

**A REPORT TO BLABY DISTRICT COUNCIL**  
**OF THE EXAMINATION OF**  
**THE FOSSE VILLAGES NEIGHBOURHOOD PLAN UPDATE 2018-2029**  
**UNDERTAKEN BY**  
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**INDEPENDENT EXAMINER**  
**NOVEMBER 2023**

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## **Summary and Overall Recommendation**

*As the Independent Examiner into the Fosse Villages Neighbourhood Plan, I have been requested by Blaby District Council, in its capacity as the Local Planning Authority, to present my professional assessment of the amendments proposed to the previously 'made' Plan, in terms of compliance with the 'Basic Conditions' as set out in extant legislation, regulations and guidance.*

*I confirm that I am independent of the Qualifying Body, which comprises a grouping of the Fosse Villages respective Parish Councils and the Local Planning Authority. Furthermore, I do not have any interest in any land or property that may be affected by the Plan.*

*I hold relevant professional qualifications and have experience of the planning regime, gained over the past 35 years in both the public and private sectors, to enable an independent judgement of the documents before me. I am also a member of the National Panel of Independent Examiners Referral Service, endorsed at the time of convening by HMGov Department of Housing, Communities and Local Government.*

*I have undertaken a thorough examination of the Fosse Villages Neighbourhood Plan Update. This has comprised a review of all documents presented to me by the Local Planning Authority, a review of documents available for public review on the respective Parish websites and documents relating to the Development Plan held on the Council's website plus national guidance, regulations and statute.*

*It is my considered opinion that, with modification, the said Plan meets the Basic Conditions and human rights requirement, as set out in the respective legislation and guidance. **I have highlighted where I consider modifications are required and indicated the nature of those changes. These have been set out in bold italics throughout my Report.***

*Hence, with modifications, I consider that the Fosse Villages Neighbourhood Plan Update will: have regard to national policies and advice contained in current legislations and guidance; contribute to the achievement of sustainable development; be in general conformity with the strategic policies of the development plan for the area; not breach, but be compatible with European Union obligations and the European Convention of Human Rights; and not likely have a significant effect on a European Site or a European Offshore Marine Site either alone or in combination with other plans or projects.*

*I consider that, if modified, the Neighbourhood Plan Update complies with the legal requirements set out in Paragraph 8(1) and 8(2) of Schedule 4B to the Town and Country Planning Act 1990, as amended.*

*I understand that the LPA considers that the proposed amended policies to the 'made' Plan do not change the nature of that Plan. Given the current regulations pertaining to this situation, should I concur with the LPA, then the amended Plan will not need to proceed to a referendum.*

*I do concur with the LPA in terms of the impact of the amended policies but I am charged with reviewing the overall impact of the Plan and the following examination report addresses the overall compliance of the Plan and as such I have needed to address a number of broader elements.*

*In summary, however I consider that subject to some modification, the Plan can proceed to be 'made' without needing to hold a referendum.*

*Finally, I refer to a number of abbreviations throughout my Report and for the avoidance of any confusion these are set out in Appendix B.*

**Dr Louise Brooke-Smith, OBE, FRICS, MRTPI,**

**November 2023**

## **1.0 INTRODUCTION**

### **1.1 NEIGHBOURHOOD DEVELOPMENT PLAN REGIME**

- 1.1.1 The Neighbourhood Development Planning regime provides local communities with the ability to establish specific land use planning policies which can influence how future development comes forward in their area and how land can be used. It not only provides the opportunity for local people to shape their locality, but it also provides guidance for developers and landowners when considering new proposals and for decision makers when determining planning applications.
- 1.1.2 Any Neighbourhood Development Plan should be clear, not only in its goals and ambitions, but also in how any policies are presented. The background behind how policies have emerged should be easy to understand and robust in terms of identifying specific policy or evidence.
- 1.1.3 This Report provides the findings of an Examination into the Fosse Villages Neighbourhood Plan Update, which is here on referred to as the Updated Plan, or the FVNPU.
- 1.1.4 Where a neighbourhood plan is proposed to be revised, there are certain options in terms of statutory process, depending on the extent of the proposed revisions. Minor or non-material changes that would not materially affect policies can be made by the LPA, with consent from the QB. In these circumstances, there is no need to repeat Regulation 14 consultation, an examination or the referendum.
- 1.1.5 If a QB wish to make modifications that do materially affect the policies in the neighbourhood plan, the plan would need to go through the later stages of the statutory process, from Reg 14 pre-submission consultation onwards, although a referendum may not be required.
- 1.1.6 If updates are proposed that would materially affect policies, there are certain additional requirements;
- at the Reg 14 consultation stage the QB must state whether it believes that the modifications are so significant or substantial as to change the nature of the plan, giving reasons;
  - when sending the plan to the independent examiner, the LPA must state whether it believes that the modifications are so significant or substantial as to change the nature of the plan, giving reasons;
  - the examiner will then decide whether the modifications proposed change the nature of the plan and the QB must decide whether to proceed with the examination.

1.1.7 A referendum is not required if an examiner decides that the modifications are not so significant or substantial as to change the nature of the plan and would meet the basic conditions (with modifications if necessary). In this situation, an LPA must make the plan within 5 weeks of receiving the examiner's report (or as agreed with the QB).

1.1.8 However, if the examiner finds that proposed modifications do change the nature of the plan, the LPA will need to publicise and consider the examiner's report in the same way as for a new neighbourhood plan and a referendum would be required.

## **1.2 APPOINTMENT AND ROLE OF THE INDEPENDENT EXAMINER**

1.2.1 I was formally appointed by Blaby District Council, as the Examiner of the Updated Neighbourhood Plan on 9<sup>th</sup> August 2023. I was issued with the relevant documentation and formally began the examination shortly after instruction.

1.2.2 In examining the amended Plan, I am still required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, (TCPA) to establish whether:

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

1.2.3 Hence, my role has also been to consider whether the Updated Plan meets the 'Basic Conditions' and human rights requirements, as set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to Neighbourhood Development Plans by section 38A of the Planning and Compulsory Purchase Act 2004.

1.2.4 In order to meet the Basic Conditions, the making of any Neighbourhood Development Plan, new or amended, must:

- *Have regard to national policies and advice contained in guidance issued by the Secretary of State.*

- *Contribute to the achievement of sustainable development.*
- *Be in general conformity with the strategic policies of the development plan for the area; and*
- *Not breach, and must be otherwise compatible with, European Union (EU) and European Convention on Human Rights (ECHR) obligations.*

1.2.5 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out a further basic condition for Neighbourhood Development Plans, in addition to those set out in primary legislation and referred to in the paragraph above.

- *The making of the Neighbourhood Development Plan is not likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) either alone or in combination with other plans or projects.*

1.2.6 Having examined the Updated Plan against the Basic Conditions, as set out above, and as the Independent Examiner, I can make one of the following recommendations:

*a) that the Plan can proceed without modification on the basis that it meets all legal requirements and the changes from the 'made' Plan do not **change the nature of the plan,***

*b) that the Plan should be subject to modification but will then meet all relevant legal requirements and can proceed as, again the changes from the 'made' Plan do not **change the nature of the plan,***

*c) that the Plan modified or not, proceeds to Referendum, on the basis that it meets the relevant legal requirements but the changes from the 'made' Plan do change the nature of the Plan.*

*d) that the Plan fails to meet the relevant legal requirements and is unable to be modified, in which case the Plan does not proceed.*

1.2.7 If recommending that the Plan should proceed via a Referendum, I am required to consider whether, or not, the Referendum Area should extend beyond the defined Fosse Villages Neighbourhood Plan Area.

1.2.8 As noted above, the role of any Independent Examiner is to assess a Plan in terms of compliance with the Basic Conditions. While it is not to specifically comment on whether the Plan is sound, where changes could be made that would result in removing ambiguity and make the document more user friendly for all parties, this

should be considered. This reflects relevant paragraphs of the PPG and the first basic condition.

- 1.2.9 It should also be noted that it is not the role of the Examiner to add policies, even if these are suggested by statutory consultees or stakeholders. In this regard, where relevant, comments on Regulation 16 representations are noted later in this report.

### 1.3 THE EXAMINATION PROCESS

- 1.3.1 Examinations should preferably be conducted by written representations unless there is sufficient reason to hold a hearing to explore controversial or ambiguous matters. In this case, I have been able to consider the Plan by way of the key documents, relevant background information, the evidence base, and written representations. I have not considered it necessary to hold a hearing to complete my findings.

- 1.3.2 My examination findings have resulted from my assessment of the documents noted at Appendix A and the written submissions from interested parties at both the Regulation 14 and 16 stages of the NP Update process and are in addition to my reference to the following documents, which set out extant legislation, regulation and guidance.

- National Planning Policy Framework (The Framework) (Revised as at 2018 and 2019) and reissued with further amendments in July 2021. In September 2023 a Written Ministerial Statement updated policy on planning for onshore wind development in England. ***Hence the leading document for the purposes of this Examination is the 2023 version of the NPPF and references within the NP should be amended accordingly.***
- Planning Practice Guidance (Paragraphs: 001 Reference ID: 41-001-20190509 onwards - Revision date: 09 05 2019)
- Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act (2011)
- The Neighbourhood Planning (General) Regulations (2012) and additions
- The Neighbourhood Planning Act 2017 and associated guidance and regulations.



1.3.3 Finally, I confirm that I undertook an unaccompanied site visit to the Plan area in August 2023.

## **2.0 BACKGROUND TO THE FOSSE VILLAGES NEIGHBOURHOOD PLAN UPDATE**

2.1 The Fosse Villages comprise ten parishes comprising Leicester Forest West, Thurlaston, Huncote, Potters Marston, Croft, Aston Flamville, Wigston Parva, Sapcote, Sharnford and Stoney Stanton, all sitting within the District of Blaby, Leicestershire. The area contains a number of settlements, ranging from hamlets with populations of less than 50 people to larger villages comprising nearly 3,500 people. In total the area is home to circa 11,663 people in a primarily rural area lying to the southwest of Leicester.

2.2 The Fosse Villages were designated as a Neighbourhood Area on 13 January 2016 and an examination of a submission version of the Fosse Villages Neighbourhood Plan (FVNP) was undertaken by an independent examiner in 2019. Inter alia, the examiner of the FVNP advised that a number of the proposed Local Green Spaces should be removed as there was insufficient evidence to support their designation.

2.3 This recommendation was accepted by Blaby DC and the modified Plan proceeded to a referendum in May 2021 where a majority of the local community who voted, supported the modified Plan. The FVNP was duly 'made' by Blaby DC on 15<sup>th</sup> June 2021, and covers a period up to 2029.

2.4 The Fosse Villages Neighbourhood Plan Update has been prepared to specifically propose an additional number of Local Green Spaces, many of which were deleted by the previous examiner. Accordingly, an update to Policy FV5 of the Fosse Villages Neighbourhood Plan has been submitted for examination. I am advised that other than consequential revisions including the amendment of relevant maps, there are no further modifications to the 'made' Neighbourhood Plan. I am charged with assessing the updated Policy FV5 and the impact this has on the overall compliance of the Updated Plan.

2.5 The Plan has been prepared by the ten parish councils which are all represented on the Fosse Villages Neighbourhood Plan Joint Working Board (JWB). The JWB has worked in consultation with Blaby District Council together with a range of interested parties, statutory bodies, community groups, landowners and their agents, plus

other key stakeholders. Sapcote Parish Council is the lead council and the identified Qualifying Body (QB).

2.6 The evidence to support the additional LGSs has been reviewed by the JWB and the QB and the sites being proposed lie within the parishes of Huncote (extending into Croft), Sharnford and Stoney Stanton

2.7 I note that the QB considers that the changes are not so substantial as to change the overall nature of the 'made' Fosse Villages Neighbourhood Plan as the objectives and broad strategy of the Plan have not changed. As noted above, I am advised that the LPA concur with this.

### **3.0 COMPLIANCE WITH MATTERS OTHER THAN THE BASIC CONDITIONS AND HUMAN RIGHTS**

3.1 Given the above, I now report on the procedural tests, as set out earlier in this Report, and find as follows;

- **The Qualifying Body (QB)**

3.2 From the documentation before me, I conclude that the Sapcote Parish Council is a properly constituted body, i.e., a Qualifying Body representing other Fosse Village Parish Councils, for the purposes of pursuing amendments to a Neighbourhood Development Plan. This is in accordance with the Localism Act (2011) and recognised in the National Planning Policy Framework (as amended) and accompanying Planning Practice Guidance. Accordingly, I find this addresses the necessary requirements.

- **The Plan Area**

3.3 The Fosse Villages Neighbourhood Area reflects the boundary of the combined ten Fosse Villages parish boundaries, mentioned above. No other Neighbourhood Development Plan has been proposed for this area and as noted above, it comprises a large rural area with a number of small settlements.

3.4 As noted above, an appropriate application to amend the 'made' NP was submitted to the Council by the QB in 2021. The appropriate protocol was followed under the salient regulations of the Neighbourhood Development Planning (General) Regulations 2012.

- **The Plan Period**

3.5 Any Neighbourhood Development Plan, as originally proposed or in amended form, must specify the period during which it is to have effect. The Fosse Villages Neighbourhood Plan Update states on its front cover and in its introductory sections that it still addresses the period between 2018 and 2029. I note that this reflects the period identified by the extant FVNP and reflects that of the Blaby District Local Plan. I am satisfied that this matter is clear and appropriately explained with the NP document.

- **Excluded Development**

3.6 From my review of the documents before me, the proposed amended policy within the NP does not relate to any of the categories of excluded development, as defined by statute and extant regulations, or to matters outside the Neighbourhood Development Plan area. I find that in terms of excluded development, the Plan meets legal requirements.

- **Development and Use of Land**

3.7 Any Neighbourhood Development Plan's policies, in accordance with current regulations, should only contain policies relating to development and/or use of land. While supporting text can reflect the goals and ambitions of any community, unless directly relating to development or use of land, this should not be included within or be confused with specific policies.

3.8 Where I felt that the amended policy, or part of that policy was ambiguous, unnecessarily duplicated other policies or statutory regulations, or concerned matters that do not relate to the development or use of land or property, I have recommended that it be modified.

- **Public Consultation**

3.9 Planning legislation requires public consultation to take place during the production of Neighbourhood Development Plans or any period proposing amendments to a Plan. Any public consultation should be open and accessible, and any information presented should be easy to understand and to comment upon. It should enable all sectors of the local community the ability to comment on and hence shape the proposals which may have a bearing on where they live, work or spend their leisure time.

- 3.10 As a requirement of the salient regulations of the Neighbourhood Development Planning (General) Regulations 2012 as amended, a Consultation Statement was prepared by the QB. It was duly submitted to the Council and made available via the LPA and Parish's websites. It is a succinct document and explains that a six-week pre-submission consultation period on the proposed changes to the NP ran from the 31<sup>st</sup> January to the 15<sup>th</sup> March 2022.
- 3.11 I accept that while the consultation process for the original NP was extensive, the subsequent consultation for the Updated Plan has been focussed on the changes / additions proposed. It has concentrated in the three parishes affected by the addition of the LGS sites. Only four sites are completely new proposals. The remaining sites had been the subject of consultation previously.
- 3.12 The Statement includes a list of consultees at Appendix 1 which I consider is a reasonably extensive list and which includes key parties. Appendix 2 identifies those parties who made formal representations and Appendix 3 of the Statement includes a table which sets out the QB's responses to the comments made by Reg 14 parties. I note that some representations made very general comments and addressed policies that were not the subject of amendment.
- 3.13 The Plan was subject to some minor changes as a result of the consultation process and the Reg 14 submissions by third parties. A Submission Version of the Updated Plan was duly prepared and submitted to the LPA on 6 February 2023. A further six-week public consultation period was held.
- 3.14 I have been presented with written representations to the Submission Version of the Update Plan. Some representations have been in support of the amended policy FV5 but equally some have raised objections.
- 3.15 The responses to representations made as it progressed through its preparation stage, and particularly at the Reg 14 stage, have been set out in a table. I note the responses issued by the QB and where the Plan was duly amended.
- 3.16 I further note that where the Plan was not amended, repeated comments were made by some parties at the Reg 16 stage. Some objecting parties secured the services of professional agents. Others have made individual submissions to the emerging NP. I have reviewed all representations but should stress that my role has not been to undertake a detailed analysis of the consultation details but moreover review the general process and approach taken. In this light, I believe comments on the draft version of the Updated NP were appropriately assessed, undertaken or otherwise, and then explained by the QB.

- 3.17 As a range of stakeholders including statutory bodies were given the opportunity to take part in proceedings, I am of the opinion that the consultation exercise was appropriate.
- 3.18 I have reviewed the documents presented by the QB to support the amended policy FV5. I note the endeavors made to address the shortcomings highlighted by the Independent Examiner in his examination of the original NP. I consider that the various consultation initiatives and the approach adopted by the QB was adequate but considerable reliance has been put on the work undertaken when the original NP was pursued. While some additional information has been presented to me, this is not extensive. I have commented below where I have found the evidence base to be poor or ambiguous as this has affected the validity of some changes proposed.
- 3.19 However, in summary, I conclude that an adequate consultation exercise was undertaken and that stakeholders had the opportunity to input into the Plan's preparation and as such, Regulations 14, and 16 have been addressed.

## **4.0 THE BASIC CONDITIONS AND HUMAN RIGHTS**

### **4.1 BASIC CONDITIONS STATEMENT**

- 4.1.1 I have reviewed the Basic Conditions Statement (BCS) and find it to be again, adequate in its format but lacking in some detail which I discuss as follows.

### **4.2 NATIONAL POLICY, ADVICE AND GUIDANCE**

- 4.2.1 As noted earlier, the extant NPPF (2018 and revised publications in 2019, 2021 and 2023) explains that a presumption in favour of sustainable development means that Neighbourhood Development Plans should support the strategic development needs set out in the Development Plan and plan positively to support appropriate local development. This has not changed from the 2021 and 2023 version of the NPPF. ***However, for accuracy, I consider that the appropriate reference should be to the 2023 version of the NPPF, in the BCS.***
- 4.2.2 Neighbourhood Development Plans should be aligned with the strategic needs and priorities of the wider local area, i.e., they must be in general conformity with the strategic policies of the Development Plan. The NPPF advises that they should not promote less development than is set out in the Development Plan or undermine its strategic policies. Neighbourhood Development Plans should provide a practical framework within which decisions on planning applications can be made with

predictability and efficiency. It is stressed that my examination has been of the revision to Policy FV5 and the impact these have on the Plan, as a whole.

- 4.2.3 The Basic Conditions Statement explains how the Updated NP responds to specific core planning principles, as set out in the NPPF and makes appropriate cross reference to Policy FV5. The table on page 7 and 8 of the BCS makes specific reference to salient paragraphs from the NPPF and Planning Practice Guidance.
- 4.2.4 Given the guidance found within Planning Practice Guidance (PPG) which accompanies the NPPF, I have considered the extent to which the expanded Policy FV5 meets the first basic condition in Section 5 below and, **subject to a number of modifications, I find the Plan compliant.**

### **4.3 SUSTAINABLE DEVELOPMENT**

- 4.3.1 Any Neighbourhood Development Plan, or updated version of, should contribute to the achievement of sustainable development. The NPPF explains that there are three dimensions to sustainable development: economic, social and environmental. I consider that the approach taken and explained in the Basic Conditions Statement is robust.
- 4.3.2 Whilst there is no legal requirement for any Plan to be accompanied by a separate Sustainability Appraisal, it is helpful for it to acknowledge and explain how its policies have reflected sustainability matters in all forms as expressed in the NPPF. I note that the original NP considered this.

### **4.4 THE DEVELOPMENT PLAN AND STRATEGIC POLICY**

- 4.4.1 Section 4 of the BCS suggests that Blaby District Local Plan (Core Strategy) adopted in 2013 does not contain policies specifically addressing LGS. While that is technically correct, I am aware that Core Strategy Policies CS15 (updated in the Blaby District Local Plan Delivery DPD – Adopted February 2019), CS17 and CS18 are of relevance in this case. Respectively, these refer to the strategic protection of open space, protection of separation areas and protection of the countryside.

#### ***Policy CS15 – Open space, sport and recreation***

*Blaby District Council will seek to ensure that all residents have access to sufficient, high quality, accessible open space, sport and recreation facilities. In order to achieve this, the following standards, which indicate the provision of open space, sport and recreation per 1000 population in the District, will be used. For development likely to contain less than 1000 population, a pro-rata approach will be used. The figures in*

*brackets indicate desirable access standards in walking distance (unless stated otherwise):*

*Parks and Recreation Grounds \* 0.23 ha (1280 m) \**

*Natural greenspace 2.6 ha (1600 m)*

*Informal Open Space 1ha (800 m)*

*Provision for children and young people 0.06 ha of equipped play areas (1040m)*

*Allotments and community gardens 0.25ha (1440 m)*

*Cemeteries and churchyards 0.21ha (1200 m or 15 minutes travel time)*

*Outdoor sports space Refer to Open Space Audit for guidance on quantity and quality requirements*

*Village and community halls 1 village or community hall per 2,200 people (800 m or 10 minutes travel time)*

*\*This standard applies to all parishes with a population of 6000 or more.*

*The above standards will be used to ensure that development proposals provide sufficient accessible open space, sport and recreation, taking into account any local deficiencies.*

*New on-site provision or, where appropriate, financial contributions to improve the quality of, or access to, existing open space, sport and recreation facilities, will be expected and commuted maintenance sums will be sought.*

*Existing open space, sport and recreation facilities will be protected, and where possible enhanced. Where development is proposed on existing open space, sport and recreation facilities, land should not be released, either in total or in part unless it can be demonstrated that:*

- (i) It is surplus to requirements for its current play and open space function; and,*
- (ii) It is not needed for another type of open space, sport and recreation facility; or*
- (iii) Alternative provision of equivalent quantity, quality and accessibility, or better, can be provided in the local area.*

### **Policy CS17 - Areas of Separation**

*Strategic objectives*

- i) To maximise sport and recreation opportunities.*
- ii) To protect the important areas of the District's natural environment (species and habitats), landscape and geology and to improve biodiversity, wildlife habitats and*

*corridors through the design of new developments and the management of existing areas by working with partners;*

*Areas of Separation are areas of open land designated specifically to maintain the character and identity of individual settlements through preventing their coalescence. The detailed boundaries of the Areas of Separation will be formally reviewed through the Allocations, Designations and Development Management DPD. They will be in the following general locations:*

- a) between Narborough and Huncote*
- b) between Stoney Stanton and Sapcote*
- c) between Whetstone and Cosby*

### **Policy CS18 - Countryside**

#### *Strategic objectives*

- i) To maximise sport and recreation opportunities;*
- ii) To protect the important areas of the District's natural environment (species and habitats), landscape and geology and to improve biodiversity, wildlife habitats and corridors through the design of new developments and the management of existing areas by working with partners; and*
- iii) To provide the appropriate quantity, quality and mix of employment opportunities to meet the needs of the District's current and future populations, and to meet strategic employment, education and training needs;*

*Land will be designated as Countryside where it is outside the limits to built development and outside designated Green Wedges and Areas of Separation.*

*Within areas designated as Countryside, planning permission will not be granted for built development, or other development which would have a significantly adverse effect on the appearance or character of the landscape.*

*Planning permission will, however, be granted for limited small scale employment and leisure development (including dwellings essential for these needs) subject to consideration of its impacts.*

*The need to retain Countryside will be balanced against the need to provide new development (including housing) in the most sustainable locations. The detailed*



*boundaries of Countryside will be determined through the Allocations, Designations and Development Management DPD.*

- 4.4.2 I am aware that a revised local plan has been initiated by the LPA but has been delayed pending the outcome of 'sub-regional work' including the housing requirement for Leicester City.
- 4.4.3 The emerging new local plan carries some weight and indeed a Statement of Common Ground (SoCG) has been prepared jointly (July 2022), by inter alia Leicester City Council and Blaby District Council. Indeed, I am advised that the SoCG has, in part, been the subject of scrutiny at the Charnwood Local Plan Inquiry. However, the emerging new local plan for Blaby has not been subject to scrutiny, as yet. As such the salient Core Strategy policies remain those contained within the adopted LP.
- 4.4.4 Para 009 of PPG (Ref ID 41-009-20190509) states that 'Although a draft NP 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.....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'.
- 4.4.5 **I find that notwithstanding the omission of reference in the BCS to specific core strategy policies, subject to some modifications, as detailed below, the updated NP policy FV5 is in general conformity with the relevant strategic policies of the Development Plan.**

#### **4.5 EUROPEAN UNION (EU) OBLIGATIONS AND CONVENTIONS**

- 4.5.1 Notwithstanding the decision by the UK to leave the European Union, any Neighbourhood Development Plan must still be compatible with certain obligations adopted through European statute, as they have been incorporated into UK law. The NP would not be compliant otherwise.

##### **- Strategic Environment Assessment**

- 4.5.2 Directive 2001/42/EC, often referred to as the Strategic Environment Assessment (SEA) Directive, relates to the assessment of the effects of certain plans and programmes on the environment, and has relevance here. Similarly, Directive

92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (referred to as the Habitats and Wild Birds Directives respectively) aim to protect and improve Europe's most important habitats and species and can have a bearing on Neighbourhood Development Plans.

- 4.5.3 I note that an SEA screening was undertaken by Blaby District Council in 2018 prior to the Regulation 14 stage of the original NP's preparation. This involved liaison with the relevant statutory bodies. The screening responses advised that policies within the Fosse Villages NDP were expected to have significant environmental effect and hence an SEA was required. AECOM undertook this and the ensuing report was issued in May 2018. Recommendations from the SEA Report were taken into account in the emerging version of the original NP and an updated SEA accompanied the submission version of the original NP.
- 4.5.4 Clearly a substantial amount of work was undertaken as the original NP progressed and this included all the LGS sites proposed at the time. Only 4 additional sites are now being proposed as LGS as part of the Updated NP. No new development is proposed and hence the QB and LPA consider that the changes to the NP proposed through the update do not warrant the preparation of a further SEA, i.e., the nature of the Updated Plan has not changed.
- 4.5.5 **I concur with this and find that the Plan meets the legal requirements of the EU's SEA Directive and conclude that in respect of this EU obligation, the Plan is compliant.**

- **Habitat Regulations and Environmental Impact Assessment**

- 4.5.6 The SEA Screening Opinion Report accompanying the original NP found that no Habitats Regulation Assessment (HRA) was required as the original Fosse Villages NP was unlikely to have a significant effect on any designated sites. There were no internally designated wildlife sites within the NP area and mitigation was already in place to address future growth and the impact of increased visitors and that the NP was in accordance with the Development Plan's HRA, and no NP policies were proposed to undermine this.
- 4.5.7 Again, while four additional sites are being proposed through the updated NP, and these were not subject to assessment previously, the LPA consider that these are not of such significance to change the nature of the Plan and hence do not warrant a formal Habitat Regulations Assessment.
- 4.5.8 **I concur and find that the Updated NP meets the legal requirements of the EU and HRA Regulations and conclude that, in this respect, the Plan is compliant.**

4.5.9 **I also consider that an Environmental Impact Assessment is not required to accompany the Updated NP as none of the proposed policy changes relate to development of a scale or nature as to warrant such work.**

- **Human Rights and Equality Impact Assessment**

4.5.10 The Basic Conditions Statement makes no reference to compliance with the European Charter on Human Rights (ECHR) and Human Rights Act 1998.

4.5.11 Notwithstanding this, I am unaware of any matters proposed in the Updated NP that challenges issues of human rights and I conclude that the Plan does not breach and is otherwise compatible with the ECHR.

4.5.12 I am not aware of any other European Directives which apply to this particular Neighbourhood Development Plan, and **hence am satisfied that the Plan is compatible with EU obligations, and those replicated in UK legislation.**

4.5.13 The BCS references The Equality Act 2010 and the duty placed on all authorities to have regard to the need to, inter alia, eliminate discrimination and advance equality. The Equalities Impact Assessment attached at Appendix 1 of the BCS and prepared to accompany the original NP found no negative impact. The Updated Plan does not include amendments that would significantly change the character of the Plan and hence **I am content that the Equality Impact remains the same, namely that there are no negative impacts.**

## **5.0 ASSESSMENT OF THE FOSSE VILLAGES NEIGHBOURHOOD PLAN POLICIES**

### **5.1 THE OVERALL PRESENTATION AND FORM OF THE PLAN**

5.1.1 As noted above, the Fosse Villages Neighbourhood Plan has already been 'made' and my examination is of the amended Policy FV5 and its implications for the overall Plan. I have reviewed the previous Examiner's findings and note that the QB have specifically attempted to address the Examiners' findings with respect to Policy FV5. I have therefore given specific attention to the matters raised by the previous Examiner and the manner and extent to which they have been addressed by the QB.

5.1.2 Before I set out my specific findings on each of the additional Local Green Spaces now proposed, it is important to note that the NPPF advises that plans should provide a practical basis on which decisions on planning applications can be made

with a high degree of predictability and efficiency. I consider that this can be interpreted as 'having a clear document'. The proposed changes to Policy FV5 do not change the overall presentation, clarity or form of the Plan which I note still comprises;

- introductory sections which set the context for the Plan which include a section explaining the rationale for the changes to Policy FV5; commentary on sustainability; commentary on the key issues of importance to the community and third parties; and the subsequent vision of the Plan and its relationship with the strategic goals of the greater area.

- a section addressing transport matters and setting out relevant policies

- a section addressing the character, geodiversity, ecology and biodiversity of the area and setting out relevant policies including Policy FV5

- a section addressing new development and housing need, community provisions

- a section addressing employment

- a section addressing renewable energy

- an extensive section addressing the specific settlements of Aston Flamville, Croft, Huncote, Leicester Forest West, Potters Marston, Sapcote, Sharnford, Stoney Stanton, Thurlaston, and Wigston Parva.

5.1.3 The proposed changes to Policy FV5 have a direct impact on the areas of Huncote (extending into Croft), Stoney Stanton (extending into Sapcote) and Sharnford. I note that some text needs to be amended in the sections pertaining to those areas.

5.1.4 By way of overview, I find that overall, the updated Plan still provides an appropriate amount of narrative setting the historic and topographical context of the area. There is a clear section explaining how the original FVNP was prepared, the extent of consultation, the outcome of the examination and the progress the Plan made to its point of being 'made' on 15<sup>th</sup> June 2021.

5.1.5 Paragraphs 20 to 22 explains that the updated NP proposes a number of Local Green Spaces that had been highlighted by the previous Examiner as not complying with the basic conditions for various reasons, and hence they did not progress as part of the original NP.

5.1.6 Other than resulting in amended text and modified maps, the proposed changes do not change the overall nature of the document. I am generally content with the extent of figures and maps within the NP and find that the additional sites have been presented in a similar manner to the other Local Green Spaces found within the 'made' NP. This is entirely appropriate.

- 5.1.7 I am aware that some consultees, during the preparation of the updated Plan and at both Reg 14 and Reg 16 stages, suggested additional initiatives and amended text that have not been included in the Submission Version of the updated NP. I should stress that it is not the role of the Examiner to add further detail or policies that may have been considered by the QB through the Plan preparation, but not included in the Submission Version.
- 5.1.8 In terms of considering the Updated NP against the Basic Conditions, I find that the Plan is compliant with Basic Conditions 4 and 5 and the following sections of this Report assess whether I consider it complies fully with:
- Basic Condition 1 (Compliance with National Policy);
  - Basic Condition 2 (Delivery of Sustainable Development); and
  - Basic Condition 3 (General Conformity with the Development Plan).
- 5.1.9 I wish to stress that my examination has comprised a review of the amended Policy FV5 and supporting evidence and assessed whether this amendment has changed the nature of the Plan or introduced elements that mean the Updated Plan does not comply with the Basic Conditions. It has not comprised a forensic review of the rationale behind Policy FV5 but where I have found that the evidence base for the proposed amendments is unacceptably weak or erroneously interpreted, or in conflict with core strategic policies, I have suggested appropriate modifications.
- 5.1.10 I confirm again that I have reviewed all comments made as part of the Regulation 14 and 16 process, particularly where they have raised matters relating to compliance with the strategic policies of the Development Plan.

## **5.2 ASSESSMENT OF THE AMENDED POLICY FV5**

- 5.2.1 I now turn to the specific amendments to Policy FV5. This comprises the addition of 17 sites to the existing list of sites within the 'made' Plan. The text following the extended list has not been changed and is clear in its advice that inappropriate development in terms of impact on the openness or special character of the specified sites will not be supported unless very special circumstances existed. The policy then explains that those circumstances could include the provision of facilities to service a current use at or function of the specific sites, or the appropriate alteration/replacement of existing structures in situ.
- 5.2.2 I find that the overall approach taken by Policy FV5 is appropriate. I have however reviewed the evidence base, and approach taken by the QB to support the addition of sites, in light of the comments and concerns raised by the previous Examiner and of the guidance and advice found in the extant NPPF and the NPPG.

- 5.2.3 The previous Examiner found that the evidence base for the LGS policy within the original submission version of the NP included some assessment of the suitability of various sites against the criteria presented in the NPPF. However, the assessment was not consistent and evidence for some sites was missing.
- 5.2.4 At the time, the previous Examiner concluded that there was a lack of evidence in support of some sites and furthermore the evidence relating to some sites being 'demonstrably special' to the relevant local community and hence holding a particular local significance, was weak. Additionally, there had been a lack of landowner consultation which was contrary to the NPPF which advocated that Plans should 'be shaped by early, proportionate and effective engagement between plan-makers and communities.'
- 5.2.5 I am aware that at both the Regulation 14 and 16 stages of the Updated NP progress, the LPA held that the given Core Strategy Policy CS15, the designation of many of the proposed additional LGS sites was unnecessary and 'unlikely to bring additional benefit'. The QB response has been that Core Strategy Policy CS15 'concerns the protection of open space, sport and recreational facilities but does not identify areas to be protected.....and does not preclude their loss under certain circumstances.' The QB then notes that LGS benefits from the 'same protection as Green Belt and is capable of enduring beyond the end of the plan period'.
- 5.2.6 Other representations to the emerging Updated NP have referenced Core Strategy Policy CS17 relating to settlement gaps. I consider that reference to Core Strategy Policy CS15, CS17 and CS18 should have been made within the BCS. Their omission doesn't make the NP invalid, but reference would have been appropriate, particularly in light of my comments below.
- 5.2.7 For the avoidance of any confusion, I consider that specific designation of suitable sites as LGS is helpful to any user of the NP as it presents emphasis as to the protection of those sites. However, any designation needs to carefully accord with the basic conditions and not undermine strategic policies. If a site is already afforded protection under other policies or statutory regulations, then the addition of an LGS designation can be superfluous. Duplication of policies is not encouraged as it can cause confusion.
- 5.2.8 I appreciate that the areas identified as LGS are valued by the local community. However, the current version of the NPPF (2021) clearly sets out advice at paras 101 and 102 for the allocation of Local Green Spaces. Similarly clear guidance is contained within the PPGN at paras 007, 010 and 011.
- 5.2.9 Para 007 Ref ID 37-007-20140306 states '*plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in any way to undermine this aim of plan making.*'

- 5.2.10 Also of note is the need for;
- any allocation to complement the local planning of sustainable development (NPPF para 101)
  - LGS to not be an extensive tract of land (NPPF para 102)
  - landowners to be contacted at an early stage and for their stance to be taken into account (PPGN para 019).
  - avoidance of duplicating other designations (PPGN para 010 and 011)
- 5.2.11 My concern is that there is potential for confusion on the part of the user of the updated NP given strategic policy CS15 (Open Space, Sport and Recreation), CS17 (Separation areas) and CS18 (Countryside). These policies would still apply to many of the proposed LGS sites and an LGS designation is unnecessary for some of the sites proposed. It risks undermining the aims of plan making in terms of strategic policy. By including some of the proposed sites under policy LV5, the updated NP would fail to recognise that a non-strategic policy should not take precedence over or undermine existing adopted strategic policy.
- 5.2.12 I wish to now comment on the nature of the evidence. I am aware that there are a number of toolkits available to assist QBs which set out methodology on how to prepare, and provide an appropriate evidence base, to support the designation of LGS sites within neighbourhood areas. I understand that the QB in this case has used the toolkit prepared by Planit-X.
- 5.2.13 The documents presented to me in support of the designation of most of the sites comprise a proforma completed in very general terms with reference to local support from the parish council and other correspondence available 'on demand'.
- 5.2.14 Given that the updated NP has been pursued in specific response to the findings of the previous Examiner who found the original evidence base weak, I find the QB approach disappointing. Justification for the proposed designations would have been more effective had more robust evidence been presented.
- 5.2.15 It would appear that some of the proformas have not been updated since the pursuit of the original NP and little if any additional supporting information has been provided to support some proposed sites.
- 5.2.16 No site-specific assessment has been presented of biodiversity or ecological value for any of the proposed sites. Cross reference to the previous SEA could have been made, but this has not been the case. I accept that for some of the sites this is irrelevant. But equally, in some cases little if any evidence has been presented to indicate local special value, whether social, cultural, historic or ecological.

- 5.2.17 While some sites are clearly tranquil due to their distance from roads or railway lines, for the majority of sites, no clear indication of current local support for their specific designation as LGS has been presented.
- 5.2.18 Hence, in my view, the evidence presented to support the designation of some sites remains incomplete with a lack of detail in terms of the extent of local support for some LGS designations at the Issues and Options stage of the original NP progression and little additional reference has been made to the stance of the community as the Updated NP has progressed.
- 5.2.19 I should stress that even if the proportion of the local community were strongly in favour of its designation, there would still need to be some reference as to why this was the case, e.g., local use / demonstrably special to the community with particular local significance. The quantity of support or proximity to a built-up area with no clear evidence to support a specific LGS designation does not override the current NPPF and NPPG advice and guidance.
- 5.2.20 With the above matters in mind, I now turn to the individual sites proposed as additions to the 'made' Policy FV5.

### 5.3.0 **HUNCOTE**

#### **LGS H4 Townend Field Allotments (Site 4a)**

- 5.3.1 The land comprises privately owned allotments accessed via Eunice Rd and extending to circa 1.5 ha. The owners have not objected to the proposed designation as LGS, and the designation is supported by Huncote PC.
- 5.3.2 As noted earlier, allotments are subject to a degree of protection through core strategy policy CS15.
- 5.3.3 While I do not consider that strong evidence has been presented to warrant designation of the land in question as LGS, I accept that such a designation would emphasise its value to the local community, indicated by its ongoing use and active allotment association. An LGS designation would not in this case undermine the strategic policy CS15 but would complement it.
- 5.3.4 **Accordingly, I consider LGS H4(a) should be included under Policy FV5**

#### **LGS H4 Cemetery (Site 4b)**

- 5.3.5 The land comprises an active cemetery and I am advised that it is owned by Huncote Parish Council. As a municipal cemetery, and in the absence of anything to the



contrary, I have assumed that the land will not be formally classified as consecrated land. If this were the case, it would be the subject of specific protection.

- 5.3.6 The evidence presented to me in support of its designation again is not extensive and in part erroneous. It suggests that the land extends to over 426 Ha which is clearly incorrect. I have been advised that it actually extends to 0.4229 Ha. This error does not detract from my overall findings which are as follows.
- 5.3.7 I have no issue with the stance of the QB that the land is 'integral to the village' and indeed, I acknowledge that 'the levels of demand for usage of this state show the need for its existence'. While demand for a cemetery does not justify its designation as LGS, I accept that it is a tranquil location.
- 5.3.8 However, little if any evidence has been presented to justify why it has any special characteristics and value to the community other than being a place for burials. No site-specific evidence has been presented in terms of ecology or biodiversity. Furthermore, war graves can be found in most cemeteries across the country, and I have not been persuaded of any special historical value.
- 5.3.9 Its continued protection from inappropriate development exists through core strategy policy CS15 and I do not consider that sufficient evidence has been presented to warrant designation of the land in question as LGS.
- 5.3.10 ***Accordingly, I consider site H4(b) should be deleted from Policy FV5***

#### **LGS H4 Cemetery Extension (Site 4c)**

- 5.3.11 This land extends to 0.3468 Ha and comprises rough land, retained for the future expansion of the current cemetery. It is owned by Huncote PC and currently not publicly accessible.
- 5.3.12 While I have no issue with the future use of the land for burial purposes, should demand require it, in my opinion, future demand for a cemetery does not justify its designation as LGS.
- 5.3.13 Little if any evidence has been presented to justify why it has any special characteristics or value to the community other than being a place for future burials and as such would benefit from protection under core strategy policy CS15 and CS18
- 5.3.14 I do not consider that sufficient evidence has been presented to warrant designation of the land in question as LGS.
- 5.3.15 ***Accordingly, I consider site H4(c) should be deleted from Policy FV5***

#### **LGS H4 Sports Field (Site 4d)**

- 5.3.16 The former landfill site extends to 1.0947 Ha and comprises a sports field owned by Huncote PC. I am advised that it is used regularly by various local teams and hence has local value. While no site-specific assessment has been presented of biodiversity or ecological value, I accept that this would be irrelevant given its use.
- 5.3.17 As noted earlier in this report, I consider that core strategic policy CS15 is relevant. However, in this case I find the proposed additional LGS Site H4(d) accords with the adopted strategic ethos in that as open space it should be protected. As such I do not consider that the designation of H4(b) would undermine CS15 but moreover, an LGS designation would provide emphasis of its value to the community.
- 5.3.18 I consider that the extent of land is not overly excessive given its use and the locality it serves.
- 5.3.19 **Accordingly I consider that the designation of the H4(d) under Policy LV5 as LGS is acceptable.**

#### **LGS H4 Leisure Centre Field (Site 4e)**

- 5.3.20 The land adjacent to the Huncote Leisure Centre extends to 3.6745 Ha and is regularly used by the local community for informal recreational purposes and dog walking. However, I note that it comprises an area used by groups from across the County. It accommodates BMX clubs and hosts national championships and is used as an overflow car park. The land and the centre are both owned by Blaby DC.
- 5.3.21 I accept that the land is used regularly by the local community and hence has local value and while no site-specific assessment has been undertaken of biodiversity or ecological value, I accept that this would be irrelevant given its use.
- 5.3.22 As noted earlier in this report, and as noted for other proposed LGS sites, I consider that core strategic policy CS15 is however relevant. In this case I find that while the proposed additional LGS Site H4(e) accords with the adopted strategic ethos in that as open space it should be protected, the designation of H4(b) would risk undermining CS15 and present unnecessary additional restrictions.
- 5.3.23 While I consider that the extent of land is not overly excessive given its use and the locality it serves, I am concerned that its use for informal recreation is not sufficiently special and that its use for national BMX gatherings clearly indicates a value that is far more than 'local'.
- 5.3.24 Accordingly, I consider that the designation of the H4(d) under Policy LV5 as LGS is not acceptable. Insufficient and relatively weak evidence has been presented and

the land would in any event enjoy appropriate protection under CS15. The designation of H4(e) as LGS would undermine Policy CS15 in that it would present additional restrictions to development that might be needed for strategic purposes.

5.3.25 ***I recommend that H4(e) be omitted from Policy LV5***

**LGS H4 BMX Field (Site 4f)**

5.3.26 A further expanse of land adjacent to the Huncote Leisure Centre extends to 2.231 Ha and comprises a further area used by groups from across the County. I find it odd that this land and that proposed at H4(e) have been presented in two tranches. Should any designation of the two sites be confirmed then, in reality, the land would be seen as one, albeit with a track leading through the land, and hence would comprise a relatively large area.

5.3.27 H4(f) is the location of previous land fill. It is owned by Blaby DC and is leased to Leicester Huncote Hornets BMX team for its use. Again, it hosts regional and national championships. The land cannot be used by the general public during training sessions or formal events.

5.3.28 No site-specific assessment has been undertaken of biodiversity or ecological value. However, I accept that this would be irrelevant given its use.

5.3.29 As noted earlier in this report, and as noted for other proposed LGS sites, I consider that core strategic policy CS15 is relevant. In this case I find the proposed additional LGS Site H4(e) accords with the adopted strategic ethos in that as open space it should be protected. However, I consider that the designation of H4(f) would undermine CS15 in that it would present unnecessary additional restrictions to development which would undermine strategic plan making.

5.3.30 Furthermore, I consider that the extent of land, when added to its neighbour H4(e) would be overly excessive given its use and the locality it serves, I am concerned that its use for informal recreation is not sufficiently special and that its use for national BMX gatherings conflicts with the clear guidance that Local Green Spaces should be for 'local' use and not regional or national destinations.

5.3.31 Accordingly, I consider that the designation of the H4(f) under Policy LV5 as LGS is not acceptable. Insufficient and relatively weak evidence has been presented and the land would in any event enjoy appropriate protection under CS15. I consider there is a risk that the designation of H4(f) as LGS would undermine strategic plan making.

5.3.32 ***I recommend that H4(f) be omitted from Policy LV5***

### **LGS H5 Huncote Nature Walk**

- 5.3.33 This land comprises an area to the east of Croft and Huncote Quarries extending to over 17 Ha with a series of permissive paths, surrounding mineral workings. It lies some distance from the community. It is owned by Aggregate Industries who have pursued a number of formal applications for further extraction work in recent years. I am advised that planning conditions exist that require the landowner to keep the land for public use. The land is also designated as a SSSI.
- 5.3.34 I am further advised that the area was the source of granite first used by the Romans and that the general site has been used historically as an assembly area by King Wiglaf in 836 AD. Sadly no formal referencing for this has been presented with the evidence. I note that the land encompasses a relatively high vantage point which is deemed to be the highest peak in South Leicestershire. This has been used for the siting of ceremonial beacons.
- 5.3.35 Notwithstanding its history and topography, I consider that the extent and function of the site means that is too large to be designated as LGS, having regard to the criteria in the NPPF. Furthermore, other statutory designations, strategic policies CS15 and CS18 and planning conditions are in place which offer protection to the land. Current guidance advises that multiple designations of land should be avoided as they can be confusing.
- 5.3.36 ***I recommend that H5 be omitted from Policy LV5***

### **LGS H6 Peers Way/Preston Way Play Area and Open Space,**

- 5.3.37 This land was originally owned by Jelson Ltd but has recently been transferred to Huncote PC as part of a Section 106 Agreement associated with the surrounding new residential development. It extends to just under 0.5 acre and lies central to the new development proposals and is set out as a play area and green space primarily serving the occupiers of the estate, but other members of the public have open access.
- 5.3.38 No site-specific assessment has been undertaken of biodiversity or ecological value. However, I accept that this would be irrelevant given its use.
- 5.3.39 I consider that the designation of the H6 under Policy LV5 as LGS is acceptable, notwithstanding the very basic evidence presented to me. It clearly is of local value.
- 5.3.40 **Hence, I recommend that H6 is an acceptable designation under Policy FV5.**

**LGS H7 Spence Lane open space and play area,**

- 5.3.41 This land is owned by Countryside Partnerships Ltd and managed by EMH Homes. It has been laid out as open space as part of a Section 106 Agreement associated with the adjacent new residential development. It extends to circa 0.5 acre and while formally a ridge and furrow field, it now comprises grassed verge land and a play area primarily serving the occupiers of the estate. However, members of the general public have open access.
- 5.3.42 No site-specific assessment has been presented of biodiversity or ecological value. However, I accept that this would be irrelevant given its use.
- 5.3.43 I consider that the designation of the H6 under Policy LV5 as LGS is acceptable, notwithstanding the very basic evidence presented to me. It clearly is of local value.
- 5.3.44 **Hence, I recommend that H7 is an acceptable designation under Policy FV5.**

**5.4.0 SHARNFORD**

**LGS SH1 The Park**

- 5.4.1 I am advised that this land is owned by Blaby DC but is in the process of being transferred to Shamford PC. It extends to just over 7000 sqm and lies central to the village bordered by the River Soar and residential development. The land is used for recreational purposes including an annual summer fete.
- 5.4.2 There is a strong indication from the community (Issues and Options Questionnaire 2017) that the land is locally valued, and support has been indicated by the parish council and local elected members, the school, environmental and youth groups.
- 5.4.3 I consider that the designation of the SH1 under Policy LV5 as LGS is acceptable,
- 5.4.4 **Hence, I recommend that SH1 is an acceptable designation under Policy FV5.**

**LGS SH2 Poors Meadow,**

- 5.4.5 This land comprises 3637 sqm and again lies central to the village, bordered by the River Soar, a public highway and agricultural land. It is used for recreational purposes and includes fitness equipment. There is a strong indication from the community (Issues and Options Questionnaire 2017) that the land is locally valued and support has been indicated by the parish council and local elected members, the school, environmental and youth groups.
- 5.4.6 I consider that the designation of the SH2 under Policy LV5 as LGS is acceptable,

5.4.7 **Hence, I recommend that SH2 is an acceptable designation under Policy FV5.**

#### **LGS SH3 Bluebell Green**

5.4.8 The land is owned by Sharnford PC and comprises 345 sqm of grassed and landscaped land, accommodating the village sign. I am advised that it was formerly the location of a public house that was demolished in the 1960's. Local support has been indicated and the community has supported its allocation as LGS.

5.4.9 I consider that the designation of the SH3 under Policy LV5 as LGS is acceptable.

5.4.10 **Hence, I recommend that SH3 is an acceptable designation under Policy FV5.**

#### **LGS SH4 Parsons Lane Allotments**

5.4.11 This land comprises allotments extending in total to 4047 sqm. and owned by the Leicester Diocese. These are the only allotments serving the village and clearly of local value. This was indicated in the responses to the community questionnaire (2017) and by local elected members.

5.4.12 I consider that the designation of the SH4 under Policy LV5 as LGS is acceptable.

5.4.13 **Hence, I recommend that SH4 is an acceptable designation under Policy FV5**

#### **LGS SH5 Sharnford Cemetery**

5.4.14 The land extends to 3924 sq.m and comprises an active cemetery. I am advised that it is owned by Sharnford Parish Council. It is unclear whether it is consecrated land and hence the subject of specific protection.

5.4.15 The evidence presented to me in support of its designation is more extensive than for the cemetery at Huncote and I note the support of the lands' allocation as LGS by the Leicester Diocese and the local vicar. I also note that extent of the community's support for its designation in 2017.

5.4.16 While little evidence has been presented to justify why it has any special characteristics and no site-specific assessment has been undertaken of biodiversity or ecology, I note the tranquility of the site and its use by the local community.

5.4.17 I am aware that cemeteries are subject to a degree of protection under core strategy policy CS15 and I note that this land extends beyond the current burial plots but not extensively.

5.4.18 **Accordingly, I consider site SH5 is an acceptable designation under Policy FV5**

**LGS SH6 St Helens Churchyard**

5.4.19 The land extends to 3889 sq.m and comprises the church yard surrounding St Helens Church and is owned by the Leicester Diocese who do not oppose its designation as LGS. The local community, and elected members are in accordance.

5.4.20 The area and the church were consecrated in 1180 and is typical of an established cemetery inter alia, accommodating a war memorial and a number of mature trees.

5.4.21 Little if any evidence has been presented to justify why it has any special characteristics and value to the community other than being a place for burials and quiet contemplation. No site-specific assessment has been undertaken of biodiversity or ecology.

5.4.22 I am aware that cemeteries are subject to a high degree of protection through core strategy policy CS15 and the statutory regulations relating to consecrated land. I consider that the nature and function of the site means that other statutory designations are in place which offer protection to the land. Current guidance advises that multiple designations of land should be avoided as they can be superfluous and confusing.

5.4.23 ***Accordingly, I consider site SH6 should be deleted from Policy FV5***

**5.5.0 STONEY STANTON**

**LGS SS6 Village sign small recreation land.**

5.5.1 I have not been presented with any evidence in support of the designation of this area and hence cannot confirm its inclusion under Policy FV5.

5.5.2 ***Until such evidence is made available, I have no alternative other than to advise that it is omitted from Policy FV5***

**LGA SS7 Cary Hill Park / Stoney Stanton Memorial Playing Fields, Parish Fields and Arboretum**

5.5.3 I have found the evidence presented for three sites in Stoney Stanton particularly confusing. While a number of photographs have been presented as part of the evidence which is helpful, the written documentation remains very general in its approach.

- 5.5.4 The land extends to over 15.75 Ha (referenced by Stoney Stanton PC) and is owned by the parish council, the 'war memorial' (presumably a trust – but this has not been clarified) and Leicestershire County Council. It comprises three sections. The playing fields are used for recreational use, the arboretum is an area of mature trees, and the parish fields (or meadows) are used for public access/walking. I accept that the area is used for a variety of local community activities including the annual carnival and fun run.
- 5.5.5 Support for the designation of the land is noted by the parish council and elected members, the local community, and elected members.
- 5.5.6 The area accommodates formal areas for team sports such as football and cricket, plus a Muga pitch and tennis courts. All are served by a pavilion, changing rooms and parking. A community skate park was erected in 2005. While the extent and use of the sporting facilities are clearly visible, no site-specific assessments have been presented to me to support the biodiversity or ecological value of the extensive area.
- 5.5.7 As noted earlier in this report, and as noted for other proposed LGS sites, I consider that core strategic policy CS15, CS17 and CS18 are relevant. I note that the extent of proposed LGS has been reduced from the original proposals pursued in the previous NP. I accept that the reduction would address the previous Examiner's concerns but only to a degree.
- 5.5.8 While I find the proposed additional LGS Site SS7 accords with the adopted strategic ethos in CS15 in that as open space it should be protected, I consider that the designation of LGS for the whole of the area proposed would undermine CS15 and CS17. It would present additional restrictions on land and hence prejudice strategic plan making.
- 5.5.9 Furthermore, I consider that the total extent of land, when seen as one would still be overly excessive given its use and the locality it serves, I consider that use for informal recreation is not sufficiently special.
- 5.5.10 Accordingly, I consider that the designation of the whole of SS7 under Policy LV5 as LGS is not acceptable as in the majority it enjoys appropriate protection under CS15 and CS18. I consider there is a risk that the designation of the meadows and the arboretum as LGS would also undermine Policy CS17 and strategic plan making.
- 5.5.11 I am however of the opinion that the war memorial playing fields and sport related areas hold valid local significance and should be included as LGS under policy LV5.
- 5.5.12 ***I recommend that the Parish Fields (meadows) and the arboretum be omitted from Policy LV5 but that the War Memorial Playing Fields remain as a LGS designated under LGS5.***



5.5.13 In light of the above proposed modifications, I have assessed the remaining text of the updated FVNP and recommend as follows.

- ***Para H35 – the number of LGS sites should be amended to accord with the modifications proposed above.***
- ***After Para SA39 – an additional paragraph should be inserted to explain that further sites have been the subject of further examination of an updated FVNP and that land at Parsons Lane Allotments, Bluebell Green, Poors Meadow, and The Park have been designated as LGS.***
- ***Subsequent paragraphs should then be re-numbered.***
- ***Para SS37 should be amended to explain that only the Carey Hill Park / War Memorial Playing fields are designated formally as LGS.***

5.4.14 ***Similarly the maps associated with the villages of Huncote, Sharnford and Stoney Stanton should be amended to remove the LGS sites not supported by this examination namely, LGS H4(b), LGS H4 (c), LGS H4(e), LGS H4(f), LGS H5, LGS SH6, LGS SS6. LGS SS7 needs to be amended to only identify the War memorial playing fields as LGS.***

5.4.15 ***Given the above, I find Policy FV5, and the associated text and maps noted above, require modification. Only if the modifications identified are addressed do I consider the policy and hence the overall updated NP to be compliant.***

## **6.0 MONITORING AND REVIEW**

6.1 I note that the Blaby Local Plan is the subject of review and when progressed may propose new areas for specific development needs and land allocations. As noted earlier in this report, NP policies need to take into account extant Core Strategies and not frustrate the ability to secure sustainable development in accordance with the NPPF.

6.2 I encourage the QB, on behalf of the ten Parish Councils to recognise this in the Updated NP, to be pragmatic in this regard and I make suitable reference in the Updated NP to the same effect., ie to undertake appropriate reviews of the Fosse Villages NP on a regular basis.

## **7.0 REFERENDUM**

7.1 I concur with the QB and the LPA in that the proposed changes to the Fosse Valley NP, in the form of the Updated NP do not significantly change its nature. As such,

while I consider that the Updated NP does require modification, as set out earlier in this report, once this is addressed, there is no need for it to be pursued through a Referendum.

## **8.0 SUMMARY AND RECOMMENDATION**

- 8.1 I find that the Updated Fosse Villages Neighbourhood Plan has been the subject of adequate consultation and the resulting vision and ensuing policies generally reflect the findings of those consultations. Drafts of the NP have been the subject of some amendments to take on board relevant comments from statutory consultees and key stakeholders.
- 8.2 The resulting version includes sites that already benefit from core strategy policies, but I accept that this reinforces the importance of some sites to the local community. There is also ambiguity in the evidence presented to support some of the proposed changes to the 'made' NP and indeed, the evidence fails to be sufficient to validate the designation of some sites.
- 8.3 However, in summary, and only subject to the modifications identified within this report, the Plan complies with the legal requirements set out in Paragraph 8(1) and 8(2) of Schedule 4B to the Town and Country Planning Act 1990 and the relevant regulations relating to the preparation of a Neighbourhood Development Plan.
- 8.5 **Hence, I recommend that, further to my proposed modifications, the Updated Fosse Villages Neighbourhood Plan can proceed to be 'made' by Blaby District Council.**

**Louise Brooke-Smith, OBE, FRICS, MRTPI**

**November 2023**

### **Appendix A - Documents reviewed by the Examiner**

- National Planning Policy Framework (The Framework) (2018) and subject to clarification in 2019 and revision in July 2021.
- Planning Practice Guidance (Paragraphs: 001 Reference ID: 41-001-20190509 (and onwards relating to Neighbourhood Plans) - Revision date: 09 05 2019
- Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act (2011)
- The Neighbourhood Development Planning (General) Regulations (2012) and additions
- The Neighbourhood Planning Act 2017 and associated guidance and regulations.
- Submission Version of the Fosse Villages Neighbourhood Plan
- Documents identified in the Fosse Villages Neighbourhood Plan pages of the LPA and respective Parish Council(s) Websites
- Blaby District Core Strategy (2013)
- Blaby District Delivery DPD (2019)

### **Appendix B – Examiner's use of Abbreviations**

- |  |              |
|--|--------------|
| • Fosse Villages Neighbourhood Plan;       | FVNP         |
| • Fosse Villages Neighbourhood Plan Update | FVNPU        |
| • Plan / The Neighbourhood Plan;           | NP           |
| • Qualifying Body;                         | QB           |
| • Blaby District Council;                  | BDC /Council |
| • Local Planning Authority;                | LPA          |
| • National Planning Policy Framework;      | NPPF         |
| • Planning Practice Guidance;              | PPG          |
| • Basic Conditions Statement;              | BCS          |