

# **NOCTON AND POTTERHANWORTH NEIGHBOURHOOD PLAN**

Nocton and Potterhanworth Neighbourhood Plan Examination,  
A Report to North Kesteven District Council

by Independent Examiner, Nigel McGurk BSc(Hons) MCD MBA MRTPI

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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 provides the findings of the examination into the Nocton and Potterhanworth 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 by the Nocton and Potterhanworth Neighbourhood Plan Steering Group, on behalf of Nocton Parish Council and Potterhanworth Parish Council.
- 5 As set out in the opening chapter of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Nocton Parish Council and Potterhanworth Parish Council together form 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 Nocton and Potterhanworth 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 Nocton and Potterhanworth 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 plan period:

*“2016 – 2036.”*

- 12 I also note that Paragraph 13 of the Basic Conditions Statement submitted alongside the Neighbourhood Plan sets out that:

*“The plan period of the Neighbourhood Plan is from 2016 to 2036.”*

- 13 Taking the above into account, the Neighbourhood Plan satisfies the relevant requirement in this regard.

## Public Hearing

- 14 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.
- 15 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.
- 16 Further to consideration of the information submitted, I confirmed to North Kesteven District Council that I was satisfied that the Nocton and Potterhanworth Neighbourhood Plan could be examined without the need for a Public Hearing. In making this 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 opportunities to have their say.

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

### **Basic Conditions**

- 17 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>
- 18 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);

<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 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.

- 19 Subject to the content of this Report, I am satisfied that these three points have been met.
- 20 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

- 21 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.
- 22 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 outcome of comments.”*

## European Union (EU) Obligations

- 23 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.
- 24 The Basic Conditions Statement confirms that:
- “The Neighbourhood Plan is not in sufficiently close proximity to any European designated nature sites to warrant an Appropriate Assessment under the EU Habitats Regulations and this has therefore not been required by NKDC.”*
- 25 I note that 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.
- 26 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>).

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

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

27 This process is often referred to as a screening report, opinion, statement or assessment. If the screening report identifies likely significant effects, then an environmental report must be prepared.

28 The Basic Conditions Statement confirms that the Nocton and Potterhanworth Neighbourhood Plan Steering Group submitted a formal screening request regarding the need for a Strategic Environmental Assessment to North Kesteven District Council. In this regard, the Basic Conditions Statement goes on to establish that:

*“NKDC considered that an assessment was not required because the Neighbourhood Plan is not likely to have a significant impact on the environment.”*

29 The Basic Conditions Statement confirms that the statutory consultees, Natural England, Historic England and the Environment Agency *“all agreed with this outcome.”*

30 In addition to the above, I am mindful that national guidance is explicit in establishing 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>6</sup>).

31 In undertaking the work that it has, North Kesteven District Council has considered the Neighbourhood Plan’s compatibility with EU obligations. It has raised no objections or concerns in this regard. Taking this and the above into account, I conclude that the Neighbourhood Plan meets the basic conditions in respect of meeting European obligations.

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<sup>6</sup> Paragraph 031, Reference: 11-031-20150209, Planning Practice Guidance

### **3. Background Documents and the Nocton and Potterhanworth Neighbourhood Area**

#### **Background Documents**

32 In undertaking this examination, I have considered various information in addition to the Nocton and Potterhanworth Neighbourhood Plan. This has included the following main documents:

- 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)
- The North Kesteven Local Plan (2007)
- Basic Conditions Statement
- Consultation Statement

Also:

- Representations received

33 In addition, I spent an unaccompanied day visiting the Nocton and Potterhanworth Neighbourhood Area.

## Nocton and Potterhanworth Neighbourhood Area

- 34 A plan showing the boundary of the Nocton and Potterhanworth Neighbourhood Area is provided on page 6 of the Neighbourhood Plan.
- 35 The Neighbourhood Area covers all land within the boundaries of Nocton Parish and Potterhanworth Parish.
- 36 North Kesteven District Council approved the designation of Nocton and Potterhanworth as a Neighbourhood Area on 1 May 2014. 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**

- 37 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.
- 38 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.

### **Nocton and Potterhanworth Neighbourhood Plan Consultation**

- 39 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>7</sup>.
- 40 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Nocton and Potterhanworth Neighbourhood Area, having regard to Paragraph 183 of the Framework.
- 41 As established earlier in this Report, the Neighbourhood Plan was produced by a Steering Group. This Steering Group had delegated responsibility for preparing the Neighbourhood Plan and was made up of the Chairs of the two Parish Councils and other interested parishioners.
- 42 During 2015, two Community Groups were established, one in each Parish, to encourage representation from all areas of the two Parishes. These two Groups met in August 2015 to identify issues for the Steering Group to explore further. This work evolved into the production of a questionnaire, which was distributed to all households in the Neighbourhood Area in October 2015.

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<sup>7</sup>Neighbourhood Planning (General) Regulations 2012.

- 43 A significant proportion of the questionnaires (43%, or 267 in total), were returned and the information received enabled the preparation of an outline of policies in response to the issues considered to be of most relevance. Information relating to the proposed Aims, Objectives and Policies was circulated to all households in December 2015, inviting further comments. This was followed up with a Public Meeting in January 2016.
- 44 Between January and September 2016, drafts of the plan were informally reviewed by “*an independent and experienced*” planner appointed by North Kesteven District Council and the draft plan was prepared for public consultation. Prior to undergoing the statutory six week public consultation period, a covering letter and response form containing the Policies of the draft plan was distributed to every household in the two Parishes. The covering letter advertised the upcoming consultation period and provided information about related drop-in sessions.
- 45 The draft plan underwent a six week consultation period during September and October 2016. This was supported by four drop-in sessions, where printed copies of the draft plan were available and at least one member of the Steering Group was present to answer questions. Seven people attended the drop-in sessions. The Consultation Statement provides evidence to demonstrate that responses received during the consultation period were duly considered.
- 46 The Submission version of the Neighbourhood Plan was subsequently produced and submitted to North Kesteven District Council.
- 47 Evidence has been provided to demonstrate that the plan-making process was widely publicised. In addition to all of the above, consultation was supported by a dedicated, interactive “*blog site*”, where documents were made available for information and comment.
- 48 The Consultation Report provides evidence to show that public consultation was central to the production of the Neighbourhood Plan. Community engagement was strongly encouraged throughout the plan-making process. Matters raised were duly considered and the reporting process was transparent.
- 49 Taking all of the above into account, I am satisfied that the consultation process was robust.

## 5. The Neighbourhood Plan – Introductory Section

- 50 The Basic Conditions require consideration of whether or not the Neighbourhood Plan as a whole has had regard to national policies and advice contained in guidance issued by the Secretary of State and whether or not it is in general conformity with the strategic local policies of the Local Plan.
- 51 The policies of the Neighbourhood Plan are considered against the basic conditions in Chapter 6 of this Examiner’s Report. This Chapter considers the Introductory Section of the Neighbourhood Plan.
- 52 The legislation behind Neighbourhood Planning underpins the power of communities to plan for themselves and it is important that, if quoted, it is done so precisely. A neighbourhood plan is *made*, not adopted and in the interests of precision, I recommend:
- **Para 1.1.1, change to “...Once *made*, a Neighbourhood Plan sits...”**
- 53 Paragraph 1.3 of the Neighbourhood Plan refers to District-wide planning. Almost inevitably, as it seeks to comment on an emerging planning document, the text in this paragraph has been overtaken by events – and this is likely to occur again, as emerging planning policy is adopted over time. It is not a basic condition for neighbourhood plans to be “*in accordance*” with emerging policies and I recommend:
- **Paragraph 1.3, change last sentence to “...course of preparation and the Neighbourhood Plan has sought to take relevant information into account.”**

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

- 54 The introduction to the Policy section of the Neighbourhood Plan states that Policies underpin Objectives and are consistent with policies in the North Kesteven Local Plan (2007) (Local Plan) and the NPPF, as well as the emerging Central Lincolnshire Local Plan.
- 55 If a Neighbourhood Plan is to progress to Referendum, it needs to meet the basic conditions. As set out earlier, it is the role of the Independent Examiner to examine the Neighbourhood Plan against the Basic Conditions. Given this, it is unnecessary for the Neighbourhood Plan to seek to justify its Policies and further, it is not a requirement for its Policies to be “*consistent with*” national, local or emerging planning policy.
- 56 Taking the above into account, I recommend:
- **Delete the paragraph underneath the title “Policies” at the top of page 16**
- 57 Further to the above, after the supporting text for each Policy, the Neighbourhood Plan includes a list of policies from the Local Plan and the Draft Local Plan, as well as selected paragraphs from the National Planning Policy Framework (the Framework), which plan-makers consider that the respective Policy is “*consistent with*.” As above, this is not a test and whilst it may have provided helpful information at the plan-making stage, this is not a necessary exercise. In any case, the references provided in respect of “*consistency*” are limited and subjective. Their inclusion is unnecessary and it diverts attention away from the Policies themselves. Also, placing the references within a blue box appears to afford them some kind of status and this detracts from the clarity of the Neighbourhood Plan.
- 58 I recommend:
- **Delete the references to “*consistency*” (blue boxes and related text) at the end of each “Justification and evidence” section.**



**Policy 1**

- 59 Policy 1 is supported by two plans, named “Map 4” and “Map 5.” Whilst I note that a map should include a scale and indicate “North,” this is not a significant issue. However, “Map 5” is poorly reproduced and its content is largely illegible. It is inappropriate for inclusion in the Neighbourhood Plan and I address this in the recommendations below.
- 60 The two plans include Conservation Area boundaries. However, Conservation Areas are considered elsewhere in the Neighbourhood Plan and not as part of Policy 1.
- 61 The plans, together with Policy 1, refer to “*curtilage*.” Whilst I note that the Local Plan refers to “*settlement curtilage*,” the word “*curtilage*” is a legal term, more often associated with areas of land attached to individual properties and in the absence of detailed supporting information regarding the “*village curtilages*.” To ensure the Neighbourhood Plan is precise and to avoid any unnecessary related confusion, I recommend:
- **Change the references to “*curtilage*” on pages 16 and 17 to “*settlement boundary*” so Policy 1 becomes “...be within the *settlement boundary* of each...”; and Note becomes “: the *settlement boundaries* indicated...”**
  - **Replace Map 5 with a legible plan clearly showing the settlement boundary**
  - **Remove the Conservation Area boundary shown on Maps 4 and 5**
  - **Replace the notes in parentheses under the titles to Map 4 and Map 5 with “*The land marked yellow falls within the settlement boundary.*”**
- 62 With regards the settlement boundary shown by the Maps, whilst North Kesteven District Council states that “...*the current boundary line does not follow the most logical route...*” no substantive evidence is provided in respect of precisely what alternative route might be followed. Consequently, there is nothing to base the suggestion that boundaries follow “*the most logical route, marked by physical features*” upon. I note that “*physical features*” could comprise practically anything.

- 63 As worded, Policy 1 is not a positive Policy that supports sustainable development. It simply suggests that something “*should*” occur. No indication is provided of what might happen if this does not occur and the Policy 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.
- 64 The supporting text to Policy 1 indicates that development outside the settlements would not be supported, but that appropriate development within the settlements would be supported. Further, Policy 1 itself sets out various criteria against which development within the settlement boundaries will be considered. I make a recommendation below that takes these factors into account and has regard to national planning policy’s presumption in favour of sustainable development, as established in the Framework.
- 65 No information is provided in respect of precisely what the “*villages’ setting in the wider landscape*” comprises. It is therefore unclear as to what types of development would, or would not, detract from a “*setting in a wider landscape*.” However, I note that one of the general intentions of the Policy is to protect local character, including the natural and built environment and heritage. This intention has regard to Paragraph 58 of the Framework, which requires development to respond to local character and history.
- 66 Policy 1 requires that development does not detract from land or buildings “*subject to a special designation*.” No indications of what these might be, or how they are controlled by the Neighbourhood Plan are provided and in any case, special designations, by their very nature, already afford protection distinctive to the designation.
- 67 The “*natural evolution of the village*” is undefined and it is unclear how small scale residential development contributes to “*natural evolution*.” In this respect, I am mindful that Planning Practice Guidance requires neighbourhood planning policies to be precise, concise, clear and unambiguous<sup>8</sup>.
- 68 The supporting text to Policy 1 refers to the local community opposing developments of “*more than ten homes*” and states that developments of up to six homes reflect a local preference. Evidence is provided to demonstrate some local need for smaller homes. Whilst the Policy requires all developments of more than one dwelling to provide a small, typically one or two bedroomed, home, or to make a home available at “*lower cost*,” no evidence is provided to demonstrate that this would be viable in all cases. I note that it may, for example, preclude the development of a pair of semi-detached dwellings.

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<sup>8</sup> Ref: Planning Practice Guidance 41-041020140306.

- 69 Consequently, as set out, this part of Policy 1 fails to have regard to Paragraph 173 of the Framework, which states:

*“Plans should be deliverable. Therefore, the...scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.”*

- 70 However, I am mindful that the general intent of Policy 1 in respect of seeking to provide for local needs has regard to Chapter 6 of the Framework, *“Delivering a wide choice of high quality homes”* and I take this into account in the recommendations below.

- 71 Neither national nor local heritage policy seeks to restrict the number of houses that can be built within Conservation Areas, or within their settings. The approach to protecting the nation’s heritage is far more nuanced and focuses on conserving heritage assets in a manner appropriate to their significance, taking into account a wider variety of factors, including the desirability of new development making a positive contribution to local character and distinctiveness. Limiting development to single dwellings on infill sites within the Conservation Area may serve to place an obstacle in the way of sustainable development coming forward and there is no substantive evidence to the contrary.

- 72 Taking all of the above into account, I recommend:

- **Delete the wording to Policy 1 and replace with new wording**  
***“Proposals for the development of up to six dwellings on sites within the settlement boundary, defined on Maps 4 and 5, will be supported subject to demonstrating that such proposals are in keeping with local character. Proposals for more than two dwellings on any one site should seek to provide for a range of dwelling types, including smaller, typically one or two bedroom homes.”***
- **Supporting text, page 18, first paragraph, delete last sentence,**  
***“Further limited growth...is proposed.”*** Policy 1 does not refer to RAF Nocton Hospital
- **Paragraph 5.1.3, sixth line, change to “...houses to be *on* individual plots...within the *settlement boundaries*.”**
- **Paragraph 5.1.3, having regard to the recommendations above,**  
**delete from “Within the Conservation Area...” to the end of the paragraph.**

- 73 Subject to the above, Policy 1 becomes a positive Policy, providing for sustainable development in the Neighbourhood Area. In respect of providing for appropriate housing growth in the Neighbourhood Area I am mindful that North Kesteven District Council states:

*“In the case of Nocton and Potterhanworth, there is a very limited strategic requirement as a number of dwellings have already been constructed and there are also a number of outstanding permissions. It is considered that the policies of the neighbourhood plan would allow for adequate levels of growth to be delivered in accordance with the strategic requirements.”*

## Policy 2

- 74 Good design is recognised by the Framework as comprising:
- “a key aspect of sustainable development...indivisible from good planning.”*  
(Paragraph 56)
- 75 In addition, national policy requires good design to contribute positively to making places better for people (Chapter 7, The Framework). 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;”*
- 76 Also, Local Plan Policy C18 (*Design*) recognises the important role good design can perform in respect of reinforcing local identity.
- 77 In general terms, by seeking to promote good design, Policy 2 has regard to national policy and is in general conformity with the strategic policies of the development plan. However, no indication is provided in respect of what *“the current architectural style”* of the villages comprises. This is an undefined term and in the absence of relevant background information, it results in a lack of clarity and an ambiguous and imprecise Policy.
- 78 No indication is provided of what *“sufficient off-street parking”* comprises. This part of the Policy is imprecise and 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. It also fails to have regard to Paragraph 39 of the Framework, which, in respect of the setting of local parking standards, requires all of the following factors to be taken into account:
- “The accessibility of the development; the type, mix and use of development; the availability of and opportunities for public transport; local car ownership levels; and an overall need to reduce the use of high-emission vehicles.”*
- 79 No evidence is provided to demonstrate that Policy 2 has taken all of the above factors into account.
- 80 It is not clear why the provision of *“internet connectivity”* is a land use planning matter and no information is provided in this regard. I note that communications infrastructure is considered in Policy 6 of the Neighbourhood Plan.

81 Taking all of the above into account, I recommend:

- **Policy 2, change second bullet point to “*be of design and materials that reflect local character and provide for integration with the surrounding area; and*”**
- **Delete the second and last bullet points**
- **Justification, delete from “On-street parking...” to the end of Paragraph 5.1.8**

### Policy 3

82 Planning Practice Guidance<sup>9</sup> states:

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

83 Further, as noted earlier in this Report, Paragraph 173 of the Framework, establishes that:

*“Plans should be deliverable. Therefore, the...scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.”*

84 Policy 3 sets out a number of the Parish Councils’ aspirations with regards the future development of RAF Nocton Hospital. However, no indication is provided in the Policy of the scale or nature of the development that will deliver these aspirations. The phrase *“an appropriate solution”* is not precise. Requiring such a solution to be *“in line with the agreed outcome of the 2011 Options Appraisal”* detracts even further from precision and introduces a significant lack of clarity and t uncertainty.

85 As set out in the supporting text, the Options Appraisal referred to suggests that the delivery of a *“significant”* number of homes would be required to achieve the various aspirations relating to restoring the heritage asset. This number was given in the Options Appraisal as *“50-74”* new homes. However, the supporting text goes on to state that that the number of homes *“would be greater,”* but fails to provide any indication of how much greater.

86 The supporting text goes on to refer to the opinion of the majority of respondents to the community questionnaire, that:

*“100-150 new homes on the hospital site was ‘too high’ and it is clear that there is very little, if any, local support for a large housing development on this site.”*

87 Further to the above, a representation from the owners of the site suggests that *“around 200 homes would be required”* for a commercial *“enabling development”* providing full residential restoration of the hall.

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

- 88 Policy 3 provides no certainty or direction in the above regard, but supporting information is indicative of great uncertainty. Policy 3 simply sets out some aspirations. Having regard to all of the above, it does not comprise a precise land use planning policy that meets the basic conditions.
- 89 However, the site is clearly important in the context of the Neighbourhood Area and rather than lose sight of the aspirations outlined, I recommend:
- **Delete Policy 3**
  - **Replace with a new “Community Action: RAF Hospital Nocton Hall. The Parish Councils will seek to work with other parties to promote appropriate development at Nocton Hall. The Parish Councils are keen to see that sustainable development at the site achieves the following: Provide the list of bullet points and the final paragraph (“Any proposals...”), formerly part of Policy 3, here**
  - **Remove the above text from the green box. For clarity, Policy 3 is deleted and the Community Action does not comprise a Policy**
  - **Retain Map 6 and the supporting text, but replace title “Justification and evidence” with “Background information.”**
  - **Paragraph 5.1.12, delete “(this area has...Local Green Space.)” as this refers to a draft policy subject to change.**



**Policy 4**

- 90 Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 76 of the Framework 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.”*

- 91 Consequently, 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. A Local Green Space designation therefore provides protection that is comparable to that for Green Belt land.

- 92 National policy establishes that:

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

- 93 Thus, when identifying Local Green Space, plan-makers should 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. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

- 94 The supporting text to Policy 4 provides reference to evidence demonstrating that the areas of Local Green Space meet the tests set out in the Framework and I note earlier that the Neighbourhood Plan has emerged through robust public consultation.

- 95 As worded, Policy 4 does not establish what the land use planning effect of the designation comprises and for the purposes precision and clarity, I address this in the modifications below.

- 96 Paragraph 5.2.3 provides a cumbersome reference and a web-link that failed to link to the appropriate web-page when tried and this is also addressed below.

97 Maps 7 and 8 are inconsistent, include designations not related to Policy 4 and are presented at a scale such that Local Green Space boundaries are not clearly identifiable. Also, the text supporting the plans is confusing and provides unnecessary information.

98 Taking all of the above into account, I recommend:

- **Policy 4, add “...as Local Green Spaces *where development is ruled out other than in very special circumstances.*”**
- **Paragraph 5.2.3, delete and replace with “*These sites are demonstrably special to the local community. Information in respect of the tests for designating Local Green Space, as set out in Paragraphs 76-78 of the Framework, is provided in the “LP23: Local Green Space and Other Important Space Evidence Report,” forming part of the evidence base to the emerging Central Lincolnshire Local Plan.*”**
- **Delete Maps 7 and 8 and related text. Replace with new maps, consistent with one another. Local Green Space boundaries should be identified – either by a clear boundary line or the shading of the Local Green Space – at a scale whereby all boundaries are clearly identifiable, to prevent any possible confusion or uncertainty**
- **Number each Local Green Space on the plans. Provide a related key, identifying each specific Local Green Space**

## Policy 5

- 99 Policy 5 requires all development to preserve and enhance mature trees, species-rich hedgerows, watercourses and existing areas of woodland. No evidence is provided to demonstrate that such a requirement is relevant, appropriate, viable or even possible in all, or any, circumstances. The requirements of the Policy do not have regard to Paragraph 173 of the Framework referred to earlier in this Report.
- 100 Similarly, no indication is provided of how all developments can enhance connectivity between wildlife areas and green spaces, or enhance access to green spaces and countryside leisure opportunities. Furthermore, no “wildlife areas” or “green spaces” are identified and “countryside leisure opportunities” are not defined. The Policy is therefore imprecise and 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.
- 101 Notwithstanding the above, I am mindful that national policy adopts a positive approach to the conservation and enhancement of the natural environment. Having regard to this, the above and the information before me, I recommend:
- **Delete the text of Policy 5 and replace with “*The enhancement of the Neighbourhood Area’s biodiversity will be supported. Development proposals affecting mature trees, species-rich hedgerows, watercourses, and existing areas of woodland should demonstrate that such features will be preserved or enhanced. The preservation of wildlife habitats and the enhancement of public rights of way and/or of connectivity between green spaces will be supported.*”**

## Policy 6

- 102 Policy 6 refers to the “*distinctive local character*” of Nocton and Potterhanworth. This is not defined in the Neighbourhood Plan and it is therefore unclear as to what, precisely, this distinctive character comprises.
- 103 Notwithstanding this, sustainable development allows for a balanced approach, such that the benefits arising from a development proposal can be weighed against any negative aspects arising. Where benefits outweigh negative impacts, it may be that a proposal comprises sustainable development.
- 104 Policy 6 fails to provide for such a balanced approach. It simply states that proposals should not have “*an adverse impact*.” In this way, Policy 6 may serve to prevent sustainable development from coming forward.
- 105 The Policy also refers to “*no unacceptable impact*.” No indication of what is and is not acceptable, or why, is provided. Consequently, this part of the Policy does not provide a prospective applicant with clarity, or a decision maker with a clear indication of how to react to a development proposal.
- 106 The Framework supports development related to the delivery of renewable and low carbon energy and associated infrastructure (Chapter 10, “*Meeting the challenge of climate change, flooding and coastal change*”). It also supports the development of high quality communications infrastructure, including telecommunications and high speed broadband (Chapter 5, “*Supporting high quality communications infrastructure*”). To some degree, Policy 6 has regard to this.
- 107 Taking all of the above into account, I recommend:
- **Policy 6, change wording to “*Development relating to the provision of alternative sources of energy generation and high quality communications infrastructure will be supported where it respects local character, residential amenity and biodiversity.*”**

**Policy 7**

- 108 Policy 7 requires all development proposals to promote walking, cycling or public transport use. In this specific regard, Paragraph 193 requires information requirements for applications to be:

*“...proportionate to the nature and scale of development proposals and reviewed on a frequent basis. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.”*

- 109 There is no evidence to demonstrate that the requirements of Policy 7 are relevant, material or necessary to all development proposals and the Policy fails to have regard to the Framework in this respect. Similarly, the Policy requires all development proposals to enhance road safety.

- 110 However, in general, Policy 7 aims to encourage sustainable patterns of movement and this has regard to national policy, which, in Chapter 7 of the Framework, *“Promoting sustainable transport,”* recognises the role transport policies can play in facilitating sustainable development and contributing to wider sustainability and health objectives.

- 111 The Policy also aims to provide for safe and suitable access to development sites, having regard to Paragraph 32 of the Framework.

- 112 Taking all of the above into account, I recommend:

- **Policy 7 change first line to *“The promotion of walking, cycling or use of public transport by (three bullet points here), will be supported.”***
- **Delete last paragraph, including the two bullet points and replace with *“Development should be located and designed where practical to provide safe and secure layouts, minimising conflicts between traffic and cyclists or pedestrians.”***
- **Paragraph 5.3.4, change first line to *“...any development in the Neighbourhood Area is unlikely to...”* (the Neighbourhood Plan does not permit development).**

**Policy 8**

- 113 Paragraph 28 of the Framework supports economic growth in rural areas. Policy 8 generally provides a supportive context for business development in the Neighbourhood Area and consequently, has regard to national policy.
- 114 It is not clear what *“agricultural uses”* the Policy refers to and in this regard, I am mindful that, by and large, the use of land for agriculture does not require planning permission.
- 115 The Policy refers to development being *“acceptable”* if it is of *“an appropriate scale for the site.”* No indication is provided of what such an appropriate scale might be and the Policy is therefore imprecise in this regard. Similarly, the Policy refers to *“any other unacceptable impact”* without providing a definition or further detail. It also refers to *“the levels of amenity”* that might reasonably be expected, without defining such. Taking all of these things into account, the bullet points in the Policy are imprecise and do not provide a decision maker with a clear indication of how to react to a development proposal.
- 116 The final part of the Policy refers to *“appropriate development to support or enhance tourism relating to local heritage assets.”* It is not clear what this might comprise, or what would make it *“appropriate development.”* The inclusion of this sentence adds to the imprecise nature of the Policy.
- 117 Further to the above, Paragraph 28 of the Framework supports sustainable rural tourism and leisure developments that benefit businesses in rural areas. It does not seek to limit these to needing to somehow relate to heritage assets.
- 118 Map 9 is at such a scale that the site identified is barely legible. This is inappropriate, as the boundaries of the site should be clearly identifiable against an appropriate Ordnance Survey base, thus avoiding potential confusion or uncertainty.
- 119 Taking everything into account, I recommend:
- **Policy 8, third line, change to “...Map 9 below, will be supported subject to their respecting local character, residential amenity and highway safety.”**
  - **Delete rest of Policy**

- **Replace Map 9 with a plan showing the relevant site at a scale such that all boundaries are clearly identifiable**
- **Delete Paragraph 5.8.2**

**Policy 9**

- 120 The first paragraph of Policy 9 is ambiguous and it is not clear how it relates to land use planning policy. For example, no indication is provided of what the *“appropriate development of the cultural well-being of the local community”* might comprise, or why, or how this relates to the development of land.
- 121 Chapter 8 of the Framework is concerned with *“Promoting healthy communities.”* It recognises that planning can play an important role in facilitating social interaction and creating healthy, inclusive communities. Generally, Policy 9 seeks to support and protect community facilities and this has regard to Paragraph 70 of the Framework which supports positive planning for the provision of community facilities and for guarding against the loss of valued services and facilities.
- 122 I note that the absence of demand for a community facility is not the same thing as the viability of such. If a community facility is simply unviable, then it may be unreasonable for a planning policy to seek to prevent any change of use.
- 123 The final part of Policy 9 could result in unforeseen consequences, as it provides support for any kind of development regarded as necessary to *“strengthen the role of the public house.”* No indication of what kind of development would be supported, or where any such development might be located, is provided. The absence of any definition in this respect results in an imprecise Policy that could result in support for unsustainable forms of development and without substantive evidence to the contrary, this part of the Policy does not meet the basic conditions.
- 124 Further, the Neighbourhood Plan cannot enforce the continuation of a commercially unviable business. It would be unreasonable to prevent the change of use of a public house if it was demonstrated that its existing use was simply unviable.
- 125 Taking the above into account, I recommend:
- **Policy 9, delete first sentence and replace with *“The provision of new community facilities will be supported where they respect local character and residential amenity.”***



- Add a third bullet point “; or *provide evidence to demonstrate that the current use is no longer viable.*”
- Delete final paragraph and replace with, “*The retention of the Chequers as a Public House is supported. Any change of use must demonstrate, further to twelve months active marketing, that its current use is unviable.*”

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

126 The recommendations made in this Report will have a subsequent impact on page and paragraph numbering.

127 I recommend:

- **Update the page and paragraph numbering.**

## **8. Summary**

128 Taking all of the above into account, a number of modifications are recommended in order to enable the Neighbourhood Plan to meet the basic conditions.

129 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.

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

## **9. Referendum**

- 131 I recommend to North Kesteven District Council that, subject to the modifications proposed, **the Nocton and Potterhanworth Neighbourhood Plan should proceed to a Referendum.**

### **Referendum Area**

- 132 I am required to consider whether the Referendum Area should be extended beyond the Nocton and Potterhanworth Neighbourhood Area.
- 133 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.
- 134 Consequently, I recommend that the Plan should proceed to a Referendum based on the Nocton and Potterhanworth Neighbourhood Area approved by North Kesteven District Council on 1 May 2014.

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

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