

Comments

Main Modifications to the Local Plan (18/02/19 to 01/04/19)

Comment by	Norfolk County Council (Mr Stephen Faulkner - 1205213)
Comment ID	78
Response Date	27/03/19 16:58
Consultation Point	Policy HOU 05 - Small Villages and Hamlets Outside of Settlement Boundaries (View)
Status	Processed
Submission Type	Web
Version	0.2

To which proposed Main Modification does your representation relate? Please state the relevant reference number that you are commenting on from the Schedule of Proposed Main Modifications e.g. MM1

Policy HOU 05

Page 50

**Do you consider the proposed modification is:
(please mark the appropriate box)**

If you consider the proposed Main Modification to be UNSOUND, please identify which test of soundness your representation relates to?

Please give us details as to why you think the Local Plan with proposed modifications is NOT legally compliant or sound?

Policy HOU.05 (Small Villages and Hamlets outside settlement boundaries) - the policy has been amended to remove the previous cap of "up 3 units" being acceptable in such settlements. Comments - While the policy may be seen as more "permissive" of housing in such villages, in practice the level and proportional split of housing as set out in Policy HOU 01 and 02 has not been significantly amended and therefore does not raise any strategic concerns.

It should be noted that the County Council as land-owner is satisfied with the proposed modifications to Policies HOU.04 and HOU.05 and does not wish to raise any concerns.

Please set out what changes you consider necessary to make the proposed main modifications to the Local Plan legally compliant or sound.

No changes to policy / policies proposed at this stage.

Would you like to be notified of future stages of the Local Plan? Yes

How would you like to be notified? . By email to my email address

Comment by Norfolk County Council (Mr Stephen Faulkner - 1205213)

Comment ID 77

Response Date 27/03/19 16:57

Consultation Point HOU 04 - Villages with Boundaries ([View](#))

Status Processed

Submission Type Web

Version 0.1

To which proposed Main Modification does your representation relate? Please state the relevant reference number that you are commenting on from the Schedule of Proposed Main Modifications e.g. MM1

Policy HOU 04

Page 48.

Do you consider the proposed modification is: . Legally compliant?
(please mark the appropriate box) . Sound?

If you consider the proposed Main Modification to be UNSOUND, please identify which test of soundness your representation relates to?

Please give us details as to why you think the Local Plan with proposed modifications is NOT legally compliant or sound?

Policy HOU.04 (Housing in Villages with Boundaries) – the policy has been amended to make specific reference to the amount of new housing allowed in these villages reflecting the 5% growth previously considered appropriate. The level of new housing which could come forward in these villages amounts to 234 units.

Comments – The amendment to the policy affectively clarifies the level of development which would have previously been considered appropriate immediately adjacent to these villages. As such given the total level of housing likely to come forward (234 dwellings) in these villages does not raise any strategic concerns at this stage.

While the County Council has recently raised issues regarding the level of housing in Yaxham (Covered in Policy HOU.04) in respect of the capacity of the local primary school to cope, it is felt that the levels proposed in the Modifications document (18 units – up to 2036) will not raise any significant issues (see comments below on future growth in villages).

Please set out what changes you consider necessary to make the proposed main modifications to the Local Plan legally compliant or sound.

No changes to policy / policies proposed at this stage.

Would you like to be notified of future stages of the Local Plan? Yes

How would you like to be notified? . By email to my email address

Comment by Norfolk County Council (Dr James Albone - 1205216)
Comment ID 76
Response Date 27/03/19 16:54
Consultation Point 2.23 Paragraph ([View](#))
Status Processed
Submission Type Web
Version 0.1

To which proposed Main Modification does your representation relate? Please state the relevant reference number that you are commenting on from the Schedule of Proposed Main Modifications e.g. MM1

MM6

Para 2.23 (p.22)

Do you consider the proposed modification is: . Legally compliant?
(please mark the appropriate box) . Sound?

If you consider the proposed Main Modification to be UNSOUND, please identify which test of soundness your representation relates to?

Please give us details as to why you think the Local Plan with proposed modifications is NOT legally compliant or sound?

The Plan is considered sound and legally compliant, however, in relation MM6 (para. 2.21) it should be noted that the Historic Characterisation Study does not include a comprehensive assessment of the non-designated heritage assets within or surrounding the Attleborough SUE. The Historic Characterisation Study incorrectly states on page 17 that there are no non-designated heritage assets within the vicinity of the SUE. Examination of the Norfolk Historic Environment Record (which does not appear to have been formally consulted during the production of the Historic Characterisation Study) reveals the presence of numerous heritage assets with archaeological interest both within and surrounding the Attleborough SUE. Consequently the County Council request that wording of paragraph 2.21 should be revised to say "The Historic Characterisation Study identifies designated heritage assets within and surrounding the boundary of the SUE and contains an analysis of the immediate and wider context of the site."

Please set out what changes you consider necessary to make the proposed main modifications to the Local Plan legally compliant or sound.

It is felt that a further detailed assessment and analysis of non-designated heritage assets (in respect of the Attleborough SUE) will be required, particularly concerning heritage assets with archaeological interest as these are not fully represented in the Historic Characterisation Study.

Would you like to be notified of future stages of the Local Plan? Yes

How would you like to be notified? . By email to my email address

Comment by Norfolk County Council (Mr Stephen Faulkner - 1205213)
Comment ID 75
Response Date 27/03/19 16:48
Consultation Point Policy EC 01 Economic Development ([View](#))
Status Processed
Submission Type Web
Version 0.1

To which proposed Main Modification does your representation relate? Please state the relevant reference number that you are commenting on from the Schedule of Proposed Main Modifications e.g. MM1

Policy EC01, MM134 (page 216)

Do you consider the proposed modification is: . Legally compliant?
(please mark the appropriate box) . Sound?

If you consider the proposed Main Modification to be UNSOUND, please identify which test of soundness your representation relates to?

Please give us details as to why you think the Local Plan with proposed modifications is NOT legally compliant or sound?

Not Applicable as the County Council supports the amendment / Proposed Modification, which clarifies that "at least 10 ha" of employment land is allocated in the Local Plan for Attleborough.

Please set out what changes you consider necessary to make the proposed main modifications to the Local Plan legally compliant or sound.

Not applicable as the County supports the Proposed Modification

Would you like to be notified of future stages of the Local Plan? Yes

How would you like to be notified? . By email to my email address

Comment by Norfolk County Council (Mr Stephen Faulkner - 1205213)

Comment ID 74

Response Date 27/03/19 16:41

Consultation Point GEN 4 - Development Requirements of Attleborough Strategic Urban Extension (SUE) Development Requirements of Attleborough Strategic Urban Extension (SUE) ([View](#))

Status Processed

Submission Type Web

Version 0.1

To which proposed Main Modification does your representation relate? Please state the relevant reference number that you are commenting on from the Schedule of Proposed Main Modifications e.g. MM1

Policy GEN 04 (MM7)

Do you consider the proposed modification is: (please mark the appropriate box)

If you consider the proposed Main Modification to be UNSOUND, please identify which test of soundness your representation relates to?

Please give us details as to why you think the Local Plan with proposed modifications is NOT legally compliant or sound?

Not Applicable – as the County Council supports the amendment / proposed modification to GEN 4 as it relates to the provision of a new healthcare facility on the Strategic Urban Extension site at Attleborough.

Please set out what changes you consider necessary to make the proposed main modifications to the Local Plan legally compliant or sound.

Not Applicable – as the County Council supports the amendment / proposed modification to GEN 4 as it relates to the provision of a new healthcare facility on the Strategic Urban Extension site at Attleborough.

Would you like to be notified of future stages of the Local Plan? Yes

How would you like to be notified?	. By email to my email address
Comment by	Norfolk County Council (Mr Andy Scales - 1205203)
Comment ID	73
Response Date	27/03/19 16:16
Consultation Point	GEN 2 Promoting High Quality Design (View)
Status	Processed
Submission Type	Web
Version	0.1

To which proposed Main Modification does your representation relate? Please state the relevant reference number that you are commenting on from the Schedule of Proposed Main Modifications e.g. MM1

Policy GEN 02 (MM5) p.19,25,27
Paragraph 2.16, 2.20 and 2.27

Do you consider the proposed modification is: (please mark the appropriate box) . Legally compliant?
. Sound?

If you consider the proposed Main Modification to be UNSOUND, please identify which test of soundness your representation relates to? . Is it positively prepared?
. Is it justified?
. Is it consistent with national policy?

Please give us details as to why you think the Local Plan with proposed modifications is NOT legally compliant or sound?

The test for a modification to be sound / legally compliant is as explained in the Inspectors Guidance Note that states the following. (Please note **bold / underlined** is my emphasis)

*"I can only recommend main modifications **if they are necessary to resolve problems that would otherwise make the submitted Plan unsound or not legally compliant**. Main modifications are changes, which, either alone or in combination with others, would materially alter the Plan or its policies. Any potential main modifications must be subject to consultation and **in some cases further sustainability appraisal might also be needed**".*

Furthermore Procedural Practice in Examination of Local Plans (June 2016 - 4th Edition) is clear in advice regarding post submission changes. (Please note **bold / underlined** is my emphasis again).

*'The Inspector will **take the published plan** (and if relevant, the addendum submitted with the plan to address matters arising from the public consultation on the plan at regulation 19 stage) **as the final word of the LPA on the plan**. Therefore, there is a **very strong expectation that further LPA-led changes to the plan will not be necessary** and this is a key premise of delivering an efficient examination timetable. **Provision for changes after submission of the plan is to cater for the unexpected**.'*

In this case, the District Council has suggested a change at a very late stage in the Examination process (four weeks from the end of the Examination), so should only be made to cater for an 'unexpected' change. This is not the case and the Main Modification proposed by the Inspector (endorsing the late change proposed by the District Council) is not necessary to make an already 'sound' plan, 'sound' as the change

. Involved removing a substantial area of land from the SUE, which was considered necessary to make the Plan sound at submission stage (in November 2017). Furthermore there was no reason

- advanced by the Council why they took nine months to propose this modification (and did not propose this change pre-Examination in March 2018);
- Involved removing land from the SUE that would deliver housing growth at an early stage (helping to meet the ambitious target of 160 dwellings per year) on part of the SUE land that raises no infra-structure complex issues nor removes significant capacity from the remainder of the SUE,
- Involved no further full sustainability appraisal to inform or justify the omission of a significant area; and
- introduced a modification to the SUE boundary so late without sufficient time to make full and formal representations to the Examination.

Based on these considerations, and as expanded upon further below, the Inspector's proposed Main Modification is neither required or necessary to meet the above test and make the plan legally compliant nor sound

Background / History of land promotion and engagement with Breckland District Council

The land east of Hargham Road (along with land / west of Hargham Road) had been promoted extensively for housing development from 2014 at all stages the plan preparation process.

In this period, including at formal submission stage, Breckland Council has supported the allocation of the Norfolk County Council (NCC) owned land promoted for housing (including in the provisions of the Sustainability Appraisal). Breckland Council has been fully aware of the NCC's ownership and aspiration to deliver housing on this area; because the land does not raise the infrastructure challenges and complexities of the remainder of the SUE east of the rail line (either in terms of strategic highway infra-structure or utilities / capacity issues).

NPS on behalf of NCC has supported the allocation, as this effectively accepted the principle of development of this land for housing at all previous stages (including in December 2014, January 2016, November 2017 and March 2018) plus the site remains included within the SUE provisions of the Attleborough Neighbourhood Plan (ANP).

History of SUE allocation

At all stage up to August 2018, the SUE designation has included County Council owned land to both the east and west side of Hargham Road. Therefore, the inclusion of land west of rail line in the SUE is long established.

The ANP includes the NCC owned site within the SUE designation.

All earlier site assessments accepted suitability of site as part of a larger allocation and its inclusion would have recognised the land does not raise the infrastructure challenges and complexities of the remainder of the SUE east of the rail line (an issue that Breckland Council does not challenge).

Previous assessment of soundness (including August 2017) accepted the inclusion of NCC's land and suggested there was no reason why it could not be developed, based on an objective assessment of infrastructure.

Any question of the suitability of the NCC owned land for inclusion within the SUE could and should have been made prior to submission or the publication of the Infrastructure Delivery Plan (IDP) in 2017. The SUE boundary (and policy GEN 4) has been previously judged as sound up until Aug 2018 and there are no change (unexpected or otherwise) in circumstances to justify this change to the SUE boundary.

The need for any change has not been communicated in plan making process and in fact no reference to conflict with GEN 4 was made in the initial submission Main Modification made to the Inspector on 28 August

Furthermore, in communication associated with this change, no consultation with the landowner took place to show engagement with the County Council agent on behalf of the landowner, and therefore in the Breckland Council submission, a misleading submission was made to the Inspector.

There is clear advice contained in the Procedural Practice in Examination of Local Plans (detailed above) and provisions in the Attleborough Neighbourhood Plan (also detailed above). Based on this, all public expectation would be that the version of the Plan initially considered at Examination (the

submitted version plus the Main Modifications proposed pre Examination in March 2018), would be the version that the Council would seek to defend at Examination. There has been no 'unexpected' change, legislatively or otherwise, to justify further change. Therefore there is no justification for such a Main Modification

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Recent Planning History

A planning application was submitted on NCC owned land west of Hargham Road / south of New Road submitted in September 2017. The whole of this application is owned by NCC. This site falls within the SUE area identified in the Breckland Local Plan submitted for Examination.

This planning application was initially authorised for approval for housing based on a number of factors, including inclusion in the SUE designation, (initially in March 2018, again as recently as June 2018) and finally approved in December 2018 (only some three months ago).

The Council appear to place great importance on another planning application submitted at a similar time - in August 2017 (submitted by Ptarmagan) covering another substantial part of the SUE site submitted for Examination. When initial Main Modifications were submitted in March 2018, prior to Examination, the area covered by Policy GEN 4 identified no reason to alter the SUE area. It is unclear why the Council require the allocation to match the Ptarmagan planning application site area. Furthermore, if this were so crucial, why was a Main Modification not proposed at submission stage or at pre examination Main Modification stage? In addition, the change appears to have been made to accord with developer interests rather than promoting the early deliver of land with less complex infra-structure issues, in a manner that all previous public versions of the Plan had promoted without fundamental objection.

Whilst Councils around the Country are recognising the importance of delivery and moving away from single large site allocations where obstacles exist to early delivery based on complex inter-dependent infra-structure issues, Breckland appear to be seeking to prevent early delivery by excluding an area of the SUE, east of Hargham Road and west of the rail line, that does not suffer from such infrastructure challenges.

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Technical supporting work

An outline planning application has been submitted via the Planning Portal (in January 2019) on land east of Hargham Road, west of the rail line. This site can be developed in next five years. The planning application submitted demonstrates that the development of this site can come forward within this part of the SUE without any fundamental impact on the IDP aspirations as this site is neither infrastructure complex or would materially impact on infra-structure required to the east of the rail line.

This is demonstrated by the extensive technical supporting reports that accompany the application, notably

- . FRA / Drainage Strategy (foul and s-w) – addressing key utilities issue
- . Transport Assessment
- . Acoustic / Noise Assessment
- . Tree report
- . Ecology reports
- . Contaminated land assessment
- . Archaeology

Furthermore, the location of this part of the SUE raises no heritage issues in relation to Bunns Bank.

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Conclusion

There is no 'unexpected' justification for this late change / Main Modification proposed for soundness or legal compliance reason and such a late change fails to comply with procedural advice.

Recommendation

It is therefore requested that the Inspector adopts the following approach

- . Remove the proposed Main Modification (which affects the boundary as defined in all previous iterations of the Local Plan (and the ANP) has been found sound); and
- . Within policy GEN4 make minor text changes to reflect that the land west of the rail line represents the least infra-structure complex portion and can come forward at an early stage (as agreed by BDC Planning Committee in determining the planning application on the west side of Hargham Road – approved as recently as December 2018);

OR

- . Retain the site within the settlement boundary (with or without a specific allocation), again reflecting the long established policy view / direction of travel / Attleborough Neighbourhood Plan provisions that this is acceptable le and suitable for development (as demonstrated by the extensive technical work undertaken on this land)

Please set out what changes you consider necessary to make the proposed main modifications to the Local Plan legally compliant or sound.

As

detailed above, there is no justification for the change proposed in the Main Modifications to make the Plan sound. The proposed change fails to meet the clear test, as the change is not necessary to resolve problems that would otherwise make the submitted Plan unsound. Adopting this change would bring into question whether the Plan would be legally compliant

Whilst the submitted Local Plan was generally sound, there is an opportunity to make minor modifications to reflect more accurately the position associated with the whole SUE area, to enable development to come forward to the west of the rail line in the part of the SUE area without the infra-structure complexity and inter-relationships of the remainder of the SUE.

The following minor modifications / changes to policy text should be made (text to remove in *purple italics* and text to be added in **red bold**). Policy map to remain as submission version of Plan

Development Requirements of Attleborough Strategic Urban Extension (SUE)

Land to the south west of Attleborough amounting to approximately 296 217 ha, as shown on the policies map is allocated for a Strategic Urban Extension of a total of at least 2,6580 net new dwellings with a further 1,3520 dwellings anticipated beyond the plan period within the SUE boundary. The SUE will be phased over the plan period together with appropriate community infrastructure to support new development (see separate policies in this document), suitable local shopping centre, green infrastructure and identified local employment land. The delivery **to the east of the rail line** will be aided by the provision of a new link road located to the south of the urban extension.

To help ensure that there is a sufficient economically active population to support the local economy, any proposal for housing development (open market and affordable) should include an appropriate mix of housing types.

Retail proposals within the SUE, **shall be east of the rail line**, will be supported where they provide for local need across A1-A5 Use classes up to the identified capacity of 1,900 sq m gross as detailed in the separate retail policies in this document.

Provision will be required for sport and recreation facilities in the SUE as part of any development proposals in line with current and emerging evidence and policies in this document. This should be accessible from the existing town by a variety of modes of travel as well as from within the SUE itself.

Any proposal will have to consider the findings of the Historic Characterisation Study and carry out further assessment work into the historic landscape to the south of Attleborough to the satisfaction of the Council and Historic England.

The development proposals for Attleborough SUE will conserve, and where possible, enhance the historic environment. The Historic Characterisation Study should inform an appropriate design response and any masterplanning exercise, including any mitigation measures. Development proposals must:

- Conserve, and where possible, enhance designated heritage assets and non designated heritage assets and their settings. Designated heritage assets include Bunn's Bank Scheduled Monument, Grade II listed Old Hall and Burgh Farm, Attleborough Conservation Area and Old Buckenham Conservation Area;
- Respect the rural nature of the site and the location of the site as a gateway from the south;
- Explore opportunities to create a pattern of development and open space which naturally aids the understanding and interpretation of the significance of heritage assets, in particular Bunn's Bank Scheduled Monument;
- Retain and respond to important landscape features throughout the site; and
- Be informed by archaeological surveys, where required, in line with policies ENV 07 and ENV 08, particularly the area to the west of Bunn's Bank Scheduled Monument.

Development must make provision for the retention and protection of hedgerows and trees and provide green corridors connecting development sites, adjacent residential and employment areas, the town centre and open countryside as well as appropriate links to the railway station.

Provision of green infrastructure, play facilities and allotments within the SUE boundary should be of a sufficient scale and design to enable recreational opportunities for local residents close to where they live.

A Travel Plan is required as well as financial contributions towards public transport to serve the SUE **to the east of the rail line** as well as additional transport improvements to the town centre to mitigate the impact of additional development.

A Utilities Statement pre-application enquiry with Anglian Water Services is required for **this site land east of the rail line** in accordance with the Water Cycle Study to demonstrate that sufficient capacity is available to transfer wastewater for treatment and that there is available capacity in the foul sewerage network. Where insufficient capacity within the wastewater network is identified, financial contributions may be sought. Ongoing discussion between the Council, the developer and Anglian Water Services to determine an appropriate, deliverable solution for Wastewater Treatment Work (WwTW) improvements required following the development of 1,800 homes in time to serve the development of 4,000 dwellings, of which, 2,650 are to be completed within the plan period.

In line with Norfolk Minerals and Waste Core Strategy Policy CS16, future development **in the SUE east of the rail line** will be subject to the submission of information that satisfies Norfolk County Council that:

- the applicant has carried out investigations to identify whether the resource (sand and gravel) is viable for mineral extraction, and
- if the mineral resource is viable, that the applicant has considered whether it could be extracted economically prior to development taking place; and
- if the mineral resource can be extracted economically, whether (or not) there are opportunities to use the onsite resource during the construction phase of development."

The Council supports Attleborough Town Council's intention to produce a Neighbourhood Plan, which could help to shape growth in Attleborough subject to the Plan passing a local referendum.

Design and Landscape of a quality that reflects the importance of this key site, the policies in the Local Plan and the aspirations of the community.

New or improved/expanded local healthcare facilities may be required to serve the increased population, subject to consultation with NHS England.

Masterplan

A masterplan is required **for the SUE to the east of the rail line** to provide a comprehensive development strategy for the SUE. **The land west to the rail line should demonstrate how development proposals integrate and compliment the Masterplan area.** The masterplan should accord with the phasing of infrastructure provision, as set out in the Council's Infrastructure Delivery Plan and subsequent updates.

The masterplan **for the area to the east of the rail line** will address the following strategic development requirements which will apply within the SUE *boundary*:

- 1 Indicative design, layout and phasing requirements for **up to 4,000 dwellings**;
- 2 A mix of dwelling types to be spread across the SUE area, with a proportion of housing to comprise affordable home ownership products. Opportunities for self build dwellings will be considered;

- 3 A new link road between London Road and the B1077 Attleborough Road to be delivered prior to the completion of 1200 dwellings;
 - 4 Connectivity from the SUE to the town centre and existing development for both vehicular and pedestrian and cycle movements to enable several points of access helping to integrate the new and existing residential areas and improve social cohesion;
 - 5 Provision of two new primary schools within the SUE area;
 - 6 A local centre which acts as the focal point for the community comprising local facilities for new residents to be located within easy walking and cycling access to the majority of new residents;
 - 7 Further neighbourhood centres to provide limited local facilities to serve the immediate neighbourhood;
 - 8 Any retail or employment provision should not prejudice residential amenity or be of a scale or use type which would directly compete with the role of Attleborough town centre;
 - 9 Consideration of fluvial and surface water flood risk in a Flood Risk Assessment;
 - 10 Provision of Sustainable Drainage Systems to provide surface water attenuation. This should be planned on an integrated and strategic scale across the SUE area, and where possible should form part of the landscaping scheme;
 - 11 Consideration of the promotion and use of water efficiency measures in line with recommendations in the Water Cycle Study;
 - 12 Provision of a wide range of green infrastructure to include:
 - 13 Consideration of measures to mitigate potential adverse recreational impacts on designated nature conservation sites (SPAs, SACs, Ramsar) outside the growth area;
 - 14 The Masterplan should consider the presence of the underground gas pipeline in developing the layout of the site;
 - 15 The applicant will be required to develop design codes to the satisfaction of the Council which will inform the detailed planning application for the SUE.
 - 16 The Masterplan will be informed by the presence of designated and non-designated heritage assets and their settings. This will include an investigation of the archaeological significance of the site, particularly the area west of Bunn's Bank proposals for the siting of major infrastructure, such as the link road required to serve the development, or infrastructure upgrades to the existing town centre will be informed by an appraisal of the impact upon the historic environment.
 - 17 Consideration of the potential to provide a new healthcare facility on site, unless it is determined financial contributions to existing facilities would be more appropriate to serve the healthcare needs of new residents.
- . A linear park functioning as a green corridor running through the development to promote walking and cycling helping to enable healthy lifestyles;
 - . A network of open spaces and formal and informal children's play spaces in accordance with Policy ENV04;
 - . Landscaping to integrate the development with the surrounding landscape and to prevent a hard urban edge to development;
 - . Retention of existing, and incorporation of new native tree and hedgerow species, where appropriate with regard to the proposed layout and design of development; and
 - . Provision of allotments

The SUE to the west of the rail line is not infra-structure complex and interrelated but should demonstrate that this will be developed to compliment the development of the remainder of the SUE.

Would you like to be notified of future stages of the Local Plan? Yes

How would you like to be notified? . By email to my email address