
Susan Heinrich MSc MRTPI
Neighbourhood Planning Co-Ordinator
Breckland Council
Elizabeth House
Walpole Loke
Dereham
Norfolk NR19 1EE

By email to: Susan.Heinrich@breckland.gov.uk

3rd June 2019

Dear Susan,

Swanton Morley Neighbourhood Plan (SMNP) – Further Examination

I write further to the information with a view to scoping the examination following receipt of the background information that you have helpfully supplied and my visit to the village on May 2nd.

Background and confirmation of the matters to be examined in the re-examination of the Swanton Morley Neighbourhood Plan.

Following the examination report prepared by Mr Patrick Whitehead of Intelligent Plans, dated 19 January 2018, Breckland District Council (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 Examiner's Report).

The Modification Consultation (Regulation 18) Report, on the Independent Examiner's Report, prepared by BDC summarised the proposed modifications as follows:

- 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).

In addition, 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).

I also note that Appendix A to BDC's Decision Statement dated 18th September 2018, on the Independent Examiner's Report, (Mr. Whitehead) including the consideration of the Examiner's changes and the Modification Consultation Annex setting out the Modification Consultation Policy and text, collectively set out the detailed proposed policy modifications and the reasons for them for each of the relevant Policies.

The objective, policies and supporting text outlined on the preceding page encompass the matters that need to be examined / re-examined in respect of the SMNP, as I understand matters. It is not necessary for me to consider other matters regarding the policies already examined by Mr Whitehead and agreed with the Parish Council, although I will have regard to any impacts that decisions in relation to the examination of these policies are likely to have on other policies within the SMNP.

I would be grateful if you would confirm that this is your understanding of the matters that need to be examined on behalf of Breckland District Council and similar confirmation from the Steering Group, on behalf of the Parish Council.

In examining these policies, I will of course need to consider the evidence advanced in the SMNP and related documents which justify these policies and as relevant, the supporting statements. Similarly, I will need to review the Appropriate Assessment and Habitats Regulation Assessment scoping report, 2019 and related consultation comments.

Matters of Clarification

1) Proposed Housing Allocations

Habitats Regulations screening incorporating Appropriate Assessment

The consequence of the preparation of the habitats regulation screening and Appropriate Assessment is in part an acknowledgement that the proposed housing development in the SMNP would result in recreational disturbance. The conclusion in the report, is that this

would not amount to likely significant effects, (LSE), either alone or in-combination, subject to a proposal to modify Policy 14: Flooding, to require that for the proposed allocated sites (LP(098)014, LP(098)016 and LP(098)13) a Construction Environmental Management Plan (CEMP) is produced and agreed in writing by the LPA prior to commencement of any works (include ground clearance). Any such CEMP should also include specific measures for surface water management. The assessment concluded that no adverse impact on water quality has been identified, and that there will be no LSE on the Qualifying Features of the River Wensum SAC arising from the SMNP, either directly from the development sites within the SMNP or 'in-combination' with other developments. Therefore, it is necessary to also examine Policy 14, as modified, as part of the re-examination of the relevant policies of the Regulation 18 version of the SMNP.

I was concerned regarding what I considered to be ambiguity over the position of Natural England in its consultation response received by BDC on 28th February 2019 is understood to have been as follows:

“Natural England has previously commented and given advice on this neighbourhood plan at different stages. The subsequent modification and examiners report do not change our previous advice and we have no additional comments to make.”

The advice from NE has not been completely consistent, which prompted me to raise this with you in March, following the most recent public consultation. Previously, on 23rd August 2017, Natural England commented to you that it, *“does not have any specific comments on this draft neighbourhood plan.”* This echoed previous comment made by NE in June 2017, in relation to both the Reg.14 and the Reg 16 versions of the SMNP. However, concerning the consultation undertaken in respect of the subsequent Regulation 18 consultation in 2018, NE advised that:

“Natural England do not agree with the conclusions of the HRA and advise that there is not enough information to rule out the likelihood of significant effects. We recommend the following information is provided:

Detailed consideration of potential water quality impacts that include proximity of proposed development areas to the River Wensum Special Area of Conservation and potential impacts to interest features

We note that the HRA does not consider the potential increase of recreational disturbance within the plan area.

The visitor surveys at European protected sites across Norfolk report' (2016) produced by Footprint Ecology identifies a predicted 14% increase in access by Norfolk residents to designated sites as a result of new housing during the current plan period.

Proposed developments sites are within close proximity of the River Wensum SAC and it likely that residents of new housing will utilise the existing footpath that runs along the river.

On this basis we recommend the consideration of increased recreational disturbance impacts to the interest features of the SAC.”

This consultation comment would give rise to a significant difficulty having regard to the precautionary principle, if this remained NE's advice. I was concerned in the light of NE's enigmatic consultation response to you of 28th February 2019 that this may still have been their view. You will recall that following my request, you helpfully contacted NE on 13th March 2019 seeking clarification that NE was in fact content, following the preparation of the Habitats Regulations screening incorporating Appropriate Assessment Report, the subject of consultation earlier this year. You kindly forwarded the e-mail from Patrick Robinson of NE, dated 14th March 2019, that Natural England “*agreed with the conclusions in the document*”. In that event I do not need to clarify matters further on this issue. Thank you for providing that certainty.

2) Policy 4: Housing for the Local Community (Local Lettings)

The only matter where I would be grateful for clarification concerns Policy 4. This revised policy would now apply to qualifying households on “first let”, in relation to 33% of new affordable housing for rent on sites LP(098)014 and LP(098)016. I understand the reasoning for assisting local households in housing need within the Parish, but it is not clear to me why this provision should now be limited to “first let” only, if as may well be the case, that there may be households with local connections, who might subsequently benefit from this provision in years to come? I note that the supporting text in paragraph 6.71 of the submission version of the SMNP and the text for Policy 4 provided that this policy should run in perpetuity. The supporting text in the proposed modifications remains unchanged as far as I am aware. This continues to support the earlier draft local lettings policy. I assume that the intention is that the supporting text should provide the justification for this policy change and this may have been overlooked. Assuming this is the case, I would be pleased to receive draft supporting text justifying why the policy is now proposed to be limited to first

lettings only, in the circumstances where this policy would apply. I would also be pleased to receive evidence of need which would justify this policy shift.

I am now content that the examination of the SMNP may proceed without the need for a hearing and I anticipate completing my report for fact checking by 21st June.

Thank you for your assistance in providing the background material relating to the preparation of the SWNP and the considerable work undertaken by the SMPC and BDC in relation to preparing the proposed modifications.

I look forward to hearing from you concerning Policy 4 and first letting.

Yours sincerely

A handwritten signature in blue ink that reads 'Jeremy Edge'.

Jeremy Edge BSc FRICS MRTPI
Partner
Edge Planning & Development LLP