

Hungarton Neighbourhood Development Plan - Submission Version 2011 – 2031

Report of Examination

April 2017

**Undertaken for Harborough District Council with the support of
Hungarton Parish Council on the submission version of the plan.**



Independent Examiner:

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Summary

- I have undertaken the examination of the Hungarton Neighbourhood Plan during March and April of 2017 and detail the results of that examination in this report.
- Subject to the recommended modifications being made, the Plan meets the basic conditions and may proceed to referendum.
- I recommend the referendum boundary is the designated neighbourhood plan area.

Abbreviations used in the text of this report:

The Hungarton Neighbourhood Development Plan is referred to as 'the Plan' or 'HNDP'.

Hungarton Parish Council is abbreviated to 'Hungarton PC'.

Harborough District Council is abbreviated to 'Harborough DC'.

The National Planning Policy Framework 2012 is abbreviated to 'NPPF'.

The Harborough Core Strategy 2006 – 2028 is abbreviated to 'HCS'

Acknowledgements: Thanks to Local Authority staff and the qualifying body for their assistance with this examination and prompt replies to queries. My compliments to the local community volunteers and Hungarton Parish Council, who have produced a detailed and well-presented Plan with a good evidence base. It is clear considerable and sustained work has been undertaken.

1. Introduction and Background

1.1 Neighbourhood Development Plans

1.1.1 The Localism Act 2011 empowers local communities to develop planning policy for their area by drawing up neighbourhood plans. For the first time, a community-led plan that is successful at referendum becomes part of the statutory development plan for their planning authority.

1.1.2 Giving communities greater control over planning policy in this way is intended to encourage positive planning for sustainable development. The National Planning Policy Framework (NPPF) states that:

“neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need”.

Further advice on the preparation of neighbourhood plans is contained in the Government’s Planning Practice Guidance website:

<http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/>

1.1.3 Neighbourhood plans can only be prepared by a ‘qualifying body’, and in Hungarton that is the Hungarton Parish Council. Drawing up the Neighbourhood Plan was undertaken by the Hungerton Neighbourhood Development Plan Committee, a sub-committee of the Parish Council.

1.2 Independent Examination

1.2.1 Once Hungarton PC had prepared their neighbourhood plan and consulted on it, they submitted it to Harborough DC. After publicising the plan with a further opportunity for comment, Harborough DC were required to appoint an Independent Examiner, with the agreement of Hungarton PC to that appointment.

1.2.2 I have been appointed to be the Independent Examiner for this plan. I am a chartered Town Planner with thirty years of local authority and voluntary sector planning experience in development management, planning policy and project management. I have been working with communities for many years, and have recently concentrated on supporting groups producing neighbourhood plans. I have been appointed through the Neighbourhood Plan Independent Examiners Referral Service (NPIERS). I am independent of any local connections to Hungarton and Harborough DC, and have no conflict of interest that would exclude me from examining this plan.

1.2.3 As the Independent Examiner I am required to produce this report and recommend either:

- (a) That the neighbourhood plan is submitted to a referendum without changes; or
- (b) That modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
- (c) That the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

1.2.4 The legal requirements are firstly that the plan meets the 'Basic Conditions', which I deal with in sections 3 and 4 of this report. The plan also needs to meet the following requirements under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990:

- It has been prepared and submitted for examination by a qualifying body;
- It has been prepared for an area that has been properly designated by the Local Planning Authority;
- It specifies the period during which it has effect;
- It does not include provisions and policies for excluded development;
- It does not relate to land outside the designated neighbourhood area.

The Hungarton Neighbourhood Plan complies with all of the above. The Neighbourhood Area was designated on 21 July 2015 by Harborough DC. The plan does not relate to land outside the designated Neighbourhood Area. It specifies the period during which it has effect as 2011 – 2031 and has been submitted and prepared by a qualifying body and people working to that qualifying body. It does not include policies about excluded development; effectively mineral and waste development or strategic infrastructure.

1.2.5 I made an unaccompanied site visit to Hungarton to familiarise myself with the area and visit relevant sites and areas affected by the policies. This examination has been dealt with by written representations, as I did not consider a hearing necessary.

1.2.6 I am also required to consider whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to a referendum. I make my recommendation on this in section 5 at the end of this report.

1.3 Planning Policy Context

1.3.1 The Development Plan for Harborough District, not including documents relating to excluded mineral and waste development, is the Harborough Core Strategy 2006 – 2028, adopted in 2011, and saved policies from the Harborough District Local Plan 2001. The emerging Harborough Local Plan and its evidence has informed the potential housing requirement for Hungarton. However as an emerging plan but not yet part of the formal development plan, it is not policy that the Basic Conditions require the HNBP to be in general conformity with.

1.3.2 The National Planning Policy Framework (NPPF) sets out government planning policy for England, and the National Planning Practice Guidance website offers guidance on how this policy should be implemented. The HNBP must have regard to both of these documents.

1.3.3 During my examination of the HNBP I have considered the following documents:

- National Planning Policy Framework (NPPF) 2012
- National Planning Practice Guidance 2014 and as updated
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004
- The Localism Act 2011
- The Neighbourhood Planning (General) Regulations 2012 (as amended)
- Harborough Core Strategy 2006 - 2028
- Harborough District Local Plan 2001 Saved Policies
- Submission version of the Hungerton Neighbourhood Development Plan (HNBP)
- HNBP Appendix 5 – Parish Housing Needs Report 2016
- The Basic Conditions Statement submitted with the HNBP
- The Consultation Statement submitted with the HNBP
- The SEA and HRA Screening Determinations for the HNBP
- Neighbourhood Area Designation (map)
- Representations received during the publicity period (reg16 consultation)
- Written Ministerial Statements of November 2014 and March 25th 2015
- Local Green Space Assessment – Harborough DC evidence paper – undated.
- Leicester and Leicestershire Housing and Economic Development Needs Assessment 2017
- Local Heritage Listing 2016 Historic England Advice Note 7

2. Plan Preparation and Consultation

2.1 Pre-submission Process and Consultation

2.1.1 Hungarton is a historic rural village of about 300 people in Leicestershire. It is a conservation area, set in a landscape where the medieval forms of abandoned villages, historic great halls and ridge and furrow agriculture are still clearly visible. It is about 12 km from Leicester, to the NE of this city, and located on a network of quiet country lanes. The local planning authority (LPA) is Harborough District Council; a rural authority to the east of Leicester, based in the market town of Market Harborough and including Lutterworth. Hungarton is on the northern border of the district.

2.1.2 The decision to start work on a neighbourhood plan was made by the Parish Council and endorsed by the Annual Parish Meeting in May 2015, where a wider membership of the Neighbourhood Plan Committee was gathered. Two Parish Councillors and seven residents formed this sub-committee of the Parish Council.

2.1.3 Consultants assisted the group develop the plan, and three themed groups worked on housing, environment and 'the rest'; the rest being transport, community facilities and economy. Minutes of the neighbourhood plan committee meetings were made available on the website, which also hosted an initial questionnaire, the output from consultation events and the Regulation 14 (Reg 14) consultation .

2.1.4 The Consultation Statement sets out the nature and form of consultation prior to the formal Reg14 six week consultation. Regular events and activities such as the detailed questionnaire built up the engagement to a point where a final pre-Reg14 consultation engaged with the community on the evolving policies proposed for the plan. Landowners and other stakeholders were included during the process.

2.1.5 As required by regulation 14 of the Neighbourhood Planning Regulations 2012, the formal consultation for six weeks on the pre-submission Hungarton Neighbourhood Development Plan ran from the 20th July 2016 to the 7th September 2016. The comments from this consultation are reported in full, and the table clearly shows the thought that has gone into the considered responses. Representations, often on more than one issue, were received from 25 individuals and organisations during the Reg 14 consultation period. Several amendments have been made to the plan as a result of constructive suggestions for changes.

2.1.6 I am satisfied that due process has been followed during the consultation undertaken on the Plan. A comprehensive and well documented consultation and engagement process has been undertaken, involving a significant proportion of the parish population.

2.1.7 As required, the amended plan, together with a Basic Conditions Statement, a Consultation Statement, the Screening Opinions and a plan showing the neighbourhood area was submitted to Harborough DC on the 29th October 2016.

2.1.8 Harborough DC undertook a publicity consultation on the HNPP for six weeks, from the 14th December 2016 to the 8th February 2017, as required by Regulation 16 (Reg 16) of the Neighbourhood Planning Regulations 2012. The representations received during this consultation are summarised below. Where necessary, issues they raise concerning a failure to comply with the basic conditions are considered further in sections 3 and 4.

2.2 Regulation 16 Consultation Responses

2.2.1 Publicity and consultation on the Plan undertaken by Harborough DC after submission, resulted in 8 responses from statutory bodies and developers and agents. Thurnby Parish Council offered general support for the plan and Sport England and the Environment Agency had no specific comments. National Grid advised that there was a high pressure gas pipeline in the neighbourhood area, but none of the site allocations was affected by it. The following respondents made comments specific to the plan and its policies. Where comments that question whether the Plan meets the Basic Conditions are made, the issue is summarised below and considered further in sections 3 and 4.

2.2.2 **Leicestershire County Council** offered extensive comment on the plan and was generally supportive. It is too late at this stage to make the suggested amendments and additions to the Plan, as they are not raising Basic Condition issues. Comments such as these are more usefully made at the Reg14 consultation stage. However there is useful information provided, on flood risk for example.

2.2.3 **Natural England** supported the Plan, and commended and welcomed policies on the natural and historic environment that aim to protect green space and biodiversity.

2.2.4 **Gladman Developments**, in their response, challenge policy ENV1 and the proposed designation of six areas of land a Local Green Space. They suggest the policy should be removed from the Plan because it does not meet the Basic Conditions. This is considered further in the discussion about policy ENV1 in section 4.

2.2.5 **Savills (UK) Ltd** have commented on several of the policies in the Plan. They support policy S1 and H4, and offer changed wording for better clarity and compliance on several others. They object to the wording in Policy H2 specifying the nature of development on Site B, a site their client owns. A case is made that Policies H5, H7 and ENV12 should be deleted from the Plan, and that two sites designated as Local Green Spaces in the Plan should be removed from the policy. These comments will also be considered further in section 4.

3. Compliance with the Basic Conditions.

3.1 General legislative requirements, other than the Basic Conditions, are set out in paragraph 1.2.4 of this report and I find that the Hungarton Neighbourhood Plan (HNDP) has complied with these requirements. What this examination must now consider is whether the Plan complies with the Basic Conditions, which state it must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area; and
- Be compatible with and not breach European Union (EU) obligations and human rights law.

3.2 The Plan includes as the first policy, Policy S1, which states the Plan's commitment to the presumption in favour of sustainable development. The Basic Conditions Statement explains how the Plan, its site allocations and development guidance aim to promote the social, economic and environmental goals of sustainable development. In my view the Plan attempts the balance of these three goals of sustainable development well. With modifications recommended where necessary, I accept the Plan does promote sustainable development and thus complies with the Basic Conditions.

3.3 A screening opinion has been issued by Harborough DC which considers whether Strategic Environmental Assessment (SEA) is required for the HNDP. Each policy was also assessed by the LPA for potential impact on any protected site for the purposes of the Habitats Regulations Assessment (HRA). The need for further HRA was not considered necessary by the LPA. These environmental requirements in EU law are the main EU Directives that neighbourhood plans need to comply with. The Screening opinion states that:

- It is therefore the determination of the Local Planning Authority that a full Strategic Environmental Assessment is not required for the Hungarton Neighbourhood Plan;
- The table below has demonstrated that in the opinion on the Local Planning Authority the policies of the Hungarton Neighbourhood Plan do not give potential for significant detrimental effects on local historic or environmental sites, Natura 2000 sites, or Habitat Regulations.

I agree with the assessment of the LPA that the Plan does not require either SEA or HRA, and that the requirements of EU obligations have been met as determined by the screening opinion.

3.4 The HNBP in my view complies with Human Rights Legislation. It has not been challenged with regard to this, and the consultation statement shows that the need to consult with a wide cross-section of the community was appreciated. The Plan has proposals for the protection of community facilities and provision of new facilities, which promotes Article 27 of the Universal Declaration of Human Rights.

4. Compliance with National Policy and adopted Development Plan

4.1 The final and most complex aspect of the Basic Conditions to consider is whether the HNBP meets the requirements as regards national policy and the development plan. This means firstly that the Plan must have regard to national policy and guidance, which for this neighbourhood plan is the NPPF and the NPPG. Secondly the Plan must be in general conformity with the strategic policies of the development plan. The phrase 'general conformity' allows for some flexibility. If I determine that the Plan as submitted does not comply with the Basic Conditions, I may recommend modifications that would rectify the non-compliance.

4.2 The Plan and its policies are considered below in terms of whether they comply with the Basic Conditions as regards national policy and the development plan. If not, then modifications required to bring the plan into conformity are recommended. Modifications are boxed in the text, with text to remain *in italics*, new text highlighted in **Bold** and text to be deleted shown but ~~struck through~~. Instructions are underlined.

4.3 Distributed throughout the Plan are proposed Community Actions, that are currently written to look like policies. They are not concerned with landuse issues. The NPPG says the following regarding non-landuse policies [ID 41-004-20140306]:

“...actions dealing with non-landuse matters should be clearly identifiable. For example, set out in a companion document or annex.”

At present this is not the case. Community Actions have similar reference numbers to the landuse policies, the text is boxed like the landuse policies, and they are set within the sections of the Plan that sets out the landuse policies and their justifications. The NPPG does not insist that these Community Actions are in a separate document, and I understand that the Qualifying Body would prefer them to be within the main document. However this will only be acceptable if they are clearly distinguished from the landuse policies. I therefore recommend the following treatment of the Community Actions in order to have regard to government guidance:

4.3.1 **Modification 1: Community Actions Env1 – Env6; CF1 – CF2; T1 - T3.**

In order to comply with the Basic Conditions and have regard to the NPPG I recommend the numbering system used for Community Actions is to be changed to a straightforward numbering system, and the actions listed at the end of each topic section. Community Actions Env1 - Env6 to become **Community Actions 1-6** and to be listed at the end of section 3.3 “Natural and Historical Environment”. Community Actions CF1 – CF2 to become **Community Actions 7-8** and be listed at the end of section 3.4 “Community Facilities and Amenities”. Community Actions T1 – T3 to become **Community Actions 9-10** and be listed at the end of Section 3.6 “Transport and Roads”.

4.4 **Policy S1: Presumption in favour of sustainable development**

This policy complies with the Basic Conditions.

4.5 **Policy S2: General Policy Principle**

This is not a policy as such: it is stating the position as it is, and is a useful reminder for people reading the text who are not familiar with planning law. It is confusing to have it presented as a policy – it could be construed as proposing something different, which it isn’t, and of course couldn’t do. The NPPF requires policy to indicate clearly to developers what will be allowed and what won’t, and for clarity this text although useful should not be written as a policy.

Modification 2 therefore sets out my recommendation that this policy becomes a final paragraph of section 3.1 ‘Strategy’ in order to comply with the NPPF and its requirement for policy clarity.

4.5.1 Modification 2: Policy S2 to become a final paragraph of Section 3.1. Extra emphasis may be added, and the text edited to avoid repetition, but the words “Policy S2: General Policy Principle” must be removed.

4.6 **Policy H1: Housing Provision**

4.6.1 There is no requirement on Hungarton to identify site allocations for housing, either in the development plan or the emerging local plan. The call for sites exercise undertaken during the preparation of the HNPP is a good example of positive neighbourhood planning therefore.

However Policy H1 currently refers to “a maximum of five additional houses” being allowed by the plan at specified sites. While development guidance can indicate a preference for this number, a

plan that is positive in attitude, as required by the NPPF, cannot set a maximum number of new dwellings. A positive plan needs to allow for the possibility of other options being found acceptable at the detailed design stage.

4.6.2 In order to comply with the Basic Conditions, and have regard to government policy in the NPPF (paras 16 and 184) concerning positive planning for sustainable development, Policy H1 is recommended to be amended in line with modification 3:

Modification 3: Policy H1 at line 2 to delete the words ‘a maximum of’ and replace it with the word ‘about’. The rest of the policy to remain as is.

4.7 Policy H2: Housing Allocations

4.7.1 Evidence is quoted in the justification for the need for smaller affordable houses for young couples and single storey accommodation, and this policy sets out requirements for development on the sites to provide homes that meet the evidenced local demand and need. Savills objected during the Reg16 consultation on the Plan to the development requirements in this policy as being too prescriptive. The County Council have welcomed the proposal to develop bungalow development for older people. Savills also object to the local occupancy clauses in the policy for starter homes, feeling this is not an issue for a neighbourhood plan. With evidence of need; local occupancy policies are allowable as they promote the NPPF (para69) requirement that healthy and socially interacting communities are promoted. As applying local occupancy to starter homes is qualified by a “where possible” caveat, I accept that this section of the policy will not conflict with existing government policy on starter homes.

4.7.2 The issue of development guidance being too prescriptive is a Basic Conditions issue if it is likely to hinder the development of land allocated for development, and thus not promote sustainable development. I feel that the development guidance, particularly for sites b) and c), is currently too prescriptive in predetermining the numbers and type of development to the point where viability may be effected. All potential dwellings on sites b) and c) are currently only to be permitted or supported if they are either starter homes or housing suitable for older people (bungalows specified in the case of site c)).

4.7.3 Starter homes are a form of affordable housing (intermediate), and in November 2014 a Written Ministerial Statement (WMS) was issued that stated affordable housing should only be required on sites of over 10 dwellings. However the Harborough Core Strategy 2011 (HCS) gives evidence of significant need for affordable homes in the district, and in the Rural North and Central area of the district, which Hungarton falls within, at least 40% of dwellings on any site are required to be affordable. The relevant HCS policy is Policy CS3, in which the site threshold for the policy's application is 1 dwelling - its examination and adoption pre-dates the WMS. The strategic policy CS3 allows the HNPD to require one affordable home on site b). It is legitimate for the Plan to also strongly encourage the provision of bungalow development. Concern about the shortfall of suitable housing for the increasing percentage of the population who are elderly and less-mobile is a concern of the relevant local authority for social care, the County Council. The NPPF (para50) allows for the needs of older people to be considered in policies about the mix of housing on a site.

4.7.4 There is therefore evidence and other policy support for policies directing a future developer to pay due regard to the need both for affordable housing and housing for the elderly on the allocated housing sites in the Plan. However as currently worded the policies are too prescriptive and do not give any degree of flexibility, as required by the NPPF (paras 14 and 50). The reference to retaining hedges and trees on site b) is justified given the mature vegetation on the boundaries and its exclusion from the Conservation area, but a degree of flexibility needs to be indicated. The wording of development guidance on site c) 'contributing one dwelling' would suggest a net increase of 1 dwelling over the existing 1 dwelling on the site, something already permitted with a previous planning permission. The qualifying body have indicated to me that final development proposals on site c should be flexible, as required by the NPPF. Policy H2 is therefore recommended to be altered as set out in modification 4, in order that it complies with the Basic Conditions and has a greater degree of flexibility in the development guidance. The wording has been changed from 'permitted' to 'supported' in order to increase flexibility.

4.7.5 Part of site c is currently designated 'Important Open Land in the HDLP2001, which is not normally considered suitable for development. However the proposed site has been subject to extensive consultation, and no objections on this ground have been received, including from the LPA. I therefore consider the proposal is in general conformity with the strategic policies of the development plan.

Modification 4: Policy H2 Housing Allocations is recommended to be reworded as follows:

*Land is allocated for housing development at three locations as shown on the proposals map (figure 2). Development ~~of approximately will be permitted for an additional five dwellings~~ is **supported** subject to the following criteria:*

*a) (map reference a) For the conversion of the Wesleyan Chapel, Main Street, development ~~will be permitted~~ is **supported** subject to:*

- 1. The development providing a single home;*
- 2. Off-road car parking provision for 2 cars;*
- 3. The conversion preserving the architectural features that are a recognised feature of the existing streetscape.*

b) (map reference b) For the Agricultural store at Hope Farm, Main Street, development will be supported subject to:

- 1. The development ~~providing is expected to provide three dwellings in total~~ of which at least one is to be a 2/3 bed Starter Home. ~~and one~~ The provision of a home suitable for older people is ~~supported~~ **strongly encouraged**;*
- 2. All mature hedging and trees being retained **unless approved plans have allowed for selected removal of specimens**;*
- 3. Where possible local people are to be given first consideration in the allocation of the Starter Home(s)*
- 4. On-site car parking provision for 2 cars per dwelling.*

*c) (map reference c) For the Land at Willowghyll, Main Street, development will be **supported** ~~permitted~~ subject to:*

- 1. The development ~~providing is expected to provide 2 dwellings in total on the site and encouraged to provide bungalows that may be occupied by older people. (contributing one dwelling)~~;*
- 2. Off road parking provision for 2 cars per dwelling.*
- 3. Development of this site shall be subject to a flood risk assessment being undertaken and **any** mitigation measures **required** being put in place.*

Where possible, starter homes within the Plan area shall be allocated to eligible households with a connection to the Parish defined as being where at least one member of the household meets at least one of the following criteria:

..... as currently worded to END.

4.8 Policy H3: Reserve Sites

4.8.1 The Reserve Sites policy is another example of positive planning in the Plan. I recommend one modification in order that it has the clarity the NPPF calls for (para154); a qualification that mitigation measures may not be required.

4.8.2 **Modification 5:** Policy H3 Reserve Sites, criteria c) is recommended to be altered as follows:

*“Development of the Washpit site should be subject to a flood risk assessment being undertaken and **any** mitigation measures **required** being put in place.”*

4.9 Policy H4: Limits to Development

4.9.1 The boundary defined by the policy is shown in figure 3, and has followed the boundary set in the HDLP2001 unless the land is now allocated in this Plan or potentially to be designated as a Local Green Space (LGS). Thus Hope Farm is now included, it is site B, and The Paddock has been set outside of the boundary. There are anomalies in the designations which need to be sorted so that the revised boundary is based on consistent criteria. I would suggest criteria as follows: that the boundary remains unchanged unless new development has occurred or has planning permission; that areas defined as LGS or Important Open Land (IOL) on the edge of the settlement are excluded; and that sites allocated in policy H2 are included. In this way the remaining IOL designation at Willowghyll below the allocated site C is excluded, along with land in the next property's extensive garden that is designated IOL (a property known locally at 'The Paddocks', referred to on maps as 'The Hall'). Policy HS/9 of the HDLP2001 states that IOL is normally not suitable for development, and although the adopted Local Plan showed IOL within the limits to development but protected by its designation, it is equally acceptable to exclude both IOL and Local Green Space from the defined settlement.

4.9.2 Policy H4 encloses both allocated and reserve sites within the defined Limits to Development, and states that development will be supported if it complies with policies H2 and H3. However a Limit to Development, or settlement boundary has implications for policies beyond those in this Plan. The HDLP2001 Saved Policy HS/8 states that within the defined limits of development planning permission will be granted for development that does not adversely affect residential amenity and is in keeping with its surroundings in terms of scale, design and layout.

Thus the reserve sites within the limits to development boundary could be argued to be acceptable for development now under policy HS/8. I have checked with the LPA and Qualifying Body on this point, and they have confirmed that the intention was for the reserve sites to be only available should the need for further allocations arise, as would be expected.

4.9.3 I recommend therefore that, along with the above alterations, the reserve sites are excluded from the development boundary. A criteria in policy H4 will then be needed that allows development outside the defined boundary on the reserve sites should the need arise. With the alterations recommended in Modification 6 below, Policy H4 complies with the Basic Conditions in that it is clear in intent, both with regard to the potential availability of reserve sites and land that will be suitable for infill development subject to policies in this Plan and the saved policies of HDLP. The boundary also needs to be 'defined' not 'identified'.

Modification 6: Policy H4 is recommended to be revised as shown below in order that it is clear with regard to other policy in this Plan and in general conformity with the development plan.

Development proposals within the Plan area as identified in Policies H2 and H3 will be supported within the Limits to Development as defined in Figure 3. Development outside the defined Limits to Development on the Reserve Sites identified in Policy H3 will be acceptable subject to complying with the terms of that policy. where it complies with the policies of this Neighbourhood Plan.

Figure 3: The boundary of the Limits to Development to be altered on the following criteria:

- Local Green Space and IOL land as defined in the saved policy HS/9 on the edge of the boundary to be excluded;
- Sites allocated by Policy H2 and other sites with a current planning permission or constructed with planning permission after the previous boundary was drawn up to be included;
- Reserve sites as identified in Policy H3 to be excluded from the limit to development boundary.

4.10 Policy H5: Housing Mix

4.10.1 The policy has been criticised as being something the neighbourhood plan should not address, and that it will adversely affect viability. The evidence of the Strategic Housing Market Assessment (SHMA) is felt to be relevant only to larger sites (objection from Savills), and that the market should dictate the housing mix on smaller sites. The Core Strategy has indicated that the viability of residential development in the North and Central Area of the district is good however,

and although that is a situation that could change, it is not unreasonable for the neighbourhood plan to require development to pay regard to local needs in terms of any future housing mix on the reserve sites. The policy needs to be clear what evidence can be consulted on local housing need so that a developer can draw up an acceptable proposed dwelling mix. This is currently the Parish Housing Needs Report 2016 and the recently prepared joint authority Leicestershire Housing and Employment Development Needs Analysis 2017. The policy can also indicate that any document updating either of these evidence bases will be included in the evidence source. Viability or the lack of it is an acceptable challenge to an adverse planning decision, but this needs to be demonstrated by the developer.

4.10.2 Policy H5 is recommended to be amended as shown in Modification 7 in order that it indicates the evidence sources a developer will need to have regard to when drawing up the proposed housing mix on a reserve site. This modification is required in order that the Plan meets the Basic Conditions and pays due regard to the NPPF (para154) requirement for clarity in policies.

Modification 7: Policy H5 Housing Mix is be amended as follows:

The mix of housing within the allocated sites has been specified in Policy H2. All proposals for the Reserve Sites, should they be required, will be expected to demonstrate how the proposal will meet the current and future housing needs of the Parish as evidenced in the Parish Housing Needs Report 2016 (Appendix 5) and the Leicester and Leicestershire Housing and Employment Development Needs Analysis 2017 or any more recent document updating either of these reports. Applications for small family homes (2 or 3 bedrooms) or for older people (ground floor accommodation) will be supported where in accordance with other policies. There will be a presumption against larger homes (4 or more bedrooms).

4.11 Policy H6: Building Design Principles

4.11.1 The NPPF (para58) encourages neighbourhood plans to develop robust policies that set out the quality of development that will be expected in the area. The HNBP has included Design guidance within the Plan at pages 21 – 24, and this guidance is referred to in Policy H6 as something that will need to be followed.

4.11.2 The guidance appears mainly aimed at Hungarton village rather than the whole neighbourhood area, as the first paragraph refers to development being in keeping with the Conservation Status of Hungarton (village). It is however a policy that applies to the entire parish within the defined neighbourhood area, and although it would be reasonable to 'encourage' the submission of a Design and Access Statement outside the Conservation Area, 'expecting' one is too onerous in many circumstances, especially as there are a detailed list of issues that the Statement 'must' address. This expectation, and the statement that 'an architect should be employed' (page 23) have not paid due regard to the NPPF (para173) and its requirement that development should not be overburdened by policy requirements that threaten viability. The guidance is also very prescriptive in places, and does not comply with the NPPF (para56) in this regard, although within the conservation area it is likely details of design will be closely scrutinised. Highway details such as footpath (sic) surface and widths and vehicular crossings are specified although this will be a highways issue for the highway authority. [I am assuming the instructions refer to the walkway beside a public highway reserved for pedestrian use and referred to legally as a 'footway' to differentiate it from a public footpath as a separate right of way].

4.11.3 Much of this section of the Plan gives useful guidance on design to suit the local area. But besides not complying with the NPPF as discussed, it is dealing with some non-landuse issues (highways issues and occupant behaviour). Contrary to the Written Ministerial Statement of March 2015, the guidance sets standards for construction that are dealt with in the Building Regulations. Specifically, within the guidance (pages 23-24), building sustainability is promoted by specifying energy standards of materials and new homes and requiring them to improve on the minimum requirements set out in current building regulations.

4.11.4 Including the design principles produced by the community within the Plan introduces issues that go beyond the legitimate landuse issues that Plan is authorised to deal with. Policy H6 cannot attempt to implement actions that are contrary to government policy and not landuse concerns. I recommend therefore that the Design Principles are removed to an annex of the Plan and clearly separate from the landuse policy document. I further recommend that Policy H6 be modified as shown in Modification 8 to allow the necessary degree of flexibility to a developer to choose how far they wish to comply with guidance that in several respects can only be indicating local preferences not imposing requirements.

4.11.5 Policy H6 and the Design Principles are recommended to be modified as shown in Modification 8 in order that they do not introduce non-landuse issues into the landuse section of the Plan or require actions that would be contrary to government policy and guidance and thus not comply with the Basic Conditions.

Modification 8: Policy H6: Building Design Principles - ~~all new~~ Development proposals including one or more houses, replacement dwellings and extensions **are encouraged to have regard to the building design principles in Annex to a degree that is proportionate to the development.** ~~will need to satisfy the above building design principles unless Material Considerations mean that the guidance cannot be followed~~

The Design Principles in the boxed text of pages 21-24 of the Hungarton Neighbourhood Plan to be removed from the document and included as a separate Annex to the Plan.

4.12 Policy H7: Further Tandem and Backland Development

4.12.1 The justification for this policy offers as evidence that there is a lack of community support for this type of development. The fact that there is no need for further housing development as sites have been allocated is also offered as justification for the policy. It is described as an “additional layer of protection” for the community, presumably from further development. This is a rather negative justification for a policy, and there is no intrinsic planning reason or evidence offered for it. While the NPPF (para53) does discourage inappropriate backland development, it suggests policies should do this where the “development would cause harm to the local area.”

4.12.2 Policy H7 as currently worded is negative in its approach to development contrary to government guidance in the NPPF (paras 16 and 184). It is also not based on any planning evidence, contrary to government guidance in the NPPG (ID 41-040-20160211 and ID 41-041-20140306). It is recommended that Policy H7 is reworded therefore to include planning reasons for discouraging backland development, in line with the NPPF, as set out in modification 9. In this way evidenced local preference will be supported where planning reasons suggest that the development would harm the local area.

Modification 9: Policy H7 is recommended to be reworded as follows:

POLICY H7: Further Tandem and Backland Development in gardens of existing properties will not be supported ~~unless in exceptional circumstances~~ **where the development would cause harm to the local area.**

4.13 Policy ENV1: Protection of Local Green Spaces

4.13.1 Local Green Space (LGS) is a recent designation power available to both Local Plans and Neighbourhood Plans under the NPPF (paras 76-78). The guidance Harborough DC have produced to assist their designation of sites in the emerging local plan will not have great significance for neighbourhood plans therefore, although for clarity it would be useful if the emerging plan were to take into account designations in made neighbourhood plans. Appendix 12 of the Plan has set out an assessment of potential LGS sites which has been very useful, although a potential site does not have to meet all the suggested attributes for being special; one strong attribute is enough.

4.13.2 Objections to the policy and proposed LGS sites were made in two Reg 16 consultation responses. Gladman feel that the assessment process has not properly considered whether the sites comply with the requirement in the NPPF that they are not an extensive tract of land. Because of this, they suggest that the policy and any designations should be removed from the Plan in order to comply with the Basic Conditions. However I am confident that I have been able to assess this aspect of the proposed designations from my site visits, and will proceed to consider the policy and designation of LGS sites on their merits as evidenced in the Plan and Appendices and assessed during site visits. Savills acting for the owner of sites 5,10 and 11 are content that site 5 is designated a LGS, but objected to the other two sites being designated.

4.13.3 Site 5, The Paddock or Home Close, is designated 'Important Open Land' in the HDLP2001 and it is an important open area in the setting of the village. Its inclusion within the conservation area means that its importance for the setting and historic character of Hungarton has been acknowledged in that designation. It is in reasonable proximity to the community, is not an extensive tract of land, and has historical significance noted in the Historic Environment Records. It meets the definition of LGS in the NPPF (para77).

4.13.4 The special attributes of Site 11, a field used for grazing purposes, that would justify designation as a LGS are less obvious. It is mostly not included within the conservation area, and being on the edge of the village and above the valley setting it does little to maintain the internal form of the village or its setting. There is no particular beauty evident, or ecological interest noted. Access to the footpath, and the views from it, will continue whether or not it is designated as an LGS. There are no particularly special attributes that justify this designation therefore.

4.13.5 Site 10 is included within the conservation area, which means it has an acknowledged role in the definition of the village setting. There are reasonable views of listed buildings taken across

it, and although it has no intrinsic beauty, recreational or ecological value, its acknowledged visual importance to the conservation area justifies its designation as a LGS.

4.13.6 Site 1, Town End Close, is an field given over to grazing at the time of my visit. It has a footpath crossing it, and pleasant views can be taken from it. There is some historic interest indicated in the name, but no environmental features of note recorded. It is not beautiful or fulfilling an important role in the setting of the village. It comes close to being an extensive tract of land and is not suitable for designation as a LGS.

4.13.7 Site 8 or the Hungarton Spinneys is an area of woodland on the slopes of the Hungarton Brook and tributary just east of the village. It is a Priority Habitat site of Natural England, is in reasonable proximity to the village and meets the requirements of LGS designation.

4.13.8 Despite site 6, Bottom Green, being the largest site proposed for designation, I have not ruled this field out on the grounds of being an extensive tract of land. It is a coherent whole, with noted historic relief and features across the entire field. The size of a potential LGS is not limited by strict area measurements, and the definition of 'extensive tract of land' has connotations of unclear boundaries and no unifying features or visual reference. Bottom Green rises up from the southern bank of the Hungarton Brook, and frames Hungarton on the northern bank, to which it also sets an historic context. The area is rich in ridge and furrow earthworks, and this is a particularly good example, SHINE designated, in immediate proximity to Hungarton and the conservation area. As an important part of the historic landscape and village setting within the valley, as well as for its intrinsic historic interest, I consider Bottom Green suitable for LGS designation.

4.13.9 Policy ENV1 will meet the Basic Conditions if the sites that are not suitable for designation as Local Green Space (LGS) are removed. It also needs to actually designate the sites. Thus Modification 10 sets out alterations to policy ENV1 that are recommended in order that this policy complies with government guidance and policy concerning LGS, and does formally designate them. The relevant map reference is 'Figure 4' not '5' and this is amended for accuracy. With these alterations the Policy meets the Basic Conditions.

Modification 10: Policy ENV 1 is recommended to be amended as follows:

Within the area of the Local Green Space sites designated in this policy and identified on the map below (Figure 4 ~~5~~), development is ruled out, other than in very special circumstances.

~~Town End Close (inventory reference 01);~~

'The Paddock' (Home Close) (inventory reference 05);

Bottom Green ('sledging field') (06);

Hungarton Spinneys (08);

Paddock opposite old Post Office (10);

~~Gilbert's Close (paddock behind Swedish houses) (11);~~

4.14 Policy ENV2: Protection of other sites of Ecological and Geomorphological Significance

4.14.1 This policy complies with the Basic Conditions, but as a point of accuracy it should refer to 'Figure 5' not 'Figure 6'.

4.15 Policy ENV3: Important Trees and Woodland

4.15.1 This policy complies with the Basic Conditions.

4.16 Policy ENV4: Biodiversity

4.16.1 This policy complies with the Basic Conditions.

4.17 Policy ENV5: Buildings and Structures of Local Historical and Architectural Interest

4.17.1 Buildings were selected as being suitable for identification by two local historians working with the Environment Theme Group. Local preference came into play during a consultation exercise, but the final choice was made by considering the buildings against English Heritage criteria for drawing up a local list. The list has been considered on technical merit therefore, although there may well be other buildings worthy of inclusion on technical merit, but not so popular.

4.17.2 Historic England have produced an Advice Note (7) which sets out guidance on producing a local list of buildings of historic and architectural interest. It states in the summary that the advice supports the LPA and communities when introducing a local list in their area, and it is the source of the assessment of the chosen buildings identified in this policy. For clarity the policy should list the buildings rather than referring to the text, and make clear that this list is not exclusive pending any other exercise to identify all suitable buildings. The policy cannot extend the protection of a nationally Listed Building to these buildings of local list, so the reference to the 1990 Act needs to be removed for clarity and to comply with planning law. The final paragraph of the policy is stating the position with nationally Listed Buildings, and could be added to the text of the Plan. However it is not policy, and needs to be removed from the policy for clarity. The Local Planning Authority (LPA) is the responsible body for conservation legislation.

4.17.3 In order that buildings Policy ENV5 applies to is clear, and to avoid any interpretation of the policy as taking on the role of the LPA with regard to conservation legislation, the policy is recommended to be altered as follows in order that it meet the Basic Conditions:

Modification 11: *Policy ENV5: Development proposals that affect an identified non-designated building or structure of local historical or architectural interest or its setting will be expected to conserve or enhance the character, integrity and setting of that building or structure in line with the Planning (Listed Buildings and Conservation Areas) Act 1990. The buildings of local interest currently identified are listed in Appendix 9 and are:*

Sunnyside	Old Cottage	The Old Forge
The Old Post House	Wesleyan Chapel	Hope Farm Cottage
The Black Boy	Swedish Houses	Hartfield Lodge

~~Development proposals that affect a Listed Building or any other nationally designated heritage asset will be considered in accordance with national and district wide planning policies.~~

4.18 Policy ENV6: Protection of Other Sites of Historical Significance

4.18.1 This Policy clearly lists the sites of local historical significance and background evidence is provided to support their designation. There is a problem in the use of the term 'formally identified' in connection with a 'non-designated heritage asset', as formal designation should preferentially be done by the LPA in a committee report (Historic England Advice Note). However the neighbourhood plan is perfectly entitled to identify such features, and with the removal of the

word 'formal' the policy complies with the Basic Conditions. The NPPF (para135) does offer support for non-designated heritage assets, so the second sentence of the first paragraph should be removed for accuracy.

4.18.2 Modification 12: For accuracy and appropriate level of legal standing with regard to formal designation, the first paragraph of Policy ENV6 is recommended to be amended as follows:

The following sites (and see Appendix 12 and Figure 8) are ~~formally~~ identified in this Plan as non-designated heritage assets for their extant and visible historical and/or archaeological features. ~~These sites do not currently enjoy statutorily designated protection through the NPPF. They are~~ important in their own right and are locally valued.

..... as currently worded to END

4.19 Policy ENV7: Ridge and Furrow Fields

4.19.1 This policy complies with the Basic Conditions.

4.20 Policy ENV8: Important Hedges

4.20.1 This policy will also comply with the Basic Conditions when the word "formally" is removed from the second paragraph, as explained in para 4.18.1. above for Policy ENV6.

Modification 13: In order that Policy ENV8 complies with the Basic Conditions, I recommend that the word "*formally*" is removed from the second paragraph.

4.21 Policy ENV9: Protection of Important Views

4.21.1 This policy complies with the Basic Conditions.

4.22 Policy ENV10: Footpaths and Bridleways

4.22.1 This policy complies with the Basic Conditions.

4.23 Policy ENV11: Sustainable Development

4.23.1 This policy complies with the Basic Conditions.

4.24 Policy ENV12: Rivers and Flooding

4.24.1 This policy complies with the Basic Conditions.

4.25 Policy CF1: the Retention of Community Facilities and Amenities

4.25.1 This policy complies with the Basic Conditions.

4.26 Policy CF2: the Retention of Community Facilities and Amenities

4.26.1 This policy complies with the Basic Conditions but for accuracy criteria a) should specify Policy H6 not Policy H7.

4.27 Policy E1: Support for Existing Employment Opportunities

4.27.1 This policy complies with the Basic Conditions.

4.28 Policy E2: Support for New Employment Opportunities

4.28.1 This policy complies with the Basic Conditions.

4.29 Policy E3: Working from Home

4.29.1 This policy complies with the Basic Conditions.

4.30 Policy E4: Re-Use of Agricultural and Commercial Buildings

4.30.1 This policy complies with the Basic Conditions.

4.31 Policy E5: Broadband Infrastructure

4.31.1 This policy complies with the Basic Conditions.

4.32 Policy T1: Traffic Management

4.32.1 This policy complies with the Basic Conditions. For accuracy, the last sentence of the final paragraph of the justification on page 58 should refer to Policies H2 and H6.

5. The Referendum Boundary

5.1 The designated neighbourhood area excluded a part of the then parish of Hungarton which was felt to relate more naturally to the neighbouring parish of Houghton on the Hill. This small southerly section of the parish was formally transferred to the parish of Houghton on the Hill on the 26th October 2016. Thus the neighbourhood plan boundary is now also the parish boundary for Hungarton.

5.2 The Hungarton Neighbourhood Plan has no policy or proposals that will have a significant impact beyond the designated Neighbourhood Area which is the Plan boundary. Therefore I recommend that the boundary for the purposes of any future referendum on the Hungarton Neighbourhood Development Plan 2011 – 2031 shall be the boundary of the designated Neighbourhood Area for the parish of Hungarton in Leicestershire.