

# **THORPE ON THE HILL NEIGHBOURHOOD PLAN 2016-2036**

Thorpe on the Hill Neighbourhood Plan Examination,  
A Report to North Kesteven District Council

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## Introduction

### The Neighbourhood Plan

- 1 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.
- 2 This Report sets out the findings of the examination of the Thorpe on the Hill Neighbourhood Plan (referred to as the Neighbourhood Plan).
- 3 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)

- 4 The Neighbourhood Plan was prepared on behalf of Thorpe on the Hill Parish Council by the Thorpe on the Hill Neighbourhood Plan Steering Group, comprising members of the local community and Parish Councillors.
- 5 As set out in paragraph 1.2 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Thorpe on the Hill Parish Council is the *Qualifying Body*, ultimately responsible for the 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).
- 6 This Examiner's Report provides a recommendation with regards whether 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 Thorpe on the Hill Neighbourhood Area.

Role of the Independent Examiner

- 7 I was appointed by North Kesteven District Council, with the consent of the Qualifying Body, 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.
- 8 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.
- 9 As the Independent Examiner, I must make one of the following recommendations:
  - that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
  - that the Neighbourhood Plan, as modified, should proceed to Referendum;
  - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 10 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Thorpe on the Hill Neighbourhood Area to which the Plan relates.

Neighbourhood Plan Period

- 11 A neighbourhood plan must specify the period during which it is to have effect. The front cover of the Neighbourhood Plan clearly specifies that the document covers the period:

*"2016 to 2036."*

- 12 In addition, the Basic Conditions Statement submitted alongside the Neighbourhood Plan confirms, in paragraph 1.2, that:

*"The TNP covers a plan period of 20 years, between 2016 and 2036."*

- 13 Paragraph 1.2 of the Neighbourhood Plan also refers to the plan period.

- 14 Taking the above into account, the Neighbourhood Plan satisfies the relevant requirement in respect of specifying the plan period.

- 15 I note that the front cover of the Neighbourhood Plan also refers to the publication date of the Submission Version. This date would not be relevant to a made version of the Neighbourhood Plan and in this respect, I recommend:

- **Front cover, delete "Submission Version May 2017"**

Public Hearing

- 16 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.
- 17 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.
- 18 Further to consideration of the information submitted, I confirmed to North Kesteven District Council that I was satisfied that the Thorpe on the Hill Neighbourhood Plan could be examined without the need for a Public Hearing.
- 19 In making the above decision I was mindful that the Neighbourhood Plan has emerged through robust consultation (see *Public Consultation*, later in this Report) and that people have been provided with significant and appropriate opportunities to have their say.

## **2. Basic Conditions and Development Plan Status**

### **Basic Conditions**

- 20 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*<sup>1</sup> following the Localism Act 2011. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
  - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.<sup>2</sup>
  - An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>3</sup>
- 21 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;

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<sup>1</sup> Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

<sup>2</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007.

<sup>3</sup> The Convention rights has the same meaning as in the Human Rights Act 1998.

- 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.

- 22 Subject to the content of this Report, I am satisfied that these three points have been met.
- 23 In line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.



### European Convention on Human Rights (ECHR) Obligations

- 24 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.
- 25 In the above regard, I note that Information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. Representations have been made to the Plan, some of which have resulted in changes and the Consultation Statement submitted alongside the Neighbourhood Plan provides a summary of responses and shows the outcome of comments.

### European Union (EU) Obligations

- 26 There is no legal requirement for a neighbourhood plan to have a sustainability appraisal<sup>4</sup>. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.
- 27 In this regard, national advice states:
- "Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects."*  
(Planning Practice Guidance<sup>5</sup>)
- 28 National advice then goes on to state<sup>6</sup> that the draft plan:
- "...must be assessed (screened) at an early stage of the plan's preparation..."*
- 29 This process is often referred to as a screening opinion, determination, statement or report. If the screening report identifies likely significant effects, then an environmental report must be prepared.

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<sup>4</sup> Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance.

<sup>5</sup> Paragraph 027, *ibid*.

<sup>6</sup> Planning Practice Guidance Reference ID: 11-028-20150209.

- 30 In the above regard, North Kesteven District Council produced a Strategic Environmental Assessment Screening Report in December 2016. In its conclusion, the Report considered it to be:

*"...unlikely that there will be any significant environmental effects arising from the Thorpe on the Hill Neighbourhood Plan...As such, a full SEA does not need to be undertaken for the Thorpe on the Hill Neighbourhood Plan."*

- 31 The statutory bodies, Natural England, Historic England and the Environment Agency were consulted and each of them concurred with the above conclusion. The Environment Agency stated that:

*"...it is unlikely that the proposed draft plan would have any significant environmental impacts that fall within the Environment Agency's remit."*

- 32 Historic England stated that:

*"...Historic England is of the view that the preparation of a Strategic Environmental Assessment is not likely to be required."*

- 33 Also, in response to consultation, Natural England's conclusion was:

*"...that it is considered unlikely that any significant environmental effects will result from the implementation of the Neighbourhood Plan..."*

- 34 Whilst a Habitats Regulations Assessment is required if the implementation of the Neighbourhood Plan may lead to likely significant effects on European sites, the Screening Report noted that:

*"...there are no nationally or internationally designated sites...The TOTHNP will not have any effects on Natura 2000 sites and as such will not require an assessment under Articles 6 and 7 of the Habitats Directive."*

- 35 None of the statutory bodies demurred from this conclusion.

- 36 In addition to all of the above, national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

*“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations” (Planning Practice Guidance<sup>7</sup>).*

- 37 In undertaking the work that it has, North Kesteven District Council has considered the Neighbourhood Plan's compatibility with European obligations and has not raised any concerns in this respect. Having regard to this and to all of the above, I am satisfied that the Neighbourhood Plan meets the basic conditions in respect of meeting European obligations.

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<sup>7</sup> Planning Practice Guidance Reference ID: 11-031-20150209.

### **3. Background Documents and the Thorpe on the Hill Neighbourhood Area**

#### Background Documents

38 In undertaking this examination, I have considered various information in addition to the Thorpe on the Hill Neighbourhood Plan. This has included (but is not limited to) the following main documents and information:

- 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 Plan Regulations (2012) (as amended)
- Central Lincolnshire Local Plan (April 2017)
- Basic Conditions Statement
- Consultation Statement
- Strategic Environmental Assessment Screening Report
- Thorpe on the Hill Design Guidance
- Thorpe on the Hill Character Assessment
- Thorpe on the Hill Village Plan

Also:

- Representations received

39 In addition, I spent an unaccompanied day visiting the Thorpe on the Hill Neighbourhood Area.

Thorpe on the Hill Neighbourhood Area

- 40 Thorpe on the Hill Neighbourhood Area covers the whole of the Parish of Thorpe on the Hill.
- 41 The boundary of the Neighbourhood Area is shown on "*Map 1*" on page 4 of the Neighbourhood Plan.
- 42 The Neighbourhood Plan notes (in a footnote to page 4) that the Thorpe on the Hill Neighbourhood Area was formally designated by North Kesteven District Council on 11<sup>th</sup> September 2014.
- 43 This satisfies 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**

- 44 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.
- 45 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 'Yes' vote at Referendum.

### **Thorpe on the Hill Neighbourhood Plan Consultation**

- 46 A Consultation Statement was submitted to North Kesteven District Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*<sup>8</sup>.
- 47 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Thorpe on the Hill Neighbourhood Area, having regard to Paragraph 183 of the Framework, which states:

*"Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need."*

- 48 An initial community meeting was held in October 2012 and was attended by 140 people. This was followed up with a questionnaire, which was distributed to all 233 households in the Neighbourhood Area. The questionnaire received a good response rate, with 99 completed forms returned. The results were duly analysed by the, then, newly formed Thorpe on the Hill Neighbourhood Plan Steering Group and the proposal document, "*Our Village Plan*," was produced.

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<sup>8</sup>Neighbourhood Planning (General) Regulations 2012.

- 49 This initial proposal document was published in December 2014. At a subsequent community event held at Oliver Roper Hall, 30 residents considered proposals relating to the main themes of the emerging plan. This was followed by a Business Questionnaire, which was distributed to more than 30 businesses in the Neighbourhood Area. Five responses were received.
- 50 Another event was held in November 2016, where the first draft of the plan was presented and comments sought. This was attended by 26 people. Pre-submission consultation was then carried out during November and December 2016. Consultation was supported by a survey and drop-in events.
- 51 In addition to the above, consultation was supported via the provision of information on the Parish website and through the distribution of leaflets.
- 52 The Consultation Report provides evidence to show that the Neighbourhood Plan was supported by public consultation and that the Qualifying Body sought to encourage community involvement in the plan-making process. Matters raised were considered and the reporting process was transparent.
- 53 Taking all of the above into account, I am satisfied that the consultation process was robust.

## **5. The Neighbourhood Plan – Introductory Section**

54 The introduction to Part 3 of the Neighbourhood Plan on page 7 is confusing. It states that the contents of Part 3:

*“...are not intended to be subject to Examination, Referendum or to form part of the Statutory Planning Policy Framework.”*

55 However, Part 3 forms part of the Neighbourhood Plan. As set out above, it is a statutory requirement that the Neighbourhood Plan be examined against the basic conditions. Furthermore, at Referendum, the community votes on whether or not to support the Neighbourhood Plan. If any part of the Neighbourhood Plan is not to be examined or be the subject of Referendum, then it should not form part of the Neighbourhood Plan.

56 Parish Priorities, as set out in Part 3 of the Neighbourhood Plan, comprise a good way of incorporating non-land use planning matters, recognised as being of importance to the local community, within the Neighbourhood Plan. I am also mindful that the Parish Priorities are referred to directly in the Objectives section of the Neighbourhood Plan.

57 I recommend:

- **Page 7, change last paragraph to *“Part 3: Parish Priorities, which sets out other priorities for the Parish Council. These are not land use planning policies, but comprise matters of importance to the local community.”***
- **Page 30, delete last paragraph (“The priorities...Framework”) and replace with, *“For clarity, the following Parish Priorities have no material weight as land use planning policies, but set out matters that are of importance to the local community.”***
- **Remove the references to *“CP1, CP2, CP3”* etc. When combined with the presentation of the Parish Priorities in boxes, these lead them to appear as Policies, which they are not. Their removal avoids unnecessary confusion. Retaining the titles, eg *“Sporting and Social Activities, Playground Equipment”* is sufficient to identify each priority.**



## **6. The Neighbourhood Plan – Neighbourhood Plan Policies**

58 The Neighbourhood Plan Policies are split into a number of headings. However, the headings in the Policy section don't quite reflect those set out in the Contents.

59 I recommend:

- **Page 16, insert heading “*Residential Development*”**
- **Page 19, place the heading “Local Employment” above the Local Employment Policy**

## Residential Development

### **Policy 1: Residential Development**

- 60 The National Planning Policy Framework (the Framework) seeks to deliver a wide range of high quality homes. In doing so, it requires local planning authorities to:

*“...ensure that their Local Plans meet the full, objectively assessed needs for market and affordable housing...including identifying key sites which are critical to the delivery of the housing strategy over the plan period.”*  
(Paragraph 47)

- 61 The Thorpe on the Hill Neighbourhood Area is covered by the recently adopted Central Lincolnshire Local Plan (2017), which is referred to in this section of the Report as the Local Plan.
- 62 The Local Plan establishes a settlement hierarchy (Policy LP2: *“The Spatial Strategy and Settlement Hierarchy”*) and determines levels of growth across the plan area (Policy LP3: *“Level and Distribution of Growth”*).
- 63 Local Plan Policy LP4 (*“Growth in Villages”*) identifies Thorpe on the Hill as a village where the level of housing growth during the period 2012-2036 should be 15%. North Kesteven District Council has confirmed that this equates to 33 dwellings.
- 64 In addition to the above, North Kesteven District Council has confirmed that the latest available relevant monitoring report:
- “...shows that growth in Thorpe on the Hill amounts to 49 dwellings since 2012.”*
- 65 Taking the above into account, it is evident that the Neighbourhood Area has already provided for considerably more dwellings than required by the Local Plan up to 2036. Taking this into account, Thorpe on the Hill has already contributed to the Government aspiration to *“boost significantly the supply of housing”* (Paragraph 47, the Framework).

- 66 Whilst there is no requirement for a neighbourhood plan to allocate land for housing, Policy 1 does seek to do so. However, the “allocations” set out in Policy 1 and shown on Map 2 simply refer to sites that already have planning permission for residential development. In this sense, the Neighbourhood Plan has already been overtaken by events. This part of the Policy, by referring to sites where decisions have already been made in favour of residential developments, simply sets out historical information and I am mindful that Paragraph 154 of the Framework states that:

*“Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan.”*

- 67 However, my recommendations below acknowledge that the information relating to the sites with planning permission, along with the associated Map, provides useful background information that adds to the clarity of the Neighbourhood Plan.
- 68 To some considerable degree, the requirements of part 3 of the Neighbourhood Plan duplicate the first part of Local Plan Policy LP4 (“Growth in Villages”). However, the detailed wording has been changed to reflect the specific circumstances of Thorpe on the Hill and in this regard, I find that the Policy is both distinctive to the Neighbourhood Area and in general conformity with the strategic policies of the Local Plan.
- 69 The final part of Policy 1 seeks to control the conversion of non-residential buildings to provide housing. However, in many cases, such development does not require planning permission and furthermore, the requirements set out in Policy 1 appear imprecise and ambiguous. For example, no information is provided in respect of what “a high standard of amenity” actually means, who will judge it, or on what basis. The simple reference “for example, privacy and daylight” adds little in terms of precision.
- 70 In this regard, Planning Practice Guidance<sup>9</sup> is explicit:

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

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<sup>9</sup> Paragraph: 042 Reference ID: 41-042-20140306.

- 71 The Policy requires that there will be no harm whatsoever to any amenities enjoyed by neighbours. Such an approach fails to take into account varying degrees of harm and does not provide for a balanced approach, whereby limited harm might be significantly outweighed by benefits arising. In this way, the Policy fails to contribute to the achievement of sustainable development.
- 72 Whilst national policy, in Paragraph 28 of the Framework, requires neighbourhood plans to promote the retention of local services, it also requires:
- “...careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable.”* (Paragraph 173)
- 73 In this regard, whilst Policy 1 seeks to protect local services, it does not provide for situations where it might not be viable for a local service to be retained. This is a matter addressed in the recommendations below.
- 74 Map 2 is not very clear. This is an important Map, as it is referred to in Policy 1 and it defines the *“village curtilage.”* Consequently, it is essential that the boundaries of the village curtilage are easily identifiable. The Map should therefore be at a larger scale and be shown on an Ordnance Survey, or equivalent, base.
- 75 Taking all of the above into account, I recommend:
- **Policy 1, delete sections 1 and 2**
  - **Move Table 1 to page 17, to be placed under Para 4.1**
  - **Change last sentence of Para 4.1 to *“Since that time, planning permission has been granted for more than 30 dwellings, as shown in Table 1 below and on Map 2, opposite. Consequently, the Neighbourhood Area has met its housing land requirements, as set out in the Central Lincolnshire Local Plan and has made a considerable contribution to the national policy aim of boosting significantly the supply of housing.”***
  - **Delete Para 4.3**

- **Para 4.4, delete first and second sentences and change third sentence to *“Taking into account recent permissions, any further residential development in the Neighbourhood Area should be supported by a local...”***
- **Replace Map 2 with a new Map (include North sign and scale) on an Ordnance Survey base (or equivalent). Map to be at a scale such that the boundaries of the village curtilage are clearly identifiable**
- **Para 4.5, change to *“...curtilage, and also identifies the sites with permission for residential development, referred to in Table 1.***
- **Policy 1, part 3., change to *“Residential development will only be supported where there is up to date...”***
- **Policy 1, part 4., delete and replace with *“Where planning permission is required, a proposal to convert or redevelop a non-residential building must demonstrate that the amenity of future occupiers and neighbours has been taken into account and that the proposal will not result in significant harm to residential amenity. Such a proposal should also demonstrate that it would not lead to a significant reduction in employment opportunities, or the loss of local services, unless the provision of such services is demonstrated to no longer be viable further to an active twelve month marketing period.”***

## Local Employment

### **Policy 2: Local Employment**

- 76 In Chapter 1 of the Framework, "*Building a strong, competitive economy*," national policy sets out support for the facilitation of:

*"...flexible working practices such as the integration of residential and commercial uses within the same unit."* (Paragraph 21)

- 77 The first part of Policy 2 provides a positive framework for home-working and has regard to national policy. However, as worded, the Policy may give rise to unintended consequences, as it could be taken as support for any form of householder development, so long as it enables working from home or enables businesses to operate from integrated home/work locations. The only restrictions, as set out in the Policy, would be limited to protecting amenity and providing for access and parking.

- 78 Paragraph 58 of the Framework requires development to respond to local character. Policy 2 fails to have regard to national policy in this respect. As worded, the Policy would support any form of extension to a residential property, so long as an occupier might work from home. This could result in support for development that fails to respond to local character and result in conflict with other policies in the Neighbourhood Plan.

- 79 Chapter 3 of the Framework, "*Supporting a prosperous rural economy*," supports:

*"...the sustainable growth and expansion of all types of businesses and enterprise in rural areas..."*

- 80 The second part of Policy 2 supports the sustainable growth of existing business sites and has regard to national policy. In providing for the appropriate expansion of business, this part of the Policy contributes to the achievement of sustainable development and meets the basic conditions.

81 Taking the above into account, I recommend:

- **Policy 2, part 1, add bullet point “; and c) the scale and form of the proposal respects local character and is in keeping with its surroundings.”**
- **NB, it is recommended earlier in this Report that the title “5. Local Employment” is moved to be placed above Policy 2.**

## Natural Environment

### **Policy 3: Biodiversity**

- 82 Local Plan Policy LP21 ("*Biodiversity and Geodiversity*") requires development to ensure that opportunities are taken to retain, protect and enhance biodiversity.
- 83 In the above regard, the Local Plan reflects the strong national policy support for the protection of biodiversity and for the provision of net gains in biodiversity, where possible, as set out in Chapter 11 of the Framework, "*Conserving and enhancing the natural environment.*"
- 84 Generally, Policy 3 seeks to protect and enhance biodiversity. In this way, the Policy is in general conformity with the Local Plan and has regard to national policy.
- 85 However, as set out, Policy 3 runs the risk of lending support to all kinds of potentially inappropriate development, so long as it does not harm ecology and take measures to enhance biodiversity.
- 86 In addition to the above, Policy 3 criterion a) is imprecise as it refers to things on Map 3 that are not shown on Map 3. I also note that protected sites are, by their very nature, already protected. Further, criterion b) simply requires protection of green spaces. It is not clear on what basis these spaces should be protected, or what such protection might actually entail. This part of Policy 3 fails to provide substantive evidence to demonstrate that it contributes to the achievement of sustainable development. It does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework, referred to earlier in this Report.
- 87 In the absence of substantive evidence, it is not clear how development can preserve the migration and transit of flora and fauna. These would appear to be factors that could be related to the preservation of ecological networks, rather than separate matters that development can address and no evidence to the contrary has been provided.



- 88 Also, in the absence of detail, it is unclear what "*mitigation of wildlife habitats*" might comprise. This part of the Policy lacks clarity.
- 89 The supporting text refers to specific sites shown on Map 3. These sites are not labelled on Map 3.
- 90 Policy 3 does not "*refine*" Local Plan Policy LP21. The two Policies are separate and achieve different things.
- 91 Taking all of the above into account, I recommend:
- **Policy 3, change to "*Development should minimise its impact on biodiversity and provide net gains in biodiversity where possible. The following measures to protect and enhance local biodiversity will be supported: a) the preservation of ecological networks, especially those between built-up areas; b) the protection of ancient trees or trees of arboricultural value; c) the preservation, restoration and re-creation of wildlife habitats, and the protection and recovery of priority species; and d) the provision of a net gain in flora and fauna.*"**
  - **Clearly reference the sites referred to in Para 6.2 on Map 3**
  - **Para 6.3, delete final sentence ("In view of...possible")**
  - **Delete Para 6.4**

**Policy 4: Green Spaces and Green Infrastructure**

- 92 National policy is explicit in respect of public rights of way and access:

*“Planning policies should protect and enhance public rights of way and access.”*

- 93 As set out, the first part of Policy 4 could be taken as supporting any form of development, so long as it does not harm various things, including public rights of way. Such an approach could give rise to unintended support for inappropriate forms of development and may therefore result in the Neighbourhood Plan failing to contribute to the achievement of sustainable development.

- 94 The first part of the Policy seeks to prevent harm to any existing “open areas.” These are not defined and the Policy could relate to any number of locations in this regard, leading it to be imprecise. Furthermore, it is not clear what “green infrastructure assets” actually comprise. Map 4, referred to by Policy 4, includes reference to “Green Infrastructure Network,” but this simply appears to correspond with some (but not all) footpaths in the Neighbourhood Area. This results in an ambiguous Policy that fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.

- 95 The Policy goes on to require development not to adversely impact the “purpose or function” of several green spaces shown on Map 4, albeit some of the linear green spaces referred to are difficult to make out. However, neither the Policy nor the supporting text sets out what the function and purpose of each of these green spaces is. Again, Policy 4 is imprecise and does not provide a decision maker with a clear indication of how to react to a development proposal.

- 96 The second part of the Policy obliges non-householder development to contribute to various things. However, in respect of obligations, Paragraph 204 of the Framework, requires that:

*“Planning obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.”*

97 As set out, Policy 4 simply requires development to make a range of contributions wherever *“necessary and practicable.”* It does not have regard to national policy. I am mindful that North Kesteven District Council has suggested changes to the Policy in this regard, and I take these into account in the recommendations below.

98 I recommend:

- **Policy 4, delete part 1 and replace with *“Development should protect public rights of way and the enhancement of public rights of way will be supported.”***
- **Policy 4, delete part 2 and replace with *“Where necessary to mitigate the impact of a development proposal, proportionate contributions will be sought to improve existing or deliver new green spaces or other green infrastructure. The delivery of new, or improvements to, green spaces or green infrastructure will be supported.”***
- **Para 6.6, delete last sentence (“Policy...development”)**
- **Para 6.7, last sentence, delete “and this is reinforced through Policy 4 of this Neighbourhood Plan.”**
- **I note above that Map 4 is not clear. Provide a revised Map 4 that clearly identifies public rights of way. This is likely to require a Map or Maps of a higher resolution, at a larger scale and on an Ordnance Survey base.**

**Policy 5: Landscape and Views**

- 99 As set out earlier in this Report, national planning policy, in Paragraph 58 of the Framework, requires development to respond to local character. Furthermore, under “*Core Planning Principles*,” the Framework requires planning to recognise the intrinsic character and beauty of the countryside and to support thriving communities within it.
- 100 In accordance with this, Local Plan Policy LP17 (“*Landscape, Townscape and Views*”) requires development to take account of local character and views.
- 101 Policy 5, whilst it does not “*refine*” Local Plan Policy LP17, as stated in the supporting text, is, to some degree, in general conformity with it. Policy 5 seeks to preserve the character of the countryside, as well as important views of it.
- 102 However, the first sentence of Policy 5 lacks precision and to some degree, fails to make sense. For example, no indication is provided of how prioritisation will “*enhance the countryside from inappropriate development*” – or even whether such a thing is deliverable. There is no further information in respect of priorities as they pertain to Policy 5 and consequently, it is not clear what the “*protecting and enhancing of the countryside*” will have priority over, who will afford this priority and on what basis.
- 103 The Policy then refers to the purpose and function of the “*Green Wedge*.” Neither the Policy nor its supporting text provides any detail in respect of the Green Wedge. The Green Wedge comprises a Local Plan policy requirement (Policy LP22 “*Green Wedges*”) and as such, a detailed land use planning policy framework in respect of Green Wedges is already provided in the Local Plan. The reference in Policy 5 lacks appropriate detail and is, as a result, considerably less informative than the strategic policies of the Local Plan. As a result, the inclusion of the reference in Policy 5 appears to detract from the clarity of the development plan as a whole.

- 104 As worded, the third criterion of Policy 5 could serve to prevent any development that results in any degree of harm to *“the layout and pattern of the enclosure landscape.”* In the absence of substantive evidence to the contrary, I find that this could result in the Neighbourhood Plan failing to contribute to the achievement of sustainable development, as the Policy would not take into account the severity of harm arising, or the possible benefits of development, whatever their significance.
- 105 The final criterion of Policy 5 requires development to *“maintain”* various views. This is an onerous requirement. Views can change on an annual, seasonal and even hourly basis. Whilst the *“Design Guidance”* provided as part of the evidence base to the Neighbourhood Plan provides one photograph from each of the viewpoints identified on Map 5, these simply provide a snapshot in time from a single perspective, rather than a precise *“view”* capable of being maintained at all times.
- 106 Local Plan Policy LP17 (*“Landscape, Townscape and Views”*) requires development to *“have regard to”* and *“take account of”* views; and to preserve or enhance *“key local views”* through good design. There is no requirement for all development to simply maintain views of surrounding countryside and in this respect, Policy 5 is not in general conformity with the Local Plan.
- 107 In addition to the above, I am also mindful that Policy 5 seeks to protect views of the countryside whereas some of the views referred to are of urban areas.
- 108 Taking all of the above into account, I recommend:
- **Policy 5, delete and replace with *“Development outside the village curtilage should not reduce the separate identity of Thorpe on the Hill by reducing the existing gap between the village curtilage and the A46; and must respect the unique layout and pattern of the enclosure landscape of Thorpe on the Hill, as well as field boundaries such as hedges and trees. Development must also take account of the important views identified on Map 5. The preservation and enhancement of these views will be supported.”***

- **Map 5. As with previous Maps, Map 5 is not clear. Replace Map 5 with a new Map, or Maps, of higher resolution, greater scale and on an Ordnance Survey base, or similar, such that the Key, defined boundaries and features are all clearly identifiable.**
- **Delete Para 6.8**

Design

**Policy 6: Design and Character of Development**

109 Good design is recognised by the Framework as comprising:

*“a key aspect of sustainable development...indivisible from good planning.”*  
(Paragraph 56)

110 Furthermore, national policy requires good design to contribute positively to making places better for people (Chapter 7, The Framework) and Paragraph 58 of the Framework goes on to require development to:

*“...respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation...”*

111 In addition to the above, Local Plan Policy LP26 (“*Design and Amenity*”) requires all development to meet high standards of sustainable design that contributes positively to local character, landscape and townscape.

112 Policy 6 seeks to provide for good design and in doing so, it has regard to national policy and is in general conformity with the Local Plan. As worded, however, the Policy runs the risk of supporting inappropriate forms of development and this is a matter addressed in the recommendations below.

- 113 The final part of Policy 6 assumes that all planning applications will be supported by a Design and Access Statement, whereas this is not a legislative requirement. National guidance<sup>10</sup> establishes that the submission of a valid application for planning permission requires the following: a completed application form; compliance with national information requirements; the correct application fee; and the provision of local information requirements. In respect of the latter of these, Planning Practice Guidance states that:

*“A local planning authority may request supporting information with a planning application. Its requirements should be specified on a formally adopted “local list” which has been published on its website less than 2 years before an application is submitted. Local information requirements have no bearing on whether a planning application is valid unless they are set out on such a list.”*

- 114 Thorpe on the Hill Parish Council is not the local planning authority and there is nothing before me to suggest that the requirements set out in Policy 6 are specified on North Kesteven District Council's local list. Rather, North Kesteven District Council has submitted a proposal aimed at modifying the Policy's requirements in this regard.
- 115 Taking the above into account, this part of Policy 6 does not have regard to national policy and does not meet the basic conditions. I recommend:
- **Policy 6, replace opening sentence with “Development should complement the established character of Thorpe on the Hill, taking into account the Village Character Assessment and the Thorpe on the Hill Design Guidance. In so doing, development should, where appropriate, take account of:” (criteria a) to f) here)**
  - **Policy 6, change last sentence to “Proposals for development should demonstrate how the above factors have been taken into account.”**
  - **Para 7.4, change to “Information submitted with planning applications should provide sufficient...development.”**

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<sup>10</sup> Ref: Planning Practice Guidance Reference ID: 14-016-20140306.



## **7. The Neighbourhood Plan: Other Matters**

116 The recommendations made in this Report will have a subsequent impact on page numbering and on the Contents page at the beginning of the Plan.

117 I recommend:

- **Update the page numbering and Contents page, taking account of the recommendations contained in this Report.**

118 I make recommendations earlier in this Report in respect of the presentation of the Parish Priorities. In addition, for clarity and precision, I recommend:

- **Above each section of Parish Priorities (eg, 8, 9 and 10) and below the list of bullet points, add *"The Parish Council will seek to achieve the following:"***

## **8. Summary**

119 Having regard to all of the above, a number of modifications are recommended in order to enable the Neighbourhood Plan to meet the basic conditions.

120 Subject to these modifications, I confirm that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

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

## 9. Referendum

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

### Referendum Area

123 I am required to consider whether the Referendum Area should be extended beyond the Thorpe on the Hill Neighbourhood Area.

124 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

125 Consequently, I recommend that the Plan should proceed to a Referendum based on the Thorpe on the Hill Neighbourhood Area approved by North Kesteven District Council and confirmed by public notice on 11<sup>th</sup> September 2014.

**Nigel McGurk, October 2017**  
**Erimax – Land, Planning and Communities**



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