

HUNSTANTON NEIGHBOURHOOD PLAN

Hunstanton Neighbourhood Plan Examination
A Report to the Borough Council of King's Lynn and West Norfolk

by Independent Examiner, Nigel McGurk BSc (Hons) MCD MBA MRTPI

September 2021



Contents

1, Summary

2, Introduction

3, Basic Conditions and Development Plan Status

4, Background Documents and the Hunstanton Neighbourhood Area

5, Public Consultation

6, The Neighbourhood Plan: Introductory Section

7, The Neighbourhood Plan: Policies

8, The Neighbourhood Plan: Other Matters

9, Referendum

1. Summary

- 1 Subject to the recommendations within this Report, made in respect of enabling the Hunstanton Neighbourhood Plan to meet the basic conditions, I confirm that:
 - 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 (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - the making of the neighbourhood plan is not 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.

- 2 Taking the above into account, I find that the Hunstanton Neighbourhood Plan meets the basic conditions¹ and I recommend to the Borough Council of King's Lynn and West Norfolk that, subject to modifications, it should proceed to Referendum.

¹ It is confirmed in Chapter 3 of this Report that the Hunstanton Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

2. Introduction

The Neighbourhood Plan

- 3 This Report provides the findings of the examination into the Hunstanton Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by the Hunstanton Neighbourhood Plan Operational Group Working Panel on behalf of Hunstanton Town Council.
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. At Referendum, should more than 50% of votes be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by the Borough Council of King's Lynn and West Norfolk.
- 5 The Neighbourhood Plan would then form part of the development plan and as such, it would be used to determine planning applications and guide planning decisions in the Hunstanton Neighbourhood Area.
- 6 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

"Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can shape, direct and help to deliver sustainable development."

(Paragraph 29, National Planning Policy Framework)

- 7 As confirmed under *"The Legislative Requirements"* on page 3 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Hunstanton Town Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan.
- 8 The Neighbourhood Plan relates only to the designated Hunstanton Neighbourhood Area and there is no other neighbourhood plan in place in the Hunstanton Neighbourhood Area.

- 9 This meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2021) and Planning Practice Guidance (2014).

Role of the Independent Examiner

- 10 I was appointed by the Borough Council of King's Lynn and West Norfolk, to conduct the examination of the Hunstanton Neighbourhood Plan and to provide this Report.
- 11 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the relevant Local Authorities. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 12 I am a chartered town planner and have nine years' direct experience as an Independent Examiner of Neighbourhood Plans and Orders. I also have thirty years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 13 As the Independent Examiner, I must make one of the following recommendations:
- that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
 - that the Neighbourhood Plan, as modified, should proceed to Referendum;
 - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

- 14 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Hunstanton Neighbourhood Area to which the Plan relates.
- 15 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

Neighbourhood Plan Period

- 16 A neighbourhood plan must specify the period during which it is to have effect.
- 17 The title page of the Neighbourhood Plan refers to the plan period as "*2020 – 2036.*"
- 18 Taking this into account, the Neighbourhood Plan meets the requirement in respect of specifying the period during which it is to have effect.

Public Hearing

- 19 According to the legislation, it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 20 However, it is also the case that *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 21 Further to consideration of the information submitted, I determined not to hold a public hearing as part of the examination of the Hunstanton Neighbourhood Plan.
- 22 However, further to consideration of the submission documents, I wrote to the Qualifying Body in respect of matters where further information was sought. At the same time, in line with good practice, the Qualifying Body was provided with an opportunity to respond to representations received during the Submission consultation process.

3. Basic Conditions and Development Plan Status

Basic Conditions

- 23 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “*basic conditions*.” These were *set out in law*² following the Localism Act 2011.
- 24 Effectively, the basic conditions provide the rock or foundation upon which neighbourhood plans are created. A neighbourhood plan meets the basic conditions if:
- 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 (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
- 25 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to above. Of these, the following basic condition, brought into effect on 28th December 2018, applies to neighbourhood plans:
- 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.³

² Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

³ *ibid* (same as above).

- 26 In examining the Plan, I am also required, as set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act), to check whether the neighbourhood plan:
- has been prepared and submitted for examination by a qualifying body;
 - has been prepared for an area that has been properly designated for such plan preparation (under Section 61G of the Town and Country Planning Act 1990 (as amended));
 - meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one Neighbourhood Area and that:
 - its policies 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.
- 27 An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.⁴
- 28 I note that, in line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan and this sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

⁴ The Convention rights has the same meaning as in the Human Rights Act 1998.

European Convention on Human Rights (ECHR) Obligations

- 29 I am satisfied, in the absence of any substantive evidence to the contrary, that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998.
- 30 In the above regard, information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. A Consultation Statement was submitted alongside the Neighbourhood Plan and the role of public consultation in the plan-making process is considered later in this Report.

European Union (EU) Obligations

- 31 In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment. In this regard, national advice states:
- “Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”*
(Planning Practice Guidance⁵)
- 32 This process is often referred to as “screening”⁶. If likely environmental effects are identified, an environmental report must be prepared.

⁵ Planning Guidance, Paragraph 027, Ref: 11-027-20150209.

⁶ The requirements for a screening assessment are set out in in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.

- 33 The Borough Council of King's Lynn and West Norfolk produced a Neighbourhood Plan Strategic Environmental Assessment (SEA) Screening Report. This stated that

"...based upon the information available; there is not the potential for significant environmental effects to arise from the implementation of the proposals in the...Neighbourhood Plan."

- 34 The statutory bodies, Historic England, Natural England and the Environment Agency were all consulted and all concurred with the the Screening Report, which concluded that the

"...Neighbourhood Plan does not require a Strategic Environmental Assessment (SEA)."

- 35 In addition to SEA, a Habitats Regulations Assessment identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans and projects. This Assessment must determine whether significant effects on a European site can be ruled out on the basis of objective information⁷. If it is concluded that there is likely to be a significant effect on a European site, then an appropriate assessment of the implications of the plan for the site must be undertaken.

- 36 In the case *People Over Wind & Sweetman v Coillte Teoranta ("People over Wind"* April 2018), the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means that if a likely significant effect is identified at the screening stage of a habitats assessment, an Appropriate Assessment of those effects must be undertaken.

- 37 In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018, allowing neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an Appropriate Assessment to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or a planning application.

⁷ Planning Guidance Paragraph 047 Reference ID: 11-047-20150209.

38 The Borough Council of King's Lynn and West Norfolk produced a Neighbourhood Plan Habitat Regulations Assessment (HRA) Screening Report. This recognised the presence of seven relevant Natura 2000 sites in the Neighbourhood Area and assessed whether the policies of the Neighbourhood Plan would give rise to the potential for a likely significant effect on any of them.

39 Taking all of the above into account, the Screening Report concluded that the

"...Neighbourhood Plan does not require a Habitats Regulation Assessments (HRA)."

40 All of the statutory bodies were consulted as part of the process and none disagreed with this conclusion.

41 In addition to the above, I am mindful that national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

"It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations (including obligations under the Strategic Environmental Assessment Directive)" (Planning Practice Guidance⁸).

42 Having completed the work that it has, the Borough Council of King's Lynn and West Norfolk has no outstanding concerns in respect of the Neighbourhood Plan's compatibility with EU obligations.

43 Taking this and the recommendations contained in this Report into account, I am satisfied that the Neighbourhood Plan is compatible with European obligations.

⁸ ibid, Paragraph 031 Reference ID: 11-031-20150209.

4. Background Documents and the Hunstanton Neighbourhood Area

Background Documents

- 44 In completing this examination, I have considered various information in addition to the Hunstanton Neighbourhood Plan.
- 45 Information considered as part of this examination has included, but has not been limited to (for example, I note that there is a County Minerals and Waste Local Plan), the following main documents and information:
- National Planning Policy Framework (referred to in this Report as "*the Framework*") (2021)⁹
 - Planning Practice Guidance (2014, as updated)
 - Town and Country Planning Act 1990 (as amended)
 - The Localism Act (2011)
 - The Neighbourhood Plan Regulations (2012) (as amended)
 - King's Lynn and West Norfolk Borough Council Local Development Framework – Core Strategy (July 2011) (referred to in this Report as the "*Core Strategy*")
 - Site Allocations and Development Management Policies Plan (September 2016) (referred to in this Report as the "*SADMP*")
 - Basic Conditions Statement
 - Consultation Statement
 - Representations received
 - Strategic Environmental Assessment and Habitat Regulations Assessment Screening Reports
- 46 In addition, I spent an unaccompanied day visiting the Hunstanton Neighbourhood Area.

⁹ On 20th July 2021, during the course of the examination of the Hunstanton Neighbourhood Plan, the government published a revised version of the National Planning Policy Framework. The Neighbourhood Plan has been examined against this most up to date version of national planning policy.

Hunstanton Neighbourhood Area

- 47 The boundary of the Hunstanton Neighbourhood Area is identified on a plan provided on page 5 of the Neighbourhood Plan.
- 48 The Borough Council of King's Lynn and West Norfolk designated the Hunstanton Neighbourhood Area on 5th February 2013.
- 49 The designation of the Neighbourhood Area satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

5. Public Consultation

Introduction

- 50 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 51 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Hunstanton Neighbourhood Plan Consultation

- 52 A Consultation Statement was submitted to the Borough Council of King's Lynn and West Norfolk alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *Regulations*¹⁰.
- 53 On behalf of Hunstanton Town Council, a Hunstanton Neighbourhood Plan Operational Group Working Panel was created. This comprised members of the public and Town Councillors.
- 54 The development of the Neighbourhood Plan was reported via the Town Council's website and through articles in the local monthly magazine "*Town and Around*."
- 55 The draft Neighbourhood Plan was consulted upon between November 2018 and January 2019. The Consultation Statement provides detailed information in respect of how the representations received were considered. It demonstrates how matters raised were taken into account and helped to inform the plan-making process.

¹⁰ Neighbourhood Planning (General) Regulations 2012.

- 56 Public consultation was supported by, amongst other things, the use of social media, information in the local press, drop-in sessions and meetings at local groups and societies, as well as via posters and fliers and through community events.
- 57 The Consultation Statement provides evidence to demonstrate that public consultation formed part of the plan-making process, that there were opportunities for people to have a say and that matters raised were duly considered.
- 58 Taking this and the submitted information into account, I am satisfied that the consultation process complied with the neighbourhood planning regulations referred to above.

6. The Neighbourhood Plan – Introductory Section

- 59 Parts of the supporting text appear as though they are Policy requirements and occasionally include unevidenced statements. This is a matter addressed in the recommendations below.
- 60 When read together with the distinctive numbering (eg, A1, A2 etc), the colour-banding of the goals on pages 27-29 results in the text in that part of the Neighbourhood Plan appearing as though it has some kind of policy status, which it does not. The recommendations below seek to ensure that this background information is not confused with the Policies contained within the Neighbourhood Plan.
- 61 The various cross references which follow the Justification and Evidence sections are unnecessary, subjective and detract from the clarity of the Policy sections.
- 62 Also, the reference to "*Proposals*" in the Note provided on page 29 appears confusing as it does not relate to the Policies that follow.
- 63 For clarity, I recommend:
- **Para 44, change to "*Views have been expressed along the lines that large houses...As second homes, they may remain empty for part of the year. The Neighbourhood Plan aims to promote the provision of reasonably sized, adaptable homes to meet the needs of the community.*" (delete rest of para)**
 - **Para 45, change to "...holiday lets, *the provision of two or three bedroom, one or two storey housing is encouraged. New homes can be built of a mixture...*"**
 - **Para 46, delete first five sentences (which are written as a Policy requirement) and instead, start para "*The Neighbourhood Plan notes that gardens are important for family...this natural environment.*"**

- **Para 48, delete the first and last sentences of the Paragraph, which are unsupported by substantive evidence**
- **Pages 25-29, replace the Policy-style reference numbers for each goal (eg A1, A2 etc) with bullet points**
- **Policy section, under "Justification and Evidence," delete "Conforms with" "Informed by" and "Plan Objectives" information**
- **Page 29, delete the last sentence "Proposals can indicate that...land usage."**
- **Page 29, change heading to "Neighbourhood Plan Policies"**

7. The Neighbourhood Plan – Neighbourhood Plan Policies

Sustainability and the Environment

Policy J1: Fundamentals

- 64 In general terms, Policy J1 seeks to ensure that development respects its surroundings and does not result in significant harm – such as, for example, harm to biodiversity.
- 65 However, as set out, Policy J1 imposes onerous requirements upon every form of development without any evidence to demonstrate that such requirements are deliverable, as required by Paragraph 16 of the Framework.
- 66 For example, it is not clear how every form of development can enhance the places in which people live their lives, work or visit and/or support the sustainability of the town and its amenities. This is a very wide and varied requirement, with little detail in respect of precisely what it would mean in respect of each individual development proposal.
- 67 Consequently, the Policy does not have regard to the Framework, which requires policies to be
- “...clearly written and unambiguous, so it is evident how a decision maker should react to development proposals.”*
(Paragraph 16, the Framework)
- 68 I note that, by their very nature, sites designated for their international, national or local biodiversity importance are already protected by national and local planning policy.

69 I recommend:

- **Delete the wording of Policy J1 and replace with:**

“Development must respect local character and integrate with its surroundings.”

Policy J2: Natural Environment

- 70 Policy J2 requires all development to conserve or enhance all of the natural environment, local landscape and biodiversity, but then goes on to remove this requirement, so long as development includes mitigation against any damage caused.
- 71 In the absence of substantive information, it is not clear how and why all development can and should enhance the natural environment, local landscape and biodiversity; and as set out, the Policy could result in support for harm to habitats, contrary to its aims.
- 72 Together, national and local planning policy already set out a clear approach to protecting and where appropriate, enhancing the natural environment and biodiversity. As worded, Policy J2 presents an unclear approach, unsupported by any detailed justification.
- 73 However, the Policy does seek to encourage biodiversity gains, although it is not clear how such “*encouragement*” might be achieved. Thus, the overarching biodiversity aims of the Policy are in general conformity with Core Strategy Policy CS12 (“*Environmental Assets*”) and have regard to Chapter 15 of the Framework, “*Conserving and enhancing the natural environment.*”
- 74 I recommend:
- **Delete the wording of Policy J2 and replace with:**

“Enhancements to biodiversity will be supported. Development should minimise its impact on and provide net gains for, biodiversity.”

Policy J3: Open Spaces and Local Green Spaces

- 75 Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 101 of the Framework states that:
- “The designation of land as a Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them.”*
- 76 Paragraph 103, of the Framework requires policies for the managing of development within a Local Green Space to be consistent with those for Green Belts. A Local Green Space designation therefore provides protection that is comparable to that for Green Belt land. Consequently, Local Green Space comprises a restrictive and significant policy designation.
- 77 Given the importance of the designation, Local Green Space boundaries must be clearly identified. The Neighbourhood Plan is ambiguous in this regard. Policy J3 refers to both Local Green Space and Open Space, without distinguishing between either and goes on to refer to “*other areas*” of Local Green Space, without specifying what or where these are.
- 78 Further to the above, the Neighbourhood Plan does not include plans showing the precise boundaries of each Local Green Space. Rather, it refers to an Appendix, which contains more ambiguous information and which does not form part of the Neighbourhood Plan itself.
- 79 Plans later in the Neighbourhood Plan show “*Green Spaces*.” It is not clear whether these relate to Local Green Spaces, open spaces, green areas or something else. None of the areas shown are clearly labelled.
- 80 Taking all of the above together, the Neighbourhood Plan does not provide a decision maker with a clear indication of how to react to a development proposal, as required by the Framework.

- 81 The Policy does not have regard to national planning guidance, which requires planning policies to be clear and unambiguous¹¹:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

- 82 Consequently, as set out, Policy J3 does not meet the basic conditions.
- 83 However, rather than recommend the removal of the Policy, I have sought to clarify matters with the Qualifying Body, which has in turn, provided information in respect of those areas that the Neighbourhood Plan intended to propose as areas of Local Green Space. Further to considering this against the information submitted alongside the Neighbourhood Plan, I have been able to give consideration to the Neighbourhood Plan's aims to designate Local Green Space.
- 84 In seeking to achieve this, I was mindful that there were inconsistencies between the Neighbourhood Plan, Appendix 2 and the information provided by the Qualifying Body further to the Submission Consultation period. This exemplifies the problems that can arise when a Neighbourhood Plan contains ambiguous and/or conflicting information.
- 85 Appendix 2, which comprises part of the Neighbourhood Plan's evidence base, provides information which responds, in part, to the Local Green Space designation tests set out in Paragraph 102 of the Framework. Whilst Appendix 2 fails to identify precise Local Green Space boundaries, I have been able to consider it alongside the various plans in the Neighbourhood Plan amongst other information, thus enabling the recommendations below.
- 86 The Local Green Space tests set out in the Framework are that the green space is in reasonably close proximity to the community it serves; that it is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and that it is local in character and is not an extensive tract of land.

¹¹ Planning Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

- 87 An objection has been received in respect of land referred to in Appendix 2 as *"Huggins Land and Butterfields Estate."* The Qualifying Body states that this objection is *"valid"* and that it is not included as *"open green space."* Whilst labelled as *"Greenspace"* on page 47 of the Neighbourhood Plan, I have taken into account the comments of the objector and of the Qualifying Body and the land is therefore excluded from the areas of Local Green Space listed in the recommendations below.
- 88 No substantive evidence has been provided to show that the proposed designation of schools as areas of Local Green Space is supported by the schools suggested, or that such designation provides for sustainable development in the context of educational and health and well-being needs. However, I note that, whilst not entirely clear, the proposed designations appear to include school playing fields which are afforded protection from inappropriate development by the provisions of Paragraph 99 of the Framework.
- 89 Further to all of the above, I am mindful that national policy is explicit in respect of requiring policies for managing development within a Local Green Space to be consistent with those for Green Belts. As set out, Policy J3 introduces development management requirements that would be in direct conflict with Green Belt policy and in this regard, the Policy does not meet the basic conditions. This is also a factor taken into account in the recommendations below.
- 90 I recommend:
- **Delete the wording of Policy J3 and replace with:**

"The areas listed and shown on the plans below are designated as Local Green Space. The management of development within areas of Local Green Space will be consistent with that for development within Green Belts.

Cliff Top Car Park; Pitch & Putt Golf Course; Cliff Top; Esplanade Gardens; The Lower Green; The Upper Green; Lincoln Square; Boston Square Sensory Park; Oasis Way Verges; Old Town Way Verge; The Recreation Ground; Community Centre Field and Orchard; The Cemetery; Queens Gardens Green; Astley Crescent Green; Collingwood Road Green; Elizabeth Close Play Area; Northfields Allotments; Bennett's Green."

- **Provide plans immediately below Policy J3 in the Neighbourhood Plan that clearly identify the name and boundaries of each of the areas of designated Local Green Space listed above (NB, this may be on individual plans or on plans showing more than one Local Green Space. All boundaries must be clearly shown at a detailed level and each individual Local Green Space must be clearly named/identifiable)**
- **Delete Map 5**

Policy J4: Allotments

- 91 Policy J4 promotes the provision of allotments and has regard to Paragraph 92 of the Framework, which supports development that enables and supports healthy lifestyles, including through the provision of allotments.
- 92 The Policy meets the basic conditions and no changes are recommended.

Policy J5: Community Green Space Design

- 93 The recently revised Framework recognises the important contribution that trees make to the character and quality of urban environments; and that they can also help mitigate and adapt to climate change.
- 94 Policy J5 seeks to ensure that major residential development includes sufficient space for native and/or fruiting trees to enhance local character. As such, the Policy has regard to national policy and meets the basic conditions.
- 95 The latter part of Policy J5 refers to matters beyond the scope of the Neighbourhood Plan – which cannot simply impose planning conditions or secure Section 106 agreements.
- 96 I recommend:

- **Delete the wording of Policy J5 and replace with:**

“Developments of ten or more dwellings should provide for the planting and long-term maintenance of native and/or fruiting trees and existing trees should be retained wherever possible.”

Policy J6: Dark Skies

97 Most forms of lighting are not subject to planning controls. Consequently and in the absence of any evidence to the contrary, it is not clear how the requirements of Policy J6 might be controlled. Further, it is not clear how the aspirations of the Policy can be delivered, having regard to Paragraph 16 of the Framework, referred to earlier in this Report.

98 However, Paragraph 185 of the Framework does state that planning policies should seek to

“...limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”

99 Taking this into account, I recommend:

- **Delete the wording of Policy J6 and replace with:**

“Development should respect the area’s dark skies and wildlife and minimise the impact of light pollution from artificial light.”

Policy J7: Green Separation Zones

- 100 Paragraph 127 of the Framework recognises that neighbourhood planning groups can play an important role in identifying and planning for an area's special qualities.
- 101 The Neighbourhood Plan seeks to protect the landscape setting and distinct identity of Hunstanton by preventing coalescence with neighbouring settlements and by preventing harm to the setting of the AONB. In this way, Policy J7 seeks to maintain the visual separation of Hunstanton and thus protect Hunstanton's identified special qualities, having regard to the Framework.
- 102 However, the Green Separation Zone identified on Map 6 includes a small area in the south east corner of the Neighbourhood Area. There is no substantive evidence to demonstrate that this area makes a significant contribution to the visual separation of Hunstanton.
- 103 Taking the above into account, I recommend:
- **Map 6, delete the small area shown as Green Separation Zone in the south eastern corner of the Neighbourhood Area from Map 6. For the avoidance of doubt, the whole of the "L-shaped" green shading in this south eastern area of the Map should be deleted.**

Housing, Parking and Garages

Policy K1: Size and Mix of Houses – Housing Need

- 104 Policy K1 requires that all developments for four or more dwellings provide a range of property sizes to meet local housing needs and tenures; provide a mix of open market and affordable housing; and help to meet needs for sheltered, supported and/or extra care housing.
- 105 Whilst the aspirations of the Policy are intended to meet local aims, there is no substantive evidence to demonstrate that it is viable for a development of four or more dwellings to achieve the requirements set out in the Policy. Consequently, I am unable to conclude that the Policy is deliverable. The Policy conflicts with Paragraph 16 of the Framework which states that plans should be
- “...aspirational but deliverable.”*
- 106 Further to the above, national policy is explicit in stating that
- “Provision of affordable housing should not be sought for residential developments that are not major developments...”*
- 107 However, the Neighbourhood Plan is supported by information which demonstrates that there is a local need for smaller homes and this is therefore taken into account in the recommendations set out below.
- 108 The Policy goes on to support the development of dwellings of five bedrooms or more where this is *“to provide the main residence of a household with long standing residency in the town.”* Effectively, the Policy would support the development of very large dwellings, of five bedrooms or more, so long as they would be occupied by anyone who has had a *“residency”* in Hunstanton for an unspecified period of time.
- 109 As well as being ambiguous and open to wide interpretation, in the absence of any justification, such an approach appears to conflict with local concerns that there are too many large houses in the Neighbourhood Area and not enough small houses.

110 In addition to the above, the Justification and Evidence does not appear to relate to the Policy. The Policy does not place a *“limit on the number of bedrooms...ensure that there are appropriate houses available to maintain and develop a sustainable community...ensure that there are reasonably sized houses available for holiday homes and for rent.”*

111 I recommend:

- **Delete the wording of Policy K1 and replace with:**

“The development of a range of property sizes and tenures suitable to meet local housing need will be supported. The provision of development that meets local needs for sheltered, supported and/or extra care housing will be supported.”

- **Delete the Justification and Evidence and replace with:**

“The Neighbourhood Plan supports the provision of housing where it is needed and supports development that meets the needs of groups with specific housing requirements.”

Policy K2: Design, Style and Materials

112 National planning policy recognises that:

“Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.” (Paragraph 126, the Framework)

113 SADMP Policy DM15 (*“Environment, Design and Amenity”*) promotes good design and Core Strategy Policy CS08 states that

“All new development in the borough should be of high quality design.”

114 The Neighbourhood Plan recognises the importance of good design and Policy K2 seeks to maintain *“the highest design standards”* throughout the Neighbourhood Area.

115 Whilst, as worded, Policy K2 applies only to residential development, the Qualifying Body has confirmed that the overall intent for the Policy is to *“promote good design for all development”* and this is recognised in the recommendations below.

116 As set out, the Policy requires development to take various criteria into account. However, most development proposals tend to be small scale – for example, householder applications for extensions – and much of the various criteria set out would be neither relevant nor deliverable.

117 Further to the above, in the case of Policy K2, it is not clear how a decision maker should interpret the phrase *“taken into account.”* How might, for example, all development proposals take *“the principles of streets for all... play areas, public and private spaces...external storage and amenity space”* into account – and why would this be necessary or even relevant ? There is no detailed justification for the Policy approach set out.

118 The Policy goes on to require all new dwellings and extensions to *“blend in”* with adjacent properties. In the absence of any substantive information, it is not clear why a householder extension should *“blend in”* with a neighbouring property – as opposed to appearing in character with the host property. What if the neighbouring property is of an entirely different form, character or use ?

- 119 To some considerable degree, part of the Neighbourhood Area's distinctive character is derived from the presence of different types and forms of buildings. In addition and in the absence of information, it is not apparent how a requirement for development to "*blend in*" with adjacent buildings rather than host properties could be delivered in practice such that it would meet national and local policy requirements for good design.
- 120 The final paragraph of Policy K2 provides for new dwellings to be up to four stories in height in the Town Centre Area and up to three stories in height anywhere else in the Neighbourhood Area. However, there are parts of the Town Centre Area where it would appear to be inappropriate for new dwellings to be built to such a height, as neighbouring properties would be much lower.
- 121 Similarly, much of the Neighbourhood Area is characterised by lower rise housing, including single storey buildings and in some areas, new three storey housing would likely appear out of keeping with its surroundings.
- 122 Consequently, Policy K2's blanket approach to promoting taller dwellings across the Neighbourhood Area could result in support for incongruous forms of development. This would be contrary to the overall aims of the Policy in respect of promoting high quality design.
- 123 The Policy then goes on to include a vague requirement for development to consider views; and to seek to restrict householder extensions to "*putting rooms in the roof*" which, in the absence of any justification, is an approach which conflicts directly with both the principles of sustainable development and permitted development rights.
- 124 Taken as a whole, whilst the wider aims of Policy K2, in respect of promoting good design, have regard to national policy and are in general conformity with adopted strategic policies, the detailed content of the Policy does not meet the basic conditions.

125 I recommend:

- Delete the wording of Policy K2 and replace with:

“All development in Hunstanton Neighbourhood Area must be of a high quality and make a positive contribution to local character. Residential development will be supported where it respects and appears in keeping with its surroundings, and where it respects the amenity of neighbours and highway safety. Development should have regard to local characteristics and distinctiveness, including historic character, materials and boundary features and existing trees and hedgerows. Development within the Conservation Area or its setting will be required to conserve or enhance the significance of the heritage asset.”

- Justification and Evidence, delete the last paragraph (“A limit on the height...heritage assets.”)

Policy K3: Footprint of Buildings

- 126 Policy K3 seeks to prevent any residential development from occupying more than 50% of its plot. This is an onerous Policy requirement that goes well beyond and conflicts with, national policy and advice, as well as with adopted local planning policy. Despite this conflict, the Policy is not supported by any substantive justification and consequently, the Policy does not meet the basic conditions.
- 127 Further to the above, I am mindful that plot ratios in many parts of Hunstanton already exceed the requirement set out and permitted development rights already provide scope for new development to exceed the Policy's requirements.
- 128 In support of the Policy, the Qualifying Body considers that it would provide space for washing to dry, for children to play and for space to grow flowers and vegetables. Whilst the provision of such things may be desirable, there is no evidence to demonstrate that new development that did not meet the Policy's requirements could not provide for these things, or that any such development would fail to comprise sustainable development. Given this and the above, I am unable to conclude that Policy K2 contributes to the achievement of sustainable development.
- 129 I am also mindful that, in any case, national and local policy (and Neighbourhood Plan Policy K2) work together to protect local character, amongst other things, without such a plot ratio as that proposed by the Policy.
- 130 I recommend:
- **Delete Policy K3 and supporting text**
 - **The Neighbourhood Plan “jumps” from Policy K3 to Policy K5 (there is no Policy K4). Similarly, there is a jump from Policy K8 to Policy K11 and from Policy M1 to M3.**
 - **The deletion of Policy K3 will add to these numbering gaps and I make a recommendation later in this Report that Policies are re-numbered to ensure that Policy numbering follows on in a consecutive manner**

Policy K5: Affordable/Shared Ownership Homes

- 131 Policy K5 promotes the dispersal of high quality affordable housing throughout major developments.
- 132 Such an approach has regard to national policy, which requires policies to
“...set clear expectations for the quality of places to be created.”
(Paragraph 73. The Framework)
- 133 As worded, the Policy refers to *“small groups.”* Whilst the Qualifying Body has gone on to suggest that such groups might be of up to 4 affordable homes, no evidence has been provided to demonstrate that such an approach would be deliverable on say, a large development site, where it may be more appropriate to disperse larger groups of affordable homes, in proportion to the size of the development.
- 134 I recommend:
- **Policy K5, change the wording of the first sentence to:**

“In major developments, affordable housing should be dispersed throughout the development site.”
 - **Retain the second sentence (“It should be...conspicuous.”)**

Policy K6: Infill Developments

- 135 National policy is founded upon a presumption in favour of sustainable development (Paragraph 10, the Framework). This means that development that is sustainable will be supported.
- 136 In built-up areas, development that respects local character, residential amenity and highway safety tends to comprise sustainable development. In the Neighbourhood Area, national planning policy, local planning policy and the policies of the Neighbourhood Plan work together to provide for sustainable development.
- 137 Given this, it is not clear, in the absence of any detailed information, why Policy K6 seeks to promote the development of residential gardens. Such an approach conflicts with the Neighbourhood Plan's strong support for the protection of areas of green space, including residential gardens.
- 138 Further to the above, Policy K6 refers to infill development without any indication of what this comprises in the specific context of the Neighbourhood Area.
- 139 Policy K6 does not have regard to Paragraph 16 of the Framework, which states that plans should

"...contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals."

140 I recommend:

- **Delete Policy K6 and supporting text**

Policy K7: Parking Provision

- 141 SADMP Policy DM17 sets out minimum residential car parking standards. SADMP Policy DM17 goes on to establish that reductions in these standards "*may be considered*" in town centres and urban locations, where it can be shown that the location of the development and the availability of a range of sustainable transport links could result in a reduction in car ownership and need for car parking provision.
- 142 Policy K7 adopts the minimum standards set out in SADMP Policy DM17. In addition, evidence has been provided to demonstrate that the location and specific circumstances of Hunstanton, combined with the poor availability of a range of sustainable transport links means that, whilst consideration has been given to the reduction of car parking standards, to reduce these standards would not be appropriate to Hunstanton's circumstances.
- 143 Policy K7 is in general conformity with SADMP Policy DM17.
- 144 Whilst a representation has suggested that the Policy could "*significantly impact on the deliverability of town centre schemes,*" no substantive evidence has been provided to demonstrate that this would be the case. Notwithstanding this, Policy K7 has been demonstrated to be in general conformity with SADMP Policy DM17. Evidence has been provided in justification of the way in which Policy K7 provides for car parking, in general conformity with the SADMP and I am satisfied that the Policy meets the basic conditions.
- 145 No changes to the Policy are recommended.

Policy K8: Off Road Parking

146 In general terms, Policy K8 promotes the provision of electric charging points and seeks to ensure that car parking does not give rise to local flooding. As such, the intent of the Policy has regard to Chapter 14 of the Framework, *"Meeting the challenge of climate change, flooding and coastal change."*

147 As worded, the Policy requirement for electric charging points appears vague and undeliverable, simply stating that there should be provision for all development. This is not an approach supported by evidence to demonstrate that it would be deliverable, or appropriate, for all development, including for example, every householder extension or advertisement, to provide for electric charging points.

148 The Policy goes on to state that *"proposals for separate parking courts will not be encouraged."* There is no information setting out why this is the case and no indication of how the Neighbourhood Plan will *"not encourage"* something. This part of the Policy does not provide a decision maker with a clear indication of how to react to a development proposal.

149 I recommend:

- **Policy K8, delete wording and replace with:**

"All new dwellings should include provision for vehicle electric charging points. Car parking surfaces should be permeable."

Policy K11: Houses as Principal Residence

- 150 Policy K11 seeks to prevent any new home from being available on the open market without a local occupancy provision.
- 151 This is an extremely onerous Policy. It severely limits who can purchase a new home, with profound impacts on the housing market.
- 152 Consequently, it is imperative that a Policy which on the face of it may prevent sustainable development, is fully justified through the provision of relevant, detailed and substantive evidence.
- 153 Whilst the Qualifying Body would like to restrict second home ownership in Hunstanton and refers to other examples of local occupancy clauses elsewhere, it has not provided any substantive evidence in respect of the economic impacts of preventing the sale of any new build home without a local occupancy clause in Hunstanton. The Qualifying Body has simply provided information to show that Hunstanton is popular with second home owners and that the price of existing homes is increasing.
- 154 However, rather than simply "*dampening demand for second homes*" – an aspiration unsupported by any evidence - it appears likely that the proposed Policy would simply serve to place a major constraint upon housing supply.
- 155 Generally, a constrained housing supply will result in higher and not lower, house prices and there is no evidence to demonstrate that this would not be the case in Hunstanton, were housing development to be subject to the provisions of Policy K11.
- 156 Taking all of the above into account, there is no substantive evidence that enables me to reach the conclusion that Policy K11 contributes to the achievement of sustainable development. The Policy does not meet the basic conditions.
- 157 I recommend:
- **Delete Policy K11 and supporting text**

Employment and Business

Policy L1: Development of Shops, Workshops and Businesses

- 158 The main aim of Policy L1 is to protect the character and appearance of Hunstanton's attractive shop fronts within the Conservation Area.
- 159 As set out, the wording of the Policy is somewhat confusing, as it would support the development of shops, workshops and business units subject only to shop front development being in accord with the Borough Council of King's Lynn and West Norfolk's Shop Front Guide. This could result in support for inappropriate forms of development and the Qualifying Body has confirmed that this is not the intention of the Policy.
- 160 Notwithstanding the above, ensuring that shop front development is sympathetic to its surroundings can support the conservation and potentially, the enhancement of the Conservation Area and consequently, the Policy has regard to Chapter 16 of the Framework, "*Conserving and enhancing the historic environment.*"
- 161 Taking the above into account, I recommend:

- **Delete the wording of Policy L1 and replace with:**

"Shop front design in the Conservation Area and its setting must be sympathetic to its surroundings and should be in accordance with the 2008 Shop Front Guide."

Policy L2: Employment and Access

162 The overarching aim of Policy L2 is to ensure that new employment development does not exacerbate parking problems in Hunstanton. In this way, the aims of the Policy have regard to Paragraph 108 of the Framework, which supports convenient, safe and secure parking.

163 However, as set out, the Policy requires all employment-generating development to provide parking for staff and customers, without any evidence to demonstrate that such a requirement is deliverable, or that it would, in all cases, meet the national policy tests for planning obligations set out in Paragraph 57 of the Framework, which are that obligations must be:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development;
- c) Fairly and reasonably related in scale and kind to the development.

164 Further to the above, the Qualifying Body has pointed out that there is an over-riding aim to support employment-generating development where it can be demonstrated that development is sensitively designed, does not result in significant harm to the amenities of surrounding uses and does not result in significant harm to highway safety.

165 Taking this into account, I recommend:

- **Delete the wording of Policy L2 and replace with:**

“New employment development must respect local character, the amenity of neighbours and highway safety.”

Policy L3: Location in or Near Town Centre

- 166 Together, the Framework and the SADMP set out a range of planning policies that support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation – including recognition that residential development plays an important role in ensuring town centre vitality (Chapter 7 of the Framework, “*Ensuring the vitality of town centres*”).
- 167 Whilst the title of Policy L3 is not clear, to some extent the Policy reflects the important role of Hunstanton town centre. However, as set out, both the Policy and the supporting text appear to be focused on preventing higher density residential development by severely limiting the type of residential development that can take place in the town centre. This is regardless of whether or not it can provide sufficient car parking (see Policy K7, above).
- 168 Hunstanton comprises one of Kings Lynn and West Norfolk's main towns and Policy L3's aim of preventing residential development within the town centre on the basis that “*dense development in Hunstanton (is) not achievable or sustainable*” should be supported by substantive evidence to demonstrate that this is the case. No such substantive evidence has been submitted in support of the Neighbourhood Plan.
- 169 Consequently, I am unable to reach the conclusion that Policy L3 contributes to the achievement of sustainable development. Rather, it appears to seek to prevent a form of development that can support town centre vitality and contribute to the achievement of sustainable development.
- 170 I recommend:

- **Delete Policy L3, supporting text and Map 8**

Policy L4: Home Working

- 171 Policy L4 supports proposals for any form of “*small scale employment*” so long as there is no harm to local character and residential amenity.
- 172 As worded, the Policy is both vague – in respect of what small scale employment comprises – and definitive, in that development should not result in any harm whatsoever. Consequently, the Policy does not have regard to national planning guidance, referred to on page 23 of this Report, which requires planning policies to be clear and unambiguous; and it does not contribute to the achievement of sustainable development by providing for the balanced consideration of the potential benefits and harm arising from a planning proposal.
- 173 The Qualifying Body has sought to further define small scale employment as “*a room in a home might be converted to an office or a garage converted to a workshop or a shed in the garden might be used. Such employment would be for the householder and partner and perhaps one other.*”
- 174 Nothing currently prevents home working, converting a room in a house to an office, or using a garage or shed as a workshop; and the suggestion that small scale employment comprises a householder, a partner and perhaps one other is vague and difficult to control.
- 175 Policy L4 does not meet the basic conditions and would not, in any case, appear to support home working beyond to any extent beyond that which can already take place without the need for planning permission.
- 176 Taking the above into account, I recommend:
- **Delete Policy L4 and supporting text**

Policy L5: Mobile Phone and Broadband Provision

177 Paragraph 114 of the Framework supports high quality communications development and states that

“Advanced, high quality and reliable communications infrastructure is essential for economic growth and well being.”

178 Whilst Policy L5 generally supports high quality communications, as set out the Policy requires all development – not just new housing development - to provide *“Fibre to the Premises,”* without providing any evidence to demonstrate that such an obligation would be deliverable in respect of all development, or that it would meet the national policy tests for planning obligations set out on page 42 of this Report.

179 Much of the supporting text comprises subjective opinion unsupported by substantive evidence.

180 I recommend:

- **Delete the wording of Policy L5 and replace with:**

“New dwellings should provide broadband access via “Fibre to the Premises.” (delete rest of Policy)

- **Justification and Evidence, delete everything after first sentence (“This is necessary... employment opportunities)**

Policy L6: Provision of Car Parking Areas

181 Policy L6 seeks to protect existing car parking spaces in Hunstanton, but as worded, the Policy comprises vague and subjective requirements that serve to place existing car parks at greater risk from development than is currently the case.

182 Consequently, the Policy fails to achieve its purpose. The Policy is ambiguous and does not provide a decision maker with a clear indication of how to react to a development proposal.

183 I recommend:

- **Delete Policy L6, supporting text and Maps 9a and 9b**

Infrastructure

Policy M1: Education and Health Care Provision

184 Policy M1 appears entirely vague. The Policy is founded upon the identification of “*a significant impact*” without providing any indication of what this might be.

185 Further, the Policy refers to ensuring provision of “*extra capacity*” without any indication of what existing capacity might comprise, how extra capacity might be calculated and how developments of ten or more dwellings will ensure that any such extra capacity can be provided, or why they should do so.

186 The Policy provides no evidence in respect of deliverability, is unsupported by substantive evidence and does not provide a decision maker with any indication of how to react to a development proposal.

187 I recommend:

- **Delete Policy M1 and supporting text**

Policy M3: Protection of Local Community Facilities

188 Chapter 8 of the Framework, "*Promoting healthy and safe communities,*" requires planning policies to:

"...guard against the unnecessary loss of valued facilities...ensure that...facilities and services...are retained for the benefit of the community."

(Paragraph 93, the Framework)

189 Policy M3 seeks to prevent the loss of community facilities and in this respect, the Policy has regard to the Framework.

190 As set out, the Policy references a list appended to the Neighbourhood Plan. To ensure that the Policy is clear and unambiguous, the relevant community facilities should be named in the Policy itself. It is also important to include a plan in the Neighbourhood Plan showing the location of each of these facilities.

191 I note that some of the locations provided in the Appendix are poorly defined, unsupported by plans and in some cases, relate to land designated as Local Green Space.

192 I recommend:

- ***Policy M3, change to "The following community facilities will be retained for the benefit of the community unless it can be demonstrated that they can be replaced by facilities of a similar or improved quality in a no less accessible location for users, or it can be demonstrated that the facility is no longer viable or necessary:***

(Policy continued)

St Edmund's C of E Church; Methodist Church; Union Church; Roman Catholic Church; Way Christian Centre; Christian Science Church; Early Learning Centre; Hunstanton Primary School; Smithdon High School; Glebe House School; Police Station; Ambulance Station; Fire Station; GP Surgery and pharmacy; Community Centre; Oasis Leisure Centre; Croquet Club and Bowls Club; United Services Club; Conservative Club; Wash and Tope; Cliff Top Pitch and Putt; Recreation ground and play area; Cliff top car park; Northfields Allotments; Styleman Crescent play area; Beach Terrace Road car parks; Southend Road Coach Park; Northern and Southern Promenade; Kit Kat Site; Esplande Gardens; Henry le Strange Orchard; Barclays Bank; Salad Bowl & Bowling club; Sailing club; Pier Entertainment Centre ; Marine Court; Bus station; Library; Sea Life Centre; Rainbow Park Fairground.

- **Clearly identify the location of each community facility on a plan/plans provided below the Policy**

8. The Neighbourhood Plan: Other Matters

193 The recommendations made in this Report will have a subsequent impact on Contents, including Policy, plan/map, paragraph and page numbering.

194 I recommend:

- **Update the Contents, Policy, Plan/Map, paragraph and page numbering to take into account the recommendations contained in this Report**
- **Re-number Policies and Plans/Maps, to ensure numbering is consecutive**

9. Referendum

195 I recommend to Borough Council of King's Lynn and West Norfolk that, subject to the recommended modifications, **the Hunstanton Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

- 196 I am required to consider whether the Referendum Area should be extended beyond the Hunstanton Neighbourhood Area.
- 197 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.
- 198 Consequently, I recommend that the Plan should proceed to a Referendum based on the Hunstanton Neighbourhood Area approved on the 5th February 2013.

Nigel McGurk, September 2021
Erimax – Land, Planning and Communities

