, was prepared in the context of the Pre-Submission Version of the Melton Local Plan and this policy summarises the position as to housing numbers as it existed at this time. However, the local plan is still under development and its policies are changing in the light of more up to date evidence and consultation. It is possible that they will change again as the plan goes through its examination, before it is finally adopted. It is therefore inappropriate to enshrine into a neighbourhood plan policy, the provisions of an emerging plan, as if the neighbourhood plan is made, it will make *draft* local plan policy part of the development plan. This is a major deficiency with the policy as proposed.

The most up to date version of the plan at the time of writing this report, is contained in the Pre-Submission Version, as proposed to be changed by the Addendum of Focused Changes, which were approved by Melton Borough Council in July and which were the subject of their own separate consultation period. The responses submitted to that consultation were considered in Sept / Oct. These will in time be placed before an Inspector for public examination in early 2018. There are a number of changes that are directly related to the housing policies in the plan which are based on the latest technical studies.

Although it is not a legislative requirement for the neighbourhood plan to be in accordance with the emerging Local Plan, it is important that the neighbourhood plan is based on up to date evidence, which now includes the Housing and Economic Development Needs Assessment, January 2017 and the report Towards a Housing Requirement for Melton, also January 2017 and its addendum dated June 2017.

The expectations for the supply of housing over the plan period are split between that related to Old Dalby, categorised as a Rural Service Centre which has an expectation that it will provide approximately 36 houses. Table 4 notes that the position was at 31st March 2017 that 5 houses had been built in the period 2011-31/3/17 with planning permission granted for another 23, showing commitments for the delivery of 28 units, leaving a residual requirement of 8 dwellings. I have also been told that planning permission was subsequently granted for a further 8 units

under reference 16/00911/OUT at North Lodge Farm. That would mean that the plan does not need to be allocating any additional land at Old Dalby, although I do recognise that the overall housing figure in the Local Plan is expressed as *at least 6,125 homes*, but additional contributions can come through windfall sites on non-allocated site

However, it appears to me that there is a distinct lack of clarity as to whether the land on the east side of the test track should count towards the Old Dalby figure as a Service Centre. The Parish Council point out that it is in Dalby Ward and that it is closer to Old Dalby village than Queensway which would be classed as a Rural Settlement in the same way as Nether Broughton. However, it also acknowledges that the test track acts as a natural barrier and that this area is somewhat of an anomaly. The LPA have taken the decision in terms of their latest allocation document in the Focussed Changes Addendum, to no longer treat land on the east side of the test track as forming part of Old Dalby.

In their last representation, the Qualifying Body “believe that this land should be attributed to the Old Dalby Service Centre housing allocation”. I consider that is a matter for the Local Planning Authority and I note the Borough Council has already changed the apportionment in the Focussed Changes Addendum. My recommendation follows the same logic, that the Station Road enclave is physically separated from Old Dalby, with the plan promoting the declared Area of Separation between the two settlements and that there is not a need for the additional allocation to meet the Old Dalby housing need.

The Qualifying Body has also made representations to me regarding the view as to the unsuitability of the Reserve site which is allocated by the Local Plan at Longcliff Hill. This site, does not form part of the neighbourhood plan proposals and I therefore do not need to commit to a view or make a recommendation.

Outside the Service Centre new residential development will normally be covered by the policy for windfall set out in Policy H3.

Recommendation

Replace policy with:

“Planning permission will not be granted within the Plan area for new residential development, beyond current commitments, apart from where the proposal complies with Policy H2, Policy H3 and Policy BE3” (as per my recommendation for amendment).

Policy H2: Reserve Site

The site is allocated for development in the neighbourhood plan, but only if other sites in Old Dalby, which have planning permission, are not developed, or if there

was a requirement for additional sites in the parish as a result of any new development plan document. There has been an objection at Regulation 16 stage to the designation of the site as a reserve site, made on behalf of the landowner. The site is subject of an extant planning application which is currently undetermined. That application is for development of up to 80 dwellings, which is the figure set out in Melton Borough Council's SHLAA, compared to the figure contained within the neighbourhood plan which is for a residential development of up to 42 dwellings.

Much of my thinking on this site has already been rehearsed, in term of my recommendation for the designation of an additional Limit of Development for this area. The site is currently outside any of the settlement boundaries but it is surrounded by the industrial development, the railway line and sites which have planning permission for residential development. It is not open countryside. As previously developed land there is a general presumption that it should be put to an effective use, as it clearly is not of high environmental value, as set out in the NPPF core principles.

As I have previously referred to, the strategic Development Policy, Policy SS2 in the emerging local plan does not set a maximum figure for residential development, but the housing requirement is expressed as a minimum requirement. The government through its policies in the NPPF (paragraph 55) is for the planning system to deliver a significant increase in supply of housing. It would therefore seem inconsistent to prevent the development of this brownfield site, at this point in time, on an arbitrary basis, when it is available and deliverable. It is the previously developed status of this land which has lead me to my conclusion that the status of this allocation should change from a reserve allocation to a housing allocation. My conclusions which have been different, had the reserve status of the allocation been on a greenfield site.

Whilst the national policy does encourage neighbourhood plans to identify reserves sites, I consider that in this case, it would be inconsistent with the objective of delivering sustainable development to be holding back the redevelopment of a brownfield site in what is essentially a built-up area.

I understand that this is a deliverable site although I am advised that the land is contaminated and will require remediation. The Qualifying Body have accepted my "provisional view" on this matter subject to the capacity on the plan refers to a figure of up to 42 dwellings. This is materially different from the current planning application which refers to a scheme about 80 dwellings. I have no evidence on which to conclude that the figure of 42 should be regarded as a maximum. Equally I appreciate that proximity to the industrial units and the rail track could limit the site capacity. I also note the desire of the plan is to be promoting small dwellings on the site and inevitably the costs of development may be higher, because of the costs of preparing the land to be suitable for a residential use. I will therefore be

recommending that the site be allocated for residential development, rather than be retained as a reserve site, but the figure should be *at least* 42 dwellings with the actual number to be dependent on site constraints, scheme viability and the actual size and mix of housing units.

In terms of the conditions attached to the policy, I am satisfied that the standard of land survey and remediation strategy should be a matter that can be dealt with by way of planning conditions, which needs to be carried out as part of the implementation of the consent as well as securing appropriate noise protection for residents from the railway test track and adjacent industrial units.

Recommendations:

Retitle Policy - HOUSING ALLOCATION- Station Lane, Old Dalby

Replace the wording as follows:

“The site at Station Lane, as shown on Figure 4 is allocated for housing, to comprise at least 42 dwellings, but the actual capacity to be determined having regard to the need to safeguard future residents’ amenity from noise from the adjacent test track facility and adjoining industrial uses, the need to provide for at least 80% of the units to be three bedrooms or smaller and the need for appropriate open space and landscaping following the completion of the remediation of any contamination on the site and having regard to site viability.”

Policy H3: Windfall Sites

This policy was based on the policies as set out in the Pre-Submission version of the Melton Local Plan. The respective limits on the number of units has been removed from the latest version of the emerging plan. I can see no justification for limiting the size of windfalls in the neighbourhood plan, as it will depend on the size of the site and the type of and mix of development proposed site capacity.

I would therefore recommend that the wording of policy be amended to refer to “residential development” rather than “*small* residential development within the Limits of Development”. I do not consider that windfall sites require a separate housing mix policy different to that proposed to be included within Policy H4, which applies to all development within the plan area.

Recommendations

Delete “small” and all the text in parenthesis.

Delete “this Plan and the Borough’s Local Plan” and replace with “the development plan”

In a) replace “Old Dalby, nether Broughton and Queensway” with “the settlements”

Insert “and” at the end of criteria a) and b)”

Delete all of text of d)

Policy H4: Housing Mix

This policy is broadly in line with the emerging local plan housing mix policy (Policy C2) albeit informed by a local housing needs survey carried out in 2014. The policy refers to meeting the needs *specifically* of Old Dalby, Nether Broughton and Queensway, but some of the new housing in the plan area will contribute to meeting the housing needs of the whole district. I propose to refer to “local needs” only, rather than to refer to the 3 settlements, to give a degree of flexibility to decision makers when assessing planning applications.

Recommendation

Delete “in Old Dalby, Nether Broughton and Queensway”

Policy H5: Affordable Housing Provision

Again, the submitted policy was based on an earlier version of the draft Local Plan which has been overtaken by changes in the Focussed Changes Addendum. This is now taking a more differentiated approach to the percentage of affordable housing required, based on development viability – which vary across the borough. The percentage quoted in the policy is different between what it describes as “value areas”. This latest version of the draft Local Plan is now proposing a minimum figure of 25% as the minimum affordable housing components of residential schemes of over 10 units, in this part of the district. As this is an evidence – based policy, which is up-to-date and can assist meeting housing need, and it will, if amended in line with my recommendation, contribute to the achievement of sustainable development.

The second element of the policy seeks to justify a policy that requires a local connection for the occupation of affordable housing in the Plan area. I do not consider that the housing needs evidence would justify a specific policy for only people with a local connection. Any new housing is not just meeting local needs and also needs of objective housing needs of the wider district. I do not consider that the policy is justified on the basis of the evidence and I propose that this element of the policy be deleted.

Recommendations

Replace “37%” with “25%”

Delete all of policy after “once Adopted”

Policy H6: Housing Design

I consider that generally this is an appropriate, locally distinct policy.

The only element that raises an issue of compliance with national policy is criterion e). This fails the test of being “precise”, in that does not define what is meant by “best environmental practice” or reference as to where that is defined. Furthermore, the inclusion of “solar panels, rainwater harvesters and photovoltaic glass” is contrary to the provisions contained in the Secretary of State’s Written Statement to the House of Commons dated 25 March 2015, which states that neighbourhood plans should not be imposing “any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”. Whilst the policy speaks of encouragement, but the wording of the supporting text does offer specific comments regarding exceeding Building Regulation standards. I will therefore recommend that this element of the policy be deleted as being incompatible with national policy

I will also clarify that criterion f) relates to the “designated historic assets” rather than “non-designated historical assets” where there’s a different threshold for considering harm to that asset.

Recommendations

Delete criterion e)

Insert “designated” before “historic assets”

Policy ENV1: Local Green Space

I do have some reservations with regard to the methodology used in the plan for assessing Local Green Space (LGS) in that it gives more weight to some sites which are identified as exhibiting local significance than others, by allocating scores to individual criteria. If the site displays more than another site, based on what the NPPF sets out as *examples* of factors that could be used to identify significance, such as “tranquillity” and a “richness of wildlife” it could potentially score higher than say a village green which may only meet one criteria, but which may be of greater importance to the village. I do not consider that was the intention of the authors of the NPPF document. Paragraph 77 is only quoting examples of what could be factors that could demonstrate that the green area is demonstrably special and holds particular local significance.

However, that criticism does not affect my general conclusions that all the sites in some ways are held in particular high regard by local residents so as to warrant designation. There are two sites which I do have concerns.

On my site visit, I walked along the footpath through Old Hall Parkland. It is clearly an important area of historical and landscape importance to the village. However, I have been advised that the area of the site covers some 16 ha. I did have initial concerns that this could be considered an “extensive” area of land and hence it would not conform with the final bullet point of Paragraph 77. This is a view also shared by the Borough Council. However, the Framework does not establish a threshold as to what constitutes “extensive” and I do recognise that the land in question, whilst large in area, does constitute a single parcel of parkland which is “local in character”. In my judgement, its designation does not fall within the category of open countryside adjacent to a settlement where the designation as LGS is being used as a blanket restriction on development, as referred to in the PPG (Paragraph: 015 Reference ID: 37-015-20140306). I have therefore concluded that, on balance, that the land can remain as designated as LGS.

My second area of concern related to the LGS designation on the whole Central Field site at Nether Broughton as shown on Figure 11. Following the granting of planning permission for three dwellings, it would no longer be appropriate that all the whole site be designated as LGS. I will therefore be recommending that the extent of that proposed designation should be reduced to exclude the land which has now received planning permission for 3 homes.

Finally, the wording of Policy ENV1 extends the protection of the designation to the land which makes up the *setting* of the LGS. That goes beyond the requirements of paragraph 76 of the NPPF, which only imposes restrictions on the land which is actually designated as LGS.

Recommendations

Amend Figure 11 to reduce the area of LGS at Central Fields, Nether Broughton to exclude the site granted planning permission under reference 17/00950/OUT

Delete the final paragraph.

Policy ENV2: Protection of Other Sites of Environmental (Natural and Historical) Significance

The policy seeks to offer protection or require enhancements of features which are of local significance. This goes beyond the Secretary of State’s test set out in the NPPF in terms of ‘local wildlife sites’, wherein protection should be commensurate with the status or the sites significance, when weighed against the benefits arising from the development. This is a more nuanced approach than neighbourhood plan is proposing and I am proposing revised wording to bring it into line with national policy.

Recommendation

Replace policy wording with:

“Development proposals that affect the natural and historic sites of local significance as shown in Figure 15 will be expected to protect and enhance the identified features and/ or species according to their status and give appropriate weight to their importance and the contribution they make to the wider ecological network or historical environment. Planning permission will be refused unless the need for and the benefits arising from the development in that location clearly outweigh the loss”.

Policy ENV3: Wildlife Corridors and Habitat Connectivity

This policy is consistent with the approach set out in paragraph 117 of the NPPF. The policy refers to “permitted development” which has a particular meaning relating to development allowed by the Town and Country Planning (General Permitted Development) Order. I will be recommending that it is changed to “Development which is approved....”

Recommendation

Replace “Permitted development” with “Development which is approved”.

Policy ENV4: Woodland, Trees and Hedges

Again, this goes beyond the threshold set out in paragraph 118 of the Framework wherein there should be a presumption against the loss of irreplaceable habitat including ancient woodland and veteran trees, “unless the need for or the benefits of development in that location clearly outweigh the loss.” I will accordingly recommend the amendment of the policy to bring it in line, as I see no evidence to justify a departure from national policy.

Recommendation

Delete “supported” and replace with “approved unless the need for, and benefits of, the development in that location clearly outweigh the loss”

Policy ENV5: Ridge and Furrow

I consider this to be a locally distinctive policy and I have no recommendations to make in terms of complying with the basic conditions.

Policy ENV6: Footpaths and Bridleways

I have no comments to make on this policy.

Policy ENV 7: Areas of Separation

I have no concerns regarding the principles of Areas of Separation to prevent the coalescence of settlements. I have the same comments to make regarding the terminology using “permitted development” and I will be recommending the same changes in drafting as in respect of Policy ENV3, to provide clarity.

Recommendation

Replace “Permitted development” with “Development which is approved”.

Policy ENV8: Flooding and Drainage

This policy does not comply with the Secretary of State policy for areas at risk of flooding as set out in the NPPF and the Technical Guidance to the NPPF document. It is also imprecise when it refers to demand of an appropriate scale and where relevant. Notwithstanding the support from the Environment Agency, I will be recommending the policy be deleted as a departure from national guidance is not justified in the local context.

Recommendation

That the policy be deleted.

Policy ENV9: Protection of Important Views

The only issue with the policy wording, that it refers to strongly resisting, “development that impacts significantly” on the viewpoints. Some developments could have a positive impact, so I will recommend that the policy be amended to refer to developments which “adversely” impact upon viewpoint.

Recommendation

Insert “adversely” before “impacts”.

Policy ENV10: Biodiversity

I consider that this is a locally distinct neighbourhood plan policy; however, I do not consider that a planning application could be properly refused for a building that did not incorporate a bird nesting box or for a means of enclosure that did not have an opening to allow hedgehogs to pass through. These matters can be included in the policy that *encourages* rather than *requires* such provision.

Recommendation

Replace” should” with “is encouraged to”.

Policy ENV11: Renewable Energy

I am satisfied that the policy represents the community’s views on renewable energy as promoted by the Planning Practice Guidance. I consider the policy criteria are all appropriate apart from 1e) which requires renewable energy general infrastructure to demonstrate that it will be “of an appropriate scale for the size, character and level other facilities, the built environment and services in the three villages”. I do not consider that this provides the clarity required for a development plan policy, as it gives no guidance as to what is considered to be an appropriate scale. Also, I would question what the relationship between the existing levels of the facilities e.g. whether a village has a school, shop, bus services or pub has on the acceptability, in planning terms, of renewable energy proposals.

With that exception, I consider the policy meets basic conditions.

Recommendation

Delete criterion 1e)

Policy CF1: Protection and Enhancement of Community Facilities and Assets

I had a concern with the policy which refers to “any building or land currently or last used as a community facility” could, if not actually being identified, lead to debate at planning application stage, as to whether a piece of land or building qualified as a “community facility”. This matter was clarified by the Qualifying Body who has produced maps showing which pieces of land and buildings the policy seeks to protect. That information was placed on the respective websites and I received representations from Gladman Developments Ltd objecting to the inclusion of the Six Hills Golf Centre and produced evidence that there was a surplus of golf facilities. The Qualifying Body has now agreed to the deletion of the golf centre from their proposed list. The identified list includes two public houses, one in Old Dalby and one in Nether Broughton. The list did originally include the Belvoir Brewery in Queensway, but the Qualifying Body has reassessed its suitability as a community facility, as it is not “a community pub in the traditional sense” and have requested that it be deleted from the policy.

I have not included in my recommendations some of the street furniture such as seats, notice boards, defibrillators as these are not subject to planning control.

Recommendations

Replace “any building or land currently or last used” with “the following community facilities which are also shown on Maps X, Y and Z”

Insert at the end

- Old Dalby Cricket Field/ Pavilion
- Old Dalby Village Hall
- Old Dalby Play Area
- Old Dalby Village Green
- Old Dalby Cemetery
- Old Dalby Primary School
- Old Dalby Pre-School
- Crown Inn, Old Dalby
- St John the Baptist Church, Old Dalby
- Village phone kiosk, Old Dalby
- Old Dalby Bus Shelter
- Nether Broughton Village Hall and car park
- Nether Broughton Play area
- Nether Broughton Village Green
- The Anchor Inn, Nether Broughton
- Village phone kiosk, Nether Broughton
- St Mary’s Church, Nether Broughton
- Two bus shelters in Nether Broughton
- Queensway Scout Headquarters
- Queensway play area
- Queensway allotments
- Queensway play park
- Two bus shelters Queensway
- St Mary’s Chapel, Six Hills

Policy CF2: The Provision of New Community Facilities and Assets

I have no comments to make on this policy

Policy CF3: Education

There are two matters of concern in respect of this policy. Firstly, it requires that consent will not exacerbate traffic problems, but any increase in the school role is likely to generate the potential for additional traffic movements. Importantly paragraph 32 of the NPPF states that “Development should only be prevented or refused on transport grounds where cumulative impacts of development are severe”.

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I do not consider a proposal by the school for its expansion should, potentially, be refused planning permission in terms of the loss of amenity to the school itself, which is promoting the development.

The support for the “safe routes to school” is not a policy for the development and use of land, and as such should be moved to become a Community Aspiration.

Recommendations

Delete criterion a)

In criterion b) delete “the school”

Delete the final paragraph and move to Community Aspirations

Policy CF4: Play Areas

I consider that the underlying principle is sound but I consider that it is too vague to refer to developments “that isn’t within easy walking distance of existing play area”. I consider that it will be helpful if the policy referred to a 400m, as a reasonable walking distance for a child.

Recommendation

In the second paragraph, replace “ isn’t within easy” by “ is not within 400 metres”

Policy TR1: Public Car Parking

I have no comments to make regarding this policy

Policy TR2: Traffic Management

This policy imposes what would be an unreasonable requirement on applicants to produce what would, in effect, be a Transport Assessment. Paragraph 30 of the NPPF imposes that requirement on “all developments that generate significant amount of movement”. Imposing this requirement on small developments is an unreasonable requirement, that goes beyond what is envisaged by national policy. I also consider it is an unrealistic requirement of the policy “to require any scheme of three or more residential units to have to build a pavement to the centre of the appropriate settlement”, or maximise opportunities to walk and cycle between the three settlements. Such requirements as well as being unjustified could render such small schemes unviable. I do not consider that this policy meets basic conditions and I propose to recommend that the policy be deleted.

Recommendations

That the policy be deleted

Policy BE1: Business Development

I consider that it is inappropriate to only grant planning permission for new business development, if existing business parks are fully utilised. Such a policy would be contrary to the national planning policy to seek to encourage sustainable economic growth. It may be that existing business premises are not suitable to meet the particular needs of a company or because of their location all the facilities or indeed their tenure.

I consider it an impractical requirement, for all business developments to provide for the on-site parking of buses.

Recommendations

Replace the whole of the policy except for the final paragraph with the following.

“The Neighbourhood Plan supports the continued retention of the existing business parks within the plan area (as shown in Figures 3 and 5) and any development within these areas should be restricted to employment uses within Use Class B1, B2 and B8 as well as within Use Class D2 or uses ancillary to their primary use as employment areas.

The release of further land for business purposes will be supported if it is shown that there is local need, especially for accommodation for small scale enterprises.”

Policy BE2: Working from Home

I consider this an innovative policy and I consider that to the extent that the building works require planning permission, it meets the basic conditions.

Policy BE3: Reuse of Agricultural and Commercial Buildings

I have only one concern regarding this policy, namely it fails to refer to the acceptability of residential use of rural buildings, beyond the mention in the supporting text which refers to permitted development rights. Paragraph 55 of the NPPF specifically allows the conversion and use of redundant or disused buildings where it leads to an enhancement in the immediate setting. This needs to be included within the policy as part of the list of acceptable uses to bring the policy into line with national advice and to provide clarity for decision makers.

Recommendation

Insert “residential, after “small businesses””

Policy BE4: Old Dalby Test Track

I made enquiries regarding the extent to which the use of the test track comes under planning’s jurisdiction and I am satisfied that the matters covered by the policy are subject to planning control. The policy contains the statement that any alteration to extend the operating hours would not be supported. This is a blanket restriction, which would control the operation, of what Network Rail describes as a strategically important site for the wider UK rail network. I consider that the policy as drafted is too rigid and I support in part the proposed amendment suggested by Network Rail in their Regulation 16 representation relating to proposals to extend operating hours and protecting the asset from harmful proposals in the long term.

Recommendation

In the second paragraph replace “would not be supported” with “will be carefully considered subject to its effects on the health and quality of life, as outlined above”

In the third paragraph replace “Proposals that threaten the integrity of and its infrastructure for” and replace with “the plan will not support any proposals that may adversely impact the integrity and infrastructure of the test track and therefore threaten its....”

Policy BE5: Broadband

I do not consider that the second part of the policy is within the developer’s control as this will be dependent upon the “roll out” of the superfast broadband network by telecommunication operators. This element of the policy should be moved to become a community aspiration. However, the policy can require appropriate ducting to be installed to enable connection to superfast broadband, when it becomes available.

Recommendation

In the second paragraph after “should” replace “have” with “provide the ducting and other service infrastructure to enable the development to be able to “

Delete everything after “superfast broadband” in the first line of the second paragraph and move to Community Aspirations

Policy DC1: Contribution to New Infrastructure and Facilities

The wording of the policy is that planning obligations will be required to “mitigate the

impact of development on the environment and communities". It gives a list of what those contributions could be used for, from tree planting to traffic management.

The test of a planning obligation, that requires financial contributions to be made to infrastructure, whether it is for social, physical or green infrastructure, is that the contribution is required "to be necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development". Under the Community Infrastructure Levy Regulations 2010, the raising of funds toward the spending on the priorities set out in the policy, would only pass the statutory and policy test, if the requirement arose for addressing the impact of that particular development in that location. As written the policy is not in line with national policy asset out in paragraph 204 of the NPPF and so does not meet basic conditions.

Once Melton Borough Council introduces its CIL Scheme then it is open to the Parish Council to determine how it wishes to spend the 25% element of any CIL receipt.

Recommendation

That the policy be deleted.

The Referendum Area

If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Broughton and Old Dalby Neighbourhood Plan as designated by Melton Borough Council on 23rd November 2015, is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

Summary

The Neighbourhood Plan Group and the Parish Council are to be congratulated for producing a well-focused and locally distinctive neighbourhood plan which has been produced in a very timely fashion. The policies cover the matters which are clearly of importance to the communities of the settlements that make up the Plan area.

I have recommended changes to a number of the policies to address issues which are necessary to ensure the plan meets the Basic Conditions.

To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the

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basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.

I am therefore delighted to recommend to the Melton Borough Council that the Broughton and Old Dalby Neighbourhood Plan, as modified by my recommendations, should now proceed to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI

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15th December 2017