

Old Hunstanton Neighbourhood Plan – Independent Examination

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16th March 2023

Dear Qualifying Body

Clarification Note from the Examiner to Old Hunstanton Parish Council

Further to reviewing the Old Hunstanton Neighbourhood Plan (referred to below as the Neighbourhood Plan) and supporting information, I am contacting Old Hunstanton Parish Council (as Qualifying Body) in respect of the matters set out below.

Having considered the submitted information, I am not calling for a public hearing as part of the examination process. However, Neighbourhood Planning Independent Referral Service (NPIERS) Guidance¹ Paragraph 1.11.4 states that:

“The Qualifying Body will normally be given the opportunity to comment on the representations made by other parties...The opportunity for the Qualifying Body to comment on representations could be incorporated within an independent examiner’s clarification note...”

Therefore, I confirm that there is an opportunity for Old Hunstanton Parish Council to respond to me in respect of the representations made during Regulation 16 (the Submission stage) consultation, should it wish to do so.

In addition to the above, I note that the examination of the Neighbourhood Plan has now commenced. In this regard and in the interests of clarity, I would also be grateful for any assistance Old Hunstanton Parish Council can provide in respect of providing brief responses to a number of questions set out in this letter.

In responding, when referring to evidence relating to the Neighbourhood Plan, please note that this should only comprise evidence that is already publicly available.

1 NPIERS “Guidance to Service Users and Examiners.”

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Thank you very much for your consideration of this Clarification Note. I am not imposing a deadline for responses, but your earliest consideration will enable the examination to be concluded in as timely a manner as possible. Thank you.

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Independent Examiner,

Old Hunstanton Neighbourhood Plan

Policy 1

Please can you point me to information in respect of when a development proposal (outside the settlement boundary) will “be of benefit to the village,” who will determine this and on what basis?

Further, is there any information you can point me to that supports such an approach (which goes beyond national policy requirements)?

This issue was clarified by the Government Inspector in 2017. He backed up the defined settlement boundary with refusal for planning outside of this area. A detailed residents survey also strongly supported this part of the plan. The Borough Council agreed these proposals and stated that the boundary as stated was correct. Developments outside such a boundary do, however, have to be considered on their own merit. Such a development could be, for example, a nature reserve or other recreational facility. The new Observatory just outside the parish boundary towards the western cliffs is an example.

Policy 2

Please could you comment in respect of the Borough Council’s representation re: this Policy?

“Retention” of visual and physical gaps suggests that any development that includes above-ground physical volume may be resisted, as there would be an inevitable impact on openness. Paragraph 16 of the NPPF requires policies to be clear so that it is evident how a decision maker should react to a development proposal. Please can you point me to information in respect of how a decision maker would be expected to respond to a development proposal within a Settlement Break in respect of this Policy.

Might the alternative phrase “Sustainable development proposals must respect the visual and physical local gaps...” meet the aims and purposes of the Policy?

The importance and integrity of the existing gap between the settlement boundary and the parish boundary and Hunstanton town was unequivocally reaffirmed and supported by the Government Planning Inspectorate in 2017 in rejecting an appeal against the refusal of a planning application for development on this land by BCKLWN. A detailed residents’ survey conducted in preparation of the NP showed very strong support for this policy as a fundamental point within the NP. BCKLWN also supported this policy.

OHPC would, of course, consider developments outside the settlement boundary based on their individual merits, for example, a building necessary for agricultural purposes.”

Policy 3

Is the demonstrable need to provide housing for Old Hunstanton residents the exceptional circumstance referred to in the Policy?

Yes

Residents of Old Hunstanton already live in the area, please can you point me to evidence in respect of the existing specific need for 10 or more houses for people who already live in Old Hunstanton.

Historically, only a maximum of two OH based families were on the borough waiting list for accommodation in Old Hunstanton. OHPC is not aware of any on that list now. Indeed, the two most recent vacant dwellings have been allocated to residents from outside the area, for example, Wisbech. This indicates that there would only be a need for a development of 10 or more properties in unforeseeable exceptional circumstances and only genuine local need, as per the Court of Appeal in the original defeat of an application to build housing outside the settlement boundary in the gap as referred to in Policy 1 above, should override this policy.

OHPC would, of course, consider developments outside the settlement boundary based on their individual merits, for example, a building necessary for agricultural purposes.

Is the intention of the Policy to prevent the proposal for 56 dwellings referred to in the supporting text; or is the intention of the Policy to prevent high density development within the settlement boundary?

Answered above.

If the former, is there a reason why the previous Policies (1 and 2) do not already cover this matter? If the latter, why would providing housing for Old Hunstanton residents mean that major development, which is stated to be “neither appropriate nor welcomed” would become acceptable.

OHPC agree that there is an overlap in policies and would welcome any suggestion to simplify this issue.

The supporting text provides little relevant supporting information in the above regard. Please can you point me to any information that might help?

Please also see above.

The reference to “Sport” appears confusing. The Qualifying Body cannot impose requirements on Sport England/ consultation and it is not clear what the football ground will be protected from, or how land use planning policies might “protect” a club. Currently, the Policy appears unclear in this regard. Please can you point me to any information that might support inclusion of a Policy that meets the Qualifying Body’s aspirations in respect of “Sport.”

OHPC being keen, in accordance with government policy, to encourage and promote activities beneficial to health and wellbeing. The policy with regards to Sport was added following consultation with Sport England and wishing to preserve sporting facilities within Old Hunstanton. It was felt that their request was reasonable and sensible. However, rewording may make this clearer and suggestions are welcome.

Policy 4

The Policy sets out a very different approach to protecting non-designated heritage assets to that set out in the NPPF. Also, planning application requirements are not a matter controlled by Neighbourhood Plans. Please can you point me to information in support of the approach set out?

Noting the Borough Council’s comment, please can you confirm that the Conservation Area boundary plan is correct?

Policy 4 reflects the wishes of a large majority of residents as per the original residents’ survey and represents the manner in which OHPC would want planning applications to be made. OHPC

recognises that planning applications are not an NP controlled matter, but is seeking to provide guidance as supported by BCKLWN who have confirmed that such guidance within the NP would be taken into account in the consideration of planning applications.

We confirm that The Conservation Area boundary plan is correct.

OHPC believes the policy is to support the above and help retain the visual integrity of the old village as an AONB and support the BCKLWN in its approach to proposed developments of non-designated heritage assets.

Please advise if you think some rewording would assist.

Policy 5

Policy 5 is in direct conflict with national policy, as set out in the heritage chapter of the NPPF (and the Borough Council's suggested change would also result in a Policy that would not have regard to national policy). Please can you point me to any information justifying this conflicting approach?

NPPF STATES 190. Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:

- (a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;
- (b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
- (c) the desirability of new development making a positive contribution to local character and distinctiveness; and
- (d) opportunities to draw on the contribution made by the historic environment to the character of a place.

OHPC believes the policy is to support the above and help retain the visual integrity of the old village as an AONB and support the BCKLWN in its approach to proposed developments of non-designated heritage assets.

Please advise if you think some rewording would assist.

Policy 6

The Policy sets out a requirement that is not supported by substantive evidence to demonstrate that it has regard to the national policy requirement to boost significantly the supply of housing. Further, the intent set out in the supporting text suggests that the Policy is aimed at preventing holiday lets/second homes. It is not clear how the Policy would achieve this, as the Neighbourhood Plan does not allocate any land for housing and there is very limited scope for new housing to be built in the Neighbourhood Area; yet the Policy cannot control the use of existing private housing in the Neighbourhood Area – the use of which is unrestricted.

Please can you point me to information that demonstrates that the Policy has regard to national policy and contributes to the achievement of sustainable development.

Other Councils (eg St Ives and Sedgeford in north Norfolk) have a similar policy, already approved. To restrict holiday lets/second homes does have regard to the national policy requirement to boost the supply of housing. The policy is designed to free up housing for principal rather than second or holiday residence. We are happy to revise any wording you feel ambiguous in this context at your suggestion.

Policy 7

Please can you point me to information demonstrating that Policy 7 is a land use planning policy (rather than a statement of intent)?

Policy 7 is a statement of intent, hope and practicality. Surely planning applicants would wish to seek engagement with OHPC regarding planning and although these wishes represent a statement of intent rather than planning policy, BCKLWN has indicated that it would take these wishes, as per the NP, into account in considering planning applications. OHPC believes it must make sense to try and engage architects and developers at the outset.

Policy 8

As worded, Policy 8 would allow the loss of any community facility in the Neighbourhood Area if there was "insufficient demand to justify retention." This appears to comprise a very low hurdle to overcome, but notwithstanding this, please can you point me to information as to what level of demand is "insufficient," who would justify this and on what basis?

For clarity, is the intention of Policy 8 to protect community facilities; or, as the wording of the Policy appears to do, to encourage their redevelopment for alternative uses?

Insufficient use would be considered objectively on a case-by-case basis by OHPC and it is likely that this decision would be obvious on merit. The intention of the policy is to ensure that community facilities are protected when supported but redevelopment was also considered when such facilities are no longer required.

Policy 9

Given constraints within the settlement boundary, most new forms of development are likely to be small. It is clear that some houses in the Neighbourhood Area are on large plots and some are on much smaller plots. As the Neighbourhood Plan does not allocate any land for development and purposefully focuses development within the settlement boundary, new development will inevitably lead to an increase in development density within the settlement boundary.

In this regard, whilst parts a) to d) appear to provide for sustainable development that respects character and amenity; the highly restrictive nature of the plot ratio element of the Policy appears aimed at preventing sustainable development from coming forward. Elsewhere, the Neighbourhood Plan refers to a need for smaller homes, an aspiration which would appear to be in direct conflict with the plot ration requirement.

Please can you point me to substantive evidence to justify a minimum plot ratio of 40% given all of the above?

Not sure what you mean by this? The policy is encouraging a maximum ratio of development to plot size of 40% not a minimum?

Please can you also point me to the evidence demonstrating that most dwellings within the settlement boundary have plot ratios of less than 40%? Does this apply equally in the case of small homes, large homes, flats etc?

There is an issue in Norfolk where people buy up small properties for holiday homes and then replace or extend them out of proportion to the land they occupy. This leads to a loss of local character and amenity. This policy is aimed at preventing such overdevelopment. The NP refers to a need for smaller homes so this is not in conflict with the plot ratio requirement. The 40% limit is in accordance with BCKLWN guidance. Analysis of the local environment within Old Hunstanton indicates general compliance within the limit.'

Policy 10

Please can you point me to substantive evidence in respect of why part b) of this Policy, alone, is not sufficient to ensure that new residential development will be sustainable?

Please can you point me to substantive evidence to demonstrate that 40% is an appropriate proportion in all circumstances across the whole of the area covered by the settlement boundary? (In this regard I am mindful that the settlement varies in character).

Please can you point me to information to demonstrate how it would, in all circumstances (other than the Policy exceptions), be possible for a Local Planning Authority to prevent a householder extension that resulted in a dwelling being extended such that it covered more than 40% of its plot.

The Policy does not appear to meet the basic conditions. Please can you confirm (or otherwise) that the intent of the Policy is to safeguard local character and residential amenity and/or to encourage the development of smaller homes?

See notes on policy 9 above. The policy is intended to prevent overcrowding, destruction of local character and residential amenity. There is no suggestion that the policy can prevent a larger extension, but it can offer guidance and assists the LPA's decision.

Policy 13

Please can you point me to information demonstrating that the Policy requirements are relevant, material and necessary for all forms of development?

This policy will help prevent increasing flooding which, with climate change, is likely to be an increasing risk.

Policy 14

Please can you clarify the types of development the Policy applies to and why its requirements have regard to Paragraph 57 of the NPPF in respect of planning obligations?

The Policy appears very wide-ranging and its intent is difficult to understand. Please could you clarify the aim/ purpose of the Policy?

This policy is designed to apply to all developments and OHPC believes the wording is sufficiently clear so as to give guidance re planning applications. In accordance with sustainable and environmentally aware development policy, OHPC is seeking to guard against flooding risk and pollution.

Policy 15

Please can you confirm what forms of development the Policy is meant to apply to?

OHPC intends the policy to apply to all developments. In today's world, WiFi access is a fundamental utility requirement. In that context OHPC also notes that there are no longer any bank branches in the area, the last one having been closed in Hunstanton.

Policy 16

Is it the intention of part of Policy 16 to prevent any business development adjacent to the AONB, as stated?

This is not what it says?

Is it the intention of Policy 16 for business development to look the same as existing business development in the Neighbourhood Area?

No, but to ensure any such development complies with the standards set out in the policy and, in the context of the AONB, paragraph (b). which we believe is clear.

Please can you point me to information in respect of what "adequate parking" comprises for employees, customers, deliveries ' No, but to ensure any such development complies with the standards set out in the policy and, in the context of the AONB, paragraph (b).and any vehicles/additional traffic generated. Also, how might additional traffic generated be calculated/monitored – and whose role might this be? Also, how has the existing "free-flow" of traffic been measured, what is this and how might changes to this be measured?

It is the intention that any such development complies with the standards set out in the policy.

OHPC routinely monitors traffic flow and will continue to do so. Highways also monitors traffic levels on an annual basis. Measurements of parking needs are necessarily to some extent subjective and will depend on the demands of the particular business. The existing businesses within the parish, for example, hotels, hairdresser, antique centre, provide adequate parking and, in general, what is adequate can be ascertained through analysis and actual usage.

Policy 17

Please can you point me to any evidence supporting the prevention of signage at any location other than “at points of access.”

OHPC would consider a “softening” of the wording here. However, Kings Lynn Planners are enforcing unsightly signage and is currently taking enforcement action in respect of a holiday let sign.’ This policy is designed to minimise obtrusive signage.

Policy 18

Please can you point me to information in respect of how the first sentence of the Policy has regard to Paragraph 57 of the Framework and why this part of the Policy is deliverable, as required by Paragraph 16 of the Framework.

Perhaps change the words “will protect” to “should protect” to state an opinion rather than an enforcement?

Please can you point me to information demonstrating why development adjacent to the AONB should enhance the AONB and how this requirement is deliverable?

Again, perhaps reword to say “should not detract from” The Council wishes to uphold the values of NPPF as quoted below.

NPPF 15. Conserving and enhancing the natural environment

Paragraphs 174 to 188

174. Planning policies and decisions should contribute to and enhance the natural and local environment by:

- (a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- (b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

Policy 19

Taking into account that most forms of lighting do not require planning permission, please can you point me to information demonstrating how the requirements of Policy 19 can be lawfully implemented by the Local Planning Authority?

This policy is designed to provide guidance to the LPA in determining appropriate conditions re lighting in the context of planning applications.

Policy 20

The NPPF provides for the designation of Local Green Space. This is a very specific designation, not dissimilar to Green Belt. Is it the intention of Policy 20 to designate Local Green Space?

Yes.

Please can you point me to information supporting a requirement for the maintenance and enhancement of Local Green Space?

Health, wellbeing, general recreational enjoyment, all as encouraged by government policy.