

# CNHW (Cuckney, Norton, Holbeck & Welbeck) Draft Neighbourhood Development Plan

## Bassetlaw District Council Planning Service Response

### July 2015

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#### Comments and Proposed Changes

To ensure this Neighbourhood Plan (NP) is a usable planning document and its policies can be used to make more informed planning decisions than the current policy framework enables, it is recommended that the following comments are considered and the proposed changes made. These changes are also needed to ensure the NP references national and local planning policies correctly.

NP Section	Comments
Heritage references including paragraph 1.25	<p>It is pleasing to see that heritage and conservation is a constant underlying theme throughout this NP as it is an area rich in built heritage. However, it is a shame that the NP appear to regard conservation as a conflict with regeneration, when it is in fact the heritage and conservation of the plan area that offers much in the way of tourism and quality of life and seen as a positive asset to the area as set out in para 1.25.</p> <p>NP's have potential to conflict with the Planning (Listed Buildings and Conservation Areas) Act 1990. This NP area covers listed buildings and conservation areas. Regardless of any NP policy the Local Planning Authority has to determine planning applications with special regard to the sections of the Act (section 16 (2), section 66 (1) and section 72). There is a statutory presumption to refuse planning applications that do not preserve conservation areas, listed buildings and setting of listed buildings. A statement within the NP to remind all readers and decision makers about this is advisable to ensure clarity.</p>
Policy 1	<ul style="list-style-type: none"> <li>• Part 1: this reads as more of an objective than a policy. Consider moving to the objectives in section 5.</li> <li>• Part 2: What are the objectively assessed local housing needs of the parish? This NP need to set out where the evidence and justification for this can be found.</li> <li>• Part 3: There are concerns with the words 'significantly and adversely' – normal Development Management definition would be 'does not cause material harm to'. To contemplate refusal of an application, material harm must be caused. Without that definition, it makes application of the policy quite difficult – and potentially open to challenge. Recommend the wording is changed to refer to material harm instead.</li> </ul>
Paragraph 7.2	<p>Considering that this NP covers more than one parish, is it the aim of the NP to seek community engagement across all parishes for a major development that could only impact on one parish?</p>
Policy 2	<p>Encouraging applicants to engage the local community in pre application</p>

NP Section	Comments
	discussions before submitting an application is a worthy intention supported by NPPF paragraph 189. It is noted that policy (in line with national guidance) encourages engagement by asking that applicant ‘should’ engage, rather than seeking to require it.
Policy 3	<ul style="list-style-type: none"> <li>• Part 1: How will an applicant be able meet the ‘<i>demonstrable needs applying at that point</i>’? The SHMA referred to in the supporting text is an overarching strategic document that cannot stipulate a fine grain of local housing need to a parish level. Suggest the NP provides a clear signpost to developers on how this need can be demonstrated. Please note if this was attempted with a supporting document it will be important to consider its legal weight if it has not been subject to full consultation or adoption by the local authority. Alternatively suggest this section is deleted as in its current form it would hold little weight at a planning appeal.</li> <li>• Part 2: it is unclear what this part is aiming to achieve, can more clarification be added to the policy and its supporting text?</li> <li>• Part 3: It is important to consider the legal weight of any local needs survey and the Rural Area Profiles as referenced in this policy if they have not been subject to full consultation or adoption but the NP wishes to apply their recommendations to an application. It is likely they may hold little weight at a planning appeal. Recommend this is revised or deleted.</li> </ul>
Paragraph 8.8	This statement is incorrect. The adopted Affordable housing SPD identifies the areas covered by the different affordable housing targets across Bassetlaw. These areas cover the parishes of this NP. Recommend this paragraph is updated to refer to the Affordable Housing SPD.
Paragraph 8.12	<p>With regard to the number of affordable homes that may come from the larger developments sought in this NP:</p> <ul style="list-style-type: none"> <li>• The national affordable housing threshold set out in the NPPF states that ‘<i>contributions should not be sought from developments of 10-units or less</i>’. Therefore only development of 11 or more dwellings will be expected to provide a proportion of affordable housing not 10. Recommend reference is corrected to reflect this.</li> <li>• Until applications are granted (and any development viability issues resolved) the potential for development to deliver less affordable units remains. Recommend this statement be changes to state that it is expected that these sites will deliver affordable homes rather than ensure it will.</li> </ul>
Section 8 & Policy 4	<ul style="list-style-type: none"> <li>• Occupation restrictions imposed by local connections criteria cannot form a Planning Policy. Whilst it may be a laudable aim, and it may be that a developer would be willing to look at such an aim, it cannot be a policy requirement. Planning cannot control exactly who would live in a development, therefore as a policy, there is no basis. Suggest deletion of the Policy. If this policy does remain, more clarity on the criteria is needed to explain how this can be used in determining a planning application.</li> <li>• The Community Housing model referred cannot form part of a planning policy. It relates to a private legal agreement between a</li> </ul>

NP Section	Comments
	<p>landowner/landlord and their tenant. The presence or absence of such an agreement will have no bearing on the determination of a planning application. If this community housing model is also sought on larger schemes instead of traditional affordable housing, this would need to be delivered through a section 106 agreement as part of the planning application. It cannot form the basis of a general planning policy.</p>
<p>Section 8 Continued</p>	<p><b>Enabling Development:</b> There appears to be a conscious effort to use enabling development (ED) to restore property that Welbeck Estate own which has fallen into disrepair. While ED can be used in this way the NP does appear to provide special circumstance to allow Welbeck Estate not to market property that has fallen into disrepair under their ownership.</p> <p>Marketing in an attempt to avoid ED is one of the first policy principles of enabling development in order to attempt to find a new owner that is prepared to invest in a derelict building without the need for ED. While allocating sites that includes these problem buildings at risk and having a well worded policy that secures their future could be the solution, singling out Welbeck Estates as being an exemption to the ED policy in the main text (section 8) does read as favouring one landowner and discriminatory against others that may also have problem buildings now or in the future where a valid ED case could apply.</p> <p>Section 8 of the NP would benefit from being re-written so it does not read as a Welbeck Estates solution to their own property problems. After all the Local Planning Authority (LPA) planning powers have to be considered, e.g. if these buildings at risk were not resolved after adoption of the NP and the LPA chose to pursue enforcement through CPO or Enforced Sale then ED is a solution for the building despite ownership. Therefore reference to ED throughout the NP should be about the needs of the building rather than the unwillingness of an owner to market or the inherent needs of an individual owner.</p> <p>Allocating sites that include these problem buildings that are based on community needs and with policies that tie their restoration in with any development can be considered as a pro-active policy approach for buildings at risk. The NP should be able to achieve this without the need to refer to a departure from ED policy or that so closely ties it the current landowner. Recommend the extent of ED references and reliance on it as a development solution is removed from the NP.</p> <p><b>Historic Entity:</b> There are strong reservations about how widespread the concept of 'historic entity' is being be applied to all of Welbeck Estate assets. It may be argued that it applies to the Abbey complex, but there is no agreement that this extends to all of the other assets of the Welbeck estate, including the land this NP is seeking to allocate. Recommend this issue is resolved to provide a justification for this historic entity with the extant of land it is considered to cover defined (this could also be set out in the</p>

NP Section	Comments
	Glossary of terms). If this cannot be resolved, reference to historic entity should be removed.
Paragraph 8.40	Consideration needs to be given to how much planning weight can be given to the Welbeck Estates Pattern Book in guiding design. Has it been subject to formal public consultation? Will it be able to be adopted as SPD to the Development Plan? The district wide residential design SPD (Successful Places) carries significant planning weight as it has done both of these things. What will the pattern book add to the SPD. If the Pattern Book cannot be consulted on or adopted recommend it is not used as a primary tool for determining the design of a scheme and not reference in policies.
Policy 5	<ul style="list-style-type: none"> <li>• Part 1: <ul style="list-style-type: none"> <li>• Consideration must be given to the advice in Paragraph 60 of the NPPF which states <i>‘Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.’</i> It is unclear how this policy promotes or reinforces local distinctiveness. Recommend this policy is reworded to better meet the requirements of the NPPF.</li> <li>• Elements of this policy are already covered by Bassetlaw Core Strategy policy DM4 and the adopted Residential Design SPD.</li> <li>• This policy needs to recognise that not all development will be able to meet all of the criteria, i.e. small scale developments of single dwellings. Recommend ‘where appropriate’ is added to the start of this policy and the word ‘all’ is removed.</li> </ul> </li> <li>• Part 1 (d): <ul style="list-style-type: none"> <li>• A policy requiring developers to use an adopted SPD is not necessary – it already exists and should be used where appropriate.</li> <li>• The planning weight that can be applied of the Welbeck Pattern Book needs to be considered before its inclusion in this policy (see comments on paragraph 8.40 above).</li> </ul> </li> </ul>
Policy 6	<ul style="list-style-type: none"> <li>• Parking standards are already addressed in Bassetlaw’s adopted Residential Parking Standards SPD. The SPD sets a minimum standard of 1 space for 1 bedroom dwellings and 2 spaces for dwellings with 2 or more bedrooms. This policy sets a different parking requirement for new development. Recommend more evidence is needed to justify the NP’s requirement.</li> <li>• Acknowledge the concerns of the community regarding on street parking but is there any evidence (i.e. for Nottinghamshire County Council Highways department) to show this is a particular problem in the NP area? It should also be considered that requiring additional off street parking does not guarantee it will be used or resolve any ongoing issues (if they can be demonstrated).</li> <li>• It should also be noted that over time government guidance differs on</li> </ul>

NP Section	Comments
	parking provisions, the wording of this policy should include the statement 'consistent with current national guidance at the time of determination' to ensure flexibility with any national changes.
Policy 7	<ul style="list-style-type: none"> <li>• Part 1: this reads as more of an objective than a policy. Consider moving to the objectives in section 5.</li> <li>• Part 2: There are concerns with the words 'significantly and adversely' – normal Development Management definition would be 'does not cause material harm to'. To contemplate refusal of an application, material harm must be caused. Without that definition, it makes application of the policy quite difficult – and potentially open to challenge. Recommend the wording is changed to refer to material harm instead.</li> <li>• Part 3: It should be noted that developer contributions as referred to here would mean a section 106 agreement. Such agreements can only be applied to a development if what is required reasonably relates to the development itself. More clarification is needed in this policy to show that the reference to '<i>physical infrastructure solutions identified</i>' will only be those that relate to the development in question, and not wider infrastructure improvements needed in the NP area as a whole. If funding for general improvements is needed, this should be considered through the Community Infrastructure Levy (CIL) instead.</li> </ul>
Policy 8	Part 2: What if the community facility was no longer viable and reasonable evidence was provided to show that there was no other community use interested in occupying the building? Under this policy the building would then sit empty? Recommend this policy is amended to include reasonable caveats to address this. Please note Core Strategy Policy CS8: Rural Service Centres (which already applies to Cuckney) contains such considerations, recommend this is used as a template.
Section 12 Site Allocations	How were these sites selected? Assume there was more involved than the discussion between the steering group, Welbeck Estates and Bassetlaw. For clarity a summary of the site selection process would be helpful at the start of this section. It is noted that in paragraph 1.13 if the NP reference is made to discounting pockets of land not owned by Welbeck Estates due to their distance for villages. Where can the assessment of this land, drawing this conclusion, be found? Recommend a reference and link to this work is added for clarity on the site selection process.
All site allocation policies	The majority of the site allocation policies ask for sites to be designed in accordance with the principles of the Welbeck Pattern Book. Please see comments on policy 5 and paragraph 8.40 regarding the weight that can be applied to this document.
Policy 10	<ul style="list-style-type: none"> <li>• Part (b): Could more information be added to this point to better explain what access arrangements are needed on this site?</li> <li>• Part (d): See comments on the Pattern Book set out earlier in this response.</li> <li>• Part (e): what housing needs survey is being referred to here? Recommend this NP sets out where the evidence and justification for this can be found.</li> </ul>

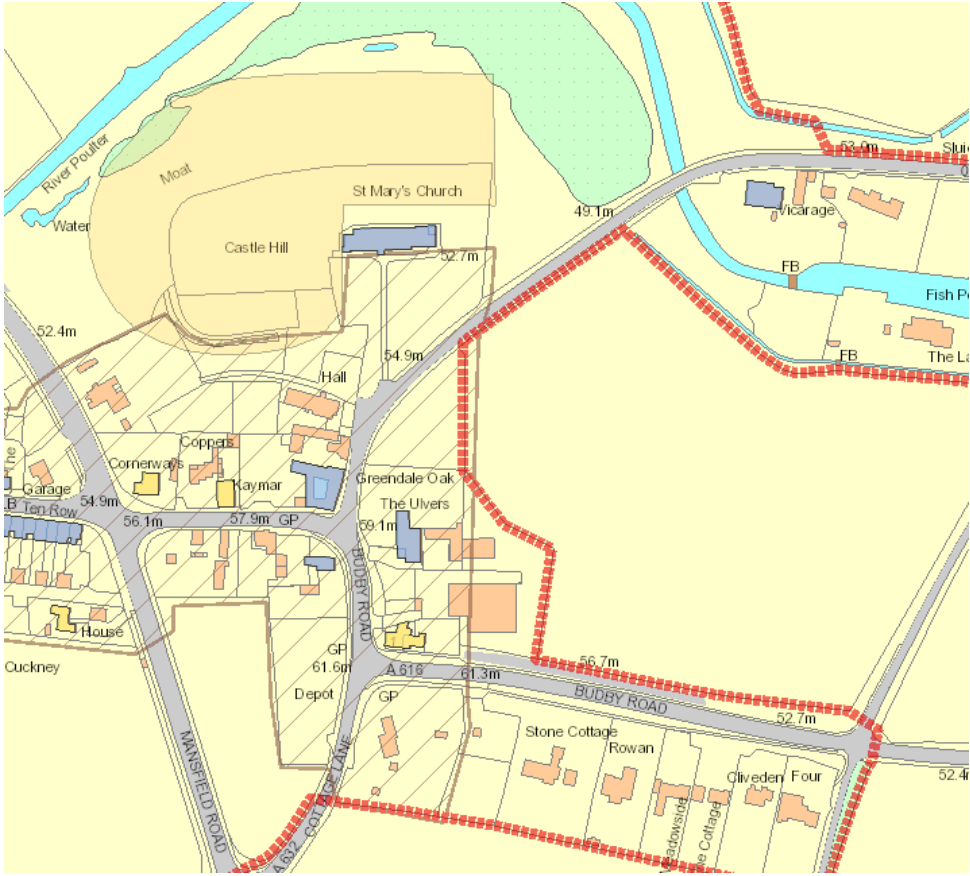
NP Section	Comments
Policy 11	<ul style="list-style-type: none"> <li>• There are strong concerns over the deliverability of this site. Please see the attached detailed assessment of the site.</li> <li>• Part (c): See comments on the Pattern Book set out earlier in this response.</li> </ul>
Policy 12	<ul style="list-style-type: none"> <li>• Part 1 (a): See comments on the Pattern Book set out earlier in this response.</li> <li>• Part 1 (b): what is the evidence to justify asking for this development to provide a crossing? Would ensuring pedestrians have sufficient viability to be able to cross safely at their own judgement be sufficient on this road?</li> </ul>
Policy 13	<ul style="list-style-type: none"> <li>• Part 1 (a): See comments on the Pattern Book set out earlier in this response.</li> <li>• Part 1 (b): see comments on community housing for policy 4 above.</li> </ul>
Policy 14	<ul style="list-style-type: none"> <li>• The historic entity status of this site is questioned, what is the justification for this; this policy needs to apply to any owner of the site not just the current owner. By allocating the site in the NP, the principal of development is considered acceptable subject to the policy wording. This removes the normal enabling development (ED) requirements for the site to be marketed for sale before agreeing to any proportion of ED. Does this NP want to remove this option? If this is what the NP want to see for this site, recommend that the policy be clearer on the link between the needs of the barn conversions and the new development by the inclusion of 'and' in the policy between points (b) and (c) as set out below: <ul style="list-style-type: none"> <li>• <i>(b) the design of the new development is in keeping with their proximity to the listed buildings , and unregistered park around Woodhouse Hall Farm, and</i></li> <li>• <i>(c) the quantum of enabling housing development is justified by an open book assessment of viability on the basis set out in this Plan,</i></li> </ul> </li> <li>• Part (d): the supporting text refers to the desire for this development to provide accommodation for older people. The use of the words '<i>but not solely</i>' in this section shows that not all of this site is intended to be used for that purpose. This wording is very vague and open to interpretation. What proportion of the site does the NP actually want to see used for older person's accommodation?</li> </ul>
Policy 16	<ul style="list-style-type: none"> <li>• The historic entity status of this site is questioned, what is the justification for this; this policy needs to apply to any owner of the site not just the current owner. By allocating the site in the NP, the principal of development is considered acceptable subject to the policy wording. This removes the normal enabling development (ED) requirements for the site to be marketed for sale before agreeing to any proportion of ED. Does this NP want to remove this option? If this is what the NP wants to see for this site, recommend that the policy be clearer on the link between the needs of conserving/restoring the cottage and the new development needed to fund it.</li> <li>• The enabling development for this is described as '<i>two dwellings within the immediate vicinity of the site</i>'. Where exactly is this referring to? If new</li> </ul>

NP Section	Comments
	<p>build is sought in this policy its location should be identified on the accompanying map.</p> <ul style="list-style-type: none"> <li>• This policy seeks the renovation of the cottage to include the use of its land as a small holding. What is the justification for this use? Will it be linked to the cottage? What if the occupant of the renovated cottage doesn't want to have a small holding? This limits the opportunities for the comprehensive renovation of the site. More information on this element should be provided.</li> <li>• See comments on the Pattern Book set out earlier in this response.</li> </ul>
Policy 17	<ul style="list-style-type: none"> <li>• Part 1 (b): see comments on community housing for policy 4 above.</li> <li>• Part 1 (f): See comments on the Pattern Book set out earlier in this response.</li> </ul>
Policy 18	<ul style="list-style-type: none"> <li>• Part 1: Notwithstanding existing permitted development rights, this policy would allow any rural building or barn to become a shop, financial service, or café (all defined as main town centre uses in the NPPF) regardless of their size or location within the NP area. This would circumnavigate the sequential test requirements usually applied to such uses through paragraph 24 of the NPPF. This could result in the creation of retail uses on the edge of the NP area that would be more appropriately located in a nearby Local Centre (e.g. Creswell, Langwith or Church Warsop). Was this the intention of this policy? Recommend the wording is revised to reduce the scope of this policy.</li> <li>• Part 2: What is meant by '<i>creative design solutions</i>'? Some listed buildings maybe easily converted with standard building conservation techniques, which could preserve or enhance the special architectural and/or historic interest of the listed building.</li> <li>• Part 3: The term '<i>commercial use</i>' is open to interpretation (and could include any commercial farming enterprise. Recommend using the term '<i>economic development</i>' to better align this policy with the definition used in the NPPF. Why does this policy only support employment developments if they are outside settlements? What about new development within the settlements? Smallscale economic development uses may easily be developed within the villages without a detrimental impact to local amenity.</li> </ul>
Policy 20	<ul style="list-style-type: none"> <li>• It is unclear why the two parts of this policy are needed. Part 1 refers to tourism development in general but its sub-sections then seeks to limit this to a very narrow use (to inform and interpret the plan area). Part 2 then adds that other types of tourist developments are encouraged e.g. bed and breakfast accommodation or hotel. Is it the intention for part 2 to apply to all types of tourist development whose main purpose is not to inform or interpret the plan area and then they don't have to meet the character and appearance requirements in the first part of the policy?</li> <li>• For clarification, could this policy be made clearer? e.g. a policy that simply seeks to support tourism facilities in general and would give particular support to a development that seeks to inform and interpret the plan area.</li> </ul>

NP Section	Comments
	<ul style="list-style-type: none"> <li>Part 1 c) and the second half of part 2: these statements are not needed. No planning policy national, local or otherwise is taken in isolation in determining a planning application; it doesn't need to be specified in a policy to direct this.</li> </ul>
Policy 21	<ul style="list-style-type: none"> <li>This policy supports the change of use of Cuckney House to a hotel or other residential use. However if Cuckney House was to be used as a residential property (a C3 dwelling house) would this actually require planning permission (if it is already a dwelling)? What is the current use of the house? Also if an application was needed for its use as a dwelling, this would not meet some of the criteria listed in this policy. In particular points (a) to provide accommodation to support tourism and part (c) to be a long term business.</li> <li>Policy 20 of this NP already supports the development of hotels in the NP area. Does Cuckney House need to be singled out, especially if its use as a dwelling is also supported?</li> </ul>
Map 4	<p>This map is too small to be able to see clearly what areas are intended to be allocated as Local Green Spaces. Recommend a clearer map is used only identifying the Local Green Spaces for allocation. See also the comments for Policy 23 below.</p>
Policy 23	<ul style="list-style-type: none"> <li>The map referred to in this policy identifies significantly more sites (and land) than is listed in the table after paragraph 18.18 of this NP. It is assumed that only the 10 sites listed in this table will be designated as Local Green Spaces (LGS) in line with the supporting text in paragraph 18.17. If so can the map please be updated to clearly show only those areas that are allocated LGS to avoid any confusion?</li> <li>In line with guidance set out in NPPF paragraph 77, the designation of sites as a Local Green Space will not be appropriate for most green areas or open space. This designation should only be used where it meets the requirements of the criteria as set out in the NPPF paragraph 77. It is unclear from the table in this NP or the accompanying Green Infrastructure Project Proposal, how the sites identified specifically meet the NPPF criteria. Recommend this NP includes a better explanation of how these sites qualify for LGS designation. Consideration should also be given to the cumulative area that the proposed LGS cover. This equates to approximately 46.5 Ha. Viewed together this could be considered a significant tract of land (which would fail the NPPF requirements). Please note: no objection is raised to these sites identification as part of the wider Green Infrastructure of the NP area, but it must be noted that Green Infrastructure and LGS designations serve different purposes.</li> </ul>



Below is a detailed assessment of the site proposed to be allocated in the CNHW Neighbourhood Plan under Policy 11 and how the local planning authority could assess the site in consideration of legislations and national and local policy. These comments highlight the difficulty of marrying neighbourhood site allocations with the legal consideration of and statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990 of the local planning authority in determining applications in such settings.

<b>Location</b>	Policy 11: Land north of Buddy Road, off Old Mill Lane, Cuckney.
<b>Heritage asset type?</b> <b>Designation date?</b> <b>Identification number (if appropriate)?</b>	<ul style="list-style-type: none"> <li>• Within setting of Cuckney Conservation Area.</li> <li>• Within setting of Cuckney motte and bailey castle. List entry number: 1010909. Scheduled 28<sup>th</sup> April 1953.</li> <li>• Within setting of Grade I listed Church of St Mary. Listed entry number: 1206551. Listed 30<sup>th</sup> November 1966.</li> <li>• Within the setting of Grade II The Vicarage. List entry number 1370095. Listed 12<sup>th</sup> April 1985.</li> <li>• Within the setting of Grade II listed, The Ulvers. List entry number: 1370091. Listed 30<sup>th</sup> November 1966.</li> </ul> 
<b>Legal and Policy Considerations</b>	<p><b><i>Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990</i></b></p> <p><i>In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the</i></p>

	<p><i>desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.</i></p> <p><b>Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990</b></p> <p><i>In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area.</i></p> <p><b><u>National Planning Policy Framework:</u></b> Policies. 128 (Applicants should describe significance); 129 (LPAs should identify and assess significance); 131 (In making decisions, LPAs should take account of...); 132 (Impact on designated asset and setting); 134 (Less than substantial harm); 137 (new development in setting).</p> <p><b><u>Bassetlaw District Local Development Framework</u></b> <b>Core Strategy &amp; Development Management Policies</b> <b>Development Plan Document (Adopted December 2011):</b></p> <ul style="list-style-type: none"> <li>• <u>Strategic Objectives:</u> SO9.</li> <li>• <u>Development Management Policies:</u> DM8</li> </ul>
<p><b>Relevant (Historic England) Historic Environment Good Practice Advice in Planning Note paragraphs.</b></p>	<p>Note 2 – Managing significance in decision taking in the historic environment.</p> <ul style="list-style-type: none"> <li>• 1-6</li> <li>• 7-12</li> <li>• 25-27</li> <li>• 53</li> </ul> <p>Note 3 – The setting of heritage assets.</p>
<p><b>Relevant National Planning Policy Guidance (NPPG)</b></p>	<p>ID18a – Conservation and enhancement of the historic environment.</p>
<p><b>Other relevant guidance, study, reports, Conservation Area Appraisal, etc</b></p>	<p>n/a</p>

Guidance contained in Historic Environment Good Practice in Planning Advice Note 3 – *The Setting of Heritage Assets*, issued by English Heritage recommend the following approach when assessing sites and setting:

Step1: identify which heritage assets and their settings are affected;

Step2: assess whether, how and to what degree these settings make a contribution to the significance of the heritage asset(s);

Step 3: assess the effects of the proposed development, whether beneficial or harmful, on that significance;

Step 4: explore the way to maximise enhancement and avoid or minimise harm;

Policy 132 of the NPPF reminds the local planning authority that the more important the heritage asset the greater the weight should be given to the asset's conservation. Although development at this site does not physically affect any heritage asset the site is within the setting of a number of designated heritage assets (see above).

Setting is defined in annex 2 of the NPPF as;

***Setting of a heritage asset:*** *The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.*

Significance is also defined in annex 2 of the NPPF;

***Significance (for heritage policy):*** *The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting*

### **Steps 1 & 2**

In considering policy 132 of the NPPF and in order of importance the following heritage assets must be considered here:

- The scheduled motte and bailey castle site.
- The Grade I listed St Mary's Church.
- The Grade II listed buildings.
- The conservation area.

The importance and significance of each asset type is outlined below with acknowledgement of steps 1 and 2 above.

#### Scheduled motte and bailey.

The monument includes the motte, outer bailey and part of the inner bailey of the 12<sup>th</sup> century motte and bailey castle. Originally the inner bailey extended further east into the area now occupied by the church. The castle was built by Thomas de Cuckney during the reign of King Stephen (1135-54) which was at a time of civil strife between Stephen's supporters and those of Empress Matilda, daughter of his processor Henry I. The castle may therefore have been an

adulterine fort that being a fort built without the King's permission.

Motte castles are medieval fortifications introduced into Britain by the Normans. They comprised a large conical mound of earth or rubble surrounded by a palisade and a stone or timber tower. They acted as garrison forts during offensive military operations, as strongholds as well as aristocratic residence in many cases. They were built in towns, villages and open countryside and generally occupied strategic positions dominating their immediate locality thereby are visually prominent. They are the most visually impressive monuments from the post-Conquest period and important for the study of Norman Britain and the feudal system. The motte and bailey castle at Cuckney is a reasonably well preserved example of an adulterine fort with a sufficient amount remaining intact for the structure of the motte to be preserved while the outer bailey has suffered little disturbance.

#### Church of St Mary, Grade I listed.

The church of St Mary is Grade I listed and dates from the 11<sup>th</sup> century. The church is built within the area of the inner bailey. This relationship between the church and the castle symbolises the patronage, power and centralising influences of local magnates and which provided for the security of the landowners in this life and the next<sup>1</sup>. Villages, such as Cuckney, would grow up, as would towns, around the castle, benefiting from both the wealth and power of the lord, this in turn supported the church which continued to develop long after the castle had been abandoned. The 13<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup> and 16<sup>th</sup> century work at the church of St Mary is testimony of this. Nikolaus Pevsner in his *Buildings of England* series remarks on the unusually long nave and is uncertain as to whether this was entirely 12<sup>th</sup> century building or changes over time.

The Church together with the motte and bailey form a significant example of a post-Conquest landscape.

#### Grade II listed houses.

The Vicarage and the Ulvers are Grade II listed houses, early 19<sup>th</sup> and late 18<sup>th</sup> century. The properties are similar by the fact they are both rendered on stone plinths with slate roofs, comparable in period and style. Significance for each property resides in their individual architectural and historic interest however some of this interest for the Vicarage resides in its relationship with the Church and the wider landscape. The relationship between the two properties despite the distance between them can still be seen from certain vantage points surrounding.

#### Cuckney Conservation Area.

Cuckney was designated a conservation area in 2010 as being an area of special architectural and historic interest, the above heritage assets of scheduled monument, substantial Grade I listed parish church and numerous other listed buildings all contributing to the special interest. The influence of Welbeck Abbey (land owners) is inseparable from the development and appearance of the village. Under the Duke of the Portland throughout the 18<sup>th</sup> and 19<sup>th</sup> centuries Cuckney had a cotton industry with mill apprentices being housed in cottage rows in the village. When this industry ceased the mill was converted into a village school, again by the Duke of Portland. With exception of the church and castle site it is the 18<sup>th</sup> and early 19<sup>th</sup> century buildings that provides much of the architectural interest of the village although its historic interest certainly has roots in the post Conquest archaeology along with the notable social and economic patronage of the Duke of Portland. As a settlement Cuckney's position on the River Poulter and its commanding position particularly from the south east is notable.

#### **Step 3 – effect of the proposed development.**

The allocated site provides an open setting to the scheduled monument, listed church and listed vicarage allowing these heritage assets to be seen from Budby Road and Old Mill Lane.

<sup>1</sup> See English Heritage 'Introductions to Heritage Assets – Earthwork Castles'.

Although Budby Road is tree lined there is no dense undergrowth or hedgerow here and the trees are well spaced allowing for views across the allocation site to the above heritage assets. From Old Mill Lane there is nothing to interrupt the view, especially of the church. It is however fair to say that due to the topography of the site and the fact that it rises to the west views do become limited the further west along Budby Road one may travel, for example there is little view of the church from Budby Road opposite Rowan House.

Development at this site is likely to impact on views from within and outside of the conservation area and from and towards the church, scheduled monument and grade II vicarage. This open aspect and views are considered to contribute positively to the character of the place and maintains an historic relationship between the heritage assets and the landscape. It is important to acknowledge this relationship, after all the location of the scheduled motte and bailey would have been chosen because of its strategic position occupying a commanding location allowing for good view of the surrounding landscape while the open fields allow for the church to be seen in its entirety emphasising both its scale and a degree of isolation. It is notably not surrounded by development in these views.

Policy 137 of the NPPF requires local planning authorities to look for opportunities for development within the setting of heritage assets to better reveal their significance; development at the allocation site is unlikely to preserve the setting. The harm to the setting would probably be considered to be less than substantial in policy terms, in such cases the public benefit<sup>2</sup> must be considered as per NPPF policy 134.

134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Here any public benefit could be delivered at alternative sites therefore may not be able to outweigh the harm but minimising the harm may provide an opportunity for some development.



Figure 1 View of Church from Old Mill Lane

#### **Step 4. Maximising enhancement and minimising harm.**

In considering the views, and the topography of the site there could be a more limited opportunity for development of the easterly part of the site without there being an impact on the setting of the church primarily and the scheduled monument.

<sup>2</sup> Public benefit is defined in the National Planning Policy Guidance (NPPG).

Subject to design, layout, height, scale and mass, developing the western end of site only could ensure that the wider views and setting of the church and scheduled monument remain unharmed. The reduced/limited views of the church from Budby Road would assist in minimising the impact of any development furthermore development at the western end would be seen in the context of the historic village cluster in the vicinity of the farm complex at The Ulvers. Admittedly this is likely to reduce the amount and type of development that could be proposed.



Figure 2 The more limited view of the church at the western end of the site from Budby Road.

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is the paramount consideration in determining any application on this site. If harm to the setting of the listed buildings is identified there is therefore a statutory presumption to refuse the an application.

In considering policies 131; 132; 134; 137 of the NPPF and policy DM8 of the Bassetlaw Core Strategy and Development Management Policies DPD there would need to be clear and convincing justification for the development and public benefits that could not be delivered elsewhere to outweigh any harm for development here to potentially be supported.

Furthermore there have been a number of recent national appeal and high court rulings in relation to the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>3</sup> and simply balancing and outweighing harm and not taking into account the primary legislation is not acceptable. Recent rulings have led to greater scrutiny by all authorities with development at heritage sensitive sites. Furthermore Historic England would be a statutory consultee on any application at this site. It is possible that similar concerns would be raised.

<sup>3</sup> For example the Barnwell Manor Judicial Review and Forge Field Judicial Reviews