

Treswell and Cottam Neighbourhood Plan

Submission Version

A Report to Bassetlaw District Council on the Examination of the Treswell and Cottam Neighbourhood t Plan

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Executive Summary

My examination has concluded that the Treswell and Cottam Neighbourhood Plan should proceed to referendum, subject to the Plan being amended in line with my recommended modifications which are required to ensure the plan meets the basic conditions. The more noteworthy include –

- Bringing the sequential approach to development in flood areas into line with national policy.
- Confining the presumption in favour of affordable housing to sites which are within or adjacent to the built-up areas of the 2 villages.
- Restricting the policy protecting significant views to those views identified in the plan.
- Differentiating between policies protecting listed buildings and those protecting non-designated heritage assets.
- Imposing a requirement that development affecting Lee Beck Green Corridor should not increase flood risk to nearby properties

The referendum area does not need to be extended beyond the plan area.

Introduction

1. Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the Bassetlaw Core Strategy and Development Management Policies DPD. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.
2. The neighbourhood plan making process has been led by Treswell and Cottam Parish Council. A Steering Group was appointed to undertake the plan preparation made up of local volunteers. Treswell and Cottam Parish Council is a “qualifying body” under the Neighbourhood Planning legislation.
3. This report is the outcome of my examination of the Submission Version of the Treswell and Cottam Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be “made” by Bassetlaw District Council, the Local Planning Authority for the neighbourhood plan area.

The Examiner’s Role

4. I was formally appointed by Bassetlaw District Council in August 2018, with the agreement of Treswell and Cottam Parish Council, to conduct this examination. My role is known as an Independent Examiner. My selection has been facilitated by the Neighbourhood Planning Independent Examiner Referral Service which is administered by the Royal Institute of Chartered Surveyors (RICS)
5. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 40 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both Bassetlaw District Council, and Treswell and Cottam Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.
6. Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

- That the plan should proceed to referendum on the basis that it meets all the legal requirements.
 - That the plan should proceed to referendum if modified
 - That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.
7. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Treswell and Cottam Neighbourhood Plan area.
 8. In examining the Plan, the Independent Examiner is expected to address the following questions
 - a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
 - b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
 - c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body.
 9. I am able to confirm that the Plan does relate to the development and use of land, covering the area designated by Bassetlaw District Council, for the Treswell and Cottam Neighbourhood Plan on 18th December 2015.
 10. I can also confirm that it does specify the period over which the plan has effect namely the period from 2018 up to 2029.
 11. I can confirm that the plan does not cover any “excluded development”.
 12. There are no other neighbourhood plans covering the area covered by the Plan designation.
 13. Treswell and Cottam Parish Council as a parish council is a qualifying body under the terms of the legislation.

The Examination Process

14. The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.
15. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

16. I am satisfied that I am in a position to properly examine the plan without the need for a hearing.
17. I carried out an unaccompanied visit to Treswell and Cottam and the surrounding countryside on 16th October 2018. This enabled me to familiarise myself with the village and the surrounding countryside.

The Consultation Process

18. Once the neighbourhood plan area had been designated the Steering Group was established. There had previously been a public Introduction to Neighbourhood Planning event held in September 2015, attended by 39 people. In early December 2015, 3 drop-in sessions were held in the Village Hall attended by 49 people. A village survey was conducted between March and April 2016 which received 152 responses, a 58% response rate. There was a further pop in event held in Village Hall on the 20th June 2016 and a feedback session, where the results of the neighbourhood plan survey was shared with the villages on 26th July, which was attended by 22 people. A draft plan was prepared and this was presented on the 7th December 2016.
19. All this activity culminated in the preparation of the Pre - Submission version of plan, which was the result subject of public consultation, known as the Regulation 14 consultation which ran for an extended period between the 26th June and the 13th September 2017. During this period, a public consultation meeting was also held on 9th September 2017, attended by 43 residents. The responses received are fully set out in the Consultation Statement and this indicates how the plan has responded to the comments received.
20. I am satisfied that the public and relevant stakeholders have had ample opportunities to contribute to the neighbourhood plan process.

Regulation 16 Consultation

21. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation, which took place over a 6-week period between 13th July 2018 and 3rd September 2018. This consultation was organised by Bassetlaw District Council, prior to it being passed to me for its examination. That stage is known as the Regulation 16 Consultation.
22. In total 10 individual responses were received. These came from Natural England, Lincolnshire County Council who provide archaeological advice to the LPA, Nottinghamshire County Council, Anglian Water Services Ltd, Highways England, Historic England, Sports England, West Lindsey District Council, National Grid and the NFU.

23. I have carefully read all the correspondence and I will refer to the representations where it is relevant to my considerations and conclusions in respect of specific policies or the plan as a whole.

The Basic Conditions

24. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.
25. The six questions which constitute the basic conditions test seek to establish that the Neighbourhood Plan: -
- Has had regard to the national policies and advice contained in the guidance issued by the Secretary of State and it is appropriate to make the Plan?
 - Will the making of the Plan contribute to the achievement of sustainable development?
 - Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
 - The making of the Plan does not breach or is otherwise incompatible with EU obligations or human rights legislation?
 - Whether prescribed conditions are met and prescribed matters have been complied with?
 - Whether the making of the Plan will have a significant effect upon a European site or a European offshore marine site, either alone or in combination with other plans and projects?
26. During the course of this examination the Government issued a revised National Planning Policy Framework. However, in accordance with the stipulation of Paragraph 214 of the 2018 NPPF, this examination has been carried out applying the policies in the 2012 version of the Framework.

Compliance with the Development Plan

27. To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Bassetlaw Core Strategy and Development Management Policies DPD, adopted in 2011.

28. The Bassetlaw Core Strategy categorises both Treswell and Cottam as “all other settlements” in the Settlement Hierarchy as set out in Policy CS1. Policy CS9 states that the “any new housing should be through conversion or replacement dwellings”. It also allows development to meet the unmet need for affordable housing.
29. Bassetlaw District Council is in the process of preparing a new Local Plan – the Bassetlaw Plan but this plan is at an early stage.
30. I have found no strategic policies in the Core Strategy which are in any way undermined or compromised by the policies in this Neighbourhood Plan and this element of basic condition is met.

Compliance with European and Human Rights Legislation

31. Bassetlaw District Council prepared a Screening Report which concluded, that the Treswell and Cottam Neighbourhood Plan that it is unlikely there will be any significant effects arising from the Plan and a full Strategic Environmental Assessment (SEA) as required by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”, would not be required.
32. The District Council, as competent authority, also at the same time, issued a screening opinion under the Habitat Regulations. The assessment concluded that the Plan will not likely have a significant effect on the Birklands and Bilhaugh SAC or the proposed SPA at Sherwood Forest, which are the nearest European protected sites.
33. I am satisfied that the basic conditions regarding compliance with European legislation are met. I am also content that the plan has no conflict with the Human Rights Act.

The Neighbourhood Plan: An Overview

34. The policies in this plan are essentially consistent with Treswell and Cottam’s position in the settlement policy set out in the Bassetlaw Core Strategy. I understand that an earlier version of the neighbourhood plan had wanted to, as stated in paragraph 5.3, to “see the villages develop in a balanced manner to meet the wider employment, recreational and social needs of the community.” It appears that the ambition was tempered by the District Council’s comments at Regulation 14 for the need to have greater regard to the policy in the Core Strategy, which I note was adopted before the original NPPF was published in 2012. I would draw parties’ attention to paragraphs 54 and 55 of the 2012 Framework, which has been expression of Secretary of State policy that this plan has been examined against. These are replaced now by Paragraphs 77 and 78 of the 2018 NPPF. There may be

opportunities for the Parish Council to pursue its earlier ambition, through the forthcoming Bassetlaw Plan.

35. My examination has looked at the policies in the Submission Version of the Neighbourhood Plan and I have only needed to recommend a remarkably few amendments, which are essentially of a technical nature, to bring the plan into line with national and local plan policy and hence the basic conditions. I have not had to recommend that any policies be deleted in their entirety.
36. My examination has concentrated on the wording of the policies themselves, rather than the supporting text, as these will be used to determine planning applications. It is beyond my role as examiner to be making editorial changes to the Plan's supporting text as these are not required to ensure the plan meets the basic conditions. There may be changes necessary to the supporting text and policy justifications, which are needed in the light of my recommendations so that the plan reads as a coherent planning document. That is a matter for the Parish Council to discuss with Bassetlaw planners when preparing the Referendum Version of the Plan.

The Neighbourhood Development Plan Policies

Policy 1 -Development within Treswell and Cottam

37. This is a wide-ranging policy which would apply to all types of development, not just residential development in the villages. It has five elements and I will address each in turn.
1. This policy, which deals with the "extension and conversion of buildings", appears to read as the statement of fact, rather than as a policy which can be used to determine planning application. This shortcoming can be remedied by revised wording which I will be recommending, which will this achieve the same objective.
 2. I consider this part of the policy to be broadly in line with Policy DM1 of the Local Plan and is consistent with the Secretary of State's policy set out in Paragraph 8 of the NPPF (2012).
 3. I do not believe that the policy wording is completely in line with national policy. As written it could imply that a case could be argued as to whether "more suitable areas" are available, but the policy does not define how that *suitability* would be judged. The sequential approach advocated by national policy, is to ascertain whether there are "areas with a lower probability of flooding" that are available. I will recommend amending the policy to bring it closer into line with Paragraph 101 of the NPPF (2012).
 4. As written, the policy could allow the construction of affordable housing at any location in the plan area, which could be well away from the existing built-up areas of the 2 villages. That would constitute unsustainable development, particularly for residents who would ordinarily need to walk to local facilities such as the Village Hall or use public transport, a point made by the County Council in their Regulation 16

comments. To ensure that the policy is consistent with the approach to location of new housing set out in the NPPF and Policy CS8 of the Bassetlaw Core Strategy, I will introduce a requirement that such development should be within or adjacent to the built existing built-up areas of Cottam and Treswell.

5. The issue the protection of views is covered in greater detail in Policy 2 and in order to remove the possibility of any uncertainty as to which policy applies to a particular development, I will be recommending that that criterion c) of the policy be deleted as it duplicates the requirements in the next policy.

Recommendations

Replace 1. With “Proposals for the extension or conversion of existing building will be supported where they are well – designed and contribute positively to the character of the area.”

At the end of 3. replace “more suitable areas” with “areas at a lower risk of flooding”

At the end of 4 insert “and are within or are adjacent to the built-up areas of Treswell and Cottam”

In 4. delete c) and renumber d).

Policy 2: Design Principles

38. My concern is that this policy covers all “development” and there may be some buildings in the plan area, where it would not be appropriate to follow the principles, such as development within Cottam Power Station, or any other development that does not fall within any of the character areas. The matter can be accommodated by the insertion of a caveat “where appropriate”. This will allow the decision maker to exercise judgement as to whether the policy applies to that particular development in that location.
39. In terms of the individual principles, the second relates to “significant views”. These are identified in Figures 5 and 8. However, the policy also includes the *catchall* in parenthesis - “(but not limited to)”. I believe that this introduces unnecessary uncertainty into the decision-making process. If the neighbourhood plan had considered that there were other significant views within the plan area, then they should have been identified in the plan. From my site visit, I did not identify any other important viewpoints beyond those already shown.
40. In terms of criteria j, this offers the same level of protection to non-designated heritage assets as does to the listed buildings. This is not in accordance with the Secretary of State’s approach, as set out in Paragraph 135 of the NPPF (2012) which

requires a decision maker to make a balanced judgement having regard to the “scale of any harm or loss and the significance of the heritage asset” when considering proposals affecting non-designated heritage assets. I will propose revised wording to ensure that the policy meets basic conditions

Recommendations

In the third sentence after “will” insert “where appropriate”.

In b) In the second sentence replace “include (but not limited to) those” with “are”

Replace j) with “The plan areas listed buildings and non-designated heritage assets are shown on Figures 7 and 10. Proposal affecting the listed buildings and/ or its setting will be expected to preserve and if possible enhance the listed building and its setting. Proposals affecting non-designated heritage assets will be judged against the scale of harm or loss to the significance of the asset.”

Policy 3: Protecting Existing Community Facilities

41. I have no comments to make on the policy conditions which meets the basic conditions.

Policy 4: Local Green Space

42. The purpose of designation as Local Green Space is to “rule out new development except in very special circumstances”. However, the second part of the policy allows some ancillary development associated with the open space to be permitted. The policy could be more explicit so as to include the presumption against all development, apart from that are set out in the policy.
43. I am satisfied that Site LGS1 does meet the strict criteria set out in Paragraph 77 of the NPPF (2012) and thus justifies designation as Local Green Space.

Recommendation

Replace 2. with “Proposals for development will not be supported, except in very special circumstance, unless the development proposes the erection of ancillary buildings or structures required to enhance the public usage of the space.”

Policy 5: Lee Beck Green Corridor

44. This is a locally distinct policy, which reflects the importance that the local community attaches to this green corridor. I have some detailed recommended modifications to

the drafting of the policy, with regard to the matter of flooding. As written the requirement is to “seek to minimise any increased risk of flooding or surface water run off to nearby properties”. I do not consider that the requirement to only “minimise” increased flooding of other properties as a result of development being proposed, is a sufficiently robust threshold and is not consistent with Secretary of State’s policies set out in Paragraph 102 of the 2012 Framework. This requires that “development should not increase flood risk elsewhere”. I will recommend an alternative wording of policy to bring the wording in line with Secretary of State advice.

Recommendation

Replace in b) “seek to minimise any increased” by “Must not increase”.

Policy 6: Supporting Local Employment Opportunities

45. I have no comments to make on this policy which I consider meets the basic conditions.

The Referendum Area

46. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Treswell and Cottam Neighbourhood Plan as designated by Bassetlaw District Council on 18th December 2015, is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended

Summary

47. The Steering Group has produced a very professional neighbourhood plan. I congratulate the Parish Council and the Steering Group on all their hard work that has gone into its preparation. It will be an important document that can be used to determine planning applications in the Parish over the coming years.

48. To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.

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49. I am therefore delighted to recommend to the Bassetlaw District Council that the Treswell and Cottam Neighbourhood Plan, as modified by my recommendations, should now proceed to referendum.

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