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



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Draft Gayton and Gayton Thorpe Neighbourhood Plan 2019-2036, submitted 27th January 2023: Legal Check under Schedule 4B of the Town and Country Planning Act 1990

31 January 2023

FAO Sarah Watts (Parish Clerk)

Dear Sarah

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 Gayton and Gayton Thorpe Neighbourhood Plan 2019-2036), along with accompanying supporting documentation. Firstly, I would like to wholeheartedly congratulate Gayton 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 BCKLWN is of

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the opinion that the draft Neighbourhood Plan is in general conformity with most relevant national and local strategic policies. However, we have some concerns as to how certain policy aspirations (e.g. regarding First Homes and other affordable housing local connections criteria) could work, in practice. Further detail is set out in the Council's initial review of the submission Neighbourhood Plan (Annex 1, below).

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.

Annex 1 provides an initial check of the contents of the Plan. This provides initial feedback as to where, in officers' professional opinion, the draft Plan could be challenged with reference to the Basic Conditions, or general clarity/ readability.

The next stage in the process is consultation on the Gayton and Gayton Thorpe Neighbourhood Plan 2019-2036, with reference to the Basic Conditions. This statutory consultation will be undertaken 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 is anticipated to take place over a 6-week period during February/ March 2023. 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 Gayton and Gayton Thorpe Neighbourhood Plan. The appointed examiner will start the examination soon after the end of the Regulation 16 consultation in spring 2023.

Finally, on behalf of BCKLWN this letter represents the Council's formal view that the draft Gayton and Gayton Thorpe Neighbourhood Plan 2019-2036, 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

Annex 1 – Gayton and Gayton Thorpe Neighbourhood Plan 2019-2036: 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 Gayton and Gayton Thorpe Neighbourhood Plan 2019-2036 (submitted January 2023)		
Page No.	Item	Comment
	General/ overall comment	<p>Several policies (G1, G2, G4, G13, G14, G18, G19) state that Development etc "must...". Use of the word "must" within development plan policies is generally inappropriate, as everything in a Plan policy is negotiable through the development management system, dependent upon development viability etc. It is not possible to require ("must provide" etc) something (e.g. item of local infrastructure) that is not obliged under legislation.</p> <p>Instead, the word "should" be normally used in place of "must", which still gives the necessary leverage to the local planning authority in securing high quality/sustainable development in determining planning applications. However, "must" could be used where policy criteria specify exemptions.</p>
10	Para 2.1.3	<p>The new/ replacement Local Plan period/ end date is expected to be changed to 2039 (15 years ahead of adoption). Rather than express an end date, instead it may be better to state that: <i>"The new Local Plan [3] will cover the plan period 15 years ahead of the anticipated adoption date (late 2023/ early 2024). At adoption it will replace the Core Strategy and Site Allocations document."</i></p> <p>This should apply throughout the document; i.e. also with reference to 6.1.2.</p>
20	Para 4.2.1	<p>Some of the explanatory text in para 4.2.1 is considered misleading; e.g. "Some of these sites have come forward as a result of the Borough not having maintained a 5-year housing supply. These are developments that do not accord with the Borough Plans". These sentences would be better deleted. Other parts of this text clearly explain local concerns about the impacts of development upon the rural character of Gayton village.</p>
28-33	Section 5.2	<p>In terms of presentation it may be better to re-order/ separate out Neighbourhood Plan Objectives and Aspirations.</p>
36	Policy G1	<p>"Policy in a Nutshell" – may be useful to specify that Policy G1 will supplement Local Plan spatial strategy policies for Gayton and Gayton Thorpe, by providing additional local detail. Specifically, CS01, CS02, CS06, DM2, DM3.</p> <p>Criterion (f) – evidence for 8-dwellings threshold? As a default, it may be better to specify minor developments, which means schemes of 9 dwellings or less.</p> <p>Note: Policy LP31 – probably better to remove this entry. The emerging Local Plan is current under examination by the appointed Planning Inspectors. Many policies (including LP31) may be subject to further change before the Plan is adopted. Given that the Neighbourhood Plan may well go to referendum before adoption of the replacement Local Plan, this reference is best removed.</p>

**Borough Council of King's Lynn and West Norfolk comments on
Gayton and Gayton Thorpe Neighbourhood Plan 2019-2036 (submitted January 2023)**

Page No.	Item	Comment
37	Para 6.1.2	Probably useful to cross reference site allocation Policy G41.1. Also, suggest removal of reference to Local Plan Review period (2016 to 2036); better to state 15 years ahead, from adoption (anticipated early 2024).
37	Para 6.1.3	Probably useful to cross reference 2016 Site Allocations and Development Management Policies (SADMP) Plan Policy DM3, alongside CS06.
37	Para 6.1.5	The definition for infill development at Gayton Thorpe is useful. However, there could be concerns that restricting this to a single dwelling is overly restrictive. It may be better to specify that individual proposals should not increase the size of the settlement by more than, say, 5% of the existing Gayton Thorpe housing stock.
41	Policy G2	<p>"All new development" – it is assumed that this relates to new-build development? If so, it would be better to specify within the policy text; i.e. "All new-build development...".</p> <p>Criterion (b) – how could "in harmony" be demonstrated in development management terms? Suggested amendment to this phrase to "...demonstrate that these complement and harmonise with...".</p>
47	Policy G4	3 rd paragraph – suggested wording amendment to strengthen the policy and improve its effectiveness: "...proposals have any effect on with the potential to affect a non-designated heritage asset or its setting , a balanced...".
51	Policy G5/ para 7.2.7- 7.2.8	The aspirations of this policy are worthy. However, the First Homes requirement should be checked to ensure its legal compatibility. The Borough Council's Strategic Housing team would need to advise/ confirm if this local eligibility criterion, as written in the policy text, would fulfil legal requirements for First Homes (Strategic.Housing@West-Norfolk.gov.uk).
56	Para 7.2.18	<p>The HNS identified a need for 8 affordable units within the Parish? It is assumed that this is the basis for the proposed 8-dwellings threshold at Policy G1(f)? If so, this should be specified at para 7.2.18.</p> <p>Notwithstanding, we (Borough Council) already have concerns about the propose 8 dwellings maximum standard at Policy G1(f) and consider that a minor development threshold (i.e. up to 9 dwellings) would be more appropriate.</p>
57	Policy G8	The aspirations of this policy are worthy. However, the local connections criterion should be checked to ensure its compatibility with the Borough Council's housing allocations policies. The Strategic Housing team would need to advise/ confirm if this local eligibility criterion, as written in the policy text, would fulfil these requirements (Strategic.Housing@West-Norfolk.gov.uk).
58	Policy G9	New residential development – assume this refers to new-build; as elsewhere in the Plan this reference ought to be changed to "new-build residential development", in the interests of clarity?
61	Policy G10	<p>Minor/ editorial comments, re clarity:</p> <ul style="list-style-type: none"> • Criterion (ii) – assume (iii) reference is an editing mistake? • "are particularly welcome" – text should probably be replaced by "...will be supported".

**Borough Council of King's Lynn and West Norfolk comments on
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Page No.	Item	Comment
64	Policy G12	The aspirations of this policy are worthy. However, there is some concerns that developments without dedicated off-road parking (e.g. conversions/ changes) of use would be unable to fulfil this requirement. It may be better to specify that developments with off-road parking would need to provide at least one EV charging point?
71	Policy G16	Cross reference to current Local Plan (2016 Site Allocations and Development Management Policies (SADMP) Plan) Policy DM16 – to “future-proof” the policy, it is suggested that this reference should be replaced by “...for provision of recreational open space in association with new developments...” or similar wording.
73	Policy G18	1 st paragraph – It may be appropriate to include some cross referencing to the 2021 Environment Act; e.g. “...Maps in Figure 28 and Figure 29 must take account of their biodiversity value as a baseline standard, towards securing 10% Biodiversity Net Gain (BNG) in accordance with the 2021 Environment Act ”. “Any proposal resulting to the deterioration of Gayton’s areas of ancient woodland (due to these habitats being irreplaceable) will be refused” – criterion wording considered overly negative. Suggested re-wording: “Proposals will not be supported where these would result in adverse impacts on, or deterioration of, Gayton’s areas of ancient woodland, due to these habitats being irreplaceable” or similar.
89	Policy G21	3 rd paragraph: “Development proposals which result in decreased pedestrian connectivity between residential areas and services (including the school) or which fail to utilise opportunities to provide new connections will be refused” – policy wording overly negative. Suggested replacement text: “Developments that will adversely affect pedestrian connectivity between residential areas and local services (including the school) will not be supported”, or similar such wording.
94	Policy G23	2 nd sentence – reference to “...residential parking standards set out in the Borough Council’s Development Management Policies document...” would be better replaced by “...the Local Plan residential parking standards...”, to future-proof the Neighbourhood Plan.
95	Policy G24	While G24 is considered effective and would fulfil the basic conditions, this is probably better merged and/ or included in the Plan alongside G29 (Community hub), given that the latter is identified as a site-specific allocation in the Plan.
96	Policy G25/ para 10.2.1- 10.2.3	G25 and supporting text are probably redundant, given that the new school is already under construction. Suggested deletion of this section.
97	Policy G26	Introductory paragraph – suggested revision to text, given that the new school is now under construction: “Development proposals which help to secure the continued use of the current building and school site will be supported, where these fulfil the following criteria:”, or similar such wording.

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Page No.	Item	Comment
103	Policy G28	<p>2nd part of policy – suggested amendments, to also cover provision of new facilities: “Wherever possible, development should support the retention or enhancement of existing, or where appropriate provision of new, facilities; through measures such as protection of existing public car parking, provision of new complementary and shared off-street parking, and compatible functions that do not adversely affect local amenity or exacerbate existing issues such as on street parking.</p> <p>Final section (criteria (i)-(iii)) – should be moved into the 2nd part of G28 (see above), given that G29 is a site-specific allocation for delivery of a new village hall in any event.</p>
107	Glossary	CS (Core Strategy) – should refer to the Local Plan, rather than the earlier (defunct) Local Development Framework reference