

# **Swanton Morley Neighbourhood Plan Modification Consultation (Regulation 18) Report on the Independent Examiners Report**

## **1. Introduction**

1.1 Following an independent examination on the Swanton Morley Neighbourhood Plan (the Plan), Breckland District Council (BDC) has resolved to take some different decisions (modifications) from the Independent Examiner on seven different policy areas that requires an additional Modification Consultation. In addition to this, following a further screening exercise under the Habitats Regulations, which identified that an Appropriate Assessment was required. This assessment identified that a further amendment to Policy 14 was required to ensure the plan can avoid adverse effects on protected sites.

## **2. Background**

2.1 In his report, the Independent Examiner made a total of 27 modifications to the plan in order to ensure that it met the 'basic conditions' (some of the criteria that the examiner must consider in their examination).

2.2 After the Examiners report was issued, BDC considered the recommendations and the reasons for them (as required by section 12, para (2)), Schedule 4B, 1990 Town and Country Planning Act (TCPA)). BDC accepted all of them, except seven (PM6, PM7, PM8, PM10, PM11, PM19 & PM23 as listed in the Examiners Report).

## **3. Modifications**

3.1 Overall, the modifications concern reinstating policy and support text or amending policy further. Specifically it involves reinstating an objective on the approach to new housing; reinstating policy reference to housing site allocations (Policy 2); reinstating the policy on the approach to the new housing sites with further modifications to the criteria (Policy 3); amending the policy on the allocation of affordable housing regarding local connections (Policy 4); reinstating the policy by amending the wording to clarify the approach towards planning obligations (Policy 6); amending the policy on Local Green Space to reinstate land at Middleton Avenue (Policy 7); and amending the policy concerning the relevant considerations to determine the housing mix (Policy 15).

3.2 Also following a further Habitats Regulations screening, this identified that an Appropriate Assessment was required. The assessment identified that a further amendment to Policy 14 was necessary. This involved including a new bullet point within the policy concerning the need for a Construction Environmental Management Plan during construction (Policy 14).

2.5 The specific wording of these modifications is found in the last column in the Annex to this report, along with the unaccepted Examiners modifications and how BDC responded to them. These have been included to provide an understanding of how the policy and supporting text has changed.

#### **4. Consultation**

4.1 As a result of these modifications, BDC need to consult on these changes. This consultation will start on the 18<sup>th</sup> January and close on the 1<sup>st</sup> March 2019.

4.3 Following the close of this consultation period, BDC will consider any representations received before making a decision on whether the Neighbourhood Plan goes forward for an examination . This decision will need to be taken within five weeks or another date as agreed with the Parish Council.

## Swanton Morley Neighbourhood Plan – Modification Consultation Annex

Column 2 & 3 outlines the changes to the submission version of policy and supporting text that are being consulted on in this consultation.

Column 4 (Modification Consultation) contains the policy and text that is being consulted on in this consultation - comments can only be accepted on this.

**Key:** Submission plan policy text is 'normal' font; new policy text is in bold and supporting text in italics.

Policy / Paragraph No	Examiner's proposed Modifications - not accepted	Breckland Council's response to the Examiner's unaccepted Modifications	Modification Consultation - Policy and text
Objectives	PM23 Page 24 Delete Objective (d).	Do not accept remainder of recommendation and therefore reinstate objective d).	<i>d) To support new housing that meets the local needs, is affordable and made available to people from Swanton Morley first.</i>
Policy 2: Growth in the Right Places	PM6 Pages 32 - 37: Amend the Policy wording as follows: " <b>The primary focus of new residential development in the Swanton Morley Neighbourhood Plan area will be within the three allocated housing sites identified on Map 5 as:</b> <b>1)LP(098)013;</b> <del><b>2)LP(098)014 and ; and</b></del> <i>(Final Report typo)</i> <del><b>3)LP(098)016</b></del> <b>A planning application for this three allocated residential sites will be supported where it complies with the other policies..."</b>	Reinstate references to site allocations LP(098)014 and LP(098)016 into Policy 2 as per submission plan.	<b>The primary focus of new residential development in the Swanton Morley Neighbourhood Plan area will be within the three allocated housing sites identified on the Map 5 as:</b> <b>1) LP(098)013;</b> <b>2) LP(098)014; and</b> <b>3) LP(098)016</b> Planning applications for these three allocated residential sites will be supported where they comply with the other policies within the Swanton Morley Neighbourhood Plan and the requirements of other development plan policies.
	Delete the following paragraphs of	Delete para 6.24 and renumber supporting text paragraph	<del>6.24. The initial Breckland Local Plan Preferred</del>

Policy / Paragraph No	Examiner's proposed Modifications - not accepted	Breckland Council's response to the Examiner's unaccepted Modifications	Modification Consultation - Policy and text
	the supporting text: Paragraphs 6.24, 6.26-6.28.	numbers:	<i>Directions identified sites which could accommodate 500 new dwellings in Swanton, see Map 4, this has resulted in a great deal of confusion, uncertainty and distress for local residents. The initial allocation for Swanton Morley was 145 dwellings. Following the initial 'call for sites', site LP(098)016 was put forward by the landowner, see Map 5 on page 33.</i>
Policy 3: Enabling Growth on Sites	PM7 Pages 38 – 41: LP(098)014 and LP(098)016 The Policy and its supporting text at paragraphs 6.43 – 6.59 should be deleted in their entirety.	Reinstate Policy 3 with additional modification to criteria: Development on sites LP(098)014 and LP(098)016 is to be in conjunction with site LP(098)13, <del>where proposals enable:</del> <b>and :</b> a. <del>provision will be made within s</del> <b>Site LP(098)014 for a 'pick up and drop off' area with at least will include provision within the site for around 40 park car spaces and to serve the school with a safe road crossing point located along and local improvements of Manns Lane as close to the school as is deemed safe by Norfolk County Council to be agreed with the Highways Authority;</b> b. <del>provision will be made within site LP(098)016 for a lay-by style parking facility, to accommodate at least six cars;</del> <b>will be required to improve Hoe Road East to include provision for two-way traffic taking account of the requirements of the Cemetery on the north of the road to be agreed with the Highways Authority;</b> c. the northern border of site LP(098)016 will be screened by hedging and landscaping and with any new dwellings positioned along this border being of a maximum height of	<b>Development on sites LP(098)014 and LP(098)016 is to be in conjunction with site LP(098)13, and:</b> <b>a. Site LP(098)014 will include provision within the site for around 40 park car spaces to serve the school with a safe road crossing point and local improvements of Manns Lane to be agreed with the Highways Authority;</b> <b>b. site LP(098)016 will be required to improve Hoe Road East to include provision for two-way traffic taking account of the requirements of the Cemetery on the north of the road to be agreed with the Highways Authority;</b> <b>c. the northern border of site LP(098)016 will be screened by hedging and landscaping and with any new dwellings positioned along this border being of a maximum height of 1.5 storeys;</b> <b>d. provision of a continuous vehicle, cycle and</b>

Policy / Paragraph No	Examiner's proposed Modifications - not accepted	Breckland Council's response to the Examiner's unaccepted Modifications	Modification Consultation - Policy and text
		<p>1.5 storeys;</p> <p>d. <b>provision of</b> a continuous vehicle, cycle and pedestrian access from Rectory Road to Manns Lane; and <del>for</del></p> <p>e. <del>Hoe Road East is widened to include provision for two-way traffic with traffic calming measures, a footpath and cyclepath from Rectory Road to Manns Lane.</del> <b>provision of a footpath and cycleway from Rectory Road to Manns Lane.</b></p>	<p><b>pedestrian access from Rectory Road to Manns Lane; and</b></p> <p><b>e. provision of a footpath and cycleway from Rectory Road to Manns Lane.</b></p>
		<p>Amend supporting paragraphs to state:</p> <p>6.48 – Delete final sentence.</p>	<p><i>6.48. The location of site LP(098)014 has the ability to facilitate a safe place for parents to stop and drop off or pick up their children; by incorporating an off road pick up drop off forty space car park area which could then be linked to the school through a safe road crossing. Other road safety measures could also be provided on Manns Lane; 20mph speed limit, a 'road table' to aid crossing points and to reduce vehicle speeds. As illustrated on Map 6 in 'Car Park for 40 no. Cars' and suggested 'X Safe Crossing Point'.</i></p>
		<p>6.53 - Delete paragraph. Renummer as appropriate.</p>	<p><i>6.53. These enhancements should also include the provision within site LP(098)016 for a lay-by style parking facility, to accommodate at least six cars, which could be used by those attending funerals at the cemetery. This should be located opposite the cemetery. As illustrated on Map 6 in pink 'Lay-by for 6no. Cars'.</i></p>

<b>Policy / Paragraph No</b>	<b>Examiner's proposed Modifications - not accepted</b>	<b>Breckland Council's response to the Examiner's unaccepted Modifications</b>	<b>Modification Consultation - Policy and text</b>
Policy 4: Housing for the Local Community (Local Lettings)	PM8 Pages 42 – 44: The Policy and its supporting text at paragraphs 6.60 – 6.77.	Amend Policy 4 to read as follows: <del>Any new developments that incorporate an element of affordable housing to include, within the section 106 Agreement,</del> <b>In order to meet the housing needs of the parish, the plan seeks to ensure that eligible households with a local connection to the parish of Swanton Morley are given preference on first let in relation to up to 33% of the new affordable housing will be made available to people on Breckland District Council's Housing Register with a local connection to Swanton Morley, in perpetuity, using the following cascade criteria: for rent developed on the sites LP(098)014 and LP(098)016 being sites allocated by the neighbourhood plan over and above those already allocated by the local authority,</b> <b>A local connection is defined by one or more of the following;</b> <del>a. Residents of</del> <b>• Households containing one or more individuals who have resided within Swanton Morley parish for the last three years</b> <del>b. • Households who need to move to Swanton Morley parish to give or receive support from or to close family or relatives who are residents of Swanton Morley.</del> <del>d. People who work in</del> <b>• Households where one or more member has been employed within the parish of Swanton Morley parish for three years.</b> <del>e. • Former residents of Swanton Morley parish</del> <b>who have lived in the parish for at least 3 years of the last 6 years.</b> <del>e. Other residents of Swanton Morley parish.</del>	<b>In order to meet the housing needs of the parish, the plan seeks to ensure that eligible households with a local connection to the parish of Swanton Morley are given preference on first let in relation to up to 33% of new affordable housing for rent developed on the sites LP(098)014 and LP(098)016 being sites allocated by the neighbourhood plan over and above those already allocated by the local authority.</b> <b>A local connection is defined by one or more of the following;</b> <ul style="list-style-type: none"><li><b>• Households containing one or more individuals who have resided within Swanton Morley parish for the last three years</b></li><li><b>• Households who need to move to Swanton Morley Parish to give or receive support from or to a close family or relatives who are residents of Swanton Morley</b></li><li><b>• Households where one or more member has been employed within the parish of Swanton Morley for three years</b></li><li><b>• Former residents of Swanton Morley parish who have lived in the parish for at least 3 years of the past 6 years.</b></li></ul> <b>If at the time of letting there are no eligible household with a local connection, and/or the pool of eligible applicants with a local</b>

Policy / Paragraph No	Examiner's proposed Modifications - not accepted	Breckland Council's response to the Examiner's unaccepted Modifications	Modification Consultation - Policy and text
		<p><del>f. Residents of the adjacent parishes Bylaugh, Elsing, Hoe and Worthing.</del>  <del>g. Residents of Breckland District.</del>  <del>h. Any other person</del></p> <p>If at the time of letting there are no eligible household with a local connection, and/or the pool of eligible applicants with a local connection has been exhausted, allocations will be made in accordance with the local housing authority's prevailing housing allocation policy and associated district-wide local connection criteria. The final percentage and mix of housing types will be determined by the local authority based on housing need in the area and taking into account any other relevant matters such as viability, deliverability and prevailing local and national policy. Matters of eligibility and priority will be determined in accordance with the prevailing housing allocations policy of the local housing authority.</p>	<p>connection has been exhausted, allocations will be made in accordance with the local housing authority's prevailing housing allocation policy and associated district-wide local connection criteria.</p> <p>The final percentage and mix of housing types will be determined by the local authority based on housing need in the area and taking into account any other relevant matters such as viability, deliverability and prevailing local and national policy. Matters of eligibility and priority will be determined in accordance with the prevailing housing allocations policy of the local housing authority.</p>
Policy 6: Delivery of Planning Obligations	PM10 Pages 47 – 49: The Policy and its supporting text at paragraphs 6.86 – 6.101 ... should be deleted in their entirety. Except paragraphs 6.95 - 6.96, which should be relocated in Section 7 as paragraphs 7.9.3 - 7.9.4.	Reinstate Policy 6 with amended wording as follows: <b>POLICY 6: Delivery of Planning Obligations</b> <del>The Local Planning Authority and Swanton Morley Parish Council will work together on any proposed planning obligations to be committed to under a section 106 agreement in the Swanton Morley</del> <b>Where a planning obligation is required in relation to development proposals on land within the Neighbourhood Plan Area;</b> <del>to be consulted on 'heads of terms', specific specifications and delivery</del> <b>the Applicant shall provide a supporting</b>	<b>POLICY 6: Planning Obligations</b> <b>Where a planning obligation is required in relation to development proposals on land within the Neighbourhood Plan Area, the Applicant shall provide a supporting statement that identifies how their proposals take into account local community infrastructure requirements.</b> <b>Applicants are advised that early engagement with the Parish Council to seek local input to</b>

Policy / Paragraph No	Examiner's proposed Modifications - not accepted	Breckland Council's response to the Examiner's unaccepted Modifications	Modification Consultation - Policy and text
		<p>statement that identifies how their proposals take into account local community infrastructure requirements. <del>Swanton Morley Applicants are advised that early engagement with the</del> Parish Council <del>will be a signatory to all section 106 agreements within the parish of Swanton Morley (relating to the delivery of open and recreational space and any additional community requested benefits) in addition to Breckland District Council and, where appropriate, Norfolk County Council</del> <b>to seek local input to any such statement is encouraged.</b></p>	<p><b>any such statement is encouraged.</b></p>
		<p>Reinstate supporting text paragraphs 6.86-6.101.</p>	<p><i>6.86. Delivery of Planning Obligations</i>  <i>6.87. The Localism Act 2011 has at its heart the desire to enable local communities the ability to have a say and get involved in how their villages and towns are administered to deliver their future aspirations.</i>  <i>6.88. Local Planning Authorities, through planning obligations and conditions applied to the granting of planning permissions, can set requirements on a particular development to deliver with that development benefits and/or requirements to mitigate the impact of that development.</i>  <i>6.89. The delivery of the planning obligations is usually through agreement of the interested parties who give their commitment by signing a legal contract called a 'section 106 agreement'.</i></p>

Policy / Paragraph No	Examiner's proposed Modifications - not accepted	Breckland Council's response to the Examiner's unaccepted Modifications	Modification Consultation - Policy and text
			<p>6.90. It is recognised that Breckland District Council, as the Local Planning Authority, has a large number of section 106 agreements to negotiate, agree and enforce across the district. There are examples where they have entered into such agreements without a full understanding of the local situation or knowledge.</p> <p>6.91. In recent section 106 agreements Swanton Morley Parish Council has been excluded from adding the local knowledge, negotiating the specific requirements, nor has it been 'allowed' to be a signature to the agreements.</p> <p>6.92. Having been denied the ability to view section 106 agreements on planning applications in the Swanton Morley parish, and having been advised (incorrectly) by the Breckland District Council that it is not legally allowed to be a party to section 106 agreements. This lack of transparency, and incorrect advice, has resulted in the desired infrastructure improvements, as agreed by the Breckland District Council, not being delivered by the developer. The result of the actions of the Breckland District Council has resulted in taxpayers' money, c£32,000, has had to be used to complete the infrastructure works to</p>

Policy / Paragraph No	Examiner's proposed Modifications - not accepted	Breckland Council's response to the Examiner's unaccepted Modifications	Modification Consultation - Policy and text
			<p><i>the required standard as the section 106 failed to. See Appendix 7 for more specific details, timescales and those directly involved in the situation.</i></p> <p><i>6.93. Ensuring that Swanton Morley Parish Council is a party to each section 106 agreement will ensure that the infrastructure promised within the parish of Swanton Morley will be delivered and will encourage openness and transparency between the developer, the Breckland District Council and the local community.</i></p> <p><i>6.94. Housing and other development will be expected to contribute towards improving local services and infrastructure (such as transport, education; library provision, fire hydrant provision, open space etc....) through planning obligations (via a section 106 agreements and/or section 278 agreements) or Community Infrastructure Levy, if implemented; or use of planning conditions.</i></p> <p><i>6.95. As there is likely to be planning obligations identified as part of future development in Swanton Morley the Swanton Morley Parish Council would like to assist Breckland District Council to deliver the best outcomes for the residents of Swanton Morley.</i></p> <p><i>6.96. With the involvement of Swanton Morley</i></p>

Policy / Paragraph No	Examiner's proposed Modifications - not accepted	Breckland Council's response to the Examiner's unaccepted Modifications	Modification Consultation - Policy and text
			<p><i>Parish Council in any section 106 agreements it would enable a positive local approach with more detailed local knowledge being applied. It would allow easier checking to ensure the obligations are being implemented in the manner expected by all parties with any deficiencies identified early in the delivery to aid corrective steps to be taken.</i></p> <p><i>6.97. Whilst the Swanton Morley Parish Council would encourage involvement as a consultee on section 106 agreements it recognises that the scope for signatory should be limited to recreational and open space, any enhancements and additional community requested benefits.</i></p> <p><b>6.98. Ambition: This policy seeks to enable local knowledge and involvement by Swanton Morley Parish Council to deliver better outcomes for local residents of Swanton Morley through planning obligations.</b></p> <p><i>6.99. <b>Community Feedback:</b> Consultation on the emerging Neighbourhood Plan revealed the following key issues in relation to this theme that the policy seeks to address:</i></p> <ul style="list-style-type: none"> <li><i>✓ New developments should demonstrate how 'open space' areas are to be managed and maintained in a sustainable way: 100% strongly agree, or agree and with no one</i></li> </ul>

Policy / Paragraph No	Examiner's proposed Modifications - not accepted	Breckland Council's response to the Examiner's unaccepted Modifications	Modification Consultation - Policy and text
			<p><i>disagreeing.</i></p> <p>✓ <i>More affordable housing specifically for local people and/or first time buyers: 92% strongly agree, or agree and with 8% unsure and zero% disagree.</i></p> <p>✓ <i>New development should provide new community facilities and services: 95% strongly agree, or agree and with 5% unsure and zero% disagree.</i></p> <p>✓ <i>Ensure infrastructure expands with new development: 100% strongly agree.</i></p> <p><b>6.100. The following plans, documents and strategies support Policy 6:</b></p> <ul style="list-style-type: none"> <li>• <i>National Planning Policy Framework</i></li> <li>• <i>Localism Act 2011</i></li> <li>• <i>Town and Country Planning Act 1990</i></li> <li>• <i>Swanton Morley Neighbourhood Plan Sustainability Appraisal Scoping Report (July 2016)</i></li> <li>• <i>Swanton Morley Village Appraisal Report (2004)</i></li> </ul> <p><b>6.101. Contributes to and supports Swanton Morley Neighbourhood Plan Objectives (a), (d), (f) and (h).</b></p>
Policy 7: Local Green Space	PM11 Pages 52 – 54: Delete item 3, Middleton Avenue. Map 8 will require amendment to delete the area adjacent to	Do not accept Examiners recommendation in full. Amend policy to reinstate item 3 land at Middleton Avenue, leaving map 8 unchanged.	Middleton Avenue is retained as item 3 & in row 3 at Appendix 2 – Table 8.

Policy / Paragraph No	Examiner's proposed Modifications - not accepted	Breckland Council's response to the Examiner's unaccepted Modifications	Modification Consultation - Policy and text
	Middleton Avenue.	Also retain row 3 at Appendix 2 – Table 8.	
Policy 14: Flooding		This text has been added as a result of the Habitat Regulation Assessment of the (Reg.18) Modification version of the Plan.	<p><b>New bullet point number nine:</b></p> <ul style="list-style-type: none"> <li>• During construction any proposed allocated sites a Construction Environmental Management Plan is required to be produced and agreed in writing by the LPA prior to commencement of any works (include ground clearance) and include specific measures to avoid issues relating to surface water management; and</li> </ul>
Policy 15: Housing Mix	<p>PM19 Pages 75 and 78: Replace the first sentence and bullet points of the Policy with the following: <b><i>“New developments of more than 10 dwellings should provide a mix of dwelling sizes to meet local need, as evidenced by the latest published Strategic Housing Market Assessment.</i>”</b></p>	<p>Amend Policy 15 to read as follows: <b>New developments of more than ten or more dwellings should (where supported by an appropriate evidence base as determined by the local authority) must</b> provide a mix of dwelling sizes in both market and affordable that fall within the following <del>ranges</del> <b>specified mix:</b></p> <ul style="list-style-type: none"> <li>• 1-bedroom dwellings: range 10% to 15% of all dwellings</li> <li>• 2-bedroom dwellings: range 25% to 30% of all dwellings</li> <li>• 3-bedroom dwellings: range 30% to 40% of all dwellings</li> <li>• 4-bedroom and larger dwellings: range 15% to 20% of all dwellings</li> </ul> <p>Developments that wish to provide a higher percentage of 1 and 2 bedroom dwellings in lieu of larger (3 plus bedroom dwellings) will be <del>seen as acceptable</del> <b>welcomed.</b> <del>In instances where the proportion of a particular dwelling size does not reach an exact number of dwellings, then the developer has the choice of whether to deliver the lower ‘whole dwelling’ figure or the higher ‘whole</del></p>	<p><b>New Developments of more than ten dwellings should (where supported by an appropriate evidence base as determined by the local authority) provide a mix of dwelling sizes, in both market and affordable, that fall broadly within the following specified mix.</b></p> <p><b>Mix:</b></p> <ul style="list-style-type: none"> <li>• 1-bedroom dwellings: range 10% to 15% of all dwellings</li> <li>• 2-bedroom dwellings: range 25% to 30% of all dwellings</li> <li>• 3-bedroom dwellings: range 30% to 40% of all dwellings</li> <li>• 4-bedroom and larger dwellings: range 15% to 20% of all dwellings</li> </ul> <p><b>Developments that wish to provide a higher percentage of 1 and 2 bedroom dwellings in lieu of larger (3 plus bedroom dwellings) will</b></p>

Policy / Paragraph No	Examiner's proposed Modifications - not accepted	Breckland Council's response to the Examiner's unaccepted Modifications	Modification Consultation - Policy and text
		<p><del>dwelling' figure.</del></p> <p><b>The final mix of housing types will be determined by the local authority based on appropriate up to date housing need evidence as determined by the local authority and taking into account other relevant matters such as viability, deliverability and prevailing local and national policy.</b></p>	<p><b>be welcomed.</b></p> <p><b>The final mix of housing types will be determined by the local authority based on appropriate up to date housing need evidence as determined by the local authority and taking into account other relevant matters such as viability, deliverability and prevailing local and national policy.</b></p>
	Delete paragraph 6.205.	Delete first sentence of paragraph 6.205.	<p><i>6.205. <del>There does not appear to be an existing policy on housing mix for the district or one as part of the emerging Local Plan.</del> Although Breckland District Council has used a percentage mix for villages in the Breckland Community Infrastructure Levy Assessment document presented to Breckland Cabinet on 1st July 2014 and taken from Strategic Housing Market Assessment 2013 edition. These percentages are shown in Table 4 and split between market and affordable houses.</i></p>