

Saham Toney Neighbourhood Development Plan 2019-2036

Guidance Notes and Agenda for Virtual Hearing

Prepared by the Independent Examiner

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John Slater Planning Ltd

1. Following my initial consideration of the Plan, I have decided that a virtual public hearing is required to assist my examination of this Neighbourhood Plan. I propose to hold a hearing to be held via video conference facilities and I have asked that this should be hosted by Breckland Council. The use of video conference calls as virtual public hearings is in accordance with Secretary of State advice issued for neighbourhood plan examinations during the COVID 19 pandemic. This video conference hearing will commence at **9.30am on Wednesday 17th February 2021**. I understand that this date has been agreed and is acceptable to both the Parish Council and the Local Planning Authority.
2. This Note provides guidance as to how the hearing will be conducted. I also attach at the end an agenda for the hearing.
3. I have decided to hold this virtual hearing to allow me to explore certain issues arising from my consideration of the plan, and some of the representations made at the Regulation 16 Stage. The issues that I wish to examine in more detail were set out in the document “Initial Comments of the Independent Examiner”, dated 20th January 2021. That note also raised a number of other matters, that I said could be dealt with by way of written representations. It would assist me if any written material in respect of those matters set out in paragraph 16 are sent to me by 5pm on 15th February 2021 and copied to the other side and also placed on the respective websites.
4. The conduct of a neighbourhood plan hearing is set out in Schedule 4B to the Town and Country Planning Act 1990 and that specifies the parties who can participate. The legislation specifically provides for oral representations at the hearing to be made by the Qualifying Body, namely Saham Toney Parish Council and the Local Planning Authority, Breckland Council. It is solely the Examiner’s prerogative to decide whether other parties should be invited to participate. When I issued my Initial Comments document, I did not feel the need to invite

any other party to the hearing, as no party expressed a need for a hearing to held so as to be able to have a fair chance to put a case.

5. I acknowledge a letter from the Parish Council dated 27th January which said

“We note that the Regulation 16 representation by Norfolk County Council includes a request to attend an oral hearing.

Ms Heinrich has verbally informed us that you do not wish a County representative to attend, although we have not received any correspondence on the subject. We would respectfully ask that you reconsider your decision as we support, and would welcome, the participation of a County representative, which could be on a part-time basis if that would be better, and consider it would be a positive contribution to discussions on drainage and flood-risk issues.”

6. I have reviewed the Reg 16 correspondence from the County Council and note that they were not requesting attendance but were saying that “If *required* Norfolk County Council would attend a verbal examination.” My initial view was that their Regulation 16 correspondence made the County Council’s position very clear and I did not feel their attendance was necessary to help my examination. That remains my view.

7. My conduct of the hearing is required to be guided by Section 9(5) of Schedule 4 B of the Town and Country Planning Act 1990. I set out the relevant sections below

(2) But the examiner must cause a hearing to be held for the purpose of receiving oral representations about a particular issue at the hearing—

(a) in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue or a person has a fair chance to put a case, or

(b) in such other cases as may be prescribed.

(3) The following persons are entitled to make oral representations about the issue at the hearing—

(a) the qualifying body,

(b) the local planning authority,

(c) where the hearing is held to give a person a fair chance to put a case, that person, and

(d) such other persons as may be prescribed.

(4) The hearing must be in public.

(5) It is for the examiner to decide how the hearing is to be conducted, including—

(a) whether a person making oral representations may be questioned by another person and, if so, the matters to which the questioning may relate, and

(b) the amount of time for the making of a person's oral representations or for any questioning by another person.

(6) In making decisions about the questioning of a person's oral representations by another, the examiner must apply the principle that the questioning should be done by the examiner except where the examiner considers that questioning by another is necessary to ensure—

(a) adequate examination of a particular issue, or

(b) a person has a fair chance to put a case

8. It is important to note that a neighbourhood plan hearing is different to a public inquiry, an appeal hearing or an examination in public for a Local Plan. It will be chaired by me as the examiner and the session will be run entirely at my discretion. The hearing will take the form of a discussion based on specific questions that I will be raising based on the 4 Topic Areas which I have already identified. I remind parties of my previous requirements for both parties to submit an A4 maximum summary on each topic by noon on Monday 15th February 2021.

9. It is not going to be a round table discussion on the overall merits of the plan – it is different to the tests of soundness which a local plan faces. I will be focusing on to what extent the examination requirement set out in legislation to test the plan against the basic conditions and other legal requirements are met.

10. I will be directing questions to either the Parish Council or Breckland Council or in some cases, both. I understand that the neighbourhood plan has been prepared by a Working Group on behalf of the Parish Council, which is quite normal, but as the plan has been submitted by the Parish Council as the Qualifying Body, I will assume that anyone

speaking at the hearing is doing so on behalf of the Parish Council.

11. It is important that only appointed members on each team partake in the hearing. I hope that it is not necessary to restrict the numbers in each team but I do need to ensure the running of the hearing is manageable and so I would ask that a list of intended attendees with email addresses from each side were sent to Susan Heinrich and copied to me by 5 pm on 10th February 2021.
12. It is important that the hearing is run by myself as the examiner and I will ask the questions and any follow up questions and there will be no cross examination of the other side, although participants may ask me that questions be asked of the other side.
13. Whether attendees agree or disagree with what is being said at any time during the conference call, it is important that participation is on the basis that all parties will be respectful to all parties at all times.
14. It is my desire that the virtual hearing can be streamed live but that may not be technically feasible. As a fallback I will in any event be asking for a recording of the hearing to be made available and it should be posted on the respective websites in its entirety. I have no objections if any party wishes to make their own recordings of the proceedings
15. As I said in my Initial Comments document, I am hoping that the hearing could be concluded by lunchtime, but if I feel that it will extend into the afternoon, I will call a lunch break at close to 1pm. I will introduce a number of short adjournments through the session so everyone can remain comfortable.
16. Please will all parties keep free the whole day from other appointments.
17. I have asked that Susan Heinrich to liaise with Breckland Council's IT department and to send out invitations to the parties who will be attending on behalf of the Parish Council and Breckland.

Agenda

18. The Agenda will generally be as follows:

- (1) **Opening remarks-** by myself as Examiner
- (2) **A Short Opening Statement** by Salem Toney Parish Council – I would like to offer the opportunity to the Qualifying Body to set out in no more than 10 minutes its overall approach to the neighbourhood plan.
- (3) **Discussion based on my individual topics:** These will look in turn at the subjects covered in paragraphs 19 to 32 of my Initial Comments document.
- (4) **Examiners Closing Remarks**

John Slater BA (Hons), DMS, MRTPI

Independent Examiner to Saham Toney Neighbourhood Plan

John Slater Planning Ltd

28th January 2021