

**Markfield Parish Council**

# **Markfield Parish Neighbourhood Development Plan**

A report to Hinckley and Bosworth Borough Council of the  
Independent Examination of the Markfield Parish  
Neighbourhood Development Plan

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28 May 2021

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## Summary of Main Findings

This is the report of the Independent Examination of the Markfield Parish Neighbourhood Development Plan. The plan area is the whole of the Parish of Markfield being also the administrative area of Markfield Parish Council within the Hinckley and Bosworth Borough Council area. The plan period is 2020-2039. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan allocates land for the development of approximately 280 dwellings.

This report finds that subject to specified modifications the Neighbourhood Plan meets the Basic Conditions and other requirements. It is recommended the Neighbourhood Plan should proceed to a local referendum based on the plan area.

## Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities the power to develop a shared vision for their area.*”<sup>1</sup>
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Markfield Parish Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Markfield Parish Council (the Parish Council). The draft plan has been submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Markfield Neighbourhood Area which was formally designated by Hinckley and Bosworth Borough Council (the Borough Council) on 11 May 2017. The Neighbourhood Plan has been produced by the Neighbourhood Plan Steering Group made up of Parish Councillors and other volunteers from the local community. The Steering Group first met on 21 February 2018.
4. On 30 January 2021 the Parish Council approved the Neighbourhood Plan and supplementary documents for submission to the Borough Council. The Borough Council arranged a period of publication between 10 February 2021 to 24 March 2021 and subsequently submitted the Neighbourhood Plan to me for independent examination.

## Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan.<sup>2</sup> The report makes recommendations to the Borough Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The Borough Council will decide what action to take in response to the recommendations in this report.

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<sup>1</sup> Paragraph 29 National Planning Policy Framework (2019)

<sup>2</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

6. The Borough Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and a decision statement is issued by the Local Planning Authority outlining their intention to hold a neighbourhood plan referendum, it must be taken into account and can be given significant weight when determining a planning application, in so far as the plan is material to the application<sup>3</sup>.
7. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area<sup>4</sup> unless the Borough Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan<sup>5</sup>. The Framework is very clear that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted<sup>6</sup>.
8. I have been appointed by the Borough Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the Borough Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of Neighbourhood Plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years professional planning experience and have held national positions and local authority Chief Planning Officer posts.

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<sup>3</sup> Paragraph 48 of the National Planning Policy Framework 2019 explains full weight is not given at this stage. Also see Planning Practice Guidance paragraph: 107 Reference ID: 41-107-20200407 Revision date: 07 04 2020 for changes in response to the coronavirus (COVID-19) pandemic

<sup>4</sup> Section 3 Neighbourhood Planning Act 2017

<sup>5</sup> Section 156 Housing and Planning Act 2016

<sup>6</sup> Paragraph 12 National Planning Policy Framework 2019

9. As independent examiner, I am required to produce this report and must recommend either:
- that the Neighbourhood Plan is submitted to a referendum, or
  - that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
  - that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.
10. I make my recommendation in this respect and in respect to any extension to the referendum area,<sup>7</sup> in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.<sup>8</sup>
11. Some representations state a desire to be heard by the examiner. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>9</sup> The Planning Practice Guidance (the Guidance) states “*it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing*”. The examiner has the ability to call a hearing for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had the opportunity to state their case and I am satisfied the representations have all been expressed in terms that are sufficiently clear. No party has advised me that their representations are not sufficiently explained. The Regulation 16 responses clearly set out any representations relevant to my consideration whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements. As I did not consider a hearing necessary, I proceeded on the basis of examination of the written representations and an unaccompanied extensive visit to the Neighbourhood Plan area undertaken on 2 May 2021.

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<sup>7</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>8</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>9</sup> Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

## Basic Conditions and other Statutory Requirements

12. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.<sup>10</sup> 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 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, EU obligations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>11</sup>

13. As the final basic condition, on 28 December 2018, replaced a different basic condition that had previously been in place throughout part of the period of preparation of the Neighbourhood Plan there is a need to confirm the Neighbourhood Plan meets the new basic condition.

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights.<sup>12</sup> All of these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’<sup>13</sup> and ‘The Neighbourhood Plan Policies’.

15. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning

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<sup>10</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

<sup>11</sup> This Basic Condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 are amended. This basic condition replaced a basic condition “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>12</sup> The Convention Rights has the same meaning as in the Human Rights Act 1998

<sup>13</sup> Where I am required to consider the whole Neighbourhood Plan, I have borne it all in mind

and Compulsory Purchase Act 2004.<sup>14</sup> I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 (the Regulations) which are made pursuant to the powers given in those sections.

16. A representation on behalf of Taylor Wimpey (UK) Limited states it seems illogical to exclude the Field Head and Jacqueline Road areas but accepts the Neighbourhood Area was established in 2017. In commenting on the representation of Taylor Wimpey (UK) Ltd the Parish Council has provided information regarding discussions with neighbouring parish councils that took place in the lead up to the designation of the neighbourhood area. The Neighbourhood Plan relates to the area that was designated by the Borough Council as a neighbourhood area on 11 May 2017. A map of the Neighbourhood Plan boundary is included as Map 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Parish of Markfield Parish boundaries, being also the administrative area of Markfield Parish Council. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>15</sup> and no other neighbourhood development plan has been made for the neighbourhood area.<sup>16</sup> All requirements relating to the plan area have been met.

17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;<sup>17</sup> and the Neighbourhood Plan does not include provision about excluded development.<sup>18</sup> I am able to confirm that I am satisfied that each of these requirements has been met.

18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.<sup>19</sup> Paragraph 1.17 of the Neighbourhood Plan confirms the plan period will be 2020 to 2039 which is the same time period as the emerging new Hinckley and Bosworth Local Plan.

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<sup>14</sup> In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

<sup>15</sup> Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

<sup>16</sup> Section 38B (2) Planning and Compulsory Purchase Act 2004

<sup>17</sup> Section 38A (2) Planning and Compulsory Purchase Act 2004

<sup>18</sup> Principally minerals, waste disposal, development automatically requiring Environmental Impact assessment and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

<sup>19</sup> Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

The front cover of the Submission Draft Plan document clearly states the plan period to be 2020-2039.

19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.<sup>20</sup> It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.
20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.<sup>21</sup> I refer to the matter of minor corrections and other adjustments of general text in the Annex to my report.

## Documents

23. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:

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<sup>20</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

<sup>21</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Markfield Parish Neighbourhood Plan Submission Draft 2021
- Markfield Parish Neighbourhood Plan Consultation Statement [*In this report referred to as the Consultation Statement*]
- Markfield Neighbourhood Plan Basic Conditions Statement January 2021 [*In this report referred to as the Basic Conditions Statement*]
- Markfield Neighbourhood Plan Strategic Environmental Assessment Screening Report August 2020 and Screening Determination Notice dated 27 August 2020
- Markfield Neighbourhood Plan Strategic Environmental Assessment (SEA) Screening Report – Addendum dated 17 September 2020
- Markfield Neighbourhood Plan Habitat Regulations Assessment Determination dated 27 August 2020
- Evidence and other background documents and information published on the Borough Council and Parish Council websites
- Representations submitted during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and the Borough and Parish Councils including: the initial letter of the Independent Examiner dated 1 April 2021; the Parish Council comments on Regulation 16 representations that I received on 15 April 2021; the letter of the Independent Examiner seeking clarification of various matters dated 3 May 2021; and the documents I received on 13 May 2021 that include responses of the Parish Council and the Borough Council. I received a further response on 20 May 2021 from the Borough Council.
- Hinckley and Bosworth Local Plan 2006 – 2026 including the Core Strategy adopted December 2009 and the Site Allocations and Development Management Policies DPD adopted July 2016
- National Planning Policy Framework (February 2019) and subsequently updated [*In this report referred to as the Framework*]
- Permitted development rights for householders’ technical guidance MHCLG (10 September 2019) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated) [*In this report referred to as the Guidance*]
- Town and Country Planning (Use Classes) Order 1987 (as amended)
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Equality Act 2010
- Localism Act 2011
- Housing and Planning Act 2016
- Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019

- Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations*]
- Neighbourhood Planning (General) (Amendment) Regulations 2015
- Neighbourhood Planning (General) incorporating Development Control Procedure (Amendment) Regulations 2016
- Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

## Consultation

24. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the Submission Plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.

25. Public community drop-in events held on three dates in November 2018 were advertised through an article in 'The Herald' magazine and on the Parish Council website. 35 people attended these events. People unable to attend were able to input views through submission of written comments. A stakeholder consultation event took place in March 2019 at which 15 key stakeholders entered into discussion with 9 Steering Group members. During the Summer term 2019 a neighbourhood plan primary school logo competition and a pupil survey were undertaken. 204 surveys were completed revealing likes and dislikes of the neighbourhood area as well as suggestions how the area could be improved. In November 2019 a questionnaire was distributed to all households in the parish and promoted through social media and the Parish Council website. A drop-in session was held to answer questions. 372 responses were received, of which 13 respondents indicated they had a business in Markfield. A separate youth questionnaire distributed through interested groups resulted in 39 submitted responses.

26. Pre-submission consultation in accordance with Regulation 14 was undertaken between 7 September 2020 and 13 November 2020 which was promoted through: direct approach to statutory consultees; social media; the local parish newspaper; the Neighbourhood Plan Steering Group website; and a letter to every household in the parish. The

representations arising from the consultation are summarised in the 'Markfield Neighbourhood Plan Consideration of Representations' document which can be accessed by link from the Consultation Statement, and directly on the Parish Council website. The Consideration of Representations document sets out the responses to representations and amendments made to the Neighbourhood Plan. The suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was approved by the Parish Council, for submission to the Borough Council.

27. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 10 February 2021 and 24 March 2021. Representations from 96 different parties were submitted during the period of publication. The Borough Council has submitted a substantial representation that includes issues considered to have not been resolved from the previous stage of consultation during plan preparation.
28. The majority of representations were from members of the public, of which 64 stated overall support for the Neighbourhood Plan. Of the 8 members of the public opposing the Neighbourhood Plan this most frequently reflected opposition to further residential development and the implications of such development. The representation of Markfield Community Library stated support for the Plan. The representations of the Coal Authority, Natural England, Highways England, Colt Technology, North West Leicestershire District Council, National Grid, the Environment Agency, and the Canal and River Trust do not necessitate any modification of the Neighbourhood Plan to meet the Basic Conditions or other requirements.
29. Some representations refer to neighbourhood plans in other areas and to the independent examination of those plans however those matters are not relevant to my consideration whether or not the Neighbourhood Plan meets the basic conditions and other requirements that I have identified. A number of the representations, in particular that of Leicestershire County Council (incorporating comments of the local County Councillor), include suggestions for additions to the Neighbourhood Plan, but these are not a matter for my consideration unless the addition is necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements I have identified.
30. Where representations raise concerns or state objections in relation to specific policies, I refer to these later in my report when considering

the policy in question where they are relevant to the reasons for my recommendations.<sup>22</sup> I have been provided with copies of all of the representations including the representation made by the Borough Council. In preparing this report I have taken into consideration all of the representations where they are relevant to my role even though they may not be referred to in whole, or in part.

31. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. I placed no obligation on the Parish Council to offer any comments but such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. The Parish Council submitted comments on several representations. These Parish Council comments included a substantial response in respect of the Borough Council representation and a Housing Note relevant to housing related matters raised in representations. I requested the Borough Council to publish the Regulation 16 representations and the Parish Council comments on its website.

32. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:

- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
- b) explains how they were consulted;
- c) summarises the main issues and concerns raised by the persons consulted; and
- d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.<sup>23</sup>

33. The submitted Consultation Statement and appendices include information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. In addition, sufficient regard has been paid to the advice regarding plan preparation and engagement contained within the Guidance. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the

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<sup>22</sup> *Bewley Homes Plc v Waverley Borough Council* [2017] EWHC 1776 (Admin) Lang J, 18 July 2017 and Town and Country Planning Act Schedule 4B paragraph 10(6)

<sup>23</sup> Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

general nature, and specific policies, of the Neighbourhood Plan.

## **The Neighbourhood Plan taken as a whole**

34. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and Human Rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the development plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this. In considering all of these matters I have referred to the submission, background, and supporting documents, and copies of the representations and other material provided to me.

Consideration of Convention Rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017

35. I have considered the European Convention on Human Rights and in particular Article 6 (1) (fairness); Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).<sup>24</sup> Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. I am satisfied the Neighbourhood Plan has been prepared in accordance with the obligations for Parish Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010. An Equality Impact Assessment has been undertaken in respect of the Neighbourhood Plan. That assessment, which is presented as Appendix 1 of the Basic Conditions Statement, found no negative impacts on any protected characteristic by reference to data or evidence. From my own examination, the Neighbourhood Plan would

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<sup>24</sup> The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

36. The objective of EU Directive 2001/42<sup>25</sup> is *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”* The Neighbourhood Plan falls within the definition of ‘plans and programmes’<sup>26</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>27</sup>
37. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to Hinckley and Bosworth Borough Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.
38. In August 2020 the Borough Council issued a Strategic Environmental Assessment (SEA) Screening report which states *“This screening report has considered the potential direct and cumulative effects of the emerging plan on assets of environmental and historic importance. The proposed housing allocation is unlikely to result in significant adverse effects due to its proximity to these assets and the intervening land uses and lack of pathway for effects arising from development of the site. The site has also been recently subject to assessment in the Borough Council’s Extended Phase 1 Habitat Survey and Strategic Flood Risk Assessment which do not identify significant issues with a site larger than the proposed site allocation. Furthermore, the emerging plan also proposes a broad range of policies which seek to safeguard existing assets of environmental and historic importance and, where possible, seek their enhancement. The policies will need to have regard to national policy and be prepared in general conformity with the strategic policies of the Hinckley & Bosworth Local Plan.”* Following statutory consultation and receipt of responses from Natural England and the Environment Agency a determination notice was issued on 27 August 2020 concluding a Strategic Environmental

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<sup>25</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

<sup>26</sup> Defined in Article 2(a) of Directive 2001/42

<sup>27</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

Assessment was not required. In September 2020 following receipt of a further consultation response, from Historic England, an addendum to the Screening Report was issued confirming the conclusions reached that a Strategic Environmental Assessment is not required, remained appropriate.

39. The representation on behalf of Taylor Wimpey (UK) Limited states that given the Neighbourhood Plan is seeking to establish housing requirements and delivery, a Strategic Environmental Assessment is required. The representations on behalf of Owl Partnerships, and on behalf of Member of the Public 71, state the Screening Report has been prepared without regard for emerging strategies as required by the Guidance. Those representations also state that once the Neighbourhood Plan is brought into force the local planning authority must take its policies and proposals into account when preparing the local plan but the Screening Report states the Neighbourhood Plan is unlikely to influence other plans and programmes. The representations state if made, the Neighbourhood Plan would restrict the delivery of growth at Markfield in the period prior to the adoption of the local plan, and restrict the options for allocations being considered in the local plan review. The representations on behalf of Owl Partnerships and on behalf of Member of the Public 71, state the Town and Country Planning Environmental Impact Assessment Regulations 2017 Schedule 2 threshold of 150 dwellings is exceeded and that the Screening Report completely fails to have regard to the strategic or spatial effects of the planned growth. It is stated housing requirements and delivery are strategic matters and as the Neighbourhood Plan is providing for such matters a Strategic Environmental Assessment is required.
40. As a matter for clarification, I asked the Borough and Parish Councils to comment on the matters raised in these representations. I received the following response from the Borough Council: *"I have broken the response down below to respond to each of the points raised in the question above.*
41. *Has the Screening Report been prepared in regard to emerging strategies? Having read the response from OWL Homes in responding to this question, the Borough Council wish to raise the following points. The Borough Council have had a positive working relationship with the Markfield Neighbourhood Plan Group throughout the preparation of the Neighbourhood Plan and this has been maintained throughout the pandemic. The Group provided a copy of the Draft Housing Needs Assessment to the Borough Council for comment as part of the*

ongoing collaborative working arrangement. The Borough Council note paragraph 84 of the OWL Homes representation which states that there has been 'no regard for emerging strategies as required by the PPG'. It should be noted that the representation by OWL Homes does not set out the emerging strategies that the Borough Council should have considered in preparing the SEA Screening Report. The Borough Council is undertaking a full Local Plan Review where all four current Development Plan Documents will be combined into a single Local Plan. In 2018 a Regulation 18 Scope, Issues and Options Local Plan Consultation took place and following this a further consultation was undertaken in 2019 entitled 'New Directions Growth'. Both of these consultation documents included a number of different options but were not at an advance stage where a preferred strategy was set out to provide certainty to a neighbourhood group what the emerging strategy is. The Neighbourhood Plan Group have been informed when the Borough Council have published a new evidence base document which is to be used in the preparation of the Local Plan and where relevant consulted in the documents production. This shared evidence base has been utilised by the Markfield NDP in the preparation of their Plan, for example the HBBC Green Infrastructure Strategy (2020), SHELAA (2018). It would be unfair to ask a Neighbourhood Plan Group to stop preparing the Neighbourhood Plan until the Local Plan is at a more advance stage and would be beyond the Local Planning Authority's remit. The SEA Screening Assessment – Table 2 SEA Directive Criteria 1a – states that the Markfield Neighbourhood Plan, if made, will form part of the statutory development plan. The plan will form part of and influence the emerging Local Plan. The range of evidence base documents prepared to inform the emerging Local Plan which have been made available to the Neighbourhood Plan Group have also been used to inform the SEA Screening Report. In addition to those referred to above, the SEA Screening Report was informed by the findings and recommendations of the Borough Council's Strategic Flood Risk Assessment and Extended Phase 1 Habitats Study, in addition to the range of information resources set out in national guidance.

42. Will the Neighbourhood Plan restrict the delivery of growth at Markfield in the period prior to the adoption of the emerging Local Plan and restrict options for allocations being considered? The Borough Council has accepted that the housing figures contained within the Core Strategy are out of date and the 'tilted balance' and presumption in favour of sustainable development applies. In a recent appeal decision (APP/K2420/W/20/3260227) issued on the 7<sup>th</sup> May 2021 the Inspector

*concluded that the Borough Council cannot demonstrate a five year supply of housing. The Borough Council's current five year supply of housing stands at 4.23 years. As the Neighbourhood Plan makes its way through the production steps the weight attributed to the Plan can be increased. There are currently applications within the designated area for residential development outside of the defined Markfield settlement boundary and the 'presumption in favour of sustainable development' will be applied by the case officer. If the Markfield Neighbourhood Plan is 'made' Paragraph 14 of the NPPF could apply if the four criteria are met and planning applications would be assessed accordingly. In terms of whether the Neighbourhood Plan restricts any potential allocations being considered. I have looked through the Neighbourhood Plan and compared any allocations against sites contained within the Strategic Housing and Economic Land Availability Assessment (SHELAA) (2020) which is yet to be published (due Summer 2021). I have used the Local Green Infrastructure Map and Policies Map to identify potential sites however due to the size of the map and base layer used interpretation was difficult. I have noted that the following sites have been identified as Green Infrastructure in Policy M3 and Map 3: AS403, AS687, AS1033, LPR32, LPR42a, LPR43, LPR94 (not yet published in the SHELAA), LPR95 (not yet published in the SHELAA). Maps of these sites are contained within Appendix 1 of this document. It is not clear what evidence base was used to identify these green infrastructure sites. The Borough Council's Green Infrastructure Strategy (2020) does identify GI Assets in figure 5.1 of the document so this could have been used, however, the map is indicative and shows the Borough as a whole so further work would be required to extrapolate the information to use for an allocation basis. In addition, a number of SHELAA sites are identified as having a non-designated archaeological asset, however the Policy M9 allows interpretation in terms of balancing the need for the proposed development against the scale of any harm or loss and the significance of the heritage asset. It is noted that the NDP allocates housing (Policy M16) on an area identified as containing a non-designated heritage asset.*

43. *Neighbourhood Plan Groups within the Borough have all been given consistent advice to build flexibility into their neighbourhood plans and advised that the Borough Council's Local Plan may need to plan for additional housing above what is set out in the Neighbourhood Plan. For example, Leicester City Council have declared an unmet housing need which will be required to be distributed across the Leicester and Leicestershire Housing Market Area (HMA). The HMA authorities are*

*working on a Statement of Common Ground to apportion unmet housing need however this is unlikely to be resolved until later in 2021 as additional sustainability appraisal work is required to consider the additional 35% uplift for Leicester set out in the revisions to the standard method in December 2020. It is however likely that the borough will be expected to seek to accommodate an as yet unquantified portion of this unmet need. Due to these uncertainties the Borough Council have advised groups to either allow for a buffer or allocate a reserve site(s). The Neighbourhood Planning NPPG states: "Neighbourhood plans should consider providing indicative delivery timetables, and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new local plan." Paragraph: 009 Reference ID: 41-009-20190509. Allocating reserve sites in neighbourhood plans also allows for security and flexibility for the community in the event of changing conditions nationally or locally, for example an increase in housing need or a failure to deliver the existing commitments/allocations within the Neighbourhood Plan. The allocation of reserve sites also shows that the neighbourhood plan can contribute towards the achievement of sustainable development over the plan period.*

44. *The Town and Country Planning Environmental Impact Assessment Regulations 2017 Schedule 2 threshold of 150 dwellings is exceeded and respondents have suggested that the Screening Report completely fails to have regard to the strategic or spatial effects of the planned growth. It is stated housing requirements and delivery are strategic matters and as the Neighbourhood Plan is providing for such matters a Strategic Environmental Assessment is required. Section 2 of the SEA Screening Report sets out the legislative background against which it has been prepared, including the screening requirements set out in Regulation 9 and Schedule 1 of the SEA Regulations and the respective SEA Directive Criteria and national guidance. The representation by Owl Homes states "Housing requirements and delivery are strategic matters...and as the Neighbourhood Plan is providing for such matters a Strategic Environmental Assessment is required." The representations do not clarify how the SEA Screening has failed to have regard to the strategic or spatial effects of the planned growth. The regulations and national guidance do not predetermine or state that an SEA is required where housing requirements and allocations are proposed. The purpose of the SEA screening is to establish whether an SEA is*

*required after considering whether the proposals in the plan are likely to result in significant environmental effects. The Borough Council has prepared the SEA Screening Report in accordance with the guidance set out in ‘A Practical Guide to the Strategic Environmental Directive’ (ODPM, 2005) – set out in Figure 9, with the assessment against presented in Table 1 (SEA Screening Process). The Borough Council considers it has undertaken a robust and proportionate SEA screening assessment against the range of criteria in Regulation 9 and Schedule 1 of the SEA Regulations. The assessment in Table 2 considers a range of issues including the potential direct and cumulative impacts of the proposed allocation for residential development and the respective policies, including proposed mitigation, on matters such as flood risk, landscape and environmental designations within a reasonable distance on the plan area. The Borough Council consulted with the statutory consultees Natural England, English Heritage and the Environment Agency on the SEA Screening Report, with all agencies confirming that an SEA for the Markfield Neighbourhood Plan was not required.”*

45. On the basis of the Borough Council response, I am satisfied the requirements regarding Strategic Environmental Assessment have been met.
46. The Strategic Environmental Assessment Screening Report dated August 2020 states *“This screening report has also considered the proximity and potential effects on European sites to determine whether the Markfield Neighbourhood Plan will require a Habitats Regulation Assessment. As referred to above, there are no sites of European sites within 10km of the neighbourhood area and it has been concluded that the proposals within the emerging MNP are unlikely to result in significant adverse effects on such sites. The Borough Council has also considered the conclusions of its Habitats Regulation Assessment screening report which informed the preparation of the Site Allocations and Development Management Policies DPD, published in 2016 and the consultation response received from Natural England. The 2014 screening report concluded that it was not considered necessary to undertake a Habitats Regulations Assessment of the plan, which included an allocation south of Markfield, of which the proposed site allocation would be an adjacent extension to the south of the settlement.”* The Habitats Regulations Assessment (HRA) determination notice issued by the Borough Council in August 2020 concludes *“that a full Habitats Regulations Appropriate Assessment of the current Markfield Neighbourhood Plan*

*is not required, as it is unlikely to have a significant effect on any designated sites.”* The Screening Opinion document includes a consultation response that states *“Natural England also agrees with the report’s conclusions that Markfield Neighbourhood Plan Neighbourhood Plan would not be likely to result in a significant effect on any European Site either alone or in combination and therefore no further assessment work under the Habitats Regulations would be required.”* Arising from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018, the Neighbourhood Planning Regulations 2012 are amended such that a new Basic Condition came into force as follows *“The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.”*

47. As a matter for clarification, I asked the Borough and Parish Councils to confirm the Neighbourhood Plan meets the replacement Basic Condition, and that Natural England agree with that opinion. The Borough Council has provided a satisfactory response including written confirmation from Natural England, dated 10 May 2021, stating satisfaction the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017. I conclude the Neighbourhood Plan meets the requirements of the revised Basic Condition relating to Habitats Regulations.
48. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.
49. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
50. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The Borough Council as local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations:

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).<sup>28</sup>

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

51. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans<sup>29</sup> which requires plans to be “*consistent with national policy*”.

52. Lord Goldsmith has provided guidance<sup>30</sup> that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”

53. The most recent National Planning Policy Framework was published on 19 June 2019. The Planning Practice Guidance was most recently updated in respect of Neighbourhood Planning on 25 September 2020.<sup>31</sup> As a point of clarification, I confirm I have undertaken the Independent Examination in the context of the most recent National Planning Policy Framework and Planning Practice Guidance.

54. I am satisfied the Table presented on pages 7 to 23 inclusive of the Basic Conditions Statement demonstrates the Neighbourhood Plan

<sup>28</sup> Planning Practice Guidance paragraph 080 Reference ID: 41-080-20150209

<sup>29</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

<sup>30</sup> The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the House of Lords Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

<sup>31</sup> The guidance was updated on 25 May 2021 with respect to First Homes

has regard to relevant identified components of the Framework and Guidance.

55. The Neighbourhood Plan includes a positive vision statement for the Neighbourhood Area in 2039. The vision refers to economic factors (homes and businesses meeting the needs of a contemporary rural community); social factors (facilities, desirable place to live, good quality of life, feeling valued and connected); and environmental factors (attractive place, protect heritage assets, wildlife and the landscape). The vision is supported by five topic-based broad statements of intent which help describe how the vision will be achieved and which establish a context within which the policies of the Neighbourhood Plan have been shaped and will operate. The sections of the Neighbourhood Plan that follow set out policies arranged by topic.
56. Paragraphs 7.18 to 7.28 of the Neighbourhood Plan set out information regarding minerals including references to the former and active quarries within or partly within the Neighbourhood Area. Given the past and current importance of minerals it would be inappropriate for the Neighbourhood Plan to fail to recognise the significance of quarrying activity. Without reference to those matters the Neighbourhood Plan, and the business and employment section in particular, would appear incomplete to a reader. The content of paragraphs 7.18 to 7.28 is factual in nature and apart from a reference to minerals assessment in Policy M16 (a matter I refer to when considering that policy later in my report) the Neighbourhood Plan does not include any policy content relating to minerals, which it may not. I have earlier in my report stated I am satisfied the Neighbourhood Plan does not include provision about excluded development.<sup>32</sup>
57. Section 8 of the Neighbourhood Plan sets out a number of issues relating to traffic and transport. Section 8 includes reference to the road network; walking (including bridleways); cycling; and bus services. This section of the Neighbourhood Plan does not include any policies. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on ways to improve a neighbourhood other than through the development and use of land. It is important that those non-development and land use matters, raised as important by the local community or other stakeholders, should not

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<sup>32</sup> Principally minerals, waste disposal, development automatically requiring Environmental Impact assessment and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

be lost sight of. The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning policy represents good practice. The Guidance states, “*Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan*”.<sup>33</sup> The Neighbourhood Plan presents traffic and transport issues in a separate section of the document and in plain typeface. Whilst this differentiates the community issues and aspirations raised, from the policies of the Plan relating to other topic areas, which are presented in distinctive background coloured text boxes, I am not satisfied the approach adopted has sufficient regard for the Guidance. I have recommended a modification in this respect.

**Recommendation 1:**

**Re-title Section 8 Traffic and Transport as an Appendix of the Neighbourhood Plan**

58. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to ‘*have regard to*’ national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.*”

59. At the heart of the Framework is a presumption in favour of sustainable development<sup>34</sup> which should be applied in both plan-making and decision-taking<sup>35</sup>. The Guidance states, “*This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential*

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<sup>33</sup> Planning Practice Guidance *Paragraph: 004 Reference ID: 41-004-20190509 Revision 09 05 2019*

<sup>34</sup> Paragraph 10 National Planning Policy Framework 2019

<sup>35</sup> Paragraph 11 National Planning Policy Framework 2019

*adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions”<sup>36</sup>.*

60. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

61. The Framework states there are three dimensions to sustainable development: economic, social and environmental. Section 3 of the Basic Conditions Statement includes a Table that sets out an explanation of how the Neighbourhood Plan supports relevant sections of the Framework<sup>37</sup>. Whilst the Table does not refer to specific policies of the Neighbourhood Plan their content is drawn upon to demonstrate how the Plan seeks sustainability benefits in the economic, social, and environmental dimensions and contributes to the achievement of sustainable development. The Table does not highlight any negative impacts on sustainability objectives.

62. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, when modified as I have recommended, will contribute to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes will protect local distinctiveness; will serve economic needs; will protect and enhance social facilities; and will protect important environmental features. In particular, I consider the Neighbourhood Plan policies seek to:

- Protect the countryside (defined as being outside an identified settlement boundary) and landscape character, and maintain and enhance green infrastructure and biodiversity including trees;
- Designate ten Local Green Spaces;

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<sup>36</sup> Planning Practice Guidance Paragraph 072 Ref ID:41-072-20190509 Revision 09 05 2019

<sup>37</sup> The sections of the Framework relating to supporting high quality communications; protecting Green Belt land; and facilitating the sustainable use of minerals are stated to be not applicable.

- Support specified types of renewable energy schemes and installation of electric vehicle chargepoints;
- Protect identified locally valued heritage assets;
- Establish development design principles;
- Retain community services and facilities and support new buildings at Markfield Institute of Higher Education;
- Maintain and enhance defined local and neighbourhood centres;
- Establish priorities for infrastructure provision;
- Establish the minimum volume of planned housing provision;
- Allocate approximately 18 hectares of land south of London Road for housing development of approximately 280 dwellings;
- Support infill housing development within an identified settlement boundary;
- Establish requirements for new development housing mix;
- Establish conditional support for community facilities and residential accommodation at Markfield Court Retirement Village and for facilities at Woodrowe House;
- Establish requirements for affordable housing in developments;
- Retain Markfield Industrial Estate predominantly for employment use;
- Conditionally support redevelopment of brownfield land; and
- Conditionally support business expansion and business conversion of rural buildings.

63. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan, will, when modified as I have recommended, contribute to the achievement of sustainable development.

Consideration whether 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)

64. The Framework states neighbourhood plans should “*support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies*”.<sup>38</sup> Plans should make explicit

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<sup>38</sup> Paragraph 13 National Planning Policy Framework 2019

which policies are strategic policies.<sup>39</sup> *“Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area<sup>40</sup>. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies”.*<sup>41</sup>

65. In this independent examination, I am required to consider whether 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 Borough Council has confirmed the Development Plan applying in the Markfield Parish Neighbourhood Area and relevant to the Neighbourhood Plan is the Local Plan 2006 to 2026, which includes the Core Strategy adopted 2009, and the Site Allocations and Development Management Policies DPD adopted July 2016. The Guidance states, *“A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”*<sup>42</sup> The Borough Council has advised me that Appendix 3 of the Site Allocations and Development Management DPD identifies what are regarded by the Local Planning Authority as the strategic policies of the Local Plan (2006 - 2026).

66. I have proceeded with my independent examination of the Neighbourhood Plan on the basis that the Development Plan strategic policies are:

- Core Strategy Policies – CS Policy 1 to CS Policy 24 inclusive
- Site Allocations Policies – SA Policy 1 to SA Policy 5 inclusive
- Development Management Policies – DM Policy 1 – DM Policy 25 inclusive
- Hinckley Town Centre Area Action Plan Policy 1
- Earl Shilton and Barwell Area Action Plan Policies 1,6,7,8,12,13, and 14.

67. The Borough Council has commenced the preparation of the Local Plan review 2020 to 2039 which will set out land allocations and planning policies for the plan period to 2039. The Neighbourhood Plan can proceed ahead of preparation of the Local Plan review. The Guidance states: *“Neighbourhood plans, when brought into force,*

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<sup>39</sup> Paragraph 21 National Planning Policy Framework 2019

<sup>40</sup> Footnote 16 National Planning Policy Framework 2019

<sup>41</sup> Paragraph 29 National Planning Policy Framework 2019

<sup>42</sup> Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20190509 Revision 09 05 2019

*become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan. A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. Although a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*

*the emerging neighbourhood plan;*

*the emerging Local Plan;*

*the adopted development plan;*

*with appropriate regard to national policy and guidance. The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan. Neighbourhood plans should consider providing indicative delivery timetables and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan.”<sup>43</sup>*

68. I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and the Local Plan review when it is adopted; the matter will be resolved in favour of the plan most recently

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<sup>43</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009- 20190509 Revision 09 05 2019

becoming part of the Development Plan; however, the Guidance is clear in that potential conflicts should be minimised.

69. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The emerging Local Plan review is not part of the Development Plan and this requirement does not apply in respect of that. Emerging planning policy is subject to change as plan preparation work proceeds. The Guidance states *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan”*<sup>44</sup>. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.

70. In considering a now-repealed provision that *“a local plan shall be in general conformity with the structure plan”* the Court of Appeal stated *“the adjective ‘general’ is there to introduce a degree of flexibility.”*<sup>45</sup> The use of *‘general’* allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

71. The Guidance states, *“When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:*

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;*

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<sup>44</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

<sup>45</sup> *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.*<sup>46</sup>

My approach to the examination of the Neighbourhood Plan Policies has been in accordance with this guidance. I have taken into consideration the Tables in Section 4 of the Basic Conditions Statement that demonstrate how each of the policies of the Neighbourhood Plan is in general conformity with relevant strategic policies.

72. Consideration as to whether 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) has been addressed through examination of the plan as a whole and each of the plan policies below. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

## **The Neighbourhood Plan Policies**

73. The Neighbourhood Plan includes 24 policies as follows:

Policy M1: Countryside

Policy M2: Landscape Character

Policy M3: Green Infrastructure

Policy M4: Ecology and Biodiversity

Policy M5: Trees

Policy M6: Local Green Spaces

Policy M7: Renewable Energy

Policy M8: Electric Vehicle Chargepoints

Policy M9: Non-Designated Heritage Assets

Policy M10: Design

Policy M11: Community Services and Facilities

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<sup>46</sup> Planning Practice Guidance Paragraph 074 ID ref: 41-074 20140306 Revision 06 03 2014

Policy M12: Markfield Institute of Higher Education

Policy M13: Local and Neighbourhood Centres

Policy M14: Infrastructure

Policy M15: Housing Provision

Policy M16: Housing Allocation – Land south of London Road

Policy M17: Windfall Housing Development

Policy M18: Housing Mix

Policy M19: Markfield Court Retirement Village and Woodrowe House

Policy M20: Affordable Housing

Policy M21: Markfield Industrial Estate

Policy M22: Brownfield Land

Policy M23: Business Conversion of Rural Buildings

Policy M24: Business Expansion

74. Paragraph 29 of the Framework states *“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies”*. Footnote 16 of the Framework states *“Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”*

75. Paragraph 15 of the Framework states *“The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”*

76. Paragraph 16 of the Framework states *“Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational*

*but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”*

77. The Guidance 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.”<sup>47</sup>

78. “While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.<sup>48</sup>

79. A neighbourhood plan should contain policies for the development and use of land. “This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”<sup>49</sup>

80. “Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest

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<sup>47</sup> Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306 Revision 06 03 2014

<sup>48</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

<sup>49</sup> Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20190509 Revision 09 05 2019

*and up-to-date evidence of housing need.”<sup>50</sup> “A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.”<sup>51</sup>*

81. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is ‘made’ they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn. I have considered any inter-relationships between policies where these are relevant to my remit.

### **Policies Map (Parish) and Policies Map (Village)**

82. The Borough Council has suggested the Policies Maps should be presented as A3 size maps to allow easier use. I have noted the Parish Council state the Policies Maps were submitted at A3 size. In the copy of the Neighbourhood Plan sent to me by the Borough Council the Policies Maps are presented at A4 size. At A4 size the maps do not enable identification of precise boundaries of areas. I have recommended a modification in this respect so that the Neighbourhood Plan has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

### **Recommendation 2:**

**Ensure that in hard copy and electronic versions of the Neighbourhood Plan the Policies Map (Parish) and Policies Map (Village) are presented at A3 size**

### **Policy M1: Countryside**

83. This policy seeks to establish protection for the countryside outside the defined Settlement Boundary and specifies types of development that may be considered to be sustainable development in countryside locations.

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<sup>50</sup> Planning Practice Guidance Paragraph 040 Reference ID 41-040-20160211 Revision 11 02 2016

<sup>51</sup> Planning Practice Guidance Paragraph 042 Reference ID 41-042-20170728 Revision 28 07 2017

84. In a representation the Borough Council state “References to existing policies remain. The policy states that ‘The following types of development may be considered sustainable’. The word ‘may’ open the policy up to challenge and misinterpretation; it is recommended the wording is amended from ‘may’ to ‘will’.” The Borough Council also state the Settlement Boundary should be visible for its entire length on Map 2 and that the Settlement Boundary should include all of the land allocated for housing development in Policy M16. In commenting on the Borough Council representation, the Parish Council refer to the Independent Examination of another Neighbourhood Plan. In preparing my report I have not considered Neighbourhood Plans relating to other areas. The Parish Council also draw attention to paragraph 6.18 of the Neighbourhood Plan which explains the newly defined settlement boundary is drawn to include the areas of proposed housebuilding in planning application reference 20/01283/FUL and not to include areas of green infrastructure and open land forming part of the application site
85. In response to my request for clarification how the approach adopted, in relation to the site allocated in Policy M16, will achieve flexibility in relation to any alternative development layouts proposed by the current development proposers, or from different developers, the Parish Council stated “*The Qualifying Body has been in frequent contact with the representatives of the proposed development - Jelson. Correspondence is attached which demonstrates that Jelson is committed to delivering the layout to be approved as part of 20/01283/FUL. It should be noted that Jelson is of the view that it be logical for the settlement boundary to cover the full extent of the application site boundary. This is not supported by the Qualifying Body. The application site boundary includes a large area of planned open space referred to in Jelson’s Design and Access Statement (attached) as ‘The Meadows’- a new countryside park and a fundamental part of the overall design of the development. The Meadows has therefore been excluded from the settlement boundary, though the boundary has not been drawn tightly to the edge of The Meadows to provide for some variation in the development layout. The inclusion of The Meadows within the settlement boundary would encourage its development in accordance with Neighbourhood Plan Policy M17 contrary to design principals and Policy M1 which aims to protect areas like this for the sake of its intrinsic character, beauty, heritage and wildlife. Please also note Planning Practice Guidance paragraph: 012 Reference ID: 37-012-20140306, which allows the protection of green areas planned as part of new development.*” The

reference to the Guidance relates to designation of Local Green Space. The Neighbourhood Plan does not designate Local Green space in the area of land included within planning application reference 20/01283/FUL.

86. In response to my request for clarification regarding the reasoned justification for the alignment of the settlement boundary outside the area covered by planning application reference 20/01283/FUL the Parish Council have provided a document titled 'Methodology for defining the settlement boundaries and its application to Markfield'. This document sets out guiding principles how the village boundaries defined by the 2016 Site Allocations and Development Management Policies DPD Proposals Map can be reviewed. That document does not provide justification for the alignment of the proposed settlement boundary in its entirety.
87. Settlement boundaries can represent the dividing line between built areas and open countryside, and can follow clearly defined features such as walls, hedgerows or water courses. Extant planning permissions and allocations can be included within a settlement boundary. The definition of the envelope however does not have to relate to some observable land use difference or dividing feature. A settlement boundary does not have to include the full extent of a settlement, and a settlement boundary does not have to reflect land ownership boundaries or the precise curtilages of properties. Settlement boundaries can be used to identify the limits to future development of a settlement. One approach is to exclude curtilages of properties or other parcels of land that have the capacity to extend the built form of a settlement in areas where this is not considered desirable.
88. The settlement boundary proposed to be established in Policy M1 has been subject to community engagement and consultation during the Plan preparation process. The settlement boundary does not define the built-up area of Markfield as it excludes some adjacent and nearby buildings. The settlement boundary is identified in Policy M1 to indicate a physical limit outside which the area will be protected as countryside and where specified types of development will be supported. Policy M17, which I consider later in my report, uses the settlement boundary as a mechanism to define the area within which proposals for housing development will be conditionally supported, and will guide development to sustainable solutions.

89. Whilst justification for the alignment of the settlement boundary in its entirety has not been presented, where the proposed settlement boundary follows the alignment which has Development Plan status and has been subject to examination, I regard this as sufficient justification for the boundary. I am satisfied the choices made in determining the settlement boundary where it varies from that included in the Development Plan have been adequately explained.
90. Paragraph 16 of the Framework states plans should avoid unnecessary duplication of policies that apply in a particular area. Part 1 of the policy refers to Policies DM14 and DM15 without any additional level of detail or distinct local approach. Although intended as helpful cross-referencing it is confusing and unnecessary for Parts 2 to 8 inclusive of the policy to refer to other Neighbourhood Plan policies. It is confusing and unnecessary for Policies M1 and M17 to both seek to establish types of development that will be supported outside the defined settlement boundary. The term “*may be considered sustainable*” does not provide a basis for the determination of development proposals. Interpretation of Policy M1 requires the entire length of the Settlement Boundary to be visible on Map 2. Inclusion of the term “*adjacent to*” in Part 9 of the policy has not been sufficiently justified and is inconsistent with the other parts of the policy which differentiate without qualification between land inside and outside the settlement boundary. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
91. As recommended to be modified the policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
92. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes, and conserving and enhancing the natural environment the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject

to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 3:**

**In Policy M1 replace the second sentence and bullet points with; “The following types of development will be supported in countryside locations:**

- 1. Recreation and tourism that cannot be provided within the Settlement Boundary;**
- 2. Development by statutory undertakers or public utility providers;**
- 3. The subdivision of an existing residential dwelling; and**
- 4. Development that is otherwise in accordance with: national policies; or strategic planning policies or allocations; or with the other policies of the Neighbourhood Plan.”**

**Adjust Map 2 so that the Settlement Boundary is visible along its entire length and not over-printed with the Neighbourhood Area boundary**

**Policy M2: Landscape Character**

93. This policy seeks to establish principles so that development should be sensitive to its landscape setting, retaining, and where possible enhancing, distinctive landscape qualities.
94. A representation by Severn Trent recommends reference to retention of watercourses where possible, but this is not necessary to meet the Basic Conditions. The National Forest Company has stated support for the policy.
95. In a representation the Borough Council state: Point 4 - Pony paddocks and menage are part of the rural character there does not appear to be justification for this inclusion, and it should be removed. The Council cannot “control” it can prevent. In what circumstances are pony paddocks not acceptable? If they are not located in the Countryside, then where should they be located do you expect them to be located? Point 5 would be difficult to apply without views and vistas being mapped. Figure 2 *“The quality of the map should be improved so it is clear where the Charnwood Forest lies.”* Policy M2 refers to landscape character areas without explanation.

96. Paragraph 170 of the Framework refers to protection of valued landscapes. To be valued landscape, a landscape needs to be more than popular with local residents but must demonstrate physical attributes beyond “ordinary”.<sup>52</sup> Policy M2 is not seeking to identify valued landscapes but is seeking to ensure development proposals must not significantly harm local landscape. The policy requires development to be located and designed in a way that is sensitive to its landscape setting retaining, and where possible enhancing, the distinctive qualities of landscape character that it would affect. Paragraph 170 of the Framework includes “*Planning policies ... should contribute to and enhance the natural and local environment by: ... b) recognising the intrinsic character and beauty of the countryside...*”. I am satisfied the approach adopted in Policy M2 has sufficient regard for national policy in this respect.

97. The management of the local landscape is not a matter for planning policy. The terms “*where possible, enhancement*” and “*such as*” in part 2 of the policy do not provide a basis for the determination of development proposals. The retention of all woodland and hedgerows does not have sufficient regard for national policy. In commenting on the Borough Council representation, the Parish Council state “*the introduction of small parcels of land to keep ponies or horses in, can potentially erode landscape character, without some form of control.*” In response to my request to be directed to evidence that justifies the intention to control the conversion of farmland to pony paddocks the Parish Council stated “*A good example of this is a series of small fields, adjacent to the Altar Stones site on Altar Stones Lane (grid ref:448192 310857). For decades they were managed for hay and or just lightly grazed. They were also bounded by large mature hawthorn hedges. They were once assessed as a possible local wildlife site. Then 5/6 years ago, they were let for pony/horse grazing. Since then, the ecological quality of the grassland has deteriorated, some hedges have been removed and in other instances horses have heavily browsed them.*” The impacts referred to, in particular removal of hedges, have not been adequately shown to be a result of the use of the land, and application of the policy in this respect to the plan area as a whole has not been justified. Whilst the conversion of farmland to a pony paddock and subsequent related change (including jumps, horseboxes, waste matter, and other equipment) can significantly alter the appearance of agricultural land to the detriment of visual amenity

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<sup>52</sup> Stroud Borough Council vs. SSCLG [2015] EWHC 488 (Admin) and Forest of Dean DC v. SSCLG [2016] EWHC 2429 (Admin)

particularly in an area of landscape sensitivity, point 4 of Policy M2 has not been sufficiently justified and the term “*control*” is imprecise.

98. The important views and vistas are not defined in the Neighbourhood Plan itself, but the evidence base does contain a map and photographs that explain the intention of part 5 of Policy M2. This evidence is sufficient with respect to the three named locations but does not include information that justifies inclusion of the term “*including*” in the policy which introduces uncertainty. I have recommended the Map of Views in the evidence base that identifies the Billa Barra, Hill Hole, and Altar Stones viewpoints and direction of views should be included in the Neighbourhood Plan, however the direction of view arrows should terminate at the Neighbourhood Area boundary to avoid any misinterpretation that the Neighbourhood Plan policy applies beyond the plan boundary. Planning policies should operate in the public interest. As a matter for clarification, I asked the Parish and Borough Councils to confirm the three viewpoints are accessible to the general public. The Parish Council confirmed that this is the case. I have recommended a modification so that the policy is clear that it will operate in the public interest by stating it applies to the identified important views when seen from locations that are freely accessible to members of the general public.
99. The term “*safeguard*” is imprecise; and the term “*where possible*” introduces uncertainty. It is not clear how the identified views could be enhanced. The place names on Figure 2 cannot be clearly read. Figure 3 is not sufficiently legible and should be replaced with a Figure more clearly identifying the landscape character areas and their boundaries within the Neighbourhood Area.
100. I have recommended a modification in all the above respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework. I further refer to Figure 2 in the Annex to my report.
101. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
102. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their

community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 4:**

##### **In Policy M2**

- **in the first sentence after “area” insert “(identified on Figure 3)”**
- **replace “and management” with “of development proposals”**
- **replace point 2 with “Retain and where possible enhance woodland, hedgerows, mature trees, and stone walls as features of landscape importance unless it is demonstrated this is not viable or practicable;”**
- **delete point 4**
- **replace point 5 with “Be located and designed so as not to significantly harm the important long views from the publicly accessible locations at Billa Barra Hill, Hill Hole, and Altar Stones identified on the Map of Views; and”**

**Amend Figure 2 so that place names can be read.**

**Amend Figure 3 so that the landscape character areas and their boundaries within the Neighbourhood Area can be more clearly identified.**

**The Map of Views in the evidence base that identifies the Billa Barra, Hill Hole, and Altar Stones viewpoints and direction of views should be included in the Neighbourhood Plan, however the direction of view indicators should not extend outside the Neighbourhood Area boundary.**

#### **Policy M3: Green Infrastructure**

103. This policy seeks to establish that new development should maintain and enhance the defined local Green Infrastructure network, and sets out priorities for Green Infrastructure enhancement.

104. A representation by Severn Trent states blue infrastructure is also important but reference to this is not necessary to meet the Basic Conditions. The representation on behalf of Pentland Estates states

the scale of Map 3 is insufficient to determine whether the Green Infrastructure north of Ashby Road relates to the grass verge or the frontage of their client's land. In a representation the Borough Council state the green corridors on Map 3 need to be clearly identified. Whilst I recognise maps in electronic versions of the Neighbourhood Plan can be expanded to improve legibility, it is necessary for hard copies of the plan to also be legible. Map 3 and the Policies Map are not of sufficient scale to support application of Policy M3. I have recommended a modification in this respect so that the policy *"is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals"* as required by paragraph 16d) of the Framework.

105. Charnwood Borough Council request green infrastructure within the administrative area of that Council is removed from Map 3. In commenting on this representation, the Parish Council has explained Map 3 is intended to show the wider green infrastructure context and does not imply the policies of the Neighbourhood Plan would apply outside the neighbourhood area. I have recommended a modification in this respect so that the Neighbourhood Plan has sufficient regard for national policy as the Neighbourhood Plan can only relate to land within the Neighbourhood Area.

106. The representation on behalf of Pentland Estates states the type of Green Infrastructure indicated in respect of the grass verge or the frontage of their client's land is unclear; the area in question has limited connections; is not publicly accessible; and it is unclear how it meets the definition in the Framework. It is also stated the requirement to maintain and enhance does not allow any development to comply. Green Infrastructure is defined in Annex 2 of the Framework as *"a network of multi-functional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities"*. Paragraph 20 of the Framework states strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for, amongst other things, green infrastructure. Paragraph 171 of the Framework states plans should *"take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure"*.

107. In response to my request for clarification regarding justification for the selection of the components of the local Green Infrastructure network identified on Map 3 the Parish Council stated *"Reference was*

made to Government and Natural England publications, which contain definitions of Green Infrastructure. The areas identified on Map 3 are composed of the following:

- Areas of established woodland, which pre-date the establishment of the National Forest.
- Areas of woodland created with the assistance of the National Forest over the past 25 years.
- Established hedgerows - mainly those adjacent to rights of way or public highways.
- Local Green Spaces – mainly owned by Markfield Parish Council.
- District Council owned green spaces like Hill Hole and Billa Barra
- Local Wildlife sites like Altar stones
- Established roadside planting alongside the M1, A50 and A511
- Established planting on active mineral working Cliff Hill Quarry and Bardon Hill quarry extension.”

I am satisfied the basis for the identification of the local Green Infrastructure network identified Map 3 is appropriate.

108. Through inclusion of the term “*maintain and enhance*” Policy M3 is seeking to establish a more restrictive approach to development of green infrastructure than is set out in the Framework where a more balanced approach is adopted. The requirement to maintain and enhance has not been sufficiently justified.

109. The term green infrastructure “*network*” should be applied consistently throughout the policy and in the policy title so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework. A representation by the National Forest Company supports the policy but questions the delivery mechanism. In commenting on this representation, the Parish Council has provided background information relating to the aspiration to achieve the creation of a new active travel route between Markfield and Groby. It is not necessary for the policy to specify delivery mechanisms to meet the Basic Conditions however the term “*priorities for*” does not provide a basis for the determination of development proposals. The creation of new active travel routes has regard for paragraph 102 of the Framework which states opportunities to promote walking, cycling and public transport should be identified and pursued, and paragraph 104 of the Framework states planning policies

should provide for high quality walking and cycling networks. The mitigation of traffic impacts along identified road corridors has sufficient regard for paragraph 102 of the Framework which refers to mitigation of adverse environmental impacts of transport infrastructure. I have recommended a modification so that the policy supports enhancement of the green infrastructure network in these respects.

110. The focus of Policy M3 is concerned with the green infrastructure network as a whole rather than the individual elements of landscape or ecology which are the focus of other policies. This approach is consistent with the definition of green infrastructure set out in Annex 2 to the Framework, and does not amount to unnecessary duplication of policies which would be contrary to paragraph 15 f) of the Framework. As recommended to be modified Policy M3 does not seek to promote less development than set out in the strategic policies for the Neighbourhood Area, nor does it undermine the strategic policies, but it does seek to shape, direct and help to deliver sustainable development. The policy does establish a framework for assessment of development proposals. As recommended to be modified the policy will provide sufficient guidance to parties preparing development schemes, and to decision makers determining proposals, to ensure that the implications for the green infrastructure network are properly taken into account. The policy does not seek to prevent all development in the identified green infrastructure network area and will not prevent continuation of existing authorised activities.

111. Core Strategy Policy 20 supports the provision of multi-user and traffic free access between Markfield and Groby. As recommended to be modified Policy M3 will relate to that part of the route within the Neighbourhood Area. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

112. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting sustainable transport, promoting healthy and safe communities, and conserving and enhancing the natural environment the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be

included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 5:**

**Replace Policy M3 with “To be supported development proposals must demonstrate how they avoid significant harm to key features of the Green Infrastructure network identified on Map 3 and the Policies Maps. Where harm is demonstrated to be unavoidable proposals must mitigate and compensate for that harm.**

**Proposals that create a new footway, cycle and bridleway route towards Groby; or mitigate traffic impacts along the A50/A511/M1 road corridors; or otherwise enhance the local Green Infrastructure network identified on Map 3 will be supported.”**

**Amend the policy title to “Green Infrastructure Network”**

**Amend Map 3 and the Policies Map so that the boundaries of the Green Infrastructure network components can be clearly identified, and delete Green Infrastructure within the administrative area of Charnwood Borough Council.**

**Policy M4: Ecology and Biodiversity**

113. This policy seeks to establish that new development will maintain and where possible enhance identified biodiversity areas and geological sites, and other ecological corridors and landscape features. The policy also seeks to establish priorities for biodiversity enhancement.

114. In a representation the Borough Council state *“Reference to the map has been removed. It would be useful to include in the supporting text further information regarding the code used before the title of the Local Wildlife Site. It is assumed that these are the reference numbers given by Leicestershire Environmental Records Centre (LERC) this could be explained in the supporting text. Not all the spaces listed in this policy are contained on the map, is it the intention of the user of the policy to go to LERC or Leicestershire County Council to identify the boundaries for themselves? How will biodiversity enhancement be secured? Is this intended to be a S106 requirement? Is this CIL compliant?”* I have noted the stated intention of the Parish Council that places listed in the policy are shown on Map 4 and the Policies Map. I have recommended modifications in relation to these points so

that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework. I have noted the comment of the Parish Council regarding the Environment Bill but this is not a matter for my consideration.

115. Paragraph 174 of the Framework sets out the ways that plans should protect and enhance biodiversity. Paragraph 175 of the Framework sets out national policy in respect of irreplaceable habitats including ancient woodland and ancient and veteran trees. The Hedgerows Regulations 1997 establish a balanced regime to protect hedgerows in specified locations but exclude any hedgerow which is within, or borders, a domestic garden. I am satisfied the approach adopted in Policy M4 as recommended to be modified, has sufficient regard for national policy.

116. The policy would represent a burdensome scale of obligations in respect of some development proposals, and in some cases the requirement to *“maintain and where possible enhance”* may not be practical or viable. Paragraph 16 of the Framework requires plans to be deliverable. The first sentence of the policy does not provide a basis for decision making in respect of development proposals. The terms *“will be expected to”* and *“the priorities for”* do not provide a basis for the determination of development proposals. The terms *“other ecological and landscape features”* and *“such as”* introduce uncertainty. Map 4 and the Policies Map identify sites outside the Neighbourhood Area. The Neighbourhood Plan can only relate to land within the Neighbourhood Area. In response to my request for clarification the Parish Council has explained some sites referred to in the policy overlap on Map 4. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

117. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

118. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the

Framework, and the components of the Framework concerned with conserving and enhancing the natural environment the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 6:  
In Policy M4**

- **replace the text before the list of sites with “To be supported development proposals that cannot avoid harm to the biodiversity or the geological significance of the following sites must include adequate mitigation, or as a last resort compensate for that harm:”**
- **replace “The priorities for biodiversity enhancement are” with “Proposals for biodiversity conservation or enhancement of the following types will be supported”**

**On Map 4, and the Policies Maps, delete sites outside the Neighbourhood Area; add a note to explain the reference numbers; and add a note that some sites identified in Policy M4 overlap on the map.**

**Policy M5: Trees**

119. This policy seeks to establish that development that damages or results in loss of ancient trees or trees of good arboricultural and amenity value will not be supported. The policy also seeks to ensure adequate replacement of trees of lesser value that may be lost.

120. A representation by Severn Trent refers to use of tree pits. It is not necessary for the policy to make such reference to meet the Basic conditions. The National Forest Company is broadly supportive of the policy. In a representation the Borough Council state *“All tree surveys should be in accordance with BS5837:2012. What does “good amenity” value mean. Does it mean category A and B trees?”* In commenting on the Borough Council representation, the Parish Council state it is not defined in law so the authority will need to exercise judgement.

121. The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) sets out what is required from applicants when submitting planning applications. The 'Guidance

on Information Requirements and Validation’ document published by the Department for Communities and Local Government Department (DCLG) in 2010 provides more information on the mandatory national information requirements and states that a valid planning application should include *‘information to accompany the application as specified by the local planning authority on their local list of information requirements’*. The use of local lists of information was again promoted in the Framework requiring that local lists be reviewed on a frequent basis to ensure that they remain *‘relevant, necessary and material’*. The DMPO states that validation requirements imposed by local planning authorities should only be those set out on a local list which has been published within 2 years before the planning application is made to ensure information requirements are robust and justified on recent research. The Growth and Infrastructure Act 2013 makes clear that local planning authority information requirements must be reasonable having regard to the nature and scale of the proposed development and the information required must be a material consideration in the determination of the application. The policy is seeking to establish information requirements that are outside the statutory framework relating to local lists of information to be submitted in support of planning applications. I have recommended a modification in this respect so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

122. Paragraph 170 of the Framework states planning policies should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland. Paragraph 175 of the Framework states development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons (for example infrastructure projects including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills, where the public benefit would clearly outweigh the loss or deterioration of habitat) and a suitable compensation strategy exists. Paragraph 16 of the Framework states plans should serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area including policies in the Framework where relevant. I have recommended a modification in

these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

123. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

124. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 7:**

**Replace Policy M5 with “To be supported development proposals that will result in the unavoidable loss of trees or hedgerows must include replacement planting of native species in locations where they would have the opportunity to grow to maturity, increase canopy cover and contribute to the local ecosystem and the appearance of the area.”**

**Policy M6: Local Green Spaces**

125. This policy seeks to designate 10 Local Green Spaces.

126. A representation by Severn Trent recommends reference to flood resilience schemes. Such reference is not necessary to meet the Basic Conditions.

127. In a representation the Borough Council state “*Appendix 1 has now been included within the document. It appears that Appendix 1 is the sole justification for the LGS designations and further documentation has not been provided. The Borough Council has previously advised the NDP Group what type of evidence should be used for these designations and provided examples so that the Group can clearly demonstrate the spaces warrant Local Green Space*

*protection. The LGS do not meet all of the criteria set out in Appendix 1 but have still been selected as LGS, there is no clear justification for the allocation. The Borough Council's previous comments remain in relation to the evidence behind the allocation of the LGS. With the exception of the Two Upper Greens (LGS 1) all of the LGS are identified as Open Space, Sports and Recreational Facilities in the Site Allocations and Development Management Policies DPD (2016) and are protected by policy DM8 within this DPD. If it cannot be demonstrated that these open spaces meet the NPPF LGS test they are still protected."*

128. Designation of Local Green Space can only follow identification of the land concerned. For a designation with important implications relating to development potential it is essential that precise definition is achieved. The proposed Local Green Spaces are presented on the Map 5 of the Neighbourhood Plan. When viewed electronically the Policies Map can be expanded to reveal the line of boundaries of the green spaces in question however it is important that the boundaries can be accurately interpreted when viewing a hard copy version of the Neighbourhood Plan. Appendix 1 of the Neighbourhood Plan does not include information to assist boundary identification in this respect. I am not satisfied all of the areas of land proposed for designation as Local Green Spaces have been adequately identified. I have recommended a modification in this respect so that the policy "*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*" as required by paragraph 16d) of the Framework.

129. Decision makers must rely on paragraph 101 of the Framework that states "*Policies for managing development within a Local Green Space should be consistent with those for Green Belts*" and the part of the Framework that relates to 'Protecting Green Belt land', in particular paragraphs 143 to 147. That part of the Framework sets out statements regarding the types of development that are not inappropriate in Green Belt areas. The policy seeks to introduce a more restrictive approach to development proposals than apply in Green Belt without sufficient justification, which it may not.<sup>53</sup> I have recommended a modification so that the policy has sufficient regard for national policy.

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<sup>53</sup> *R on the Application of Lochailort Investments Limited v Mendip District Council. Case Number: C1/2020/0812*

130. Paragraph 99 of the Framework states *“The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.”*
131. In respect of all of the areas proposed for designation as Local Green Space I find the Local Green Space designations are being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designations are not capable of enduring beyond the end of the plan period. The intended Local Green Space designations have regard to the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework.
132. Paragraph 100 of the Framework states *“The Local Green Space designation should only be used where the green space is: a) in reasonably close proximity to the community it serves; b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and c) local in character and is not an extensive tract of land.”*
133. I find that in respect of each of the intended Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves, is local in character, and is not an extensive tract of land. In reaching the latter conclusion I have taken into account the fact that some of the areas of land proposed for designation as Local Green Space are in close proximity to, one another.
134. The Guidance states the Qualifying Body (Parish Council) *“should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan.”*<sup>54</sup> The areas proposed for designation as Local Green

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<sup>54</sup> Planning Practice Guidance Paragraph: 019 Reference ID:37-019-20140306 Revision date 06 03 2014

Space have been subject to extensive consultation with the local community.

135. The Guidance is clear that different types of designations are intended to achieve different purposes. Designation as local green space would result in additional local benefit not least in terms of identifying a green space that is of particular importance to the local community where development proposals should be assessed in line with Green Belt policy.
136. The submission Neighbourhood Plan includes in Appendix 1 statements that seek to justify the proposed designations as Local Green Space. Relevant reasons for designation are indicated by insertion of a tick only. The Evidence Base includes, in respect of each proposed designation, a detailed completed checklist. These checklists include: general information; planning history; size, scale and local nature; need; evidence relating to being reasonably close to the community it serves; evidence that the area is demonstrably special to a local community; evidence that the area holds a particular local significance for reason of its beauty, historic significance; recreational value, tranquillity, and richness of its wildlife; or for other reasons. The Evidence Base provides sufficient evidence for me to conclude that each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance.
137. I find that the areas proposed as Local Green Space are suitable for designation and have regard for paragraphs 99 to 101 of the Framework concerned with the identification and designation of Local Green Space.
138. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
139. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made'

neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 8:**

**In Policy M6 replace the text before the list with “The following areas identified on Map 5 are designated as Local Green Space:”**

**Amend Map 5 so that the boundaries of the designated Local Green Spaces can be clearly identified.**

**Policy M7: Renewable Energy**

140. This policy seeks to establish criteria for support of ground mounted solar photovoltaic farms. The policy also seeks to establish that the Neighbourhood Area is not a suitable location for wind turbine installations.

141. In a representation the Borough Council state “*The supporting text highlights the importance of renewable energy is for reducing the impact of climate change but policy is quite restrictive in how renewable energy can be achieved. A blanket assumption that Markfield Neighbourhood Area is not suitable for wind turbine installations does not promote sustainable development and is contrary to basic condition a). Is this backed by evidence? Justification for no wind turbines at all should be given to support this policy restriction. The Site Allocations and Development Management Policies DPD does not contain a policy on wind turbines, it directs applicants to the NPPF and NPPG. The NPPG gives detailed guidance on the assessment of wind turbine applications to enable the approval of such installations in appropriate places. Has an assessment of available brownfield sites or non-agricultural land available to solar farms been undertaken? This policy is restrictive and should be removed. There is a ‘get out’ in the policy ‘wherever possible’; however, the inclusion of this gives an expectation which isn’t realistic.*” In commenting on the Borough Council representation, the Parish Council has presented reasoning to support the final sentence of the policy including reference to past planning applications for wind turbines and reference to the Guidance.

142. The policy seeks to establish that the Neighbourhood Area is not a suitable location for wind turbine installations. In response to my request for clarification regarding justification for this component of the policy the Parish Council referred to the map of views in the evidence

base and part of the Guidance that states wind energy development should only be granted if the proposal has the backing of the affected local community. The Parish Council states Policy M7 makes it clear that wind energy development in Markfield does not have the backing of the local community. This component of the policy has not been adequately justified to rule out all scales of wind turbine proposals regardless of impact. Paragraph 154 and Footnote 49 of the Framework set out national policy in respect of the determination of renewable and low carbon development proposals. National policy refers to the identification of areas suitable for wind energy development. There is no reference to the identification of areas as being *“not a suitable location for wind turbine installations”*. I have taken into consideration the part of the Guidance which states *“The written ministerial statement made on 18 June 2015 is quite clear that when considering applications for wind energy development, local planning authorities should (subject to the transitional arrangement) only grant planning permission if: the development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing. Whether the proposal has the backing of the affected local community is a planning judgement for the local planning authority.”*

143. The term *“in accordance with current guidance”* in part 4 of the policy is imprecise. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
144. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
145. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with meeting the challenge of climate change the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the

Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 9:**

**In Policy M7**

**Delete "in accordance with current guidance" and the final sentence**

**Policy M8: Electric Vehicle Chargepoints**

146. This policy seeks to establish that every new dwelling with an associated dedicated car parking space within its curtilage should have an electric vehicle chargepoint. The policy also seeks to establish vehicle chargepoint and associated cabling requirements for other types of development.
147. In a representation the Borough Council state "*Amendments have been made to this policy although there is potential for the policy to go further with the inclusion of EV charging points for new / redevelopment of existing employment sites i.e., 1 charging point for every 10 spaces.*" In commenting on the Borough Council representation, the Parish Council state the policy requires electric vehicle chargepoint provision in connection with non-residential developments. There is no requirement for the policy to include additional provisions to meet the Basic Conditions.
148. A representation on behalf of Jelson Limited states the policy should be amended to require each new dwelling to be fitted with the necessary infrastructure to enable future fitting of a chargepoint of choice.
149. Paragraph 110 of the Framework provides that, in the stated context, applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. In the context stated in paragraph 109 of the Framework I consider it appropriate that Policy M8 should seek to establish support for charging facilities and seek to establish a minimum requirement for necessary ducting infrastructure. I have recommended a modification in this respect so that the policy has sufficient regard for national policy. I am satisfied the policy recognises that it may not always be feasible for all new dwellings to have at least one electric vehicle charging point and therefore has

sufficient regard for paragraph 16 of the Framework which states plans should be deliverable.

150. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

151. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting sustainable transport and meeting the challenge of climate change the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 10:**

**Replace Policy M8 with “Development proposals that incorporate facilities to enable the charging of electric vehicles in safe, accessible and convenient locations will be supported. As a minimum:**

- **every new dwelling with an associated dedicated car parking space within its curtilage must include ducting to facilitate the future installation of a vehicle chargepoint; and**
- **residential development with communal parking areas, and non-residential developments providing 10 car parking spaces or more, should include ducting to facilitate the future installation of one vehicle chargepoint for every five spaces.”**

**Policy M9: Non-Designated Heritage Assets**

152. This policy seeks to establish an approach to the determination of planning applications that affect non-designated heritage assets including those identified in the policy.

153. In a representation the Borough Council state “*A letter on map 7 cross-references to the assets identified in Policy 9, although the clarity of the letters on the map is poor. The same comments as per Reg 14 still apply: There are 24 features of local heritage interest*

*identified in Policy M9: Non-Designated Heritage Assets. Some of these features need clearer (full) addresses so their location can be identified, as the associated map only gives a general idea. It is not clear as to what is significant about these features; this must be clearly articulated in the Plan to allow for appropriate decision taking etc. Significance is defined in the NPPF as “the value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic”. More detail on these categories of interest is provided in the Planning Practice Guide (Paragraph 006 Reference ID: 18a-006-20190723) which is available here. This is further broken down within the Borough Council’s selection criteria for identifying local heritage assets which is available to view here. The above guidance provides the framework to identify significance, and it could be articulated in the Plan in many ways (see the Sheepy Plan for an example). Alternatively, if the NP Group feels that the information is already articulated in the supplementary evidence documents then this should be made clear and clearly signposted in the Plan. In terms of Policy M9, there has been inconsistency between Inspectors so far (within the Borough) on whether a local heritage asset/non-designated heritage asset policy should be included in the plan. Sheepy NP has a local heritage asset policy that is consistent with Policies DM11 and DM12 of the SADMP DPD and para.197 of the NPPF, Burbage had drafted a similar policy but the Inspector suggested it was removed as it repeated local and national policy. The consistent element of both plans was the clear identification of local heritage assets and what makes them of significance, so that is the key element that needs to be achieved in this Plan. The wording says directly or indirectly this could mean everything. The wording should say “directly or within the setting of”*

154. A representation by Charnwood Borough Council states designation H impacts a site that is cross boundary. I have recommended the notation to Map 7 should clarify the Neighbourhood Plan only relates to land within the Neighbourhood Area.

155. The representation on behalf of Pentland Estates states the policy seeks a narrow balancing exercise limited to the need for development at odds with paragraph 185 of the Framework. The representation on behalf of Owl Partnerships and the representation on behalf of Member of the Public 71 state Policy M9 is at odds with paragraphs 185 and 197 of the Framework as it seeks a narrow balancing exercise limited to the need for development, rather than seek to weigh matters relating to the wider social, cultural, economic

and environmental benefits in a balanced manner. The representations also state the evidence supporting the Neighbourhood Plan does not enable the corroboration of Map 8. Map 8 is referred to in Policy M9. Whilst the Parish Council state designations have been hatched for clarity it is not possible to reconcile the map with the list of known archaeological remains and ridge and furrow set out in the policy.

156. Paragraphs 4.77 to 4.82 of the Neighbourhood Plan provide information how locally valued heritage assets have been identified. The Guidance refers to advice on local lists published on Historic England’s website.<sup>55</sup> *Historic England Advice Note 11 Neighbourhood Planning and the Historic Environment (Published 16 October 2018)* states “*Preparing a list of locally-valued heritage assets. Independent (at least initially) of any local list endorsed or developed by a local planning authority, neighbourhood planning groups may wish to consider if any buildings and spaces of heritage interest are worthy of protection through preparing a list of locally-valued heritage assets that is referenced in neighbourhood plan policy. The use of selection criteria helps to provide the processes and procedures against which assets can be nominated and their suitability for addition to the local planning authority’s heritage list assessed. A list of locally-valued heritage assets can inform or be integrated within a local list maintained by the local authority, subject to discussion with them.*” It is appropriate for a local community to use the Neighbourhood Plan preparation process to identify heritage assets that are locally valued without identifying the particular characteristics of assets that explain why they are valued. I have, however, noted evidence documents, in particular the self-guided Village Trail leaflet produced by the Markfield Local History Group and the Markfield Conservation Area Appraisal and Management Plan including Appraisal Map and annotated photographic records, offer much information in this respect. I am satisfied the approach adopted in the Neighbourhood Plan in these respects has sufficient regard for national policy. I have recommended the policy title and the policy text are amended to reflect the actual status of the heritage assets referred to in the policy.

157. Paragraphs 14.43 to 14.45 of the Site Allocations and Development Management Policies DPD state “*Locally Important Heritage Assets are buildings, monuments, sites, places, areas or landscapes which are valued, distinct elements of the local historic environment. These assets hold meaning to the local community and contribute to their sense of history, place and quality of life. Locally*

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<sup>55</sup> Planning Practice Guidance Paragraph: 040 Reference ID: 18a-040-20190723 Revision date: 23 07 2019

*Important Heritage Assets do not benefit from statutory designation however their importance and significance is recognised by the Borough Council through their listing on the Locally Important Heritage Assets List. The List of Locally Important Heritage Assets will highlight the significance of the asset and identify the key features which should be retained through any development proposal. Development proposals should make every effort to retain the significance of locally listed heritage assets.”* Policy DM 12 states *“Locally Important Heritage Assets - Assets identified on the Locally Important Heritage Asset List should be retained and enhanced wherever possible. The significance of the assets illustrated in the List and the impact on this significance should be demonstrated and justified in line with Policy DM11.”* It is possible that as an administrative process separate from the Neighbourhood Plan preparation process the Parish Council may wish to nominate buildings and features of the built environment for assessment by the Borough Council as potential Non-Designated Heritage Assets to be included in a Locally Important Heritage Asset List. Any assets judged by the Borough Council to meet its published criteria may be added to that local list of Non-Designated Heritage Assets compiled and curated by the Borough Council. A clear statement of reasons for nomination of each heritage asset will be a critical success factor. In response to my request for clarification whether any of the locally valued heritage assets identified in the policy are already included in a local list of Non-Designated Heritage Assets compiled and curated by the Borough Council, the Borough Council stated *“No, the Borough Council have not formally adopted a Local Heritage List identifying non-designated heritage assets within the borough (including Markfield parish).”*

158. The policy refers to *“the need for the proposed development”*. This approach does not have sufficient regard for paragraph 197 of the Framework which requires a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.

159. Whilst the Parish Council state there has been a need to work within the constraints of the available mapping system, it is essential that the location of all of the heritage assets listed in Policy M9 can be identified through a full address or other means. I have recommended a modification in this respect. I have also recommended the deletion of the final sentence of paragraph 4.76 of the Neighbourhood Plan which seeks to introduce an element of policy in supporting text, which it may

not. I have recommended these modifications so that the Neighbourhood Plan has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

160. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

161. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the historic environment the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 11:  
In Policy M9**

- **replace the first sentence with “Development proposals that will affect the following locally valued heritage assets or their setting will be assessed having regard to the scale of any harm or loss and the significance of the heritage asset.”**
- **include full addresses or other means by which each heritage asset can be precisely located**
- **after “Ridge and Furrow” insert “areas identified on Map 8.”**

**Retitle the policy “Locally Valued Heritage Assets”**

**Amend Map 7 so that feature reference letters are legible**

**In the notation to Map 7 clarify the Neighbourhood Plan only relates to land within the Neighbourhood Area.**

**Revise Map 8 so that the location and precise spatial extent of known archaeological remains and ridge and furrow set out in the policy can be identified.**

**Delete the final sentence of paragraph 4.76**

## Policy M10: Design

162. This policy seeks to establish design criteria for support of development proposals.
163. A representation by Severn Trent recommends reference to the drainage hierarchy, SuDS, and water efficiency. The National Forest Company states the design of development should be required to reflect the location within the National Forest and Charnwood Forest. Leicestershire County Council state the policy is strong but could be further strengthened in a number of suggested ways. Modifications as referred to in these representations are not necessary to meet the Basic Conditions.
164. In a representation the Borough Council state *“The wording ‘Only development that reflects the traditional character of Markfield will be supported unless the development is of exceptional quality or innovative design’ is too strong especially on modern estates and areas outside of the Conservation Area in Markfield. It is suggested the following wording is used instead: Development that does not reflect the character of Markfield will be not be supported unless the development is of exceptional quality or innovative design.”* The Parish Council consider a double negative wording is not appropriate.
165. The representation on behalf of Owl Partnerships and the representation on behalf of Member of the Public 71 state Policy M10 is overly restrictive. The representation on behalf of Pentland Estates states the policy is overly restrictive at odds with paragraph 127 c) of the Framework which notes innovation or change should not be prevented or discouraged. A representation on behalf of Taylor Wimpey (UK) Limited states Policy M10 is particularly onerous and inconsistent with the Framework in that it fails to recognise that high quality design does not have to be based on a traditional design approach. A representation on behalf of Jelson Limited states the policy is onerous and compliance with the stated criteria should be required *“where possible”*.
166. Paragraph 126 of the Framework states *“To provide maximum clarity about design expectations at an early stage, plans or supplementary planning documents should use visual tools such as design guides and codes. These provide a framework for creating distinctive places, with a consistent and high-quality standard of design. However, their level of detail and degree of prescription should be tailored to the circumstances in each place, and should allow a*

*suitable degree of variety where this would be justified*". Paragraph 124 of the Framework refers to being clear about design expectations and how these will be tested, and Paragraph 126 of the Framework states "*Neighbourhood Plans can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development.*" The requirement of Policy M10 that development should reflect the traditional character of Markfield has not been sufficiently evidenced. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and "*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*" as required by paragraph 16d) of the Framework.

167. Paragraph 127 of the Framework states "*Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*" Paragraph 104 of the Framework states planning policies should provide for high-quality walking and cycling networks. Paragraph 91 of the Framework states planning policies should aim to achieve healthy, inclusive and safe places which promote social interaction, are safe and accessible, and enable and support healthy lifestyles. I am satisfied the approach adopted in Policy M10, as recommended to be modified, in these respects has sufficient regard for national policy.

168. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the

Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

169. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with achieving well-designed places the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 12:**

**In Policy M10**

- **replace the first sentence with “To be supported development must be sympathetic to local character and history, unless the development is of exceptional quality or innovative design.”**
- **in point 8 after “buildings” insert “are”**

**Policy M11: Community Services and Facilities**

170. This policy seeks to establish that development must show regard for the retention of identified community facilities in accordance with Strategic Policy DM25.

171. In a representation the Borough Council state “*Regulation 14 comments remain relevant, (This is a weaker policy than the one contained in the Borough Council’s Site Allocations and Development Management Policies DPD and would weaken the position in Markfield. It is recommended that the NDP could just include in the text for the purposes of DM25 these following site are applicable) This policy is not strong enough. Suggest: The community facilities listed below should be retained in accordance with Site Allocations and Development Management Policies DPD Policy DM25:*”

172. The representations on behalf of Pentland Estates and on behalf of Owl Partnerships and on behalf of Member of the Public 71 state the policy is too prescriptive and seeks to introduce a test singularly pointed at retention of services and facilities and is at odds with Policy DM25.

173. Paragraph 92 of the Framework states planning policies should guard against the unnecessary loss of valued facilities and services, and should plan positively for the provision and use of shared spaces, community facilities and other local services. I am satisfied the approach adopted in Policy M11 has sufficient regard for national policy in these respects.
174. Policy DM 25 includes *“Retention of Existing Provision - The Borough Council will resist the loss of community facilities including ancillary areas. The redevelopment or loss of community facilities will only be appropriate where it can be demonstrated that: a) An equivalent range of replacement facilities will be provided in an appropriate location within a reasonable distance of the local community; or b) There is a surplus of the facility type within the immediate locality exceeding the needs of the community; or c) The loss of a small portion of the site would result in wider community benefits on the remainder of the site. Loss of Existing Facilities Where replacement facilities will not be provided or a surplus cannot be demonstrated and the scheme would not result in wider community benefits on the remainder of the site, the loss of a community facility would only be considered acceptable where it can be demonstrated that: d) The facility has been proactively marketed for a community use for a reasonable period of time at a reasonable marketed rate as supported and demonstrated through a documented formal marketing strategy. e) It has been offered to the local community for them to take ownership of the facility.”* I have recommended a modification in these respects so that the policy is in general conformity with the strategic policy and provides an additional level of detail to that set out in the strategic policy.
175. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 13:**

**In Policy M11 replace the text before “A” with “The community facilities listed below should be retained in accordance with Site**

## **Allocations and Development Management Policies DPD Policy DM25:"**

### **Policy M12: Markfield Institute of Higher Education**

176. This policy seeks to establish conditional support for new buildings for specified uses at the Markfield Institute of Higher Education.
177. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
178. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

### **Policy M13: Local and Neighbourhood Centres**

179. This policy seeks to establish an approach to the determination of development proposals in order to maintain and enhance the vitality and viability of the Main Street Local Centre and the Chitterman Way Neighbourhood /Centre.
180. In a representation the Borough Council state "*The threshold size for an impact assessment has been amended from 200m<sup>2</sup> in the Pre-Submission Version of the NDP to 500m<sup>2</sup> in the Submission Version. There is no indication why this figure has changed, and previous comments remain in relation to this policy. The policy has been updated to reflect the change to the Use Class System and now refers to Commercial, Business and Service (Class E) uses. The policy applies the sequential test and impact assessment to Class E uses only, however, these do not apply to all Class E uses and would also apply to other Main Town Centre uses applicable to the parish i.e., public houses. The Policy is quite lengthy it is suggested that it could*

*be reworded to: The Main Street Local Centre and Chitterman Way Neighbourhood Centre are defined on Map 9 and the Policies Maps. The vitality and viability of the Local and Neighbourhood Centres should be maintained and enhanced. Within these centres, proposals for Commercial Business and Service Uses2 will be supported provided development proposals do not detract from the character of the area. Except where changes of use are allowed through permitted development, Commercial, Business and Service Uses2 should remain the dominant use in both Centres and development leading to an over concentration of any other one use will not be supported. What does this mean? What is the tipping point? Planning applications for uses other than Commercial, Business and Service Uses2 will not be supported unless it to occupy a premises that has remained vacant for a period of at least six months. A sequential test will be applied to planning applications for Commercial, Business and Service Uses2 that are not within either Centre. This conflicts with the NPPF which defines a minimum floor area where a sequential test is required. Proposals for Commercial, Business and Service Uses2 should be located in the Local Centre, then in edge of Local Centre locations and only if suitable sites are not available should out of Local Centre sites be considered. When assessing applications for retail development outside of the Local Centre, an impact assessment will be required if the development is to provide more than 500m2 retail floor space. This should include an assessment of the impact of the proposal on both Centres' vitality and viability. Where an application fails to satisfy the sequential test or is likely to have an adverse impact on vitality and viability, it will not be supported. This is unnecessary as it repeats the requirements of the NPPF.”* I have taken into consideration the comments of the Parish Council on the Borough Council representation, in which the Parish Council state a preference for the current wording of the policy.

181. The Borough Council also state *“the Chitterman Way Neighbourhood Centre boundary is not shown in its entirety and the full extent of the boundary should be shown on the map.”* The Parish Council state display of the full boundary would require a scale of Map 9 that would result in a reduction in clarity and that the full boundary is shown on the Policies Map. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

182. The terms “*do not detract from the character of the area*” and “*over-concentration*” are imprecise and do not provide a basis for the determination of development proposals. The time limit and size thresholds have not been sufficiently justified. It is confusing and unnecessary to refer to permitted development. The policy duplicates national policy set out in paragraphs 85 to 90 of the Framework in part, and seeks to introduce variations from national policy that have not been sufficiently justified.

183. Policy M13 is not in conformity with parts a) and b) of Policy DM22. As recommended to be modified the policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

184. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with ensuring the vitality of town centres the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 14:**

**Replace Policy M13 with “Development proposals that will enhance the commercial, business and service functions (included within Use Class E of the Use Classes Order 1987 as amended) of the Main Street Local Centre or the Chitterman Way Neighbourhood Centre, defined on Map 9 and the Policies Maps, will be supported. Development proposals that will adversely affect the vitality and viability of the Main Street Local Centre or the Chitterman Way Neighbourhood Centre will not be supported.”**

**Amend Map 9 to include the entire Chitterman Way Neighbourhood Centre boundary**

## Policy M14: Infrastructure

185. This policy seeks to establish that new development will be supported by provision of new or improved infrastructure together with financial contributions to specified infrastructure where appropriate.
186. A representation by the National Forest Company suggests additions to the policy, but these are not necessary to meet the Basic Conditions. A representation on behalf of Jelson Limited proposes modifications but I am satisfied the policy has regard for national policy.
187. In a representation the Borough Council state “*The infrastructure section does not provide much information regarding where there are deficiencies in infrastructure provision, nor does it identify opportunities for infrastructure gain or enhancement, particularly from seeking funding from the proposed allocation Land South of London Road – Policy M16 only addresses on-site provision. Policy M14 Infrastructure seeks developer contributions towards infrastructure provision and lists a number of facilities for which the contributions could deliver ‘improvement, remodelling or enhancement’.* The document refers to the range of facilities available, but it does not state what improvements have been identified, for example what improvements have been identified for Copt Oak Memorial Hall? Are these related to capacity and development pressures? Another example relates to the lack of quality and quantity of open space. Para 5.30 states, ‘The greatest shortfall being formal parks. There are several open spaces which fall below the appropriate quality target, so there is a pressing need for improvements to increase the supply and quality of open spaces. The group could pull this information into the document or supporting infrastructure schedule. The Neighbourhood Plan is a good opportunity to undertake an audit of facilities and then consult with residents on what improvements in community facilities they would wish to see. The group may have already done this but there is no evidence of it. There are those infrastructure items which are the responsibility of infrastructure/service providers i.e. education and healthcare. The document refers to these and improvements in healthcare which is consistent with the findings of the Phase 1 infrastructure Study. I would suggest the group considers preparing an infrastructure schedule, informed by a consultation with residents and stakeholders which identifies new / improvements in infrastructure they feel is needed / wanted. Some items may become community actions and require funding that cannot be sought from development. The schedule could also set out a hierarchy or priorities. Capturing this

*information will also help DM negotiate S106 agreements. /ideally the schedule would be stand-alone from the plan and remain a 'live' document which could be updated as and when improvements are delivered or priorities change. Regarding Policy M14 infrastructure - as discussed above, the policy lists existing facilities however this could limit what developer contributions may be sought in the future, particularly if they undertake an audit of facilities and complete an infrastructure schedule listing improvements. They could just refer to Policy DM3 Infrastructure and Delivery of the SADM otherwise I would suggest a similar overarching policy that refers to their infrastructure schedule if this is the approach they wish to progress. I also suggest that they wouldn't be able to seek developer contributions for items such as notice boards and litter bins – these may be provided on-site but not elsewhere in the settlement/parish. The infrastructure Capacity Study Baseline Assessment may just also provide them with a bit of context regarding healthcare, education and highways. See Section 5.2.12.” I have taken into consideration the comments of the Parish Council on the representations of the Borough Council.*

188. The policy is reliant on third party organisations for its implementation, which it may not be. It is appropriate for the Neighbourhood Plan to identify priorities for the utilisation of any locally determined element of developer contributions. The opening statement of the policy is imprecise and the use of the term “*where appropriate*” introduces uncertainty. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
189. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies, in particular Policy DM3.
190. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, promoting sustainable transport, making effective use of land, and conserving and enhancing the natural environment the policy is appropriate to be included in a

'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 15:**

**In Policy M14 replace the text before "1" with "Any locally determined element of developer contributions will be utilised for new or improved infrastructure relating to the following:"**

**Policy M15: Housing Provision**

191. This policy seeks to establish the quantum of housing provision to 2039 will be 334 dwellings, and how this will be met.
192. In a representation the Borough Council state "*Regulation 14 comments remain relevant. Flexibility has not been included within the Plan. Although the housing figure has been updated to reflect the new timeframe it is not expressed as a minimum as advised in the Regulation 14 comments. A reserve site has not been included within the neighbourhood plan. The Borough Council advise groups to contain reserve sites so that neighbourhood plan groups have a greater say in the direction of development if a larger housing need is determined.*"
193. Regulation 16 representations support or promote land for development as follows:
- A representation on behalf of Jelson Limited promotes the residential development of land south of Markfield for 282 dwellings. This site is allocated for residential development by Policy M16 and has been the subject of a planning application reference 20/01283/FUL. The representation also promotes wider land south of Markfield as a reserve residential development site;
  - A representation on behalf of Pentland Estates promotes the residential development of land at Ashby Road for 90 dwellings. The vast majority of this site is outside the Neighbourhood Area;
  - A representation on behalf of Owl Partnerships promotes the residential development of land at Ratby Lane for 48 affordable homes. This site has been the subject of planning application reference 20/00848/FUL. In response to my

request for clarification the Borough Council confirmed on 13 May 2021 that this planning application was live;

- A representation on behalf of Taylor Wimpey (UK) Limited promotes the residential development of land east of Ratby Lane for up to 225 dwellings. This representation also makes reference to an adjacent site that lies outside the Neighbourhood Area;
- A representation on behalf of Member of the Public 71 promotes the residential development of the same land promoted on behalf of Taylor Wimpey (UK) Limited east of Ratby Lane. A call for sites submission form attached to this representation states a site capacity of circa 150 dwellings; and
- A representation on behalf of Glenalmond Developments Limited promotes the residential development of land off Hill Lane for 75 dwellings. This site is stated to have been the subject of a planning application, although the representation does not include the relevant reference number. In response to my request for clarification the Borough Council confirmed on 13 May 2021 that planning application reference 21/00387/OUT was live;

194. The representation on behalf of Jelson Limited states the Neighbourhood Plan should identify reserve sites and that their client's wider land south of Markfield would be the most appropriate choice. The representation states 8.3 hectares of land additional to that allocated in Policy M16 was included in the Neighbourhood Plan Site Assessment exercise. The representation suggests changes to the scoring of the allocated site from 4 red, 14 amber and 2 green to become 3 red, 11 amber and 6 green.

195. The representation on behalf of Pentland Estates states that in considering their client's site the Neighbourhood Plan is required to be in general conformity with the strategic policies of the development plan for Charnwood Borough. It is also stated co-operation is required on strategic matters that cross administrative boundaries. The representation does not review the site assessment undertaken to support the Neighbourhood Plan.

196. The representation on behalf of Owl Partnerships states the Neighbourhood Plan fails to meet the Basic Conditions by: pursuing an un-evidenced housing requirement which fails to have regard to an emerging strategy; allocating sites without an appropriate site

assessment or sustainability appraisal process; and preventing the achievement of sustainable development with regard to wider planning objective and in particular the delivery of affordable housing. The representation states Owl Homes' site east of Ratby Lane performs more highly in 8 criteria than shown in the site assessment undertaken to support the Neighbourhood Plan. The representation suggests changes to the scoring from 12 red, 5 amber and 3 green to become 5 red, 7 amber and 8 green which would result in a second-place rank rather than twelfth. The representation on behalf of Owl Partnerships states at the very least their client should have had an opportunity to consider the site assessment and provide any comment and evidence they consider pertinent to the site selection process prior to the plan being submitted to the Borough Council.

197. The representation on behalf of Taylor Wimpey (UK) Limited states the current Local Plan is out of date and the Neighbourhood Plan should be delayed until the draft version of the emerging Local Plan is published for consultation. It is asserted the housing requirement set out in the Neighbourhood Plan significantly underestimates the likely housing requirement for the village without any understanding or consideration of wider strategic and spatial planning matters, and is supported by an inadequate evidence base, and fails to significantly boost the supply of homes. The representation states *"In our view this is a clear and deliberate ploy to 'push through the plan' in advance of the Emerging Local Plan which the NDP should be fully aligned with."* The representation does not object to the allocation made but considers the allocation of a single site to meet the minimum requirement established through the plan, highlights that the plan has not been positively prepared, and further states their clients land should be allocated as an additional or reserve site. The representation also questions the method used in site assessment stating the criteria fail to adopt a balanced approach as required under the Framework and in particular under the presumption in favour of sustainable development. The representation also states the site assessment process is understood to have been carried out without any dialogue or engagement with landowners and developers as required by the Guidance. The representation states the allowance for windfall sites of approximately 2 dwellings per year is not based on an evidence-based approach and it is not clear whether this should apply throughout the plan period. The representation states with respect to paragraph 6.8 of the Neighbourhood Plan that a proportion of Borough wide housing needs are likely to be required to be met in Markfield and that housing need surveys usually have a lifespan of 5 years.

198. The representation on behalf of Member of the Public 71 states the Neighbourhood Plan group has not undertaken step 2 of the neighbourhood planning toolkit on housing needs assessment, referred to in the Guidance, which seeks to understand the existing and emerging spatial strategy. The representation states that it appears the only alignment of the Neighbourhood Plan with the emerging Local Plan review is with respect to selection of the plan period. The representation states that for the Neighbourhood Plan to attempt to tackle the strategic issue of housing requirements without considering the need to significantly boost housing supply or take account of existing and emerging spatial strategies it has not had regard to paragraphs 20 and 59 of the Framework and paragraph 105 of the Guidance, and that these failings are beyond the circumstances whereby a plan can be found sound conditional upon a review. The representation states the Site Assessment framework prevents a balanced judgement being made and has the effect of skewing results. It is stated the clients land at Ratby Lane performs more highly in 9 criteria than shown in the site assessment undertaken to support the Neighbourhood Plan. The representation suggests changes to the scoring from 5 red, 12 amber and 3 green to become 1 red, 9 amber and 10 green which would result in a first-place rank rather than second. The representation also states that consultation on the Site Assessment has been inadequate contrary to the Guidance.

199. The representation on behalf of Glenalmond Developments Limited states the strategic policies of the Core Strategy are out of date and the Neighbourhood Plan policies are not flexible enough or aspirational. It is stated the policies should include additional allocations of 45-68 dwellings to meet need based on population as well as additional sites to meet additional allocation arising from need within the Borough or unmet need from adjoining authorities. The representation also states *“the windfall estimation should be discounted as it is not appropriately evidenced”* and *“even if the NPG are not willing to allocate additional sites, it is imperative that Reserve Sites are identified to accommodate any additional arising need”*. The representation states their client’s site at Hill Lane has been inappropriately assessed in respect of 4 criteria of the scoring in the Neighbourhood Plan Site Assessment Framework stating *“as a worst case the site should only have 4 red scores and potentially 3. Based on this, land at Hill Lane would be ranked joint first (with a red score of 4) of the sites, or even first (with a red score of 3).”* The representation also draws attention to the popularity of their client’s site in the Neighbourhood Plan Questionnaire results.

200. In response to my request for clarification regarding the latest position in relation to planning applications referred to in representations the Parish Council set out title and other details relating to land at Ratby Lane promoted by Owl Partnerships Ltd for development.

201. The Guidance states *“The scope of neighbourhood plans is up to the neighbourhood planning body. Where strategic policies set out a housing requirement figure for a designated neighbourhood area, the neighbourhood planning body does not have to make specific provision for housing, or seek to allocate sites to accommodate the requirement (which may have already been done through the strategic policies or through non-strategic policies produced by the local planning authority). The strategic policies will, however, have established the scale of housing expected to take place in the neighbourhood area. Housing requirement figures for neighbourhood plan areas are not binding as neighbourhood planning groups are not required to plan for housing.”*<sup>56</sup>

202. *“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.”*<sup>57</sup>

203. *“Where neighbourhood planning bodies have decided to make provision for housing in their plan, the housing requirement figure and its origin are expected to be set out in the neighbourhood plan as a basis for their housing policies and any allocations that they wish to make. Neighbourhood planning bodies are encouraged to plan to meet their housing requirement, and where possible to exceed it.”*<sup>58</sup>

204. *“The National Planning Policy Framework expects most strategic policy-making authorities to set housing requirement figures for designated neighbourhood areas as part of their strategic policies”*<sup>59</sup>

205. *“Where strategic policies do not already set out a requirement figure, the National Planning Policy Framework expects an indicative*

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<sup>56</sup> Planning Practice Guidance Paragraph: 104 Reference ID: 41-104-20190509 Revision date: 09 05 2019

<sup>57</sup> Planning Practice Guidance Paragraph: 040 Reference ID: 41-040-20160211 Revision date: 11 02 2016

<sup>58</sup> Planning Practice Guidance Paragraph: 103 Reference ID: 41-103-20190509 Revision date: 09 05 2019

<sup>59</sup> Planning Practice Guidance Paragraph: 101 Reference ID: 41-101-20190509 Revision date: 09 05 2019

*figure to be provided to neighbourhood planning bodies on request. However, if a local planning authority is unable to do this, then the neighbourhood planning body may exceptionally need to determine a housing requirement figure themselves, taking account of relevant policies, the existing and emerging spatial strategy, and characteristics of the neighbourhood area. The neighbourhood planning toolkit on housing needs assessment may be used for this purpose. Neighbourhood planning bodies will need to work proactively with the local planning authority through this process, and the figure will need to be tested at examination of the neighbourhood plan, as neighbourhood plans must be in general conformity with strategic policies of the development plan to meet the basic conditions.”<sup>60</sup>*

206. The Guidance states *“If a local planning authority is also intending to allocate sites in the same neighbourhood area the local planning authority should avoid duplicating planning processes that will apply to the neighbourhood area. It should work constructively with a qualifying body to enable a neighbourhood plan to make timely progress. A local planning authority should share evidence with those preparing the neighbourhood plan, in order for example, that every effort can be made to meet identified local need through the neighbourhood planning process.”<sup>61</sup>*

207. *“Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing need evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date local plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*  
*the emerging neighbourhood plan*  
*the emerging local plan (or spatial development strategy)*  
*the adopted development plan*  
*with appropriate regard to national policy and guidance.”*

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<sup>60</sup> Planning Practice Guidance Paragraph: 105 Reference ID: 41-105-20190509 Revision date: 09 05 2019

<sup>61</sup> Planning Practice Guidance Paragraph: 043 Reference ID: 41-043-20140306 Revision date: 06 03 2014

208. *“The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body so that complementary neighbourhood and local plan policies are produced. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. Strategic policies should set out a housing requirement figure for designated neighbourhood areas from their overall housing requirement (paragraph 65 of the revised National Planning Policy Framework). Where this is not possible the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body, which will need to be tested at the neighbourhood plan examination. Neighbourhood plans should consider providing indicative delivery timetables, and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new local plan.”<sup>62</sup>*

209. *“A neighbourhood plan can allocate additional sites to those identified in an adopted plan so long as the neighbourhood plan meets the basic conditions.”<sup>63</sup> “A neighbourhood plan can allocate additional sites to those in a local plan (or spatial development strategy) where this is supported by evidence to demonstrate need above that identified in the local plan or spatial development strategy. Neighbourhood plans should not re-allocate sites that are already allocated through these strategic plans. A neighbourhood plan can also propose allocating alternative sites to those in a local plan (or spatial development strategy), where alternative proposals for inclusion in the neighbourhood plan are not strategic, but a qualifying body should discuss with the local planning authority why it considers the allocations set out in the strategic policies are no longer appropriate. The resulting draft neighbourhood plan must meet the basic conditions if it is to proceed. National planning policy states that it should support the strategic development needs set out in strategic*

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<sup>62</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision date: 09 05 2019

<sup>63</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 67-009-20190722 Revision date: 22 07 2019

*policies for the area, plan positively to support local development and should not promote less development than set out in the strategic policies (see paragraph 13 and paragraph 29 of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the local plan or spatial development strategy. Should there be a conflict between a policy in a neighbourhood plan and a policy in a local plan or spatial development strategy, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.”*

210. Paragraph 29 of the Framework states “*Neighbourhood Plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.*” Whilst it is not within my role to test the soundness of the Neighbourhood Plan it is necessary to consider whether the Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies, as required by paragraph 29 of the Framework; and has regard for the Guidance.

211. Paragraph 6.2 of the Neighbourhood Plan states the Core Strategy makes provision for the development of a minimum of 80 new homes in Markfield over the period 2006-2026 and that this was met with the granting of planning permissions at Main Street; in the Hopwood Drive development; and at Markfield Court. On this basis Policy M15 is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan.

212. The references to other policies of the Neighbourhood Plan is unnecessary and confusing as all of the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a smaller area is specified. I have recommended a modification in this respect so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework. In commenting on the Regulation 16 representations the Parish Council has attached a Housing Note produced in March 2020. This note confirms the Parish Council had approached the Borough Council to provide an indicative housing provision for the neighbourhood area. As the Borough Council was at the time not in a position to provide an indicative figure the Parish

Council “has determined a housing requirement figure taking account of relevant policies, the existing and emerging spatial strategy, and characteristics of the neighbourhood area”. The Borough Council regard this as a sound and logical approach. Paragraph 6.5 of the Neighbourhood Plan explains the housing requirement of 334 dwellings stated in Policy M15 is based on the population share of the Borough within the neighbourhood area. Taking account of current commitments, the residual housing requirement is 308 dwellings. Policy M15 states the housing allocation made in Policy M16 which refers to some 280 dwellings will contribute to meeting this requirement. The Borough Council has, on 30 March 2021, resolved to grant planning permission for 283 dwellings in respect of application reference 20/01283/FUL submitted by Jelson Limited subject to conditions and the completion of a S106 Agreement. Paragraph 6.6 of the Neighbourhood Plan states an estimated two dwellings per year, or 38 homes, could come forward as windfall sites over the plan period including small-scale infill development within updated settlement boundaries. In the Housing Note prepared in response to Regulation 16 representations the Parish Council anticipate, based on past take-up, 25 dwellings will be met by windfall development in accordance with Policy M17. Given the size and nature of the Neighbourhood Area and based on information of recent commitments, as a matter of planning judgement, I consider it is reasonable to assume there will be a windfall supply of dwellings during the Plan period which will boost the supply of homes in the Neighbourhood Area by the modest amount indicated. I am satisfied the approach adopted to address the quantity of housing need in the Neighbourhood Area is appropriate for the purpose of neighbourhood plan preparation for Markfield Parish and provides the necessary justification that those policies (after recommended modification) that are relevant to housing supply will result in local housing needs being met.

213. I asked the Borough and Parish Councils whether it is intended the figure of 334 dwellings should be the minimum housing provision for the period 2020-2039, and if this figure is not intended as a minimum housing provision, where can I find the evidence that confirms sustainable development proposals above that figure should not be supported. In answer to this request for clarification the Parish Council stated “*Against a housing requirement for Markfield of 334 dwellings for the period 2020 to 2039, the Neighbourhood Plan makes provision for 347 dwellings. Therefore, the requirement of 334 dwellings could be regarded as a minimum. However, while the expression of the overall housing requirement as a minimum may*

*provide for flexibility, it is not a signal that the figure should be comprehensively exceeded by, for example, extending the settlement boundary to include the whole of the planning application site associated with 20/01283/FUL.”*

214. The Neighbourhood Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, and will not undermine those strategic policies. I am satisfied it is appropriate for Policy M15 to indicate the scale of development that is being planned for. I have however recommended use of the term “*minimum*” which would not preclude a sustainable development scheme that results in the achievement of a greater total number of dwellings. This is consistent with the fact the Neighbourhood Plan places no cap or limit on the number of dwellings that can be provided within the Settlement Boundary nor on the number of dwellings that can be provided outside the Settlement Boundary subject to it being of types that are consistent with other policies of the Neighbourhood Plan, and national and strategic planning policy. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework. As recommended to be modified Policy M15 is positively worded and does not promote less development than set out in strategic policies, as required by paragraph 29 of the Framework. In the context of the characteristics of the Neighbourhood Area Policy M15 will significantly boost the supply of housing.

215. The Borough Council has advised me that it is intended the Regulation 18 consultation on the emerging Draft Local Plan will take place in the Summer of 2021 with a latest estimate of August 2022 for examination, and March 2023 for adoption of the plan. I have noted paragraph 1.17 of the Neighbourhood Plan states that once the new Local Plan is adopted there may be value in a review of the Neighbourhood Plan. Whilst this falls short of a commitment to undertake a review it is the case that should there ultimately be any conflict between the Neighbourhood Plan, and the Local Plan review when it is adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan.

216. The emerging Local Plan will establish a housing requirement figure for the Neighbourhood Area in its strategic context and will allocate land for housing development to meet that requirement. Given

the limited resources available to a parish council in Neighbourhood Plan preparation the function of balancing issues at a borough-wide scale cannot realistically be performed. The contribution arising from the site allocated in Policy M16; from commitments; and from other identified potential provision amounts to a significant boost to the supply of housing in the Neighbourhood Area. The allocation of a substantial housing site in the Neighbourhood Plan, when it is 'made', does not in any way delay further housing allocations potentially being made in the emerging Local Plan, but has the effect of establishing a Development Plan framework for bringing forward a significant boost to local housing supply in advance of the adoption of an updated Local Plan at a later date, currently estimated to be March 2023. I am satisfied that in preparation of the Neighbourhood Plan consideration has been given to opportunities for allocating small and medium-sized sites suitable for housing in the Neighbourhood Area in accordance with paragraph 69 of the Framework.

217. The approach taken and the choices made are sufficiently evidenced and justified. Future strategic policies including any allocations in the emerging Local Plan may provide for further residential development. As recommended to be modified Policy M15 would be compatible with such future allocations.

218. Representations have stated the Neighbourhood Plan should include reserve or additional housing allocations. The Parish Council state "*The inclusion of a specific flexibility allowance in the Markfield housing requirement is unnecessary for the following reasons: ▪ It is already anticipated that the housing requirement will be exceeded by 4%; ▪ There is considerable certainty that the Plan's housing allocation will be delivered within the plan period as full planning permission has been granted subject to conditions and a S106 Agreement; ▪ The increase in the number of homes to be delivered in Leicester is expected to be met by the City itself, rather than the surrounding areas (which does not, in any event, include Hinckley and Bosworth Borough); ▪ A modest windfall allowance has been used, especially given that the Plan allows for residential development at Markfield Institute of Higher Education and Markfield Court Retirement Village; ▪ Given that Hinckley and Bosworth Borough Council has absolved itself from providing housing requirement figure for Markfield, it is not in a good position to demand a flexibility allowance; ▪ The new Local Plan will consider these issues in much more detail and will set out a strategy for growth which could differ considerably from an approach based just on existing population patterns. It is therefore possible that*

*the Local Plan may set out significantly different housing figures for Markfield in any event. It follows that additional housing allocation, or the identification of housing reserve sites is unnecessary.*” It is evident the matter of allocating reserve housing sites has been considered, as required by the Guidance. As a matter of planning judgement, on the basis of the scale of allocation and other provision for new housing made in the Neighbourhood Plan, I am content there is no absolute necessity to identify reserve or additional sites to meet emerging evidence of housing need given the anticipated timetable for preparation of the emerging Local Plan. I also consider there is no need to identify a reserve site to provide a fall-back given the allocated site has progressed to an advanced stage where the Borough Council is mindful to grant planning permission subject only to conditions and completion of a Section 106 agreement. I have earlier in my report referred to national policy relating to the relationship of neighbourhood plans and emerging strategic plans. I am satisfied the approach adopted in Neighbourhood Plan preparation in these respects has sufficient regard for national policy.

219. The representation on behalf of Owl Partnerships states at the very least their client should have had an opportunity to consider the site assessment and provide any comment and evidence they consider pertinent to the site selection process prior to the plan being submitted to the Borough Council. The representation on behalf of Taylor Wimpey (UK) Limited states the site assessment process is understood to have been carried out without any dialogue or engagement with landowners and developers as required by the Planning Policy Guidance. The representation on behalf of Member of the Public 71 states that consultation on the site assessment has been inadequate contrary to the Planning Policy Guidance. In answer to my request for clarification whether the site assessment was made available for comment by interested parties prior to submission of the Neighbourhood Plan to the Borough Council the Parish Council stated *“As set out in our Consultation Statement, early consultation included a Stakeholder Consultation Event to which landowners and developers were invited (including via H&BBC for SHELAA sites). Several attended, including the owners of the land that is the subject of the Taylor Wimpey (UK) Limited proposal. Hinckley and Bosworth Borough Council has prepared a Strategic Housing Land Availability, (SHELAA), released in December 2018, which forms a key part of the Local Plan evidence base. The SHELAA identifies the potential future supply of land which may be suitable, available and sustainable for new residential development within HBBC boundaries. The sites have*

been put forward by landowners, developers or their agents as potential sites to meet housing requirements and needs for the Local Plan period. For Markfield, 24 potential housing sites were put forward by landowners and developers. They included three sites adjoining Markfield village but outside the Neighbourhood Area, including part of the Taylor Wimpey site<sup>64</sup>. Basic information was gathered for each site and we appraised each option for its suitability, availability and achievability using clearly defined sustainability criteria. Factors such as access to services and facilities, heritage, nature conservation and landscape have been considered. There was also discussion with infrastructure providers such as the Clinical Commissioning Group, Education Authority and Highways England. The site selection process was explained in the Pre-Submission version of the Neighbourhood Plan (paragraphs 6.12-6.13). In response to requests for further information, full details of the site assessment process, including the SHELAA Site Profiles, Site Selection Framework and Site Selection Results were made available on the Neighbourhood Plan website prior to submission. Our objective site assessment concluded that the preferred site is south of London Road. There has been considerable discussion with the developer, Jelsons, regarding the scheme both prior and during as recognised by the Statement of Community Involvement submitted with application 20/01283/FUL (attached). There have been representations which promote alternative sites and which criticise the site selection, but one of the primary benefits of neighbourhood planning, is that it allows the community to take decisions as to where they consider new development should take place. It is clear that landowners and the development industry have been involved in preparing the draft Neighbourhood Plan from the outset. The site selection process involved an appraisal of options and an assessment of individual sites was undertaken against identified criteria. Notwithstanding the above process, on 30 March 2021, Hinckley and Bosworth Borough Council's Planning Committee resolved to grant full planning permission subject to conditions and the completion of a S106 Agreement for the development of 283 dwellings (20/01283/FUL). This makes discussion about the site selection process something of a moot point." Parties promoting the development of land will naturally seek every opportunity to put forward a case for development of the land in question. The capacity of a Neighbourhood Plan Steering Group to engage with stakeholders

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<sup>64</sup> Of the 24 sites, 23 were assessed as site AS407 benefits from planning permission for ten bungalows as an extension to Markfield Court Retirement Village (19/01013/FUL). This site is included within the Markfield Court Retirement Village and Woodrowe House policy area (M19). See also Draft Neighbourhood Plan paragraph 6.30.

is not unlimited. I have earlier in my report considered the nature and extent of consultation undertaken throughout the plan preparation process and found the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

220. Representations state some potential housing sites should be scored and ranked differently to the outcome of the Site Assessment undertaken. I am satisfied the Site Assessment undertaken has been adequately explained and is appropriate for its purpose. It is not within my role to consider the merits of development proposals, or the relative merits of alternative development proposals, including those supported or promoted in Regulation 16 representations, nor is it within my role to balance those merits against any inherent detriments or shortcomings that the proposals may have. I have earlier in my report explained that my role is to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified.

221. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

222. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of housing the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 16:**

**In Policy M15**

- **before “334” insert “a minimum of”**
- **delete the second sentence including bullet points**

## **Policy M16: Housing Allocation – Land south of London Road**

223. This policy seeks to allocate 18 hectares of land south of London Road for housing development subject to stated criteria.
224. In a representation Severn Trent support parts of the policy but recommend reference to SuDS. The National Forest Company state the policy should require the design of new housing development to reflect the location within the National Forest. Neither of these modifications are necessary to meet the Basic Conditions. The representation of Leicestershire County Council includes general reference to Minerals and Waste Safeguarding Areas but does not suggest the housing allocation in Policy M16 is affected in any way.
225. In a representation the Borough Council state *“There is a current planning application in for the London Road allocation. The planning application reference is 20/01283/FUL and the description is: Residential development of 283 dwellings (Class C3) including provision of public open space, associated infrastructure and engineering works and demolition of Vine Cottage. The planning application is due to go to Planning Committee on the 30<sup>th</sup> March 2021 and the application is recommended for approval. The Borough Council will be able to provide an update in relation to planning application during the Examination. The proposal is for 283 dwellings and the built development falls within the settlement boundary identified within the NDP. It appears that the access points follow what are set out in Policy M16 as well as the green infrastructure requirements. Criteria 1 could be reworded to refer to a minimum of 280 dwellings rather than some 280 dwellings - this would be more consistent with how figures should be expressed as a minimum in planning policies.”* In commenting on the Borough Council representation, the Parish Council state *“the Qualifying Body is keen to ensure that the area will benefit from the protections set out in paragraph 14 of the National Planning Policy Framework. Therefore, it wishes Policy M16 to be retained. Indeed, as the decision notice for 20/01283/FUL has not been issued it is still possible for the made Neighbourhood Plan to influence the details of the development.”* In commenting on the representations of the Borough Council the Parish Council also state *“the proposed housing allocation shown on Map 10 matches the application site, but the areas of housebuilding are to be retained within the newly defined settlement boundary (paragraph 6.18).”* As stated earlier in my report the Borough Council has resolved it is mindful to grant planning permission in respect of planning

application reference number 20/01283/FUL subject to conditions and a Section 106 agreement.

226. A representation on behalf of Jelson Limited supports the allocation in Policy M16, subject to amendment of parts 6 and 7b of the policy, and states a detailed planning application has been submitted to the Borough Council, and proposes, on the basis of comments regarding housing need, that further land to the south-west of the application site should be identified as a reserve site. I have referred to the issue of reserve sites when considering Policy M15 earlier in my report.

227. Part 6 of the policy seeks to establish a requirement for the provision of a Minerals Assessment. A representation on behalf of Jelson Limited states the Minerals Authority on 5 February 2021 confirmed in writing that the application site is not likely to be worked for minerals, due to planning and viability issues, and therefore the Minerals Authority had no objections to the application from a mineral safeguarding perspective and confirmed that a Minerals Assessment would not be required. The representation requests the requirement should be removed. Paragraph 6.16 of the Neighbourhood Plan states *“a substantial section of the site falls within a Mineral consultation Area for igneous rock.”* Paragraph 204 c) of the Framework states *“known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked).”* Paragraph 204 d) of the Framework refers to policies to *“encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place.”*

228. A neighbourhood development order may not provide for the granting of planning permission for any development that is excluded development<sup>65</sup>. For these purposes excluded development includes development that consists of a county matter.<sup>66</sup> County matters include the winning and working of minerals. Part 2 of Schedule 9 to the Localism Act 2011 applies the excluded development provision to neighbourhood development plans. Neighbourhood development plans do not grant planning permission but set out policies in relation to the development and use of land. On this basis I understand

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<sup>65</sup> Section 61J (2) of the Town and Country Planning Act 1990 as amended by the Localism Act 2011

<sup>66</sup> Within paragraph 1(1)(a) to (h) of Schedule 1 of the Town and Country Planning Act 1990 as amended by the Localism Act 2011

neighbourhood development plan policies may not relate to excluded development including the winning and working of minerals.

229. The issue of sterilisation of mineral resources is a complex matter. Minerals can only be worked where they exist. The existence of mineral deposits does not necessarily mean they can be worked. That decision will be based on a wide range of complex considerations that could not appropriately be considered by a community led neighbourhood planning process. To determine whether mineral reserves can be worked requires consideration of compatibility of adjoining land uses. Where, for example, reserves are immediately adjacent to residential areas they are unlikely to be able to be worked. If reserves cannot be worked then it cannot be found they can be sterilised by new surface development above those reserves in that they are already sterilised by virtue of their juxtaposition in relation to sensitive neighbouring land uses. These issues can only be considered through exploration of mineral development matters that are excluded for the purposes of neighbourhood plan preparation. Additionally, issues relating to mineral sterilisation are strategic in nature. It is not the function of a neighbourhood plan to prepare strategic planning policies to meet assessed needs over a Local Plan area<sup>67</sup>. Issues of mineral sterilisation must be considered on a wide area basis. It is inappropriate to consider issues of mineral sterilisation at a neighbourhood plan area level. Independent examination of a neighbourhood plan cannot consider whether the proposed strategy is the most appropriate<sup>68</sup>. In response to my request for clarification the Borough Council confirmed “*The applicant Jelson Ltd, concluded that a Minerals Assessment should not be required, due to the very limited extent of igneous rock deposits within the application site boundary and the likely difficulties and feasibility issues in extracting the deposit, irrespective of the applicants proposals given the significant amenity impacts on adjacent residents. This additional information was then considered by LCC (minerals) who withdrew their objection.*” In this context part 6 of the policy represents an unnecessary burden. I have recommended it is deleted.

230. Part 1 of the policy is imprecise with respect to the alignment of the Settlement Boundary and the term “some” is less universally understood than the term “approximately”, the latter being more appropriate for a formal document. It is unnecessary and confusing to

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<sup>67</sup> Gladman Developments v Aylesbury Vale District Council 2014 EWHC 4323 (Admin)

<sup>68</sup> Woodcock Holdings Ltd and Secretary of State CLG and Mid Sussex District Council 2015 EWHC 1173 (Admin)

refer to other policies of the Neighbourhood Plan in parts 2,10,11, and 12. All of the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a smaller area is specified. Part 7a of the policy is reliant on the actions of a third party which it may not be. Part 7b of the policy fails to recognise the delivery issues arising from the active travel route referred to extending beyond the allocation site. Part 8b of the policy does not have sufficient regard for national policy relating to trees and hedgerows. In part 8f of the policy the term “*An appropriately designed, constructed and maintained*” is imprecise and does not have sufficient regard for national policy. The requirement of part 9 of the policy has not been sufficiently justified. Part 12 of the policy does not have sufficient regard for deliverability as required by national policy. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

231. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

232. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of housing, promoting sustainable transport, supporting high quality communications, achieving well-designed places, meeting the challenge of climate change, conserving and enhancing the natural environment, and conserving and enhancing the historic environment the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 17:**

##### **In Policy M16**

- **in part 1 after “Boundary” insert (identified on Map 2 and the Policies Maps)**
- **in part 1 replace “some” with “approximately”**
- **delete part 2**

- delete part 6
- in part 7a before “The diversion” insert “Provision for”
- in part 7b delete “The provision of” with “On-site provision and off-site contributions to achieve”
- continue part 8b with “or replacement where loss is essential” and delete “and management”
- in part 8f replace “An appropriately designed, constructed and maintained” with “A”
- commence part 9 with “Provision for” and delete “should be incorporated”
- delete part 10
- in part 11 delete the text before “contributions”
- delete the first sentence of part 12 and “In particular,”
- continue part 12 with “unless it is demonstrated to be not practicable or viable”

In paragraph 6.18 refer to Map 2 and the Policies Maps where the Settlement Boundary is identified.

### **Policy M17: Windfall Housing Development**

233. This policy seeks to establish support for housing development within the identified Settlement Boundary subject to the other Neighbourhood Plan policies. The policy also seeks to establish that permission for housing development outside the Settlement Boundary will be limited to specified types of development.

234. In a representation the Borough Council state *“The main settlement boundary map is map 2 of the Neighbourhood Plan, should this policy refer to this map rather than Map 10 which shows the settlement boundary and allocation.”* The Borough Council also state criteria 3,5 and 6 should be deleted as they repeat policy. In commenting on the Borough Council representation, the Parish Council state *“Policy M17 does not duplicate Site Allocations and Development Management DPD policies, but instead provides helpful cross-referencing.”*

235. It is confusing and inappropriate for the policy to refer to *“permission”* as paragraph 2 of the Framework makes it clear material considerations must be considered. The limitation to exclude rural exception housing sites, and to exclude entry-level exception sites where need has not already been met within the Borough Council area, does not have sufficient regard for national policy. The policy

does not have regard for national policy regarding housing development that represents the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets. The policy does not have sufficient regard for the requirement of national policy that development of exceptional design quality must significantly enhance its immediate setting, and be sensitive to the defining characteristics of the area. The Parish Council has confirmed agreement to a modification in respect of these latter two matters. It is confusing and unnecessary to refer to strategic Policies DM5, DM14, and DM15 and to other policies of the Neighbourhood Plan. It is confusing and unnecessary for Policies M1 and M17 to both seek to establish types of development that will be supported outside the defined settlement boundary. All of the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a smaller area is specified. Paragraph 16 of the Framework states plans should avoid unnecessary duplication of policies that apply in a particular area. The Guidance states a neighbourhood plan should not be used to constrain the delivery of a strategic site allocated for development in the local plan. As recommended to be modified the policy would not be in conflict with strategic policy should any future strategic housing allocation be made in the Neighbourhood Area. My recommended modifications have necessitated an appropriate modification of the policy title. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

236. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

237. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of housing the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 18:**

**Replace Policy M17 with “Housing development proposals will be supported within the Settlement Boundary identified on Map 2 and the Policies Maps.**

**Amend the policy title to “Infill housing development”**

**Policy M18: Housing Mix**

238. This policy seeks to establish the basis of the required mix of housing types in new housing development and, with stated exceptions, requires developments of 10 or more dwellings to reflect the need for smaller family homes.
239. A representation on behalf of Jelson Limited states the policy largely repeats Core Strategy Policies 15 and 16 and it is not clear whether the policy expectations differ from the rest of the Borough. A representation on behalf of Taylor Wimpey (UK) Limited states reference to smaller family homes should be removed from the policy as evidenced need may change throughout the plan period.
240. In response to my request for clarification how the two sentences of the policy will work together the Parish Council state *“The intention of Policy M18 is to require development proposals for 10 or more dwellings to reflect housing need, other than in the two named locations. Special mention is made of the need for smaller family homes because, as set out in paragraph 6.24, Markfield already has a high proportion of bungalows. The Qualifying Body would support a lower threshold than 10, if the Examiner was to recommend such a modification.”*
241. In a representation the Borough Council state *“Paragraphs 6.21 and 6.22 “should say reflect the most up to date housing needs rather than give set figures as this becomes out of date quickly. Also, smaller family homes are not defined” and “Paragraphs 6.21-6.22 – these paragraphs still refer to the 2017 HEDNA, although the policy does note that the most recent data should be used if available. There is more up to date information available in the 2019 Housing Needs Study - page 108 contains the updated table. It is suggested the reference to the 2017 HEDNA is replaced by a reference to the Housing Needs Study and the table updated to that in the study.”* The Parish Council has stated agreement with the Borough Council representation. I have recommended a modification in these respects

so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

242. Paragraph 61 of the Framework requires that within the context of paragraph 60 the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. The identification of particular types of housing need at the time of plan preparations will guide the preparation of development schemes. The policy acknowledges the need to consider changes in housing need throughout the plan period and specifies how changes should be assessed. The policy accommodates possible changes in viability considerations, referred to in paragraph 57 of the Framework. The policy satisfies the requirement to be deliverable, as specified in paragraph 16 of the Framework. I am satisfied the approach adopted in these respects has sufficient regard for national policy.

243. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

244. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of housing the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 19:**

**Replace Policy M18 with “To be supported housing development proposals (other than at Markfield Court Retirement Village and at Markfield Institute of Higher Education) must demonstrate that the housing mix will reflect the assessment of local housing need in the 2019 Housing Needs Study or more recent evidence.”**

## **Policy M19: Markfield Court Retirement Village and Woodrowe House**

245. This policy seeks to establish conditional support for the development of community facilities and new residential accommodation at Markfield Court Retirement Village and the development of facilities at Woodrowe House.
246. In a representation the Borough Council state “*criteria 4 should be re-worded to read additional access should be avoided*”. In commenting on the Borough Council representation, the Parish Council state criterion 4 is sufficiently clear. I have recommended a modification in respect of this part of the policy as the absolute restriction on stated forms of access has not been sufficiently evidenced. I have recommended a modification in this respect so that the policy has sufficient regard for national policy, in particular paragraph 109 of the Framework.
247. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
248. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of housing the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

### **Recommended modification 20:**

**In Policy M19 part 4 delete “There is no”, and after “pedestrians” insert “will only be supported if demonstrated to be essential to avoid severe impact on the highway network or on grounds of highway safety”**

## **Policy M20: Affordable Housing**

249. This policy seeks to establish minimum affordable housing provision for major development schemes. The policy also specifies

criteria for negotiation of provision and seeks priority in allocation or sales of homes for people with a defined local parish connection.

250. A representation on behalf of Jelson Limited states the policy does not need to repeat the expectations of Core Strategy Policy 15. The rural area site size applicability threshold included within Core Strategy Policy 15 has been superseded by changes in national policy. It is appropriate for Policy M20 to seek to establish an up-to-date policy approach that has sufficient regard for national policy. The policy seeks to respond to local housing needs information and includes recognition of the need for flexibility in the context of particular viability considerations.

251. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

252. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of housing the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

### **Policy M21: Markfield Industrial Estate**

253. This policy seeks to establish Markfield industrial Estate will be retained for B2 and B8 employment uses and specifies criteria for support of non-B class uses.

254. In a representation the Borough Council state "*Only B1 are now included under Class E, so the references to B2 and B8 in the policy are fine. It may be worth the group exploring whether there are any planning conditions attached to the PP for the existing units formerly classed as B1 (offices referred to in supporting text) which restricts other uses for anything other than employment, which would mean proposals for other Class E uses would require PP.*" The Parish Council considers it has provided proportionate, robust evidence to support the choices made. There is no requirement for the policy to

address issues arising from the planning history of parts of the Markfield Industrial Estate.

255. Paragraph 80 of the Framework states planning policies should help create the conditions in which businesses can invest, expand and adapt. Paragraph 82 of the Framework states planning policies should recognise and address the specific locational requirements of different sectors. Policy M21 includes flexibility to support non-B class economic development uses subject to stated criteria. The term “*allowed*” does not provide a basis for the determination of development proposals and does not have sufficient regard for the need to consider material considerations as required by paragraph 2 of the Framework. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.

256. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies, in particular Policy DM 19.

257. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 21:**

**In Policy M21 replace “*allowed*” with “*supported*”**

**Policy M22: Brownfield Land**

258. This policy seeks to establish conditional support for redevelopment of previously developed land for B2 and B8 employment uses.

259. A representation suggests brownfield land can be suitable for housing also. Paragraph 118 of the Framework states planning policies and decisions should “*give substantial weight to the value of*

*using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land.”* Policy M17 of the Neighbourhood plan establishes support for windfall housing development on any land within the Markfield Settlement boundary where it meets the other policies of the Neighbourhood Plan. Whilst Policy M22 is silent with regard to redevelopment of previously developed land for housing, there is no requirement for the Neighbourhood Plan to include a policy relating to use of brownfield land for housing. Paragraph 84 of the Framework, in the context of meeting local business and community needs in rural areas, states *“The use of previously developed land, and sites that are physically well-related to existing settlements should be encouraged where suitable opportunities exist.”*

260. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

261. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy and making effective use of land the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. This policy meets the Basic Conditions.

### **Policy M23: Business Conversion of Rural Buildings**

262. This policy seeks to establish criteria for support of business conversion of rural buildings.

263. Paragraph 83 of the Framework states plans should enable the sustainable growth and expansion of all types of business in rural areas both through the conversion of existing buildings and well-designed new buildings. Paragraph 84 of the Framework makes reference to unacceptable impact on local roads.

264. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

265. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

#### **Policy M24: Business Expansion**

266. This policy seeks to establish conditional support for small-scale expansion of existing business and enterprise.

267. A representation on behalf of C.J. Upton and Sons Limited states the policy is too restrictive on expanding businesses and suggest enterprise expansion of all sizes should be supported and the National Forest and Charnwood Forest should not be referenced as a constraint to development to be consistent with Policies 21 and 22 of the Core Strategy which seek to guide development form. Paragraph 83 of the Framework states plans should enable the sustainable growth and expansion of all types of business in rural areas both through the conversion of existing buildings and well-designed new buildings. Although referring to the Parish Council and not a policy of the Neighbourhood Plan, Paragraph 7.8 of the Neighbourhood Plan can be interpreted as introducing an element of planning policy which it may not. Paragraph 83 of the Framework states plans should enable the sustainable growth and expansion of all types of business in rural areas both through the conversion of existing buildings and well-designed new buildings. It is confusing and unnecessary to refer to another policy of the Neighbourhood Plan as all of the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a smaller area of application is specified. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *"is clearly written and unambiguous, so it is*

*evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

268. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

269. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 22:**

**In Policy M24**

- delete “small-scale”
- delete point 5

**Delete the first sentence of paragraph 7.8**

## **Conclusion and Referendum**

270. I have recommended 22 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

271. I am satisfied that the Neighbourhood Plan<sup>69</sup>:

- is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the Statutory Requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and meets the Basic Conditions:

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<sup>69</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the 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);
- does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>70</sup>

**I recommend to Hinckley and Bosworth Borough Council that the Markfield Parish Neighbourhood Development Plan for the plan period up to 2039 should, subject to the modifications I have recommended, be submitted to referendum.**

272. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.<sup>71</sup> I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”<sup>72</sup>. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Hinckley and Bosworth Borough Council as a Neighbourhood Area on 11 May 2017.**

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<sup>70</sup> This basic condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 (5) are amended

<sup>71</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>72</sup> Planning Practice Guidance Reference ID: 41-059-20140306

## Annex: Minor Corrections to the Neighbourhood Plan

273. A number of consequential modifications to the general text, and in particular the reasoned justification and other general text of policies sections, of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies. Reasoned justification and other supporting text must not introduce any element of policy that is not contained within the Neighbourhood Plan policies.
274. The Borough Council has suggested “*on Figure 2 there is no scale, or copyright, place names and the legend are blurred and difficult to read. The base map could be improved to aid its interpretation. This map is referred to as a figure whereas other maps are labelled as maps. There should be consistency in the labelling, for example all maps and diagrams be labelled as figures.*” I agree with these points and recommend the appropriate modifications. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
275. The Borough Council has also stated Map 6 shows five designated Listed Buildings – adjust the notation to explain the location of the sixth Listed Building referred to in paragraph 4.68. I am able to recommend modification of the Neighbourhood Plan in order to correct errors.<sup>73</sup> I recommend minor change only in so far as it is necessary to correct an error, or where it is necessary so that the Neighbourhood Plan provides a practical framework which makes it evident how a decision maker should react to development proposals as required by paragraph 16 of the Framework.

### **Recommended modification 23:**

**Modify general text, figures or images to achieve consistency with the modified policies, to correct identified errors, and so it is evident how a decision maker should react to development proposals**

276. The Borough Council has suggested the following:
- Figures 2 and 3 should include a copyright statement.
  - Paragraphs 4.66 and 4.67 repeat paragraphs 194 and 195 of the Framework should the Framework be referenced?

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<sup>73</sup> Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

- It is recommended that the colours used on Map 8 are re-visited so there is more of a contrast to make the map easier to interpret.

These suggestions for change are not necessary to meet the Basic Conditions or Convention Rights, nor necessary to correct errors. I would have no objection to the changes being made, however, I cannot recommend modifications of the Neighbourhood Plan in these respects as this would be beyond my remit.

Chris Collison  
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28 May 2021  
REPORT ENDS