

Thurgarton Neighbourhood Plan 2016 – 2026

Report by Independent Examiner

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Summary and Conclusion

1. The Thurgarton Neighbourhood Plan 2016 - 2026 sets out a clear vision and objectives. It is a well written document with precise policies and detailed explanatory text.
2. To meet the Basic Conditions, it has only been necessary for me to recommend modification to one policy. As the Plan identifies a new village envelope rather than one in an existing Local Plan, to provide a practical framework for decision making, I have recommended modification to Policy 1 to specifically refer to the new Village Envelope *as defined on Map 1*.
3. **Whilst I have set out my reasoning under individual policies, my overall conclusion is that, subject to my recommendation, the Plan meets the Basic Conditions. It is appropriate to make the Plan. Subject to my recommendation being accepted, I consider that the Thurgarton Neighbourhood Plan 2016 - 2026 will provide a strong practical framework against which decisions on development can be made. I am pleased to recommend that the Thurgarton Neighbourhood Plan 2016 - 2026, as modified by my recommendation, should proceed to Referendum.**

Introduction

4. I was appointed as an independent Examiner for the Thurgarton Neighbourhood Plan 2016 - 2026 in October 2016.
5. On 19 March 2015 Newark & Sherwood District Council (NSDC) approved that the Thurgarton Neighbourhood Area be designated in accordance with the Neighbourhood Planning (General) Regulations 2012. The Area covers the whole of the parish of Thurgarton.
6. The qualifying body is Thurgarton Parish Council. The Plan has been prepared on behalf of the Parish Council by a Steering Group. The Plan covers the period 2016 to 2026.

Legislative Background

7. As an independent Examiner, I am required to determine, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether:
 - the policies in the Plan relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
 - the Plan meets the requirements of Section 38B of the 2004 PCPA where the plan must specify the period to which it has effect, must not

include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area; and

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

8. I am obliged to determine whether the Plan complies with the Basic Conditions. The Basic Conditions are:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the Development Plan for the area of the authority; and
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations and human rights requirements.

9. Subject to the modification I have recommended in this report, I am content that these requirements have been satisfied.

EU Obligations

10. Directive 2001/42/EC and the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended) set out various legal requirements and stages in the production of a Strategic Environmental Assessment (SEA).
11. NSDC prepared a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment Screening Statement for the Thurgarton Neighbourhood Plan in October 2016 to determine whether or not the Plan required a full Strategic Environmental Assessment (SEA) under the European Directive 2001/42/EC and whether it required a Habitat Regulations Assessment (HRA) under Article 6 or 7 of the Habitats Directive.
12. Regarding the need for a SEA, this Report concluded that the Plan *will not have significant environmental effects in relation to any of the criteria set out in Schedule 1 of the SEA Regulations, and therefore does not need to be subject to a full SEA*. The consultees concurred with this view. Based on the screening determination and consultee response, I consider that it was not necessary for the Plan to require a full SEA Assessment. The SEA screening accords with the provisions of the European Directive 2001/42/EC.

13. The HRA Screening Assessment at paragraph 4.1 states: *for the HRA “screening” assessment the Neighbourhood Plan area was checked to see if any Special Protection Areas (SPA), Special Areas of Conservation sites (SAC), or Ramsar sites were located within its area, as well as those considered as potential sites (pSPA, cSAC & pRamsar). The assessment also checked to see if any of these internationally important sites were located within a 15km radius from the Neighbourhood Plan area. The only site identified within a 15km radius was the Sherwood Forest (pSPA).*
14. The HRA Screening Assessment concludes that *no significant effects are likely to occur with regards to the identified breeding areas in relation to the Sherwood Forest pSPA, due to the implementation of the Plan. As such the Plan does not require a full HRA to be undertaken.*
15. Natural England requested additions to paragraph 4.1 in the Screening Assessment to make it clear that there are no designated European sites within the screening distance used and that the only site that has been used in the assessment is the possible pSPA for Sherwood. This paragraph was subsequently updated to that quoted above.
16. On the basis of the screening determination and consultee responses, I consider that the Plan does not require a full HRA under Articles 6 or 7 of the Habitats Directive.
17. A Neighbourhood Plan must be compatible with European Union obligations, as incorporated into UK law, in order to be legally compliant. I am satisfied that the Plan is compatible with EU obligations and does not breach the European Convention on Human Rights obligations.

Policy Background

18. *The National Planning Policy Framework (2012) (NPPF) sets out the Government’s planning policies for England and how these are expected to be applied. The Planning Practice Guidance (2014) (PPG) provides Government guidance on planning policy.*
19. The development plan for the Thurgarton Neighbourhood Plan Area comprises the Newark and Sherwood Core Strategy (2011) and the Allocations and Development Management Development Plan Document (A&DM DPD) (2013). The strategic policies in the development plan include policies regarding the delivery of homes and jobs in the area and conservation and enhancement of the natural and historic environment.
20. NSDC is undertaking a Plan review and at the time of my examination has just completed consultation on its Preferred Approach Sites and Settlements document.

The Neighbourhood Plan Preparation

21. I am required under The Localism Act 2011 to check the consultation process that has led to the production of the Plan. The requirements are set out in Regulation 14 in The Neighbourhood Planning (General) Regulations 2012.
22. The initial consultation process included two questionnaires, a Housing Needs Survey and a community drop-in event. There were consultations with local businesses, landowners, pupils at local schools and village groups. Local people were kept informed of the progress of the Plan via the *Thurgarton People*, which is the Parish magazine.
23. The Consultation period on the pre-submission draft of the Plan ran from 28 October 2016 to 9 December 2016. The Consultation exercise involved a survey asking consultees to support or not support each of the policies in the Draft Plan, and to add comments if desired. This survey was available via an email link and hard copies were available during two community drop-in events at the Village Hall.
24. I am satisfied that the pre-submission consultation and publicity has met the requirements of Regulation 14 in The Neighbourhood Planning (General) Regulations 2012. It is clear that the qualifying body went to considerable lengths to ensure that local residents, businesses and interested parties were able to engage in the production of the Plan. I congratulate them on their efforts.
25. NSDC publicised the submission Plan for comment during the publicity period between 3 January 2017 and 13 February 2017 in line with Regulation 16 in The Neighbourhood Planning (General) Regulations 2012. A total of five responses were received. I am satisfied that all these responses can be assessed without the need for a public hearing.
26. Some responses suggest additions and amendments to policies. My remit is to determine whether the Plan meets the Basic Conditions. Where I find that policies do meet the Basic Conditions, it is not necessary for me to consider if further suggested additions or amendments are required. Whilst I have not made reference to all the responses in my report, I have taken them into consideration.

The Thurgarton Neighbourhood Plan 2016 - 2026

Background To The Neighbourhood Plan

27. I have been provided with a detailed evidence base in background supporting documents. This has provided a useful and easily accessible source of background information. Background information includes an overview of the Parish and includes details of community facilities and assets.

28. The Plan has a clear vision: *to ensure that future development within the parish respects its rural charm and heritage. In particular it wishes to resist any harmful impacts arising from industrial development and to direct new housing to within the main built up area of the village. The Parish Council wish to explore opportunities for improved facilities such as a new village hall, village shop, new footpaths and bridleways, increasing the aspects of heritage which the village has to offer and generally strengthening community spirit, all through appropriate development.*
29. The Plan sets out clear objectives based on the Vision. These objectives provide the context for the policies.
30. Paragraphs 1.16 and 1.19 refer to the current submission stage of the Plan. These will need to be updated. Figure 2 has a Key which is very difficult to read on the paper version of the Plan. It would be helpful if this Figure and accompanying Key were enlarged. I see these as minor editing matters that have no bearing on whether the Plan meets the Basic Conditions.
31. Nottinghamshire County Council has referred to the last sentence in paragraph 2.3 in the Plan: *The landscape character of these distinct areas is described in detail in the Thurgarton Conservation Appraisal.* The County Council has stated that the Thurgarton Conservation Appraisal refers to the Landscape Character Assessment from 1997 which has been superseded by the Greater Nottinghamshire Landscape Character Assessment 2009. Thus, the County Council has requested that the latter document is also referred to in this paragraph. I see this as a minor editing matter that has no bearing on whether the Plan meets the Basic Conditions.
32. For ease of reference, I have used the same headings and policy titles as those in the Plan.

DEVELOPMENT MANAGEMENT POLICIES

Policy 1: New Development

33. At the heart of the NPPF is the presumption in favour of sustainable development. It sets out the three dimensions that need to be considered, and that the roles should not be taken in isolation.
34. Core Strategy Spatial Policy 1 identifies the settlement hierarchy for the District. The part of Thurgarton Parish outside the Green Belt is identified as a Rural Area where development will be considered against the sustainability criteria set out in Core Strategy Spatial Policy 3.
35. The housing strategy in the Core Strategy allows limited development to meet local needs in Other Villages in the Rural Areas. Core Strategy Spatial Policy 3 assesses proposals for new development against criteria concerning location, scale, need, impact and character. Local housing need will be addressed by focusing housing in sustainable, accessible villages.

36. Core Strategy Core Policy 14 seeks the continued preservation of and enhancement of the character, appearance and setting of the District's heritage assets and historic environment.
37. Policy 1 seeks to prioritise development on previously developed land within the village envelope and sets criteria for such development. Development in the Green Belt will be subject to national Green Belt policy. New development adjacent to the village envelope will only be considered if there is insufficient land within the village envelope to meet the housing needs of the parish.
38. The approach to development adjacent to the village envelope in Policy 1 is in some conflict with the approach in the Core Strategy to directing development to within, rather than outside, village envelopes. However, NSDC has set out a stance as part of its current position on 5 year housing supply whereby until the current housing requirement for the district is tested through the examination of the DPD Plan Review it will consider housing development on sustainable sites which are immediately adjacent to village envelopes which meet the requirements of the Development Plan in all other respects and have the capacity to positively contribute to boosting the supply of housing within the District in the short term.
39. NSDC suggested the detailed wording of the penultimate paragraph in Policy 1 with regard to the development of sites adjacent to the village envelope. The NPPF in paragraph 185 is clear that outside the strategic elements *neighbourhood plans will be able to shape and direct sustainable development in their area*. National policy emphasises that development means growth. The Neighbourhood Plan has sought to provide for sustainable growth by allowing development adjacent to the village envelope if land is not available within it to meet housing need. In doing so, Policy 1 does afford a level of protection to the countryside and seeks to focus housing within the village envelope in the first instance. On this basis, I consider that Policy 1 is in general conformity with strategic policy and contributes towards the achievement of sustainable development.
40. It is necessary for Neighbourhood Plans to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as stated in the core planning principles in paragraph 17 in the NPPF.
41. As the Plan identifies a new village envelope rather than one in an existing Local Plan, in the interest of precision, to provide a practical framework for decision making, I recommend modification to Policy 1 by including reference to the village envelope *as defined on Map 1*. Subject to this modification, Policy 1 meets the Basic Conditions.
42. To make sense of the last sentence in paragraph 4.6 in the supporting text, the words *to be* should be deleted. I see this as a minor modification that has no bearing on the Basic Conditions.

43. **Recommendation: to meet the Basic Conditions, I recommend modification to the first sentence in Policy 1 to read as follows:**

Development proposals within the village envelope, as defined on Map 1, will be supported where they comply with the criteria set out below and all relevant development plan policies.

Policy 2: Residential Development

44. At the heart of the NPPF is the presumption in favour of sustainable development. Paragraph 28 in the NPPF promotes a strong rural economy. It states that neighbourhood plans should *promote the retention and development of local services and community facilities in villages*.
45. As mentioned above, the housing strategy in the Core Strategy allows limited development to meet local needs in Other Villages in the Rural Areas. Core Strategy Core Policy 3 emphasises the need to secure an appropriate mix of housing types to reflect local housing need. In addition, it seeks to support and promote local services and facilities in the rural communities.
46. Core Strategy Core Policy 11 seeks to encourage the retention of existing facilities and the development of appropriate new facilities and services in villages to increase rural sustainability.
47. Policy 2 does not seek to determine the overall amount of housing to be built during the Plan period and does not allocate sites for housing. Instead, its emphasis is on influencing how housing will be delivered in appropriate locations to meet identified needs. Conversions or redevelopment of existing non-residential buildings are required to ensure that they have no adverse effect on living conditions, do not result in a loss of service provision or significantly reduce employment opportunities.
48. Policy 2 has regard to the social, economic and environmental roles of sustainable development and is in general conformity with strategic policy. Policy 2 meets the Basic Conditions.

Policy 3: Transport Impact of Development

49. The NPPF seeks to promote sustainable transport and highlights in paragraph 35 that developments should be located and designed where practical *to give priority to pedestrian and cycle movements and have access to high quality public transport facilities*. In paragraph 29 it is stated that: *the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel*.
50. Core Strategy Spatial Policy 7 encourages and supports development proposals which promote an improved and integrated transport network and an emphasis on non-car modes as a means of access to services and facilities.

51. Policy 3 promotes sustainable transport, emphasising walking, cycling and the use of public transport. In addition, it seeks to ensure the provision of suitable levels of off street parking and that on street parking does not cause highway safety concerns. Policy 3 has regard to policy in the NPPF, contributes towards sustainability and is in general conformity with strategic policy. Policy 3 meets the Basic Conditions.
52. Nottinghamshire County Council has requested reference in the Plan to the requirement for developer contributions towards public infrastructure and/or services. Policy 3 does refer to the need for developments to make provision for measures to improve public transport provision. A&DM DPD Policy DM3 seeks developer contributions for appropriate infrastructure provision. I consider these adequately cover the request from Nottinghamshire County Council for developer contributions.
53. Nottinghamshire County Council has suggested that sites/schemes that afford access to public transport facilities should be given priority for development. My remit is to determine whether the Plan meets the Basic Conditions. I see no reason for such a hierarchy of development in order for the Plan to meet the Basic Conditions.
54. Nottinghamshire County Council has requested reference to Community Transport providers and to the role of taxis. I see no need for such references for the Plan to meet the Basic Conditions.

Policy 4: Local Employment

55. The NPPF promotes a strong rural economy. At paragraph 28 it states: *planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.*
56. Core Strategy Core Policy 6 seeks to strengthen and broaden the local economy. For the open countryside, A&DM DPD Policy DM8 states: *proposals for the proportionate expansion of existing businesses will be supported where they can demonstrate an ongoing contribution to local employment.*
57. Policy 4 promotes working from home and promotes the proportionate expansion of existing business sites, whilst ensuring that the amenities of neighbours and the rural setting of the village are protected. In doing so, Policy 4 has regard to the three dimensions, (economic, social and environmental roles), of sustainable development. In addition, Policy 4 is in general conformity with the strategic policy to strengthen and broaden the local economy. Policy 4 meets the Basic Conditions.

Policy 5: Community Facilities

58. Paragraph 28 in the NPPF states that neighbourhood plans should *promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship*. Paragraph 70 in the NPPF requires planning policies to plan positively for the provision and use of community facilities and guard against the unnecessary loss of valued facilities.
59. Core Strategy Spatial Policy 8 and Core Policy 11 encourage the retention of existing and the development of appropriate new facilities and services in villages to increase rural sustainability.
60. Information Box 1 in the Plan provides brief descriptions of the existing Community Facilities and Assets within the Parish. It is clear that many facilities are important to local residents.
61. Policy 5 generally supports the development and improvement of community facilities and resists the loss of such facilities. As such, this policy has regard to national policy where it contributes towards the social and economic roles of sustainable development and is in general conformity with strategic policy. Policy 5 meets the Basic Conditions.

Policy 6: Historic and Natural Environment

62. The NPPF, in Paragraph 109, requires the planning system to contribute to and enhance the natural and local environment. This *includes protecting and enhancing valued landscapes and minimising impacts on biodiversity and providing net gains in biodiversity where possible*.
63. Core Strategy Core Policy 12 seeks to conserve and enhance biodiversity. Core Strategy Core Policy 14 recognises the need to protect important open spaces identified through Conservation Area Appraisals.
64. The Thurgarton Conservation Area Appraisal was adopted in 2008. The Thurgarton Conservation Area is a designated heritage asset. The NPPF advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
65. Policy 6 seeks to preserve and enhance the environmental and historic features identified on Map 2. In addition, Policy 6 seeks to enhance biodiversity and strengthen local ecology.
66. The NPPF allows for neighbourhood plans to identify for special protection Local Green Spaces of particular importance to them. Policy 6 does not identify Local Green Spaces. It does identify *important open spaces*. These do not have the same status in planning terms as Local Green Spaces.

67. Concern has been raised regarding the inclusion of part of the garden at The Old Rectory as important open space and the inclusion of part of the garden at Highfield House within another area of important open space. I have visited the Parish and have seen for myself that these are private garden areas. I have seen the level of existing screening from public view of both these gardens. Whether or not the important open spaces are private or public land and whether or not they can be seen from public view, do not alter the fact that these areas are predominately undeveloped open areas.
68. As mentioned above, there is strategic policy recognising the need to protect important open spaces identified through Conservation Area Appraisals. The important open spaces identified on Map 2, including parts of the gardens of The Old Rectory and Highfield House, are some of those identified in the Thurgarton Conservation Area Appraisal. Therefore, even if I were to recommend their deletion from Policy 6, they would remain protected under Core Strategy Core Policy 14. I consider the identification of these areas as important open spaces in the Conservation Area Appraisal to be justified evidence to support their protection under Policy 6. My remit is to determine whether the Plan meets the Basic Conditions. It is not for me to reassess the content of the adopted Conservation Area Appraisal. For the above reasons, I see no need to remove the important open space designations from these two sites for the Plan to meet the Basic Conditions.
69. Policy 6 has regard to national policy, particularly concerning the environmental role of sustainability, and is in general conformity with strategic policy. Policy 6 meets the Basic Conditions.

Other Matters

70. Nottinghamshire County Council has requested that the Plan include reference to how sustainable developments should include sufficient facilities to enable waste recycling. I note that Policy WCS2 in the Nottinghamshire and Nottingham Waste Core Strategy covers this issue. In addition, Nottinghamshire County Council has requested that the Plan include reference to public health documents. My remit is to determine whether the Plan meets the Basic Conditions. I see no need for the Plan to refer to these matters in order to meet the Basic Conditions.
71. The Glossary of Terms includes a definition of the Localism Act 2011. I do not consider that the definition provided is completely accurate and I am not sure that this can be defined in one sentence. I see this as a minor editing matter.

Referendum and the Thurgarton Neighbourhood Plan Area

72. I am required to make one of the following recommendations:
- the Plan should proceed to Referendum, on the basis that it meets all legal requirements; or

- the Plan as modified by my recommendations should proceed to Referendum; or
 - the Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
73. **I am pleased to recommend that the Thurgarton Neighbourhood Plan 2016 – 2026 as modified by my recommendation should proceed to Referendum.**
74. I am required to consider whether or not the Referendum Area should extend beyond the Thurgarton Neighbourhood Plan Area. I see no reason to alter or extend the Neighbourhood Development Plan Area for the purpose of holding a referendum.

Minor Modifications

75. The Plan is a well-written document, which is easy to read. Those involved in the production of the Plan should be very pleased with their achievement. Where I have found minor errors, I have identified them above. It is not for me to re-write the Plan. If other minor amendments are required as a result of my proposed modification, I see these as editorial matters which can be dealt with as minor amendments to the Plan.

Janet Cheesley

Date 1 March 2017

Appendix 1 Background Documents

The background documents include:

The National Planning Policy Framework (2012)
The Planning and Compulsory Purchase Act 2004
The Localism Act (2011)
The Neighbourhood Planning Regulations (2012)
The Neighbourhood Planning (General) (Amendment) Regulations (2015)
The Planning Practice Guidance (2014)
The Newark and Sherwood Core Strategy (2011)
The Allocations and Development Management Development Plan Document (2013).
NSDC Five Year Housing Land Supply – Current Position Statement
Strategic Environmental Assessment (SEA) and Habitats Regulations
Assessment Screening Statement (October 2016)
Regulation 16 Representations
Thurgarton Neighbourhood Plan Consultation Statement and Appendices
(December 2016)
Thurgarton Neighbourhood Plan Basic Conditions Statement (December
2016)
Thurgarton Adopted Conservation Area Appraisal (January 2008)
Thurgarton Rural Housing Survey 2015
Thurgarton Neighbourhood Plan Survey Feedback (December 2016)