

ATTLEBOROUGH NEIGHBOURHOOD PLAN

Attleborough Neighbourhood Plan Examination,
A Report to Breckland Council

by Independent Examiner, Nigel McGurk BSc(Hons) MCD MBA MRTPI

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Introduction

The Neighbourhood Plan

- 1 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.
- 2 This Report provides the findings of the examination into the Attleborough Neighbourhood Plan (referred to as the Neighbourhood Plan).
- 3 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.” (Paragraph 183, National Planning Policy Framework)

- 4 The Neighbourhood Plan was prepared by the Attleborough Neighbourhood Plan Steering Group (ANPSG), on behalf of Attleborough Town Council and Besthorpe Parish Council.
- 5 As set out on page 7 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Attleborough Town Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).
- 6 This Examiner's Report provides a recommendation with regards whether the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by Breckland Council. The Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Attleborough Neighbourhood Area.

Role of the Independent Examiner

- 7 I was appointed by Breckland Council, with the consent of the Qualifying Body, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 8 I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.
- 9 As the Independent Examiner, I must make one of the following recommendations:
 - that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
 - that the Neighbourhood Plan, as modified, should proceed to Referendum;
 - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 10 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Attleborough Neighbourhood Area to which the Plan relates.

Neighbourhood Plan Period

- 11 A neighbourhood plan must specify the period during which it is to have effect. The front cover of the Neighbourhood Plan clearly specifies that the document covers the period:

"2016 to 2036."

- 12 In addition, the introduction to the Neighbourhood Plan, on page 7, states that it:

- 13 *"...has been produced to cover the period 2016- 2036, the same end period as for Breckland Council's emerging Local Plan."*

- 14 Taking the above into account, the Neighbourhood Plan satisfies the relevant requirement in respect of specifying the plan period.

Public Hearing

- 15 According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 16 However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 17 Further to consideration of the information submitted, I confirmed to Breckland Council that I was satisfied that the Attleborough Neighbourhood Plan could be examined without the need for a Public Hearing. In making this decision I was mindful that the Neighbourhood Plan has emerged through robust consultation (see *Public Consultation*, later in this Report) and that people have been provided with significant and appropriate opportunities to have their say.

2. Basic Conditions and Development Plan Status

Basic Conditions

- 18 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*¹ following the Localism Act 2011. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the 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);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.²
 - An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.³
- 19 In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:
- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;

¹ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

² Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007.

³ The Convention rights has the same meaning as in the Human Rights Act 1998.

- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

20 Subject to the content of this Report, I am satisfied that these three points have been met.

21 In line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

European Convention on Human Rights (ECHR) Obligations

- 22 I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.
- 23 In the above regard, I note that Information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. Representations have been made to the Plan, some of which have resulted in changes and the Consultation Statement submitted alongside the Neighbourhood Plan provides a summary of responses and shows the outcome of comments.

European Union (EU) Obligations

- 24 There is no legal requirement for a neighbourhood plan to have a sustainability appraisal⁴. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.
- 25 In this regard, national advice states:
- “Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”*
(Planning Practice Guidance⁵)
- 26 It goes on to state⁶ that the draft plan:
- “...must be assessed (screened) at an early stage of the plan’s preparation...”*
- 27 This process is often referred to as a screening determination, report statement or assessment. If the screening determination identifies likely significant effects, then an environmental report must be prepared.

⁴ Planning Practice Guidance Paragraph 072, Reference ID: 41-072-20140306 and 11-026-20140306.

⁵ Planning Practice Guidance Paragraph 027, Reference ID: 11-027-20150209.

⁶ Planning Practice Guidance Paragraph 028, Reference ID: 11-028-20150209.

- 28 In its “*Strategic Environmental Assessment and Habitats Regulation Assessment Screening Determination Attleborough Neighbourhood Plan (March 2016)*,” Breckland Council determined that a Strategic Environmental Assessment was necessary, in part due to the Neighbourhood Plan proposing the allocation of land for development. The statutory bodies, Natural England, the Environment Agency and Historic England, concurred with Breckland Council’s conclusion.
- 29 A Sustainability Appraisal, incorporating the requirements of the SEA Regulations, was submitted alongside the Neighbourhood Plan for consultation.
- 30 The Sustainability Appraisal concludes:
- “...the ANP as currently submitted is unlikely to have significant environmental effects.”*
- 31 A Habitats Regulations Assessment (HRA) Screening Report was produced by Breckland Council in September 2016 and this concluded that:
- 32 *“...there are likely to be no significant effects on the European Designated Sites resulting from the Policies within the draft ANP. Therefore, based on the submitted draft, a full Habitats Regulations Assessment is not required.”*
- 33 There have been no objections to the submitted Neighbourhood Plan and its supporting documents from the statutory bodies in respect of European obligations. Further to this, national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:
- “It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations”* (Planning Practice Guidance⁷).
- 34 In undertaking the work that it has, Breckland Council has raised no objections nor any concerns with regards European obligations. Taking this and the above into account, I am satisfied that the Neighbourhood Plan meets the basic conditions in respect of meeting European obligations.

⁷ Planning Practice Guidance Reference ID: 11-031-20150209,

3. Background Documents and the Attleborough Neighbourhood Area

Background Documents

35 In undertaking this examination, I have considered various information in addition to the Attleborough Neighbourhood Plan. This has included (but is not limited to) the following main documents:

- National Planning Policy Framework (the Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Plan Regulations (2012) (as amended)
- Breckland Core Strategy (2009)
- Breckland Site Specifics Policies and Proposals DPD (2012)
- Breckland Local Plan (1999) (Saved Policies)
- Basic Conditions Statement
- Consultation Statement
- Sustainability Appraisal

Also:

- Representations received

36 In addition, I spent an unaccompanied day visiting the Attleborough Neighbourhood Area and this has helped to inform this Report.

Attleborough Neighbourhood Area

- 37 Attleborough Neighbourhood Area covers the whole of the Attleborough, Town Council area plus part of Besthorpe Parish.
- 38 A plan showing the boundary of the Neighbourhood Area is provided on page 11 of the Neighbourhood Plan.
- 39 Breckland Council approved the designation of Attleborough as a Neighbourhood Area on 11 November 2013. This satisfied a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

4. Public Consultation

Introduction

- 40 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 41 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Attleborough Neighbourhood Plan Consultation

- 42 A Consultation Statement was submitted to Breckland Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*⁸.
- 43 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Attleborough Neighbourhood Area, having regard to Paragraph 183 of the Framework.
- 44 Further to the formation of the Attleborough Neighbourhood Plan Steering Group (ANPSG) in 2013, a Communications Group was established to organise consultation. "*Attleborough Matters*," a colour magazine distributed to over 5,000 households in Attleborough, was also created and each issue presented Neighbourhood Plan themes.
- 45 In October 2015, further to meetings with a number of organisations, a three day consultation event was held at Attleborough Town Hall. This was attended by more than 500 people and comments received informed the production of the emerging plan.

⁸Neighbourhood Planning (General) Regulations 2012.

- 46 The draft plan underwent pre-submission consultation during July and August 2016. This was supported by publicity in the local newspaper and in an issue of Attleborough Matters, which was distributed to 6,000 households. Hard copies of the draft plan were made available in a variety of locations and electronic versions were published on the Town Council's website.
- 47 Further to the above, a two day drop-in event was held during August 2016 and this was attended by around 200 people. Also, members of the ANPSG attended the local Carnival (in July 2016) and morning assemblies at Attleborough Academy.
- 48 Evidence has been provided to demonstrate that the plan-making process was widely publicised via Attleborough Matters, leaflets, posters, meetings, an article in the Attleborough and Wymondham Mercury, through social media and via the publication of relevant material online.
- 49 The Consultation Report demonstrates that the Neighbourhood Plan was supported by public consultation and that community engagement was actively encouraged during the plan-making process. Matters raised were considered and the reporting process was transparent.
- 50 Taking all of the above into account, I am satisfied that the consultation process was robust.

5. The Neighbourhood Plan – Introductory Section

- 51 Whilst not an essential requirement, I note that it would provide for consistency and help the reader if the page numbering was either at the bottom, or top of the page throughout the document.
- 52 Although there is a slight difference between the formatting of the Policies and the Objectives in the Neighbourhood Plan, it is difficult to clearly distinguish between them. The Policies are the most important part of the Neighbourhood Plan and should be readily distinguishable from other text.
- 53 I recommend:
- **Remove Objectives from “bold” formatting, whilst retaining the Policies in “bold”**
- 54 The Neighbourhood Plan's Objectives are set out in the lengthy introduction preceding the Policy section. It is therefore unnecessary, and it detracts from the clarity of the Policies, to list *“The Core Objectives this theme addresses”* in each Policy section.
- 55 I recommend:
- **Delete “The Core Objectives (CO)....” at the start of each Policy section**
 - **The List of Core Objectives is shown twice. Delete list on page 5**
 - **Page 7, Para 1.1.3, remove full stop after “Town Hall”** (which is a typographical error)
 - **Page 7, Para 1.2.1, delete “, which will replace all these,..”** (which is not the case)
 - **Page 8, Para 1.2.3, delete “...but with an amended boundary...”** (for precision)
 - **Page 8, delete Para 1.3.5** (which has been overtaken by events)
 - **Page 9, Para 1.6.1, change first sentence to “Neighbourhood Plans must be compatible with EU regulations.”** (for precision)

- **Page 9, Para 1.6.1, delete “.., and with uncertainty at that time about the exact wording of the policy and size of site, more information was needed.”** (which is unnecessary and potentially confusing)
 - **Page 13, Para 2.2.3, delete second sentence** (which has been overtaken by events)
 - **Page 13, Para 2.2.4 add “...the Core Strategy and emerging Local Plan, the need...”** (for precision)
 - **Correct formatting of Para 2.2.7**
 - **Page 17, Para 3.1.2, delete second and third sentences (“However...2.2.2”)** (No substantive evidence is provided to demonstrate this. The SUE does not seek to provide 4,000 homes during the plan period. General detail on planning permissions and housing numbers is already provided elsewhere in the Neighbourhood Plan)
 - **Page 17, Para 3.1.3, last sentence, replace both references to “development control” to “development *management*”** (for precision)
 - **Page 18, delete Para 3.1.9** (the Neighbourhood Plan cannot impose independent design review requirements (see later in this Report))
 - **Page 20, CO2, add “...assets of Attleborough, and their settings...”** (having regard to national policy and Historic England)
- 56 The inclusion of Section 4 “*Land Use Options*” introduces unnecessary confusion. The title is confusing. The Neighbourhood Plan is not the vehicle to consider options. Part of Section 4 reads as though it comprises Policy, which it does not. Also, the Neighbourhood Plan already establishes, elsewhere, that the SUE is accepted and Policies go on to apply to the SUE. There is no need to repeat information relating to the SUE and furthermore, the section repeats information referred in the supporting text to other Policies.
- 57 The Introduction to the Neighbourhood Plan is already lengthy and Section 4 adds unnecessary additional information that serves to detract further from the Neighbourhood Plan’s emphasis on the most important part – the Policies.

58 For precision, I recommend:

- **Delete Section 4**

59 The Policies Map is produced at too small a scale to be clearly legible. This detracts significantly from the precision of the Neighbourhood Plan.

60 I recommend:

- **Provide a replacement Policies Map to ensure legibility. All boundaries to designations should be clearly identifiable. This may require both a larger Policies Map and a number of insets.**

61 The Policies Map includes references to the Local Plan. The Local Plan referred to is an emerging document and is subject to change. I recommend:

- **Remove references that are specific to the emerging Local Plan (including, for example, emerging designations) from the Policies Map**

6. The Neighbourhood Plan – Neighbourhood Plan Policies

The Local Economy

Policy LE.P1

62 National policy supports the creation of a strong, competitive economy and encourages sustainable economic growth (Paragraph 21, the National Planning Policy Framework (the Framework)).

63 Policy LE.P1 does not allocate an employment site, but states that the allocation of an employment site would be supported. No allocation is shown on the Proposals Map, but rather, an “*Area of Search*” is identified. The lack of precision in this regard is also exemplified by the Policy’s reference to “...*a minimum of 10 ha site...*” Consequently, Policy LE.P1 appears as a supportive Policy, rather than a Policy that allocates a site for development.

64 Planning Practice Guidance⁹ states that:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

65 The various criteria set out in Policy LE.P1 includes a number of ambiguous references, unsupported by relevant detail, for example “...*unacceptable traffic impact...traffic movements into the town centre are minimised...scope for a bus stop and for cycle and pedestrian access would be explored...serve the needs of modern businesses...control on maximum eaves height...likely to be achieved by...possibly relating to...*”

⁹ Paragraph: 042 Reference ID: 41-042-20140306.

- 66 It is apparent that there are many matters that the Policy does not consider in detail and as a consequence, as set out, it fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework:

"Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan."

(Paragraph 154, the Framework)

- 67 In the above regard, the supporting text to the Policy makes it clear that there are relevant matters that have yet to be considered. It states that *"A Design and Guidelines and Standards brief will be prepared by BC."* As such, detailed matters relating to a Policy in the Neighbourhood Plan would be dependent upon the Local Planning Authority producing a document. The Neighbourhood Plan cannot control this and the approach does not have regard to Paragraph 154 of the Framework.

- 68 Notwithstanding all of the above, it is clear from the Neighbourhood Plan and all supporting information, that the provision of new business land in the general area of search identified is of significant importance to plan-makers and the local community. The recommendations below recognise this.

- 69 Taking the above into account, I recommend:

- **Change wording of Policy LE.P1 to *"The creation of a business park, for B1 and B2 uses, within the Area of Search identified on the Proposals Map, will be supported subject to it comprising a high quality parkland environment in keeping with local character; and providing space for small and medium sized enterprises."***
- **Para 5.2.2, line 6, change to *"...local area. The aim of the Policy is to even..."***
- **Para 5.5.2, line 13, change to *"...Cambridge. The Area of Search is...The part of the Area closest..."***
- **Para 5.5.3, line 2, change to *"...demand. The Area of Search is..."***
- **Delete Para 5.2.4 but retain bullet points. Add above bullet points, *"The Town Council will seek to work with other parties with the aim of creating a development brief relating to the Area of Search. This may take into account the following:"***

Policy LE.P2

70 Whilst inappropriately worded – the Neighbourhood Plan will not “redevelop” anywhere - the general intent of Policy LE.P2 Policy, to enhance the town centre, has regard to Chapter 2 of the Framework, “Ensuring the vitality of town centres.”

71 The Policy refers to the future preparation of a development brief, although it is unclear who would be responsible for the production of this, when, and on what basis. The Policy is imprecise in this regard. Also, whilst the Policy refers to a wide range of specific uses, there is no substantive evidence to demonstrate that the provision of these would be viable and deliverable, having regard to national policy:

“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable.”
(Paragraph 173, the Framework)

72 The site referred to by both the Policy and the supporting text is linked to Policy SLC.P8. That Policy largely comprises a statement regarding the intention of the Town Council to encourage something (Policy SLC.P8 suggests that the Town Council will work together with landowners to encourage the provision of various community facilities), rather than a land use planning Policy, albeit it also appears to repeat part of Policy SLC.P2. Essentially, Policy SLC.P8 repeats Policy LE.P2 and is unnecessary. I also note that, whilst the supporting text to Policy LE.P2 refers to a theatre, there is no mention of a theatre in either of the two Policies.

73 I recommend:

- **Policy LE.P2, delete and re-word as “The redevelopment of the area including Queens Square Car Park, shown as Site B on Figure 6, for mixed use development including retail and community uses, will be supported, subject to the re-provision of car parking spaces.”**
- **Delete Policy SLC.P8 and supporting text**
- **Para 5.2.5, line 9, change to “The Town Council will seek to work together with landowners to create a brief for development. Depending...”**
- **Para 5.2.9, last sentence, change to “It is the intention of the Town Council that the buildings and trees, shown within site B on Figure 6, will stay.”**

Policy LE.P3

- 74 The first part of Policy LE.P3 is unclear and consequently, fails to have regard to Paragraph 154 of the Framework, referred to earlier in this Report. It refers to something in Policy LE.P2 that does not exist in that Policy.
- 75 The Policy then goes on to require all changes of use from retail to provide information to the local Business Forum and Business Directory. This goes beyond legal requirements relating to planning applications. Further, it is not clear why all changes of use from retail should be required to provide Breckland Council with information related to marketing. In this regard, I am particularly mindful that some changes of use from retail do not require planning permission.
- 76 Policy LE.P3 is imprecise. However, I note that there is a general intention to support the provision of shops in the town centre and this has regard to Chapter 2 of the Framework, "*Ensuring the vitality of town centres.*"
- 77 Much of the supporting text to Policy LE.P3 reads as though it comprises a Policy, which it does not.
- 78 I recommend:
- **Delete Policy LE.P3. Replace with a "*Community Action: Town Centre Retail. The Town Council will seek to encourage any shop owner seeking a change of use to provide the Attleborough and Snetterton Business Forum and Breckland Business Directory with information as early as possible, so they can advise members of an opportunity.*" (NB, a Community Action is not a Policy and should not appear as such)**
 - **Delete Para 5.2.10 – 5.2.12**

Policy LE.P4

79 The wording of the first sentence of Policy LE.PE4 does not make sense. That aside, the general intention of the second part of the Policy, to allow for complementary retail provision in the SUE, has regard to Paragraph 70 of the Framework, which, amongst other things, requires planning policies to:

“...plan positively for the provision of...community facilities (such as local shops...”

80 I recommend:

- **Policy LE.P4, delete first sentence**
- **Para 5.2.13, change to “...and increased retail floorspace to be *focused within* the existing...”**

Policy LE.P5

- 81 There is an absence of substantive evidence to demonstrate the basis on which Policy LE.P5 seeks to change secondary shopping frontages to primary shopping frontages. This fails to have regard to Paragraphs 160 and 161 of the Framework, which establish the importance of demonstrating a clear understanding of retail, and other, matters through the provision of an appropriate evidence base.
- 82 Notwithstanding the above, neither Policy LE.P5 nor its supporting text sets out what the land use planning policy impact of this might be. The Policy is imprecise and does not provide a decision maker with a clear indication of how to react to a development proposal.
- 83 I recommend:
- **Delete Policy LE.P5**
 - **Delete Para 5.2.14**
 - **Delete “Shopping Frontages (Primary)” annotation to Figure 6 and in the key and replace with “*Primary Shopping Frontages (Core Strategy)*” using the adopted Primary Shopping Frontages designated by the Core Strategy**
- 84 In making the above recommendation, I note that Figure 6 does not, in any case, show all of the Primary shopping frontages in the town.

Policy LE.P6

- 85 Policy LE.P6 appears confusing and consequently, lacks clarity, having regard to Paragraph 154 of the Framework. It refers to applications and initiatives for improving environments and settings "*located in older buildings*" and to front gardens "*where these are in employment use already.*" Policy LE.P6 is imprecise.
- 86 No indication is provided to demonstrate the likelihood of there being any planning applications to improve environments and settings. Most planning applications tend to be for development which may include environmental improvements. An environmental improvement initiative may not require planning permission.
- 87 I recommend:
- **Delete Policy LE.P6**
 - **Delete Paras 5.2.15 and 5.2.16**

Housing

Policy H.P1

- 88 Policy H.P1 supports windfall development within the “*town boundary*” but does not define the town boundary. Consequently, the Policy is imprecise, contrary to Paragraph 154 of the Framework.
- 89 In addition to the above, the Policy supports development on “*appropriate sites*” but provides no indication of what these might be. This adds to the imprecise nature of Policy HP.1, which fails to provide a decision maker with a clear indication of how to react to a development proposal.
- 90 I recommend:
- **Delete Policy H.P1**
 - **Delete Paras 5.3.2 and 5.3.3**

Policy H.P2

91 Paragraph 204 of the Framework states that:

“Planning obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.”

92 Policy H.P2 seeks to prevent any housing development unless “a delivery mechanism including developer contributions” for “sufficient” (which is undefined) open space plus various other things is provided, or agreed to be given.

93 No evidence is provided to demonstrate that the requirements of Policy H.P2 have regard to Paragraph 204 of the Framework. As a consequence, the Policy may serve to prevent sustainable development from coming forward and does not meet the basic conditions.

94 I recommend:

- **Delete Policy H.P2**
- **Delete Para 5.3.4**

Policy H.P3

- 95 Policy H.P3 is not a land use planning policy. It proposes the creation of a list.
- 96 Further to the above, it is the responsibility of Breckland Council to maintain a self-build register. The creation of another register is likely to result in confusion. Further it could, amongst other things, result in unnecessary duplication.
- 97 I recommend:
- **Delete Policy H.P3**
 - **Delete Para 5.3.7**

Policy H.P4

- 98 Building for Life 12 provides helpful guidance to support new residential development. However, it is not a statutory document and cannot be imposed on new development.
- 99 Similarly, whilst independent design review can provide helpful guidance to inform development proposals, it is not a statutory requirement and the Neighbourhood Plan cannot impose it on developments of 50 or more dwellings. In this regard, Planning Practice Guidance¹⁰ is explicit:
- 100 *“Developers can apply for planning permission without going through a design review.”*
- 101 I note that Policy ESD.P5 introduces similar requirements in respect of Building for Life and design review, albeit subject to different thresholds. Policy ESD.P5 is considered later in this Report.
- 102 I recommend:
- **Delete Policy H.P4. Replace with a new *“Community Action: Good Design. The Town Council will seek to encourage developers to take Building for Life 12 into account when planning for new development. The Town Council will also seek to encourage developers to take larger scale development proposals through independent design review.”***
 - **Delete Para 5.3.8**

¹⁰ Reference ID: 26-035-20140306.

Transport and Communications

Policy TC.P1

103 Policy TC.P1 is not a land use planning Policy. Rather, it is a statement that, at some stage in the future, the Town Council will seek to work with other parties to create a strategy. I make a recommendation below to enable the Neighbourhood Plan to capture some of the aims set out in the transport section.

104 I recommend:

- **Delete Policy TC.P1 and replace with *“Community Action: The Town Council will seek to work with others, including Breckland Council and Norfolk County Council, to develop an integrated transport and parking strategy for Attleborough.”***

Policy TC.P2

- 105 Paragraph 29 of the Framework seeks to balance transport systems in favour of sustainable transport and subject to clarifying the wording, the first part of Policy TC.P2, which supports measures to increase the use of cycling and walking and to support the provision of a transport hub at the rail station, has regard to this.
- 106 However, the second part of Policy TC.P2 is ambiguous. Having regard to Paragraph 154 of the Framework, there is nothing to indicate the likelihood of viable and deliverable “*schemes for designs for Attleborough town centre roads*” to “*ensure that congestion does not worsen*” coming forward, nor anything setting out precisely what these would comprise. In making the recommendation below, I also note that, were such beneficial designs to ever come forward then it is likely, in any case, that they would be supported – regardless of whether a planning policy was in place.
- 107 Given the above, it is unclear what the second part of Policy TC.P2 actually seeks to achieve.
- 108 I recommend:
- **Policy TC.P2. delete second paragraph**
 - **Delete Paragraph 5.4.6, which relates to Policies in another part of the Neighbourhood Plan and which reads, in part, as a Policy, which it is not**

Policy TC.P3

109 Chapter 5 of the Framework supports the creation of a high quality communications infrastructure, in recognition of the vital economic role the development of high speed broadband technology and other communications networks perform.

110 Whilst to some degree the aspirations of Policy TC.P3 align with national policy, as set out in Chapter 5 of the Framework, "*Supporting a high quality communications infrastructure,*" the wording of the Policy would require every form of development to include provision for fibre-optic connectivity. No evidence is provided to demonstrate that it would be viable, deliverable or even relevant for all forms of development to do so.

111 I recommend:

- **Change wording of Policy TC.P3 to "*The provision of fibre-optic connectivity within new development will be supported.*"**

Education and Learning

Policy EDP.P1

112 As worded, Policy EDP.P1 “*supports an allocation*” in a non-statutory planning document that does not form part of the development plan, whereas the intent of the Policy is to support the development of a specific facility. This is addressed in the recommendations below.

113 I recommend:

- **Policy EDP.P1, change wording to “*The development of a dedicated facility that jointly provides adult learning and a Sixth Form Enterprise Academy at Attleborough Academy will be supported.*”**
- **Delete Para 5.5.3** (which relates to another part of the Neighbourhood Plan)
- **Para 5.5.4, change to “*The Town Council also supports...*”**
- **Para 5.5.5, add to end “*consultations. A masterplan for Attleborough Academy is being prepared by Norfolk Property Services on behalf of NCC, as the Local Education Authority.*”**
- **Delete Para 5.5.5** (which does not relate to any Policy)
- **Para 5.5.7, delete “*...and this objective would be achieved under policy SLC.P1*”** as there is no evidence to demonstrate that this is the case.

Health and Social Care

Policy HSC.P1

- 114 Policy HSC.P1 supports the provision of a 65 bed care facility but provides no indication of where this might be. The Policy is imprecise and fails to provide a decision maker with a clear indication of how to react to a development proposal, contrary to Paragraph 154 of the Framework.
- 115 The recommendation below is aimed at capturing the aims set out in the supporting text.
- 116 I recommend:
- **Delete Policy HSC.P7. Replace with “*Community Action: New Care Facility. The Town Council will seek to work with third parties to provide for the delivery of a dual registered care facility for around 65 beds in Attleborough.*”**
 - **Para 5.6.2, line, 5, insert full stop “...policies. Research...”**

Policy HSC.P2

117 Chapter 8 of the Framework, "*Promoting healthy communities,*" supports the provision of the services the community needs. To some degree, Policy HSC.P2, which supports the expansion of Attleborough's health facility, has regard to this.

118 However, as worded, Policy HSC.P2 is imprecise and fails to have regard to Paragraph 154 of the Framework. It fails to provide any indication of where a new surgery might be located. This is not made any clearer by the supporting text, which refers to a site on Policies Map 1, which is not shown on Policies Map 1.

119 In the interest of precision, I recommend:

- **Policy HSC.P2, change wording to "*The provision of a new joint GP surgery and primary care provision at the existing Station Road site (shown on Policies Map 2) would be supported, subject to respecting local character, residential amenity and highway safety.*"**
- **Provide a plan showing the location of the site**
- **Para 5.6.7, delete "Currently the search...Map 2."**
- **Para 5.6.7, line 7, change to "*The Station Road site has the following benefits: it...*"**

Sports, Leisure and Community Facilities

Policy SLC.P1

120 Policy SLC.P1 is not a land use planning Policy but a statement in respect of the aspiration to seek a site for a new indoor sports hub.

121 I recommend:

- **Delete Policy SLC.P1 and replace with “*Community Action: Indoor Sports Hub. The Town Council will actively seek a site for a new indoor sports hub within the vicinity of the Academy.*”**
- **Para 5.7.2, line 4, change to “...provision. Breckland Council has published the *Breckland Indoor and Built Sports and Recreational Facilities Study (2017)* and carried out an open...”**
- **Delete Paras 5.7.5 and 5.7.6 (which appear speculative)**

Policy SLC.P2

122 The Framework recognises that:

“Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.”

123 Whilst poorly worded, the intention of Policy SLC.P2, to support sporting provision at Gaymer's Field, has regard to national policy, which recognises, in Paragraph 73 of the Framework, that:

“...high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.”

124 As set out, Policy SLC.P2 seeks to allocate land for development without specifying where development might take place. Gaymer's Field is a large site and no indication is provided of where the various uses might be located. This is also factor that effectively precludes the designation of Gaymer's Field as a Local Green Space (see later in this Report).

125 Taking the above into account, Policy SLC.P2 does not allocate a site for development, but supports specified development within an identified area. Further, the supporting text indicates that the aims of the Policy are very much an aspiration, rather than a certainty.

126 I recommend:

- **Change Policy SLC.P2 to *“The development of an outdoor sports hub at Gaymer's Field, shown on the plan below, to include an artificial games pitch, a pavilion, changing facilities, parking and ancillary social facilities, will be supported.”***
- **Provide a new plan showing the location and boundary of Gaymer's field**

Policy SLC.P3

127 Policy SLC.P3 is unclear and fails to have regard to Paragraph 154 of the Framework. It refers to land the subject of the previous Policy as well as to other sites. The reference "*extension to the facilities here*" makes little sense, not least as the aspirational facilities of the previous Policy have not been developed.

128 In addition to the above, whilst the Policy refers to "*an extension*" to facilities, the area marked as "*Outdoor Sports Hub*" on the Policies Map comprises two separate areas, rather than an extended area. As a consequence of this, the land marked "*D*" does not even include the land referred to by the Policy.

129 I recommend:

- **Change Policy SLC.P3 to "*The provision of outdoor sports facilities will be supported at the land shown below, and marked as "E" on the Proposals Map.*"**
- **Provide a new plan showing the relevant site. Also mark the site as "E" on the Proposals Map**

Policy SLC.P4

130 Policy SLC.P4 is a statement not a land use planning Policy.

131 I recommend:

- **Delete Policy SLC.P4. Replace with “Community Action: Play Facilities. The Town Council will seek to create and implement a Play Strategy and will seek to identify future facilities for the Recreation Ground on Station Road.”**
- **Para 5.7.12, delete “Although developers are...key housing developers.”** (which comprise general comments re: planning obligations without any evidence that they have regard to Paragraph 204 of the Framework)

Policy SLC.P5

132 It is not clear how the location of the linear park can be safeguarded when it is only broadly indicated. Policy SLC.P5 is imprecise in this regard and does not meet the basic conditions.

133 The Policy goes on to make a general statement, in respect of a future masterplan. This is not a land use planning Policy. The Policy also states that *"Approval will be given."* It is not the role of the Neighbourhood Plan to determine planning applications. That is the function of the Local Planning Authority. The Policy goes on to seek to impose controls over the Local Planning Authority and this is something beyond the capabilities of a Neighbourhood Plan.

134 Notwithstanding the above, it is clear from the information submitted that the future provision of a linear park comprises an important element of land use planning identified by plan-makers and supported by the local community. The recommendations below take this into account.

135 I recommend:

- **Change wording of Policy SLC.P5 to *"The provision of a linear park in the area broadly indicated on the Policies Map will be supported."***
- **Change Para 5.7.13 to *"The Town Council would like to see a linear park that is well connected...rail lines. The linear park should also connect...connecting paths. The provision of a linear...appreciation."***

Policy SLC.P6

136 As set out, Policy SLC.P6 is not a land use planning policy. It simply refers to seeking site allocations for allotments. However, supporting the provision of allotments has regard to the Framework's call for positive planning for shared space and community facilities (Paragraph 70).

137 I recommend:

- **Change Policy SLC.P6 to *"The development of land for allotments to meet local demand will be supported."***

Policy SLC.P7

138 Like the preceding Policy, Policy SLC.P7 is not a land use planning Policy. It appears as a statement about something the Town Council will do in the future.

- **Change Policy SLC.P7 to *“The development of a new cemetery site to meet the Neighbourhood Area’s needs will be supported.”***

Policy SLC.P8

139 Policy SLC.P8 is recommended for deletion earlier in this Report.
See Policy LE.P2.

140 I recommend:

- **Delete Policy SLC.P8**
- **Delete Para 5.7.16**

Policy SLC.P9

141 As set out, Policy SLC.P9 does not have regard to Paragraph 204 of the Framework, as set out earlier in this Report. There is an absence of substantive evidence to demonstrate that the requirements of the Policy are necessary directly related, or fairly and reasonably related in scale to development proposals.

142 I recommend:

- **Delete Policy SLC.P9 and replace with “*Community Action: Developer Contributions. The Town Council will seek to ensure that appropriate developer contributions provide for new community facilities, a play hub, a linear park, arts, outdoor sports facilities and other community benefits.*”**
- **Delete Para 5.7.20**

Environment, Sustainability and Design

Policy ESD.P1

143 Policy ESD.P1 is not a land use planning Policy. It refers specifically to the future development of a strategy.

144 I recommend:

- **Delete Policy ESD.P1 and replace with “*Community Action: The Town Council will seek to create a Green Infrastructure Strategy. This may include the following areas:* (provide a. – d. from deleted Policy here)”**
- **Delete Para 5.8.2**
- **Para 5.8.3, delete first sentence**

Policy ESD.P2

145 Policy ESD.P2 is a highly prescriptive Policy. However, no substantive evidence is provided to demonstrate that the replacement of the trees referred to with at least five trees has regard to Paragraph 173, in respect of viability or deliverability. Furthermore, it is not clear, due to the absence of detailed evidence, why it would be appropriate in all circumstances to replace the trees referred to with five or more trees.

146 In the absence of detailed evidence, I find that the Policy runs the risk of preventing development that may be sustainable from coming forward.

147 Further to the above, I am also mindful of the comments of Breckland Council, such that:

“the Council cannot enforce a replacement tree when no objection has been given to the felling of a tree...A replacement tree can be conditioned when approval is given for removal of a TPO tree, but only on a one for one basis.”

148 I recommend:

- **Delete Policy ESD.P2 and replace with “Community Action: Trees. The Town Council will seek to encourage the provision of more trees in the Neighbourhood Area.”**
- **Para 5.8.4, delete last sentence** (which reads as a Policy, but is not and which seeks to impose a requirement on the Local Plan)
- **Delete Para 5.8.5 and 5.8.6**

Policy ESD.P3

149 Paragraph 109 of the Framework seeks to ensure that planning contributes to halting the overall decline in biodiversity. The Framework goes on to state, in Chapter 11, "*Conserving and enhancing the natural environment,*" that:

"...planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees..." (Paragraph 118)

150 Policy ESD.P3 seeks to afford protection to trees where their presence makes a particularly significant contribution to local character and biodiversity. In this respect, it has regard to national policy.

151 As worded, the Policy is unclear. The Neighbourhood Plan will not "*work with landowners*" and provides no indication of how this might take place. No clarity is provided in respect of how implementation of another Policy in the Neighbourhood Plan would "*threaten*" trees and their roots.

152 For precision, I recommend:

- **Policy ESD.P3, re-word as "*Significant Tree Avenues, where the loss of trees will be strongly opposed, are designated at:* (a. and b. here)"**
- **Delete rest of Policy**

Policy ESD.P4

153 Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 76 of the Framework states that:

“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”

154 Consequently, Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. A Local Green Space designation therefore provides protection that is comparable to that for Green Belt land.

155 National policy establishes that:

“The Local Green Space designation will not be appropriate for most green areas or open space.” (Paragraph 77)

156 Thus, when identifying Local Green Space, plan-makers should demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

157 The Policy refers to Policies Map 1. Whilst the areas of Local Green Space are indicated on this plan, its scale is so small that it fails to clearly identify the boundaries of each of the areas of Local Green Space. This is inappropriate for such an important land use designation and I make a recommendation in this regard below.

158 Policy ESD.P4 seeks to designate 6 areas of Local Green Space. A reference to the particular local significance of each Local Green Space is set out below each named area and I note earlier in this Report that the Neighbourhood Plan has emerged through robust public consultation.

- 159 However, the requirements of the Policy fails to reflect national policy in respect of Local Green Space, as made explicit in Paragraph 76 of the Framework and this is a matter which is addressed in the recommendations below.
- 160 Each of the areas of Local Green Space are in reasonably close proximity to the community they serve. They are all local in character and with the exception of Site 4, Gaymer's Field (Site D), none comprises an extensive tract of land. Again, with the exception of Gaymer's Field, there is nothing to demonstrate that the areas identified are not consistent with the local planning of sustainable development. Taking this and the above into account, I find that those areas of Local Green Space identified, excluding Gaymer's Field, meet the tests set out in the Framework.
- 161 As highlighted earlier in this Report, Policy SLC.P2 supports the development of various sports-related facilities at Gaymer's Field. No indication of precisely where these facilities might be located or what they will ultimately comprise is provided. In the absence of such relevant detailed information, it is difficult to conclude that all development will be ruled out at Gaymer's Field, other than in very special circumstances – as per the requirements of Local Green Space designation.
- 162 Given the absence of detailed information, it is not known precisely what development will take place, or where. It is therefore difficult to conclude that the designation of Gaymer's Field as Local Green Space would be consistent with the local planning of sustainable development – it could place a hurdle in the way of another Policy in the Neighbourhood Plan from bringing sustainable development forward.
- 163 Taking all of the above into account and in the absence of substantive evidence to the contrary, I find the proposed designation of Gaymer's Field as Local Green Space fails to meet the tests set out in the Framework.
- 164 I recommend:
- **Re-word Policy ESD.P4 “*The sites listed below and shown on the accompanying plan(s) are designated as Local Green Space, where development is ruled out other than in exceptional circumstances. (provide list of 5 sites and reasons here)*”**

- **Provide new plan(s) of Local Green Space (only), identifying all boundaries at a large enough scale to be clearly legible. This may require more than one plan. Provide plans below Policy.**
- **Delete Paras 5.8.8 and 5.8.9** (which are confusing and detract from the clarity of the Neighbourhood Plan)

Policy ESD.P5

165 Good design is recognised by the National Planning Policy Framework (the Framework) as comprising:

“a key aspect of sustainable development...indivisible from good planning.”
(Paragraph 56)

166 In addition, national policy requires good design to contribute positively to making places better for people (Chapter 7, The Framework). Paragraph 58 of the Framework goes on to require development to:

“...respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;”

167 Further to the above, Breckland Core Strategy Policy DC 16 (“Design”) requires all new development to achieve the highest standard of design.

168 The first part of Policy ESD.P5 promotes good design. It has regard to national policy and is in general conformity with the Core Strategy. As identified earlier, the second part of the Policy, which seeks to impose requirements relating to design guidance and review, does not meet the basic conditions.

169 I recommend:

- **Policy ESD.P5 delete all after first sentence**
- **Delete Paras 5.8.14 and 5.8.15**

Policy ESD.P6

170 Policy ESD.P6 is not a land use planning Policy but a statement in respect of working with other parties to produce a Design Guide in the future.

171 I recommend:

- **Delete Policy ESD.P6 and replace with “*Community Action: Design Guide. The Town Council will seek to work with Breckland Council and other parties to prepare a Design Guide.*”**

7. The Neighbourhood Plan: Other Matters

172 It is not the role of the Neighbourhood Plan to place responsibilities on third parties including the Local Planning Authority. Furthermore, the content of "Section 7 Delivery Plan" does not reflect the recommendations made in this Report. I recommend:

- **Delete Section 7**

173 The recommendations made in this Report will have a subsequent impact on Policy, page, figure and paragraph numbering. It will also affect each "*Mini Vision*" where Policies are recommended for deletion.

174 I recommend:

- **Update the Policy, page, figure and paragraph numbering, taking account of the recommendations contained in this Report.**
- **Delete Para 5.5.1 "*Mini Vision*" (which does not relate to Policies).**

8. Summary

175 Having regard to all of the above, a number of modifications are recommended in order to enable the Neighbourhood Plan to meet the basic conditions.

176 Subject to these modifications, I confirm that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the 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);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

177 Taking the above into account, I find that the Attleborough Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

9. Referendum

178 I recommend to Breckland Council that, subject to the modifications proposed, **the Attleborough Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

179 I am required to consider whether the Referendum Area should be extended beyond the Attleborough Neighbourhood Area.

180 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

181 Consequently, I recommend that the Plan should proceed to a Referendum based on the Attleborough Neighbourhood Area approved by Breckland Council on 11 November 2013.

Nigel McGurk, August 2017
Erimax – Land, Planning and Communities



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