

# **Market Bosworth Neighbourhood Development Plan**

## **The Report by the Independent Examiner**

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## Summary

It is very apparent from the Market Bosworth Neighbourhood Plan and the supporting documentation that the preparation of the Plan has been driven by the pride that the community takes in Market Bosworth together with a clear wish to define what it is that makes the town special and to ensure that this distinctive character is maintained. At the same time there is a recognition of the need to accommodate some new development in order to meet the housing requirements of the local community, to provide for new business development and to comply with the strategic policies of the development plan.

There has been extensive involvement of all sections of the community in the preparation of the Plan and a good level of co-operation between the steering group leading the preparation of the Neighbourhood Plan and Hinckley and Bosworth Borough Council. It is noteworthy that most of the representations that have been received in response to the regulation 16 consultation are in support of the Plan and only a small number of responses object to the Plan.

I have completed my examination of the Market Bosworth Neighbourhood Plan. In my examination I have found it necessary to suggest some modifications to meet the basic conditions, and subject to these modifications I am satisfied that the plan:

- has been prepared in accordance with Sections 38A and 38B of the Town and Country Planning Act 1990 and the Neighbourhood Planning Regulations 2012;
- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies of the development plan for the area;
- does not breach and is compatible with European Union obligations and the European Convention on Human Rights.

**I am therefore pleased to recommend that the Market Bosworth Neighbourhood Development Plan as modified by my recommendations should proceed to a referendum.**

I am also required to consider whether or not the Referendum Area should extend beyond the Neighbourhood Plan Area.

I understand that the parish boundary of Market Bosworth has changed since the Neighbourhood Area was designated, to include the whole of a row of houses on the north side of The Park. These dwellings clearly form part of the settlement of Market Bosworth and there would be no logical reason to exclude them from the referendum as they are now within the parish.

**Recommendation:**

**That the referendum area be extended to include the whole of the row of houses on the north side of The Park.**

## **Introduction**

1. The Localism Act 2011 has provided local communities with the opportunity to have a stronger say in their future by preparing neighbourhood plans which contain policies relating to the development and use of land.
2. Market Bosworth is a small town with a population of just over 2,000 people. The Market Bosworth Neighbourhood Plan (which I shall refer to as the MBNP) has been prepared by Market Bosworth Parish Council. If, following a recommendation from this examination, the plan proceeds to a local referendum and receives the support of over 50% of those voting, it can be made and will then form part of the statutory development plan. As such it will be an important consideration in the determination of planning applications, as these must be determined in accordance with development plan policies unless material considerations indicate otherwise.

## **Appointment of the Independent Examiner**

3. I have been appointed by Hinckley and Bosworth Borough Council, with the consent of Market Bosworth Parish Council to carry out the independent examination of the MBNDP. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).
4. I confirm that I am independent of the Parish Council and the Local Planning Authority and have no interest in any land within the parish of Market Bosworth.
5. I am a Chartered Town Planner with over 30 years' experience in local government, working in a wide range of planning related roles, including 15 years as a chief officer. Since 2006 I have been an independent planning and regeneration consultant. I have completed the independent examination of three neighbourhood plans and carried out three health checks on emerging neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this examination.

## **The Scope of the Examination**

6. The nature of the independent examination is set out in Sections 8-10 of Schedule 4B to the Town and Country Planning Act 1990.
7. I must:
  - a) decide whether the neighbourhood development plan meets the basic conditions contained in Schedule 4B paragraph 8(2) of the Town and Country Planning Act 1990. This element of the examination relates to the contents of the plan.
  - b) decide whether the plan complies with the provisions of Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004. These requirements relate primarily, but not exclusively, to the process of preparing the plan and I shall deal with these first.
  - c) make a recommendation as to whether the plan should be submitted to a referendum, with or without modifications, and whether the area for the referendum should extend beyond the plan area.
8. The Plan meets the basic conditions if:
  - a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the plan;
  - b) the making of the plan contributes to sustainable development;
  - c) the making of the 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);
  - d) the making of the plan does not breach, and is otherwise compatible with, EU obligations.
9. Paragraph 9 of Schedule 4B indicates that as a general rule the examination should be carried out on the basis of written representations unless a hearing is necessary to allow adequate consideration of an issue or to allow a person

a fair chance to put a case. For the most part I have been able to carry out the examination on the basis of the documentation I have received or have been referred to. However I was not satisfied that I could conclude my consideration of Policy BD2 without a hearing to investigate the deliverability of the proposed allocation for mixed use development. A hearing was held on 17 February 2015.

10. The main documents which I have referred to in the examination are:
- Market Bosworth Neighbourhood Plan as submitted to Hinckley and Bosworth Borough Council (October 2014) by Market Bosworth Parish Council.
  - Market Bosworth Neighbourhood Plan representations made under regulation 16 of the Neighbourhood Planning (General) Regulations 2012.
  - Market Bosworth Neighbourhood Plan Basic Conditions Statement October prepared by Dharmista Patel-Planning and Design October 2014.
  - Market Bosworth Neighbourhood Plan Consultation Statement September 2014, produced by RCC (Leicestershire and Rutland) on behalf of Market Bosworth Parish Council Neighbourhood Plan Steering Group, and the reports of earlier stages of consultation referred to in Appendix 1 of the statement and accessed at
  - Market Bosworth Neighbourhood Plan Strategic Environmental Assessment (SEA) Screening Report, prepared by Hinckley and Bosworth Borough Council on behalf of Market Bosworth Borough Council. May 2014.
  - Market Bosworth Neighbourhood Development Plan Sustainability Appraisal prepared by Dharmista Patel-Planning and Design October 2014.
  - Market Bosworth Neighbourhood Area.
  - Market Bosworth Neighbourhood Forum Constitution.
  - The Hinckley and Bosworth Local Plan Written Statement 2001
  - Hinckley and Bosworth Borough Council Borough Council Local Development Framework Core Strategy adopted in December 2009.
  - Hinckley and Bosworth Borough Council Borough Council Local Plan Site Allocations and Development Management Policies Development Plan Document pre-submission (regulation 19) Consultation Document.

- The National Planning Policy Framework 2012. (the Framework)
- Department of Communities and Local Government online Planning Practice Guidance. (PPG)

These documents include all those that are required to be supplied to me under Regulation 17 of the Neighbourhood Planning (General) Regulations 2012. (The Regulations)

11. I made an unaccompanied visit to Market Bosworth to familiarise myself with the plan area and its surroundings on 27 January 2015.

### **The Preparation of the Plan**

12. Market Bosworth Parish Council is a “relevant body” under Section 61G(2) of the Town and Country Planning Act 1990 (inserted by paragraph 2 of Schedule 9 to the Localism Act 2011). The Neighbourhood Area includes the whole of the parish of Market Bosworth<sup>1</sup> and is therefore in accordance with Section 61G(3) of the 1990 Act.
13. Market Bosworth Parish Council made an application to Hinckley and Bosworth Borough Council on 8 November 2012 for the designation of the whole of the parish as a neighbourhood area for the purposes of the Market Bosworth Neighbourhood Development Plan, in accordance with regulation 5 of The Regulations. Consultation on the proposed boundary was carried out from 19 November 2012 to 21 January 2013 in accordance with regulation 6. On 25<sup>th</sup> February 2013 Hinckley and Bosworth Borough Council notified the Parish Council that it had agreed to make this designation. However on 28 February an amended letter was issued with an amended approved map showing the Neighbourhood Area as the original map included a small area that does not fall within the parish of Market Bosworth, due to a small drafting error. The designation was subsequently publicised on the Borough Council website in accordance with regulation 7. I am satisfied that the designation of the Neighbourhood Area was in accordance with The Regulations.

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<sup>1</sup> As at the time of designation. There has been a subsequent change to the parish boundary which is considered further in paragraphs 83-84

14. Section 38B (1) (a) of the Planning and Compulsory Purchase Act 2004 requires that a neighbourhood plan must specify the period for which it is to have effect. The Foreword to the Plan states that the Plan “addresses the need for sustainable development ...until 2026” and the Introduction is also headed “looking forward to 2026”. However neither of these references give a start date for the Plan and in order to clearly meet the legal requirements on this point this should be rectified.
- Recommendation: That the front cover of the Plan be amended to say Market Bosworth Neighbourhood Plan 2014-2026; in the first sentence of the Foreword delete “...until 2026 and insert “for the period 2014-2026” and in the second sentence of paragraph 3.1a insert “for the period 2014-2026” after “...to the Neighbourhood Area”.**
15. The Plan must not include any provision about development that is excluded development as defined in Section 61K, which is inserted into the 1990 Town and Country Planning Act. Excluded development includes “county matters” such as mineral extraction and waste disposal and major infrastructure projects. I am satisfied that the submitted plan contains no such provision and does not relate to more than one neighbourhood area.

## **Public Consultation**

16. The Consultation Statement prepared by RCC (Leicestershire and Rutland) sets out the overall approach to consultation and the various stages of consultation. It helpfully sets out the aims of the consultation process which were:
- “- To ensure that the Market Bosworth Neighbourhood Development Plan was fully informed by the views and priorities of local residents, businesses, and key local stakeholders.
  - To ensure that detailed consultation took place at all stages of the Neighbourhood Planning process, especially where key priorities needed to be set
  - To engage with as broad a cross section of the community as possible, using a variety of events, workshops and communication techniques.
  - To ensure that all consultation results were made publicly available in both

hard and electronic format, and utilised to inform subsequent stages of the Neighbourhood Planning process.”

17. The consultation process started at the end of January 2013, immediately following the designation of the Neighbourhood Area with a drop-in event which was attended by 94 people. The aim of this was to identify key themes and issues and a report was prepared setting these out. It is noteworthy that at each stage of consultation there were defined aims which provided focus for the activity and the processing of the response.
18. Between March and September 2013 there was a series of events and initiatives to widen the involvement of the community as a whole and refine the issues initially identified. These included:
  - a stakeholder workshop where there were discussion groups on key themes and issues;
  - a youth consultation outreach programme involving 158 young people to identify their likes and dislikes in Market Bosworth and their ideas for improvement; younger children were involved through workshops and older ones through a questionnaire;
  - a further drop-in event on 25 June 2013 where issues identified to date were displayed and attendees were invited to make comments and to indicate their preferences from two alternative residential sites and their views on the value of different green spaces, attended by 140 people;
  - a household questionnaire survey was completed between 17 July and 12 August 2013 which sought views on: the essential characteristics of Market Bosworth, services and facilities, Local Green Space allocations, housing and development opportunities, town centre enhancement and transport. 475 responses were received.
19. The results of all of these initiatives were collated and presented in a report which was used to:
  - a) Support and inform the preferred site for development;
  - b) Map and prioritise important buildings, heritage assets and open spaces to be protected from development;

- c) Develop and justify a series of Neighbourhood Development Plan policy statements focussing on key local issues and priorities;
20. Pre submission regulation 14 consultation on the Draft Neighbourhood Plan was carried out between 16 June and 25<sup>th</sup> July 2014. During this period, all households were notified of the consultation; the Plan was available on the Bosworth Vision website and in hard copy at the Parish Council Office and at two exhibitions which were held at the village hall (attended by 60 residents). All statutory consultees were contacted, and invited to make comments by e mails or by returning a comments form. Responses were received from 39 residents, 12 public bodies and two developers. All of the responses and the action taken in response to them are contained in the Consultation Statement.
  21. Most of the comment at the pre-submission stage was in support of the Plan proposals, and this may well reflect the extensive work at the earlier stages to involve the whole community and achieve a consensus around the main issues to be addressed.
  22. The consultation process carried out during the preparation of the plan significantly exceeds the minimum requirements in the regulations and the Consultation Statement complies with regulation 15(2).
  23. 39 representations have been received in response to the consultation conducted by the Borough Council, following the submission of the plan, in accordance with regulation 16. A further 3 representations were received shortly after the deadline of 9 December. While I have not referred to all of these individually, I have taken all of them into account. Most of the responses support the plan either without reservation or with some modifications. A small number oppose the Plan or comment on specific aspects of it without giving an overall view.

## **The Development Plan**

24. The statutory development plan is made up of the Local Plan<sup>2</sup> Core Strategy adopted in December 2009, the Saved Policies of the Hinckley and Bosworth Local Plan 2001 and the Leicestershire Core Strategy & Development Control Policies Documents relating to Minerals and Waste respectively for the period up to 2021. The MBNP must be in general conformity with the strategic policies of these plans.
25. The Emerging Hinckley and Bosworth Local Plan Site Allocations and Development Management Policies Document was the subject of Pre-Submission Consultation in February 2014. As a result of representations several modifications were made and these were the subject of pre-submission consultation from 8 December 2014 to 30 January 2015. As this document is not yet part of the development plan conformity with it is not required to meet the basic conditions, but is clearly good practice and in the interest of the continued relevance of both plans.

## **The Basic Conditions Test**

26. The Basic Conditions Statement which has been submitted with the MBNP is intended to demonstrate how the plan meets the basic conditions which I have referred to in paragraph 8. This document clearly and thoroughly presents the relationship between the MBNP and the Framework and NPG. However, in relation to the requirement for “general conformity with the development plan for the area”, I have found this document somewhat misleading and unhelpful. It does not refer to the saved policies of the Hinckley and Bosworth Local Plan 2001 which remain part of the development plan and it does not clearly distinguish between the status of the policies in the Core Strategy and those in the emerging Site Allocations and Development Management Policies Document.

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<sup>2</sup> Local Development Framework at the time of adoption

27. I shall consider the compatibility of the MBNP with basic conditions a), b) and c) in relation to each of its policies but will first consider whether it meets European Union obligations.

### **European Union Obligations**

28. A Strategic Environmental Assessment (SEA) Screening Report dated May 2014 was prepared by Hinckley and Bosworth Borough Council. It concluded that the MBNDP is unlikely to have significant environmental effects that were not covered in the Sustainability Appraisal of the Core Strategy 2009 or the Pre-Submission Site Allocations and Development Management Policies DPD and that a SEA was therefore not required. This draft finding was the subject of consultation with the consultation bodies as defined in the Environmental Assessment of Plans and Programmes Regulations 2004. The consultation indicated that if no response was received by 7 July 2014 it would be assumed that the draft screening opinion was correct. Replies were received from two of the consultees confirming the opinion and no reply was received from the other two. The report setting out the opinion is available on the Council's website.
29. The screening process was carried out in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 and that a SEA is not necessary.
30. The screening assessment also established that no European designated nature sites are close to the neighbourhood plan area and that an appropriate assessment under the EU Habitats Regulations would not be required.
31. I am also satisfied that nothing in the plan is in conflict with the European Convention on Human Rights.
32. I therefore conclude that the plan is compatible with and does not breach European Union obligations.

## **The Neighbourhood Plan**

33. It is evident that underpinning the whole approach to the MBNP is a passion to maintain the essential character of Market Bosworth. Residents clearly take great pride in their town and it is undoubtedly the case that Market Bosworth is a very attractive small town with a unique character that makes it a desirable place to live. The Plan starts with the intention of accommodating the new development that is required having regard to the Hinckley and Bosworth Core Strategy 2009 and at the same time maintaining and enhancing the historic character of the town and its role as a local centre. This approach is clearly set out in the Vision for Market Bosworth in Section 5 at the beginning of the Plan itself and the 7 Aims that build on the vision clearly flow from the community consultation and the evidence base that is set out in the first part of the document. While the Vision and Aims do not have the status of being policies they are of fundamental importance influencing development of policies. There is no conflict between the basic conditions and the Vision and the Aims of the Plan.

## **The Policies of the Market Bosworth Neighbourhood Plan.**

34. The policies of the Plan are grouped under 2 main themes:

- Character and Environment
- Building and Development.

In considering these policies it is important to clarify the restricted nature of my role. I may only suggest modifications to the policies where they are necessary: to comply with the basic conditions set out in paragraph 8, to be compatible with the European Convention on Human Rights or to correct errors.<sup>3</sup> The purpose of the policies, as set out in paragraph 183 of the Framework, is to guide decisions on planning applications, and Planning Practice Guidance sets out the requirements for policies which include the need to be “clear and unambiguous” and “drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when

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<sup>3</sup> Schedule 4B to the Town and Country Planning Act 1990 Paragraphs 10 (3) (a) and (b)

determining applications”<sup>4</sup>. Some of the amendments I have suggested are to ensure that the wording of policies is sufficiently clear for this purpose.

### **Policy CE1 Character and Environment**

35. The policy is in two parts and I shall consider them separately.
36. **Policy CE1a** aims to ensure that new development is compatible with the character of its surroundings. Section 4.3 of the Plan divides the town into 8 Character Areas and describes their characteristics in some detail. From my visit I found these to be a helpful and accurate analysis of the character of the town. The policy also requires development to be sensitive to the main characteristics of adjacent Character Areas. The intention of the policy is entirely consistent with the guidance in paragraphs 58 and 60 of the NPPF regarding the importance of good design and local distinctiveness. However I found the reference to scale, layout and materials ambiguous as it appears to relate to adjoining Character Areas rather than the Character Area within which the proposal lies. I have therefore recommended a minor change in wording to clarify this and further minor changes to clarify the link between the policy and the Character Areas Map. Subject to these changes the policy is consistent with the basic conditions.

### **Recommendations**

**In the first sentence of Policy CE1a after “...with its Character Area” insert “with regards to scale, layout and materials”.**

**Delete the second sentence and insert “Where new development would be visible from an adjacent Character Area it should be sensitive to the principal characteristics of that area”.**

**In the third sentence insert “on page 13 after “...the Character Areas Map”.**

**On the Character Areas Map add the annotation D to the strip of development along The Park to the east of Character Area E.**

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<sup>4</sup> Planning Practice Guidance Reference ID:41-041-20140306

37. **Policy CE1b** relates specifically to Character Areas D and E. The reference to Character Area D is consistent with the basic conditions as the wording contains sufficient flexibility to allow for the presumption in favour of sustainable development. Character Area E is the historic core of Market Bosworth. The description on page 24 makes it very clear how important this area is to the distinctive character of the town and it is entirely appropriate to protect it. However, the policy is prescriptive and contains the assumption that any development that would intrude on the skyline would be harmful. Many great buildings, including modern ones which have been subject to planning control, would not have materialised if they had faced such a test. While new development that would intrude on the skyline may be unlikely to be acceptable having regard to local distinctiveness and the character of heritage assets, to preclude it would be too prescriptive to be consistent with the presumption in favour of sustainable development or with the support for innovative design in paragraphs 60 and 63 of the Framework. It would also be more rigid than Local Plan Policy BE1a. A modification to Policy CE1b is necessary to avoid this conflict.

#### **Recommendation**

**In the second sentence of Policy CE1b replace “be in keeping with” with “respect” and delete “intrude on the skyline or”.**

#### **Policy CE2: Local Green Space**

38. The policy designates three areas as Local Green Spaces. Each of these is very different in terms of its essential character and its importance to the community. The Framework sets out specific requirements for the designation of Local Green Spaces and I have considered each of the proposals in relation to these.
39. The Bosworth Country Park is an extensive area of open space on the edge of the town which is important both to the setting of the town and as a green lung with public access. The Country Park is larger than the area designated as it extends beyond the parish boundary. One of the criteria in the Framework is that Local Green Spaces should not be an extensive tract of land. There is no definition of “extensive” in this context and the meaning will

vary depending on local circumstances. However the Country Park is a large area of land and I used the term extensive to describe it spontaneously, and without direct regard to the Framework. It also forms part of a much larger area with the same characteristics. I have concluded that it is too large to satisfy the criteria for designation as a Local Green Space. However the area is already protected from inappropriate development by saved policy REC1 of the 2001 Local Plan which is likely to be replaced by emerging policy DM8.

40. Silk Hill is an area of mainly grazing land that slopes steeply away from the centre of the town to the north; there is extensive public access to it by means of many footpaths which cross it. It is an important feature in many of the views and vistas identified later in the Plan and is a defining feature in the setting of the town on the top of a hill. While it is quite a large area, it is much smaller than the Country Park and enjoys no special protection except as an area of countryside. It seems to me to be precisely the sort of area for which the Local Green Space designation was intended and I am entirely satisfied that it meets the requirements for Local Green Spaces set out in the Framework.
41. The verges along Sutton Lane are also a distinctive feature of the town and have an important recreational role for walkers. However, neither the Green Spaces map nor the Proposals Map clearly defines the extent of the proposed designation, and this is essential if the policy is to be implemented. The green arrow is also further north on the Local Green Spaces Plan than on the Proposals Map. From my visit I formed the impression, that while the section of Sutton Lane immediately south of the built up area is attractive, the verges are fairly narrow and only the verge on the west side of the lane where it widens after the bend in the road to the south can be regarded as distinctive and special. If this Local Green Space is to be retained it needs to be clearly defined on this basis.
42. The wording of Policy CE2 is consistent with Paragraph 76 of the Framework, but Paragraph 78 also requires that policy should be consistent with policy for Green Belts. Green Belt policy does not regard some classes of development as inappropriate. Because Local Green Spaces are much less extensive than

Green Belts, some of these categories of development would not be appropriate in them, but some definition of what “very special circumstances” means is necessary for the policy to be meaningful and consistent with the basic conditions. I have therefore recommended a modification to achieve this.

### **Recommendations**

#### **In Policy CE2:**

**delete “The area of the Country Park that lies within the Neighbourhood Area”;**

**either delete “Enclosed land either side of Sutton Lane” or replace it with “The wide verge including a line of mature oak trees on the west side of Sutton Lane”**

**amend the Proposal Map on page 23 and the Green Spaces Map on page 28 to reflect these modifications and clearly define the Sutton Lane Local Green Space if it is retained;**

**Replace the last section of Policy CE2 with: “New development that is incompatible with the importance of the Local Green Space as an attractive publicly accessible area will not be allowed unless there are very special circumstances where the benefits of the development clearly outweigh any harm.”**

#### **Policy CE3: Important Views and Vistas**

43. The policy aims to protect views into and vistas out of Market Bosworth from development that would have a harmful impact on them. This is an imaginative policy that demonstrates how neighbourhood plans can encapsulate the aspirations of a local community in a way that is difficult in a Local Plan covering a wider area. The views and vistas are important to the unique character of the town and it is appropriate for the MBNP to seek to protect them in order to maintain local distinctiveness.
44. I have given some thought to the views expressed in the objections from Clive and Jeffrey Vero and Leslie Allen James that the wording of the policy may be too restrictive and inflexible. I do not accept that the importance of these views and vistas is untested as the policy has been subject to extensive

consultation and it is evident from the responses that they are important to the community. It is the community involvement during the preparation of the plan rather than the findings of the inquiry into the Local Plan in 1997 on which the policy relies for its justification.

45. I have also given particular attention to the vista looking north from Station Road, identified as number 11 on the Proposals Map. This is the only view or vista identified in Policy CE3 that would be directly affected by one of the two areas considered for residential development, though vista 10 borders the proposed allocation in policy BD2. This suggests that it is important to evaluate the balance between the need for new residential or mixed use development and the value which the community attach to that view. The need for housing development is considered in detail in relation to Policy BD2. I have concluded in the consideration of that policy that there is no need in terms of compliance with the strategic policies of the Core Strategy for the land north of Station Road to be allocated and therefore the inclusion of viewpoint 11 in Policy CE3 is compliant with the basic conditions.
46. In relation to vista No.15, the photograph on page 33 relates to a view south eastwards across the countryside, whereas the notation on the Proposals Map and the Views Vistas and Landscapes Map suggests a view south along Sutton Lane. The description on page 33 relates to the view to both the south-east and south-west. The maps should be amended to reflect the description.
47. Policy CE3 would preclude any development that would have an adverse impact on these views, however slight, and this would be inconsistent with the presumption in favour of sustainable development. Where development would have a significant adverse impact it could rightly be regarded as unsustainable as it would fail to protect local distinctiveness, but it would be wrong to preclude development where the harm was slight and there were other benefits in terms of sustainability. I have therefore recommended a small change to reflect this.

**Recommendations:**

**Amend the Proposals Map and Views, Vistas and Landscapes Map to**

**show views across the countryside to the south-east and south-west as 15a and 15b.**

**In the second part of Policy CE3 after “...if it has” delete “an” and insert “a significantly”.**

#### **Policy CE4 Trees**

48. The policy prevents development that would result in loss of or damage to significant trees and woodlands. While trees and woodland are undoubtedly a vital element in the character of Market Bosworth and its surroundings, this is a very restrictive policy. The policy does not define significant trees and woodlands and unless trees are subject to Tree Preservation Orders or are in Conservation Areas their removal and pruning are not subject to planning control. Even where trees are subject to planning control it is unusual for policies to preclude their removal and more normal to require the provision of replacement trees. The trees within the Market Bosworth Conservation Area are protected but I have no information on the extent to which trees on the approaches to and around Market Bosworth are protected.
49. For these reasons the policy as it is currently expressed is not enforceable and therefore is not compliant with the basic conditions. For the policy to be enforceable it needs to be rephrased to relate to trees that are protected, or to define “significant trees and woodlands” as trees that are the subject of Tree Preservation Orders or in Conservation Areas. It may well be that the community would wish to increase the extent to which the trees on the approaches and around Market Bosworth are subject to protection. However, this is the responsibility of the local planning authority and thus cannot be the subject of a policy in the MBNP, though it could be expressed as an aspiration in supporting text.

#### **Recommendation:**

**Amend Policy CE4 to read “Mature trees and woodland should be protected wherever possible. Development that will result in the loss of or damage to Protected Trees and Woodlands (as defined in the glossary) will not be permitted unless a satisfactory scheme for the replacement of lost trees or mitigation of any damage to the landscape**

**is agreed.”**

**insert the definition of Protected Trees and Woodlands in the Glossary.**

**Policy CE5 Landscape of the wider parish.**

50. The first part of this policy aims to protect the countryside outside the settlement boundary from development that would harm the landscape. The implication of the policy is that development that would not harm the landscape would be acceptable, with no qualifications regarding the type of development. This raises several areas of tension with both development plan policy and the Framework. Saved policy NE5 of the Local Plan 2001 restricts development in the countryside to certain types of development, relating to the local economy, the reuse of existing buildings and sport and recreation as well as requiring development to avoid harm to the character and appearance of the countryside. The Framework in paragraph 28 seeks to support economic growth in the countryside but paragraph 55 emphasises the importance of residential development being in sustainable locations and aims to avoid isolated homes in the countryside except in special circumstances which it defines. It also seeks to prevent harm to biodiversity as well as the landscape in paragraph 109.
51. The second part of the policy is ambiguously worded as it is not clear whether the phrase “for employment and leisure uses” applies just to “limited small scale development” or to “the re-use and adaptation of existing buildings” as well. If the latter is the case it would by implication exclude residential or other uses in association with “the re-use and adaptation of existing buildings”. The policy does not refer specifically to residential development in the countryside. I suggest the following modifications to overcome these issues and ensure that the policy is compliant with the basic conditions.

**Recommendation:**

**Reword policy CE5 to read:**

**“In the open countryside outside the settlement boundary, new development only be permitted**

**a) where it contributes to the local economy or**

**b) for the reuse or extension of an existing building or**

**c) for sport or recreation or**

**d) for new dwellings in the circumstances identified in paragraph 55 of the Framework.**

**In all cases development will only be permitted where it does not cause harm to the landscape or biodiversity of the countryside that cannot be effectively mitigated.”**

### **Policy BD1: Affordable Housing**

52. Since the submission of the plan new PPG has been issued in relation to contributions to affordable housing which will require amendments to the policy. These changes prevent the seeking of contributions for developments of 10 units or less except in rural areas designated under S157(1) of the Housing Act 1985 where a lower threshold of 5 units or less is applicable. The guidance also states that affordable housing contributions should be sought from developments of between 6 and 10 units in the form of cash payments which are commuted until after the completion of units in the development. Market Bosworth is classed as a designated rural area in The Housing (Right to Acquire or Enfranchise) (Designated Rural Areas in the East) Order 1997 where the lower threshold is applicable.
53. The wording of the policy as written suggests that criteria a) and b) are only applicable in circumstances where a reduced level of affordable housing provision will be considered. However, there appears to be no clear reason for this distinction and the Local Connection Criteria referred to in the policy suggest that the approach it outlines is more generally applicable. The recommended modifications below are based on the assumption that these criteria are intended to apply to all affordable housing.
54. I have taken account of the concern from Bloor Homes that the requirement for affordable housing to be scattered through the site in groups of 4-6 homes is too rigid. The Borough Council's Supplementary Planning Document which offers more flexibility is not a strategic policy with which the Plan needs to comply. However, I acknowledge that there may be circumstances where sustainable development may be achieved with somewhat smaller or larger

groups. It is helpful for the policy to provide guidance on the preferred approach to the distribution of affordable housing within new developments and a minor modification to suggest some flexibility around this would be sufficient to comply with the presumption in favour of sustainable development.

**Recommendation:**

**Amend Policy BD1 to read as follows:**

**“ All residential developments of 11 dwellings or more should provide 40% affordable homes on-site where:**

**a) All on-site affordable housing is prioritised for those with a local connection as prescribed by the Local Connection Criteria (insert footnote);**

**b) Affordable housing is evenly spread across a development site in small clusters of approximately four to six dwellings.**

**Developments of 6-10 dwellings will be required to make an equivalent cash payment commuted until after the completion of dwellings on the site. In all cases, where it can be demonstrated that the required level of the affordable housing contribution is not viable through a viability assessment, reduced affordable housing provision will be considered.”**

**Policy BD2: Site allocation south of Station Road and Heath Road**

55. The policy allocates an area of land south of Station Road for mixed use development. For clarity there should be a clear link between the policy and the Proposals Map.
56. From the information provided in written form I was unable to conclude my consideration of this policy as it was not clear to me that the policy could be delivered. I therefore held a hearing to address this issue<sup>5</sup>. In the course of the hearing, and immediately following it, some additional information relating to the policy was provided.
57. The policy allocates a roughly rectangular area of land for mixed use including sufficient dwellings to meet the requirement for a minimum of one hundred

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<sup>5</sup> Details of the hearing are attached in the Appendix

dwellings in Market Bosworth up to 2026<sup>6</sup>, between 0.5ha and 1ha of employment land, open space and a community facility. The minimum figure for the number of dwellings to be built on the site is stated to be 43, taking account of permissions granted since the approval of the Core Strategy.

58. At the hearing some doubt was cast on the prospects for the development of the Sedgemere Site, to the west of the railway line, because of constraints relating to a gas main. Planning permission was granted for 57 dwellings on this site in 2012, but I was told that a revised application which is recommended for approval has been submitted for 45 dwellings. On this basis 55 dwellings would meet the minimum requirement in the Core Strategy of 100 dwellings in Market Bosworth. I have been informed that 18 dwellings have been completed since the Core Strategy was adopted, but it is not clear whether the permissions relating to these were taken into account when the strategy was adopted.
59. The total area of the site proposed in policy BE2 is 7.5 hectares. Allowing for both industrial use and open space within this area, it is evident that it is capable of accommodating substantially more than 55 dwellings and could probably allow for 100 dwellings. In order to comply with the development plan policy and the presumption in favour of sustainable development 55 dwellings should be regarded as a minimum rather than a maximum. There is therefore no reason to conclude that, taken with the Sedgemere site the requirement for a minimum of 100 dwellings over the life of the Core Strategy cannot be met.
60. Bloor Homes have suggested that there should be some flexibility to increase the area of the allocation by extending it to the south. However, I see no need on the information provided to me to suggest a modification on these lines.
61. The selection of the site is based on a comparison of the site with an alternative site north of Station Road which is set out in Appendix A2. In some respects this evaluation appears to lack rigour as the justification for some of the assessments is not clear. In particular I can see no reason why

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<sup>6</sup> Policy 11 of the Hinckley and Bosworth Local Plan Core Strategy 2009

noise from the JJ Churchill industrial site is a more serious issue for the land north of Station Road than for the proposed site. In other instances it may well be possible to secure some of the benefits identified in the design brief for the proposed site in similar requirements for the site north of Station Road. The evaluation also does not acknowledge any loss of attractive landscape from the proposed development, although the Consultation Statement indicates that the area including the proposed site was in the top 5 spaces valued for both visual amenity and leisure and recreation<sup>7</sup>.

62. However, I am satisfied that the lower visibility of the proposed site is an important advantage, as the site north of Station Road would result in a significantly more urbanised approach to the town. While the proposed site would result in some loss of attractive landscape, the nature of Market Bosworth is such that any green field development is likely to result in some loss of view over the countryside. The substantially greater public support for the proposed site is an important consideration, as it is clearly linked to important planning considerations, notably that the proposed site would have less impact on the character of the town and would have a better relationship to existing development.
63. The site to the south of Station Road also offers the potential for a mixed use development that would also provide additional employment land and open space. This reflects the advice in paragraph 55 of the Framework. Representations have questioned the need for additional employment land in Market Bosworth, but Core Strategy policies 7 and 11, relating to Key Rural Service Centres and Market Bosworth specifically require some provision of employment land. The potential to facilitate this is a definite advantage of the proposed site as the economic dimension is an important strand of sustainable development. It is entirely consistent with the basic conditions to provide the opportunity for more business development.
64. There is no evidence from the responses from statutory consultees that there are any major constraints to the development of the site and the emerging

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<sup>7</sup> Consultation Statement p 65

Site Allocations and Development Management Policies document also identify the site proposed in policy BD2 as the preferred location for new development in Market Bosworth.

65. I have taken account of the representations from individuals living close to the site. One of these relates mainly to the effect of development on this scale on traffic and facilities in the village rather than this location in particular. For the most part the others relate to how the development of this site can be accommodated without harm to the living environment in Heath Road rather than opposition in principle. One makes comments regarding sensitive treatment of the proposed pedestrian access to maintain planting and provide an adequate buffer with existing housing. These are matters to be considered in relation to a planning application. Another relates to the proximity of the proposed employment use to No.93 Heath Road as shown on the indicative drawing. As the drawing is only indicative it will not form part of the development plan and the detailed layout will be determined through a planning application, but I do have some sympathy with this concern.
66. The representation from DG Lewis refers to the potential of the former sewage treatment works to accommodate residential development and the priority to be accorded to brownfield land. While the site may have potential in the longer term, it is rather detached from the existing built up area and in this respect would not be as sustainable as the site which has been proposed.
67. The hearing to consider the deliverability of the proposal was necessary as if the development of the site was unable to proceed the Plan would not make sufficient provision for new development to be able to comply with the Core Strategy. At the hearing, I heard from the Parish Council, the Borough Council and Bloor Homes that negotiations regarding the acquisition of the site and securing an access through the industrial area were at a fairly advanced stage. The site proposed is owned by the Church which is willing to dispose of it to further the policies of the MBNP. The industrial land is owned by the Borough Council, but part of the land required for the access is leased to a cycle spares business and Flying Spares. Negotiations are in hand to provide for the surrender of these leases in return for the provision of

improved premises and the Borough Council is prepared to dispose of the site subject to meeting its duty to secure best value. None of the parties anticipated difficulty in concluding negotiations.

68. With regard to viability no detailed information has been provided as this would be prejudicial to the ongoing negotiations. However, Bloor Homes have indicated that they are satisfied that the site can be developed and in a recent review of a large number potential development sites in the Midlands, which resulted in a significant number being discarded as unviable, this site was retained.
69. While negotiations remain to be completed, and thus the site does not fully meet the requirements in the Framework for deliverability within 5 years, I am satisfied that there is a very good prospect of development commencing within that period and that the site more than satisfies the test of being developable within the plan period which is set out in the Framework<sup>8</sup>.
70. I have had regard to the representations of the owners of the land north of Station Road and Persimmon Homes who represented them at the hearing, which make the case for the development of their site either instead of or in addition to the proposed site. However, I am satisfied that the allocation of the site south of Station Road would contribute to sustainable development as well as having public support. I am also satisfied that with this allocation the Plan makes sufficient provision to comply with the strategic policies of the Core Strategy and I have not identified any other conflict with the basic conditions. There is therefore no necessity to recommend a modification to add the site north of Station Road.
71. The third element of the development proposed on the site is a requirement for open space and a community facility. It is clear that some provision of open space is necessary for a development of this scale and Core Strategy Policy 11 identifies the need for improved GP facilities in Market Bosworth to serve a growing population. However there is no clear evidence that a new surgery in this location would be the appropriate solution. In any case the

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<sup>8</sup> Definitions of deliverable and developable contained in footnotes on page 12 of the Framework.

Plan is not specific about the nature of any proposed community facility and there are also several other community and leisure facilities in the town. In the absence of any definition of the type of community facility required it is unduly onerous and inconsistent with the presumption in favour of sustainable development to require a new community facility as part of the allocation. It would though, be entirely appropriate to encourage the provision of such a facility.

72. To conclude on this policy, I am satisfied that subject to the amendments below it meets the basic conditions.

### **Recommendations**

#### **Amend Policy BD2 to read as follows**

**“An area of 7.5 hectares as shown on the Proposals Map is allocated for mixed use development. The development shall provide:**

- 1. Between 0.5 hectare and 1 hectare of additional B1, B2 or B8 employment land;**
- 2. A minimum of 55 dwellings with overall housing density, mix and design in line with Core Strategy 16;**
- 3. An area of open space.**

**The inclusion of a community facility within the development will also be encouraged.”**

#### **Policy BD3 Design Guidelines for the site allocation south of Station Road and Heath Road**

73. The policy refers to the need for developers to provide a Design Brief addressing a number of requirements. The term “Design Brief” is confusing in this context as in many respects the requirements listed constitute a “Design Brief”.
74. The requirements listed are consistent with the basic conditions with the following exceptions.
75. The first criterion requires a clear separation between commercial vehicles using the industrial area and residential vehicles, pedestrians and cycles. While separation may well be achievable for pedestrians and cycles, Bloor

Homes have indicated that the proposed access through the industrial area will be shared between industrial and residential traffic for a short distance and may well provide a new access to JJ Churchill Ltd. This is not an ideal arrangement, but there is space within the area indicated on the indicative drawing and described to me at the hearing to provide a substantial and safe new access which would be a substantial improvement for the industrial area and acceptable for the residential development.

76. I understand that Bloor homes hold options on two properties in Heath Road opposite the bottom of Godsons Hill. It is evident to me that this would not provide a satisfactory main vehicular access to the new residential area because of the additional traffic that would be required to use the relatively narrow roads in the vicinity, particularly Godsons Hill. In several responses to pre-submission consultation it is stated that policy BD3 specifies that access to the site will be from Station Road only<sup>9</sup>. However, this is not stated explicitly and it is therefore necessary, in order to secure sustainable development, to make it clear in the first criterion that the main vehicular access would be through the industrial area south of Station Road.
77. The requirement for affordable housing to be “pepper-potted” is not consistent with the approach to affordable housing outlined in Policy BD3 as it implies that individual affordable houses will be spread within the market housing.
78. Bloor Homes have also questioned the meaning of requirement 16 and I accept that as currently phrased it is not clear. My understanding is that the intention is that there should be some scope for public access between the development and the open countryside to allow enjoyment of this rural location and provide for a gradual transition from the built up area to the countryside. I have suggested an amendment on these lines.

### **Recommendations**

**In policy BD3 delete the second line and insert “Development proposals for the site should address the following issues:”**

**Amend Policy BD3 1 to read “The main vehicular access to the new**

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<sup>9</sup> Consultation Statement pages 95, 96 and elsewhere

**development will be through the industrial area on the south side of Station Road. It is important to ensure there is a clear and safe separation of heavy goods traffic and work vehicles linked to industrial units from provision for pedestrians and cyclists.”**

**In Policy BD3 6 delete “pepper-potted and” and add after “...the development” “in accordance with Policy BD1 b).”**

**Amend Policy BD3 16 to read “retain a publicly accessible space between the development and the open countryside.”**

Subject to these alterations Policy BD3 is consistent with the basic conditions.

## **Aspirational Projects**

79. Section 7 of the MBNP presents a number of aspirational projects which the document rightly recognises cannot be included as planning policies at this stage. The document identifies the potential to secure funding for some of these projects either through Section 106 agreements or the Community Infrastructure Levy. It is helpful for the Plan to identify projects in this way as it demonstrates a way of addressing issues raised during consultation that cannot be the subject of policies, either because they do not relate to the development and use of land or because they have not yet been defined to a point where they can be expressed as policies. The potential to use Section 106 funding is of course limited by the very specific criteria that have to be met for such agreements<sup>10</sup>. In particular the contribution sought must be necessary to make the development proposed acceptable. When the Community Infrastructure Levy is introduced there will be much more potential for communities where neighbourhood plans exist to secure funding for projects sought by the community.

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<sup>10</sup> Planning Practice Guidance Ref ID: 23b-001-20140306

## Summary and Referendum

80. It is very apparent from the Plan and the supporting documentation that the preparation of the Market Bosworth Neighbourhood Plan has been driven by the pride that the community takes in Market Bosworth together with a clear wish to define what it is that makes the town special and to ensure that this distinctive character is maintained. At the same time there is a clear recognition of the need to accommodate some new development both to meet the basic conditions and to meet the requirements of the local community and to provide for new business development.
81. It is very clear that there has been extensive involvement of all sections of the community in the preparation of the Plan and a good level of co-operation between the steering group leading the preparation of the Neighbourhood Plan and Hinckley and Bosworth Borough Council. It is noteworthy that most of the representations that have been received in response to the Regulation 16 consultation are in support of the plan and only a small number of responses object to the plan.
82. The preparation of the plan has been in accordance with the legislation. I have found it necessary to suggest some modifications to enable the policies to meet the basic conditions, and subject to these modifications I am satisfied that the Plan:
- has been prepared in accordance with Sections 38A and 38B of the Town and Country Planning Act 1990 and the Neighbourhood Planning Regulations 2012;
  - has regard to national policies and advice contained in guidance issued by the Secretary of State;
  - contributes to the achievement of sustainable development;
  - is in general conformity with the strategic policies of the development plan for the area;

- does not breach and is compatible with European Union obligations and the European Convention on Human Rights.

**I am therefore pleased to recommend that the Market Bosworth Neighbourhood Plan should proceed to a referendum subject to the modifications that I have recommended.**

83. I am also required to consider whether or not the Referendum Area should extend beyond the Neighbourhood Plan Area.
84. The boundary of the designated Neighbourhood Area runs diagonally through the line of houses on the north side of The Park to the east of the town. Indeed in several cases the boundary runs through individual properties so that part of the plot lies within the boundary and part outside. Hinckley and Bosworth Borough Council has requested that the Referendum area should be amended to include all of the houses in the row. Since the designation of the Neighbourhood Area the parish boundary has been changed so that it now includes all of the houses on the north side of The Park.
85. There is no doubt that all the houses on the north side of The Park are part of the community of Market Bosworth. Planning Practice Guidance suggests that “it may be appropriate to extend the referendum area beyond the neighbourhood area for example where the scale or nature of the proposals in the draft neighbourhood plan are such that they will have a substantial, direct and demonstrable impact beyond the neighbourhood area”. It is evident that the occupants of the houses in Park Row that lie outside the originally designated area will be affected by the policies of the MBNDP every bit as much as those that lie within it. Given that they now fall within Market Bosworth I can see no good reason why they should not be included in the referendum area.

#### **Recommendation**

**That the referendum area be extended to include the whole of the row of houses on the north side of The Park.**

Richard High                      March 2015



## **Appendix**

A hearing was held on 17 February 2015 at the Swan House Business Centre, Bosworth Hall at 11 am.

Representations were received from the following:

Market Bosworth Parish Council / Neighbourhood Forum	John Wastenev
Hinckley and Bosworth Borough Council	Simon Atha
	Sally Smith
Bloor Homes	Max Whitehead
	Alister Sykes
Persimmon Homes	Nigel Hainsworth
	Hannah Guy