

THE NORTH WOOTTON NEIGHBOURHOOD PLAN 2022 - 2036

(Submission Version 2023)

Report of the Examination into the
North Wootton Neighbourhood Plan 2022 - 2036

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To the Borough Council of King's Lynn and West Norfolk
And to North Wootton Parish Council

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<u>Contents</u>	Page(s)
1. Introduction	1
- Neighbourhood planning	1
- Appointment and role	1
2. Preliminary Matters	2
- Public consultation	2
- Other statutory requirements	2
3. The Extent and Limits of an Examiner’s Role	3 - 4
4. Consideration of Representations	5
5. Public Hearing and Site Visit	5
6. Basic Conditions and Human Rights	5 - 8
- Regard to national policies and advice	5 - 6
- Contributing to the achievement of sustainable development	6
- General conformity with the development plan	6 - 7
- Retained EU obligations	7 - 8
- Conservation of Habitats and Species Regulations 2017	8
- Human rights	8
7. The emerging Local Plan	8
8. The nature of the neighbourhood area	8 - 9
9. Contents of the Draft NDP	9 - 1
- Housing	9 - 12
- Natural Environment	12 - 15
- Community Facilities and Services	15 - 16
- Historic Environment	16 – 17
- Appendix A: Policies Map	17 - 18
10. Updating	18
11. Referendum Area	18
12. Summary of Main Findings	18 - 19
Appendix A: Recommended Modifications	20 - 24
Appendix B: Abbreviations	25

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1. Introduction

Neighbourhood planning

1. The Localism Act 2011 Part 6 Chapter 3 introduced neighbourhood planning, including provision for neighbourhood development plans. A neighbourhood development plan should reflect the needs and priorities of the community concerned and should set out a positive vision for the future, setting planning policies to determine decisions on planning applications. If approved by a referendum and made by the local planning authority, such plans form part of the Development Plan for the neighbourhood concerned. Applications for planning permission should be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
2. This report concerns the Submission draft of the North Wootton Neighbourhood Plan 2022-2036 (“the Draft NDP”).

Appointment and role

3. The Borough Council of King’s Lynn and West Norfolk (“the Borough Council”), with the agreement of qualifying body North Wootton Parish Council (“NWPC”), has appointed me to examine the Draft NDP. I am a member of the planning bar and am independent of the Borough Council, NWPC, and of those who have made representations in respect of the Draft NDP. I have been trained and approved by the Neighbourhood Planning Independent Examiner Referral Service and trained others who wish to be examiners. I have extensive experience both as a planning barrister and as a neighbourhood plan examiner. I do not have an interest in any land that is, or may be, affected by the Draft NDP.
4. My examination has involved considering written submissions and a detailed site visit on Wednesday 29th May 2024. I have considered all the documents with which I have been provided.
5. My role may be summarised briefly as to consider whether certain statutory requirements have been met, to consider whether the Draft NDP meets the basic conditions, to consider human rights issues, to recommend which of the three options specified in paragraph 14 below applies and, if appropriate, to consider the referendum area. I must act proportionately, recognising that Parliament has intended the neighbourhood plan process to be relatively inexpensive with costs being proportionate.

2. Preliminary Matters

Public consultation

6. Consultation and community involvement are important parts of the process of producing a neighbourhood plan. Details of consultation are in the Consultation Statement and consultation with residents is summarised in paragraphs 15 and 16 of the draft NDP. I am satisfied that NWPC took public consultation seriously and that consultation is accurately recorded in the Consultation Statement.

7. I am satisfied that the consultation recorded in the Consultation Statement was adequate and that no relevant person has been substantially prejudiced. I am also satisfied that the statutory Regulation 16 consultation was satisfactory. I do not consider there has been a failure in consultation. Consultation has been sufficient and meets the requirements of the Neighbourhood Planning (General) Regulations 2012 (“the General Regulations”) and the human rights of occupiers of homes and of property owners.

8. In March 2023 the Borough Council concluded that the North Wootton Neighbourhood Plan did not require a full Strategic Environmental Assessment; and did not require an Appropriate Assessment, under the Habitat Regulations. I am satisfied with these determinations and that nothing has happened since to require them to be changed.

Other statutory requirements

9. I am also satisfied of the following matters:

- (1) The neighbourhood area is the parish of North Wootton.¹ The Borough Council designated this in June 2021. NWPC is authorised to act in respect of this area (Town and Country Planning Act 1990 (“TCPA”) s61F (1) as read with the Planning and Compulsory Purchase Act 2004 (“PCPA”) s38C (2)(a));
- (2) The Draft NDP does not include provision about development that is excluded development as defined in TCPA s61K (PCPA s38B (6)), and does not relate to more than one neighbourhood area (PCPA s38B (1)(c));
- (3) No other neighbourhood development plan has been made for the neighbourhood area (PCPA s38B (2));
- (4) There is no conflict with PCPA s38A and s38B (TCPA Sch 4B para 8(1)(b) and PCPA s38C (5)(b)); and
- (5) The Draft NDP specifies the period for which it is to have effect, namely 2022-2036, as required by PCPA s38B(1).

¹ This is shown on Figure 2 of the draft NDP.

3. The Extent and Limits of an Examiner's Role

10. I am required to consider whether the Draft NDP meets the basic conditions specified in TCPA Sch 4B para 8(2) as amended and as varied for neighbourhood development plans, namely:

- (a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Plan;
- (d)² The making of the Plan contributes to the achievement of sustainable development;
- (e) The making of the 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);
- (f) The making of the Plan does not breach, and is otherwise compatible with, retained EU obligations; and
- (g) Prescribed conditions are met in relation to the Plan and prescribed matters have been complied with in connection with the proposal for the Plan.

11. There is one relevant prescribed basic condition:³ *“The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.”* Chapter 8 comprises regulations 105 to 111.

12. TCPA Sch 4B para 8(6) and para 10(3)(b) and the Human Rights Act 1998 mean that I must consider whether the Draft NDP is compatible with Convention rights. ‘Convention rights’ are defined in the Human Rights Act 1998 as (a) Articles 2 to 12 and 14 of the European Convention on Human Rights (“the Convention”), (b) Articles 1 to 3 of its First Protocol, and (c) Article 1 of its Thirteenth Protocol, as read with Articles 16 to 18 of the Convention. The Convention rights that are most likely to be relevant to town and country planning are those under the Convention’s Article 6(1), 8 and 14 and under its First Protocol Article 1.

13. In my examination of the substantial merits of the Draft NDP, I may not consider matters other than those specified in the last three paragraphs. In particular, I may not consider whether any other test, such as the soundness test provided for in respect of independent examinations under PCPA s20, is met.⁴ Rather, Parliament has decided not to use the soundness test, but to use the, to some extent, less demanding tests in the basic conditions. It is important to avoid unduly onerous demands on qualifying bodies. It is not my role to rewrite a neighbourhood development plan to create the plan that I would have written for the area. It is not my role to impose a different vision on the community.

² The omission of (b) and (c) results from these clauses of para 8(2) not applying to neighbourhood development plans (PCPA s38C (5)(d)).

³ Sch 2 para 1 of the General Regulations prescribes this. PPG Reference ID: 41-079-20190509.

⁴ Woodcock Holdings Ltd v. Secretary of State for Communities and Local Government [2015] EWHC 1173 (Admin), 1st May 2015, Holgate J., para 57; R. (Crownhall Estates Limited) v. Chichester District Council [2016] EWHC 73 (Admin) 21st January 2016, Holgate J., para 29; PPG Reference ID: 41-055-2018022.

14. Having considered the basic conditions and human rights, I have three options, which I must exercise in the light of my findings. These are:

- (1) that the Draft NDP proceeds to a referendum as submitted;
- (2) that the Draft NDP is modified to meet basic conditions and then the modified version proceeds to a referendum; or
- (3) that the Draft NDP does not proceed to referendum.

15. If I determine that either of the first two options is appropriate, I must also consider whether the referendum area should be extended. My power to recommend modifications is limited by statute in the following terms:

The only modifications that may be recommended are—

- (a) modifications that the examiner considers need to be made to secure that the draft [NDP] meets the basic conditions mentioned in paragraph 8(2),*
- (b) modifications that the examiner considers need to be made to secure that the draft [NDP] is compatible with the Convention rights,*
- (c) modifications that the examiner considers need to be made to secure that the draft [NDP] complies with the provision made by or under sections 61E(2), 61J and 61L,*
- (d) modifications specifying a period under section 61L(2)(b) or (5), and*
- (e) modifications for the purpose of correcting errors.⁵*

16. The word “only” prevents me recommending any other modifications. The fact that a modification would be of benefit is not a sufficient ground in itself to recommend it. So, for example, the fact that a policy could be strengthened, added to, or contain a reference, does not justify a modification unless this is necessary for the reasons given above. I must not take an excessively restrictive view of the power to recommend modifications, but must bear in mind Lindblom LJ’s explanation of its extent in his judgment in Kebbell Developments Ltd v. Leeds City Council.⁶ I may not recommend a modification that would put the draft NDP in breach of a basic condition or of human rights. When I conclude that a modification is necessary, I must, in deciding its wording, bear in mind material considerations including government advice. This includes the importance of localism. Where I properly can, my recommended modifications seek to limit the extent to which the substance of the draft NDP is changed.

17. It is not my role to consider matters that are solely for the determination of other bodies such as Norfolk County Council, the Borough Council in a non-planning capacity, or the Environment Agency. Nor is it my role to consider matters that an NDP could consider, but which are not considered in the Draft NDP, unless this is necessary for my role as explained above. It is not my role to consider aspirations that are not policies.

⁵ TCPA Sch 4B, para 10(3). The provisions in (a), (c) and (d) are in the TCPA.

⁶ [2018] EWCA Civ 450, 14th March 2018, paras 34 and 35.

4. Consideration of Representations

18. I have given the representations careful consideration, but have not felt it necessary to comment on all of them. Rather in accordance with the statutory requirement and bearing in mind the judgment of Lang J in *R. (Bewley Homes Plc) v. Waverley Borough Council*,⁷ I have mainly concentrated on giving reasons for each of my recommendations.⁸ Where I am required to consider the effect of the whole Draft NDP, I have borne it all in mind.

5. Public Hearing and Site Visit

19. The general rule is that the examination of the issues by the examiner is to take the form of the consideration of the written representations.⁹ However, an examiner must cause a hearing to be held for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure (1) adequate examination of the issue or (2) a person has a fair chance to put a case.¹⁰ Since neither applied in this case, I did not hold a public hearing. The holding of a public hearing is very much an exception.

20. I decided that an unaccompanied site visit was necessary and held one on Wednesday 29th May 2024. The weather was fine and there were no impediments to the visit. The site visit helped me to gain a sufficient impression of the nature of the area for the purpose of my role. The site visit included, but was not limited to: all proposed important views shown on Figure 21; all community facilities shown on Figure 27 (except for the no-longer existing village shop whose site I saw); and all proposed non-designated heritage assets shown on Figure 32.

6. Basic Conditions and Human Rights

Regard to national policies and advice

21. The first basic condition requires that I consider whether it is appropriate that the NDP should be made “*having regard to national policies and advice contained in guidance issued by the Secretary of State*”. A requirement to have regard to policies and advice does not require that such policy and advice must necessarily be followed, but they should only be departed from them only if there are clear reasons, which should be explained, for doing so.¹¹

22. The main document in which national planning policy is contained is the National Planning Policy Framework December 2023 (“NPPF”) and I have borne that in mind. Other policy and advice that I have borne in mind includes national Planning Practice Guidance

⁷ [2017] EWHC 1776 (Admin), Lang J, 18th July 2017.

⁸ TCPA Sch 4B, para 10(6).

⁹ PPG Reference ID: 41-056-20180222.

¹⁰ TCPA Sch 4B paras 9(1) and (2).

¹¹ *R. (Lochailort Investments Limited) v. Mendip District Council* [2020] EWCA Civ 1259, Lewison LJ, 2nd October 2020, paras 6, 31 and 33.

(“PPG”). A consultation draft of a new NPPF is expected soon. As a consultation draft little if any weight would normally be given to its details, although it may indicate a “direction of travel”.

23. The NPPF provides that neighbourhood plans should support the delivery of strategic policies contained in local plans and should shape and direct development that is outside of these strategic policies.¹² Its paragraphs 28 and 29 state:

28. Non-strategic policies should be used by... communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.

29. 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, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.

Contributing to the achievement of sustainable development

24. The second basic condition means that I must consider whether the making of the Plan contributes to the achievement of sustainable development. Unless the Draft NDP, or the Draft NDP as modified, contributes to sustainable development, it cannot proceed to a referendum. This condition relates to the making of the Plan as a whole. It does not require that each policy in it must contribute to sustainable development. It does require me to consider whether constraints might prevent sustainable development and, if they might, whether the evidence justifies them. That involves consideration of site-specific constraints, both existing and those proposed in the Draft NDP. The total effect of the constraints introduced by the Draft NDP when read with existing constraints must not prevent the achievement of sustainable development.

General conformity with the development plan’s strategic policies

25. The third basic condition means that I must consider whether the Draft NDP as a whole is in general conformity with the strategic policies contained in the development plan for the area of the authority. The strategic framework for development is set by the Borough Council’s adopted Local Plan which currently comprises the Core Strategy (July 2011) and the Site Allocations and Development Management Policies Plan (2016).

¹² NPPF para 13.

26. The adjective ‘*general*’ allows a degree of (but by no means unlimited) flexibility and requires the exercise of planning judgement. The draft NDP “*need not slavishly adopt every detail*”.¹³ This condition only applies to strategic policies - there is no conformity requirement under this basic condition in respect of non-strategic policies in the development plan, in respect of the emerging Local Plan, or in respect of other local authority documents that do not form part of the adopted development plan, although such documents may be relevant to other matters. In assessing general conformity and whether a policy is strategic, I have borne in mind helpful PPG advice.¹⁴ I have also borne in mind the relevant part of the judgment in R. (Swan Quay LLP) v. Swale District Council.¹⁵

27. The village of North Wootton, the only built-up area in the parish, is a one of five ‘Settlements adjacent to King’s Lynn and the main towns’ in the Core strategy.¹⁶ Although this is not strictly accurate in normal English since South Wootton lies between it and King’s Lynn, this does not matter. It is close to King’s Lynn, which is easily accessible from it, and part of a continuous built-up area with King’s Lynn.

28. The 2016 Site Allocations and Development Management Policies Plan made no allocations for North Wootton. Its page 150 identifies a development boundary for the village. Its policy DM2 permits development within this boundary “provided it is in accordance with the other policies in the Local Plan” while limiting development outside this boundary to allocations and seven categories.

Retained EU obligations

29. The fourth basic condition requires me to consider whether the Draft NDP breaches, or is otherwise incompatible with, retained EU obligations. I have in particular considered the following, together with the UK statutory instruments implementing them in England: the Strategic Environmental Assessment Directive (2001/42/EC); the Environmental Impact Assessment Directive (2011/92/EU); the Habitats Directive (92/43/EEC); the Wild Birds Directive (2009/147/EC); the Waste Framework Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); the Water Framework Directive (2000/60/EC); and the General Data Protection Regulation (2016/679/EU). I have also considered the judgment of the European Court of Justice in People Over Wind v. Coillte Teoranta.¹⁷ I have borne in mind that proportionality is a concept of and underlies EU law and must be wary of requirements that would be disproportionate to the Draft NDP.

¹³ Wiltshire Council v. Cooper Estates Strategic Land Ltd [2019] EWCA Civ 840, para 3, 16th May 2019.

¹⁴ PPG Reference IDs: 41-074-20140306; 41-075-20190509; 41-076-20190509; and 41-077-20190509.

¹⁵ [2017] EWHC 420 (Admin), para 29, Dove J, 27th January 2017.

¹⁶ Core Strategy Policy CS02 The Settlement Hierarchy.

¹⁷ Case C-323/17, 12th April 2018.

30. I am satisfied that no issue arises in respect of equality under general principles of EU law or any EU equality directive.

Conservation of Habitats and Species Regulations 2017

31. I am satisfied that the making of the NDP would not be incompatible with the prescribed basic condition and that it is not necessary to consider the matter further in this report.

Human Rights

32. The planning law of England and Wales in general complies with the Convention. This matter can be dealt with briefly in advance of further consideration of the contents of the Draft NDP. I have considered whether anything in the Draft NDP would cause a breach of any Convention right. In particular, I have considered the Convention's Articles 6(1), 8 and 14 and its First Protocol Article 1. This last-mentioned article reinforces the common-law principle that private property rights should not be removed or restricted without proper justification, and I have borne that in mind. Apart from that, nothing in my examination of the Draft NDP has required further consideration of human rights.

7. The emerging Local Plan.

33. A replacement Local Plan covering the period until 2040 was submitted in March 2022. On 11th January 2023, the Inspectors announced the adjournment of the Local Plan Examination Hearing to allow the Borough Council to undertake further work to justify the spatial strategy and distribution of housing in the Local Plan Review. The examination has resumed with hearings currently scheduled though to September 2024. The emerging Local Plan does not allocate any land in North Wootton for development.

34. As mentioned in paragraph 26 above, this is not relevant to basic condition (e). An emerging local plan and the evidence submitted in respect of it is sometimes relevant to other basic conditions. If when it is adopted a policy contained in a replacement local plan to any extent conflicts with a policy in a previously adopted NDP, the conflict must be resolved in favour of the former and to that extent the NDP would be out of date.¹⁸ The existence of an emerging local plan does not make an NDP premature.

8. The Nature of the Neighbourhood Area

35. In considering the contents of the Draft NDP I must consider the nature of the neighbourhood area. Its gist is adequately described in the Draft NDP. The area contains the

¹⁸ Planning and Compulsory Purchase Act 2004 s38(5).

whole of the village of North Wootton together with nearby countryside. Most of the parish is open countryside and most of that countryside is in the Norfolk Coast Area of Outstanding Natural Beauty (AONB, still the correct name in law, although now rebranded as a national landscape) and flood zones 2 and 3. Much of the countryside is some distance from the village.

36. The parish contains three Grade II listed buildings, all in the village: the church of All Saints, Church Lane, built 1852 in the Early English style; Priory Cottage (formerly Church Cottage), Nursery Lane; and The Priory, Nursery Lane.

37. Facilities include North Wootton Community Primary School, a GPs' surgery, All Saints' church, the village hall, the Red Cat public house, West Norfolk Rugby Club, Roythorne's garage, a Guides and Scouts Hall, a hairdressers, Wyndam House Care Home and part of Wootton Park, a large park with a pavilion and two play areas.¹⁹

38. North Wootton is on a regular circular bus route to King's Lynn with frequent daily services including in the evening. With this service from and to King's Lynn Transport Interchange every 20 minutes for much of the day, North Wootton is well served.²⁰ There are bus stops on All Saints Drive, Manor Rd and Priory Lane. National Cycle Route 1 (Lowestoft to King's Lynn via Wells-next-the-Sea) runs through the village providing a realistic route between the village and King's Lynn for cyclists and more active walkers.

39. The northwest of the parish is covered by a Special Area of Conservation (SAC), Special Protection Area (SPA), Site of Special Scientific Interest (SSSI), Ramsar site, and National nature reserve (NNR) designation. This is shown on the draft NDP's figure 15. There are two County Sites ("CWSs", Wootton Carr and Ling Common) partly in the parish and one adjacent to it.

40. Most of the parish, including most of the land to the west of the railway, is in flood zones 2 and 3. This is helpfully shown on the draft NDP's Figures 22 and 23.

9. The contents of the Draft NDP

Housing

Page 9, paragraph 23

41. While the intention of this paragraph is clear, it is not strictly accurate and should be corrected.

¹⁹ The last-mentioned is shared with South Wootton.

²⁰ Go to Town 3. There are also school-day services (Go to Town 413 and Lynx 5).

Recommended modification 1

Page 9 paragraph 23

Replace the first two indents with:

- “• Two of the permissions had been granted but not started;**
- One of the permissions had started but not completed;” .**

Page 10

42. The final row on this page needs to be brought up to date.

Recommended modification 2

Page 10, final row

Replace “STARTED with: “ONE DWELLING COMPLETED AND ONE DWELLING NEARING COMPLETION”

Page 11

43. The extract from policy DM2 is incomplete and this might mislead a reader.

Recommended modification 3

Page 11 paragraph 25

Replace “*identified as suitable in rural areas by other policies of the local plan.*” ”, with: “*identified as suitable in rural areas by other policies of the local plan*” including seven specific categories of development”.

Pages 11-12.

44. The final sentence of paragraph 27 is a departure from a policy of the emerging Local Plan and is wrong in law. Unless the NDP were made after the Local Plan, Planning and Compulsory Purchase Act 2004 s38(5) means that the latter would apply. Further, particularly given the fact that windfall development has not provided needed smaller or affordable housing, it would be wrong to exclude all non-AONB outside settlement sites without a substantial justification. I have not seen such a justification. Of course, other policies, such as those relating to flood risk, will continue to apply.

Recommended modification 4

Pages 11 and 12

Delete “For clarity, this neighbourhood plan once ‘made’ will not allow LP31 to apply to North Wootton.”

Page 17

45. The 90% requirement in policy 1 has not been justified in respect of affordable homes. I agree with the Borough Council that the requirement should be limited to open-market homes.

Recommended modification 5

Pages 17, policy 1

Replace “90% of homes” with “90% of open-market homes”.

Page 20

46. The departure from the Local Plan tenure mix (70% affordable rent, 25% First Homes and 5% shared ownership) has not been justified and no justification for it is apparent to me.

47. Government guidance in respect of First Homes²¹ includes: *“In recognition of the unique circumstances of the Armed Forces, local connection criteria should be disapplied for all active members of the Armed Forces, divorced/separated spouses or civil partners of current members of the Armed Forces, spouses or civil partners of a deceased member of the armed forces (if their death was wholly or partly caused by their service) and veterans within 5 years of leaving the armed forces”*. This has not been followed. No reason for this has been given and none is apparent to me. Policy 2 should be modified to reflect it.

Recommended modification 6

Page 20, policy 2

Replace the first two indents with:

- “• 75% Affordable Rented Housing**
- 20% First Homes (at a 30% discount)**
- 5% shared ownership homes.”**

Add at the end of the policy: “This local connection requirement does not apply to active members of the Armed Forces, divorced/separated spouses or civil partners of current members of the Armed Forces, spouses or civil partners of a deceased member of the

²¹ <https://www.gov.uk/guidance/first-homes>

Armed Forces (if their death was wholly or partly caused by their service) or veterans within 5 years of leaving the Armed Forces.”

Page 22

48. Footnote 12 needs to be brought up to date.

Recommended modification 7

Pages 22, footnote 12

Replace “National Planning Policy Framework (2021)” with “National Planning Policy Framework (December 2023)”.

Page 23

49. The first sentence of paragraph 56 should be corrected to better English.

Recommended modification 8

Pages 23, paragraph 56, 1st sentence

Replace “are used” with “being used”.

Natural Environment

Page 29

50. Paragraph 64 gives the impression that two CWSs are within the plan area. In fact, they are only partly in it. This should be made clear in order to avoid possible confusion.

Recommended modification 9

Pages 29, paragraph 64, 2nd sentence

Insert “part of” before “two County Wildlife Sites”.

Page 35

51. Policy 5 relates to the AONB. While a limited extension of an AONB policy to land immediately adjacent to the AONB can sometimes be acceptable, it should not extend to the whole parish. Its third paragraph is appropriate to an AONB and, where harm would be caused to the AONB, to immediately adjacent land; but it is not generally to land that does not have a landscape designation.

Recommended modification 10

Pages 35, policy 5, 3rd paragraph

Replace “Subdividing” with “Within the Norfolk Coast AONB and, where this would harm the AONB, immediately adjacent to the Norfolk Coast AONB, subdividing”.

Page 39

52. The paragraph number in paragraph 82 are out of date and need to be corrected.

Recommended modification 11

Page 39, paragraph 82

Replace “174” with “185”.

Replace “96 - 101” with “102 - 107”.

Page 39, paragraph 83

53. This refers to events that are now past as future events and must be brought up to date. The fourth and seventh sentences in particular are out of date and no longer needed.

Recommended modification 12

Page 39 paragraph 83

Delete “The small sites metric is coming forward in April 2024 and other qualifying development from November 2023.”

Replace “There will be three” with “There are three”.

Delete “Some developers are already designing net gain into their development projects and as set out above, the NPPF encourages the net gain approach, though the requirement to measure this or meet a particular level of BNG is not yet mandatory nationally or within the Borough Council area.”

Pages 44 – 45

54. The draft NDP does not propose the creation of any local green spaces. The inclusion of policy guidance in respect of them serves no purpose and could confuse.

Recommended modification 13

Pages 44 - 45, paragraph 92

Delete all of this paragraph other than its first sentence.

Pages 45 - 46

55. These pages are about views considered to be of particular importance to the local community and identifies 8 views as “important public views”. More detailed information,

including helpful photographs, is included in North Wootton Neighbourhood Plan Evidence Base August 2023 pages 39 to 70. Each of the views is from a point to which the public has access and I viewed them carefully and without impediment on my site visit.

56. Views 1, 2 and 4 include the listed All Saints church and its curtilage and setting, including attractive old walls. I am satisfied that they merit protection. There is a minor typing error in respect of view 1 in policy 8 and Figure 21. The references to “South gate” in respect of view 4 in policy 8 and Figure 21 should read “North gate”.

57. View 3 is mainly of a field that is not in the Area of Outstanding Natural Beauty or other designated area. Its southern edge includes a modern housing development. Views of the ground beyond the field are blocked by trees along a former railway line, but trees tops, pylons and wind turbines can be seen. The view is not special and does not merit policy protection and I recommend its removal from the draft NDP.

58. Views 5, 6 and 7 look include the Green, a particularly attractive part of the village. They merit protection.

59. View 8 is entirely within the Area of Outstanding Natural Beauty and is neither in the built-up area of the village, nor adjacent to it. Its protection would not impede sustainable development and is merited.

Recommended modification 14

Page 45, paragraph 93

Delete the final sentence of this paragraph.

Page 45, paragraph 95

Replace “8 public views” with “7 public views”.

Page 45 policy 8

Replace “Nursey” with “Nursery” in the first indent.

Pages 45 and 46

Delete the indent relating to view 3 in policy 8 and such of figure 21 as relates to view 3 and renumber subsequent views accordingly.

Replace “South gate” with “North gate” in policy 8 and Figure 21.

Page 47 and contents

60. I agree with the Environment Agency’s representation that “the section titled ‘Surface Water Management’ should be retitled ‘Flood Risk’ as it covers all sources of flooding.

Recommended modification 15

Page 47 and contents

Replace “Surface Water Management” with “Flood Risk”.

Page 50 para 102

61. Flood and Water Management Act 2010 Schedule 3 deals with sustainable drainage. It was intended to encourage the construction of sustainable drainage systems-or SUDS for new developments and redevelopments. It is partially in force with amendments pending. There is some uncertainty as to details. I therefore recommend modifying the first sentence of this paragraph.

Recommended modification 16

Page 50, paragraph 102

Replace “102. It is the Government’s intention to implement Schedule Three of The Flood and Water Management Act (2010) to make SuDS mandatory in all new developments in England in 2024” with “Schedule Three of The Flood and Water Management Act (2010) is intended to encourage the construction of sustainable drainage systems- (SUDS) for new developments and redevelopments”.

Pages 50 - 51 policy 9

62. I share the Environment Agency’s concern about the second sentence of this policy. It would be unduly onerous on non-householder small developments, which, among other things, could create problems for the community assets that the draft plan seeks to save.

Recommended modification 17

Pages 50 -51 policy 9

Replace “All development proposals (with the exception of householder extensions) relating to a site with surface water flood risk, as identified by Figure 24 or more up to date Environment Agency Flood Risk mapping, should be accompanied by an appropriate flood risk assessment to ensure development will be safe and take account of potential climate change impacts” with “All development proposals (with the exception minor developments) within an area of surface water flood risk, as identified by the current Strategic Flood Risk Assessment (SFRA) or the Flood Map for Surface on gov.uk should be accompanied by an appropriate flood risk assessment to ensure development will be safe and take account of potential climate change impacts.”.

Community Facilities and Services

Pages 53 - 57

63. These pages consider community services and facilities and identify 11 facilities for protection. Each facility (or its site) is visible from a point to which the public has access and I viewed them on my site visit.

Page 53 paragraph 106, page 55 policy 10 and page 56 figure 27

64. The village shop has closed and is now a hairdresser's ("Simply Hair"). The village shop can no longer be protected. It would not be appropriate to introduce protection for a new facility with consultation.

Recommended modification 18

Page 53 paragraph 106

Delete "village shop,"

Page 55, policy 10

Delete "6. Meadow stores (Village Shop)" and renumber subsequent entries.

Page 56, Figure 27

Delete "6. Meadow stores (Village Shop)" and the red circle that relates to it renumber subsequent entries.

65. I note that the mentions of the 'House of the Green' pub in the draft NDP make no mention of the large car park associated with the pub, its garden and play area and the previous bowling green mentioned in the Evidence Base. This is right since these (apart from part of the car park) are the site of a housing development known as the Sett and cannot now be protected as a community facility.

Historic Environment

Pages 65 - 70

66. These pages consider the historic environment, including non-designated heritage assets and identify buildings as non-designated heritage assets. More detailed information, including helpful photographs, is included in North Wootton Neighbourhood Plan Evidence Base August 2023 pages 71 to 89. Each building is visible from a point to which the public has access and I viewed them on my site visit.

Pages 65 - 67

67. Church Cottage is now known as Priory Cottage (formerly Church Cottage). However, its listing still uses its former name. I recommend a modification to update the draft NDP, while avoiding possible confusion.

Recommended modification 19

Page 65, paragraph 125, second indent page 66 paragraph 126

Replace “Church Cottage” with “Priory Cottage (formerly Church Cottage)”.

Page 66 paragraph 126 and page 67 Figure 31

Replace “Church Cottage” with “Priory Cottage”.

Page 67, paragraph 127

68. The NPPF paragraph number is out of date. This should be corrected

Recommended modification 20

Page 67, paragraph 127

Replace “189” with “195”.

Page 68, paragraph 130

69. The 4th and 5th sentences of this paragraph are out of date and should be deleted.

Recommended modification 21

Page 68, paragraph 130

Delete the fourth and fifth sentences of this paragraph.

Policy 14 and Figure 32

70. The North Wootton Scout and Guide Headquarters’ date of construction is not given in any document that I have seen. It is on the site of North Wootton Station and must postdate the closure of the station in 1969. Nothing in the papers that I have seen and nothing that I saw on my site visit is sufficient to justify its identification as a non-designated heritage asset. If it were identified as one, this could prevent or impede its replacement with a more up-to-date building with the plan period should this be desired. It should be removed from the list of non-designated heritage assets, while continuing to be identified as a community facility.

Recommended modification 22

Policy 14 and Figure 32

Delete “NDHA5- Scout/Guide Headquarters”.

Appendix A: Policies Map

Page 73

71. The modifications recommended above should be reflected in the policies map for the reasons given I respect of each of them.

Recommended modification 23

Page 73: Policies Map (both maps)

Delete: the lines relating to view three, the red circle relating to the former village shop and the blue circle (but not the red circle) relating to the Scout/Guide Headquarters (NDHA5).

10. Updating

72. I have not considered it necessary to recommend more than two modifications in respect of “Area of Outstanding Natural Beauty” despite the rebranding. This remains the correct term in law.

73. It may be that certain passages in the draft NDP need updating. Nothing in this report should deter or delay appropriate updating prior to the referendum in respect of incontrovertible issues of primary fact.

11. The Referendum Area

74. I have considered whether the referendum area should be extended beyond the designated plan area.²² However, I can see no sufficient reason to extend the area and therefore recommend that the referendum area be limited to the neighbourhood area, the parish of North Wootton. In particular the scale or nature of the proposals in the draft NDP are not such that they will have a substantial, direct and demonstrable impact beyond the neighbourhood area.

12. Summary of Main Findings

75. I commend the Draft NDP for being clear, intelligible and well written, and for the thought and effort that has gone into its creation. It has struck the right balance between intelligibility to a lay person and the use of technical words that ensure precision.

76. I recommend that the Draft NDP be modified in the terms specified in Appendix A to this report to meet basic conditions and to correct errors. I am satisfied with all parts of the Draft NDP to which I am not recommending modifications.

²² PPG Reference ID: 41-059-20140306.

77. With those modifications, the Draft NDP will meet all the basic conditions and human rights obligations. Specifically:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it will be appropriate to make the NDP;
- The making of the NDP will contribute to the achievement of sustainable development;
- The making of the NDP will be in general conformity with the strategic policies contained in the development plan for the neighbourhood area;
- The making of the NDP will not breach, and will not otherwise be incompatible with, retained EU obligations;
- The making of the NDP will not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
- The modified Draft NDP will in all respects be fully compatible with Convention rights contained in the Human Rights Act 1998.

78. I recommend that the modified NDP proceed to a referendum, the referendum area being the area of the Draft NDP, *i.e.* the parish of North Wootton.

Timothy Jones, Barrister, FCI Arb,
Independent Examiner,
No 5 Chambers
23rd July 2024.

Appendix A: Recommended Modifications

Recommended modification 1

Page 9 paragraph 23

Replace the first two indents with:

- “• Two of the permissions had been granted but not started;**
- One of the permissions had started but not completed;” .**

Recommended modification 2

Page 10, final row

Replace “STARTED with: “ONE DWELLING COMPLETED AND ONE DWELLING NEARING COMPLETION”

- “• Two of the permissions had been granted but not started;**
- One of the permissions had started but not completed;” .**

Recommended modification 3

Page 11 paragraph 25

Replace “*identified as suitable in rural areas by other policies of the local plan.*” ”, with: “*identified as suitable in rural areas by other policies of the local plan*” including seven specific categories of development”.

Recommended modification 4

Pages 11 and 12

Delete “For clarity, this neighbourhood plan once ‘made’ will not allow LP31 to apply to North Wootton.”

Recommended modification 5

Pages 17, policy 1

Replace “90% of homes” with “90% of open-market homes”.

Recommended modification 6

Page 20, policy 2

Replace the first two indents with:

“• 75% Affordable Rented Housing

• 20% First Homes (at a 30% discount)

• 5% shared ownership homes.”

Add at the end of the policy: “This local connection requirement does not apply to active members of the Armed Forces, divorced/separated spouses or civil partners of current members of the Armed Forces, spouses or civil partners of a deceased member of the Armed Forces (if their death was wholly or partly caused by their service) or veterans within 5 years of leaving the Armed Forces.”

Recommended modification 7

Pages 22, footnote 12

Replace “National Planning Policy Framework (2021)” with “National Planning Policy Framework (December 2023)”.

Recommended modification 8

Pages 23, paragraph 56, 1st sentence

Replace “are used” with “being used”.

Recommended modification 9

Pages 29, paragraph 64, 2nd sentence

Insert “part of” before “two County Wildlife Sites”.

Recommended modification 10

Pages 35, policy 5, 3rd paragraph

Replace “Subdividing” with “Within the Norfolk Coast AONB and, where this would harm the AONB, immediately adjacent to the Norfolk Coast AONB, subdividing”.

Recommended modification 11

Page 39, paragraph 82

Replace “174” with “185”.

Replace “96 - 101” with “102 - 107”.

Recommended modification 12

Page 39 paragraph 83

Delete “The small sites metric is coming forward in April 2024 and other qualifying development from November 2023.”

Replace “There will be three” with “There are three”.

Delete “Some developers are already designing net gain into their development projects and as set out above, the NPPF encourages the net gain approach, though the requirement to measure this or meet a particular level of BNG is not yet mandatory nationally or within the Borough Council area.”

Recommended modification 13

Pages 44 - 45, paragraph 92

Delete all of this paragraph other than its first sentence.

Recommended modification 14

Page 45, paragraph 93

Delete the final sentence of this paragraph.

Page 45, paragraph 95

Replace “8 public views” with “7 public views”.

Page 45 policy 8

Replace “Nursey” with “Nursery” in the first indent.

Pages 45 and 46

Delete the indent relating to view 3 in policy 8 and such of figure 21 as relates to view 3 and renumber subsequent views accordingly.

Replace “South gate” with “North gate” in policy 8 and Figure 4.

Recommended modification 15

Page 47 and contents

Replace “Surface Water Management” with “Flood Risk”.

Recommended modification 16

Page 50, paragraph 102

Replace “102. It is the Government’s intention to implement Schedule Three of The Flood and Water Management Act (2010) to make SuDS mandatory in all new developments in England in 2024” with “Schedule Three of The Flood and Water Management Act (2010) is intended to encourage the construction of sustainable drainage systems- (SUDS) for new developments and redevelopments”.

Recommended modification 17

Pages 50 -51 policy 9

Replace “All development proposals (with the exception of householder extensions) relating to a site with surface water flood risk, as identified by Figure 24 or more up to date Environment Agency Flood Risk mapping, should be accompanied by an appropriate flood risk assessment to ensure development will be safe and take account of potential climate change impacts” with “All development proposals (with the exception minor developments) within an area of surface water flood risk, as identified by the current Strategic Flood Risk Assessment (SFRA) or the Flood Map for Surface on gov.uk should be accompanied by an appropriate flood risk assessment to ensure development will be safe and take account of potential climate change impacts.”.

Recommended modification 18

Page 53 paragraph 106

Delete “village shop,”

Page 55, policy 10

Delete “6. Meadow stores (Village Shop)” and renumber subsequent entries.

Page 56, Figure 27

Delete “6. Meadow stores (Village Shop)” and the red circle that relates to it renumber subsequent entries.

Recommended modification 19

Page 65, paragraph 125, second indent page 66 paragraph 126

Replace “Church Cottage” with “Priory Cottage (formerly Church Cottage)”.

Page 66 paragraph 126 and page 67 Figure 31

Replace “Church Cottage” with “Priory Cottage”.

Recommended modification 20

Page 67, paragraph 127

Replace “189” with “195”.

Recommended modification 21

Page 68, paragraph 130

Delete the fourth and fifth sentences of this paragraph.

Recommended modification 22

Policy 14 and Figure 32

Delete “NDHA5- Scout/Guide Headquarters”.

Recommended modification 23

Page 73: Policies Map (both maps)

Delete: the lines relating to view three, the red circle relating to the former village shop and the blue circle (but not the red circle) relating to the Scout/Guide Headquarters (NDHA5).

Appendix B: Abbreviations

The following abbreviations are used in this report:

AONB	Area of Outstanding Natural Beauty – since November 2023 re-branded as National Landscape areas
Borough Council	Borough Council of King’s Lynn and West Norfolk
Convention	European Convention on Human Rights
CWS	County Wildlife Site
Draft NDP	Submission draft of the North Wootton Neighbourhood Plan 2022-2036
EU	European Union
General Regulations	Neighbourhood Planning (General) Regulations 2012 (as amended)
NDP	Neighbourhood Development Plan
NPPF	National Planning Policy Framework (September 2023)
NWPC	North Wootton Parish Council
para	paragraph
PCPA	Planning and Compulsory Purchase Act 2004 (as amended)
PPG	national Planning Practice Guidance
s	section
Sch	Schedule
TCPA	Town and Country Planning Act 1990 (as amended)

Where I use the verb ‘*include*’, I am not using it to mean ‘*comprise*’. The words that follow are not necessarily exclusive.