

Hykeham Neighbourhood Plan

Submission Version 2016 – 2036

Report of Examination

April 2018

Undertaken for North Kesteven District Council with the support of North Hykeham Town Council and South Hykeham Parish Council on the submission version of the plan.



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Summary

- I have undertaken the examination of the Hykeham Neighbourhood Plan during April 2018 and detail the results of that examination in this report.
- The Qualifying Body have undertaken extensive consultation on this Plan, and it complies with legislative requirements. The Plan is a compact document with nine policies, dealing with the key issues as defined by the community. The recently adopted Central Lincolnshire Local Plan provides a comprehensive strategic policy framework.
- I have considered the comments made at the Regulation 16 Publicity Stage, and where relevant these have informed some of the recommended modifications.
- Subject to the modifications recommended, the Plan meets the Basic Conditions and may proceed to referendum.
- I recommend the referendum boundary is the designated neighbourhood plan area.

Abbreviations used in the text of this report:

The Hykeham Neighbourhood Plan is referred to as 'the Plan' or 'Hykeham NP'.

North Hykeham Town Council and South Hykeham Parish Council are referred to as the Qualifying Body or 'QB'.

North Kesteven District Council is abbreviated to 'NKDC' or the 'LPA' (local planning authority)

The National Planning Policy Framework is abbreviated to 'NPPF'.

The National Planning Practice Guidance is abbreviated to 'NPPG'.

The Central Lincolnshire Local Plan 2012 - 2036 is abbreviated to 'CLLP'.

Acknowledgements: Thanks to Local Authority and Qualifying Body staff for their assistance with this examination. My compliments to the local community volunteers and the Qualifying Body, who have produced a concise, focused and easy to read Plan.

1. Introduction and Background

1.1 Neighbourhood Development Plans

1.1.1 The Localism Act 2011 empowers local communities to develop planning policy for their area by drawing up neighbourhood plans. For the first time, a community-led plan that is successful at referendum becomes part of the statutory development plan for their planning authority.

1.1.2 Giving communities greater control over planning policy in this way is intended to encourage positive planning for sustainable development. The National Planning Policy Framework (NPPF) states that:

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

Further advice on the preparation of neighbourhood plans is contained in the Government’s Planning Practice Guidance website:

<http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/>

1.1.3 Neighbourhood plans can only be prepared by a ‘qualifying body’ (QB), and in the Hykeham Neighbourhood Area that is jointly North Hykeham Town Council and South Hykeham Parish Council. Drawing up the Neighbourhood Plan was undertaken by the Neighbourhood Planning Committee, working to the Qualifying Body.

1.2 Independent Examination

1.2.1 Once the QB had prepared their neighbourhood plan and consulted on it, they submitted it to NKDC. After publicising the plan with a further opportunity for comment, NKDC were required to appoint an Independent Examiner, with the agreement of the QB to that appointment.

1.2.2 I have been appointed to be the Independent Examiner for this plan. I am a chartered Town Planner with over thirty years of local authority and voluntary sector planning experience in development management, planning policy and project management. I have been working with communities for many years, and have recently concentrated on supporting groups producing neighbourhood plans. I have been appointed through the Neighbourhood Plan Independent Examiners Referral Service (NPIERS). I am independent of any local connections to Hykeham and NKDC, and have no conflict of interest that would exclude me from examining this plan.

1.2.3 As the Independent Examiner I am required to produce this report and recommend either:

- (a) That the neighbourhood plan is submitted to a referendum without changes; or
- (b) That modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
- (c) That the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

1.2.4 The legal requirements are firstly that the plan meets the 'Basic Conditions', which I consider in sections 3 and 4 below. The plan also needs to meet the following requirements under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990:

- It has been prepared and submitted for examination by a qualifying body;
- It has been prepared for an area that has been properly designated by the Local Planning Authority;
- It specifies the period during which it has effect;
- It does not include provisions and policies for excluded development;
- It does not relate to land outside the designated neighbourhood area.

The Hykeham Neighbourhood Plan complies with the requirements of Paragraph 8(1). The Neighbourhood Area was designated on the 18th September 2013 by NKDC. The plan does not relate to land outside the designated Neighbourhood Area. It specifies the period during which it has effect as 2016 – 2036 and has been submitted and prepared by a qualifying body and people working to that qualifying body. It does not include policies about excluded development; effectively mineral and waste development or strategic infrastructure.

1.2.5 I made an unaccompanied site visit to North and South Hykeham to familiarise myself with the area and visit relevant sites and areas affected by the policies. This examination has been dealt with by written representations, as I did not consider a hearing necessary.

1.2.6 I am also required to consider whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to a referendum. I make my recommendation on this in section 5 at the end of this report.

1.3 Planning Policy Context

1.3.1 The Development Plan for Hykeham, not including documents relating to excluded mineral and waste development, is the Central Lincolnshire Local Plan 2012 - 2036, adopted April 2017, which superseded entirely the previous North Kesteven Local Plan 2007. Policies considered strategic for the purposes of neighbourhood planning are identified in the CLLP (page 130), a very useful reference for groups undertaking neighbourhood planning.

1.3.2 The National Planning Policy Framework (NPPF) sets out government planning policy for England, and the National Planning Practice Guidance (NPPG) website offers guidance on how this policy should be implemented.

1.3.3 During my examination of the Hykeham NP I have considered the following documents:

- National Planning Policy Framework (NPPF) 2012
- National Planning Practice Guidance 2014 and as updated
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004
- The Localism Act 2011
- The Neighbourhood Planning Regulations 2012 (as amended)
- Submission version of the Hykeham Neighbourhood Plan
- The Basic Conditions Statement submitted with the Hykeham NP
- The Consultation Statement submitted with the Hykeham NP
- The Strategic Environmental Assessment Screening Decision for the Hykeham NP
- Hykeham Transport Study 2016
- Neighbourhood Area Designation (map)
- Central Lincolnshire Local Plan 2012 – 2036: Adopted 2017
- Representations received during the publicity period (reg16 consultation)

2. Plan Preparation and Consultation

2.1 Pre-submission Process and Consultation

2.1.1 North Hykeham is a town on the south-eastern outskirts of the City of Lincoln, and South Hykeham is a village just to the south of North Hykeham, set in a more rural context. There has been extensive gravel extraction in the area, and the land is flat with a complex system of drainage dykes leading to the River Witham, which forms the boundary of the neighbourhood area in several places. The area has a mix of employment and residential development, the employment uses being mainly located on the main through roads.

2.1.2 A Neighbourhood Planning Committee led on the work of developing the Plan, the committee being made up of Town and Parish Councillors and volunteers from the local community. Minutes of agendas and meetings were made available on the Hykeham NP website, which also hosted 'chat-rooms' aimed at specific groups. The Plan website linked to that of North Hykeham Town Council.

2.1.3 The Consultation Statement sets out the nature and form of consultation prior to the formal Reg14 six week consultation. In 2014 an extensive engagement programme was undertaken to gather issues and priorities from the local community. This included online tools, a questionnaire, attending local events and staffing stands at various venues. Schools and care homes were visited and the business community engaged as well.

2.1.4 With outreach to adjacent planning authorities and local landowners such as the Church Commissioners, as well as extensive work with local residents and stakeholders. The record shows that extensive and thorough consultation was undertaken with a wide range of stakeholders.

2.1.5 As required by regulation 14 of the Neighbourhood Planning Regulations 2012, the formal consultation for six weeks on the pre-submission Hykeham Draft Neighbourhood Plan ran from the 1st February 2017 to the 15th March 2017. Local residents and businesses were informed of the consultation via a leaflet drop to addresses in the LN6 postcode area, and adverts in local newspapers. The draft Plan, South Hykeham Character Appraisal and Local Priorities for Development List were available for download from the website. Statutory bodies were notified of the consultation by letter, which included a copy of the Plan and associated documentation.

2.1.6 Representations were received from 20 organisations and individuals during the consultation period, and several amendments have been made to the plan as a result of constructive suggestions for changes. These are clearly detailed in the consultation statement.

2.1.7 I am satisfied that due process has been followed during the consultation undertaken on the Plan. The record of comments and objections received during the regulation 14 consultation shows that these were properly considered, and where appropriate resulted in amendments to the plan to accommodate points raised.

2.1.8 As required, the amended plan and associated evidence base, together with a Basic Conditions Statement, a Consultation Statement, the Screening Opinion and a Plan showing the neighbourhood area was submitted to NKDC, who checked the submission complied with required process and then undertook the Reg 16 consultation and publicity from Monday the 22nd January 2018 for six weeks, ending on Monday the 5th March 2018. The representations received during this consultation are considered below.

2.2 Regulation 16 Consultation Responses

2.2.1 Publicity and consultation on the plan undertaken by NKDC after submission, as required by regulation 16 of the Neighbourhood Planning Regulations 2012, resulted in sixteen comments, two of which were included submissions from the Reg14 consultation. Three Statutory bodies offered no specific comment on the Plan, another four statutory bodies offered specific comments that will be relevant for future strategic site planning applications, but not for this Plan. Two residents wrote objecting to a planning proposal not in this Plan, and one resident supported the Plan. The LPA and Church Commissioners offered comments as well, these have been considered, and will be acted on where relevant to Basic Conditions issues.

2.2.2 Local Developers and their agents have submitted two comments on the Plan at the Reg16 stage, and re-submitted two comments made earlier during the Reg14 stage of the Plan process. These will also be acted on where relevant in this examination, but I will deal here with a general point in both responses about whether or not the Plan as a whole meets the Basic Conditions. The agent for both Cemex UK Properties Ltd and H & S Roe and Sons Farms Ltd feels that the Plan has not adequately addressed previous comments made by them at the Reg14 stage, and thus has not met the requirements of Reg15 in the Neighbourhood Planning Regulations 2012 as regards submission of the Plan. In addition it is felt that by not including policies reflecting the unique characteristics and planning context the Hykeham NP has not had appropriate regard to National Policy and so does not meet the Basic Conditions.

2.2.3 Review of the Consultation Statement shows that comments made by both parties were considered as part of the Reg14 stage. Objections to a lack of clarity in a policy about a green wedge led to this policy being deleted. As the Plan was not making site allocations other comments did not lead to alterations to the Plan. There is no requirement for comments and requests made during a consultation to be acted on, and I am satisfied that comments made were duly considered and that the requirements of Reg15 as regards submission were met.

2.2.4 A further general objection to the Plan not meeting the Basic Conditions was that it had not properly considered para 184 of the NPPF and 'section 41' of the NPPG. As the latter reference covers all of the section of the NPPG dealing with neighbourhood planning, this reference is not specific enough to discuss in detail, but I will attempt to deal with points raised that are offered to support the general contention that the Hykeham NP does not comply with the Basic Conditions.

2.2.5 The Reg16 response argues that para 184 of the NPPF requires that policies in a neighbourhood plan do not repeat those of a Local Plan. Because it is felt most of the policies are just repetition, the argument follows that the Hykeham NP has therefore not had due regard to national policy and guidance. What Para 184 says on the subject of local plan and neighbourhood plan policies is that the latter must be in general conformity with local plan policies – a Basic Conditions requirement – and reflect them. It also states that a neighbourhood plan cannot promote less development than set out in a local plan or undermine it. There is no specific requirement that there is no repetition, and in my opinion any such repetition would only be contrary to the Basic Conditions if it resulted in a serious lack of clarity for decision-makers. The NPPF does require that planning policy is clear in intent. The CLLP has only been adopted towards the end of the Hykeham NP process and some repetition would have been useful for clarity prior to adoption of the CLLP. The Hykeham NP has a clear local relevance and evidence base informed by extensive consultation, and I do not agree that it is nothing but repetition of the CLLP.

2.2.6 The Hykeham NP does not undermine the CLLP, it has not made any allocations or attempted to remove or override any that are in the Local Plan. A local plan is the document charged with considering allocations in the NPPF. A neighbourhood plan does not have to allocate sites, indeed a neighbourhood plan is not bound to include policies on any particular issue (ID: 41-040-20160211). Thus criticism that the Plan should have considered particular sites or issues are misplaced.

3. Compliance with the Basic Conditions.

3.1 General legislative requirements of the 1990 Town and Country Planning Act (TCPA) other than the Basic Conditions are set out in paragraph 1.2.4 above. The same section of this report considers that the Hykeham NP has complied with these requirements. What this examination must now consider is whether the Plan complies with the Basic Conditions, which state it 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; and
- Be compatible with and not breach European Union (EU) obligations and human rights law.

3.2 The Basic Conditions Statement (section 4) discusses how the Plan promotes the social, economic and environmental goals of sustainable development. Each policy is assessed in terms of its contribution to the economic, social and environmental aspects of sustainable development, and a mostly positive impact identified. I accept that the Plan does contribute to sustainable development in line with the Basic Conditions.

3.3 A screening opinion has been issued by NKDC which considers whether Strategic Environmental Assessment (SEA) and/or Habitat Regulations Assessment (HRA) are required for the Hykeham NP. These environmental requirements in EU law are the main EU Directives that neighbourhood plans need to comply with. The Screening opinion, which has been consulted on with the three relevant national bodies, states that:

- SEA is not required as the plan in its current form is not likely to have significant environmental effects (para 5.1);
- HRA is not required because it is not considered likely that the Hykeham NP would have a significant impact on any Natura 2000 site (Table1).

3.4 The Hykeham NP complies with Human Rights Legislation in my opinion. It has not been challenged with regard to this, and the Consultation Statement showed that the need to consult with a wide cross-section of the community was appreciated.

4. Compliance with National Policy and the adopted Development Plan

4.1 The final and most complex aspect of the Basic Conditions to consider is whether the Hykeham NP meets the requirements as regards national policy and the development plan. This means firstly that the Plan must have regard to national policy and guidance, which for this neighbourhood plan is the NPPF and the NPPG. Secondly the Plan must be in general conformity with the strategic policies of the development plan. The phrase 'general conformity' allows for some flexibility. If I determine that the Plan as submitted does not comply with the Basic Conditions, I may recommend modifications that would rectify the non-compliance. As previously stated, the development plan for the neighbourhood area is now simply the Central Lincolnshire Local Plan 2017 (CLLP).

4.2 The Plan and its policies are considered below in terms of whether they comply with the Basic Conditions as regards national policy and the development plan. If not, then modifications required to bring the plan into conformity are recommended. Modifications are boxed in the text, with text to remain *in italics*, new text highlighted in **Bold** and text to be deleted shown but ~~struck through~~. Instructions are shown underlined.

4.3 The General format of the Plan is a concise and clearly legible document, that has a restricted range of policies focused on priorities raised during consultation. It does not seek to allocate sites, but offers design guidance for the considerable development allocated in the CLLP. The Plan has correctly located non-landuse actions and issues identified in a separate section, but this section precedes the final section on Delivery Strategy. The latter is a legitimate and welcome part of the neighbourhood plan, and so in order that the correctly identified 'Matters Beyond the Scope of a Neighbourhood Plan' is separated from the land-use section of the Plan as required by government guidance in the NPPG (ID:41-004-20170728), the Delivery Strategy should become Section 5 and precede the non-land-use section.

<p>Modification 1: In order that the Plan complies with the Basic Conditions with respect to having regard to government guidance, <u>I recommend that Section 6 'Delivery Strategy' becomes Section 5, and the current Section 5 dealing with non-land-use issues becomes Section 6.</u></p>
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4.4 Policy HNP1: Design of New Development

The policy promotes high quality design that is locally responsive, as required by government policy in the NPPF (para 58). However the policy as drafted is not always clear in intent, and the NPPF (para 154) requires policy to be clear about its requirements for developers and decision-makers. In order that Policy HNP1 complies with the Basic Conditions therefore, I recommend that it is altered as set out in Modification 2 for reasons of clarity of intent.

Modification 2: Policy HNP1 is recommended to be altered as follows:

*Development proposals which **comply with policy in the development plan and demonstrate high standards of design and sustainable construction techniques will be supported. Poorly designed proposals, which include poor design, proposals that are unsuitable for the site, or proposals that will result in any unacceptable impact without agreed adequate mitigation will be refused.** Where required, Design and Access Statements ~~and associated plans~~ should clearly demonstrate ~~how the design process, including a clear demonstration of the design quality and suitability of the proposal meets and has regard to using~~ the Neighbourhood Plan Design Criteria set out in Appendix 1 of this Plan.*

4.5 Policy HNP2: South Hykeham Local Green Space

The policy designates as Local Green Space an area of grassland over which a notable view of the listed church can be taken. The site has been designated as “Important Open Space” in the CLLP, but designation at the higher level of protection of ‘Local Green Space’ is a power also given to neighbourhood plans in the NPPF (paras 76 and 77). I accept that increasing the protection of this site is in general conformity with the strategic policies of the Local Plan, and note that the LPA have not objected to the policy at Reg16. There is a quotation mark at the end of the policy that is not required, and should be removed, but this is not a Basic Conditions issue. Policy HNP2 meets the Basic Conditions.

4.6 Policy HNP3: Employment

The fourth bullet point of this policy has been objected to by two Reg16 respondents – on the grounds that as currently drafted it could affect viability and will not always be a reasonable requirement. I agree with these comments, and the NPPF requires policy in development plans to pay careful attention to viability (para 173). In order to comply with the Basic Conditions therefore,

the fourth bullet of this policy should be reworded to allow that some developments will not be able to make use of renewable technologies, but will still be sustainable development.

Modification 3: In order that Policy HNP3 meets the Basic Conditions, I recommend that the fourth bullet point is altered as follows:

If appropriate opportunities exist, it makes use of renewable technologies to a proportionate degree to reduce its impact on the environment.

4.7 Policy HNP4: Renewables

This policy has also been criticised for not always being proportionate to a development proposal. The first sentence as currently drafted could be seen as making an unreasonable demand of development that has no opportunity to comply and remain viable. To comply with the Basic Conditions and government requirements that policy does not unreasonably impact on viability I recommend that Policy HNP4 is amended as shown in Modification 4.

Modification 4: The first paragraph of Policy HNP4 is recommended to be altered as shown:

*Development proposals **are encouraged to** ~~should~~ make use of renewable technologies to reduce their impact on the environment **wherever possible**.* In particular the following technologies will be encouraged, and schemes which **comply with policy in the Development Plan and include or enable the following technologies will be supported:**

..... rest as existing

4.8 Policy HNP5: Transport Plans

The Policy has been criticised for not being reasonable by specifying transport assessments cannot be older than a year, and I agree that this time limit has not been clearly justified. The pertinent issue would seem to be that any transport assessment should be based on current traffic conditions. I also find the wording, particularly of the first paragraph, confusing to the point of not having the clarity required of policy (NPPF para154). In order that the policy meets the Basic Conditions therefore, I recommend that it is amended as shown in Modification 5.

Modification 5: Policy HNP5 is recommended to be altered as follows:

Development proposals with significant traffic impact should be ~~that are~~ accompanied by recent and relevant evidence which demonstrates that impacts on local highways have been appropriately assessed within the last year, and can be effectively mitigated. and that Provision is made to encourage travel on foot, cycle and public transport, will be supported.

~~Where applicable~~ Development proposals likely to generate extra car parking will be supported where there is clear evidence required to show that the car parking predicted to be generated can be accommodated on-site and will not cause or exacerbate existing parking problems on the public highways.

4.9 Policy HNP6: Pedestrians and Cyclists

Policy HNP5 and HNP6 have both been informed by a professional evidence base, the Hykeham Transport Study 2016. This document is mentioned in the justification for the policies, but is not available on the websites where the Plan and other documents can be accessed, and as an evidence base it should be. The NPPG requires neighbourhood plan policies to be evidence-based (ID: 41-040-20160211), and this document is a good example of an effective evidence base.

4.10 The last paragraph of Policy HNP6 is dealing with bike hire and other schemes which as projects are not land-use, although infrastructure associated with them would be. The policy can therefore only reference infrastructure needed for the schemes. For the same reasons, planning policy cannot engage with the future maintenance and promotion of any facilities. The schemes themselves, and their adoption and enlargement, could be mentioned in the policy justification and the 'Matters beyond the scope of the Neighbourhood Plan' section, as a community aspiration. In order that the Policy meets the Basic Conditions, and deals with land-use issues as specified in the NPPG (ID: 41-004-20170728), I recommend that the last paragraph of the Policy is amended as shown in Modification 6. Mention of the schemes may be made in the justification, probably by adding the information to paragraph 4.3.8. The LPA and QB may also wish to agree mentioning the schemes in the non-land-use final section of the Plan. I make no formal recommendation on this, as I consider it beyond the scope of my Basic Conditions remit in this examination.

Modification 6: The Hykeham Transport Study 2016 should be made available with the Hykeham Neighbourhood Plan and other submitted documentation.

The final paragraph of Policy HNP6 is recommended to be altered as follows:

*Where relevant and proportional, proposals should also provide facilities for walking and cycling which are appropriately linked and integrated into the wider transport network. ~~are well maintained and promoted, and~~ **Proposals are also encouraged to consider the provision of infrastructure connected with which help facilitate** schemes such as Lincoln's 'Bikeability' Scheme, ~~'Bikeability'~~ and other relevant initiatives to encourage people to walk or cycle **more.***

4.10 Policy HNP7: Open space and Recreation

The policy has been criticised as adding nothing to the requirements of the CLLP. However there is a reference to the need to prioritise local deficiencies in the policies, and I consider it complies with the Basic Conditions as written.

4.11 Policy HNP8: Cemetery Provision Complies with the Basic Conditions.

4.12 Policy HNP9: Infrastructure Provision and the Community Infrastructure Levy (CIL)

A respondent at Reg16 has pointed out that in other neighbourhood plans a list of local priorities for CIL money due to the parish councils has not been a policy, just a list in an appendix. Here the list of particular projects is in an accompanying document, but for ease of reference it would be better as an appendix to the neighbourhood plan, especially as it is referenced in the Policy.

4.13 The list includes one or two items that are more properly highway rather than planning issues. However with the priority list being separate from the policy proper, I accept that Policy HNP9 is dealing with land-use issues: the allocation of local CIL funds to infrastructure projects. The NPPG states that a qualifying body should set out in their neighbourhood plan prioritised infrastructure required for the demands of development in the plan (ID: 41-046-20140306), and I accept that this policy is complying with that guidance – with particular regard to CIL funds. Therefore the policy complies with the Basic Conditions.

5. The Referendum Boundary

5.1 The Hykeham Neighbourhood Plan has no policy or proposals that have a significant enough impact beyond the designated Neighbourhood Plan Boundary that would require the referendum boundary to extend beyond the Plan boundary. Therefore I recommend that the boundary for the purposes of any future referendum on the Hykeham Neighbourhood Plan 2016 – 2036 shall be the boundary of the designated Neighbourhood Area for the Plan.