

Oundle Neighbourhood Plan

Report of Examination

21 December 2019

Report to East Northamptonshire Council

by the Independent Examiner:

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Summary

1. I have concluded that the plan does not meet the Basic Conditions, for two principal reasons: the approach to consultation (which is also probably unlawful); and the approach to site selection and appraisal which is flawed and the choices which are not substantiated by robust or appropriate evidence (and which is also probably unlawful).
2. I have concluded that the plan can meet the specified legal requirements in that:
 - It has been prepared and submitted for examination by a qualifying body – Oundle Town Council;
 - It has been prepared for an area properly designated;
 - It does not cover more than one neighbourhood plan area;
 - It does not relate to “excluded development”;
 - It specifies the period to which it has effect – to 2031; and
 - The policies relate to the development and use of land for a designated neighbourhood area.
3. Overall, I have concluded that the Neighbourhood Plan should not proceed to Referendum. I would conclude, if it did, that the Referendum Area should not be the same as the designated neighbourhood area but should be expanded to include all, or the relevant parts of, Glapthorn Parish that adjoin the plan area.

1. Introduction

- 1.1 On 13th December 2019 I submitted an Interim Report on the examination. In that report I set out my *provisional* conclusions on the submitted Oundle Neighbourhood Plan and the supporting documents, including all the representations made: I had provisionally concluded that the Oundle Neighbourhood Plan had fundamental flaws which could not, in my view, be rectified by modifications; and that if I were to complete my examination I would have recommended that it should not proceed to Referendum. The Town Council, as Qualifying Body has, in response, not withdrawn the plan; rather they have asked for a further month to consider the Interim Report. However, I believe the examination now needs to be concluded and in this final report I set out my formal conclusions

Appointment

- 1.2 I was appointed by East Northamptonshire Council, with the support of the Oundle Town Council (the Qualifying Body) to undertake an independent examination of the Oundle Neighbourhood Plan, as submitted for examination.
- 1.3 I am an independent planning and development professional of 40 years standing and a member of NPIERS' Panel of Independent Examiners. I am independent of any local connections and have no conflicts of interests.

The Scope of the Examination

- 1.4 It is the role of the Independent Examiner to consider whether making the plan meets the "Basic Conditions." These are that:
- (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order;
 - (b) having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order;
 - (c) having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order;
 - (d) the making of the order contributes to the achievement of sustainable development;
 - (e) the making of the order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - (f) the making of the order does not breach, and is otherwise compatible with, EU obligations; and
 - (g) prescribed conditions are met in relation to the order and prescribed matters have been complied with in connection with the proposal for the order.
- 1.5 In examining the Plan I am also required to establish if the plan complies with certain legal requirements; in summary they are whether it:
- Has been prepared and submitted for examination by a qualifying body;
 - Has been prepared for an area that has been properly designated;
 - Meets the requirements that they must not include excluded development;
 - Relates to more than one Neighbourhood Area; and

- Relates to the development and use of land.

1.6 Then, as independent Examiner, I must make one of the following recommendations in relation to the Plan proceeding to a Referendum:

- a) that it should proceed to Referendum, in that it meets all legal requirements; or
- b) that once modified to meet all relevant legal requirements it should proceed to Referendum; or
- c) that it should not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

1.7 Finally, if recommending that the Plan should go forward to Referendum, I am also required to consider whether or not the Referendum Area should extend beyond the Neighbourhood Designated Area to which the Plan relates.

The Examination process

1.8 I was appointed to examine the plan in mid September 2019. The default position is that neighbourhood plan examinations are conducted by written representations. The majority of the examination has been based on the submitted material. However, in this case there were a number of matters on which I wanted to hear oral evidence – in particular on housing allocations, deliverability issues, the site selection and assessment process, as well as the consultation process - and so I held a public hearing on 29th October 2019. I carried out unaccompanied site visits the previous week and following the hearing.

1.9 At the close of the hearing I explained that I would prepare an Interim Report. But, before I could do so, I asked those representing Persimmon and Gladman, to prepare a succinct summary of the legal arguments they made to me in person. That (joint) Opinion was duly sent to me and all the other parties at the hearing on 8th November; I gave the other parties until the 22nd November to respond. Two parties duly did - Oundle Town Council (OTC) and those representing Rose & Sons Properties. The OTC letter was subsequently corrected (omission of a word); it also contained an appendix (3) with material, which appears to be new, which I have not taken into account. East Northamptonshire Council also sent me a Position Statement dated 19th November in relation to two live planning applications in the plan area – essentially the two omission sites. I asked that all these documents be available on the respective Council websites.

1.10 At the end of November I completed a draft Interim report, which I sent to both the Councils, for fact-checking only; though I also explained that I would take into account any comments on where the reasoning for my conclusions was insufficiently clear. But it was not an opportunity to open up the discussion. ENC made no substantive comments. Oundle Town Council asked for extra time, to 12th December, to allow for holidays. Their submission was a mixture of clarification and argument. I noted on their points of clarification and took these into account in preparing an Interim Report, which I had indicated at the close of the hearing that I would do.

1.11 The Interim Report was sent to both Councils on 13 December. The Town Council, in response, asked for a further month to consider the Interim Report. However, I considered the examination now needed to be concluded.

The Examination documents

1.12 In addition to the legal and national policy framework and guidance (principally The

Town and Country Planning Acts, Localism Act, Planning and Compulsory Purchase Act, Neighbourhood Planning Act and Regulations, the National Planning Policy Framework, Written Ministerial Statements and the Planning Practice Guidance) together with the development plan, the relevant documents that were furnished to me - and were identified on the Council's websites as the neighbourhood plan and its supporting documentation for examination - were:

- Oundle Neighbourhood Plan (Submission Draft);
- Basic Conditions Statement;
- Consultation Statement; and
- Sustainability Appraisal Report; and SEA Screening Statement and Appropriate Assessment Screening...

... together with responses received under Regulation 16 and a Legal Check letter (under Schedule 4B) from ENC setting out their concerns in relation to compliance with strategic policy, the SEA Regulations, as well as other issues (including the Settlement Boundary, meeting housing requirements, and the site section/consultation process).

Representations to Regulation 16 stage

- 1.13 I have recorded a total of 77 representations duly made; there were two sets that were from the same parties (which I counted as one each), two reps were given the same number (which I duly split) and one was wrongly noted as late. I declined to accept two reps as made too late. The majority of reps were by local residents, many in a standard, or near standard, format, supporting the plan – typically containing a phrase like: “...*that any future housing development is built in small developments close to the town centre*.”; or “...*that new dwellings be distributed across multiple sites rather than in fewer larger sites*.” Some local groups, such as the Oundle Recreation and Green Spaces Community Group made issue-specific reps.
- 1.14 A number of local residents raised common concerns about increases in heavy traffic, the lack of supportive infrastructure, pollution issues and the need to protect open space. Some specifically cited their opposition to the two omission sites. The promoters of the sites that were excluded from the plan made extensive representations, which I pick up on later in my report. The promoters of allocated sites – which included Gladman Developments, Northamptonshire County Council (as landowner), Birtton, Biggin & Benefield Estate, David Wilson Homes, Persimmon Homes Charles Church and Rose Properties - also made a range of representations, and I spent much time at the public hearing considering evidence about the allocated sites.
- 1.15 Among the statutory and other consultees, I took onto account representations from Anglian Water, Environment Agency, Natural England, National Grid, County Fire and Rescue Service, County Council (development management), County Council as Lead Flood Authority

The Qualifying Body and the Designated Area

- 1.16 Oundle Town Council is the Qualifying Body for the designated area that is the neighbourhood plan area; the plan area is the same as the civic parish area. There is no other neighbourhood plan for this area. East Northamptonshire Council, the local authority, designated the Neighbourhood Area in June 2013.

The Neighbourhood Plan

- 1.17 The plan is a well-laid out, attractive and succinct document, comprising seven chapters: Introduction; About Oundle; Key Issues; The Vision and Objectives; and Neighbourhood Plan Policies and Proposals; Plan Delivery and implementation; and Monitoring and Review. The policy chapter contains 23 policies, divided into six sections:
- Protecting and enhancing the natural and built environment (Policies 01-07);
 - Promoting and enhancing the economy (08-011);
 - Protecting and enhancing community services and facilities (012-13);
 - Improving accessibility and connectivity (014);
 - Meeting housing requirements (015-022); and
 - Securing developer contributions (023).
- 1.18 The plan's substantive policies and proposals involve:
- The allocation of five sites for housing (some involving opens space and/or other elements, such as a Festival site), with a combined capacity of some 324 dwellings – against a need for 242 dwellings, if remaining development plan allocations are excluded;
 - A revised Settlement Boundary;
 - The designation of 9 sites as Local Green Space;
 - The designation of a further 13 sites as Important Open Space (as well as Other Amenity Land, as shown on the Policies Map);
 - Protection for some Important Views;
 - Upgrading and adding to the cycle/pedestrian network (20 routes/sections);
 - A range of policies concerned with protecting and enhancing local features and facilities; and:
 - A Policies Map – see my para 3.2 for comments on this.
- 1.19 The plan runs to 2031, co-terminus with the emerging Local Plan. The plan does not involve Excluded Development; and while it includes “Supporting Actions” the plan makes it clear that these - which are effectively advocacy points - are distinct from the plan's land use policies – so that the plan remains concerned with the use and development of land. I conclude that, for these reasons and my earlier conclusions (see 1.11, for example), it meets the legal requirements.

The development plan and the emerging Local Plan

- 1.20 The development plan comprises two development plan documents: a) the saved polices of the Rural North, Oundle and Thrapston Plan (RNOT) adopted 2011, which runs to 2021; and b) the North Northamptonshire Joint Core Strategy (JCS) adopted 2016, which runs to 2031.
- 1.21 The emerging Local Plan Part 2 is aware of the neighbourhood plan and the need to achieve consistency. It has generated a significant evidence base and Sustainability Appraisals and is proceeding more or less in parallel with the neighbourhood plan. It is not part of the development plan and has yet to be tested at examination. The Town Council had particular difficulty with their Sustainability Assessment.
- 1.22 The most relevant Policy - EN1(c) - seeks to deliver the outstanding housing need for Oundle. Three sites are identified, to deliver 300 dwellings:
- i. Stoke Doyle Road, for c 70 dwellings [this is NP allocation 020, for 50 homes]

- ii. Cotterstock Road, for 130 dwellings; and
- iii. St Christopher's Drive, for around 100 dwellings.

1.23 In July 2019 ENC's Planning Policy Committee chose to await the outcome of this examination before deciding on the Oundle allocations. The parts of the latter two sites, both of which were in the Reg 14 version of the NP – with only 30 and 45 homes, respectively - were omitted from the submitted plan and are now the subject of live planning applications. This examination, however, is not into omission sites as such.

Consultation Statement

1.24 Para 4 of Schedule 4B of the 1990 Act sets out the principles for consultation that are then applied in Regulation 14 of the 2012 Regs; at para 4 (3) it sets out:

“The power to make regulations under this paragraph must be exercised to secure that:

(a) prescribed requirements as to consultation with and participation by the public must be complied with before a proposal for a neighbourhood development order may be submitted to a local planning authority, and

(b) a statement containing the following information in relation to that consultation and participation must accompany the proposal submitted to the authority—

i. details of those consulted,

ii. a summary of the main issues raised, and

iii. any other information of a prescribed description.” [my emphasis]

1.25 The Consultation Statement (CS) is very brief and, in my view, does not fulfil the requirements of the Regulations in that it does not contain an adequate summary of the main issues raised (failing the requirements of b.ii). Indeed, the CS is quite misleading, in my view, in asserting that the changes from the Reg 14 stage to the submission stage were “relatively minor and do not result in fundamental changes to the content of the plan”: In my view, and those of some representors, the changes were *material*, resulting in a different spatial strategy.

1.26 The CS only summarises – to the extent it does so at all – the consultation responses to the Reg 14 version of the Plan, the preferred approach at the time. The CS cannot summarise the issues raised on the preferred approach because that was submitted directly to the local authority without any re-consultation. This has proved to be a significant issue and one that is relevant to both the Regulations as well as national policy and guidance.

1.27 The CS provides no explanation as to the reasons for the material changes made to the plan – effectively the new preferred approach. Instead of re-consulting on the new (and materially different) approach, the Town Council decided to carry out a Sustainability Appraisal, modify the plan and proceed directly to submitting the plan to the local authority and thus for examination. The CS also noted that there was no Policies Map with the Reg 14 version.

1.28 In my view the approach taken does not comply with the spirit of (a) above, in that it deprived the public of participation in the consultation process *before* the preferred approach was submitted. This is especially significant as the SA did not accompany the Reg 14 version and the SA was – as we shall see elsewhere – a tool in the change of strategy. Further, the SA process itself, was predicated on the expectation

of further consultation on its conclusions – see my para 1.36; but that did not happen.

1.29 It has also been pointed out, in the Persimmon/Gladman Opinion, that by proceeding directly to submission to the local authority “... *then the only further step under Regulation 16 is that consultation bodies are notified that a Plan has been received. This is not consultation.*” The Opinion goes on to conclude: “*By making major material amendments to the Reg 14 Draft Plan post-consultation the Town Council have both undermined the purpose of consulting the public (as those that were consulted previously would fairly assume the Plan they provided a response on what would be the same), and entirely circumvented the requirement to consult statutory consultation bodies. They have submitted an un-consulted-upon neighbourhood plan for examination. This is unlawful.*” I have considered the counter-arguments by the Town Council and Rose Properties but I do not find them convincing.

1.30 The Planning Policy Guidance for Neighbourhood Plans (‘the PPG’) gives advice at paragraph 49 as to the pre-submission consultation: At what stage does the pre-submission consultation take place on a draft neighbourhood plan or Order?

Before the formal pre-submission consultation takes place a qualifying body should be satisfied that it has a complete draft neighbourhood plan or Order. It is not appropriate to consult on individual policies for example. Where options have been considered as part of the neighbourhood planning process earlier engagement should be used to narrow and refine options. The document that is consulted on at the pre submission stage should contain only the preferred approach. [my emphasis]
Paragraph: 049 Reference ID: 41-049-20140306

1.31 The document that was consulted on at the pre-submission stage was not the Town Council’s preferred approach at the submission stage. There was no opportunity for the public or statutory consultees to participate in the change of approach and to see the Town Council’s response to those representations. Therefore, I conclude that, together with the reasons that I outline later, the Town Council’s approach does not comply with national guidance. Thus, in conjunction with the failure to comply with the regulations, the approach to consultation fails to meet the Basic Conditions.

Basic Conditions Statement

1.32 The Basic Conditions Statement (BCS) sets out why the plan is considered to meet the Basic Conditions, by providing a commentary against national policy, the development plan and EU Obligations. It also includes some commentary on the SA and provides a partial explanation for the change in the preferred strategy. An issue raised by the local authority was the degree of conformity of the plan with the Rural North, Oundle and Thrapston Plan (RNOT), part of the statutory development plan. The BCS does not explicitly deal with a point that the local authority asserted, a position supported by the examiner on the Glapthorn Neighbourhood Plan, that para 8.18 was a strategic policy and that the ONP was not in conformity with it. I deal with this point later, at paras 3.17,18.

Sustainability Appraisal

1.33 A Screening Determination was undertaken in February 2019 for a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA). The SEA determination, as the plan progressed, concluded that a SEA was required; and the HRA screening concluded that the plan would not result in Likely Significant Effects and no further work on HRA was required. No SEA had been undertaken as

part of the Reg 14 plan. This was done afterwards and the final version of a Sustainability Appraisal (SA) Report was only completed in May 2019, following an initial draft in February. The PPG, however, provides that work should start at the earliest opportunity:

“Where it is determined that a neighbourhood plan is likely to have significant effects on the environment and that a strategic environmental assessment must be carried out, work on this should start at the earliest opportunity.”

(Paragraph: 029 Reference ID: 11-029-20150209)

1.34 The main data in the Report was assembled quickly in December 2018; this affected the extent and quality of the baseline data, as the report admits (bottom of page ii). The SA concentrated on seven sites (down from 10 as three had been rejected prior to the Reg 14 stage) and four “spatial options”, which were essentially a different combination of housing numbers drawn from all or some of the seven sites. The four spatial options were:

- Option 1: 312 homes from 7 sites;
- Option 2: 339 homes from 6 sites;
- Option 3: 324 homes from 5 sites; and
- Option 4: 300 homes from 3 sites.

1.35 The preferred approach in 2018, at Reg 14 stage, was Option 1. The comparison of the four options – section 6.5 of the SA – ended with pie charts of the relative performance of the four options. Taking the combined positive and negative scores (both significant and minor), Options 1 and 4 scored worst (-15 and -17 respectively), with Options 2 and 3 scoring virtually the same (overall both -5). Oundle Council chose Option 3. The SA explains (section 6.5) that:

“Following consideration of feedback and the results of SA, OTC has chosen Option 3 to take forward within the submission Neighbourhood Plan. Option 3 was developed to remove two sites, which were not supported in the feedback and to increase density of development on “Land south of Herne Road”. Option 3 does not include “Land East of Cotterstock Road” for highways reasons and because it is allocated within a higher-level plan (the RNOT). The option also does not include “Land East of St Christopher’s Drive” (which was previously proposed by OTC in Option 1 as partial development of the site (a smaller boundary delivering 45 dwellings) but this was not supported by ENDC. The density of the proposed allocation on “Land south of Herne Road” in Option 3 has been increased (from 45 to 120 dwellings) as this is being proposed by the proponent of this site”.

1.36 The role of the “feedback” in this process was the subject of my questions at the hearing and I did not get a satisfactory answer; it appears to be substantially public opinion. I am not discounting public opinion but the CS does not record – because it can’t, given the sequence of events – the way this was gathered and how it influenced the choices available. In any event, Option 3 was never part of a pre-submission consultation, even though the SA concludes with a clear expectation of the next steps (section 9) that it would be:

“This SA Report will be consulted on with the public and the statutory consultees. A copy of the Neighbourhood Plan will be made available on the Town Council’s website during the SA Report consultation.

Following consultation, comments received will be reviewed and any necessary changes made to the Neighbourhood Plan and SA Report.

The Oundle Neighbourhood Plan will then be submitted to East Northamptonshire District Council. Following this, there will be a further period of public consultation on the plan and accompanying SA Report.” [my emphasis]

- 1.37 There is a range of difficulties with the content of the SA, which I deal with later. But in terms of the overall consultation process, the SA clearly played a significant role in the change of spatial strategy, yet the opportunity for the public to engage with it – and, crucially, together with the change of strategy – and in a way that would enable real participation in the process and for the Town Council to consider and respond to representations *prior* to submitting the plan, were very limited; a town meeting that supported the change, in my view, was in no way a substitute for a proper consultation process.

2. Overview – the principal issues

- 2.1 The housing allocations and the process of changing the preferred approach from seven to the five proposed sites proved the most controversial aspect of the plan. There were two main aspects to this: the “technical” appraisal process, including SEA; and the approach to consultation on the significant changes to the examination version, ahead of its submission, which included reducing the number of allocated sites from 7 to 5 and bulking up the housing numbers on one of the remainders. I have already covered the latter. A related principal issue was the revised Settlement Boundary, which, inter alia, had the outcome of excluding the two deleted sites.

The appraisal process

- 2.2 The approach to selecting options, the assessment of identified sites and the shortlisting process, in the context of the SA Report (and the significant reliance placed on it) proved to be the most challenging aspect of the plan and came in for very detailed criticism from ENC and some objectors, understandably the promoters of the two sites excluded from the allocations; though the actual sites selected for appraisal were not so much an issue. Particular points of criticism include:
- A disregard of national policy and guidance in the identification of sites; and
 - That the process of considering reasonable alternatives was not robust or credible.
- 2.3 National Guidance seeks to avoid duplication [41-043-20140306, for example]. In this case, as the emerging Local Plan Part 2 is proceeding roughly in parallel there should have been more opportunities to avoid not only duplication but also unnecessary conflict. The Town Council seem to have had their own resourcing and programming issues, as they explained to me at the hearing, which made collaboration more challenging. There were also disagreements between the two Councils. My reflection is that I think ENC could have supported the local volunteers more positively; and that the Town Council could have been more open to using more of EBC’s evidence base.
- 2.4 The emerging ENC policy context and the saved policies and strategies of the development plan are also clearly an important part of any site selection process. Indeed they seem to have influenced the inclusion of Cotterstock Road and St Christopher’s Drive at Regulation 14 stage; the ENC view, as others, is that the Reg 14 approach – seven sites – was in line with strategic policy in the development plan, especially RNOT para 8.18.

- 2.5 Even after raising the issue at the public hearing, it remains unclear why so much appropriate and available evidence, mainly that which was not generated by the OTC - has not been used in the site selection and appraisal process. A notable example is flood risk evidence, as flood risk affects land in or adjacent to allocated sites. I can see no evidence that a Sequential Test has been undertaken. The evidence of deliverability is relatively thin, in my view, though I found the assurances given by site promoters at the hearing convincing.
- 2.6 There was a range of evidence base documents that could have been used as sources at Reg 14 stage. And, where the Town Council disagreed, as with the method and conclusions in the Sustainability Assessment, it would be helpful for those to be overtly discounted. The available documents include:
- East Northants Sustainability Assessment May 2007
 - Rural North, Oundle and Thrapston Plan Assessment of Potential Sites in Oundle and Thrapston February 2009
 - ENC Level 1 Strategic Flood Risk Assessment Review August 2011
 - North Northamptonshire SHLAA (updated to 2011) May 2013 ENC Local Plan Part 2 Background Paper: Oundle Site Assessment November 2018
 - ENC Local Plan Part 2 Sustainability Appraisal: Interim SA Report Strategic Options for Oundle December 2018
- 2.7 The SA is placed centre stage in the drama of how the plan changed. Indeed, it seems that it is being asked to play the only “technical” part in the process. The SA does however, present some difficulties in that it, and the Plan upon which it based, does not reflect the evidence before the Town Council; indeed, the conclusions reached in some cases are directly contrary to the evidence. The Persimmon/Gladman Opinion suggests that: *“This makes the Plan highly amenable to legal challenge on the basis of the Stonegate decision, as well as contrary to basic conditions (a), (d) and (f).”* For example, in relation to St Christopher’s Drive, the conclusions in the SA, and the justification conflict with evidence that was before OTC on highways, noise, flooding and biodiversity. In the case of noise, the site was marked “significant negative” yet the non-technical summary of the SA says there was a lack of noise evidence.
- 2.8 The impact on highways in relation to Cotterstock Road is relied upon but in the SA (at Table 11 on page 29) the site scores a minor positive for transport. While, at para 6 of the SA, the reason given for de-allocation is that the site is already allocated in the RNOTP. The evidence of the ENC in emerging Part 2 Local Plan (at Table 4) finds that the site is one of the three best performing sites, and thus allocates it.
- 2.9 The process of selection and rejection of alternatives is not always clear, particularly to see how the choices flow from the evidence. The absence of any baseline noise data leads to subjective conclusions; the absence of a Sequential Test on flood risk makes choices between sites in or adjacent to land liable to flooding difficult. It is not clear how far the prospective involvement of the OTC as future part-owners has influenced the scoring process. In a number of cases, relevant site-specific material – some available from promoters - seemed unavailable to the SA team; or was ignored.
- 2.10 From my reading of the option selection process in the SA, and my questioning of the authors at the hearing, I cannot reasonably distinguish between Options 2 and 3 as the scores are so similar; and crucially, I still cannot see why Option 3 became the clear choice for the plan. The reasons seem to be primarily local opinion, gathered in

a Town Council public meeting and elsewhere, rather than evidence (whether robust or proportionate). This raises the real possibility that this approach falls foul of *Stonegate*.

The Settlement Boundary

- 2.11 The plan includes a settlement boundary, drawn reasonably tightly, around the town of Oundle, which is a variation from that in the RNOT. This attracted a number of objections and concerns, not least from the local authority and the omission site objectors. The variations excluded the two omission sites – St Christopher’s Drive and Cotterstock Road – and revised/corrected boundary to land north of Benefield Road (Policy 022). The effect, in combination with the wording of Policy 01, is to strongly reinforce the preferred spatial strategy. The drafting of Policy 01 also came in for criticism as being too restrictive, barring as it does any development adjacent to the settlement.
- 2.12 The main issue with this policy is the lack of any real evidence to support the boundary as drawn; there is no appraisal, for example. It is effectively an arbitrary device to restrict development of the sites removed from the pre-submission version of the plan. As such, it fails to meet the Basic Conditions. If a revised settlement boundary is to be pursued in a future plan it does need to be rational and supported by some form of appraisal (proportionate and robust evidence).

Conclusions on the principal issues

- 2.13 Overall, I find fundamental flaws in the plan. The approach to consultation does not meet the Basic Conditions and is probably unlawful. The approach to site selection and appraisal is flawed and the choices unsubstantiated by robust or appropriate evidence (indeed in a number of places are contradicted by available evidence). This aspect also does not meet the Basic Conditions and is probably unlawful.

3. Other issues raised by the plan

- 3.1 It may help those who will need to respond to the fundamental flaws in the plan if I also outline my conclusions on other aspects of the plan. The local authority too has some helpful suggestions on drafting and text amendments that could be taken into account.
- 3.2 The mapping needs significant improvement if it is to clearly support the policies and proposals of the plan and work as a development management document. The Policies Map (displayed within the closing leaves at A3) has virtually no annotations related to the various policy designations; and some are missing. While an annotated version was handed to me at the hearing, this issue will need rectifying, with appropriate cross-referencing (text-mapping) in the future. The site allocations (and some policy text) within the plan itself are illustrated by aerial photos, not OS based mapping, which also needs rectifying. Important designations, like Local Green Space sites, need individual site plans for clarity, cross-referenced to the relevant policy and supporting text.

Protection of Green Spaces – Policies 02-06

- 3.3 Policy 02 of the plan seeks to designate nine sites as Local Green Space (LGS). The justification is to be found in an Open Space Background paper. A total of 27 sites were assessed against the Framework (and NPPG) criteria, having screened out small amenity sites and areas of countryside outside the settlement boundary; those

that were not designated LGS were identified as having potential for designation as Important Open Space in Policy 03. The criteria in the assessment schedule – with a column for description and comments - were:

- Is the site allocated for or does it have planning permission for development?
- Is the space an extensive tract of land?
- Is the space in close proximity to the community it serves?
- Is the space demonstrably special for any of the following reasons: Beauty, historic significance, recreational value, richness of wildlife and tranquillity.

However, very little detail is given about each, mostly a tick. And one of the Framework's criteria is missing: how a space *holds a particular local significance*.

- 3.4 There are three issues with this policy: evidence, mapping and the drafting of the policy itself. The evidence is a little thin in parts; and local significance (beyond historical) needs to be captured. There is no photography, mapping or evidence from available documents. This needs to be rectified if these proposed designations are to be confirmed. There are no maps for any of the sites; they are only shown (without a cross-reference to the space), on the Policies Map. This is at too big a scale to provide sufficient clarity for development management purposes. Finally, the "such as" criteria in the policy goes beyond the scope of the Framework and should be deleted. The sites should be numbered and cross-referenced with individual site maps.
- 3.5 Policy 03 seeks to protect Important Open Space; the justification for these can be found in the Open Space Background Paper. The policy title says 14 but only 13 spaces are listed. They each need numbering and be cross-referenced to the Policies Map and individual site maps, for clarity and to be an effective development management tool. The objectives of the policy are very similar to JCS Policy 7.
- 3.6 Policy 04 seeks to safeguard other amenity land unless the benefits outweigh the loss. This is effectively covered by JCS Policy 7 and is so superfluous; also the sites were discounted from the Background paper assessments so there is no real evidence to support a specific policy. I would recommend the policy be deleted and the JCS policy referred to in the supporting text of this section of the plan.
- 3.7 Policy 05 seeks to secure new open space in larger housing developments. The threshold of 15 homes is not robustly justified and so should be the default of 10. My own view is that the final section – "*The more significant ... onwards* – should more properly form supporting text, in my view.

Protecting important views

- 3.8 Policy 07 seeks to protect certain views, with the viewpoints marked on the Policies Map; it attracted a number of objections. It was pointed out that these views were not consulted on at the Reg 14 stage and so there has been no opportunity to make representations directly or to participate in the topic; or for the Town Council to respond. There are two strands of objection to this policy: one is that they take their viewpoint from outside the plan area; I don't see that this is an impediment. The other is that no evidence has been published to support their identification. They seem to have been selected solely on the basis of local community support. Gladman's representations included an expert assessment that concluded the designations had insufficient justification and should be removed. I agree.

Tourism

- 3.9 Policy 010 seeks to deliver a Festival Site (through a leisure and recreation allocation), which also relates to Policy 022, a housing allocation, which would be the primary means of delivering it. The justification for the leisure allocation is thin, though the promoters support it. I consider that the two proposals should be combined into one and be simplified so that it is clear what is being proposed and how it the overall scheme is deliverable. The mapping then needs to show clearly the boundaries of the site, something which is not clear at present – not least in the minds of the promoters. The reference to a reserve site should be removed, as there is no policy context for it.

Employment

- 3.10 Policy 011 safeguards three employment sites. The text suggests they are shown on the Policies Map but they are not. Obviously, this needs to be rectified and the individual sites numbered and cross-referenced; individual site maps may also be necessary, for clarity. The Objectives of the policy are similar to JCS Policy 22 (c) and the drafting should reflect this (eg replace language like "... can no longer be sustained".)

Community facilities

- 3.11 Policy 012 supports new sporting facilities at Oundle School "where such facilities will be made publicly available". This requirement goes beyond, in my view, the scope of a land use policy and is effectively advocacy, so should be removed to a Supporting Action.
- 3.12 Policy 013 seeks to secure the enhancement of various community facilities and services. Again, the objectives are very similar to JCS Policy 7. A definition of what facilities are caught by this condition is needed; and the inclusion of the three car parks needs more justification – and probably relocated to another place in the plan, say with accessibility.

Housing allocations

- 3.13 These will need substantial review. I have dealt with mapping issues already. The dwelling allocations in Policy 015 will need, in my view, to reflect the density arguments made by the local planning authority, which I support. The final paragraph in that policy – "Preparation of...." is advocacy while it contains the phrase "involving" and should be modified to omit it, or deleted.
- 3.14 Each allocation needs to justify the inclusion of the (often many) non-housing obligations and to demonstrate the deliverability of the overall package. And, where the housing development is linked to an (often separate) open space or other allocation, how one delivers the other needs to be made clear. There is a variety of site specific issues that will need to be addressed more thoroughly, particularly the issues of flood risk and noise.

Conformity

- 3.15 The local planning authority, in the Legal Check letter of 9th July 2019, asserts that the deletion of the Cotterstock Road site is a direct challenge to the adopted strategic policies of the Local Plan, citing para 8.18 of the RNOT Plan. They explain that this view is supported by the examiner of the Glapthorn Neighbourhood Plan: it was

concluded that it was a strategic policy and that that plan sought to undermine it in respect of that development.

- 3.16 There are two issues here: The first is that the plan before me does not “delete” the allocation – it was simply not carried forward, unlike in the case of Glapthorn where the challenge was overt. Also, it’s not the omission of the site that is the challenge to 8.18 but the plan’s new settlement boundary – which means they are excluded - and that is an issue capable of being resolved by a modification to the boundary (suitable supported by appropriate evidence) and the text of the policy.
- 3.17 The second is that the Cotterstock Road development site straddles the boundaries of the two parishes and their neighbourhood plans. The masterplan for the proposed development, now a live application, as shown to me at the public hearing, cannot be accommodated within the boundaries of the neighbourhood plan: The layout does not divide into two neat parts; even the access point lies on the parish boundary.
- 3.18 It seems to me that there are difficulties with including this development in this plan, which would have to be as a partial allocation. If it is to be treated as a strategic allocation, as I believe the local planning authority are doing, there is logic in it being omitted from this plan, albeit recognised in the neighbourhood plan’s spatial strategy and housing numbers. On that basis, with a redrawn settlement boundary that allows for it, I have concluded that its omission is not in conflict with a strategic policy.

4. Referendum Area

- 4.1 Planning Practice Guidance on the Independent Examination (Paragraph: 059 Reference ID: 41-059-20140306) says:

“It may be appropriate to extend the referendum area beyond the neighbourhood area, for example where the scale or nature of the proposals in the draft neighbourhood plan or Order are such that they will have a substantial, direct and demonstrable impact beyond the neighbourhood area.”

- 4.2 There are no development site allocations adjacent to the neighbouring parish of Glapthorn, which has a neighbourhood plan – and one, which involved a site adjacent to this plan - and there are few immediate neighbours in the northern part of the plan area. However, the sheer adjacency of the plans, the combination of viewpoints, Important Open Space designations and the future of the Cotterstock Road site, suggest that the nature and scale of what the plan proposes would *have a substantial, direct and demonstrable impact beyond the neighbourhood area.*
- 4.3 If the plan were to be recommended to go forward to a referendum, I would have recommended that the Referendum Area be extended beyond the designated neighbourhood area to include all, or the relevant parts of, Glapthorn Parish.

5. Conclusions

- 5.1 I can see that the Town Council and their volunteers have put in a great deal of hard work into the preparation and submission of the plan and the supporting documents. The plan is well presented and clear. The plan seeks to represent the local community’s aspirations, which it does well. Where it has not succeeded is in the approach to consultation – especially on the changed preferred spatial strategy - and in the ways I have identified earlier, especially evidential support for the main policies, the lack of a robust site selection and assessment process; and, crucially,

an inadequate SA. Consequently, there are fundamental flaws in the plan and some of the policies fail the Basic Conditions.

- 5.2 The inadequacies – especially in the consultation process and the SA – taken together are, in my view, incapable of being rectified by modifications.
- 5.3 Overall, from my examination of the submitted Oundle Neighbourhood Plan, together with the supporting documents, including having regard to all the representations made, I have concluded that the making of the plan will NOT meet the Basic Conditions. I have set out my conclusions, drawn from the findings in my report, in the Summary, on page 3.

John Parmiter FRICS FRSA MRTPI

Independent Examiner

21 December 2019