

Swanton Morley Neighbourhood Plan 2016-2036

Examination Report

On 18th September 2018, Breckland Council resolved to hold an examination of the Modification Consultation draft planning policies and supporting text, confirmed by the Council's delegated decision dated 18th September 2018, in accordance with Regulation 18(2) of the Neighbourhood Planning (General) Regulations 2012 (as amended), to take a different decision from that recommended by the previous examiner of the submission version of the Swanton Morley Neighbourhood Plan by Independent Examiner, Jeremy Edge BSc (Hons) FRICS MRTPI.

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18th September 2019



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Introduction, Background and Examination Scope

- 1.1 Neighbourhood Planning is an approach to planning introduced by the Localism Act 2011 which provides communities with the power to establish the priorities and policies to shape the future development of their local areas.
- 1.2 I understand that the submission version of the SMNP was examined by Mr Patrick Whitehead who submitted his independent examination report to Breckland Council on 19th January 2018.
- 1.3 The main findings from the previous examiner's report were that subject to the policy modifications set out in that report, the Plan meets the Basic Conditions. In particular the report concluded that:
 - The Plan has been prepared and submitted for examination by a qualifying body – the Swanton Morley Parish Council;
 - The Plan has been prepared for an area properly designated – the Parish Council area shown on Map 1 in the Neighbourhood Plan;
 - The Plan specifies the period to which it is to take effect – 2016 - 2036; and
 - The policies relate to the development and use of land for a designated neighbourhood area.
- 1.4 Consequently, Mr. Whitehead recommended that the Plan, once modified, should proceed to referendum on the basis that it had met all the relevant legal requirements.
- 1.5 Breckland Council reviewed the examination report and prepared a matrix of all of the Inspector's proposed modifications to assess the examiner's recommendations. These are listed in Appendix A to the Council's SMNP Decision Report identifying the recommendations which the Council proposed to accept and as appropriate, those which the Council rejected. The Council formally confirmed its decision under delegated powers on 18th September 2018. Through this resolution, the Council accepted all the modifications in the Examiners Report of 19th January 2018, except seven and proposed a further change as a result of the latest Habitat Regulation Assessment.
- 1.6 Subsequently, Breckland Council published its Decision Statement on the Independent Examiner's Report in accordance with Regulation 18(2) of the

Neighbourhood Planning (General) Regulations 2012 (as amended), advising of the Council's decision that following consideration of each of the recommendations made by the examiner and the reasons for them, Breckland District Council (BDC), the Council had resolved to accept all of the proposed modifications recommended by the independent examiner, as required by section 12, para (2)), Schedule 4B, 1990 Town and Country Planning Act (TCPA), except seven, namely PM6, PM7, PM8, PM10, PM11, PM19 & PM23 listed in the Appendix of the Examiner's Report. The Decision Statement further explained that following a further screening exercise under the Habitat Regulations, this identified that an Appropriate Assessment was required. This assessment identified that a further amendment to Policy 14 of the SMNP was required to pass this assessment. The Decision Statement advised that details of this change can be found in the, "Habitat Regulations Assessment - Screening Report with the Appropriate Assessment (December 2018)" published on the Council's web-site. The Decision Statement then set out the Council's Proposed Modifications to the SMNP and explained that these would be subject to public consultation for a period of six weeks from 18th January 2019 to 1st March 2019. The policies subject to public consultation and examination in this report are set out for convenience in Appendix B to this examination report and which are summarised in the paragraph below.

1.7 The Modification Consultation (Regulation 18) Report, on the Independent Examiner's findings and recommendations 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).

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- i) A Habitats Regulations screening, was then undertaken which identified that an Appropriate Assessment was required. This assessment identified that a further amendment to Policy 14 of the SMNP 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).
- ii) The detailed modifications proposed by BDC are provided in Appendix A to this examination report. It is these proposed modifications, considered in the public consultation which comprise the scope of this Examination. 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 have regard to any impacts that recommendations in relation to the examination of these policies are likely to have on other policies within the SMNP.
- 1.8 In examining these policies, I have considered the evidence advanced in the SMNP and related documents which justify these policies and as relevant, the supporting statements. Similarly, I have reviewed the Appropriate Assessment and Habitats Regulation Assessment scoping report, 2019 and related consultation comments.
- 1.9 My role as an Independent Examiner, when considering the content of a neighbourhood plan is limited to testing whether a draft neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended). The role is not to test the soundness of a neighbourhood development plan, or to examine other material considerations.
- 1.10 Paragraph 8 of Schedule 4B (2) to the Town & Country Planning Act 1990 (as amended), states that the Plan must meet the following “basic conditions”;
- it must have appropriate regard for national policy;
 - it must contribute towards the achievement of sustainable development;
 - it must be in general conformity with the strategic policies of the development plan for the local area;
 - it must be compatible with human rights requirements and
 - it must be compatible with EU obligations.

- 1.11 In addition to the basic conditions set out in the primary legislation, neighbourhood plans must conform to Regulations 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended). This requires that the making of the neighbourhood plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017, which set out the habitat regulation assessment process for land use plans, including consideration of the effect on habitats sites. In relation to the examination of neighbourhood development plans this requires compliance with Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (as amended). Schedule 2 requires that the making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects).
- 1.12 My instructions in this matter emanate from Schedule 4B, section 13 (2) of the Town & Country Planning Act 1990 (as amended). Although Schedule 4B, section 13 (3) of the Town & Country Planning Act 1990 (as amended) may make provision about examinations under section 13, as far as I am aware, no additional regulations have been made.
- 1.13 In accordance with Schedule 4B, section 10 of the Town & Country Planning Act 1990 (as amended), the examiner must make a report on the draft plan containing recommendations, in this case, as to the modification policies in combination with those policies already settled, following the earlier examination which concluded in January 2018, and make one of the following three recommendations:
- (a) that the draft order is submitted to a referendum, or
 - (b) that modifications specified in the report are made to the draft order and that the draft order as modified is submitted to a referendum, or
 - (c) that the proposal for the order is refused.
 - (d) If recommending that the Plan proceeds to a referendum, I am also then required to consider whether the Referendum Area should extend beyond the Swanton Morley Neighbourhood Plan designated area to which the Plan relates. I make my recommendations at the end of this Report.

- 1.14 I am independent of the qualifying body, associated residents, business leaders and the local authority. I do not have any interest in any land that may be affected by the Plan and I possess appropriate qualifications and experience.
- 1.15 I was appointed to undertake the independent examination of the proposed modifications to the SMNP, as identified above on 24th April 2019.
- 1.16 The documents to which I have had regard in undertaking this further examination are listed in Appendix C.

Modification Proposals - Consultation

- 2.1 BDC's, "Swanton Morley Neighbourhood Plan Modification Consultation (Regulation 18) Report on the Independent Examiners Report," explains the reasons for the proposed modifications to the SMNP following the rejection of the various proposed modifications recommended by the examiner in the SMNP examination report dated 19th January 2018. It also explains the need for further Habitats Regulations screening which identified that an Appropriate Assessment was required which in turn identified that a further amendment to Policy 14 was necessary, by including a new bullet point within the policy concerning the need for a Construction Environmental Management Plan during construction (SMNP Policy 14).
- 2.2 The "Swanton Morley Neighbourhood Plan – Modification Consultation Annex" to the consultation report explains the proposed modification to the relevant SMNP policies and the examiner's proposed modifications which were not accepted. The Consultation Annex made clear that it was only the BDC proposed modifications which were subject to this consultation. In addition, the Modification Consultation (Regulation 18) Report explained the reason for the modifications and a Representation Form upon which consultees could make comments was available on BDC's website.
- 2.3 The consultation outlined in the "Swanton Morley Neighbourhood Plan Modification Consultation (Regulation 18) Report", the "Swanton Morley Neighbourhood Plan – Modification Consultation Annex" and the "Swanton Morley Neighbourhood Plan Representation summary of Regulation 18

Consultation,” satisfactorily meet the requirements of Regulation 15(2) of Neighbourhood Planning Regulations 2012, by providing:

- details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
- explaining how they were consulted;
- a summary of the main issues and concerns raised by the persons consulted; and
- describing how these issues and concerns have been considered and where relevant addressed in the proposed neighbourhood development plan.

2.4 The Modification Consultation policies and supporting text subject to further public consultation are set out for convenience in Appendix B to this examination report. These therefore comprise the policies subject to examination and comment in this examination report. During the examination, some policy variants were drawn to my attention, but to take these into consideration without further consultation would breach the neighbourhood planning regulations and potentially offend Human Rights. For avoidance of doubt, this material has not formed part of the examination of the Modification Consultation.

2.5 I understand that there were six responses to the proposed modifications consultation which closed on 29th March 2019. These were from the following organisations:

- Norfolk County Council
- Anglian Water
- Historic England
- Hopkins Homes limited
- Natural England
- Sports England

2.6 The comments raised by the consultees are considered in respect of the specific policies considered in greater detail in section 5 of this examination report.

Basic Conditions

3.1 The proposed modifications to the SMNP contains policies relating to the development and use of land within the Neighbourhood Plan area. I am

satisfied that these amended policies have been prepared in accordance with the statutory requirements and processes set out in the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and the Neighbourhood Planning Regulations 2012.

Conformity with the National Planning Policy Framework (NPPF).

- 3.2 On 24th July 2018, the Ministry of Housing, Communities and Local Government published the NPPF (2018), which was updated in February 2019. Annex 1 to the then new NPPF stated at paragraphs 212- 214:

“212. The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this replacement Framework has made. This should be progressed as quickly as possible, either through a partial revision or by preparing a new plan.

213. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

214. The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.....”

- 3.3 I note that the BDC’s Growth and Commercialisation Portfolio considered the report on the examiner’s recommendations, under delegated powers. The report prepared by Strategic Planning Manager, Mr Phil Mileham was considered on 18th September 2018. The resolution was; **“To confirm that that the authority notifies the prescribed persons of its decision to take a different decision from that recommended by the examiner and invites representations on these for a period of 6 weeks, and if necessary, to refer these matters for independent examination.”** This resolution was

made under the provisions of the Localism Act (as amended), Schedule 10, paragraph 13.

- 3.4 Therefore, in the light of the transitional arrangements outlined above it is not appropriate to examine the proposed modification policies prepared by BDC against revised national policy in NPPF (2018), but rather the NPPF (2012).

Achieving sustainable development

- 3.5 The NPPF (2012) advises that all plans should be based upon the presumption in favour of sustainable development with clear policies that guide how the presumption should be applied locally. Paragraph 16 of the NPPF acknowledges that the application of the presumption in favour of sustainable development will have implications for how communities engage in neighbourhood planning. In particular neighbourhoods should develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development and plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan. The NPPF explains at paragraph 183, that neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. The national guidance explains that Parishes and neighbourhood forums can use neighbourhood planning to:
- set planning policies through neighbourhood plans to determine decisions on planning applications; and
 - grant planning permission through Neighbourhood Development Orders and Community Right to Build Orders for specific development which complies with the order.

General conformity with the strategic policies of the Local Planning Framework

- 3.6 Paragraph 184 of the NPPF (2012) requires that neighbourhood planning policy should be aligned with the strategic needs and priorities of the wider local area and that neighbourhood plans must be in general conformity with the strategic policies of the Development Plan. Furthermore, neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them.

- 3.7 I agree that the general thrust of the modification draft policies assessed in this further examination of the relevant neighbourhood plan policies will contribute to achieving sustainable development by seeking positive improvements to the quality of the natural and built environment, as well as in people's quality of life. Furthermore, I am content that the SMNP does not promote less development than set out in the Local Plan or undermine its strategic policies. The SMNP, if made with the policy recommendations I have recommended in this report taken together with those policies subject to the earlier recommendations of Mr. Whitehead and agreed with the Parish Council, will help shape and direct sustainable development in the Parish. I am also content that the SMNP with the modified policies, subject to my recommendations in this report would comply with the provisions of paragraph 185 of the NPPF which seeks to avoid duplication of adopted planning policies covering the same geographic area, but at the neighbourhood spatial scale.
- 3.8 Mr. Whitehead's report acknowledges that the SMNP has been positively prepared, reflecting the presumption in the NPPF in favour of sustainable development. (See paragraphs 4.10 and 4.18) of the examination report. I am similarly of the opinion that the modification policies, the subject of this examination, are similarly in general conformity with the strategic policies of the development plan for the area and also conform generally to the guidance and advice in the NPPF (2012) and will (subject to the recommendations in this examination report) deliver sustainable development, in combination with the other accepted policy recommendations, as recommended by Mr. Whitehead, in his earlier examination report.

EU obligations

Appropriate Assessment, Strategic Environmental Assessment and Habitats Regulation Assessment

- 3.12 The examination report prepared by Mr Whitehead explained that the SMNP was screened for Strategic Environmental Assessment (SEA) by consultants Abzag Ltd acting on the instructions of SMPC. This Screening Determination concluded that the SMNP falls within the scope of the Environmental

Assessment of Plans and Programmes Regulations 2004 on the basis that it is likely to have significant environmental effects. However, the Report concluded that the requirements of the SEA will be met through the undertaking of a Sustainability Appraisal (SA) of the SMNP. The SA Final Report (May 2017) included, at Appendix T, a similarly worded Screening Determination but, following responses from the Statutory Bodies it was determined that the SMNP “...is unlikely to have any significant environmental effect and will not require a Strategic Environmental Assessment”.

- 3.13 Mr. Whitehead’s examination report noted at paragraph 4.2 that BDC had indicated that the SEA of plans requires the assessment of reasonable alternatives, but that the SA did not appear to have been used to assess alternative options. Appendix B to the SA Final Report indicated that for Policy 2, the primary focus of new development would be the 3 allocated sites: LP(098)013; LP(098)014 and LP(098)016. These were not assessed separately, but as a whole against the SA objectives. Appendix B also indicated that 12 other sites for development were assessed by BDC against the impact on the Local Plan SA objectives, showing little to differentiate their performance. Some sites were identified as ‘not suitable’. Accordingly, the decision was taken by the SMPC to proceed with the most supported sites whilst the ‘do nothing’ option was considered and dismissed as it would not allow the local community to guide the location of future development.

Habitats Regulation Assessment

- 3.14 Under Directive 92/43/EEC, also known as the Habitat’s Directive, it must be ascertained whether the draft Plan is likely to have significant effects on a European site designated for its nature conservation interest. The Directive is implemented by the Conservation of Habitats Regulation Regulations 2010. Assessments under these regulations are known as Habitats Regulation Assessments (HRA).
- 3.15 Prior to the first examination of the SMNP, the Plan was screened by Abzag Ltd acting for SMPC for Habitats Regulations Assessment (HRA). Although seven Natura 2000 sites were identified and considered in proximity to Swanton Morley, only part of one site, the River Wensum Special Area of Conservation, is in the Neighbourhood Area. All of these sites were considered, and the

conclusion reached was that there were likely to be no significant negative effects on the European Designated Sites. Natural England agreed with this conclusion.

- 3.16 Subsequent to the initial SMNP examination, BDC undertook a Habitat Regulation Assessment (HRA) and published the findings in December 2018. It included a screening report with Appropriate Assessment (AA). The HRA explained that the assessment report had been undertaken in order to support the SMNP in accordance with the Neighbourhood Planning (General) Regulations 2012. The SMNP assessed was the post-examination version which was subsequently subjected to the modification consultation. The HRA report explained that as far as practical, the aim was to ascertain whether any “likely significant effects” (LSE) may occur in relation to the qualifying features of European Designated Sites within or relatively proximate to the approved Neighbourhood Plan area, comprising the civil parish of Swanton Morley (Stage 1 of the HRA process). The report explained that where LSE are recognised, an Appropriate Assessment (Stage 2 of the HRA process) is undertaken.
- 3.17 The housing target stated in the Local Plan for Swanton Morley is 180 dwellings. At the time of the revised plan, 95 dwellings had been completed or committed to in the Parish, leaving a requirement of 85 additional dwellings to be developed by 2036. This target was assessed in the earlier HRA for the Local Plan. The HRA for the SMNP noted that the scale of growth proposed in the SMNP being 205 dwellings, is greater than that allocated in the Breckland Local Plan (85 dwellings) and is a relevant consideration in the HRA process of the SMNP. In 2017, NE was of the opinion that the proposed housing development within the SMNP during the Regulation 14 and 16 consultations was unlikely to generate likely significant effects. That position had changed by 2018, in response to the larger scale of housing development then proposed and in the light of the precautionary principle, as LSE’s could not be ruled out. In particular, NE’s concerns were centered on:
- 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; and
 - potential increase of recreational disturbance within the plan area.

3.18 NE's response noted that visitor surveys at European protected sites across Norfolk (2016) produced by Footprint Ecology, identified a predicted 14% increase in access by Norfolk residents to designated sites as a result of new housing during the current plan period. Within the SMNP designated area, proposed developments sites are within close proximity of the River Wensum SAC and NE considered that residents of new housing would be likely to utilise the existing footpath that runs along the river. On this basis NE recommended the consideration of increased recreational disturbance impacts to the interest features of the SAC.

Appropriate Assessment

3.19 The next step was to consider Appropriate Assessment commencing with a Stage 1 (screening for the need for an Appropriate Assessment). This concluded that there was a potential for LSE to occur at the River Wensum SAC in close proximity to the parish from increased recreational pressure. However, the AA report notes that Natural England produced a Site Improvement Plan (SIP) for the River Wensum SAC under the Improvement Programme for England's Natura2000 Sites in October 2014. The plan described the priority issues for the site. In rank order (most significant first) these were:

- Physical modification
- Inappropriate weirs, dams and other structures
- Siltation
- Invasive species
- Water Pollution
- Water abstraction

3.20 Recreational pressure was not identified as a significant issue for the River Wensum SAC. The report then analysed current water and land based recreational activities in detail, concluding that recreation associated with residents of the parish is currently very unlikely to be having an adverse impact on the River Wensum.

3.21 The next step considered the likely impact that an increase in housing in the parish is likely to cause through an increase in people. The report explained that most water-based recreation and angling within the parish only occurs

under dedicated clubs, new residents wanting to undertake these activities would need to join the clubs. As these clubs control activities and operate to best practice, any increase in potential adverse impacts arising from these activities were likely to be negligible. Also due to limited public access adjacent to the river for walking over a short section, there was no reason to consider that this route would suffer with an increase in use, either by future residents of the developments sites within the SMNP or by those from other future developments in the wider locality. As such there would be no direct or 'in-combination' effects on the River Wensum SAC arising from new development. The conclusion of the Appropriate Assessment was that there is a high degree of confidence that the SMNP will not result in any LSE on the designated sites within the parish. This would appear to be a reasonable deduction.

- 3.22 In relation to the concerns raised by NE over water quality of the River Wensum SAC arising from the SMNP, the report referred to Policy CP 8: Natural Resources of the Breckland Council's Development Plan Document (DPD) which recognises that new development could impact European Habitats which are 'water sensitive'. The Habitats Regulations Assessment of the DPD concluded that the effect of pollution from flooding can be mitigated if new developments install infiltration and attenuation measures to dispose of surface water. The use of Sustainable Drainage Systems (SUDS) was recommended. Similarly, concerning Policy 14 of the SMNP, water quality issues will be addressed when sites are operational by requiring additional detail to that required by the Breckland DPD, including the requirement for clear maintenance of SUDS features. The Swanton Morley Neighbourhood Plan, Habitat Regulation Assessment December 2018 advised that a requirement for a Construction Environmental Management Plan (CEMP) is required to be produced and agreed in writing by the LPA prior to commencement of any works (include ground clearance). Any such CEMP should include specific measures for surface water management. Thus, the Assessment concluded that no adverse impact on water quality has been identified, and 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. I consider this matter in relation to the modification policies below.

Convention on Human Rights

- 3.23 In addition to conforming to its EU obligations, I am content that the proposed modification policies contained within the Modification Consultation does not breach, and is not otherwise incompatible with the European Convention on Human Rights due to the engagement with the community and stakeholders as indicated in the additional consultation that has occurred prior to the examination of these revised policies taken together with the earlier consultation of the SMNP through its preparation. I am therefore of the opinion that there are unlikely to be any prejudicial effects on Human Rights and the related Equality Act 2010 if the Plan were to be made in accordance with my recommendations in this examination report.

Basic Conditions – Interim Conclusion

- 3.24 I conclude this section by noting that the further consultation process reviewed briefly above concerning the preparation of BDC’s proposed modifications to the SMNP, is acceptable in meeting the Basic Conditions test and I am satisfied that the information in the further SMNP consultation documents complies with Section 15(2) of part 5 of the Regulations by demonstrating that the proposed modification policies of the neighbourhood development plan meet the requirements of paragraph 8 of Schedule 4B to the 1990 Act.
- 3.25 In evaluating the SMNP draft modification policies in this examination report, I have assessed the extent to which these are consistent with national policy having regard to the NPPF (paragraph 184) and the strategic planning policies in the adopted Local Plan, in considering each policy and the earlier settled policies identified following the initial examination of the Plan. I make my comments in respect of specific draft policies in Section 5 and more generally in the Summary and Conclusions sections of this report below.

Background Documents

- 4.1 The background documents referred to in this examination report are listed in Appendix C.

Swanton Morley Neighbourhood Plan 2016 -2036 – Planning Policies

- 5.1 I now consider the modification policies proposed for the SMNP. Where, in my opinion, the explanatory or supporting text in relation to those policies requires alteration, those changes suggested in this report are advisory and for clarification; they are not mandatory in order to meet the Basic Conditions test. To avoid confusion over the Plan period, although the submission version of the SMNP was to run from 2017-2037, following the first examination, it was agreed on the recommendation of the then examiner and accepted by BDC that the Plan period should run from 2016 to 2036, to align with District wide planning policy. I have therefore adopted this agreed Plan period for the SMNP in this examination report.
- 5.2 If the SMNP is to proceed to referendum, the recommended alterations to the policies must be determined by Breckland District Council in order that the Plan may move forward to that stage. Where I have recommended changes to the draft policies, the recommended revisions are shown as tracked changes in Appendix D with “clean” copies of the altered policies in Appendix E. Where policy revisions are recommended, the explanatory text relating to those policies subject to alteration may require some modification to reflect the recommended modified policies. Such changes will be a matter for Breckland District Council to confirm where I have offered recommended alterations to the supporting text.
- 5.3 I review each of the relevant policies sequentially but concerning Housing objective d) which also requires comment, I consider this with my recommendations regarding Policy 4: Housing for the Local Community (Local Lettings), to which this objective relates.
- 5.4 In examining each policy, I set out:
- i) the first examiner’s proposed modification;
 - ii) consideration of the first Examiner’s proposed modification by BDC;
 - iii) the proposed modified policy and supporting text which is the subject of this Modification Consultation examination;
 - iv) my assessment of the modification policy and supporting text and recommendations.

5.5 **Policy 2: Growth in the Right Places**

5.6 *Examiner's proposed modification – not accepted*

5.7 PM6 Amend the Policy wording as follows:

“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:

1) LP(098)013;

2) LP(098)014 and; and (Final Report typo)

3) LP(098)016

A planning application for this three allocated residential sites will be supported where it complies with the other policies...”

5.8 Delete the following paragraphs of the supporting text; Paragraphs 6.24, 6.26-6.28. Renumber subsequent paragraphs.

5.9 *Consideration of the Examiner's proposed modification by BDC*

5.10 The examiner considered that SMPC had not justified the level of over-allocation and there was no separate appraisal of sites proposed to be allocated in the plan, and as a result there was insufficient evidence to justify why alternative site options had not been included. Furthermore, the examiner considered that no cumulative assessment of the Neighbourhood Plan allocations had been undertaken in addition to those proposed to be allocated in the Council's emerging Local Plan. The examiner sought a proposed change to refer more closely to the site proposed for allocation in Breckland Council's emerging Local Plan.

5.11 *Modified Policy and supporting text which is the subject of this Modification Consultation examination*

Policy 2: Growth in the Right Places

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:

- 1) LP(098)013;**
- 2) LP(098)014; and**
- 3) LP(098)016**

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 paragraph 6.24 from the supporting text as follows:

~~6.24. The initial Breckland Local Plan Preferred 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.~~

- 5.12 There is no suggestion in the examiner's report that Policy 2 should be considered contrary to policy advice in the NPPF or the NPPG. Indeed, up to date advice in the National Planning Practice Guidance¹ encourages the provision of housing within neighbourhood areas, subject to the evidence being available to support increased housing delivery. The PPG states:

".....Neighbourhood planning bodies are encouraged to plan to meet their housing requirement, and where possible to exceed it. A sustainable choice of sites to accommodate housing will provide flexibility if circumstances change, and allows plans to remain up to date over a

¹ Planning Practice Guidance, Paragraph: 103 Reference ID: 41-103-20190509, Revision date: 09 05 2019
<https://www.gov.uk/guidance/neighbourhood-planning--2>

longer time scale. Where neighbourhood planning bodies intend to exceed their housing requirement figure, proactive engagement with their local planning authority can help to assess whether the scale of additional housing numbers is considered to be in general conformity with the strategic policies. For example, whether the scale of proposed increase has a detrimental impact on the strategic spatial strategy, or whether sufficient infrastructure is proposed to support the scale of development and whether it has a realistic prospect of being delivered in accordance with development plan policies on viability. Any neighbourhood plan policies on the size or type of housing required will need to be informed by the evidence prepared to support relevant strategic policies, supplemented where necessary by locally-produced information.....”

- 5.13 In the examiner’s letter to the Clerk to SMPC, dated 19 January 2018 the examiner advised:

“The issue in relation to Policy 2 is not whether the additional allocations are lawfully right or wrong. It is a matter for the exercise of planning judgement as to whether sufficient evidence has been provided to warrant the inclusion of sites LP(098) and LP(098)16, which in both instances I consider it has not.”

- 5.14 I consider that at the time of the previous examination, the evidence before the examiner was not sufficient to warrant extending the scale of housing allocations and housing delivery over the period of the Plan to 2037. However, I note that in the intervening period additional information has been received in the form of a Sustainability Appraisal addendum, provided by Breckland District Council. This addendum considered the approach to site selection and carried out a cumulative assessment of the additional allocations in-combination with the neighbourhood plan allocations.

- 5.15 During the consultation period, Hopkins Homes submitted representations supporting the earlier examiner’s conclusions that adequate evidence had not been provided to justify the inclusion of sites LP(098)014; and LP(098)016. The comments of Hopkins Homes were brief and made no reference to the further work undertaken by BDC in the preparation of the modification policies, notwithstanding the fact that Swanton Morley Neighbourhood Plan, Habitat Regulation Assessment, December 2018 - Screening Report with the



Appropriate Assessment was available on the same web-page² as both the SMNP Modification Consultation Report and the SMNP Modification Representation Form (which was used by Hopkins to make their representation).

- 5.16 In light of this new evidence, which I consider to be proportionate and adequate. I agree with the comments of Breckland Council in the Modification Consultation Report and Habitat Regulation Assessment, December 2018 - Screening Report with the Appropriate Assessment that the additional housing allocations are in broad conformity with the Local Plan, and with some further amendment to the wording, Policy 2 would meet the basic conditions. In particular, as the Appropriate Assessment has been based upon housing growth on the three allocated housing sites of a total of 205 dwellings over the Plan period, the policy should refer to delivery of up to 205 dwellings.
- 5.17 The recommended modification to Policy 2 is shown by way of tracked changes in Appendix D and as a clean copy in Appendix E.
- 5.18 Concerning the supporting text, some amendments are appropriate as shown in Appendix D and E. These relate to the master-planning approach to the allocated housing sites as a means of ensuring that the community benefits sought from the proposed development are delivered and the ambitions of the Plan are met:
- i) Paragraph 6.11
The draft new text in paragraph 6.11 of the supporting statement, should include the larger figure of 15,298 dwellings to meet the future needs in the Breckland Local Plan area between 2011 and 2036, as identified in the SHMA, June 2017³ and taken forward as the objectively assessed need for additional housing in Breckland for 2011-36. This increased assessment of need is due to

² <https://www.breckland.gov.uk/article/10413/Additional-Modification-Consultation-on-the-Swanton-Morley-Neighbourhood-PlanThis>

³ Central Norfolk Strategic Housing Market Assessment 2017, Report of Findings June 2017 Opinion Research Services, The Strand, Swansea

household projections indicating that strong household growth had already occurred in the period 2011-16.

Paragraph 6.11.

“The Pre-Submission version of the Breckland Local Plan, notes in following a further review of the SHMA that draft Policy HOU 01 notes that to enable the District to meet future housing needs the Local Plan will provide for no less than 15,298 new homes between 2011 and 2036, an average of 612 dwellings per annum”.

ii) Paragraph 6.24

I agree that the supporting text should be amended by the deletion of paragraph 6.24 as this is incorrect and unnecessary.

iii) Paragraphs 6.33 – 6.34

I agree with the previous examiner that references to meeting the five-year housing land supply target is a matter for the emerging Local Plan. These paragraphs should be deleted.

iv) Paragraph 6.35

This paragraph should be amended to read:

“It is the intention of the Swanton Morley Neighbourhood Plan that new housing development should meet the costs associated with relevant enhancements to social and physical infrastructure impacts as appropriate”.

5.19 **POLICY 3: Enabling Growth on Sites**

5.20 *Examiner’s proposed modification – not accepted*

5.21 PM7 LP(098)014 and LP(098)016)

5.22 The Policy and its supporting text at paragraphs 6.43 – 6.59 should be deleted in their entirety.

5.23 *Consideration of the Examiner’s proposed modification*

5.24 BDC's comments on the earlier examination report on the SMNP prepared in January 2018 explains that the Examiner was of the opinion that SMPC had not justified the level of over-allocation in the SMNP and that there was no separate appraisal of sites proposed to be allocated in the plan, and consequently, there was insufficient evidence to justify why alternative site options had not been included. In addition, BDC recognised the Examiner's comment that no cumulative assessment of the Neighbourhood Plan allocations had been prepared in addition to those proposed to be allocated in the emerging Local Plan. For these reasons, the examiner sought that planning policy for delivering housing in Swanton Morley should align more closely to the proposed allocation in Breckland Council's emerging Local Plan.

5.25 *Modified Policy and supporting text which is the subject of this Modification Consultation examination:*

POLICY 3: Enabling Growth on Sites

Development on sites LP(098)014 and LP(098)016 is to be in conjunction with site LP(098)13, and:

- 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. 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;**
- 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;**
- d. provision of a continuous vehicle, cycle and pedestrian access from Rectory Road to Manns Lane; and**
- e. provision of a footpath and cycleway from Rectory Road to Manns Lane.**

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'~~

~~6.53. These enhancements should also include the provision within site LP(098)016 for a layby 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'.~~

- 5.26 In support of the modification proposal to reinstate Policy 3, the modification proposal report prepared by BDC explains that since the Examiner's report was issued, additional information has been received in the form of a Sustainability Appraisal addendum which considered the approach to site selection and which carried out a cumulative assessment of the additional allocations in combination with the NPs allocations.
- 5.27 As a consequence, and as the Modification Proposals Report explains, there are further points of detail relating to the transport requirements that did not have sufficient evidence or justification at the time of the earlier examination. These deficiencies have been addressed by further modification of the text to improve the clarity and operation of the policy. BDC's assertion is that the shortcomings previously identified have now been overcome and in the light of this new evidence, it is considered that the additional allocations are in broad conformity with the Local Plan, and with the further proposed amendment to the wording, Policy 3 meets the basic conditions.
- 5.28 I note that Norfolk County Council replied to BDC on 4th February 2019 to the Regulation 18 consultation concerning modification proposals to the SMNP. The reply from the Community & Environmental Services Department of the County Council supported the proposals in this consultation.
- 5.29 Objection to this policy was again raised by Hopkins Homes on the grounds that it was at odds with the recommendations of the previous examiner. However, there appeared to be no consideration given to the work undertaken associated with the modification proposals subsequent to the conclusion of the initial examination.

- 5.30 This policy essentially relates to infrastructure that will be required in relation to the delivery of these three contiguous sites. The policy seeks to control the way in which development is brought forward to deliver the proposed new housing. In an ideal world, the three sites would be subject to a master-plan, the site planned as a single entity and subject to an overarching planning permission, whilst recognising that the composite site may be fragmented once planning permission is granted and built out by a number of housebuilders, possibly in a number of phases over a period of years. Given that the policy recognises the need for highways improvements to improve traffic safety and capacity and given the proximity of the Parish Hall and Village School, there would be considerable merit in planning and agreeing the early delivery of the identified improvements necessary, to make the development acceptable in planning terms. The policy should therefore encourage a master-plan approach to the delivery of housing on these three linked sites, particularly since it is understood that at least two of the sites are in a single ownership.
- 5.31 To reflect the modification policy and the masterplanned approach to the development of this housing allocation, the infrastructure enhancements outlined in the SMNP in Map 6 in the submission version of the Plan should be described as illustrative, to allow some flexibility in the layout. The proposed highway improvements proposed by the Steering Group appear reasonable in principle having regard to the increased burden placed on the local road network and for reasons of traffic and pedestrian safety close to the school and cemetery. Whilst I note that Norfolk County Council (the Highway Authority) supported the Plan's Vision, Aims and Objectives (pages 23 and 24 of the Plan) and the approach to infrastructure, detailed consideration of the precise improvements appropriate may need further consideration as the housing layouts are designed. This further underpins the need for a masterplan approach for this area, including arrangements for the timing of the provision for these improvements, which may be prior to first occupation of the new housing, or at least early in the delivery programme. For these reasons Map 6, should be re-titled, to indicate that the infrastructure improvements to sought to reduce traffic speeds and improve pedestrian safety close to the school and cemetery are **illustrative**.
- 5.32 Similarly, it is not clear to me that the need for additional visitor parking close to the cemetery is for 6 cars and the car parking provision for the school should be for 40 cars, although those figures may be correct. These matters together with



the appropriate traffic calming methods close to the school and cemetery should be resolved at the masterplan stage rather than being prescribed in the SMNP. Accordingly, I have recommended further revisions to the supporting text in the SMNP, reflecting the need for additional flexibility in the design and extent of the traffic safety enhancements to be provided, whilst recognising that improvements are nonetheless necessary if sustainable development is to be delivered.

- 5.33 The site is well placed for access to Dereham and Norwich and as a “service village” Swanton Morley is an attractive location in which to live. The likely timescale in delivering the new housing stock has not been subject to any detailed assessment, although an indication might be inferred from Table 1 in the SMNP which considers the delivery of dwellings in the village over almost the last 80 years. The delivery and take-up over this period has averaged less than 6 dwellings per year, but that I suspect may be misleading on the basis that supply has been skewed towards small sites, of about 20 dwellings on average. Nonetheless, subject to market conditions and market cycles, the capacity to absorb a development of this scale in Swanton Morley may take many years to build out. There has been no suggestion that taken together with an appropriate delivery of affordable housing, that this scale of development could not support a conventional burden of planning obligations, including what would appear to be relatively modest improvements contained in Policy 3 related to these three green-field sites. Certainly, there appears to have been strong landowner support for the allocation of these three sites for this scale of development.
- 5.34 Accordingly, I recommend that Policy 3 be subject to some amendment with a view to encouraging a comprehensive approach to the planning and delivery of a sustainable housing development on this comparatively large housing opportunity in Swanton Morley. The proposed amendments to the proposed policy are detailed in Appendix D by way of tracked changes and in Appendix E on the basis that the recommendation is accepted.
- 5.35 Alterations to the supporting text as indicated in Appendix D and E are also recommended. The justification for the proposed alterations to Modification Consultation Policy 3: Enabling Growth on Sites, is as follows:

- i) As explained above in paragraph 5.30, a masterplanned approach would be desirable since it is not clear when each of the three housing allocation sites will be brought forward. The Masterplanned approach would provide a development framework for the development of these three sites over the life of the SMNP to assist in delivering the necessary infrastructure and planned benefits from each of these three development areas;

5.36 **Policy 4: Housing for the Local Community (Local Lettings)**

5.37 *Examiner's proposed modification – not accepted*

5.38 PM8: Delete the Policy and its supporting text at paragraphs 6.60 – 6.77.

5.39 *Consideration of the Examiner's proposed modification by BDC*

5.40 Having sought legal advice, the Council considered that the examiner could have concluded that the policy was a land-use policy. Notwithstanding this point, to be effective, the Council's own housing allocations policy would need to be amended to allow locally set approaches to be implemented. The Council's Housing Allocations policy has been amended including relevant consultation to provide the ability for the District Council to support the inclusion of Local Lettings Policies. As such, the principle of a Local Lettings Policy consistent with the Council's Housing Allocations policy is acceptable to the Council. Therefore, in the light of this new fact, the deletion of the policy would not be necessary to make the plan meet the basic conditions. However, in order to ensure the policy is effective, it would need to be modified to meet those conditions. As such, a modified policy is able to meet the basic conditions.

5.41 *Modified Policy and supporting text which is the subject of this Modification Consultation examination*

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

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.

A local connection is defined by one or more of the following;

- Households containing one or more individuals who have resided within Swanton Morley parish for the last three years**
- 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**
- Households where one or more member has been employed within the parish of Swanton Morley for three years**
- Former residents of Swanton Morley parish who have lived in the parish for at least 3 years of the past 6 years.**

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.

- 5.42 The first matter to consider is whether local lettings policies are bona fide land use planning policies.
- 5.43 This is a frequently addressed topic in neighbourhood planning. Allocating social housing is a matter for housing management and is not generally regarded as a land use planning matter, but requirements can be managed by a legal agreement linked to development. It also risks conflict with EU rules around free movement. The question of who qualifies for access to such housing and how the 'local connection' is defined and advanced by policy in various ways. Examples of satisfactory local lettings policies are provided by

Locality⁴ in its advice on policy writing for those preparing neighbourhood plans. I have previously examined neighbourhood plans containing local lettings policies and have found these acceptable in rural communities where local need is evident and where some members of the community are unable to secure market housing but have local connections which may justify residency within the geographic area, thereby encouraging vitality and securing community cohesion. This goes to the heart of neighbourhood planning. Accepted advice is that in preparing neighbourhood plans there should be liaison between the housing and planning departments of local planning authorities to assess need and the approach towards addressing homelessness. I do not quarrel with the assessment of Mr.Whitehead (previous examiner) that at the time of his earlier examination, that proposed Policy 4 was not at that time a legitimate land use planning policy. However, I have been advised by BDC following correspondence with SMPC that BDC's Housing Allocations Policy has continued to evolve which now allows for local lettings policy to be applied to affordable housing in Breckland⁵. The relevant correspondence is provided in Appendix F together with the revised policy. Local lettings policies are now frequently to be found in neighbourhood plans based on need and are generally justified through the need to:

- Establish and sustain a mixed, stable and balanced community;
- Foster a sense of ownership and community; and
- Make best use of the existing social housing stock by releasing where possible under-occupied larger family units.

5.44 I further note that the Breckland Council Allocations Policy⁶ (se Appendix F to this report) includes a District-wide local connections component in allocating social housing as part of its responsibility under the Housing Act 1996 s166A (as amended by the Homelessness Act (1996) and the Localism Act (2011)) to have an allocation scheme for determining the priorities and defining the

⁴ Writing planning policies, Tony Burton, Locality, September 2014 <https://mycommunity.org.uk/wp-content/uploads/2016/08/Writing-planning-policies-v51.pdf>

⁵ Letter of 10th June from Mr. Roger Atterwill, Clerk to Swanton Morley Parish Council to Susan Heinrich, Breckland District Council.

⁶ Breckland Council Allocations Policy, BDC, 2012, revised 2016

procedures to be followed in allocating affordable housing accommodation. Affordable housing is partly provided through the operation of the planning system in connection with new development through s106 agreements and I therefore have no doubt that there is a sufficient nexus for a need based local lettings policy in the Swanton Morley NP.

- 5.45 No comments were received from any party as part of the Regulation 18 consultation in respect of Policy 4.
- 5.46 In seeking clarification on certain matters on 4th June 2019 from BDC, I was interested to establish the justification as to why the local lettings policy should apply only upon first letting and whether, subject to need, this might apply in perpetuity. Mr. Atterwill, Chairman of the SMPC replied to BDC that the Steering Group considered that an amendment to Policy 4, suggested by the Swanton Morley Steering Group would align more satisfactorily with the Breckland Housing Allocations Policy and community aspirations.
- 5.47 It subsequently transpired on checking the fact check version of the report that the Housing Allocations Policy of BDC had altered by a resolution of the Council made on 8th April 2019 making provision for local lettings associated with emerging neighbourhood plans within the District. The policy in relation to local lettings in neighbourhood plans now reads as follows:

“Where a community adopts a neighbourhood plan that facilitates additional housing supply by allocating sites within their neighbourhood plan for housing over and above those sites already allocated by the local authority to meet the district wide need, Breckland Council will, in relation to any affordable housing secured on those additional named and allocated sites, give preference to applicants with a local connection to the Parish, subject to the requirement to give reasonable preference as detailed in this policy.

This approach will only be applied where it is supported by corresponding policies within an adopted neighbourhood plan. The housing types will be agreed in conjunction with the landlord and the local authority, taking into account matters relating to evidence of housing need, development viability, deliverability and prevailing local and national policy. The nomination arrangements relating to individual sites will be captured in specific lettings agreements, which will run with the identified properties for the lifetime of the development.

Matters of eligibility and priority will be determined in accordance with the full provisions of this allocations policy.”

- 5.48 In order that the SMNP local lettings policy conforms to the recently adopted revised housing allocations policy, I recommend the revisions to Policy 4: Housing for the Local Community (Local Lettings), as indicated in Appendix D (tracked changes and Appendix E (clean). These support the provision of local lettings within affordable housing provided on 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 to meet the housing needs of the parish. The Plan would thus seek to ensure that eligible households with a local connection to the parish of Swanton Morley are given preference for the lifetime of the development.
- 5.49 The last paragraph of Policy 4, relating to housing mix would be more appropriate to consider under Policy 15 and I consider this aspect in relation to that policy below. Also, since matters of eligibility and priority will be determined in accordance with the prevailing housing allocations policy of the local housing authority, there is no need to reference this in this town planning policy. I therefore recommend that the last paragraph of this policy should be deleted from Policy 4.

5.50 **Modification Consultation on Objective d)**

- 5.51 Regarding the Modification Consultation on Objective d), this was recommended for deletion by the previous examiner in his report at PM23 Page 24. This was not accepted by BDC and was proposed to be reinstated in as provided in BDC’s Modification Consultation Report and as shown below, BDC’s justification being:

“In light of the Council’s consideration of Examiner’s recommendation PM8 (Policy 4, Local Lettings), as objective d) is the objective from which Policy 4 then flows, as the proposal is not to accept this recommendation it follows that objective d) should remain in the plan to provide the link between plan objective and policy.”

Modification Consultation – text for re-examination

d) To support new housing that meets the local needs, is affordable and made available to people from Swanton Morley first.

5.52 Since I have recommended that Policy 4 (with recommended alterations) should be re-instated in the SMNP, it follows that I also recommend that Objective d should also be re-instated. Having regard to the revised Breckland Council Housing Allocations Policy, adopted by the Council on 8th April 2019, concerning the special conditions applicable where neighbourhood plans promote housing allocations greater than the housing expectations for the Neighbourhood Area anticipated in “additional named and allocated sites” to meet district wide need, preference will be given by Breckland District Council to any affordable rent tenure housing to applicants with a local connection to that Parish for the lifetime of the development. Objective d) as drafted in the SMNP would only be met where development of housing on land allocated in the SMNP is additional to the site(s) allocated by BDC. Accordingly, it would not always be feasible to deliver Objective d) as drafted. The objective would be attainable having regard to District housing allocation policy if revised by deleting the word “first” at the end of the statement in Objective d). I therefore recommend that Objective d) be revised as indicated in in Appendix D (tracked changes and Appendix E (clean).

5.53 **Policy 6: Delivery of Planning Obligations**

5.54 *Examiner’s proposed modification – not accepted was as follows:*

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

5.55 *Consideration of the Examiner’s proposed modification by BDC.*

5.56 The Council has committed to supporting Town and Parish Councils who may become the receiving body for particular local infrastructure (such as open space, street lighting etc) to include appropriate mechanisms in Planning Legal agreements.



- 5.57 As such, the principle of a policy that supports a cascade approach linking to this Breckland Council initiative is acceptable. However, the submitted wording of Policy 6 is not appropriate as the. *(sic)* The Council has committed to reviewing its Statement of Community Involvement to set out how it will engage with all Town and Parish Council's, including understanding their community asks as part of seeking planning obligations.
- 5.58 An amended policy that reflects this position is capable of meeting the basic conditions and as such this recommendation is not supported.
- 5.59 *Modification Consultation – Reinstate Policy 6 for re-examination with amended wording as follows:*

Policy 6: Delivery of Planning Obligations

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. Applicants are advised that early engagement with the Parish Council to seek local input to any such statement is encouraged.

6.86. Delivery of Planning Obligations

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.

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.

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'.

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.

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.

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 the required standard as the section 106 failed to. See Appendix 7 for more specific details, timescales and those directly involved in the situation.

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.

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.

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.

6.96. With the involvement of Swanton Morley 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.

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.

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.

6.99. Community Feedback: *Consultation on the emerging Neighbourhood Plan revealed the following key issues in relation to this theme that the policy seeks to address:*

√ *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 disagreeing.*

√ *More affordable housing specifically for local people and/or first time buyers: 92% strongly agree, or agree and with 8% unsure and zero% disagree.*

√ *New development should provide new community facilities and services: 95% strongly agree, or agree and with 5% unsure and zero% disagree.*

Ensure infrastructure expands with new development: 100% strongly agree.

6.100. The following plans, documents and strategies support Policy 6:

- *National Planning Policy Framework*
- *Localism Act 2011*
- *Town and Country Planning Act 1990*
- *Swanton Morley Neighbourhood Plan Sustainability Appraisal Scoping Report (July 2016)*
- *Swanton Morley Village Appraisal Report (2004)*

6.101. Contributes to and supports Swanton Morley Neighbourhood Plan Objectives (a), (d), (f) and (h).

5.60 Proposed Policy 6 did not give rise to any Regulation 18 consultation comment. The proposed policy conforms to national guidance in the NPPF and would not conflict with guidance in the Planning Practice Guidance, or policy within the

Adopted Core Strategy and Development Control Policies Development Plan Document.

- 5.61 It is clear that in the past the Parish Council has been disappointed to the extent that s106 agreements have not delivered the planning obligations considered appropriate to overcome planning harm in relation to certain planning applications approved by the District Council within the neighbourhood area. Proposed Policy 6 will encourage joint working and hopefully a consensus between SMPC and BDC as local planning authority as well as encourage applicants to explore with both the Parish Council and BDC the extent of any planning obligations necessary to ensure that development proposals which otherwise would be unacceptable, provide appropriate mitigation.
- 5.62 I recommend a minor modification to the policy as shown in Appendix 2 (tracked changes) and Appendix 3 (clean text) which I consider would align the policy more closely with national planning policy guidance.
- 5.63 In relation to the supporting text for Policy 6 in the SMNP, this would benefit from substantial revision to encourage joint working between the two councils. In certain circumstances it may be appropriate for SMPC to be a party to a planning obligation. That is not a matter that requires to be considered as a matter of policy and I note that such a proposal no longer features as a policy proposition within the policies under examination. Any decision to accede to such a proposal would be at the discretion of BDC as local planning authority in its capacity as town planning decision taker and in its further capacity as the party authorised to exercise town planning enforcement powers.
- 5.64 I recommend that the supporting text should be revised as indicated in Appendix D (tracked changes) and Appendix E (clean text).
- 5.65 **Policy 7: Local Green Space**
- 5.66 *Examiner's proposed modification – not accepted*
- 5.67 PM11 Pages 52 – 54: Delete item 3, Middleton Avenue. Map 8 will require amendment to delete the area adjacent to Middleton Avenue.
- 5.68 *Consideration of the Examiner's proposed modification by BDC*

- 5.69 The Council's representation at Regulation 16 stage in relation to land at Middleton Avenue was made at a time when the Council's aspirations for that land (which is in its ownership) was unresolved. Since those representations were made, the Council no longer considers that the land should be pursued for other uses and the land at Middleton Avenue should not be deleted from the policy. However, the Council considered that the amendments to the final sentence of the Policy are necessary for it to meet the basic conditions.
- 5.70 *Modification Consultation - Policy and text for re-examination proposed by Breckland District Council*
- 5.71 **Middleton Avenue is retained as item 3 & in row 3 at Appendix 2 – Table 8.**
- 5.72 No comment raised concerning this policy proposal as a consequence of the Regulation 18 consultation.
- 5.73 It is clear that since the earlier examination in 2018, the position regarding the future of the Middleton Avenue site had been clarified by the time that the Modification Consultation proposal were drafted. To assess the policy, the matters that need to be taken into consideration and criteria that need to be satisfied in designating LGS are set out in the NPPF (2012) at paragraph 77. This states that the designation should only be used:
- where the green space is in reasonably close proximity to the community it serves;
 - where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquility or richness of its wildlife; and
 - where the green area concerned is local in character and is not an extensive tract of land.
- 5.74 Circumstances had changed by the time that the Modification Consultation was prepared, as explained by BDC. Previously the future of the land at Middleton Avenue (owned by the Council) was unresolved. By this time the Modification Consultation was being prepared, the Council no longer considered that this land should be pursued for other uses, but rather would be appropriate to be designated as Local Green Space.

- 5.75 From my site inspection on 2nd May, I consider that the Middleton Avenue site meets the criteria for designation as LGS and I accept that this small area holds local significance and potential for recreational use for local residents. Such a decision would also be compatible with the approach to LGS designation in the earlier SMNP examination, but now having regard to the change in circumstances pertaining to the future of the Middleton Avenue site.
- 5.76 However, with respect to the First Examiner's opinion, I am not convinced that Local Green Spaces need to possess an "essential open character". There is no suggestion that "open character" is an essential attribute of Local Green Space in advice contained in the NPPF as outlined above (see Paragraph 5.72).
- 5.77 Accordingly, I recommend that the First Examiner's proposed for the last sentence of Policy 7 should be further amended as follows;
- Applications for development which would adversely affect the function and ~~essential open local~~ character of designated Local Green Space will not be ~~supported-permitted~~ unless very special circumstances can be demonstrated.**
- 5.78 No alteration to the supporting text is necessary, other than to paragraph 6.119 of the submission version where, "Local Green Space" should be expressed as a proper noun.
- 5.79 No alteration to Map 8 in the SMNP submission version is required.
- 5.80 These recommendations acknowledge the role of BDC as decision maker and the consultative role of SMPC and are shown in Appendix D by tracked changes and shown in the clean text in Appendix E.
- 5.81 **Habitats Regulations screening incorporating Appropriate Assessment**
- 5.82 The consequence of the second habitats regulation screening and Appropriate Assessment (December 2018) was an acknowledgement that the proposed

housing development in the SMNP would result in recreational disturbance, but 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). Also, any such CEMP should also include specific measures for surface water management. The assessment concluded that no adverse impact on water quality had 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. The proposed modification is considered below.

5.83 **Policy 14: Flooding**

5.84 *Modification Consultation - Policy for re-examination:*

5.85 New bullet point number nine proposed as follows:

- **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.....**

5.86 On 14th March, Mr Patrick Robinson of Natural England confirmed to BDC by email that NE agreed with the conclusions of the SWNP HRA December 2018 – Screening Report with Appropriate Assessment. This was subsequent to the general response in NE's consultation reply of 28th February which I found to be ambiguous due to NE's earlier concerns expressed in 2018, prior to completion of the December 2018 SWNP HRA December 2018 – Screening Report with Appropriate Assessment. I have no reason to doubt NE's expert opinion in Mr. Robinson's observations of 14th March 2019 and in the absence of other consultation comments on this policy conclude that the proposal that Policy 14 should include the further bullet point, that a CEMP should be

provided and agreed with the LPA prior to implementation of a planning permission for development of any of the allocated sites, covering any works and include specific measures to avoid matters relating to surface water management.

- 5.87 Concerning the supporting statement relating to Policy 14, I consider that the advice contained in paragraph 6.195 of the SMNP (submission version) is adequate to cover the provisions contained in the additional bullet point proposed in the Modification Consultation for Policy 14. I am not required to consider the rest of Policy 14 in relation to this examination. The Modification Alteration for Policy 14 is shown In Appendix D (with one tracked change) and in Appendix D (clean text).
- 5.88 I therefore conclude that subject to the inclusion of an agreed CEMP with the LPA as indicated in the ninth bullet point of the policy, prior to the implementation of development of an allocated site, including specific measures to avoid issues relating to matters concerning surface water management, the Basic Conditions will be met concerning the development of allocated sites for new housing.
- 5.89 **Policy 15: Housing Mix**
- 5.90 *Examiner's proposed modification – not accepted*
- 5.91 PM19 Pages 75 and 78: Replace the first sentence and bullet points of the Policy with the following; **“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.”**
- 5.92 *Consideration of the Examiner's proposed modification by BDC.*
- 5.93 The Examiner considered that the policy as drafted did not conform to the mix set out in the Central Norfolk Strategic Housing Market Assessment.
- 5.94 National Planning Practice Guidance (NPPG) states “establishing future need for housing is not an exact science; no single approach will provide a definitive answer”. Furthermore, the Planning Advisory Service (PAS)

guidance “Objectively Assessed Need and Housing Targets also states that “Whilst in general local planning authorities are strongly recommended to use the standard methodology set out in the guidance (i.e. SHMA), departure from that may be justified in terms of specific local circumstances. Therefore, the Council considers that the local evidence provided provides justification for a local policy.

- 5.95 However, the Examiner’s removal of the range guidance in the policy could have been maintained with some alternative modifications to meet the basic conditions. These include changes to policy wording to make the policy less restrictive, as well as reflecting the consideration of other evidence by the Local Authority in agreeing the mix of housing.
- 5.96 The Examiner also considered that the lack of regard to viability affected his ability to conclude that the submitted policy met the basic conditions but did not provide a modification to address this point notwithstanding a representation made at Reg 16 on this point.
- 5.97 The Council considers that in light of the above that alternative amendments could be made to the policy so that it meets the basic conditions.
- 5.98 *Modification Consultation - Policy and text for re-examination is set out below:*

Policy 15: Housing Mix

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. Mix:

- **1-bedroom dwellings: range 10% to 15% of all dwellings**
- **2-bedroom dwellings: range 25% to 30% of all dwellings**
- **3-bedroom dwellings: range 30% to 40% of all dwellings**
- **4-bedroom and larger dwellings: range 15% to 20% of all dwellings**

Developments that wish to provide a higher percentage of 1 and 2 bedroom dwellings in lieu of larger (3 plus bedroom dwellings) will be welcomed.

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.

Amend supporting text by deleting the first sentence of paragraph 6.205 as follows:

6.205. ~~There does not appear to be an existing policy on housing mix for the district or one as part of the emerging Local Plan. 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.~~

- 5.99 In reflecting on the housing mix policy, it is clear that the evidence to support a housing mix policy to meet the specific local housing need in Swanton Morley is explained in the supporting statement to Policy 15. This need as articulated in the supporting statement particularly reflects that of young households for accommodation in the parish, whether market or affordable housing, in addition to the need of the elderly seeking to down-size from larger housing stock within the locality. Notwithstanding that this need is skewed towards the provision of a greater number of smaller dwellings, particularly from the larger housing sites, the dwelling mix presented in the draft policy fails to properly reflect the identified need demonstrated in the supporting statement. In the supporting text to the policy, the guidance on tenure mix for affordable housing is unclear. The structure of the policy is also unusual. The policy provides a broad range of “target” housing percentages for developments providing more than 10 dwellings, but the policy is content to support proposals which provide a greater proportion of 1 and 2 bed dwellings than indicated in the policy target bands identifying the target dwelling mix. The third limb of the policy provides that in any event, the final mix of housing types will be determined by the local authority, based on appropriate up to date housing need evidence and taking into account other relevant matters such as viability, deliverability and prevailing local and national policy. It is therefore unclear what purpose this policy might serve because:

- a. The SMNP target housing percentages in the policy, related to housing types by reference to number of bedrooms, does not adequately reflect local need as explained in the supporting statement, but nonetheless;
- b. The policy accepts that a higher percentage of 1 and 2 bedroom dwellings and a lower percentage of dwellings with more than 3 bedrooms would also be supported; however
- c. 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.

5.100 Draft Policy 15 is fundamentally weak because;

- i. it is not justified appropriately by the proposed supporting statement; and
- ii. the policy ultimately may be over-ridden at the discretion of the LPA, subject to using “appropriate up to date housing need evidence,” as the LPA determines.

5.101 In practice, this policy would simply encourage developers to seek pre-application advice from BDC in relation to appropriate housing mix, without reference to the SMNP. For these two reasons this policy, as drafted is not acceptable and would require radical restructuring in order that it might satisfy the basic conditions test. I therefore recommend that this policy should be deleted from the SMNP, together with the supporting statement (paragraphs 6.201- 6.222 inclusive of the SMNP) and all related references to it, as shown, for avoidance of doubt in Appendix D (tracked changes) and Appendix E (clean).

Summary of findings

6.1 I set out the summary of my findings below.

6.2 Only a draft Neighbourhood Plan that meets each of a set of basic conditions can be put to a referendum and be made. These basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:

a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).

b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. (This applies only to Orders.)

c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders.

d. the making of the neighbourhood plan contributes to the achievement of sustainable development.

- 6.3 Subject to the recommended modifications in this examination report being accepted, the Modification Consultation SMNP policies taken together with the policies previously agreed following the conclusion of the initial examination of the Plan, would meet basic condition a. through supporting the delivery of strategic policies contained in the adopted strategic planning policies of Breckland District Council and the guidance in the NPPF 2012 at paragraph 184, by not promoting less development than set out in the strategic policies for the area, or by undermining those strategic policies.
- 6.4 The SMNP will contribute to the delivery of sustainable development within the Parish as indicated in this examination report in so far as the policy recommendations in this examination report confirm that policies are supported by sufficient and proportionate evidence. Consideration of these to development proposals will assist in delivering sustainable solutions in the neighbourhood area, taken together with the policies as modified at the conclusion of the initial examination, thus satisfying condition d.
- 6.5 *e. the making of the order (or neighbourhood 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).*
- 6.6 As demonstrated by the consideration of the draft policies in the submission draft version of the SMNP by reference to the Basic Conditions Statement and

consideration in the initial examination and this Modification Consultation examination, subject to the recommended policy changes being incorporated, and made, the SMNP will be in general conformity with the strategic policies contained in the development plan for the area and will not undermine those policies.

6.7 *f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.*

6.8 As demonstrated in this examination report which assesses the policies contained in the Modification Consultation and taken together with the policies, as amended consequent upon the initial examination of this Plan the policies in the SMNP are compatible with European Union obligations, as incorporated into UK law, and appear legally compliant. The relevant Directives are:

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment. (The Strategic Environmental Assessment (SEA) Directive); and.

Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (The Habitats Directive).

6.9 Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) prescribes a further basic conditions in addition to those set out in the primary legislation, that in the making of the neighbourhood plan, the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (which sets out the habitat regulation assessment process for land use plans, includes consideration of the effect on habitats sites) will not be breached. This is confirmed in the analyses undertaken in the recent Habitats Regulation Assessment including Appropriate Assessment. Accordingly, the making of the Swanton Morley Neighbourhood Plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010(30)) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007(31)) (either alone or in combination with other plans or projects).



- 6.10 In addition to conforming to its EU obligations, I am content that the Plan does not breach, and is not otherwise incompatible with the European Convention on Human Rights.
- 6.11 *g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).*
- 6.12 In accordance with the Town and Country Planning Act, 1990 Schedule 4B, Paragraph 5, I am satisfied that the submission plan proposal is not a 'repeat' proposal (i.e. the District Council has not refused a submission under paragraph 12 or Section 61E and it has not failed a referendum).
- 6.13 I am satisfied that Swanton Morley Parish Council is the body who submitted Modification Consultation proposals in conjunction with Breckland District Council for the purposes of making a neighbourhood development plan.
- 6.14 As required by the Planning and Compulsory Purchase Act 2005, Section 38B (1) (c), I am also satisfied that the SMNP does not relate to more than one neighbourhood area and that there is no other Neighbourhood Development Plan in place within this neighbourhood area.
- 6.15 Concerning the requirement to comply with the requirements of the Town and Country Planning Act, 1990 Schedule 4B, Paragraph 6 (2) (c) and the Neighbourhood Planning (General) Regulations (as amended) – Regulation 15, I confirm that the following have been submitted in a satisfactory form for the purpose of the examination:
- (i) A map identifying the area to which the Plan relates;
 - (ii) A consultation statement (which contains details of those consulted, how they were consulted, summarises the main issues or concerns raised and how these have been considered and where relevant addressed in the proposed neighbourhood development plan under Regulation 15 (2) (a);
 - (iii) The proposed neighbourhood development plan; and
 - (iv) A statement explaining how the neighbourhood development plan meets the 'Basic Conditions' requirements of paragraph 8 (2) of Schedule 4b to the 1990 Act;



- 6.16 As to the public consultation which took place in relation to the Modification Consultation, between 18th January and 1st March 2019, the process and management of the community consultation has been satisfactory and I am confident that the Modification Consultation Report outlining the terms of reference and proposed policy changes meets actions of SMPC and, consultation correspondence and feedback adequately fulfils Part 8 of the Neighbourhood Planning Regulations 2012 and Section 30 of these Regulations in relation to publicising the consultation opportunities following the preparation of the Modification Consultation for the relevant policies of the SMNP.
- 6.17 The Modification Consultation policies have been examined against national policies in the NPPF (2012), with appropriate consideration given to the NPPF 2019 (February revisions) and NPPG (revised May 2019) where appropriate, in addition the adopted planning policy of Breckland District Council.
- 6.18 The SMNP meets the definition of a 'Neighbourhood Development Plan' in that it sets out policies in relation to the development and use of land in the neighbourhood area and therefore complies with the requirement of the Planning and Compulsory Purchase Act 2005, Section 38A (2).
- 6.19 The 'Neighbourhood Development Plan' (as defined under Section 38A), specifies the time period for which it is to have effect in paragraph 1.5.1 of the Plan, as being from 2016 - 2036 thereby satisfying the requirement of the Planning and Compulsory Purchase Act 2005, Section 38B (1) (a).
- 6.20 I confirm that the SMNP does not include any policies relating to excluded development, including minerals, waste or nationally significant infrastructure projects, as defined s61K of the Town & Country Planning Act 1990 (as amended). Thus, the requirement of the Planning and Compulsory Purchase Act 2005, Section 38B (1) (b) is also satisfied.

Conclusions and Recommendations

- 7.1 I conclude that the Modification Consultation policies, subject to my recommended alterations being accepted as set out in this examination report, would, taken together with the earlier accepted policy amendments and related modifications to the supporting text, meet the Basic Conditions as defined in the



Localism Act 2011, Schedule 10 and Schedule 4B, 8 (2) of the Town and Country Planning Act 1990, which a neighbourhood plan is required to satisfy before proceeding to a referendum, namely:

- (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Swanton Morley Neighbourhood Plan;
- (b) having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the SMNP;
- (c) having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the SMNP;
- (d) the making of the SMNP will contribute to the achievement of sustainable development;
- (e) the making of the SMNP would be 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 SMNP would not breach, and is otherwise compatible with, EU obligations; and
- (g) prescribed conditions are met in relation to the SMNP and prescribed matters have been complied with in connection with the proposal for this neighbourhood plan.

- 7.2 If the recommendations in this examination report to the Modification Consultation policies of the submission version of the SMNP are accepted by Breckland District Council as the local planning authority, together with the accepted policy alterations following the initial examination of the submission draft SMNP, the Plan as modified in combination, should be submitted to a referendum.

Referendum Area

- 7.3 If the SMNP is taken forward to referendum, then I consider that the appropriate referendum area should extend to the Designated Plan Area.

Jeremy Edge BSc FRICS MRTPI
18th September 2019



Appendix A

Proposed modifications in the Examiner's Report dated 19 January 2018 not accepted by Breckland District Council.

Proposed Modification PM6, PM7, PM8, PM10, PM11, PM19 & PM23 as listed in the Examiner's Report dated 19 January 2018 and not accepted by Breckland District Council.

PM6

Policy 2

Amend the Policy wording as follows:

"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:

1)LP(098)013;

2)LP(098)014 and

; and

3)LP(098)016

A planning application for this three allocated residential sites will be supported where it complies with the other policies..."

Amend Paragraph 6.11 to read: "...with no fewer than 14,925 15,298 new homes across the Breckland District between 2011 and 2036."

Delete the following paragraphs of the supporting text:

Paragraphs 6.24, 6.26 - 6.28.

Paragraphs 6.31 and 6.32 will require substantial revision removing references to the Local Plan Preferred Options and Settlement Boundaries (Sept 2016) to take account of the progress of the emerging BLP.

Delete paragraphs 6.33 - 6.35.

Delete Map 5 and replace with a map showing the allocated site.

Amend paragraph 7.5.2 (sic) to read:

"...and provide for no less than 14,925 15,298 new homes between 2011 and 2036.

PM7

Policy 3

The Policy and its supporting text at paragraphs 6.43 - 6.59 should be deleted in their entirety.



PM8 **Policy 4**
The Policy and its supporting text at paragraphs 6.60 - 6.77, and related appendices 6 and 8 should be deleted in their entirety.

PM10 **Policy 6**
The Policy and its supporting text at paragraphs 6.86 - 6.101, and related Appendix 7 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.

PM11 **Policy 7**
Delete item 3, “; and 3) Middleton Avenue”.

Amend the final sentence as follows:

“Applications for development ~~on the identified local green spaces~~, which would adversely affect their function, **and essential open character as of designated open Local Green Spaces** will not be permitted **unless very special circumstances can be demonstrated.**”

Map 8 will require amendment to delete the area adjacent to Middleton Avenue.

PM19 **Policy 15**
Replace the first sentence and bullet points of the Policy with the following:

“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.”

PM 23 Delete paragraph 6.205.

Objectives

Replace the reference to “historical assets” in Objective (c) with *“heritage assets”*;

Delete Objective (d).

Appendix B

Modification Consultation - Policy and text for re-examination

Modification Consultation - Policy and text for examination

Policy 2: Growth in the Right Places

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:

- 1) LP(098)013;**
- 2) LP(098)014; and**
- 3) LP(098)016**

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 paragraph 6.24 from the supporting text as follows:

~~6.24. The initial Brockland Local Plan Preferred 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.~~

Policy 3: Enabling Growth on Sites LP(098)014 and LP(098)016

Development on sites LP(098)014 and LP(098)016 is to be in conjunction with site

LP(098)13, and:

- 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. 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;**
- 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;**
- d. provision of a continuous vehicle, cycle and pedestrian access from Rectory Road to Manns Lane; and**
- e. provision of a footpath and cycleway from Rectory Road to Manns Lane.**

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'

6.53. These enhancements should also include the provision within site LP(098)016 for a layby 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'.

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

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.

A local connection is defined by one or more of the following;

- Households containing one or more individuals who have resided within Swanton Morley parish for the last three years**



- **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**
- **Households where one or more member has been employed within the parish of Swanton Morley for three years**
- **Former residents of Swanton Morley parish who have lived in the parish for at least 3 years of the past 6 years.**

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.

Housing objective d) (Modification Consultation text without alteration)

d) To support new housing that meets the local needs, is affordable and made available to people from Swanton Morley first.

Policy 6: Delivery of Planning Obligations

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. Applicants are advised that early engagement with the Parish Council to seek local input to any such statement is encouraged.

6.86. Delivery of Planning Obligations

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.

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.

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'.

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.

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.

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 the required standard as the section 106 failed to. See Appendix 7 for more specific details, timescales and those directly involved in the situation.

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.

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.*

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.*

6.96. *With the involvement of Swanton Morley 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.*

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.*

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.*

6.99. **Community Feedback:** *Consultation on the emerging Neighbourhood Plan revealed the following key issues in relation to this theme that the policy seeks to address:*

} 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 disagreeing.

} More affordable housing specifically for local people and/or first time buyers: 92% strongly agree, or agree and with 8% unsure and zero% disagree.

} New development should provide new community facilities and services: 95% strongly agree, or agree and with 5% unsure and zero% disagree.

} Ensure infrastructure expands with new development: 100% strongly agree.

6.100. *The following plans, documents and strategies support Policy 6:*



- *National Planning Policy Framework*
 - *Localism Act 2011*
 - *Town and Country Planning Act 1990*
 - *Swanton Morley Neighbourhood Plan Sustainability Appraisal Scoping Report (July 2016)*
 - *Swanton Morley Village Appraisal Report (2004)*
- 6.101. *Contributes to and supports Swanton Morley Neighbourhood Plan Objectives (a), (d), (f) and (h).*

Policy 7: Local Green Space

Middleton Avenue is retained as item 3 & in row 3 at Appendix 2 – Table 8

Policy 14: Flooding

New bullet point number nine:

- **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**

Policy 15: Housing Mix

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. Mix:

- **1-bedroom dwellings: range 10% to 15% of all dwellings**
- **2-bedroom dwellings: range 25% to 30% of all dwellings**
- **3-bedroom dwellings: range 30% to 40% of all dwellings**
- **4-bedroom and larger dwellings: range 15% to 20% of all dwellings**

Developments that wish to provide a higher percentage of 1 and 2 bedroom dwellings in lieu of larger (3 plus bedroom dwellings) will be welcomed.



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.

6.205. ~~There does not appear to be an existing policy on housing mix for the district or one as part of the emerging Local Plan. 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.~~

Appendix C

Background Documents

In examining the Modification Consultation policies of the SMNP, subject Regulation 18 consultation, I have had regard to the following documents:

1. Swanton Morley Parish Council Neighbourhood Plan 2017-2037, submission version.
2. Swanton Morley Neighbourhood Plan – Basic Conditions Statement June 2017
3. Swanton Morley Neighbourhood Plan – Consultation Statement June 2017
4. Swanton Morley Neighbourhood Plan – Sustainability Appraisal, Final Report and Non - Technical Summary may 2017
5. Swanton Morley Neighbourhood Plan – Habitat Regulations Assessment (HRA) Screening May 2017
6. Procedural Letter, Mr Whitehead to the Clerk to Swanton Morley Parish Council, 3rd October 2017
7. Procedural Letter, Mr Whitehead to the Clerk to Swanton Morley Parish Council, 12th October 2017
8. Swanton Morley Parish Council reply to Mr. Whitehead, 20th October 2017
9. Swanton Morley Neighbourhood Plan – Pre-Submission Consultation Version
10. Breckland District Council – Report on Site Selection, August 2017
11. Breckland Local Plan Preferred Site Options and Settlement Boundaries, September 2016, (Regulation 18 consultation)



12. Report on Swanton Morley Neighbourhood Plan 2017- 2037, June 2017 submission version by Patrick T Whitehead DipTP (Nott), MRTPI, 19 January 2018
13. Swanton Morley Neighbourhood Plan – Decision on examiners recommendations September 2018
14. Swanton Morley Neighbourhood Plan – Proposed Modifications – Appendix A, comprising schedule of consideration of examiners changes,(Appendix to the decision on examiners recommendations) September 2018
15. Decision Statement on the Independent Examiner’s Report - Swanton Morley Neighbourhood Plan
16. Swanton Morley Neighbourhood Plan - Representation summary of Regulation 18 Consultation
17. Representation from Norfolk County Council - Regulation 18 Consultation 4th February 2019
18. Representation from Anglian Water - Regulation 18 Consultation 4th February 2019
19. Representation from Norfolk County Council - Regulation 18 Consultation 4th February 2019
20. Representation from Historic England - Regulation 18 Consultation 14th February 2019
21. Representation from Hopkins Homes Limited - Regulation 18 Consultation 28th February 2019
22. Representation from Natural England - Regulation 18 Consultation 28th February 2019
23. Swanton Morley Neighbourhood Plan - Modification Consultation (Regulation 18) Report on the Independent Examiners Report and Annex, Breckland District Council (undated)

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24. Swanton Morley Neighbourhood Plan - Modification Consultation (Regulation 18) Representation Form
 25. Swanton Morley Neighbourhood Plan Habitat Regulation Assessment, December 2018, Screening Report with the Appropriate Assessment
 26. Planning (Listed Buildings and Conservation Areas) Act 1990
 27. The Community Infrastructure Levy Regulations 2010
 28. Localism Act 2011
 29. Neighbourhood Planning (General) Regulations 2012
 30. National Planning Policy Framework 2012
 31. National Planning Policy Framework 2019 (revised February 2019)
 32. Planning practice guidance - GOV.UK (up-dated 9th May 2019 version)
 33. Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018
 34. Writing planning policies, Tony Burton, Locality, September 2014 <https://mycommunity.org.uk/wp-content/uploads/2016/08/Writing-planning-policies-v51.pdf>
 35. Breckland Council Allocations Policy, BDC, 2012, revised 2016

Appendix D

Recommended Revised Policies and supporting text (Tracked changes)

Modification Consultation - Policy and text for re-examination

Policy 2: Growth in the Right Places

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:

- 1) LP(098)013;**
- 2) LP(098)014; and**
- 3) LP(098)016**

Planning applications for up to 205 dwellings on 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.

Concerning the supporting text, some amendments are appropriate:

- i) Paragraph 6.11
The Pre-Submission version of the Breckland Local Plan, notes in following a further review of the SHMA that draft Policy HOU 01 notes that to enable the District to meet future housing needs the Local Plan will provide for no less than 15,298 new homes between 2011 and 2036, an average of 612 dwellings per annum. The draft text in paragraph 6.11 should include this larger figure.
- ii) Paragraph 6.24
I agree that the supporting text should be amended by the deletion of paragraph 6.24 as this is incorrect and unnecessary.
- iii) Paragraphs 6.33 – 6.34

I agree with the previous examiner that references to meeting the five-year housing land supply target is a matter for the emerging Local Plan. These paragraphs should be deleted.

- iv) Paragraph 6.35
This paragraph should be amended to read:

“It is the intention of the Swanton Morley Neighbourhood Plan that new housing development should meet the costs associated with relevant enhancements required to mitigate the impacts onto social and physical infrastructure impacts as appropriate”.

Modification Consultation - Policy and text for re-examination

Policy 3: Enabling Growth on Sites

Masterplanned proposals for the development in conjunction of the three linked housing allocation sites identified in Policy 2, including the following specific provisions offered as planning obligations, together with the expectations identified in Policy 6, will be supported; Development on sites LP(098)014 and LP(098)016 is to be in conjunction with site LP(098)13, and:

- a. site LP(098)014 will include provision within the site for around 40 car park 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. 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;
- 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;
- d. provision of a continuous vehicle, cycle and pedestrian access from Rectory Road to Manns Lane; and
- e. provision of a footpath and cycleway from Rectory Road to Manns Lane.

Recommended changes to the supporting text for Policy 3.

Enabling Growth on Allocated Sites

6.44. ~~The allocated housing sites will LP(098)014 and LP(098)016 have the ability to~~ cater for the future predicted growth of Swanton Morley and ~~to~~ deliver additional site specific community benefits ~~whilst directly whilst~~ mitigating the impact of these ~~possible~~ developments on the village.

6.45. Within emerging Breckland Local Plan Preferred Options and Settlement Boundaries both sites are identified as 'alternative options', with site LP(098)016 to be developed in conjunction with sites LP[098]013 and/or LP[098]016. The SMNP includes these three contiguous sites LP[098]013, LP(098)014 and LP(098)016 as effectively a single larger housing site with capacity for up to 205 dwellings following HRA screening and Appropriate Assessment in December 2018. SMPC will support the comprehensive masterplanning of these three linked sites to provide the improvements expected as outlined in this policy to improve and enhance safe vehicular and pedestrian movement on the local road network and allay concerns about road safety for school children around the school has been raised by local residents through the consultation process; with parents struggling to safely stop to drop off or pick up their children of the start and end of the school day

~~6.46. Concerns about road safety for school children around the school has been raised by local residents through the consultation process; with parents struggling to safely stop to drop off or pick up their children of the start and end of the school day.~~

6.47. With the large number of cars sharing the same space as pedestrians and even school children trying to cycle to school (as shown in the above picture).

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 a an off road pick-up drop-off 40 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 -As illustrated on Map 6, in 'Car Park for 40 no. Cars' and suggested 'X Safe Crossing Point'.

6.49. Below is an example of a safe parking facility recently installed at Wicklewood School near Wymondham.

6.4950. Hoe Road East, in part, is a ~~very~~ narrow single width lane with neither a footpath nor cycleway. It has been recognised through Breckland District Council's Local Plan consultations that it is not currently suitable for access to sites LP(098)014 and LP(098)016.

6.510. Whilst it is possible to access site LP(098)014 from Manns Lane and site LP(098)016 as a continuation of either LP(098)014 and/ or LP(098)013 sites, there is a requirement to improve the road network in this area of the village.

Map 6: Hoe Road East: Illustrative Lay-by Parking, Road Widening and Car Park

6.512. Enhancements to the road network would improve connectivity of the village, enabling safe access for vehicles, cyclists and pedestrians. This could be achieved through either a continued vehicle, cycle and pedestrian access from Rectory Road through to Manns Lane within sites LP(098)014 and LP(098)016 or through the widening of Hoe Road East to enable two-way traffic, a footpath and cyclepath from Rectory Road to Manns Lane. As illustrated on Map 6 in 'pink'.

6.523. Proposals for development ~~These enhancements~~ should also include the provision within site LP(098)016 for ~~a~~ lay-by style parking ~~facility, to accommodate six cars, convenient for 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 6 no. Cars'.~~

6.534. Development adjacent to ~~t~~The northern border of site LP(098)016 should be screened from the cemetery by hedging and landscaping ~~to that provides a degree of~~ privacy for those attending the cemetery. In addition, any new dwellings positioned along this border should be designed to a maximum height of 1.5 storeys.

6.545. Proposals which offer traffic calming measures in association with the widening of Hoe Road East ~~If the chosen option is to undertake the widening to Hoe Road East these improvements need to be mindful to ensure the road design incorporates traffic calming measures necessary~~ to prevent excessive speed will be encouraged along ~~becoming an issue on~~ this ~~very~~ straight road.

~~Suggested location illustrated on Map 6 in 'X Priority Traffic Management Gates'. Picture illustrates an example from another parish.~~

6.556. **Ambition: This policy seeks to ensure the sustainable growth of Swanton Morley whilst providing specific benefit to the local community associated with development of allocated housing sites LP(098)014 and LP(098)016.**

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

In order to meet the housing needs of the parish, ~~proposals which make provision by way of a s106 agreement the plan seeks to ensure for that~~ eligible households with a local connection to the parish of Swanton Morley are given preference ~~for the lifetime of the development 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 will be supported, being sites allocated by the neighbourhood plan over and above those already allocated by the local authority.~~

A local connection is defined by one or more of the following;

- Households containing one or more individuals who have resided within Swanton Morley parish for the last three years
- 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
- Households where one or more member has been employed within the parish of Swanton Morley for three years
- Former residents of Swanton Morley parish who have lived in the parish for at least ~~3 three~~ years of the past ~~6 six~~ years

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.~~

Recommended changes to the supporting text for Policy 4.

6.60. Housing for the Local Community (local Lettings)

6.61. A key housing issue for Swanton Morley is affordability with average house prices too high for those on average incomes resulting in an affordability ratio of over 1:6.2 (Source: Housing Needs Survey Report for Swanton Morley produced by Breckland District Council in October 2015)

6.62. There is a requirement within the Core Strategy to provide 40% affordable houses within any new development. The Parish Council, through a 'local lettings policy', support ~~households - individuals~~ in housing need with a local connection to access these ~~same~~ dwellings provided as affordable rented homes.

6.63. The recent development of 52 dwellings, of Rectory Rood, included 18 affordable dwellings although no residents of Swanton Morley were able to access these. See Appendix 6 for Orbit's letter confirming.

6.64. Breckland District Council has conducted a detailed study of the housing needs for Swanton Morley with the report being issued in October 2015. This study investigated housing need and concluded there is a local requirement and need for affordable housing in Swanton Morley; with 17 households being identified in need.

6.65. All 17 households contained someone wanting to move in the next five years and all of these had no connection to Swanton Morley; either current residents or people who had formerly lived in the village.

6.66. The demographics of Swanton Morley and the 'baseline data' for Swanton Morley, contained within the Sustainability Appraisal Scoping Report, supports action to be taken to enable younger people to remain within the community they have grown up in.

6.67. As demonstrated in the Housing Need Survey for Swanton Morley, local need supports a 'local letting' policy that will address the situation for the local community. This means that priority for some affordable housing on all new developments will be given to local people.

~~6.68. The emerging Breckland Local Plan seeks to allocate 85 new dwellings to Swanton Morley to 2036 of which 34 dwellings will be affordable housing (as per Policy DC4 of the Core Strategy and Development Policies). Whilst 17 households have been identified with a need over the next five years the number of affordable homes to be set aside under the 'Local Lettings' policy is to be up to a maximum of 33% (actual number to be calculated based on identified need recorded on the housing register and recognising that some of the local people may be able to meet their own need in the medium term).~~

~~6.69. When a property is allocated under the 'Local Lettings' policy the cascade is used to allocate the property to households on Breckland District Council's housing register. Therefore, someone on the housing list who has a local connection (as defined within the cascade criteria in Policy 4) would be prioritised above someone who does not have a local connection even if their identified need is higher on the housing register list.~~

6.70. Not all affordable housing can be allocated with a 'Local Lettings' policy because Breckland District Council has a statutory duty to house some people and needs new affordable housing to meet these duties, including the provision of other affordable housing tenures.

6.71. The 'Local Lettings' policy will apply to the first let of affordable rental housing and subsequent lets during the lifetime of the development based on local need and connection. This will be managed by Breckland District Council, as they already do for affordable housing on 'exception sites', Should there be no local need, properties will be offered to meet a general district wide housing need (i.e. will be offered to the household in the highest housing need).

6.72. The 'Local Lettings' policy only applies to Affordable Rent Tenure (rents are set at 80% of the local market rent). The 'Local Lettings' policy will not apply to intermediate tenure options such as shared ownership (part buy and part rent) or discounted market housing (sold at a percentage of open market price). Although any developer will be encouraged to advertise these properties locally first to encourage local people in housing need to ~~purchase~~ rent.

6.73. A Freedom of information request (FOI) was made to Breckland District Council on 22nd March 2017 to confirm that 20 people on the Housing Register that reside in



Swanton Morley and 168 do not live in Swanton Morley, but have expressed a desire for an affordable property in Swanton Morley. See Appendix B for the full response.

6.74. **Ambition:** This policy seeks to create the opportunity for Swanton Morley ~~households -residents~~ or those with connections to Swanton Morley, who are in housing need on the housing register, to have the ability to access affordable housing in Swanton Morley.

Objective d)

Amend this objective to read:

d) To support new housing that meets the local needs, is affordable and made available to people from Swanton Morley ~~first~~.

Policy 6: Delivery of Planning Obligations

Where a planning obligation is ~~necessary~~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 and provide appropriate local community infrastructure in mitigation requirements.

Applicants are ~~encouraged to seek advised that~~ early engagement with the Parish Council and Breckland District Council to establish the scope of seek local input to any such statement ~~is encouraged~~.

Recommended changes to the supporting text for Policy 6 and re-numbering of paragraphs as appropriate.

6.86 Delivery of Planning Obligations

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.

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.

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'.

~~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.~~

~~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.~~

~~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 the required standard as the section 106 failed to. See Appendix 7 for more specific details, timescales and those directly involved in the situation.~~

~~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.~~

~~6.94. Housing and other development will be expected to contribute towards improving local services and infrastructure (such as transport, education, library provision, fire~~

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~~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.~~

6.95. As there ~~is~~are likely to be planning obligations identified which will be necessary to provide improvements to physical and social infrastructure as part of future development in Swanton Morley, the Swanton Morley Parish Council would like to assist Breckland District Council to deliver appropriate ~~the best~~ outcomes for the residents of Swanton Morley.

6.96. With the involvement of Swanton Morley Parish Council in consultation with developers and Breckland District Council concerning any section 106 agreements detailed local knowledge will encourage appropriate identification of potential adverse impact and mitigation measures ~~it would enable a positive local approach with more detailed local knowledge~~ being applied. This policy approach will assist Breckland District Council in ensuring that it would allow easier checking to ensure the obligations are being implemented in accordance with these agreements and the early identification of the manner expected by all parties with any deficiencies identified early in the delivery and to aid corrective steps to be taken by the District Council.

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~~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.~~

6.98 Ambition: This policy seeks to harness the enable local knowledge of Swanton Morley Parish Council and encourage liaison between developers with involvement by Swanton Morley Parish Council and Breckland District Council to deliver appropriate better social and physical infrastructure facilities outcomes for the local residents of Swanton Morley through planning obligations associated with development proposals.

6.99 Community Feedback: Consultation on the emerging Neighbourhood Plan revealed the following key issues in relation to this theme that the policy seeks to address:

√ 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 disagreeing.

- √ More affordable housing specifically for local people and/or first time buyers: 92% strongly agree, or agree and with 8% unsure and zero% disagree.
- √ New development should provide new community facilities and services: 95% strongly agree, or agree and with 5% unsure and zero% disagree.
- √ Ensure infrastructure expands with new development: 100% strongly agree.

6.100. The following plans, documents and strategies support Policy 6:

- National Planning Policy Framework
- Localism Act 2011
- Town and Country Planning Act 1990
- Swanton Morley Neighbourhood Plan Sustainability Appraisal Scoping Report (July 2016)
- Swanton Morley Village Appraisal Report (2004)

6.101. Contributes to and supports Swanton Morley Neighbourhood Plan Objectives (a), (d), (f) and (h).

Policy 7: Local Green Space

The Neighbourhood Plan designates the following three locations as Local Green Spaces (as shown on Map 8: Local Green Space)

- 1) **Gray Drive;**
- 2) **Thompson Close; and**
- 3) **Middleton Avenue**

Applications for development which would adversely affect the function, and ~~essential-open-local~~ character of designated Local Green Space will not be ~~supported-permitted~~ unless very special circumstances can be demonstrated.

Recommended changes to the supporting text for Policy 7.

No alteration to the supporting text is necessary, other than in paragraph 6.119 of the submission version where Local Green Space should be expressed as a proper noun.

No alteration to Map 8 in the SMNP submission version is required.

Policy 14: Flooding (insert new 9th bullet point)

- During construction **of** 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

No alteration to the supporting text is necessary.

Policy 15: Housing Mix

Delete Policy 15 and the supporting text in paragraphs 6.201- 6.222 inclusive of the SMNP and all related references to this policy in the Plan.

~~Policy 15: Housing Mix~~

~~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. Mix:~~

- ~~• 1-bedroom dwellings: range 10% to 15% of all dwellings~~
- ~~• 2-bedroom dwellings: range 25% to 30% of all dwellings~~
- ~~• 3-bedroom dwellings: range 30% to 40% of all dwellings~~
- ~~• 4-bedroom and larger dwellings: range 15% to 20% of all dwellings~~

~~Developments that wish to provide a higher percentage of 1 and 2 bedroom dwellings in lieu of larger (3 plus bedroom dwellings) will be welcomed.~~

~~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.~~

Appendix E

Recommended Revised Policies, if accepted

Modification Consultation - Policy and text for re-examination

Policy 2: Growth in the Right Places

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:

- 1) LP(098)013;**
- 2) LP(098)014; and**
- 3) LP(098)016**

Planning applications for up to 205 dwellings on 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.

Concerning the supporting text, the following amendments are appropriate:

- v) Paragraph 6.11
The Pre-Submission version of the Breckland Local Plan, notes in following a further review of the SHMA that draft Policy HOU 01 notes that to enable the District to meet future housing needs the Local Plan will provide for no less than 15,298 new homes between 2011 and 2036, an average of 612 dwellings per annum. The draft text in paragraph 6.11 should include this larger figure.
- vi) Paragraph 6.24
I agree that the supporting text should be amended by the deletion of paragraph 6.24 as this is incorrect and unnecessary.
- vii) Paragraphs 6.33 – 6.34

I agree with the previous examiner that references to meeting the five-year housing land supply target is a matter for the emerging Local Plan. These paragraphs should be deleted.

viii) Paragraph 6.35

This paragraph should be amended to read:

“It is the intention of the Swanton Morley Neighbourhood Plan that new housing development should meet the costs associated with relevant enhancements required to mitigate the impacts onto social and physical infrastructure impacts as appropriate”.

Policy 3: Enabling Growth on Sites

Masterplanned proposals for the development in conjunction of the three linked housing allocation sites identified in Policy 2, including the following specific provisions offered as planning obligations, together with the expectations identified in Policy 6, will be supported;

- 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. **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;**
- 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;**
- d. **provision of a continuous vehicle, cycle and pedestrian access from Rectory Road to Manns Lane; and**
- e. **provision of a footpath and cycleway from Rectory Road to Manns Lane.**

Recommended changes to the supporting text for Policy 3.

Enabling Growth on Allocated Sites

6.44. The allocated housing sites will cater for the future predicted growth of Swanton Morley and deliver additional site specific community benefits whilst mitigating the impact of these developments on the village.

6.45. Within emerging Breckland Local Plan Preferred Options and Settlement Boundaries both sites are identified as 'alternative options', with site LP(098)016 to be developed in conjunction with sites LP[098]013 and/or LP[098]016. The SMNP includes these three contiguous sites LP[098]013, LP(098)014 and LP(098)016 as effectively a single larger housing site with capacity for up to 205 dwellings following HRA screening and Appropriate Assessment in December 2018. SMPC will support the comprehensive masterplanning of these three linked sites to provide the improvements expected as outlined in this policy to improve and enhance safe vehicular and pedestrian movement on the local road network and allay concerns about road safety for school children around the school raised by local residents through the consultation process; with parents struggling to safely stop to drop off or pick up their children at the start and end of the school day..

6.46. With the large number of cars sharing the same space as pedestrians and even school children trying to cycle to school (as shown in the above picture).

6.47. 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 a car park area linked to the school through a safe road crossing. Other road safety measures could also be provided on Manns Lane to aid crossing points and to reduce vehicle speeds, as illustrated on Map 6.

6.48. Below is an example of a safe parking facility recently installed at Wicklewood School near Wymondham.

6.49. Hoe Road East, in part, is a narrow single width lane with neither a footpath nor cycleway. It has been recognised through Breckland District Council's Local Plan consultations that it is not currently suitable for access to sites LP(098)014 and LP(098)016.

6.50. Whilst it is possible to access site LP(098)014 from Manns Lane and site LP(098)016 as a continuation of either LP(098)014 and/ or LP(098)013 sites, there is a requirement to improve the road network in this area of the village.

Map 6: Hoe Road East: Illustrative Lay-by Parking, Road Widening and Car Park

6.51. Enhancements to the road network would improve connectivity of the village, enabling safe access for vehicles, cyclists and pedestrians. This could be achieved



through either a continued vehicle, cycle and pedestrian access from Rectory Road through to Manns Lane within sites LP(098)014 and LP(098)016 or through the widening of Hoe Road East to enable two-way traffic, a footpath and cyclepath from Rectory Road to Manns Lane. As illustrated on Map 6 in 'pink'.

6.52. Proposals for development should also include the provision within site LP(098)016 for lay-by style parking convenient for those attending funerals at the cemetery, as illustrated on Map 6.

6.53. Development adjacent to the northern border of site LP(098)016 should be screened from the cemetery by hedging and landscaping to provide privacy for those attending the cemetery. In addition, any new dwellings positioned along this border should be designed to a maximum height of 1.5 storeys.

6.54. Proposals which offer traffic calming measures in association with the widening of Hoe Road East to prevent excessive speed will be encouraged along this straight road.

6.55. Ambition: This policy seeks to ensure the sustainable growth of Swanton Morley whilst providing specific benefit to the local community development of allocated housing sites LP(098)014 and LP(098)016.

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

In order to meet the housing needs of the parish, proposals which make provision by way of a s106 agreement for eligible households with a local connection to the parish of Swanton Morley are given preference for the lifetime of the development on new affordable housing for rent on sites LP(098)014 and LP(098)016 will be supported,

A local connection is defined by one or more of the following;

- Households containing one or more individuals who have resided within Swanton Morley parish for the last three years**

- 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**



• **Households where one or more member has been employed within the parish of Swanton Morley for three years**

• **Former residents of Swanton Morley parish who have lived in the parish for at least three years of the past six years**

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.

Objective d)

Amend this objective to read:

d) To support new housing that meets the local needs, is affordable and made available to people from Swanton Morley

Recommended changes to the supporting text for Policy 4.

6.60. Housing for the Local Community (Local Lettings)

6.61. A key housing issue for Swanton Morley is affordability with average house prices too high for those on average incomes resulting in an affordability ratio of over 1:6.2 (Source: Housing Needs Survey Report for Swanton Morley produced by Breckland District Council in October 2015)

6.62. There is a requirement within the Core Strategy to provide 40% affordable houses within any new development. The Parish Council, through a 'local lettings policy', support households in housing need with a local connection to access these dwellings provided as affordable rented homes.

6.63. The recent development of 52 dwellings, of Rectory Road, included 18 affordable dwellings although no residents of Swanton Morley were able to access these. See Appendix 6 for Orbit's letter confirming.

6.64. Breckland District Council has conducted a detailed study of the housing needs for Swanton Morley with the report being issued in October 2015. This study investigated housing need and concluded there is a local requirement and need for affordable housing in Swanton Morley; with 17 households being identified in need.

6.65. All 17 households contained someone wanting to move in the next five years and all of these had a connection to Swanton Morley; either current residents or people who had formerly lived in the village.

6.66. The demographics of Swanton Morley and the 'baseline data' for Swanton Morley, contained within the Sustainability Appraisal Scoping Report, supports action to be taken to enable younger people to remain within the community they have grown up in.

6.67. As demonstrated in the Housing Need Survey for Swanton Morley, local need supports a 'local letting' policy that will address the situation for the local community. This means that priority for some affordable housing on all new developments will be given to local people.

6.70. Not all affordable housing can be allocated with a 'Local Lettings' policy because Breckland District Council has a statutory duty to house some people and needs new affordable housing to meet these duties, including the provision of other affordable housing tenures.

6.71. The 'Local Lettings' policy will apply to the first let of affordable rental housing and subsequent lets in perpetuity, based on local need and connection. This will be managed by Breckland District Council, as they already do for affordable housing on 'exception sites', Should there be no local need, properties will be offered to meet a general district wide housing need (i.e. will be offered to the household in the highest housing need).

6.72. The 'Local Lettings' policy only applies to Affordable Rent Tenure (rents are set at 80% of the local market rent). The 'Local Lettings' policy will not apply to intermediate tenure options such as shared ownership (part buy and part rent) or discounted market housing (sold at a percentage of open market price). Although any developer will be encouraged to advertise these properties locally first to encourage local people in housing need to rent.



6.73. A Freedom of information request (FOI) was made to Breckland District Council on 22nd March 2017 to confirm that 20 people on the Housing Register that reside in Swanton Morley and 168 do not live in Swanton Morley, but have expressed a desire for an affordable property in Swanton Morley. See Appendix B for the full response.

6.74. Ambition: This policy seeks to create the opportunity for Swanton Morley households or those with connections to Swanton Morley, who are in housing need to have the ability to access affordable housing in Swanton Morley.

Policy 6: Delivery of Planning Obligations

Where a planning obligation is necessary in relation to development proposals on land within the Neighbourhood Area, the Applicant shall provide a supporting statement that identifies how their proposals take into account and provide appropriate local community infrastructure in mitigation.

Applicants are encouraged to seek early engagement with the Parish Council and Breckland District Council to establish the scope of any such statement.

Recommended changes to the supporting text for Policy 6 and re-numbering of paragraphs as appropriate.

6.86 Delivery of Planning Obligations

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.

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.

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'.



6.90. As there are likely to be planning obligations identified which will be necessary to provide improvements to physical and social infrastructure as part of future development in Swanton Morley, the Swanton Morley Parish Council would like to assist Breckland District Council to deliver appropriate outcomes for the residents of Swanton Morley.

6.91. With the involvement of Swanton Morley Parish Council in consultation with developers and Breckland District Council concerning section 106 agreements detailed local knowledge will encourage appropriate identification of potential adverse impact and mitigation measures being applied. This policy approach will assist Breckland District Council in ensuring that obligations are implemented in accordance with these agreements and the early identification of any deficiencies and to aid corrective steps to be taken by the District Council.

6.92 Ambition: This policy seeks to harness the local knowledge of Swanton Morley Parish Council and encourage liaison between developers with Swanton Morley Parish Council and Breckland District Council to deliver appropriate better social and physical infrastructure facilities for the residents of Swanton Morley through planning obligations associated with development proposals.

6.93 Community Feedback: Consultation on the emerging Neighbourhood Plan revealed the following key issues in relation to this theme that the policy seeks to address:

√ 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 disagreeing.

√ More affordable housing specifically for local people and/or first time buyers: 92% strongly agree, or agree and with 8% unsure and zero% disagree.

√ New development should provide new community facilities and services: 95% strongly agree, or agree and with 5% unsure and zero% disagree.

√ Ensure infrastructure expands with new development: 100% strongly agree.

6.94. The following plans, documents and strategies support Policy 6:

- National Planning Policy Framework
- Localism Act 2011
- Town and Country Planning Act 1990
- Swanton Morley Neighbourhood Plan Sustainability Appraisal Scoping Report (July 2016)

- Swanton Morley Village Appraisal Report (2004)

6.95. Contributes to and supports Swanton Morley Neighbourhood Plan Objectives (a), (d), (f) and (h).

Policy 7: Local Green Space

The Neighbourhood Plan designates the following three locations as Local Green Spaces (as shown on Map 8: Local Green Space)

- 4) **Gray Drive;**
- 5) **Thompson Close; and**
- 6) **Middleton Avenue.**

Applications for development which would adversely affect the function and local character of designated Local Green Space will not be supported unless very special circumstances can be demonstrated.

Recommended changes to the supporting text for Policy 7

No alteration to the supporting text is necessary, other than in paragraph 6.119 of the submission version where Local Green Space should be expressed as a proper noun.

No alteration to Map 8 in the SMNP submission version is required.

Policy 14: Flooding (insert new 9th bullet point)

- **During construction of 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**

No alteration to the supporting text is necessary.



Policy 15: Housing Mix

Delete Policy 15 and the supporting text in paragraphs 6.201- 6.222 inclusive of the SMNP and all related references to this policy in the Plan.



Appendix F

Letter of 10th June from Mr. Roger Atterwill, Clerk to Swanton Morley Parish Council to Susan Heinrich, Breckland District Council;

and

Breckland Council Allocations Policy, BDC Adopted November 2012, revised June 2016.