



Breckland
COUNCIL

**Breckland Local Plan Partial Review Submission Draft
Topic Paper**

Breckland District Council

August 2022

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1.0 INTRODUCTION

1.1 The Breckland Local Plan was adopted on 28 November 2019. (LPPR/01¹). It sets out a strategy for delivering the homes, jobs and infrastructure needed in the district between 2011 and 2036. Policy INF 03 included a requirement for the Council to undertake a Partial Review of the Plan with regard to housing, non-travelling gypsy and travellers, accessibility of homes standards and economic development. This would be submitted for examination November 2022. In the event that the review was not submitted for examination by this time, then the Council's policies that relate to the supply of housing, economic development and Gypsies and Travellers would be deemed to be out-of-date. This could have serious implications for plan-led development management decision-taking.

1.2 The Examination into the Plan took place in 2018. As part of the examination process, the Council specifically requested that the Inspector recommend any main modifications (MMs) necessary to enable the Plan to be found sound and capable of adoption. In February 2019 the Council proposed and consulted on a series of Main Modifications to the Plan. One of these (MM160) was to include a new Policy in the Plan requiring an immediate review of the Plan on key issues pertaining to housing, Gypsies and Travellers, internal space standards and economic development (LPPR02).

1.3 This Topic paper:

- outlines the reasons as to why an immediate review was required;
- what has happened since the Local Plan was adopted and why the Council has decided that the review should be split into the following two elements;
 - a Partial Review which proposes changes to Policy INF 03 to delete the requirement for an “immediate partial review” and the consequences that would be deemed to follow should that partial review not take place
 - a Substantive Review which will roll forward the plan to 2041, including the allocation of new developments and reviewing other policies as necessary

¹ LPPR01 = Local Plan Review document that is in the document library

2.0 WHY WAS AN IMMEDIATE REVIEW REQUIRED?

2.1 The reasons why an immediate review was required are set out in the Inspector's Report (LPPR/03)² and for clarity are summarised below:

The Housing Requirement

2.2 Following the closure of the hearing sessions into the examination, the Government published the 2016 household projections. The Council confirmed that the 2016 household projections resulted in an increase in the number of expected households in Breckland than that anticipated in the 2014 household projections and consequently the demographic starting point had changed. (Para 28 of LPPR/03). Whilst the Inspector acknowledged that the Government had expressed concerns with regard to the 2016 household projections, he considered that this concern was because, at a national level, the 2016 household projections resulted in lower projections compared with the 2014 household projections for many areas of the country. He noted that this was not the case for Breckland (770 dwellings p/a under the 2016 base and 682 dwellings p/a under the 2014 base). The Inspector noted that the Plan was being examined in the context of the transitional arrangement (using an Objectively Assessed Need of 612 dwellings p/a) under the 2012 NPPF. Furthermore, he acknowledged that there would be a significant level of work required to produce a new Strategic Housing Market Assessment based on the 2016 household projections and concluded that the most appropriate and pragmatic course of action would be to allow the Plan to be adopted without undue delay and to require an immediate review of the Plan to review the housing requirement (Para 29 of LPPR/03).

Non-travelling Gypsy and Travellers

2.3 The Inspector noted that the Gypsy and Traveller Needs Assessment sets out a requirement for 43 additional pitches for households who do not meet the Planning Policy for Traveller Sites (PPTS) definition. Furthermore, he considered that under the requirements of the Housing and Planning Act 2016 and the Public Sector Equality Duty the Council should be seeking to positively meet this need and not rely on the criteria-based Policy HOU 08 within the Local Plan. He concluded that identifying sufficient additional pitches to meet future needs would not be a quick or straightforward process and therefore to allow the rest of the Plan to be adopted without significant delay an immediate review of the Plan would be the most appropriate and pragmatic approach. ((Para 194 of LPPR/03).

Accessibility of Homes Standards

2.4 The Inspector noted that Policy HOU 10 of the Local Plan included thresholds for the provision of accessible and adaptable dwellings as well as for wheelchair user dwellings. However, he considered that such requirements were not considered in the supporting viability assessment

and that the Council had not provided any robust evidence to justify why it had selected such thresholds. Therefore, these were removed from the Policy. The Inspector noted that whilst these were optional standards the evidence suggested that an immediate review of the Plan was needed in this regard. (Paras 200 and 201 of LPPR/03).

² https://www.breckland.gov.uk/media/14546/Report-of-the-Inspector-2019/pdf/Report_of_the_Inspector_2019.pdf?m=637520995843570000

Economic Development

- 2.5** During the Examination Hearings the Council accepted that the employment studies had not taken into account the fact that there is now an intention to finish dualling the A47 between Dereham and Easton by 2020 and the effect that this could have on the economic strategy of the Council. The Inspector considered that this could be a factor that could significantly affect the economic environment in the District, particularly the apportionment of employment land to settlements on the A47 corridor such as Dereham for example, in the near future. On this basis, this aspect of the Plan was also agreed to form part of the immediate review. (Para 215 of LPPR/03).

3 WHAT HAS HAPPENED SO FAR?

3.1 Following the adoption of the Plan in November 2019 a range of options that were available in respect of the Review of the Plan were considered by the Council's Cabinet in June 2020 (LPPR/04)³. The Cabinet explored the options of whether a full review would be preferable or whether it would be more practical or reasonable to prepare a Partial Review alone, or as a sub-set of a full review and agreed that on balance, and in light of the critical risks and issues set out in the Report, to undertake a full review of the Local Plan. The Council also approved a Local Development Scheme setting out the timetable for the full Review⁴.

3.2 There are a number of changes which have occurred since the Local Plan was adopted and since the Council committed to undertake a full review of the Plan in June 2020 which had potential implications for the review of Policy INF 03 and its timetable. These are as follows:

- Uncertainty and delays to the publication of the housing need / standard method figures and delays to work on the revised Strategic Housing Market Area Assessment (SHMAA)
- The Review would not accord with the 2021 National Planning Policy Framework (NPPF) and need for a minimum 15-year time horizon for strategic policies and at least 30 years for larger scale developments such as new settlements or significant extensions to existing villages and towns;
- The A47 improvements near Dereham are yet to be commenced and have been delayed since they were considered by the Local Plan Inspector in 2018.
- The definition of Gypsies and Travellers was subject to a High Court challenge until July 2021.
- The introduction of local internal space standards would require a new plan wide viability study that could impact on other key parts of the Plan
- There are a number of other considerations that have emerged since the Council resolved to undertake a Full Review of the Plan in June 2020 including the need for a clearer understanding of the implications of Covid 19, First Homes, the announcement, in March 2022, by Natural England that development in parts of Breckland cannot proceed if it increases levels of nutrients, revisions to the National Planning Policy Framework in July 2021 and probable further announcements as to how national planning policy is likely to change expected (previously expected in July 2022 but now delayed) as well as the continuing discussion over planning reform and the introduction of the Levelling Up and Regeneration Bill to

Parliament on 11 May 2022 and the Environment Act (2021).

Uncertainty and delays to the publication of the housing requirement and delays to work on the revised Strategic Housing Market Area Assessment (SHMAA)

³ <https://democracy.breckland.gov.uk/ieListDocuments.aspx?CId=116&MId=4613> (item 35/20)

⁴ <https://democracy.breckland.gov.uk/ieListDocuments.aspx?CId=116&MId=4613> (item 35/20)

- 3.3 In his Report (para 29 of LPPR 03) the Inspector makes reference to the standard method for assessing local housing need that the National Planning Policy Framework expects strategic policy-making authorities to follow the standard method that uses a formula to identify the minimum number of homes expected to be planned for, in a way which addresses projected household growth and any historic under-supply.
- 3.4 The introduction of a standard method for assessing housing needs for planning purposes (first consulted on in 2017, then adopted in 2018) intended to shift time, resources and debate at local plan examinations away from the ‘numbers’ question and towards the ‘how’ and ‘where’ of building new homes. This method, which equated to a national figure of around 266K per annum when launched, was based on the 2014-based Household Projections plus an uplift for affordability, subject to a ‘cap’. The figures were subsequently updated to use the 2016 based household projections in September 2018 and these were the ones in place when the Inspector was considering the issue at the Examination into the Local Plan.
- 3.5 In October 2018, the Government instructed local authorities to ignore the 2016 based figures when assessing their local housing need and instead use the 2014-based figures published two years earlier whilst it carried out a review of the methodology.
- 3.6 In August 2020 (as part of the Planning for the Future White Paper) the Government consulted on a proposed new Standard Method, which had a greater focus on affordability, the results of which were to boost the national figure to 337,000 homes per annum, with most of the increases in the areas where the gap between house prices and incomes was greatest. This unleashed a political and media storm that led to the proposal being dubbed ‘the mutant algorithm’, and the Government indicated that it would be further reviewing its draft proposals.
- 3.7 On 16th December 2020, the Government launched its solution. This was to scrap its August proposals and revert back to the method it introduced in 2018, but with a modification to top up the number in the 20 largest cities and urban areas by 35%, reflecting Government objectives to, inter alia, drive housing into existing urban areas and encourage brownfield development. For Breckland this produced a figure of 661 dwellings per annum that was most recently revised to 643 per annum following the application of an adjusted affordability ratio.
- 3.8 Table 1 below sets out the chronology of this figure for Breckland.

Year	Dwellings per annum / milestone	Commentary
April 2018	Local Plan Examination Hearing on the Housing requirement on the Breckland Local Plan	The requirement in policy HOU1 in the plan is 612 dwellings per annum
July 2018: 2014 based figure published by	680 dwellings per annum	

Table 1: Evolution of the Standard Housing Figure and Breckland Local Plan

Year	Dwellings per annum / milestone	Commentary
Government		
September 2018: 2016 based figure published by Government	770 dwellings per annum	This is the figure the Inspector indicated that the Council should use as part of the immediate review of the Local Plan under Policy INF 03
October 2018		When these revised 2016-based projections were published in September 2018, they produced large drops in local housing need in many areas. The MHCLG announced in October 2018 that it wanted planners to ignore the latest figures when assessing their local housing need and instead use the 2014-based figures published two years earlier.
October 2019	Inspector's Report published	This confirmed the 612 dwellings per annum figure used in the Breckland Local Plan that was found to be 'sound' by the Inspector against the 2012 NPPF and needed immediate review using the 2016 based standard housing figures.
November 2019	Breckland Local Plan adopted	
June 2020	Local Development Scheme approved	
Aug 2020 (New methodology)	1,070 dwellings per annum	
October 2020	Work on the Review paused	Due to uncertainty over process, content and housing requirements
Dec 2020 (2014 methodology)	661 dwellings per annum	The Government formally revised its standard method of

Year	Dwellings per annum / milestone	Commentary
		assessing housing need on 16 December 2020, moving away from the approach proposed over the summer (August 2020) and instead only slightly tweaking the existing method that has been in place since 2018. (2014 based figures)
Mar 2021 (2014 methodology with adjusted affordability ratio)	643 dwellings per annum	
September 2021	Revised Local Development Scheme published including the Partial Review	

- 3.9 In paragraph 29 of his Report (LPPR/03), the Local Plan Inspector concluded that the Council should review the Plan evidenced by the outputs of a new SHMAA underpinned by the 2016 based housing figures that were published in September 2018. This is now wholly inconsistent with the Government requirement for local authorities to use the ‘Standard Method’ as a starting point. The 2016 based figures had already been replaced by MHCLG prior to the issue of the Inspectors Report when in February 2019 it announced that it would be undertaking a review of the methodology used for calculating the standardised housing figures and in the interim had reintroduced the 2014 based figures for the purposes of calculating the Government’s ‘Standard Method’,
- 3.10 In the Technical consultation on updates to national planning policy and guidance (October 2018) (LPPR/05) MHCLG states:
- The Government considers that the best way of responding to the new ONS household projections and delivering on the three principles in paragraph 18 above is to make three changes:*
- 1. For the short-term, to specify that the 2014-based data will provide the demographic baseline for assessment of local housing need⁵.*
- 3.11 The Government did not include any provision to require the use of 2016-based figures where these were higher than the 2014 based ones. Instead, it chose to rely upon the 2014-based household projections. This clear instruction to revert to the 2014-based figures clearly conflicted with the content of the Inspector’s

⁵ https://www.london.gov.uk/sites/default/files/ad_14_lhn_consultation.pdf

Report that requires the use of the 2016 figure. It is considered that using the withdrawn 2016 figures (770 per annum) would likely have resulted in the Review being found unsound at examination. Furthermore, a review of Policy INF 03 based on the 2014 based figure (680 per annum) would have meant that by the time of Submission in November 2022, the baseline for these figures would have been 5 years old and without any indication of the outcome of the Government's consideration of the methodology, could have likely been out of date by the submission date. That could have resulted in such a plan being found unsound and/or the Council being required to undertake a further immediate review of the Plan.

- 3.12 The publication of the new methodology and housing numbers in August 2020, alongside the proposed major reforms to both the content and process for preparing local plans simply added to the uncertainty, as the figure for Breckland increased by 57% from the 680 dwellings (2014 based) to 1,070 (August 2020 figure).
- 3.13 Following further consideration, in December 2020, the Government scrapped its August proposals and essentially reverted back to the method it introduced in 2018, but with a modification to top up the number in the 20 largest cities and urban areas by 35%. This produced a figure of 661 dwellings per annum for Breckland District.
- 3.14 To further complicate the situation in March 2021 the Office for National Statistics (ONS) published new data on the affordability of housing within local authorities across England and Wales. This data feeds into the government's standard method for calculating local housing need, against which councils set their housing requirements. For Breckland this has reduced the starting point for assessing the annual requirement to 643 dwellings per annum (March 2021).
- 3.15 The transitional arrangements for those preparing plans using the 2014 housing figures were for local authorities who were very close to publishing their Regulation 19 plan and gave a three-month window to publish their Regulation 19 plan for consultation, followed by six months to submit the plan. Critically, this means that if Breckland had commenced work on an immediate partial review of the Plan, in accordance with the requirements of policy INF03, and using the 2014 figures, it would have to have been in a position to consult on the Regulation 19 Plan by March 2021 and to submit by September 2021.
- 3.16 It is clear that the lengthy national housing numbers review and fluctuations in the published housing figures for the District resulted in significant uncertainty for Breckland, as for many Local Planning Authorities, as to the scale of housing requirement that the Review of Policy INF 03 should have been based on and that any meaningful Review could have only commenced after December 2020.
- 3.17 It is important to understand that although Policy INF 03 listed 4 specific areas for the Review to consider these go to the heart of the Plan. New housing figures, possible new allocations for Gypsies, Travellers and travelling show people and the economic development implications of the A47 road improvements would require consideration of the whole spatial strategy with potential new allocations and revised settlement boundaries. Even if the uncertainty around the housing figures was the only issue facing the Council and its review of the Plan, it is considered that to have started in December 2020, once the Government Review was completed and to meet the required

submission deadline would have been an impossible and unachievable task due to the amount of work required, including preparation of key evidence that would have been required, including a new Housing Needs Assessment, Gypsy and Traveller and Travelling Showpeople Assessment (GTAA) and internal space standards work as well as the statutory duty to prepare and consult on the call for sites exercise and duty to co-operate together with the emerging formulative policies and proposals, prior to submitting a Plan for examination by November 2022.

- 3.18 There has clearly been considerable uncertainty regarding the starting point for the housing requirement element which the review of Policy INF 03 would need to plan for. In the meantime, the continuing strong performance in housing delivery, as demonstrated by recent 5 year housing supply reports and over provision of housing in the Local Plan that is sufficient to meet the increase in housing from 612 to 643 dwellings per annum (refer to Section 5 for further information) significantly reduces the need for an immediate partial review. It is possible that the Council will not be able to sustain a 5 year housing land supply in the near future. One of the main reasons for this is likely to be attributed to the delays in planning permissions being delayed due to nutrient neutrality issues. Information from the Home Builders Federation⁶ suggests that the number of homes delayed across the 42 affected local authorities, where the issue was introduced in March 2022, was 38,050. The second worst affected area is the Broads and Wensum catchments (including Breckland) where some 10,490 homes are delayed. It is worth noting that there is a risk to the examination into the Greater Norwich Local Plan that may be further delayed depending on the outcome of urgent evidence on potential mitigation solutions to Nutrient Neutrality issues that has been commissioned to support the allocations set out in the Plan. Similar issues would have likely affected Breckland had the Review been undertaken in accordance with the requirements of Policy INF 03.
- 3.19 The adopted Local Plan is underpinned by and predicated upon the 2016 SHMAA that was jointly commissioned by the Central Norfolk local authorities (Norwich City, Broadland, Breckland, North Norfolk and South Norfolk, together with the Broads Authority Executive Area) as this best reflects the functional housing market within which Breckland lies. At the time the Local Plan was being finalised it had been envisaged that the housing requirements for a review would be based upon a joint review of the SHMAA. During 2020 the partner authorities worked together to agree a tender brief for the review of this key piece of evidence.
- 3.20 Following the publication of the Changes to the Planning System consultation Paper, in October 2020 it was jointly agreed by the Norfolk Strategic Planning Forum that work on this new SHMAA be paused until the results of the consultation were published (LPPR/06)⁷. In January 2021 it was agreed to consider ways in which work on the Study could be revived following the publication of the new standardised housing figures. Although Breckland remained committed to the review of the Study, at these discussions both Norwich City, Broadland and South Norfolk confirmed that they did not want to commit to a full review of the SHMAA as this could undermine the progress on its local plan, that is now at examination. This is because the housing element of

⁶ <https://www.hbf.co.uk/news/new-report-finds-natural-england-significantly-overestimates-impact-new-housing-development-nutrient-pollution/>

⁷ <file:///C:/Users/adarcy/Downloads/Minutes%201%20October%202020.pdf>

their Joint Plan is underpinned by the existing SHMAA.

- 3.21 In conclusion, since the adoption of the Local Plan in November 2019, there has been considerable uncertainty regarding the housing requirement element which the review would need to plan for. In the meantime, the adopted local plan's requirement figure and 5 year housing land supply position is considered sufficient to meet need arising in Breckland. Due to delays out of the Council's control, as set out in this Paper there have been unavoidable delays to any prospect of delivering a review of the Local Plan within the timeframe prescribed by Policy INF 03.

Changes to The National Planning Policy Framework

- 3.22 The adopted Local Plan was examined under the 2012 National Planning Policy Framework. The immediate Review would have been assessed on the February 2019 version. However, this was replaced with a new version in July 2021. This introduced a number of new plan-making requirements that in particular increased the focus on design quality, not only for sites individually but for places as a whole. Terminology is also now more firm around key issues such as protecting and enhancing the environment and promoting a sustainable pattern of development. Additionally, policies have been revised relating to opting out of permitted development, the use of masterplans and design codes and the important contribution of trees in new developments.
- 3.23 Of particular relevance to Plan Making, the main edits focus on the design quality of *places*, rather than just the individual development. Additionally, a new insertion to paragraph 22 sets out that "*Where larger scale developments such as new settlements or significant extensions to existing villages and towns form part of the strategy for the area, policies should be set within a vision that looks further ahead (at least 30 years), to take into account the likely timescale for delivery*".
- 3.24 In regard to identifying land for homes, an insertion into paragraph 73 (previously 72) states that the supply of large numbers of new homes should be supported by a *genuine choice of transport modes*. Reference to the quality of *places to be created* is also noted again in paragraph 73, as well as ensuring that *appropriate tools such as masterplans and design guides or codes are used to secure a variety of well-designed and beautiful homes* to meet the needs of different groups in the community.
- 3.25 Amendments, in Chapter 8, have been made to ensure pedestrian and cycle routes are attractive and well-designed. Also, a new insertion at paragraph 98 requires that local authorities, in regard to public service infrastructure, should work proactively and positively with promoters, delivery partners and statutory bodies to plan for required facilities and resolve key planning issues before applications are submitted.
- 3.26 Similarly, Chapter 9: Promoting Sustainable Transport, reiterates that walking and cycling networks should be attractive and well-designed. Paragraph 110 (previously 108) which sets out what should be ensured when assessing sites that may be allocated for in development plans or specific applications for development, has an additional point inserted as point C which reads as follows "*the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code*".

- 3.27 Chapter 12: Achieving Well-designed Places has undergone a significant amount of editing. A much bigger focus is placed on making 'beautiful' and 'sustainable' places, and the use of plans, design policy, guidance and codes is hugely encouraged. For example, Paragraph 128 (previously 126) sets out that *"all local planning authorities should prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code, and which reflect local character and design preferences."*
- 3.28 Another important insertion is paragraph 131, which sets out the important contribution trees make to the character and quality of urban environments. It requires that planning policies and decisions should ensure that new streets are tree-lined and that opportunities are taken to incorporate trees elsewhere in developments. It also sets out a requirement that appropriate measures are in place to secure the long-term maintenance of newly planted trees and existing trees are retained wherever possible. The importance of these policies and guidance is reiterated at paragraph 134, which states that development that is not well designed should be refused *"especially where it fails to reflect local design policies and government guidance on design"*.
- 3.29 Chapter 14: Meeting the Challenge of Climate Change, Flooding and Coastal Change focuses on making sure plans take into account *all sources* of flood risk. It is also encouraged to use opportunities provided by improvements in green infrastructure, and to make as much use as possible of natural flood management techniques. Development should be appropriately flood resistant and resilient *"such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment (paragraph 166b)"*. Additionally, the Flood Risk Vulnerability Classification is referenced as newly provided at Annex 3 of the NPPF.
- 3.30 These changes combine to go to the heart of a local plan and to have undertaken a partial review before the whole plan was reviewed would not have been a reasonable or cost-effective approach as there would be elements of the Plan, not covered by Policy INF 03 that would also require updating to ensure continued compliance with the NPPF. Further changes are also proposed as part of the Levelling Up and Regeneration Bill. A document setting out how the Government intends to change national planning policy is expected to be published in July that is likely to include more about how improved environmental outcomes can be achieved. It is clear that to best encompass the new NPPF a full update of the Plan would be the most reasonable and cost effective way forward.

Delays to the proposed A47 dualling and impact on Economic Development

- 3.31 The Inspector referred to the dualling of a section of the A47 near Dereham to be completed by 2020 and that the effect of this on the economic strategy needed to be considered in the partial review. This refers to the proposed dualling of the A47 between North Tuddenham and Easton. The latest available information on the implementation of this scheme⁸ is that the Development Consent Order was lodged in Spring 2021, and the examination commenced in August and ended in February 2022. In June 2022 the Secretary of State requested comments from Natural England on whether the proposed mitigation

⁸ <https://nationalhighways.co.uk/our-work/east/a47-north-tuddenham-to-easton-improvement/>

for protected species was adequate and whether it has any concerns about the impact of the proposed development on the Land at Berry Hall. (LPPR 07). The Applicant was also asked if the advice issued by DEFRA on 16 March 2022 in relation to nutrient pollution changes any of the assessments carried out in relation to the application including the Habitat Regulations Assessment report. It remains uncertain as to when the Planning Inspectorate will publish its report and recommendation, nor when the Secretary of State will make the decision on whether to grant or refuse the DCO. Work is currently scheduled to start in 2022-23 and be completed in 2024-25 although this remains dependent on a timely and positive decision. This timescale is considered to dovetail with a substantive review of the Plan and can be factored into this work.

Uncertainty on the definition of Gypsies and Travellers

- 3.32 The Inspector considered that Policy HOU 08 of the Plan should be reviewed in respect of meeting the identified demand for Gypsies and Travellers' Sites under the Planning Policy for Travellers Site guidance 2015 (PPTS). The Council is yet to commission an up to date needs report for this particular issue. This work was to form part of the full review of the Plan as agreed in June 2020.
- 3.33 The Council is aware of a recent hearing in the High Court (December 2020: Lisa Smith v Secretary of State for Housing, Communities and Local Government) that raises questions of significant public interest concerning discrimination against Gypsies and Travellers. In particular Ground 1 concerns whether the definition of "Gypsies and Travellers" contained in Annex 1 of the PPTS is unlawfully discriminatory. That definition excludes, from the PPTS' ambit, any Gypsy or Traveller who has ceased to travel "permanently". That will exclude, for example, those Gypsies or Travellers who have permanently ceased to travel due to old age, disability or due to caring responsibilities.
- 3.34 In June 2021 the High Court found that the definition of "Gypsies and Travellers" is not unlawful. However, the timing of the judgement has meant that it is now unrealistic and unfeasible for the Council to complete the review of Policy INF 03 within the prescribed timescale set out in that Policy. In the meantime, applications have continued to be considered on their individual merits on a case by case basis with reference to policy HOU08 of the Local Plan.
- 3.35 Whilst it is possible that the total number of those meeting the definition and those not meeting it would be the same, it is important to note that only the need from those households who meet the definition and from those of the 'unknown' households who subsequently demonstrate that they meet it should be considered as need arising from the Gypsy and Traveller accommodation assessment (GTAA) and that would need to be addressed through site allocation /intensification/expansion policies. The need for those households who do not meet the new definition will need to be addressed through other means such as the new Housing Needs Assessment.
- 3.36 Furthermore, the evidence base (2015) is relatively old and to rely on it could be challenged. Even if not, a review would be necessary in the near future to update the position and this could result in the Council having to identify more sites than in the partial review. Paragraph 31 of the NPPF states: *'The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant*

market signals' The Council considered that it would be prudent to await the outcome of this case and whether it would consequently require a change to the PPTS before commissioning an update to its evidence base. Therefore this aspect of the immediate review could not have taken place prior to June 2021.

Uncertainties due to Planning Reform

- 3.37 For some time, the Government had been signaling its intention to make radical changes to the planning system in England. The Covid-19 pandemic brought about some immediate changes to certain aspects of planning policy – such as enabling pubs to offer hot food takeaway services – while other, substantial changes to the planning system, were published for consultation on 6 August 2020 through the White Paper Planning for the Future.
- 3.38 The consultation documents proposed fundamental changes to both the content of future local plans and to the way that they are to be prepared. Critically, the consultations also set out a new proposed methodology for the calculation of the new standardised housing number. As a result of these consultations Breckland resolved to pause work on the review of the Local Plan until there was greater certainty on the Plan making process and in particular on the housing figures. The Council did not want to embark on potentially expensive and abortive work on the review as the Review would not have progressed to a sufficiently advanced stage by the introduction of any reforms, which at the time were suggested to be November 2021 to trigger any transitional arrangements.
- 3.39 In September 2021 the Government announced a pause to the reforms and it is expected that they will be reviewed before decisions are made on how to proceed. It is acknowledged that the Government has consistently advised that local authorities should continue to work on local plans. Examples of this are contained in both the March 2020 and October 2020 letters from the Chief Planning Officer to local authorities. (LPPR 08⁹ and LPPR 09¹⁰). In this context it is important to note that this is aimed at those authorities without an up to date Local Plan and that Breckland has an up to date local plan and continues to demonstrate a 5 year supply of housing land. The March 2020 letter does accept that some amendments to the timetables for the production of plans may require amendments to take account of the uncertainties including Covid 19.
- 3.40 In May 2022 the Government published the Levelling Up and Regeneration Bill that includes a raft of reforms to local planning and infrastructure regulations. Whilst the radical 'zoning' proposals have been abandoned, the Bill still contains some fundamental changes to the English planning system. The difficulty for the preparation of local plans is that a lot of detail is to be left to future consultations and resulting regulations and it remains unclear as to what the final reforms will look like and the timing for implementation. It is clear, however, that undertaking the partial review of the Plan under this continuing uncertainty would have been unreasonable and unrealistic. In undertaking the full update of the Local Plan against the approved Local Development Scheme, the Council will be in a significantly stronger position to take account of these potential changes.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875045/Chief_Planners_Newsletter_-_March_2020.pdf

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/924423/Chief_Planners_Newsletter_-_October_2020.pdf

- 3.41 Of particular relevance to local plan preparation and key elements of the Partial Review are the proposed strengthening of the role of the 'national model design code' across the UK, to ensure that locally informed and clear design standards are in place in all parts of the country and the requirement for every local planning authority to produce a design code for its area, which will have full weight in making decisions on development. Breckland Council has completed a Breckland Landscape and Settlement Character Appraisal that is the first stage of this process as it identifies the key characteristics of the district and its settlements and will help inform future design guidance.
- 3.42 Under the proposed legislation, local plans will be given more weight when decisions on applications are being made. The change will mean that there must be strong reasons to override a local plan. Policies on issues that apply in most areas, such as general heritage protection, will be set out nationally. Such policies will be published in a suite of 'national development management policies' and will be the subject of a future consultation. Planning authorities will be required to give the same weight to the policies as development plan documents so that they are taken fully into account in decisions.
- 3.43 In its Policy paper, *Levelling Up and Regeneration: further information*,¹¹ the Government has proposed to remove the requirement for authorities to maintain a rolling five-year supply of deliverable land for housing, where their plan is up to date, i.e., adopted within the past five years.
- 3.44 The Housing Minister has also re-iterated the commitment to the Future Homes Standard that will ensure that, from 2025, all new homes will be expected to have at least 75% lower carbon emissions and be zero carbon ready without the need for expensive retrofitting.
- 3.45 In May 2021, the Government published a Written Ministerial Statement to set out the Government's plans for the delivery of First Homes defining the product as affordable housing. These changes came into effect in June 2021 and would need to be considered in the Review of the Plan.
- 3.46 The Environment Act (2021) includes various environmental protection measures, these include the establishment of new environmental principles and legally binding environmental targets, including achieving net-zero greenhouse gas emissions by 2050.
- 3.47 These very significant proposals that go to the root of plan making have created a significant degree of uncertainty in the plan making process since October 2020. The timing of the introduction of the Bill when combined with the other factors set out in this report mean that to have undertaken the immediate partial review would have been unrealistic and undeliverable.

Nutrient Neutrality

- 3.48 On 16 March 2022 Natural England set out in a letter to local authorities its "advice for development proposals that have the potential to affect water quality in such a way that adverse nutrient impacts on designated habitats sites cannot

¹¹ <https://www.gov.uk/government/publications/levelling-up-and-regeneration-further-information/levelling-up-and-regeneration-further-information>

be ruled out (LPPR 10).¹² Within Breckland 2 Catchments are affected by this announcement. These are the River Wensum and the Broads Special Area of Conservation (SAC) (LPPR 11)¹³.

- 3.49 A letter from the Chief Planning Officer (March 2022) (LPPR 12)¹⁴ sets out the implications of this for local plans that is summarised as follows. For site allocations in the affected areas, the Local Planning Authority must consider the possibility of adverse effects, as a result of additional nutrient loads (including from residential developments); as part of a Habitat Regulations Assessment (HRA). In practical terms, this means that before allocating sites (or granting any new permissions) following the receipt of the Natural England advice, Breckland Council will need to be confident that the development in question does not require nutrient neutrality to be acceptable under the regulations or that nutrient neutrality is secured, as part of the proposal.
- 3.50 If the Council had progressed the Partial Review of the Plan as required by Policy INF 03 then by March 2022 this work would have been at a critical stage, being only 7 months before the required November 2022 Submission date, with most of the work on any revised development strategy and any new allocations at an advanced stage. This work would have been delayed to have ensured that the Plan could be considered 'nutrient neutral' and the Local Planning Authority could demonstrate that it would cause no overall increase in nutrient pollution affecting specified Habitats Sites.

Internal Space Standards

- 3.51 The Council acknowledges the Inspector's requirements to reconsider these optional standards as part of the partial review but considers that as these are optional the timing of when and if this is completed is a decision for the Council and can be done through a full review and should not be required to be submitted by November 2022. If the Council wanted to introduce optional standards then the requirement to undertake a viability assessment on this (as required by the Inspector) could impact on other parts of the plan, including remaining housing allocations. Therefore, standards cannot be considered to be a discreet and isolated part of the plan and as such are better considered as part of a full review that would also revisit existing allocations and be subject to a new plan wide viability assessment.

¹² <https://www.north-norfolk.gov.uk/media/7687/letter-from-ne-water-quality-and-nutrient-neutrality-advice.pdf>

¹³ <https://www.breckland.gov.uk/planning/nutrient-neutrality>

¹⁴

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1061531/Chief_Planner_Letter_about_nutrient_pollution_March_2022.pdf

4 FUTURE PLAN-MAKING IN BRECKLAND

4.1 The District Council is committed to meeting the future development needs of the district and to do this through a review of the Local Plan. However, the circumstances have changed since the Local Plan Inspector made his recommendations to the district council and since the local plan was adopted.

What are we now proposing?

4.2 In light of the issues set out in Section 3 of this Report, the Council is now proposing to:

- 1) Amend Policy INF 03 and some of the supporting text of the adopted Local Plan including the consequences that would be deemed to follow should the expected immediate partial review not take place. This is referred to as the 'Partial Review'.
- 2) Continue to work on a full update of the Local Plan to address the longer term development needs of the district.

4.3 The Partial Review represents a necessary step to ensure that the housing supply, economic development and Gypsy & Traveller policies in the Local Plan are not deemed to be out-of-date for decision-taking by the words of Policy INF03 itself. Whether or not any policies in the plan are in fact out-of-date for the purposes of decision-taking should be judged in the context of paragraph 11d of the NPPF or in the light of any future NPPF revision (see further below).

However, the District Council is committed to planning the long-term future of Breckland alongside the partial review. To do this, the issue of a new housing requirement as well as all the other issues, including the spatial strategy, have to be resolved. This is explored below, along with an outline of work to date and planned in respect of the Local Plan Update.

The Substantive Review

4.4 Our proposed approach includes continuing to work on a more Substantive Review which will extend the plan period beyond 2036, at least to 2041 but possibly longer, to ensure that any strategic policies look ahead at least 15 years from adoption as required by the NPPF. This work will continue in parallel to the partial review. The timetable for the Substantive Review is:

Stakeholder engagement (Call for sites and Issues and Options (Regulation 18))	April 2022 – April 2023
Pre-submission Draft Plan consultation (Regulation 19)	November 2023
Submission	December 2024
Examination (Start)	March 2026
Adoption	June 2027

4.5 The Substantive Review is being over seen by the Council's Executive Member Group with executive decisions being taken by Cabinet and Full Council as required. The Member Group meets about every month.

What has happened so far?

- Work on the substantive update of the whole Local Plan has commenced as follows:
- Approval of a Local Development Scheme for both the Partial and Substantive Reviews (November 2021)
- Preparation and consultation on a revised Statement of Community Involvement (November 2021 – January 2022)
- Completion of a Call for sites consultation Report (June 2022)
- Completion of a Call for sites (Local Green Spaces) Report (June 2022)
- Preparation of this Consultation Report on the Partial Review of Policy INF 03
- Commissioning of the Sustainability Appraisal scoping report (Capita): January 2021
- Completion of a Landscape and Settlement Character Assessment for Breckland (May 2022) to inform a Design Guide which can be developed to help shape and inform future design of development within the district.
- Additional resource within the Planning Policy Team to enable the additional staff resource required to meet the milestones on the LDS

5 DECISION MAKING

- 5.1 Decisions on planning applications must take into account, as a material consideration, the presumption in favour of sustainable development (“PIFSD”) set out at paragraph 11 of the NPPF. For an application which is contrary to the development plan, and where the application site is not protected and/or does not adversely affect protected assets, then paragraph 11d)ii of the NPPF is engaged.
- 5.2 In an application involving the provision of housing, the policies which are most important for determining the application, are those including countryside protection and settlement boundary policies and the Local Plan will indicate that development is not in principle acceptable. But where these policies are “out-of-date”, paragraph 11d)ii requires the application of the so-called ‘tilted balance’ and permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. So, whether or not these policies are out-of-date or not is critical in the determination of the application.
- 5.3. The starting point in deciding whether or not the most important policies are out of date is that it is a matter of planning judgment for the decision-taker. However, NPPF footnote 8 contains two situations where they will be deemed to be out-of-date (i.e. the matter is taken out of the hands of the decision-taker):
- Where a 5 year housing land supply cannot be demonstrated, and/or
 - Where the Housing Delivery Test (HDT) test result was 75% below that required.
- 5.4 At present policy INF 03 in the Local Plan contains an additional deeming provision that will ‘bite’ in November 2022. After that date, if the provision is not met, then even if the Council has a 5YHLS and a 75% or better HDT outcome, the PIFSD would nevertheless be engaged.
- 5.5 It will not matter in practice if the INF 03 deeming provision remains in place if the ‘tilted balance’ in the PIFSD would in any event apply as a result of 5YHLS or HDT shortfalls. The Council acknowledges that policies in the adopted Local Plan, relating to housing supply, may be considered ‘out of date’ irrespective of the wording of Policy INF 03 if the Council is unable to demonstrate a 5 year supply of housing land or fails to meet the required thresholds under the Housing delivery test. Further, even if the 5YHLS and HDT positions remain ‘favourable’, and the deeming provision in INF 03 does not ‘bite’, there is still a planning judgment to be reached as to whether settlement boundary / countryside protection policies remain up-to-date. These were set against a housing requirement of 612 dpa and the ‘standard method’ now indicates a starting point for annual need of 643 dpa. The issue is whether continuing to apply these boundaries and policies will allow up-to-date need to be met.
- 5.6 The Local Plan requirement is found in Policy HOU1 of the Local Plan. This is 15,298 dwellings over the plan period or 612 dwellings per annum. The Plan also identifies (table page 39) a source of supply of 16,630, an 8.7% buffer (1,332 dwellings) over the requirement. It is therefore relevant to consider whether it is likely that the 8.7% buffer will be adequate to meet 643 dpa for the remaining years of the plan to March 2036 (15 years from 2021). 643 is 33 more than 612. Over 15 years that would represent a reduction in the buffer of 495 dwellings. In effect the buffer will reduce from 1,332 to 837 dwellings.

- 5.7 The Thetford Sustainable Urban Extension is well underway with 2 developers on site (Hopkins and Tilia Homes) and a third (Taylor Wimpey) expecting to be on site later in 2022.
- 5.8 Outline planning permission for the Attleborough Sustainable Urban Extension (SUE) was granted in March 2020 for 4,000 homes, a link road and other strategic infrastructure, two primary schools, local and neighbourhood centres, community facilities and public open space. Homes England, the UK Government's housing accelerator, has purchased the first parcel of land (up to 1,198 dwellings). Homes England's role is to kick start the development by putting in infrastructure up-front to aid the delivery of a new community that complements the historic market town, with well-designed new neighbourhoods, linked by a linear park. A Planning Performance Agreement has now been signed with the Council and S73 application to vary parameters plans and also Discharge of Condition applications in relation to Condition 4 (Structuring Plan) and 5 (Design Code) are currently being considered by the Council.
- 5.9 Paragraph 33 of the National Planning Policy Framework considers the review of local plans and states:

Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Reviews should be completed no later than five years from the adoption date of a plan, and should take into account changing circumstances affecting the area, or any relevant changes in national policy. Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future.

- 5.10 Policy INF 03 has been considered against this paragraph and it is considered that it does need to be updated. The housing requirement for Breckland is not considered to have increased sufficiently to warrant the higher figure needing to be considered as part of a partial review. In numerical terms, the existing Local Plan requirement is 15,298 dwellings over the plan period or 612 dwellings per annum (dpa). The Plan presents a supply figure of 16,630 dwellings, representing an 8.7% buffer (1,332 dwellings) over the requirement. 643 (the 2014 based minimum housing requirement) is 33 more than 612. Over 15 years that would represent a reduction in the buffer of 495 dwellings. In effect the buffer will reduce from 1,332 to 837 dwellings. It is therefore concluded that when assessed against the NPPF, the local housing need figure has not changed significantly; and there is no need to consider this issue separately to the full update of the local plan. and it would be better considered as part of the full update of the Plan alongside all the other related issues including for example, a review of the development strategy and viability issues including nutrient neutrality and the implications of the Environment Act (2021).
- 5.11 Whilst the Council cannot guarantee a continuing 5 Year Housing Land Supply or strong HDT. It considers that in light of the above, there are reasonable prospects that this will happen. Therefore the Council can conclude that the settlement boundary constraints are not out-of-date as a result of the new 643 dpa figure.

List of Documents

LPPR/01	<p>Breckland Local Plan (2019)</p> <p>https://www.breckland.gov.uk/media/16659/Adopted-Breckland-Local-Plan/pdf/Appendix_4_-_Breckland_District_Council_Local_Plan_text_final-optimized.pdf?m=63763088031250000</p>
LPPR/02	<p>Breckland Local Plan Main Modifications</p> <p>https://www.breckland.gov.uk/media/14679/Appendix-2-Breckland-District-Council-Local-Plan-Schedule-of-Main-Modifications/pdf/Appendix_2_-_Breckland_District_Council_Local_Plan_Schedule_of_Main_Modifications.pdf?m=637520995036230000</p>
LPPR/03	<p>Breckland Local Plan: Inspector's Report</p> <p>https://www.breckland.gov.uk/media/14546/Report-of-the-Inspector-2019/pdf/Report_of_the_Inspector_2019.pdf?m=637520995843570000</p>
LPPR/04	<p>Cabinet Report (June 1 2020) (Item 35/20)</p> <p>https://democracy.breckland.gov.uk/ieListDocuments.aspx?CId=116&MId=4613</p>
LPPR/05	<p>Technical consultation on updates to national planning policy and guidance (October 2018)</p> <p>https://www.london.gov.uk/sites/default/files/ad_14_lhn_consultation.pdf</p>
LPPR/06	<p>Minutes of the Norfolk Strategic Planning Forum (October 2020)</p> <p>file:///C:/Users/adarcy/Downloads/Minutes%201%20October%202020.pdf</p>
LPPR/07	<p>Letter from Secretary of State requesting additional information on the proposed A47 dualling (June 2022)</p> <p>https://nationalhighways.co.uk/our-work/east/a47-north-tuddenham-to-easton-improvement/</p>
LPPR/08	<p>Letter from Chief Planning Officer to Local Planning Authorities:</p>

	<p>March 2020 2020</p> <p>https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875045/Chief_Planners_Newsletter_-_March_2020.pdf</p>
LPPR/09	<p>Letter from Chief Planning Officer to Local Planning Authorities: October 2020</p> <p>https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/924423/Chief_Planners_Newsletter_-_October_2020.pdf</p>
LPPR/10	<p>Letter from Natural England (March 2022) https://www.north-norfolk.gov.uk/media/7687/letter-from-ne-water-quality-and-nutrient-neutrality-advice.pdf</p>
LPPR/11	<p>Map showing affected Nutrient Neutrality areas in Breckland https://www.breckland.gov.uk/planning/nutrient-neutrality</p>
LPPR/12	<p>Letter from Chief Planner (March 2022) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1061531/Chief_Planner_Letter_about_nutrient_pollution_March_2022.pdf</p>