

East Leake Neighbourhood Plan 2013 - 2028

**Report by Independent Examiner
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1. Introduction

Neighbourhood planning represents the response of the Government to address what is seen as a remote and increasingly complex planning system. The National Planning Policy Framework (NPPF) 2012 identifies the need for planning to be, amongst other things, 'genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area'.¹

This Report identifies the outcome of the Examination into the East Leake Neighbourhood Plan (hereafter referred to as the ELNP). East Leake is a south Nottinghamshire Parish of some 7,000 people within the local authority area of Rushcliffe Borough Council. It is described within ELNP as being largely self-contained and acts as a hub for surrounding smaller villages.

My role as Independent Examiner is to consider whether the submitted ELNP meets a number of legal requirements and to recommend whether it should proceed to a Referendum. Should that be the outcome and more than 50% of those voting do so in favour of the ELNP, then the Plan would be 'Made' by Rushcliffe Borough Council. The Neighbourhood Plan would then be used to help determine planning applications in the East Leake Parish.

Rushcliffe BC appointed me as Independent Examiner for the ELNP, with the consent of East Leake Parish Council, to begin the examination of the ELNP at the beginning of May 2015, following the completion of the final stage of consultation, which ended on 2 April 2015

As Independent Examiner, I fulfil the legislative requirements² as I am independent of the Qualifying Body, I do not have any interest in the land in the plan area and I have appropriate qualifications and experience, having worked in and around the planning system in a public and private capacity for a period of over 20 years, and also being a Parish Councillor.

2. Examination requirements

In examining the Plan, the Examiner is required to check³ whether:

- The policies in the Plan relate to the development and use of land for a designated Neighbourhood Area are in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004;
- The Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 to specify the period for which it has effect;

¹ Paragraph 17 bullet point 1 of the NPPF (2012)

² Town and Country Planning Act 1990, Schedule 4B, para 7(6)

³ Town and Country Planning Act 1990, Schedule 4B, paragraph 8(1)

- The Plan has been prepared for an area designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.

The Neighbourhood Plan must not deal with county matters (mineral extraction and waste development), nationally significant infrastructure or any other matters set out in legislation⁴ known as excluded development.

Planning Policy Guidance requires the Examiner to review the consultation process that has been undertaken in the preparation of the Neighbourhood Plan.

It is also the role of the Independent Examiner to consider whether a Neighbourhood Plan meets the “Basic Conditions” as set out in the Localism Act 2011. In order to meet the Basic Conditions, the Plan must:

1. have regard to national policies and advice contained in guidance issued by the Secretary of State;
2. contribute to the achievement of sustainable development;
3. be in general conformity with the strategic policies of the development plan for the area;
4. be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

Having examined the Plan, the Independent Examiner is required to make one of the following recommendations:

1. The Plan can proceed to a Referendum;
2. The Plan, with recommended modifications, can proceed to a Referendum;
3. The Plan does not meet the legal requirements and cannot proceed to a Referendum.

If recommending that the Neighbourhood Plan should go forward to Referendum, the Examiner must then consider if there are any factors that require the Referendum Area to extend beyond the Plan Area.

Where I am recommending amendments to the Plan, **I have written this in bold in the appropriate section of the report.**

3. Process

I made an unaccompanied visit on 27 May 2015 and spent half a day looking around the Plan Area and seeing for myself the range of issues and areas described in the Neighbourhood Plan.

⁴Town and Country Planning Act 1990, Section 61K

I have examined the Neighbourhood Plan against all of the Basic Conditions and requirements listed above.

It is an expectation that Neighbourhood Plan Examinations will be undertaken through written representation, requiring a public hearing only where the Examiner considers it necessary to ensure adequate examination of an issue, or to ensure that an individual has a fair chance to put their case.

Following consideration of the ELNP and the written representations submitted, I confirmed to Rushcliffe Borough Council on 15 May 2015 that I was satisfied that the ELNP could be examined without the need for a Public Hearing. No respondent had requested a Public Hearing. I consider that all those affected by the Neighbourhood Plan have had a fair chance to put a case and I have not needed to consider any area in greater detail than that provided.

4. Documents viewed

In undertaking this Examination I have either been supplied with, or have independently accessed, the following documents:

- Letter requesting designation as a Qualifying Body and confirmation of designation from Rushcliffe Borough Council;
- East Leake Neighbourhood Plan 2013 to 2028 Submission Version, Final Version, 13 January 2015;
- Rushcliffe Local Plan December 2014;
- East Leake Neighbourhood Plan Statement of Basic Conditions;
- East Leake Neighbourhood Plan Statement of Consultation Final Version, 13 January 2014 (sic) Plus Appendices;
- NPIERS Pre Examination Health Check 13 December 2014;
- Pre submission consultation responses, November 2014;
- Pre examination representations;
- East Leake Neighbourhood Plan Assessment of Areas Identified as Local Green Space;
- List of Statutory Stakeholders consulted through the process.

I have also had regard to the legislative requirements and to policy guidance from Central Government.

5. Procedural compliance

a. Development and use of land

I am satisfied that the ELNP satisfactorily covers development and land use matters.

b. Plan period

A Neighbourhood Plan must specify the period during which it is to have effect. The front cover of the ELNP clearly states that it covers the period 2013 to 2028. This period is restated in the Introduction which confirms the correlation with the Rushcliffe Borough Council Core Strategy. I therefore confirm that the Neighbourhood Plan satisfies this requirement.

c. Qualifying Body

East Leake Parish Council is the Qualifying Body for preparing the ELNP. Legislation identifies Parish Councils as appropriate bodies for the purposes of preparing a Neighbourhood Plan.⁵

d. Designated area

The area covered by the Neighbourhood Plan is the whole of the parish of East Leake. This was confirmed in the letter requesting designation which was submitted to Rushcliffe Borough Council on 2 September 2012 which also included a map of the area to be covered. The designation was formally made on 4 December 2012. The Basic Conditions Statement submitted with the ELNP confirms there are no other Neighbourhood Plans covering the Area. I can confirm that the area is appropriately designated for the purposes of preparing a Neighbourhood Plan.

e. Excluded Development

I am satisfied that the ELNP does not cover County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters referred to as excluded development⁶.

f. Statement of Consultation

I am required to check the consultation process that has led to the production of the Plan, as set out in the Neighbourhood Planning (General) Regulations 2012. The Parish Council has submitted a document entitled the East Leake Neighbourhood Plan Statement of Consultation Final Version, 13 January 2014 **(this actually refers to 2015 and the document should be amended accordingly)**. This document describes the consultation that has been undertaken in the preparation of the Plan.

The Statement of Consultation describes a significant amount of engagement with a wide section of the community; with statutory agencies and with other stakeholders. The timeline is particularly helpful in detailing the extent of publicity surrounding the development of the Neighbourhood Plan and in recording the comments made and the responses to these comments, specifying its impact on the Neighbourhood Plan where

⁵ Neighbourhood Planning (General) Regulations 2012, Part 2

⁶ Town and Country Planning Act 1990, Section 61K

appropriate and necessary. I commend the Project Team both for the manner of the consultation undertaken and for the thoroughness of the Statement of Consultation which is a very helpful document in setting out very clearly the process that has been undertaken.

On Page 49 of the Statement of Consultation, it states that 'The Statutory pre submission public consultation on the Neighbourhood Plan, as required in Section 21 of the Neighbourhood Planning (General) Regulations 2012, ran from 15 September to 31 October 2014. **The appropriate reference is Regulation 14 of those Regulations and the document should be amended to reflect this.** Regulation 21 deals with Neighbourhood Development Orders and Community Right to Build Orders which are not relevant considerations.

A six-week consultation on the ELNP took place from 15 September to 31 October 2014. I am satisfied that this has met the requirements of Regulation 14⁷. A total of 120 responses were received at this stage of the process from residents, and the comments are recorded in the Statement of Consultation, Section 6.6. Appendix 8 'Pre Submission consultation responses, November 2014' records the 24 responses from organisations, including landowners. This represents a very impressive response and reflects a thorough process of engagement.

Rushcliffe Borough Council made an initial assessment of the submitted ELNP and the supporting documents and is satisfied that these comply with the specified criteria. During the period of pre Examination notification, responses were received from a further 9 respondents.

Some responses suggest additions and amendments to policies. My remit is to determine whether the Plan meets the Basic Conditions. Where I have concluded that policies do meet the Basic Conditions, I have not considered whether the suggested additions or amendments are required. Whilst I have not made reference to all these representations in my report, I have taken all of them into consideration.

During the process of consultation on the submission version of the Neighbourhood Plan, a respondent made reference to a failure on behalf of the ELNP Project Team to fully consult landowners and to carry out the actions noted in the minutes to Project Team meeting minutes which stressed the importance of landowner consultation.

Nonetheless, I consider that all residents, including those who are landowners, were able to respond to plan proposals through the local consultation arrangements as described in the Statement of Consultation, and indeed the respondent has submitted a detailed response as part of this process. On this basis I conclude that residents and landowners can reasonably be expected to have been both aware of the consultations, and to have had the opportunity to participate.

⁷ Neighbourhood Planning (General) Regulations 2012, Part 5

g. Statutory Bodies

A list of statutory bodies consulted has been provided. These are appropriate and conform to the legislative⁸ requirements.

h. Basic Conditions Compliance

I am required to determine whether the ELNP:

1. has regard to national policies and advice contained in guidance issued by the Secretary of State;
2. contributes to the achievement of sustainable development;
3. is in general conformity with the strategic policies of the development plan for the area;
4. is compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

I address the issue of conformity with the Basic Conditions when I consider each policy in turn. In doing so I have referenced the Statement of Basic Conditions dated 8 January 2015 as provided by the Neighbourhood Plan Project Team.

6. Structure of ELNP submission version

The Neighbourhood Plan, once Made, will become part of the Development Plan for Rushcliffe Borough Council and will have equal weight to the Local Plan in determining planning applications submitted to the Local planning Authority.

With this in mind, I consider it to be important that ELNP reads as a 'stand-alone' document which takes into account the agreed amendments that have been incorporated as the Plan has evolved, but that reference to these alterations is removed from the final version and the Plan re-written to reflect the flow of the narrative as a document in its own right.

Specifically, where a paragraph has been deleted, the statement '*This paragraph has been deleted*' should be removed and the paragraphs renumbered to take the deletion into account. Similarly, the removal of a proposed policy (such as that on affordable housing) makes the remainder of the Section unbalanced as there are objectives, key points and justifications, but no policy to which these areas should relate. Whilst I understand the desire to retain the subject area and the aspiration to review the policy deletion on review of the Plan, I recommend a restructuring of Section 2.5 to reflect the policy deletion. This also applies to Policy B2 which omits paragraphs a) and b) of the Policy. **These structural issues should be addressed prior to the finalisation of the Plan**

It is also necessary to check the references within the Plan document.

⁸ Neighbourhood Planning (General) Regulations 2012, Schedule 1

As an example, paragraph 2.6.10 refers to paragraph 50 of the NPPF and provides a quote that does not appear in that paragraph. It is actually a quote from paragraph 38. Similarly, the following paragraph of ELNP, paragraph 2.6.11, references policy 7 of the Rushcliffe Borough Council Core Strategy. The quote is from policy 8 and the precise section is not 3.2.5.2 but 3.12.2. **I recommend that these issues be addressed prior to the finalisation of the Plan.**

There are also a number of typographical and grammatical errors within the text that should be rectified and I have listed these in an appendix to this report, though there may be others.

The arrangement of each section within the ELNP report in terms of identifying the vision and objectives; addressing the key points; describing the policies and then offering an evidence base provides a clear and logical flow to the document. I take each section in turn, and highlight any proposed changes in bold.

7. Neighbourhood Plan Policies

a. Section 2 – Housing

The vision for housing is to ensure that essential services are increased in line with new developments within the Parish; to ensure an appropriate mix of housing moving forward; to restrict new housing to sites within walking distance of the Village Centre and to ensure appropriate design of new homes.

Section 2.1 addresses issues relating to the number of new homes and the relationship with infrastructure requirements.

There is clearly pressure on development within East Leake and the desire to control and manage this development is an appropriate concern for the Neighbourhood Plan, as is the need to ensure that infrastructure requirements are in place to ensure that East Leake remains a sustainable location for development. The prioritisation of a new Primary School; Health Centre and increased capacity for drainage and sewerage is both clear and unambiguous, as is the intention to review the infrastructure requirements within the review of the Neighbourhood Plan. Planning Practice Guidance (PPG)⁹ requires qualifying bodies to prioritise infrastructure requirements in meeting development needs and the identification of infrastructure both within this section and elsewhere within the document, coupled with a commitment to review the situation within 4/5 years satisfies this legislative requirement.

Policy H1 (a) acknowledges the minimum number of new homes to be constructed across East Leake up to 2028 in line with Rushcliffe Borough Council's Core Strategy¹⁰.

⁹ Paragraph 46 updated 06 03 2014

¹⁰ Appendix D Housing trajectory which identifies 400 new homes in East Leake over the Plan period

Policy H1 (b) links this new housing to the phasing of prioritised infrastructure requirements to meet the needs of East Leake into the future. For clarity, this policy should be worded **‘Further new residential development above this 400 minimum number...’** rather than ‘New residential development ...’ to be consistent with the narrative provided in section 2.1.8 which states that ‘Policy H1 adopts the minimum number of new homes in the Core Strategy but stipulates that after adoption of the Neighbourhood Plan phasing of any developments above this figure will be managed to ensure that the major improvements to infrastructure ... have been completed or monies secured for their provision’.

The paragraph below sub section (b) identifies the review of infrastructure requirements to be undertaken by Rushcliffe Borough Council as part of its Local Plan review. This paragraph should specifically reference the prioritisation of further infrastructure to be undertaken through a review of the ELNP to ensure that the needs of the community continue to be met through the provision of additional infrastructure alongside the development of additional housing. The sentence **‘A prioritised list of infrastructure requirements will be submitted by East Leak Parish Council as part of this review’** should be added to the paragraph. In prioritising the infrastructure requirements, the review should have regard for the NPPF which requires Plans to be deliverable and viable.¹¹

With these modifications, I consider that policy H1 meets the Basic Conditions. It is in general conformity with the Rushcliffe Borough Council Core Strategy and has regard for the NPPF presumption in favour of sustainable development.¹²

Section 2.2 considers the phasing of new housing and reinforces the Borough Council’s delivery trajectory. The policy is therefore in conformity with the Core Strategy.

Policy H2 clearly references the need to provide a phasing plan for developments of 50 or more homes. This should be linked to the previous section on ‘key points’ by adding **‘of 50 or more homes’** immediately following ‘across larger developments’ in paragraph 2.2.5.

The policy is in conformity with the Rushcliffe Borough Council Core Strategy¹³ and has regard for the NPPF emphasis on sustainable development.¹⁴

Section 2.3 looks at the type of new homes built for sale and seeks to ensure that new housing provides a mix that secures a balance of new housing. This is consistent with both the NPPF¹⁵ and the Rushcliffe Local Plan¹⁶ and meets the basic conditions. However, it is also a requirement for Neighbourhood Plan policies to be ‘clear and unambiguous’¹⁷ and the lack

¹¹ Paragraph 173

¹² Paragraph 14

¹³ Appendix D Housing trajectory

¹⁴ Paragraph 70

¹⁵ Paragraph 50

¹⁶ Policy 8 which states ‘residential development should maintain, provide and contribute to a mix of housing tenures, types and sizes in order to create mixed and balanced communities’

¹⁷ Planning Practice Guidance, paragraph 41 updated 06 03 14

of a minimum number of new houses above which this policy should apply means that this requirement is not met. I note the representation that calls for this policy to be applied to sites of 50 new homes or more, however I consider that the policy can apply on a smaller number of houses and recommend that 10 is the minimum for the threshold to apply and I consider that this is an appropriate number to activate the policy. The policy would therefore read **'On developments of 10 or more homes, developers will provide a mixture of homes for the market that broadly reflects Rushcliffe Borough Council's and East Leake's most up to date assessments of housing needs'**.

Policy H4 has been removed from the submission version of the Neighbourhood Plan. This section needs to be reworked to reflect its intention – to inform a review of the Neighbourhood Plan in 4-5 years.

Section 2.5 is concerned with issues of building standards and design. The proximity of East Midlands Airport is the primary driver to ensure that measures are in place to mitigate aircraft noise and Policy H5 introduces the need for appropriate action to be undertaken following a noise assessment to alleviate negative impacts.

This is consistent with the NPPF¹⁸ and indeed PPG¹⁹ confirms that noise can be relevant to neighbourhood planning and should be considered when preparing a Neighbourhood Plan.

Policy H5 meets the Basic Conditions.

Policy H6 describes design and building standards that are to be applied in any new development. The standards have regard for the NPPF²⁰ and are in general conformity with the Rushcliffe Borough Council Core Strategy²¹ and meet the Basic Conditions.

Section 2.6 considers the suitability of sites for general housing, expressed through Policy H7.

This Policy has five sub-sections that address issues to do with development being within a 1.25 km walking distance to the Village Centre; adjoining the existing built envelope of East Leake on at least one boundary; retaining open countryside with neighbouring Villages; avoiding the existing Gypsum workings and building in a floodplain.

Representation was made in relation to the distance of 1.25 km and an alternative distance of 4 km was proposed. However, the key factor here is that sufficient new homes to meet the minimum housing targets identified through the Local Plan are satisfied through the provision of a 1.25km limit and flexibility is provided by requiring only that most of the new homes on a development site are within the 1.25 km distance from the Village Centre.

¹⁸ Paragraphs 109 and 123 address issues to do with noise mitigation

¹⁹ Paragraphs 003 and 008.

²⁰ Section 7 'requiring good design'

²¹ Policy 10 Design and enhancing local identity

Different organisations have different standards relating to what is considered to be an appropriate distance to walk to facilities to demonstrate sustainable housing locations, but I consider that the figure included in the Neighbourhood Plan is appropriate and contributes to sustainability whilst meeting the Basic Conditions. The Plan states that this distance will be subject to review within 4/5 years which affords further flexibility.

This Policy has regard for the NPPF which stresses the need for development to be located in places that minimise travel²² and is also in general conformity with the Rushcliffe Borough Council Core Strategy Policy 14 on managing travel demand and Policy 12 on local services and healthy lifestyles that includes the statement ‘If community facilities are to serve the entire community they need to be accessible, hence the need for them to be located near to public transport and also be accessible by walking and cycling’²³

The sub-section c) of Policy H7 requires there to be ‘genuine open countryside separating the proposed site from the built up areas of neighbouring villages’.

Paragraph 17 of the NPPF requires Neighbourhood Plans to take account of the character of different areas and the Rushcliffe Borough Council Core Strategy Policy seeks to protect landscape character²⁴. This meets the Basic Conditions.

b. Section 3 – Business and Employment

The aim of the policies within this section is to enhance local employment opportunities, particularly for start-up businesses, and to encourage retaining and widening the range of community facilities.

Section 3.1 is headed ‘Encouraging Retail Outlets and Services within the Village Centre’ and seeks to encourage appropriate development within the Village Centre, supporting retail development outside the Village Centre only if a clear rationale exists for doing so.

Policy B1 describes a sequential arrangement to retail and business development, prioritising development in the Village Centre

This has regard for the NPPF²⁵ and is in general conformity with the Rushcliffe Borough Council Core Strategy²⁶ which specifically references East Leake as a Local Centre. This policy meets the Basic Conditions.

Section 3.2 offers support for small and start-up businesses and those working from home, encouraging diversification and expansion where appropriate.

²² See paragraphs 17, 34 and 37

²³ Paragraph 3.12.2

²⁴ Policy 16

²⁵ Paragraph 24

²⁶ Policy 6 Role of Town and Local Centres.

Policy B2 articulates this approach, offering support for applications that provide such facilities as long as they do not have a significant adverse impact on, particularly, residential amenity.

This Policy has regard for the NPPF²⁷ and is in general conformity with the Rushcliffe Borough Council Core Strategy.²⁸

Section 3.3 sets a policy framework for the British Gypsum site in the Parish and the wider area, identifying it as the preferred location for industrial development, whilst being sensitive to the proximity of housing.

Policy B3 describes the circumstances in which development of the British Gypsum site will be supported, but also addresses the issue of industrial development elsewhere in the Parish. For this reason, **the policy heading should be changed from ‘Support for development of British Gypsum Site’ to ‘Support for Business Development of the British Gypsum site and elsewhere in the Parish of East Leake’.**

This Policy has regard for the NPPF objective of building a strong, competitive economy²⁹ and with the Rushcliffe Borough Council Core Strategy.³⁰ It meets the Basic Conditions.

c. Section 4 – Transport, Communications and Traffic.

The vision for this section of the Neighbourhood Plan is to improve connectivity between different parts of the Village.

Section 4.1 aims to provide better and safer routes for pedestrians and cyclists, addressing issues such as provision for new pedestrian and cycle routes within new developments and to key locations in the Village and improving existing routes.

Policy T1 seeks to translate this vision into Policy by requiring appropriate development to have regard for connectivity with key sites and facilities whilst Policy T2 identifies improvements to the network of footpaths and cycle links to be funded through developer contributions and from other sources. These policies meet the Basic Conditions. They have regard for the NPPF³¹ and Rushcliffe Borough Council’s Core Strategy³². The need to prioritise this funding commitment alongside other priorities and to ensure schemes remain viable and deliverable has been previously noted and will need to feed into a subsequent review of the Neighbourhood Plan, given that the initial priority has been identified as securing improvements to education, health and the sewerage system.

²⁷ Paragraph 21

²⁸ Policy 5 paragraph 4 which references support for economic development of a lesser scale to be delivered elsewhere in sustainable locations, some of which are to be identified in Neighbourhood Plans.

²⁹ Delivering Sustainable Development, Section 1.

³⁰ Policy 5

³¹ Section 4 Promoting Sustainable Transport

³² Policy 10 Design and Enhancing Local Identity references ‘permeability and legibility to provide for clear and easy movement through and within new development areas’

Section 4.2 promotes partnership working to improve public transport across the Parish. This is reflected in Policy T3 which identifies the funding requirements needed to secure improvements to public transport services. Once again, this funding requirement will need to be prioritised alongside other competing priorities for financial contributions from developers and other sources.

d. Section 5 – Maintaining the Environment

The identified vision within this section is to conserve and enhance the rural character of the Village and to preserve the ring of green undeveloped hills surrounding the Village, whilst enhancing informal green spaces within the Village.

Section 5.1 is dedicated to the containment of the Built Environment - seeking to preserve the views of the ring of green ridges and maintaining open countryside surrounding the Village.

Policy E1 entitled Containment of the Built Environment includes three sub-sections in support of these objectives.

E1 (a) requires the ridges that have been identified in figure 5.1/1 to remain undeveloped to help maintain the rural character of the Village and to provide a visual link between the settlement and the countryside. As pointed out by a respondent within the pre-Examination submission, this policy fails to address the issue of development in the 'bowls' within the ridges, an issue referenced within paragraph 5.1.3 of ELNP (but not followed through into the Policy) with the statement 'The heights of any buildings on the slopes up to the ridges will be limited so as to leave a suitably sized green rim clearly visible from the Village and to screen sight of the Village from outside'.

However, reference to figure 5.1/1 reveals that each of the identified ridges extend beyond the Parish boundary and are partly, therefore, outside of the scope of the Neighbourhood Plan.

The stated objective to preserve the views of the ring of green ridges should be clarified by amending Policy E1 (a) by adding 'within the Parish boundary' as follows 'The ridges **within the Parish boundary** marked on the map at figure 5.1/1 will remain undeveloped, in order to maintain the rural character of the village and to provide a visual link between the settlement and the countryside'. Furthermore the issue of development between the ridges can be addressed by adding the sentence from paragraph 5.1.3, with an amendment, to the end of this policy as follows.

'The heights of any buildings within the Parish boundary on the slopes up to the ridges will be limited so as to leave a green rim clearly visible from the Village and to screen sight of the Village from outside'.

The Views Assessment references the wrong section within ELNP and this should be rectified³³.

Policy E1 (b) identifies areas marked in figure 5.1/2 as being important for the separation of East Leake from neighbouring settlements with green space.

In support of this policy, the Plan references other Neighbourhood Plans that have included policies to maintain separation of settlements, and this is an aspect that has indeed featured within many Neighbourhood Plans.

However, the arguments put forward in support of the policy are weakened by two factors: Firstly the second sentence in Policy E1 (b) which says that 'Development not related to agriculture which would detract from the open, green character of this area or reduce the visual separation of East Leake from West Leake, Gotham (the Ridgeway) or Costock will be permitted only where the community will gain equivalent benefit from the provision of suitable replacement green space or gain significant social, economic or environmental benefits from the development'. The inclusion of this sentence appears to have been made to demonstrate the importance of open space generally rather than its location as a means of preventing coalescence, which is the purpose of the policy. Ordinarily, green spaces may be replaced with substitute green spaces if the amenity value provides a suitable alternative. This same argument cannot apply if the primary purpose of the land is its specific location.

Secondly, policies contained in other Neighbourhood Plans that have served to maintain the separation between settlements have been introduced where the distance between settlements is relatively small. This is not the case with East Leake, where the distance between the Village and neighbouring settlements (West Leake, Costock and Gotham) is in excess of half a mile.

Moreover, Policy H7 (c) within Section 2 affords some protection from coalescence by requiring that 'there is genuine open countryside separating the proposed site from the built up areas of neighbouring Villages'. Further protection is also provided by the designation of the Townlands Trust ridge and furrow field from the railway to Gotham Road that forms part of the proposed area of separation.

Whilst I am aware of the desire to maintain green spaces up to the Parish boundary, I consider the chance of coalescence with adjoining settlements to be unlikely in the Plan period.

In view of these factors **Policy E1 (b) should be deleted and the text and numbering within the Section amended to reflect this deletion.**

³³ Reference to Section 6 should be Section 5.

Policy E1 (c) reflects the importance to the local community of the railway line and requires strong justification for development other than on West Leake Road where other development conditions are identified. Despite representations to the contrary, this seems to be an appropriate policy consideration which is within the scope of the Neighbourhood Plan. The Railway line provides a natural boundary to the Village and there is a degree of flexibility written into the policy by allowing for development to be permitted 'where strong justification is provided'. The policy meets the Basic Conditions.

Section 5.2 is concerned with the preservation of wildlife and rural heritage and seeks to preserve and if possible enhance green corridors for the movement of wildlife; preserve heritage agricultural features; increase the presence of mixed woodland and bring wildlife into new housing developments.

Policy E2 addresses issues around Green infrastructure: wildlife and rural heritage. These policies support existing designations, seek to enhance provision and meet the Basic Conditions. The NPPF³⁴ and Rushcliffe Borough Council Core Strategy³⁵ support biodiversity and the delivery, protection and enhancement of green infrastructure. The Core Strategy describes work to be undertaken in a forthcoming Local Plan Part Two (Land and Planning Policies) in identifying locally valued landscapes, but in the meantime states that 'areas of locally valued landscapes which require additional protection may also be identified in the Local Plan Part 2 or Neighbourhood Plans'³⁶.

Section 5.3 is entitled Green Spaces and has a set of objectives aimed at preserving existing green spaces; including green spaces in new development; bringing the countryside into the built environment and softening the Village Centre with planting.

Policy E3 translates these objectives into policy statements. This policy seeks to reinforce the value and importance of open spaces within existing housing areas and within new developments and meets the Basic Conditions.

Policy E4 identifies specific Local Green Spaces to be designated in order to protect them from development. A separate assessment of these areas is provided³⁷ which highlights the value of each to the local community. Site a) Meadow Park is a very large parcel of land that also has protection through its location within the flood zone, however there were no objections recorded to the designation of any of these sites as Local Green Space and I am satisfied that the Policy accords with the NPPF³⁸ which enables Local Green Space designations to be made through the Neighbourhood Plan. Having seen the sites identified as part of my visit to East Leake I can understand the reasons for their inclusion as Local Green Space.

³⁴ Section 11 Conserving and enhancing the natural environment'

³⁵ Policy 16 on Green infrastructure, landscape, parks and open space and Policy 17 on Biodiversity.

³⁶ Paragraph 3.16.7

³⁷ Assessment of areas identified as Local Green Space

³⁸ Paragraphs 76 and 77

e. Section 6 – Leisure and Play.

The vision is expressed as wishing to improve facilities for young people. As this section incorporates provision for allotments and specifically identifies the need for exercise equipment for adults, **the vision should be extended beyond improving facilities for young people.**

Section 6.1 is involved with Playgrounds and Playing Fields. This section reinforces ELNP's commitment to developing a 'walking Village' and improving connectivity between housing and facilities.

Policy L1 seeks developer contributions to fund play equipment; sets a requirement for open play space for free play and identifies specific open spaces for protection from development, reinforcing Rushcliffe Borough Council's Core Strategy³⁹.

This Policy meets the Basic Conditions, subject to the inclusion of the developer contributions for play equipment to be prioritised alongside competing demands.

Section 6.2 is concerned with allotment provision and states objectives of protecting existing provision and encouraging further provision in line with an expansion of the Village.

Policy L2 requires housing development proposals to consider the provision of allotments and sets conditions for the protection of existing allotments, and meets the Basic Conditions.

f. Section 7 – Conservation, history and heritage.

The vision expressed in this section is to maintain the character of East Leake as a place with a strong sense of community and history.

Section 7.1 is about 'a historic, rural Village' and seeks to conserve the historic centre and the rural and agricultural heritage of the Parish.

The narrative describes the Conservation Area and its relationship with the Village. No policies are proposed.

g. Section 8 – Village Centre

The vision for the Village Centre is to improve the quality of the public area by making it more pedestrian-friendly and addressing traffic related issues. The retention and widening of the range of shops and facilities is also identified.

Section 8.1 looks at priorities for land use in the Village Centre, prioritising the services to be developed in the Centre and improving the quality of buildings.

³⁹ Policy 16: Green infrastructure, landscape, parks and open space.

Policy V1 introduces proposals for Use Classes, quality of Village Centre developments and consequent need for car parking impact assessments. This is consistent with NPPF⁴⁰ and the Rushcliffe Borough Council Core Strategy⁴¹. This policy meets the Basic Conditions.

Section 8.2 addresses issues in an area of a specific T-Junction, seeking to deliver a series of improvements funded through developer contributions.

Policy V2 requires planning applications within the area in question to meet a number of objectives, or have a neutral impact upon them. The policy also specifies priorities for developer and other contributions, which need to be considered alongside other identified priorities for developer and other funding. With this caveat, policy V2 meets the Basic Conditions.

8. Summary

a. Sustainable development

I have examined the report in which each policy is considered from a sustainability perspective and I am satisfied that the ELNP addresses the sustainability issues adequately.

b. National Policy

National Policy is contained within the National Planning Policy Framework 2012 and Planning Practice Guidance.

I am satisfied that the Policies as modified meet the requirements contained within the NPPF and PPG.

c. The Development Plan

The Development Plan for the ELNP Area comprises the Rushcliffe Borough Local Development Framework: Core Strategy, adopted in December 2014.

I am satisfied that the Policies as modified meet the requirements contained within the Core Strategy.

d. European Convention on Human Rights (ECHR) and other European Union (EU) Obligations

A further Basic Condition, which the ELNP must meet, is compatibility with ECHR and EU obligations.

With regards to the above, a Strategic Environmental Assessment (SEA) screening exercise was undertaken and the Statement of Basic Conditions⁴² confirms that Rushcliffe Borough

⁴⁰ Section 2 Ensuring the vitality of Town Centres

⁴¹ Policy 6 Role of Town and Local Centres, paragraph 3.6.2

⁴² Appendix 5

Council is satisfied that an SEA is not required, especially as the Core Strategy has itself been subject to an SEA. Regulation⁴³ requires specific consultation with statutory environmental bodies⁴⁴ (Historic England, Natural England and the Environment Agency) about the need for an SEA. Appropriate consultation has taken place with the consultation bodies who have confirmed that an SEA is not required.

The ELNP has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998. No evidence has been put forward to demonstrate that this is not the case. Taking all of the above into account, I am satisfied that the ELNP is compatible with EU obligations and that it does not breach, or is in any way incompatible with the ECHR.

e. Excluded Development

I am satisfied that the ELNP does not cover County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990. This judgement is reinforced within the Statement of Basic Conditions in which Nottinghamshire County Council confirms that the Neighbourhood Plan is compatible with the existing adopted Nottinghamshire Minerals Local Plan.

9. Recommendations

The ELNP represents a thorough and comprehensive identification of the use of Neighbourhood Plan Policies to address issues of local concern in order to secure improvements across the Parish up to 2028.

There is evidence of close collaboration with the community, Rushcliffe Borough Council and a range of other stakeholders in the preparation of the Neighbourhood Plan and the Statement of Consultation is a comprehensive and helpful document in demonstrating this cooperation.

I have recommended a number of modifications which are intended to ensure that the Neighbourhood Plan meets the Basic Conditions.

Subject to these modifications, the ELNP:

- 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 of Human Rights.

⁴³ Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004

⁴⁴ Regulation 4 of the Environmental Assessment of Plans and Programmes Regulations 2004

In this way, the ELNP meets the Basic Conditions.

10. Referendum

I recommend to Rushcliffe Borough Council that, subject to the modifications proposed, the ELNP should proceed to a Referendum.

11. Referendum Area

I am required to consider whether the Referendum Area should be extended beyond the East Leake Neighbourhood Area. I consider the Neighbourhood Area to be appropriate and no evidence has been submitted to suggest that this is not the case.

I recommend that the Plan should proceed to a Referendum based on the ELNP as approved by Rushcliffe Borough Council on 4 December 2012.

Gary Kirk
Independent Examiner
July 2015

Corrections

Page	Paragraph	Correction
3	1.5	The 'Neighbourhood Plan Project' should read 'The Neighbourhood Plan Project Team'.
3	1.6	The 'Neighbourhood Plan Project' should read 'The Neighbourhood Plan Project Team'.
3	1.6	Footnote 1 should be footnote 2.
5	1.9	Remove one full stop after 'web page'.
5	2.1	Heading should read 'Relationship to infrastructure'.
5	2.1.4	The first line should say 'Rushcliffe Borough Council's Core Strategy'
6	2.1.5	Second line say 'summarise' not 'summarize'.
6	2.1.9a	This should be 2.1.10 and remaining paragraphs renumbered.
7	2.1.11	The correct terminology is 'Made' not 'Adopted'.
7	2.1.12	Remove the word 'quo' from the end of the paragraph.
7	Policy H1	Remove the second b) and lower the first b) to be in line with the text.
11	2.3.8	Fifth line should say 'Examples of <i>this</i> would include:'
15	2.5.5	Footnote 28 should be footnote 26.
16	2.5.8a	The use of the letter a0 is inconsistent. The paragraph would sit better in Section 2.4 on affordable housing.
17	2.5.11	The 'Neighbourhood Plan Project' should read 'The Neighbourhood Plan Project Team'.
18	2.6.2	'Maximise' not Maximize'.
19	2.6.3	First line should read 'Note that <i>there</i> is no implication ...' (not this).
19	2.6.3	Parish should have a capital letter.
20	Policy H7	Paragraph d) – gypsum should have a capital letter.
21	2.6.15	The third line should say 'Nottinghamshire County Council' not just 'County Council'.
28	Policy B3	The second line of paragraph a) should say 'increase' not 'increases'.
49	6.1.5	Insert 'as being' into the first line 'play facilities, however, are seen in need of improvement.
50	6.1.11	ECLP is not defined (better to define here rather than in 8.1.10)
51	6.2.2	Encourage further provision of allotments as <i>the</i> village expands.
51	Policy L2	The first part of this Policy description on page 51 doesn't have any shading within the box.