

Brancaster Neighbourhood Development Plan 2018-2036

Basic Conditions Statement

March 2020

1. INTRODUCTION

- 1.1. This statement has been prepared to accompany the submission version of the Brancaster Neighbourhood Plan in accordance with Regulations 15 (1)(d) of the Neighbourhood Planning (General) Regulations 2012 (as amended).
- 1.2. The statement explains how the Brancaster Neighbourhood Plan meets the requirements of paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990. More specifically it shows how the Plan:
 - i) meets the legislative requirements set out in Sections 38A and 38B of the Town and Country Planning Act 1990 and
 - ii) meets the basic conditions which require that
 - (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
 - (b) the making of the plan contributes to sustainable development;
 - (c) the making of the plan is in general conformity with the strategic policies contained in the development plan for the area;
 - (d) the making of the plan does not breach, and is otherwise compatible with, EU obligations.
 - (e) the making of the neighbourhood development plan does not breach the requirements Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(d)

2. THE LEGISLATIVE REQUIREMENTS

- 2.1. Qualifying Body

Brancaster Parish Council is the qualifying body for preparation of the Brancaster Neighbourhood Plan and recognised as such by KLWNBC.
- 2.2. The Neighbourhood Area

The neighbourhood area is the whole of the villages of Brancaster, Brancaster Staithe and Burnham Deepdale.
- 2.3. The Time Period

The Brancaster Neighbourhood Plan relates to the period 2017-2036. The end date was chosen to coincide with the end date for the emerging West Norfolk Local Plan.
- 2.4. Excluded Development

The neighbourhood plan does not deal with mineral extraction, waste development, nationally significant infrastructure or any other matters set out in section 61K of the Town and country Planning Act 1990.

Development Framework Core Strategy 2011 (CS)

- ☑ Borough Council; of King's Lynn and West Norfolk Site Allocations and Development Management Policies Plan 2016 (SADMDPD)
- ☑ Norfolk County Council Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2026 (adopted September 2011)
- ☑ Minerals Site Specific Allocations Development Plan Document (DPD) (adopted October 2013, amendments adopted December 2017)
- ☑ Waste Site Specific Allocations Development Plan Document (DPD) (adopted October 2013)

3.6. None of the policies in the Plan impinge on any of the site-specific policies in the Minerals and Waste Plans. The Plan is therefore in general conformity with the Minerals and Waste Plans.

(d) the making of the plan does not breach, and is otherwise compatible with, EU obligations.

Strategic Environmental Assessment

3.7. PPG indicates that “In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects it may require a strategic environmental assessment”¹³, subsequently referred to as SEA. A SEA requires the preparation of an environmental report. In order to determine whether the plan is likely to have a significant environmental effect, a screening assessment is necessary.

3.8. Regulation 15 of the Neighbourhood Planning Regulations (2012) requires that the submission of a neighbourhood plan must include:
“(i) an environmental report prepared in accordance with paragraphs (2) and (3) of regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR) or
(ii) where it has been determined under regulation 9(i) of these Regulations that the proposal is unlikely to have significant environmental effects (and accordingly does not require an environmental assessment), a statement of reasons for the determination”.

3.9. In February 2020, the Borough Council of King's Lynn and West Norfolk prepared a screening report in order to determine whether a Strategic Environmental Assessment was necessary. The screening report was carried out in accordance with the methodology set out in the Practical Guide to the Strategic Environmental Assessment Directive 2005. This report concluded that the Plan was unlikely to have significant environmental effects and that a full Strategic Environmental Assessment was therefore not required. The draft screening opinion was the subject of consultation with the statutory consultation bodies. Responses were received from all three bodies. These confirmed that the plan was unlikely to have significant environmental effects.

3.10. Following the receipt of these responses the Borough Council issued a final screening report in March 2020. The Borough Council has confirmed that this screening report is a determination in accordance with regulation 9(i) of the EAPPR 2004.

The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

3.11. The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 changed the prescribed condition for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act to read that:

“The making of the neighbourhood development plan does not breach the requirements Regulation 105 of the Conservation of Habitats and Species Regulations 2017 (CHSR) puts into effect the requirements of Article 6.3 of the EU Habitats Directive and requires that:

“(1) Where a land use plan - is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects) and is not directly connected with or necessary to the management of the site, the plan-making authority must, before the plan is given effect, make an appropriate assessment of the implications of the site in view of that site’s conservation objectives.”

3.12. Regulation 106 of the CHSR requires that:

“A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 102 or to enable them to determine whether that assessment is required.”

3.13. The Screening Report prepared by BCKLWN also includes a screening of the need for an Appropriate Assessment under the Habitats Regulations.

3.14. A recent legal judgement (People over wind and Sweetman v Coillte Teoranta (C-323/17) has highlighted the way in which screening assessments of the need for Appropriate Assessment should be carried out. It concludes that the need for Appropriate Assessment should not be screened out on the basis of mitigation measures contained in the plan proposal. The Screening Report prepared by BCKLWN refers to a levy on new development to provide measures to mitigate the effects of new development on designated sites. However, these measures are already in place and do not form part of the SNP. They therefore do not prevent the conclusion that Appropriate Assessment is not necessary.

4. Human Rights

4.1. Nothing in the Plan infringes on the European Convention on Human rights

