

WELBOURN NEIGHBOURHOOD PLAN

Welbourn Neighbourhood Plan Examination,
A Report to North Kesteven District Council

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Contents:

1. Introduction

2. Basic Conditions and Development Plan Status

3. Background Documents and Welbourn Neighbourhood Area

4. Public Consultation

5. The Neighbourhood Plan: Introductory Section

6. The Neighbourhood Plan: Policies

- **Housing and the Built Environment**
- **Design and Character**
- **Community Well-Being, Leisure and Recreation**
- **Employment**
- **Environment**

7. The Neighbourhood Plan – Other Matters

8. Summary

9. Referendum

1. Introduction

The Neighbourhood Plan

This Report provides the findings of the examination into the Welbourn Neighbourhood Plan (referred to as the Neighbourhood Plan).

Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”
(Paragraph 183, National Planning Policy Framework)

Welbourn Parish Council is the *qualifying body*¹ responsible for the production of this Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).

This Examiner’s Report provides a recommendation as to whether or not the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by North Kesteven District Council. The Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Welbourn Neighbourhood Area.

Role of the Independent Examiner

I was appointed by North Kesteven District Council, with the consent of Welbourn Parish Council, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience. I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.

As the Independent Examiner, I must make one of the following recommendations:

- a) that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
- b) that the Neighbourhood Plan, as modified, should proceed to Referendum;

¹The qualifying body is responsible for the production of the Plan.

- c) that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether or not the Referendum Area should extend beyond the Welbourn Neighbourhood Area to which the Plan relates.

In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

Subject to the contents of this Report, I am satisfied that all of the above points have been met.

Neighbourhood Plan Period

A neighbourhood plan must specify the period during which it is to have effect. The title page of the Neighbourhood Plan states that it covers the period 2015-2030. Paragraph 1.6.1 of the Neighbourhood Plan also refers to this plan period, as does Paragraph 1.1.3 of the Basic Conditions Statement.

Taking the above into account, I confirm that the Neighbourhood Plan satisfies the relevant requirement in this regard.

I acknowledge that the reference “DRAFT 2015” on the Neighbourhood Plan’s title page reflect the Submission Stage status of the Neighbourhood Plan at that point in time. For clarity (and to emphasise the plan period), I recommend:

- **Delete “DRAFT 2015” from title page**

Public Hearing

According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.

However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.

Further to consideration of the written representations submitted, I confirmed to North Kesteven District Council that I was satisfied that the Welbourn Neighbourhood Plan could be examined without the need for a Public Hearing.

2. Basic Conditions and Development Plan Status

Basic Conditions

It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*² following the Localism Act 2011. In order to meet the basic conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan for the area;
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

I have examined the Neighbourhood Plan against all of the basic conditions above.

I note that Section 2 of the Basic Conditions Statement, prepared by Welbourn Parish Council and submitted to North Kesteven District Council, is entitled “Conformity with National Planning Policy.” Whilst this is a potentially confusing headline, as conformity with national policy is not a requirement relating to the basic conditions, I note that the text associated with Section 2 clearly relates to the basic conditions.

- **I recommend replacing the title above with “*Having Regard to National Policy and Advice*”**

The introduction to the Neighbourhood Plan refers to the basic conditions as they appear in the Town and Country Planning Act. The wording of the basic conditions is the result of careful consideration and the plan-makers are to be commended for providing the precise, correct wording.

² Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

European Convention on Human Rights (ECHR) Obligations

I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.

European Union (EU) Obligations

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal³. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a strategic environmental assessment. Consequently, it is good practice to assess neighbourhood plan proposals to determine whether or not the plan is likely to have significant environmental effects. This process is referred to as a “screening” assessment, opinion or report. If the screening opinion identifies likely significant effects, then an environmental report must be prepared.

The Basic Conditions Statement confirms that North Kesteven District Council issued a screening opinion, which considered whether or not the contents of the Neighbourhood Plan required a Strategic Environmental Assessment. This screening opinion concluded that the Neighbourhood Plan will not result in any likely significant effects on the environment and that consequently, a full Strategic Environmental Assessment is not required.

A Habitats Regulations Assessment (HRA) is required if the implementation of the Neighbourhood Plan may lead to likely negative significant effects on protected European sites. However, the Basic Conditions Statement confirms that there are no protected European sites that will be affected by the Neighbourhood Plan and consequently, a full HRA is not required.

The Environment Agency, English Heritage (now, with regards to planning matters, Historic England) and Natural England were consulted on the requirement for a Strategic Environmental Assessment for the Neighbourhood Plan. These bodies supported the conclusion that the Neighbourhood Plan will not result in any likely significant effects on the environment and that a Strategic Environmental Assessment is not required.

In considering European obligations, I am also mindful that national guidance establishes that the ultimate responsibility of determining whether a draft neighbourhood plan meets EU obligations is placed on the local authority,

“the local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations.” (Planning Practice Guidance 11-031)

³ Paragraph 026, Planning Practice Guidance 2014.

With regards this latter point, North Kesteven District Council has stated that, in its opinion, a Strategic Environmental Assessment does not need to be undertaken for the Neighbourhood Plan and that a Habitats Regulations Assessment is not needed.

Taking all of the above into account, and in the absence of any evidence to the contrary, I am satisfied that the Neighbourhood Plan is compatible with EU obligations.

3. Background Documents and Welbourn Neighbourhood Area

Background Documents

In undertaking this examination, I have considered various information in addition to the Welbourn Neighbourhood Plan. This has included:

- National Planning Policy Framework (The Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Planning Regulations (2012)
- North Kesteven Local Plan (2007) (Saved Policies)
- Basic Conditions Statement
- Consultation Statement
- Parish Character Profile

Also:

- Representations received during the publicity period

In addition, I spent an unaccompanied day visiting the Welbourn Neighbourhood Area.

The Welbourn Neighbourhood Plan Steering Group submitted a document entitled *“Response to Regulation 16 – Publicising a Plan Proposal The Neighbourhood Planning (General) Regulations 2012 (3rd July-14th August 2015). Steering Group’s Response to Comments, Issues, Concerns Raised.”*

I have not called for any additional information and I confirm that I have not taken the contents of this submission into consideration.

I note that, were I to take the above document into account, this would potentially place the Steering Group at an unfair advantage – as they would have had the opportunity to comment on the submission consultation, but other parties would not.

Welbourn Neighbourhood Area

A plan showing the boundary of the Welbourn Neighbourhood Area is provided in the form of Fig 1 on page 7 of the Neighbourhood Plan.

Further to an application made by Welbourn Parish Council, North Kesteven District Council approved the designation of Welbourn as a Neighbourhood Area on 11 January 2013.

This satisfied a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

4. Public Consultation

Introduction

As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.

Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a successful 'Yes' vote at Referendum.

Welbourn Neighbourhood Plan Consultation

Welbourn Parish Council submitted a Consultation Statement to North Kesteven District Council. Further to consideration, I can confirm that this sets out who was consulted and how, together with the outcome of the consultation. In this regard, the Consultation Statement meets the requirements of the neighbourhood planning *regulations*⁴.

Taking into account all of the evidence provided, I am satisfied that the production of the Neighbourhood Plan was supported by robust public consultation. It is clear that the views of the wider community were actively sought and taken into account and that Welbourn Parish Council undertook public consultation above and beyond that required by legislation.

Following the decision to produce a Neighbourhood Plan, a Neighbourhood Plan Steering Group, open to members of the community and Councillors, was formed in April 2012. Introductory "*walk-in*" days were held at the Village Hall in June 2012, to provide information and discuss the Plan process. This was followed by a questionnaire in autumn 2012, which incorporated separate Householder, Young Persons and Employer questionnaires. Of the 284 questionnaires delivered a notably high number, 206, were completed. The results were considered at a public meeting attended by 43 residents in January 2013.

Planning Aid-hosted Neighbourhood Plan workshops were held in February and October 2013 and policy production began. During April and May 2014, the proposed policies were published and an initial three week consultation period was held. Proposed policies were widely distributed and responses were encouraged. A total of 150 responses were received and these informed the pre-submission Plan.

⁴Neighbourhood Planning (General) Regulations 2012.

The pre-submission Plan underwent a six week consultation period during January and February 2015. Hard copies of the Plan were delivered to all residents, businesses and schools and an electronic copy was sent to other statutory consultees.

Five consultation days were held in the Village Hall during the consultation period. A total of 44 responses were received and these were analysed and taken into account.

Consultation was widely communicated and well-publicised via a dedicated website, as well as via the Parish Council website. Articles were published in the local magazine and flyers/letters were delivered to all households and businesses. Also, the Village Notice Board and telegraph poles were utilised for posters, and communications were also made via email and telephone.

Taking all of the above into account, the Consultation Statement presents an audit trail to demonstrate that consultation was wide-ranging, comprehensive and transparent. Comments were pro-actively sought and those received were duly considered. There is evidence to demonstrate that the Neighbourhood Plan reflects the views of local people.

Consultation was carried out in an open manner and people and organisations were actively encouraged to engage in shaping the Neighbourhood Plan.

I am satisfied that the consultation process was significant and robust.

5. The Neighbourhood Plan – Introductory Section

Where modifications are recommended, they are presented as bullet points and highlighted in bold print, with any proposed new wording in italics.

The policies of the Neighbourhood Plan are considered against the basic conditions in Chapter 6 of this Examiner's Report. I have also considered the Introductory Section of the Neighbourhood Plan and make recommendations below which are aimed at making it a clear and user-friendly document.

The Neighbourhood Plan begins with four Contents pages. I find that this serves to provide an overly long, somewhat dull and potentially daunting introduction to the document. It is unnecessary to list contents in fine detail and it would be possible to reduce the Contents to a single page. This would greatly enhance the Neighbourhood Plan and place more appropriate emphasis on the content of the Policies within it.

I recommend:

- **Contents. Delete reference to "Definitions of the Policies" in both the Contents list and on page 4. Parish Projects do not comprise Neighbourhood Plan policies and I consider this in more detail later in this Report.**
- **Section 1 can simply refer to "Introduction"**
- **Section 2: There is no need to list every individual Policy or to show every heading of the supporting text. This Section should simply be limited to the Policy Areas – eg, Housing and the Built Environment, Design and Character, Community...etc.**
- **Delete references to List of Figs/Tables and References. I propose the deletion of the pages these refer to under "Other Matters" below**

The above approach will reduce the Contents to a single page.

The Foreword is clear and informative, as is the Introduction. No changes are recommended.

The Background to the Parish section is interesting, distinctive to Welbourn and provides useful context. The "*Welbourn Neighbourhood Development Plan*" section, however, repeats information set out elsewhere in the Neighbourhood Plan and offers little, if anything, in the way of useful or helpful additional information.

I recommend:

- **Delete section 1.3 (1.3.1 to 1.3.5 inclusive)**

The next section repeats various parts of the Consultation Statement. Again, this adds little, if anything, other than extending the length of the Introduction to the Neighbourhood Plan. I recommend:

- **Replace 1.4.1 to 1.4.6, inclusive, with a new 1.4.1 *“The Neighbourhood Plan has emerged from significant background work and was the subject of comprehensive and sustained public consultation. A Consultation Statement, setting out who was consulted, and how, along with the outcome of the Consultation was submitted for examination alongside the Neighbourhood Plan.”***

Paragraph 1.6.3 is confusing. As worded, it suggests, for example, that extensive research will carry *“very significant weight.”* Even if the wording was altered to refer to the Neighbourhood Plan itself, the apportionment of weight in this regard is not such a black and white matter. I recommend:

- **Delete 1.6.3**

No other changes to the Introduction are recommended.

6. The Neighbourhood Plan – Neighbourhood Plan Policies

The presentation of the Policy Section has been carefully considered. Policies are clearly distinguished from the supporting text. Where appropriate, background information precedes the Policy and each Policy is followed by reference to justification and evidence.

Further to the above, I note that the Policy Section is enhanced by the provision of photographs and tables.

Policy H1: Managing Housing Growth

Policy H1 is preceded by significant, relevant background information. This provides helpful context.

Part A of Policy H1 is positive and supports residential development subject to various criteria. Part B of the Policy is also positive, providing a supportive context for the delivery of 39 new homes over the plan period. Importantly, Policy H1 does not seek to cap, or impose a maximum number of dwellings. This allows for housing development that is sustainable to go ahead, having regard to national policy.

Policy H1 supports development “*within the village curtilage.*” As set out, the definition of the village curtilage is reliant on two plans taken directly from the North Kesteven Local Plan. It is not the role of neighbourhood plans to simply rely on reprinted plans from other documents. I note that the North Kesteven Local Plan will, at some stage, be replaced.

As Policy H1 refers specifically to the village curtilage, it is appropriate to define the village curtilage on a new, Neighbourhood Plan-specific plan. I recommend:

- **Delete Figure 3 and Figure 4**
- **Create a new Figure 3 entitled “*Village Curtilage*” showing just the village curtilage**
- **Policy H1, change 1, to “*is located in the village curtilage, as defined in Figure 3*”**

This will provide clarity and certainty. I note that Figures 3 and 4 also refer to sites with planning permission and the Conservation Area. The sites with planning permission are not particularly clearly defined and their inclusion is, in any case, unnecessary. I consider Conservation Areas later in this Report.

North Kesteven District Council suggests that Part 1 is extended to include land that is “*located within the village curtilage or, where remaining opportunities within the curtilage are not available or appropriate, adjacent to the curtilage in suitable locations that relate well to the village.*” However, I consider that such an approach would, to some considerable degree, negate the point of supporting development within the village curtilage – as the Policy would also be supporting development in undefined locations outside it.

Whilst, on the face of it, this would comprise a positive approach, having regard to national policy, there is no evidence to demonstrate that supporting residential

development in locations “*that relate well to the village*” will, in all cases, contribute to sustainable development. Indeed, it may be that practically the whole area around Welbourn “*relates well*” to it. If so, Policy H1 could potentially support the development of hundreds of new homes. Whilst these may be designed to complement local character and landscape quality, there is no evidence to demonstrate, for example, that local infrastructure could cope with such development or, that large scale housing growth would be matched by the provision of, say, suitable employment opportunities.

Whilst the above is, to some extent, an extreme example, it demonstrates that minor changes to a policy can have major implications.

Part 2 of the Policy protects local character, having regard to the Framework and in general conformity with the North Kesteven Local Plan. Part 3 refers specifically to an Appendix. For clarity, Appendix 1 is simply that. It provides background information but does not form part of the Neighbourhood Plan. Given this, Policy H1 does not provide sufficient detail to enable a prospective developer to “*ensure*” that views and vistas are maintained. I recommend:

- **Change 3 to “*...quality and seeks to preserve views and vistas, where possible;*”**

In the above regard, I note that North Kesteven District Council suggests that the Policy should “*enhance*” local landscape quality. However, this would introduce a requirement significantly more onerous than that required by national policy and there is no evidence to demonstrate that all development can enhance local landscape quality.

Part 4 of the Policy refers to “*adequate access.*” This is a vague term, providing no indication of what “*adequate*” might comprise. The Framework refers specifically to the need to provide safe and accessible developments (Para 69) and I recommend:

- **Change 4 to “*Provides safe and suitable access...*”**

Policy H1 part 5 seeks to protect residential amenity, having regard to the Framework and in general conformity with the North Kesteven Local Plan. I note that it refers to both “*privacy*” and “*overlooking.*” These amount to the same thing. I recommend:

- **Part 5, delete “*overlooking*”**

Part 6 of the Policy requires the provision of energy efficiency measures and green energy generation. This strays away from land use planning policy and into the realms of Building Control. Furthermore, I note that a Ministerial Statement⁵

⁵ House of Commons: Written Statement (HCWS488)

published on 25 March 2015 states that “...neighbourhood plans should not set...any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings.” Taking this into account, I recommend:

- **Delete part 6**

Part 7 of the Policy refers to Sustainable Urban Drainage Systems (SUDs). National policy only requires SUDs on major developments (more than 10 dwellings, or sites of more than 1 hectare). I recommend:

- **Part 7, add “For major developments of more than ten dwellings, or on sites of more than 1 hectare, incorporates Sustainable...”**

Part B states that the development of 39 homes over the Plan time frame is supported. I acknowledge above that this is a positive Policy. However, I note that the supporting text states that several possible development sites within the village curtilage have been suggested by landowners and that, correspondingly, Figure 5 identifies land for “up to 17” houses. If these 17 houses were added to those 29 houses within the village curtilage already granted planning permission, the total would be 46 homes.

Given the above, and given that Policy H1 supports development within the village curtilage, Part B is, I find, a recipe for confusion. It is an approach that does not provide decision makers with a clear indication of how to react to a development proposal (Framework, Para 154).

Further to the above, Chapter 6 of the Framework promotes a flexible approach to the delivery of a wide choice of high quality homes, taking into account changing circumstances. I find that, in proposing specific support for precisely 39 homes, Policy H1 appears somewhat contrary to the spirit of national policy. The Neighbourhood Plan defines a village curtilage and supports housing development within it. It also provides evidence to demonstrate that sufficient land is located within the village curtilage to provide for over and above the community’s needs. Having regard to national policy, there is no need to seek to identify a specific number of houses.

I recommend:

- **Delete Part B**
- **Delete 2.6.3 and at the end of 2.6.2 add “It is noted that planning permission has already been granted for 29 houses.”**
- **Para 2.9.7, line 3, change to “accessibility and primary schools, plus a limited public transport service.” It is misleading in the context of this Policy to suggest that the sewerage system is at maximum capacity. Development**

sites require a connection to the sewerage system and any such development may include network upgrades.

- **Whilst not essential, it is preferable that Figure 5 is renewed, based on the new village curtilage plan recommended above. Delete final comment in brackets under title.**

Consequently, the Policy enables the Neighbourhood Plan to provide sufficient flexibility to react positively and rapidly to change, having regard to national policy and advice. Subject to the above recommendations, Policy H1 contributes to the achievement of sustainable development. It meets the basic conditions.

Objections have been presented to Policy H1 on the basis that it has been assessed against the North Kesteven Local Plan, which is out of date; and that it does not plan positively for housing growth.

Taking the latter point first, I note above that Policy H1 provides evidence to demonstrate that there is sufficient land within the village curtilage to provide for over and above the growth envisaged by the Neighbourhood Plan.

Whilst I acknowledge that the Neighbourhood Plan is being brought forward before an up-to-date Local Plan is in place, Planning Practice Guidance is clear in this regard. It establishes that neighbourhood plans *“can be developed before or at the same time as the local planning authority is producing a Local Plan”* (41-009). Also, I am particularly mindful that neighbourhood plans provide the opportunity, having regard to the Framework, to provide communities with the *“direct power”* to provide up to date planning policy that might not otherwise exist.

The Neighbourhood Plan, together with supporting information, establishes how plan-makers have considered housing needs in the absence of up to date housing numbers in an adopted District-wide Local Plan. The method of calculating the housing requirement is set out in a clear manner and is founded on what appears to be a logical approach, taking into account a wide range of available information. Furthermore, I note above that the production of the Neighbourhood Plan was supported by robust consultation.

Neighbourhood planning is different to district-wide development planning. Together, the Localism Act and the Framework afford local people with the power to plan for the future of their communities. The introduction to the Framework states that *“...people have been put off from getting involved because planning policy itself has become so elaborate and forbidding – the preserve of specialists, rather than people in communities.”*

There is no “tick box” list of evidence required for neighbourhood planning. Planning Guidance requires that the choices made and the approach taken by neighbourhood planners should be supported by:

“proportionate and robust evidence that...should be drawn upon to explain succinctly the intention and rationale of the policies...” (Para 41-040, Planning Practice Guidance)

Policy H1 has regard to this.

Furthermore, as a shared vision to shape development and growth, a neighbourhood plan should be aligned with the strategic needs and priorities of the wider local area. When a neighbourhood plan is being brought forward before an up-to-date local plan is in place, Planning Practice Guidance places emphasis on the relationship between local planning authorities and qualifying bodies (Para 11-009).

In the above regard, I am mindful that North Kesteven District Council considers that Policy H1 *“...is considered to meet the basic conditions in that it delivers a sustainable level of development...”*

Policy H2: Local Green Space

The supporting text to Policy H2 refers to five areas of Local Green Space, whereas only two are proposed.

The Framework enables local communities to identify, for special protection, green areas of particular importance to them. Paragraph 76 states that

“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”

Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. Effectively, Local Green Spaces, once designated, provide protection that is comparable to that for Green Belt land. Notably, the Framework is explicit in stating that

“The Local Green Space designation will not be appropriate for most green areas or open space.” (Para 77)

Consequently, when designating Local Green Space, plan-makers must clearly demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land.

Area 1 comprises two areas of land which, together, in the context of Welbourn as a whole, amount to a significant area of land. Given this, I am concerned that, to some degree, Area 1 comprises *“an extensive tract of land.”*

The Framework is unambiguous in stating that a Local Green Space designation is not appropriate for most green areas or open space. Given this, I find it entirely reasonable to expect compelling evidence to demonstrate that any such designation meets national policy requirements.

The evidence relating to Area 1 is founded upon a community view that it maintains a *“buffer zone”* and that development of Area 1 would alter the character of an established setting. However, whilst this may be the case, it does not necessarily equate to the same thing as providing evidence that Area 1 is *“demonstrably special”* to the local community. Furthermore, no substantive or compelling evidence has been presented to show that Area 1 holds a particular local significance, for example, because of its beauty, historic significance, recreational value, tranquillity or richness of wildlife.

I note that North Kesteven District Council’s assessment of Area 1 states that the site’s *“openness is important for the village’s rural character, an attribute that is*

valued by village residents.” However, the whole of North Kesteven is surrounded by openness and has a rural character. There is little, if anything, to distinguish Area 1 in this regard.

Taking all of the above into account, I consider that, on balance, Area 1 does not meet the tests set out in the Framework and as such, its allocation as Local Green Space does not meet the basic conditions.

Area 2 comprises a ribbon of land forming part of a dismantled railway. Area 2 is demonstrably special to the local community, holding a particular significance for its tranquillity, richness of wildlife and recreational value. It is local in character, it does not appear as an extensive tract of land and it is in reasonably close proximity to the community it serves. Its designation as Local Green Space meets the basic conditions.

Paragraph 76 of the Framework is specific in stating that, on land designated as local Green Space, development will be ruled out “*other than in very special circumstances.*” This is different to the approach proposed in Policy H2, which refers to not permitting inappropriate development.

I recommend:

- **Delete 2.12.1**
- **Policy H2, delete opening paragraph**
- **Delete Area 1**
- **Delete Figures 6 and 6B**
- **Delete Area 1 paragraph in 2.13.1 and word “Areas” from title**
- **Change last line of Policy to “*development will not be permitted other than in very special circumstances*”**
- **Delete 2.14, 2.14.1, 2.15 and 2.15.1, which are unnecessary and make any other relevant changes resulting from the above, for example, changing the title of the remaining Local Green Space from “Area 2”**

Subject to the above, Policy H2 meets the basic conditions.

Policy H3 – Parking Provision

Whilst providing flexibility, depending upon circumstances, Policy H3 has regard to paragraph 56 of the Framework, which requires development to contribute positively to making places better for people, and to paragraph 39, which requires account to be taken of local car ownership levels when setting local car parking standards.

The approach set out in Policy H3 is supported by local evidence and has community support. I am also mindful that North Kesteven District Council expresses support for the Policy.

However, I consider that the final line of the Policy fails to provide decision makers with a clear indication of how to react to a development proposal. The term “*parking pressures*” is not defined and it would, logically, only be possible to establish that a development has “*resulted*” in something, once that development has taken place – which would be too late.

I recommend:

- **Policy H3, delete the final sentence**

Subject to the above, Policy H3 contributes to the achievement of sustainable development.

Policy H4 – Conversion of Existing Buildings and/or using Brownfield Sites

The first sentence of Policy H4 effectively supports the conversion of any building, anywhere, into housing. This could result in the development of isolated dwellings in the countryside, contrary to paragraph 55 of the Framework. Furthermore, I am mindful that national policy supports the conversion of buildings, subject to various criteria and that in some circumstances, Permitted Development Rights already allow for the appropriate conversion of buildings without planning permission.

The second part of Policy H4 refers to the undefined term “*environmental value.*” This is an ambiguous term that fails to provide sufficient clarity for potential applicants or decision-makers. The Policy goes on to introduce various tests and requirements relating to the development of brownfield land, each of which are already referred to in other Policies.

In addition, the second part of Policy H4 applies to “*the conversion of existing dwellings.*” It is entirely unclear why an existing dwelling would be converted into a “*self contained unit...in order to meet housing needs.*”

Policy H4 does not meet the basic conditions. I recommend:

- **Delete Policy H4 and all associated text**

Policy H5 – Broadband and Telecommunications

Policy H5 has regard to the national policy aim of supporting high quality communications infrastructure, as set out in Chapter 5 of the Framework.

The second part of Policy H5 refers specifically to the “*stipulations of paragraph 173*” of the Framework. It would be clearer if this simply referred, instead, to viability.

There is no evidence to demonstrate that it would be reasonable, viable or achievable for all developers to provide fibre ducting for the wider community. Rather than being a requirement, it would be appropriate for any such provision being supported.

I recommend:

- **Policy H5, change part 2, line 1 to “...and *subject to viability, new residential*”**
- **Change part 3, to “...*possible and appropriate, the provision of ducting which will...community will be supported.*”**

Subject to the above, Policy H5 contributes to the achievement of sustainable development and meets the basic conditions.

Design and Character

The introduction of this section on Page 37 refers to a map recommended for deletion. I recommend:

- **Create a replacement map showing the Welbourn Conservation Area and provide an appropriate reference to replace that in 2.24.2**
- **Change first, fourth and fifth line of 2.24.2 to “...Conservation Area...” and maintain a consistent approach to the use of capitals throughout the Neighbourhood Plan**

Policy DES1 – Design and Character

Good design is recognised by national policy as comprising a key aspect of sustainable development, indivisible from good planning. National policy requires good design to contribute positively to making places better for people (Framework, Para 56).

This Policy sets out detailed design criteria aimed at promoting good design quality. In this way, it has regard to the Framework, contributes to the achievement of sustainable development and meets the basic conditions.

Policy DES1 requires all proposals for development to take into account a variety of factors. In this regard, I am mindful that some of the requirements will not be applicable to all forms of development. I take this into account in the recommendations below.

As worded, parts 1 and 3 of the Policy are, to some considerable degree, reliant on an Appendix that does not form part of the Neighbourhood Plan. This is also taken into account in the recommendations below.

North Kesteven District Council points out that part 2 of the Policy could helpfully refer to both designated and non-designated heritage assets. I find that this would add to the clarity of the Policy, whilst having regard to the Framework, which, in Chapter 12 (Conserving and enhancing the historic environment) recognises heritage assets as an irreplaceable resource.

There is no substantive evidence to demonstrate that a development that fails to “merge” into its context would necessarily fail to comprise a sustainable development. Whilst there is an important context point here, having regard to the national policy requirement to protect local character, this is a matter that could be better addressed by more appropriate wording.

Taking all of the above into account, I recommend:

- **Policy DES1 change start to “*Where appropriate, development proposals should...*”**
- **Part 1, delete the text in brackets**
- **Part 2, add “...protecting *designated and non-designated* local heritage...”**
- **Part 3, delete asterisk**
- **Part 4, change to “...proposals *are in keeping* with the existing...”**
- **Delete reference to Appendix 1 at the bottom of the Policy**
- **2.27.3 change second sentence to “...*Profile’ can be used as a basis* for understanding...”**

Subject to the above, Policy DES1 contributes to the achievement of sustainable development and meets the basic conditions.

Policy CWB1 – Health and Well-Being of Welbourn Community

Policy CWB1 is a positive land use planning policy that has regard to Chapter 8 of the Framework – “Promoting healthy communities.”

As worded though, it is unclear how the development supported will be “*encouraged*.” I recommend:

- **Policy CWB1, change to “...will be *supported*.”**

Subject to the above, Policy CWB1 contributes to the achievement of sustainable development and meets the basic conditions.

Policy CWB2 – Existing Community Facilities

Paragraph 70 of the Framework requires positive planning for the provision and use of community facilities, to enhance the sustainability of communities. Policy CWB2 has regard to this.

However, as worded, Policy CWB2 seeks to prevent changes of use that could happen, anyway, without planning permission, as Permitted Development. North Kesteven District Council has submitted a helpful proposal in this regard. Taking this into account and, for clarity, I recommend:

- **Policy CWB2, change to “1. A suitable replacement facility *is provided that will either maintain or enhance the existing public provision in an allocation that is either as accessible, or more accessible, to the village residents; or 2. Evidence is submitted to demonstrate that there is no longer a demand for the existing use, or any other appropriate community use.*”**

Subject to the above, Policy CWB2 contributes to the achievement of sustainable development and meets the basic conditions.

Employment

Policy EMP1 – New-Employment Generating Use

Policy EMP1 has regard to the Framework, which recognises that the planning system should do everything it can to support sustainable economic growth, as set out in paragraph 19 of the Framework.

However, as worded, the Policy would not allow sustainable development, the benefits of which might greatly outweigh an associated possible adverse impact. The wording of the Policy is also ambiguous and does not provide either applicants or decision makers with clarity. For example “*the agricultural sector*” and “*neighbouring land users*” are undefined and vague terms.

I recommend:

- **Policy EMP1, change to “*Proposals for the development of small scale start-up businesses, expansion of existing businesses and the diversification of agricultural businesses, will be supported subject to demonstrating no unacceptable harm to neighbouring occupiers.*”**

Taking the above into account, Policy EMP1 contributes to the achievement of sustainable development. It meets the basic conditions.

Policy EMP2 – Signage on the A607

Highway signage is a matter for the control of the appropriate authorities, which in this case are Lincolnshire County Council and North Kesteven District Council.

I acknowledge that this raises a matter of concern to the local community. Rather than lose sight of it, it can appropriately be progressed as a Parish Project.

I recommend the following:

- **Delete Policy EMP2 and all supporting text**
- **Create new Parish Project “*Signage on the A607*” and include the deleted policy within the Parish Projects section. In so doing, change wording to “*The Parish Council will promote the provision of new signage on the...and services, provided that such signage is in keeping with the Welbourn Conservation Area.*”**

Environment

Policy EN1 – Retain Features

Policy EN1 is a positive policy that seeks to protect and where possible enhance natural features. This has regard to national policy, which requires policies to plan positively for the protection and management of biodiversity (Framework, Para 114).

I note that, as worded, the Policy requires the protection of “*mature trees*” regardless of important factors, such as condition. Policy DES1 of the Neighbourhood Plan already takes the protection of trees into account. I recommend:

- **Policy EN1, delete “...*mature trees*...”**

Subject to the above, Policy EN1 meets the basic conditions.

Policy EN2: Impact of Alternative Sources of Energy and Communication Masts

This is a positive policy that has regard to the Framework’s support for a high quality communications infrastructure (Chapter 5) and its aim of increasing the contribution to energy generation from renewable or low carbon sources.

As worded, the Policy’s reference to “*views from and of the village*” relies on an Appendix and does not provide sufficient detail or information for decision makers or potential applicants. I recommend:

- **Policy EN2, change to “...unacceptable impact *on the distinct local character of Welbourn and have no unacceptable impact*...”**

In the above regard, I note that there are policies in place locally, nationally and elsewhere in the Neighbourhood Plan, affording specific protection to historic character.

Taking the above into account, Policy EN2 meets the basic conditions.

Policy EN3 – Agricultural Land

Policy EN3 seeks to prevent development on all agricultural land, unless it is *“linked to the farming enterprise.”* This approach fails to have regard to national policy, which does not suggest that all agricultural land should be protected from development. Rather it points out that the benefits of *“the best and most versatile agricultural land”* should be taken into account and that where *“significant development...is demonstrated to be necessary...poorer quality land”* should be used *“in preference to that of a higher quality”* (Framework, Para 112).

Paragraph 55 of the Framework already recognises that the essential need for a rural worker to live near their place of work may comprise a special circumstance and even then, such development might not necessarily take place on agricultural land. I also note that paragraph 55 of the Framework seeks to avoid isolated new homes in the countryside.

Policy EN3 proposes an inappropriately broad-brush approach in effectively supporting the granting of planning permission on agricultural land for any housing directly linked to a farming enterprise. Such an approach fails to have regard to national policy and there is no substantive evidence to the contrary.

Taking the above into account, Policy EN3 does not meet the basic conditions. I recommend:

- **Delete Policy EN3 and all related supporting text**

Neighbourhood Plan – Other Matters

Much of the final part of the Neighbourhood Plan is concerned with Parish Projects. This is an excellent way of ensuring that sight is not lost of significant community issues that have arisen during the plan-making process, but which cannot be addressed by land use planning policies.

The Parish Projects are worded as policies. Whilst I note that there is a small heading stating “(These do not require planning approval)”, I am concerned that it is not made entirely clear that the Parish Projects are not land use planning policies, but simply set out Parish Council aims and aspirations.

I recommend:

- **Delete “(These do not require planning approval)”**
- **At the end of Para 3.1, add new sentence “*These Parish Projects take into account matters of importance to the community, but which cannot be addressed by land use planning policies. For clarity, the Parish Projects do not comprise Neighbourhood Plan policies, but establish specific aims and aspirations of the Parish Council.*”**

Further to the above, I find that the labelling of the Projects – for example, as LR1, LR2 etc - could lead to them being confused with the Policies of the Neighbourhood Plan. I recommend:

- **Delete all prefixes (eg “LR1”) and simply retain the title (eg “Village Hall”) for each Parish Project**

The lists of Figures and Tables and of references are unnecessary and add length to a lengthy document. I recommend:

- **Delete pages 67 and 68**

8. Summary

I have recommended a number of modifications further to consideration of the Welbourn Neighbourhood Plan against the basic conditions.

Subject to these modifications, the Welbourn Neighbourhood Plan

- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies of the development plan for the area;
- does not breach, and is compatible with European Union obligations and the European Convention of Human Rights.

Taking the above into account, I find that the Welbourn Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

9. Referendum

I recommend to North Kesteven District Council that, subject to the modifications proposed, the **Welbourn Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

Neighbourhood Plan Area - I am required to consider whether the Referendum Area should be extended beyond the Welbourn Neighbourhood Area. I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

I recommend that the Plan should proceed to a Referendum based on the Welbourn Neighbourhood Area as approved by North Kesteven District Council on 11 January 2013.

Nigel McGurk, September 2015
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