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Borough Council of
**King's Lynn &
West Norfolk**



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**Draft Old Hunstanton Neighbourhood Plan 2021-2036, submitted August 2022:
Legal Check under Schedule 4B of the Town and Country Planning Act 1990**

5 September 2022

FAO Caroline Boyden (Parish Clerk)

Dear Caroline

I write to you on behalf of the Borough Council of King's Lynn and West Norfolk (BCKLWN) to confirm our receipt of the submission version of your draft neighbourhood development plan (the Old Hunstanton Neighbourhood Plan 2021-2036), along with accompanying supporting documentation. Firstly, I would like to wholeheartedly congratulate Old Hunstanton Parish Council and the neighbourhood planning group on successfully reaching the submission stage (Regulation 15, The Neighbourhood Planning (General) Regulations 2012) of the neighbourhood planning process.

As you may be aware, under Paragraphs 5 and 6 of Schedule 4B of the Town and Country Planning Act (TCPA) 1990 there is now a requirement for BCKLWN, as the local planning authority, to undertake a check of the compliance of the plan along with its process to date. The relevant legal tests are set out in the 1990 TCPA and relevant sections of the Planning and Compulsory Purchase Act (PCPA) 2004. It is then an obligation of the local planning authority to issue a written statement clarifying the compliance (or otherwise) of the plan. Accordingly, this letter comprises the formal view of BCKLWN and recommends whether it should be submitted for independent examination.

At this stage it is not a duty of the local planning authority to consider the plan proposal against the 'basic conditions' tests set out under Paragraph 8(2) of the TCPA 1990 (this is the role of the independent examiner). Nevertheless, I can confirm that whilst BCKLWN is of the opinion that the draft Neighbourhood Plan is in general conformity with relevant national and local strategic policy it does however raise some matters of

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concern in relation to its effectiveness as a development plan document, as set out below in the Council's initial review of the submission.

I note that your submissions also include the Basic Conditions Statement, which provides your detailed consideration of the plan submission against the requirements of the TCPA 1990 and the PCPA 2004. In a similar manner, I am pleased to confirm the following on behalf of BCKLWN:

- The plan **DOES** accord with all relevant provisions of the PCPA 2004 in that it: specifies a plan period; does not include any provision for excluded development; and does not relate to more than one neighbourhood area;
- The plan **DOES NOT** comprise a 'repeat proposal' as defined under Paragraph 5 of the TCPA 1990;
- The submission **DOES** comprise the relevant documentation required under Paragraph 1 of Schedule 4B of the TCPA 1990 and as prescribed by Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 ('the Regulations');
- The plan **DOES** comply with all other provisions under section 61E(2), 61J and 61L of the TCPA 1990.

To assist the process, we have also briefly prepared the following:

- More detailed Submission Check note (Annex 1 to this letter); and
- Initial Submission Neighbourhood Plan check, highlighting instances where, in officers' professional opinion, there is a possibility that the draft Plan could be challenged with reference to the Basic Conditions (Annex 2).

Following receipt of updated submission documents (16th August 2022), the Old Hunstanton Neighbourhood Plan 2021-2036 will then be published for consultation, with reference to the Basic Conditions, under Regulation 16 of the 2012 Neighbourhood Planning (General) Regulations, as amended..

The plan will then be made available for independent examination. The Regulation 16 consultation will take place over a 6-week period during autumn 2022 (exact dates yet to be determined). In due course, the Neighbourhood Plan, supporting submission documents and details of how to make representations to it will be published on BCKLWN's [Neighbourhood Planning](#) web page.

Alongside the Regulation 16 consultation we will begin the process for the appointment of an independent examiner for the Old Hunstanton Neighbourhood Plan. The appointed examiner will start the examination soon after the end of the Regulation 16 consultation in autumn 2022.

Finally, on behalf of BCKLWN this letter represents the Council's formal view that the draft Old Hunstanton Neighbourhood Plan 2021-2036, complies with all relevant statutory requirements. Please do not hesitate to contact me if you have any further queries regarding the neighbourhood planning process from hereon.

Yours sincerely

Geoff Hall
Executive Director, Environment and Planning

Attachments:

- Annex 1: Submission Check list
- Annex 2: Initial Submission Neighbourhood Plan check

Annex 1 – Old Hunstanton Neighbourhood Plan 2021-2036: Submission Check

Old Hunstanton Parish Council (Qualifying Body) initially submitted its draft Neighbourhood Plan to the Borough Council in March 2022. There were a small number of omissions/ corrections to the submission documents that needed to be rectified to allow for the Neighbourhood Plan to proceed to Regulation 16 consultation and examination.

The Regulations require that if the submitted plan is accompanied by the documents required by Regulation 15 then the Borough Council must, as soon as possible, publicise the plan (Regulation 16). The initial submission documents were returned to Qualifying Body, with an explanation as to how the submission documents would need to be amended to comply with the Regulation 15 legal requirements. These tasks were subsequently completed, and the Parish Council resubmitted the Old Hunstanton Neighbourhood Plan in August 2022.

The requirements of Regulation 15, and how the draft Old Hunstanton Neighbourhood Plan relates to these is set out in the following table:

Regulation 15 Paragraph No.	Requirement	Initial check (March 2022) Included in submitted proposals?	Final check (August 2022)
1	Where a qualifying body submits a plan proposal to the local planning authority, it must include [the following]		
1 (a)	a map or statement which identifies the area to which the proposed neighbourhood development plan relates	<i>Yes, map of the parish boundary is included on page 4 of the submitted plan.</i>	✓
1 (b)	a consultation statement	<i>Yes, see Para 2 (a),(b),(c) and (d) below.</i>	<i>Amended consultation statement received July 2022</i>
1 (c)	the proposed neighbourhood development plan	<i>Yes included as part of the submission.</i>	✓
1 (d)	a statement explaining how the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act	<i>Seems to be covered by the 'basic conditions statement' submitted.</i> Missing section on EU obligations	<i>Amended basic conditions statements received July/ August 2022, incorporating additional text regarding EU Strategic Environmental Assessment obligations and an assessment of the Plan objectives against relevant NPPF policies/ criteria</i>

Regulation 15 Paragraph No.	Requirement	Initial check (March 2022) Included in submitted proposals?	Final check (August 2022)
2	In this regulation “consultation statement” means a document which [see following]		
2 (a)	contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan	<p><i>Not yet fully completed, contains details of statutory consultees/ bodies consulted and other organisations at early stages of plan preparation</i></p> <p>Missing statutory consultees</p>	<p><i>List of statutory consultees added to consultation statement</i></p>
2 (b)	explains how they were consulted;	<p><i>Yes, this is summed up within the submitted consultation statement.</i></p>	✓
2 (c)	summarises the main issues and concerns raised by the persons consulted	<p><i>Yes together with 2 (b) above</i></p> <p>Received comments to be included</p>	<p><i>Summary issues added to consultation statement; detailed comments not included, although this is not a requirement of Regulation 15(2)(c)</i></p>
2 (d)	describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan	<p><i>Prepared draft, together with 2 (b) above</i></p> <p>To be completed</p>	<p><i>Updated consultation statement (July/ August 2022) includes basic explanatory text as to how key issues raised through Regulation 14 representations have been addressed</i></p>

Regulation	Requirement	Initial check (March 2022) Included in submitted proposals?	Final check (August 2022)
The Neighbourhood Planning Regulations	<p>One of the following:</p> <p>an environmental report in accordance with paragraphs (2) and (3) of regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004; OR</p> <p>a statement of reasons for a determination under regulation 9(1) of the Environmental Assessment of Plans and Programmes Regulations 2004 that the proposal is unlikely to have significant environmental effects</p>	<i>Yes, see submitted Screening Report, SEA & HRA reports</i>	✓
The Conservation of Habitats and Species Regulations 2017, Chapter 8	Where appropriate, the information to enable appropriate environmental assessments if required e.g. that will enable the LPA to make an assessment under The Conservation of Habitats and Species Regulations 2017 where the plan proposal is likely to have significant effects on a European site or European offshore marine site or the Environmental Assessment of Plans and Programmes Regulations 2004.	<i>See HRA screening report & HRA report</i>	✓

Annex 2 – Old Hunstanton Neighbourhood Plan 2021-2036: Initial Submission Neighbourhood Plan check

Initial review of the submission version Neighbourhood Plan, to accompany Legal Check under Schedule 4B of the Town and Country Planning Act 1990.

Borough Council of King's Lynn and West Norfolk comments on Old Hunstanton Neighbourhood Plan 2021-2036 (submitted July 2022)		
Page No.	Item	Comment
	General	Paragraph numbering should be applied throughout the document, to ensure clarity in cross referencing etc
	General	Cross references to NPPF should be checked throughout document, to ensure that these relate to the current (2021) version ¹
3	Vision Statement	The Basic Conditions Statement (Table 1) contains 8 overarching objectives that are not referenced in the Neighbourhood Plan itself. In the interests of clarity and consistency these should be added into the Plan, to follow the Vision Statement.
6	Policy 1	Final paragraph probably best placed in supporting text. Suggested replacement text, within Policy 1: <i>“Appropriate development for a countryside/ rural location (e.g. rural exceptions sites), as defined by national policy NPPF) will be supported if it can be demonstrated that this would deliver sustainable development benefits to the village”</i> .
8	Justification	Suggested rewording: Old Hunstanton village and Hunstanton town could easily merge if there was to be development outside Old Hunstanton's existing development boundary and this is to be avoided . To retain the special character of Old Hunstanton it is important to support keeping the parish visually separate from its neighbouring town and parishes. Hunstanton's draft Neighbourhood Plan also seeks to address this by specifying a green separation zone, albeit within Old Hunstanton parish. Likewise, Heacham and Holme next the Sea's draft Neighbourhood Plans Neighbouring parishes around Old Hunstanton advocate the inclusion of separation zones to prevent coalescence.
9	Justification	Repetition – Last two bullet points essentially say/mean the same.

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Page No.	Item	Comment
9	Policy 2/ Map 3	<p>The “settlement breaks”, as defined by Map 3, effectively equate to a green belt, which would be contrary to national policy. Holme next the Sea is some distance away to the east, such that a strategic gap of this nature could not be justified.</p> <p>Regarding separation between Old Hunstanton and Hunstanton, the recently made Hunstanton Neighbourhood Plan already includes Green Separation Zones (Policy J7/ Map 6) to the east of the A149 and covering Hunstanton Pitch and Putt (also designated Local Green Space – Policy J3(2)/ Map 5).</p> <p>If there is a desire to include such a policy, it is suggested that the area between The Big Yard (southern edge of development boundary) and Chapel Bank (east of the A149) may be appropriate, given the physical proximity between Old Hunstanton and Hunstanton – northernmost part of Area A. Otherwise, Areas B and C are not appropriate due to their extent and the fact that these are entirely unnecessary to prevent coalescence.</p>
11	Evidence	Reword second bullet - BCKLWN Core Strategy identifies Old Hunstanton as a rural village and sets out that rural villages have a limited but locally important role meeting the needs of the parish. Rural villages may see some limited growth, which will help support surrounding rural areas (e.g. some small-scale infilling or affordable housing).
11	Policy 3	Policy 3 contains two, apparently unrelated elements. It would probably be more appropriate to make 2nd part of Policy 3 (Sport) into a separate policy or incorporate this within Policy 8 (Community Facilities).
12	Policy 4	<p>Policy 4 should be retitled to “Historic Environment”, as it appears broader in scope than just the Conservation Area.</p> <p>In the first section of Policy 4 it may be more appropriate to specify: “...particularly those of historic or architectural interest; both designated and non-designated heritage assets.”</p>
16-17		The detailed HERS/ Norfolk Heritage information would be better included as an appendix, rather than within the main body text of the Plan.
17	Policy 5	Policies 4 and 5 would be better merged into a single “Historic Environment”, with sub-headings/ sections; i.e. “Conservation Area”; “Non-designated Heritage Assets”. It may be appropriate to explain in the supporting text that designated heritage assets (Scheduled Monuments; Listed Buildings) are covered by separate legislation (Planning (Listed Buildings and Conservation Areas) Act 1990).
19	Justification	Source data is referenced as ‘BCKLWN, November 2019’ but this isn’t specific enough as to the actual source of the information for someone to look up.
19	Justification	Second homes and holiday lets should be distinguished more clearly as restriction on holiday lets could be considered in conflict to Core Strategy Policy CS10 (which clearly supports tourism accommodation development in rural areas).
20	Policy 6	#Policy 6 contains some useful criteria. In the interests of readability, it is suggested that these could be ordered as numerical policy criteria (e.g. 6(a); 6(b) etc).

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Page No.	Item	Comment
21	Policy 7	<p>Policy 7 (Consultation) is not really a development plan policy. Instead, it should be moved into the introductory text near the start of the document or be specified as a local aspiration in the final section of the Plan.</p> <p>At this juncture it would also be helpful to cross reference the Borough Council's Statement of Community Involvement, to explain how consultation is undertaken by the local planning authority².</p>
23	Policy 8	It is proposed that the second part of Policy 3 should be incorporated within Policy 8.
26	Policy 9	<p>It is questioned whether the penultimate paragraph/ section in Policy 9 is necessary, as it simply duplicates Policy 6. Notwithstanding, if it is to be retained the wording should be amended as follows: "<i>New dwellings must should be used...</i>".</p> <p>It is not possible to mandate items within policy that are not required under legislation/ regulations. Everything within a development plan policy is negotiable through planning applications.</p>
28	Policy 10	<p>The 40% plot area requirement in policies 9 and 10 is a useful benchmark, although it is likely to be challenged as it is unclear whether sufficiently robust evidence hasn't been presented or is available to justify such a specific standard.</p> <p>To justify such a prescriptive threshold for the proposed plot area, specific local evidence would be required, such as a housing needs assessment for the Parish. To support this robustly there should be evidence of what type of houses are needed in the community. Other appropriate evidence may include design code or character assessment could also serve as evidence if they show a tendency of plot sizes and the average dwelling size on the host site.</p> <p>NPPF para 119 says "<i>Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.</i>" It is questionable if Policy 10 is promoting an effective use of land with the proposed restriction (presumably to prevent over-development).</p> <p>Consideration of a threshold on site size may also be beneficial to apply more practically to larger sites. However, we are also concerned that such a policy restriction may even do more harm than good and actually limit the members of the community in building affordable homes on smaller plots.</p>
29	Policy 11	It may be appropriate to specify which particular element of the NPPF is referenced? Is this para 115 (as referenced in the supporting text above –assumed not, as the current reference is to telecoms masts), or paragraphs 80/177-178?
31	Policy 13	Policies 13 and 14 could be grouped into a single drainage policy, with separate sustainable drainage systems (SuDS) and River Hun/ Groundwater subsections.

² https://www.west-norfolk.gov.uk/info/20079/planning_policy_and_local_plan/550/statement_of_community_involvement_sci

**Borough Council of King's Lynn and West Norfolk comments on
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Page No.	Item	Comment
34	Policy 15	<p>Second part/ section of Policy 15 is more appropriate within the supporting text rather than within the main policy text.</p> <p>OR?</p> <p>Proposals for new or extended base stations will should contain a condition requiring shared network access among mobile phone operators.</p>
35	Policy 16	The exception for caravan parks hasn't been justified (and also conflicts with support for tourism in Core Strategy and questionnaire).
35	Policy 16	Final paragraph/ section of Policy 16 is more appropriate as supporting text, as it references matters of licensing which are separate to the planning system. Amend wording to make more readable.
36	Policy 17	First paragraph/ section of Policy 17 is more explanatory (rather than policy) text, so more appropriate to include within the supporting text.
41	Policy 19	Policy 19 final paragraph/ section – Development plan policies cannot insist upon or preclude items/ activities that may be permissible under legislation/ Regulations. Instead, Policy 19 should state that: <i>“There will be a presumption against the use of illuminated signs, unless exceptional circumstances can be demonstrated that these are necessary; e.g. in the interests of public safety”</i> , or similar wording.
43	Evidence	References to Local Green Space is needed, in the interests of clarity and to ensure conformity/ consistency with the NPPF 2021 (paragraphs 101-103).
44	Policy 20	<p>The Borough Council supports the designation of Local Green Spaces (NPPF paragraphs 101-103). However, it is questioned whether Hall and Park and Ringstead Downs accord with national policy criteria, due to their scale and proximity to the built up area, respectively.</p> <p>Policy 20 should reference Local Green Spaces and align to national policy. It should explain the “special circumstances” where built development may be permitted; e.g.</p> <p><i>“The areas listed above/ shown on Map 10 are designated Local Green Spaces, in accordance with National Planning Policy Framework criteria. New build development will not be supported within the Local Green Space except for very special circumstances such as:</i></p> <ul style="list-style-type: none"> • <i>Provision of appropriate facilities to service a current use or function; or</i> • <i>Alterations or replacements to existing buildings or structures, provided that these do not significantly increase the size and scale of the original building.”</i> <p>(sample criteria from extant Neighbourhood Plan policy, to explain the circumstances where built development may be acceptable on Local Green Spaces).</p>