



**PRE-HEARING STATEMENT IN RESPONSE TO  
INSPECTOR'S MATTERS, ISSUES AND QUESTIONS  
ON BEHALF OF BRECKLAND DISTRICT COUNCIL**

**Topic areas**

**The immediate review of INF03 was required in order to address four issues 1) Development requirements and housing need; 2) To identify the requirements for the non-travelling gypsy and traveller community in the district; an assessment of accessibility of the Homes standards (Technical Design Standards; and 4) the economic effect of the dualling of the A47 on the plans economic strategy.**

# **Examination of the Breckland Local Plan Partial Review**

## **Inspector's Matters, Issues and Questions for Examination**

**By Janet Wilson BA BTP MRTPI DMS**

Inspector appointed by the Secretary of State

7 March 2023

## Introduction

Prior to the forthcoming Hearing sessions, responses are invited from participants on the following Matters, Issues and Questions ('MIQs') for Examination. The MIQs are based on the Main Issues identified by the Council and other relevant issues raised by representors.

Further information about the examination, hearings and format of written statements is provided in the accompanying Examination Guidance Note<sup>1</sup>, which should be read alongside the MIQs.

As set out in the Examination Guidance Note, the deadlines for providing hearing statements in response to these MIQs is

**31 March 2023**

**These should be sent electronically to the programme officer**

Document references refer to the Local Plan Examination Library which can be found on the Examination web site

<https://www.breckland.gov.uk/planning-policy/examination-library>

This note contains the main issues that I have identified in order to determine the soundness and legal compliance of the Breckland Local Plan Partial Review (hereafter referred to as the Plan). These will form the basis of the hearing sessions to be held. Furthermore, it poses both general and specific questions that I have in relation to the soundness of the Plan and which can be addressed in any hearing statements. General advice about statements is contained in my guidance note but there is no need for every question to be covered.

In setting them I have had regard to Section 3 of the National Planning Policy Framework which sets out in broad terms what Local Plans should do. The Council should also consider this in addressing the questions below.

Should, as a result of these questions, suggested changes be proposed to Policy INF03 or the accompanying text then these should be included in a schedule of suggested changes. This should be kept up-to-date and the latest version published prior to the examination hearings.

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<sup>1</sup> Examination Document ID-01

## Matters Issues and Questions

**The immediate review of INF03 was required in order to address four issues 1) Development requirements and housing need; 2) To identify the requirements for the non-travelling gypsy and traveller community in the district; an assessment of accessibility of the Homes standards (Technical Design Standards; and 4) the economic effect of the dualling of the A47 on the plans economic strategy.**

20. What would be the consequences for the other policies referred to in Policy INF03 should the Councils rewording of INF03 be adopted?

- 20.1 If adopted the policies referred to under Policy INF 03 Policies HOU 01, HOU 08, HOU 10 and EC 01) Economic (would remain until replaced by those to be set out in the Full Update of the Plan. The weight to be given to them in decision-taking would be a matter of planning judgment, unless the Council could no longer demonstrate a 5 year supply of housing land (Policy HOU 01).

21. The purpose of the requirement for a partial review as contained in INF03 was, amongst other things, to address the issue of meeting housing need. As the partial review delays rather than addresses that requirement on what basis can it be considered to be an effective strategy based on the evidence?

22. Why was it not possible to identify additional sites through an immediate review of the housing requirement using the Standard Method (SM) with additional sites identified to meet that need? If this was considered, for what reasons was it discounted?

23. To what extent has the BLPPR been positively prepared? The original intention of the policy was to expedite an immediate partial review to ensure that the Council would be able to maintain an appropriate supply of housing land, the alterations to the policy would effectively result in a four-year delay in reassessing the requirements of Policy

HOU1 including the consideration of housing need and the subsequent strategy for meeting that need.

- 21.1 Whilst the Council accepts that the Partial Update delays the requirement set out under Policy INF 03 it is important to note that the Council still has sufficient housing land to demonstrate a robust 5-year housing supply position if the current SM housing figure (672 dwellings per annum) was applied. This is set out in the response to Q25.
- 21.2 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 the Topic Paper accompanying the Partial Update (3.3 – 3.21) there have been unavoidable delays to any prospect of delivering a review of the Local Plan within the timeframe prescribed by Policy INF 03.
- 21.3 Beginning with the Inspectors requirement that the Partial Update should be based on the 2016 based methodology that had already been paused by the Government whilst the methodology was reviewed, to the publication of 6 different SM figures for Breckland from 2018 ranging from 643 dwellings to 1,070 to the current 672 dwellings per annum.
- 21.4 This clear uncertainty would likely have resulted in the Council undertaking abortive and costly work and having to re-start and commission new evidence to support the figure prevalent at the time.
- 21.5 This issue must be seen in the context of the other uncertainties facing the Council at the time and in particular the issue of nutrient neutrality. 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 housing 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.

24. Is the Statement of 5 year housing land supply statement of August 2022 submitted with the Plan review robust? What is the rationale for retaining 612 dwellings per annum for the remainder of plan period to 2036?

24.1 The Council considers that the 2022 5 Housing Land Supply statement is robust. One key determinant of this is the approach taken by the Planning Inspectorate when the Statement is considered. Since April 2022 the following appeal decisions have been received that refer to this issue.

**Appeal Ref: APP/F2605/W/21/3284728**

Fen Farm, Fen Lane, Harling NR16 2NG

Planning application: 3PL/2021/0955/O

Proposal: The development proposed is erection of 2no. residential dwellings

Decision: Dismissed

**Para 15: The Council state that they can demonstrate in excess of a five-year supply of deliverable housing sites. Despite the appellants questioning this figure, they did not provide sufficient evidence for me to doubt the veracity of the Council's reported position.**

**Appeal Ref: APP/F2605/W/22/3290899**

Land at Frogs Hall Lane, Swanton Morley, Dereham, Norfolk

Planning application: 3PL/2021/0051/F

Proposal: 'whole life zero-carbon dwelling with detached garage set within a substantial natural landscaping and ecological enhancements scheme to meet the tests of NPPF Paragraph 79(e)

Decision: Dismissed

Para 25: The development of a single dwelling would make a positive albeit very modest contribution to the Council's housing stock. This is in the context that I **have not been made aware that the local planning authority cannot demonstrate a deliverable five-year supply of housing sites in the area and hence the evidence is that there is not an urgent need to release further sites for housing at this stage.** The development has the potential to bring some limited economic and social benefits to the local area through its construction and through the use of local services and facilities by future occupants.

**Appeal Ref: APP/F2605/W/21/3287178**

Land North of 3 Bramble Drive, Hockering NR20 3SP

Application Ref 3PL/2021/1006/F

Proposal: Construction of 1 new ground-breaking contemporary designed home for life, Near-zero carbon, Near-zero energy dwelling

Decision: Dismissed

**Para 26: The Breckland Council Statement of Five-Year Housing Supply (August 2022) indicates that as of 31 March 2022 the local planning authority can demonstrate a 5.5 year supply of deliverable housing land. The appellant has confirmed that they agree with this calculation. However, they suggest that the nutrient neutrality situation means that residential development in the catchment area is undeliverable until satisfactory mitigation can be**

**demonstrated. In that regard the appellant contends that the 5.5 year supply was already marginal and that, once the nutrient neutrality situation is factored in, the Council cannot currently demonstrate an adequate 5 year housing supply.** Given the current uncertainty in respect of the impact of nutrient neutrality on housing delivery, I have therefore assumed a very worst-case scenario in housing land supply terms for the purposes of this appeal. Even in this context, and while I recognise the Government's objective to significantly boost the delivery of housing, the contribution of a single dwelling would not be very significant. Any associated economic and social benefits through the construction of the site and its future occupation would be modest. The locational harm, including the harm to the character and appearance of the area, are matters to which I afford substantial weight in the planning balance.

**Appeal Ref: APP/F2605/W/22/3290105**

Land adjacent to West End, Raynham Road, Whissonsett NR20 5SS

Application Ref: 3PL/2021/0981/O

Proposal: Three self-build detached dwellings

Decision: Dismissed

**Para 13: I note the design and access statement submitted with the application cast doubt as to whether the Council could demonstrate a five year supply of deliverable housing land given national circumstances around the effects of Covid-19 on housing delivery and wider planning arguments. However this was not substantiated with any evidence specific to Breckland Council. This argument has not been pursued in the appellant's appeal statement and on this basis it is taken that there is no dispute that the Council can demonstrate a five year supply of deliverable housing land.**

**Appeal Ref: APP/F2605/W/22/3290905**

The Old Waggon and Horses, Chapel Street, Shipdham IP25 7LB

Application Ref: 3PL/2021/0625/F

Proposal: Demolition of old public house and retail and erection of 7 affordable dwellings, access and associated infrastructure.

Decision: Dismissed

Para 24. I have concluded that the loss of community facilities on the site would be unacceptable and would conflict with the development plan and national policy. **In the context of the Council's positive housing land supply position**, the conflict with the development plan amounts to very significant harm and the other considerations do not clearly outweigh this conflict.

## **Background and Progress to Mitigation**

24.2 On the 16 March 2022 Natural England issued new guidance to local planning authorities concerning nutrient enrichment and the role it must play in preventing further adverse impacts to protected wetland habitats. This guidance covered the catchment areas of the River Wensum Special Area of

Conservation (SAC) and the Broads Special Area of Conservation and RAMSAR. This impacted all the local authorities in Norfolk, either through wastewater discharge or surface water flows running into the River Wensum SAC or Broads SAC.

- 24.3 Local Planning Authorities (LPA) are required to consider the impact of nutrient enrichment before planning permission can be granted and therefore all planning applications (including new applications, reserved matters and some of those with outstanding conditions), primarily involving increases to overnight stay were temporarily put on hold. In relation to such matters the Council is the Competent Authority for planning decisions; however, the habitats legislation requires that sites that are in the catchments of the Wensum SAC and Broads SAC will only be granted planning permission when there is certainty around levels of enrichment and corresponding mitigation. If that certainty is not proven beyond reasonable doubt the LPA is not legally allowed to grant permission and Natural England has made it clear it will also oppose any deviation to the legal framework.
- 24.4 A Written Ministerial Statement on nutrient neutrality was published on 20 July 2022 and Defra issued a Direction to Natural England on strategic mitigation schemes on 28 July 2022. The Secretary of State directed Natural England to *“take the steps that they have proposed and that are within their control to prepare, facilitate and administer the operation of strategic mitigation schemes in any or all the catchments where at the date of this direction there are restrictions on development because of concerns in relation to nutrient pollution.”*
- 24.5 It is understood that Natural England will only provide a scheme and nutrient neutrality credits on nature and land-based solutions such as wetlands and woodlands, which by their nature will be medium to long term solutions. This is unlikely to deliver sufficient capacity for the growth agenda in the catchments.
- 24.6 Breckland currently has approximately 1000 dwelling units awaiting planning permission. This has implications for economic growth and the delivery of housing, including affordable housing. here is also a risk that over time the Council will not be able to demonstrate a 5-year housing land supply and that will result in pressure for development in areas where it would not normally be considered appropriate. There is also a risk to the construction industry, in particular small and medium sized builders. Many of these organisations do not have the ability or capacity to find their own solutions and many will already have commitments to land and are reliant on the granting of planning permissions to maintain a pipeline of work.
- 24.7 Breckland has been working with the other Norfolk Districts to ensure a consistent approach to decision making but also to seek to deliver a vehicle by which developers can purchase credits that will allow Councils to grant planning permission. The result of the discussions is the establishment of the Norfolk Environmental Credits Joint Venture between the Norfolk Districts and Anglian Water. Breckland Council along with Broadland Council and South



Norfolk Council have already formally agreed to enter into the Joint Venture, and it is understood North Norfolk and Norwich are actively considering joining as well.

24.8 The purpose of the Joint Venture would be to enable developers to purchase environmental credits to cover the additional enrichment load that has been calculated for their site. The Joint Venture company would secure mitigation and then issue certificates confirming the credits that had been purchased. Developers would then submit the certificates with their planning applications. The Joint Venture would comprise of Anglian Water and several of the local authorities. It is estimated that the offer from the company would capture around 40% of the nutrient neutrality market. Some developers will have the capacity and space to develop their own nutrient neutrality solutions on site or work with Natural England and other market providers.

24.9 This solution will provide housing developers in the catchments with certainty around the delivery of the mitigation required. It is not anticipated that the Joint Venture will be a direct provider of mitigation solutions itself. The operating model would sit alongside what Natural England provides on nature and land-based solutions. It is recognised that some landowners may prefer to work with the partnership on nature and land-based solutions rather than Natural England and vice versa. It is expected that other commercial providers, such as the Wendling Beck Environment Project, will also enter the nutrient neutrality market in due course.

24.10 The Council will continue to positively engage with other providers of credits such as Natural England and other market led providers such as the Wendling Beck Environmental Project.

## 5 Year Housing Supply and Nutrient Neutrality

24.11 Analysis of the 2022 5-Year Housing Land Supply is set out in the Table below. This shows that a total of 448 dwellings on sites yet to start lie within the affected area.

Parish	Major	Minor	Parish	Major	Minor
Banham (NV)		1	Lyng		6
Bawdeswell		0	Mattishall		4
Beeston		1	Mileham (p)		11
Beetley		9	Necton (NV)		0
Billingford		0	North Elmham	25	2
bintree		0	North Tuddenham		0
Bradenham (p)		0	Rougham (P)		0
brisley		0	Saham Toney (NV)		0
Bylaugh		0	Scarning		3
colkirk	21	4	Shipdham	126	27
Cranworth		0	Sparham		0
Dereham	87	16	Stanfield		0

East Tuddenham		9	Swanton Morley		3
Elsing		0	Tittleshall (p)		0
Fransham		19	Twyford		1
Garvestone		6	Weasenham		1
Gateley		0	Wending		0
Gressenhall		1	Whissonsett		7
Guist		1	Winburgh		8
Hardingham		1	Yaxham	42	1
Hockering		2		301	147
Hoe		3			
Horningtoft		0			
Longham		0			

(p) = part of parish

(NV) = excludes settlement

### Major Sites

- Colkirk:3PL/2017/1354/F: Land off Whissonsett Road: 21 (11 24/25; 10 25/26)  
Dereham: 3PL/2021/0862/D: Land at Greenfields Road: 48 (17 24/25;17 25/26;14 26/27)
- Dereham:3PL/2019/1556/F: Fruehauf - South Green:39 (15 24/25; 15 25/26;9 26/27)
- North Elmham: 3PL/2019/0874/F: Brookside Farm: 25 (7 22/23; 10 (23/24; 8 24/25)
- Shipdham: 3PL/2017/0757/D: D D Dodd and Sons 90 (45 22/23;45 23/24)
- Shipdham 3PL/2019/1056/O: Chapel Street: 36 (15 24/25; 15 25/26;6 26/27)
- Yaxham: 3PL/2018/0021/D: Elm Close: 42 (15 24/25; 15 25/26; 12 26/27)

24.12 The Report includes 301 dwellings on sites that are not started and that are within the NN area. A 25% discount has already been applied to 5 of the 7 affected sites. This means that the Report allows for the delivery of 246 dwellings from these sites

Delivery from major sites (with discount applied)						
	22/23	23/24	24/25	25/26	26/27	HLA Allowance
3PL/2017/1354/F			8	8		16
3PL/2021/0862/D			17	17	14	48
3PL/2019/1556/F			11	11	8	30
3PL/2019/0874/F	7	10	8	0	0	25
3PL/2017/0757/D	34	34	0	0	0	68
3PL/2019/1056/O			11	11	5	27
3PL/2018/0021/D			11	11	10	32
	41	44	66	58	37	246

24.13 The Table above shows that of these 85 are to be delivered by March 2024 with 161 after April 2024.

24.14 If a mitigation package can be in place by April 2024 then the 85 affected dwellings could be reprofiled to allow for completions from 2025 /26 as set out below. Assuming the same delivery rates this would result in the ‘loss’ of 45 dwellings from the 5 year supply. However, this could be offset by a small increase in annual delivery. This would be possible as supply would have been suppressed in NN affected areas resulting in higher demand once building is allowed.

	22/23	23/24	24/25	25/26	26/27	HLA Allowance
3PL/2017/1354/F				8	8	16
3PL/2021/0862/D				17	17	34
3PL/2019/1556/F				11	11	22
3PL/2019/0874/F				7	10	17
3PL/2017/0757/D				34	34	68
3PL/2019/1056/O				11	11	22
3PL/2018/0021/D				11	11	22
				99	102	201

### Minor sites

24.15 There are 720 dwellings (number left to be completed) with planning permission on minor sites. Due to this high number, these have not been appraised. Therefore, a 10% “lapse rate” (90% of the dwellings left) has been applied to provide flexibility. The projected completions from minor sites have been distributed evenly across the five years.

24.16 Of these 720 dwellings, 535 dwellings are not started and of these 147 are on sites affected by NN. A 10% lapse rate reduces this 147 figure to 132 dwellings

24.17 The Report already applies a 10% lapse rate to these 720 dwellings and considers that 648 will be delivered over the next 5 years. Some of the sites affected by NN may have all the required permissions in place but it is reasonable to assume that the remaining sites, where DOC are required will be delayed but that they can be delivered in years 3 – 5 of the 5 year period and the total supply over the next 5 years would remain the same but would be reprofiled. For example, instead of the 130 and 129 dwellings profiled for each of the next 5 years there could be:

- Minor sites under construction (unaffected) 113 (years 1-5) (22.6 per annum)
- Minor sites not started (unaffected) 388 (years 1-5) (77.6 per annum)
- Minor sites not started (affected) 147 (years 3-5) (49 per annum)
  - Year 1 = 77 + 22 = 99
  - Year 2 = 77 + 22 = 99
  - Year 4 = 49 + 78 + 23 = 150
  - Year 4 = 49 + 78 + 23 = 150
  - Year 5 = 49 + 78 + 23 = 150

24.18 This delays the delivery of affected sites until at least year 3 (2024/25) when delivery mitigation measures may be in place.

**Windfall**

24.19 Windfall sites are not expected to be affected. Although the number of windfall sites being granted permission is likely to reduce due to NN issues the allowance made in the Housing Land Supply is very cautious at 100 dwellings per annum compared to an annual delivery of 190 dwellings on such sites per annum. In addition, windfalls are not expected to be delivered until year 3 (2024/25) when it is expected that mitigation measures will have been agreed.

**Local Plan Allocations**

24.20 The Report also allows for the development of 20 dwellings (starting in 2024/25) from Shipdham Housing Allocation 1 (Old Post Office) (3PL/2020/0906/F) that was an undetermined planning application at March 2022. A 25% discount is applied to this site. Therefore the Report considers that 16 dwellings are deliverable within the next 5 years. If a mitigation package is in place by April 2024 the development of this site could be reprofiled to allow for completions from 2025/26. The total would be unaffected.

	22/23	23/24	24/25	25/26	26/27	HLA Allowance
3PL/2017/1354/F			11	5		16
Reprofiled				11	5	16

**Conclusions.** If delivery is reprofiled for completions to begin in 2024/25 and delivery is reprofiled (still within realistic delivery rates) then there would be a reduction in delivery of 45 dwellings from major sites.

**This would reduce the total supply to 4,355 and the 5 year figure from 5.6 to 5.59**

**Alternative Scenario: Remove all dwellings from affected sites**

This would reduce the total supply by 394 dwellings

- Major sites 246
- Minor sites 132
- Allocations 16

This would reduce the total supply to 4,355 and the 5-year figure from 5.6 to 5.14

**Conclusions**

- NN does not mean that a site will not be developed but delivery may be delayed.

- If the Council can demonstrate a deliverable mitigation package from April 2024 then the figures can be reprofiled.
- If the package is delayed beyond this date then there will be implications for the supply. However, these are not considered to be overly significant and there is sufficient flexibility within the figures to allow for some further delays beyond April 2024.

25. What would the per annum figure be using the standard method for calculation? If different to the 612 figure why was that alternative not used for the most recent assessment?

25.1 Planning Policy Guidance states:

*How can past shortfalls in housing completions against planned requirements be addressed?*

*“Where the standard method for assessing local housing need is used as the starting point in forming the planned requirement for housing, Step 2 of the standard method factors in past under-delivery as part of the affordability ratio, so there is no requirement to specifically address under-delivery separately”*

Paragraph: 031 Reference ID: 68-031-20190722

25.2 The Table below sets out the 5-year housing position using the SM housing figure of 672 dwellings per annum. It clearly demonstrates that the Council would continue to demonstrate a robust 5-year housing land supply and that the position would be improved.

<b>Breckland Council's 5 Year Housing Position Statement (March 2022)</b>			
<b>Housing Requirement</b>			
A	Local Plan annual target		672
B	5 Year Target	612*5	3360
C	Shortfall in delivery since 2011		0
D	Requirement with shortfall (Sedgefield)	3,060 +574	1160
E	5% Buffer	5% of 3,360	168
<b>F</b>	<b>Total Requirement (April 2022 – March 2027)</b>	<b>D+E</b>	<b>3,528</b>
<b>G</b>	<b>Annual Requirement</b>	<b>F/5</b>	<b>706</b>
<b>Housing Supply</b>			
G	Major Sites with Planning Permission		3,360
H	Minor sites with planning permission (left to be delivered-10% discount)		648
I	Local Plan allocations with undetermined planning applications		92

J	Windfall		300
K	<b>Total Supply</b>		<b>4,400</b>
L	<b>5 Year Housing Supply (5% buffer)</b>	<b>K/G</b>	<b>6.66</b>

25.3 Para 74 of the NPPF states: **(my emphasis)**

*“Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. **Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old”.***

25.4 The current Local Plan was adopted in November 2019. As such it is up to date and less than 5 years old. Therefore the housing requirement set out in the Plan (612) is the correct figure to be used in the 5 Year Housing Land Supply calculation

26. Would a ‘consequences clause’ within INF03 be justified and effective?

26.1 The addition of a ‘consequence clause’ in the Policy is not considered necessary. Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012) and paragraph 33 of the current National Planning Policy Framework requires policies in local plans to be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary and that these reviews should be completed no later than five years from the adoption date of a plan.

26.2 In the case of Breckland’s Local Plan, December 2024 is 5 years from the date of adoption. That is when the Full Update is planned to be submitted. If the full review takes too long, so that policies within it become out-of-date as a matter of planning judgment, then that is a matter that can be taken into account in applying the presumption in favour of sustainable development in #11 of the NPPF in decision-taking on planning applications. There is no need for any ‘consequence clause’ in the Policy itself.

27. What would the consequences be for the removal of a review of the four policies until the full review due by December 2024?

27.1 The removal of the 4 policies from the Plan prior to the full Update would be as follows:

### **Policy HOU 01 Development Requirements**

- 27.2 Removal would mean that the Council would need to rely on the latest SM housing figure (672). Whilst the Council could still demonstrate a 5 year housing land supply, policies associated with HOU 01 would also be deemed to be out of date and as such the tilted balance or presumption in favour of sustainable development, would apply to housing applications irrespective of the 5 year housing land supply and the fact that the Plan was less than 5 years old.
- 27.3 The “tilted balance”, or presumption in favour of sustainable development, is contained in paragraph 11(d) of the NPPF which provides that planning permission should be granted where there are no relevant development plan policies, or where the policies which are most important for determining the application are out-of-date. However, this is unless the application of policies in the NPPF that protect areas or assets of particular importance provide a clear reason for refusing permission, or the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole
- 27.4 The tilted balance could present opportunities for speculative planning applications to come forward even where there is no need for such developments to meet any identified shortfall in provision as the Council could still demonstrate a 5 year housing land supply.

### **Policy HOU 08 Gypsy and Travellers**

- 27.5 The effect on the Plan would be the inability of the Council to apply established development management criteria when assessing future planning applications for Travellers and Travelling Showpeople that are set out in the Policy. A planning application for a traveller site (for travelling or ‘retired’ gypsies) would be considered in the context of the tilted balance because the most important policies would be likely to be (as a matter of planning judgment) out-of-date.

### **Policy HOU 10 Technical Design Standards for New Homes**

- 27.6 The effect on the Plan would be limited in respect of internal space standards as these can be applied using the current and proposed building regulations.

### **Policy EC 01 Economic Development**

- 27.7 The effect on the Plan would be that the tilted balance could well be triggered where “the most important policies” for determining an application were out-of-date. But, as with the housing policies above, the weight to be given to those out-of-date policies is a matter for the decision-taker. The tilted balance could present opportunities for speculative planning applications to come forward across the District, despite the identified issue being localised (the A47 at Dereham, and where there is no relationship to or need for such developments to address wider economic development needs or those relating to the A47 dualling scheme as it is yet to be approved or constructed.

## **Gypsy and Traveller Provision**

28. What evidence is there that progress has been made on meeting the needs of the gypsy and traveller community within Breckland since the adoption of the plan in 2019?

28.1 There have been 3 planning applications submitted to the Council since the Plan was adopted in November 2019.

Reference: PL/2020/0466/F

Status: Refusal (Appeal dismissed)

Proposal Change of use of land to use as a gypsy caravan site, including the stationing of 7 caravans for residential purposes, together with the laying of hardstanding.

Location Land East of Summer Meadows, Mill Road NR20 3RH  
Parish MATTISHALL

Notes: The application site is adjacent to an existing Gypsy / Traveller site which is identified by Policy HOU 08. Therefore, the development would comprise the expansion of an existing site. One of the plots, in accordance with the policy may be permitted without any need evidence as this has been identified through the Local Plan evidence base as needed within the first 5 years and carried through Policy HOU 08. The application was for 7 plots and was not supported by evidence to support the higher number than that allowed for in the Local Plan.

The appeal inspector referred to the Partial Update of the Plan required by Policy INF03 and as such gave weight to the expansion of an existing site which would go some way to meeting the unmet need that was identified by the examining Inspector in 2019 and consequently was satisfied that the provision of additional pitches through the expansion of the existing site, would accord with Policy HOU 08 of the Plan. The Inspector noted that the site falls within an area where recreational impact mitigation measures for The Brecks, North Norfolk Coast and The Broads as described in the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy (GIRAMs) are required as well as being within the identified catchment area of the Broads Special Area of Conservation (SAC) where residential accommodation has the potential to lead to an increase in additional nutrients reaching the SAC due to the implications of foul and surface water drainage systems. Consequently, the proposal would likely have a significant adverse effect on the integrity of the SAC. The Inspector concluded that the proposal would be likely to have both a significant adverse effect on the integrity of the SAC due to the potential increase in nutrients entering the watercourse and in addition potential increased disturbance through recreational activity on the integrity of The Brecks, North Norfolk Coast and The



Broads and that in the absence of an agreed mitigation strategy to overcome the effects that have been identified in respect of nutrients and the lack of a mechanism to secure the contribution to mitigate the impacts of recreational pressure, dismissed the appeal.

Reference 3PL/2021/0274/CU

Status: Refusal

Proposal Change of use of agricultural and brown field land to residential caravan use for an extended Traveller family. A maximum of two static caravans and three touring caravans to be stationed on the land, on either a temporary or permanent basis (Retrospective)

Location Caravan Back Lane 593208, 321725 NR20 4JA

Parish STANFIELD

Notwithstanding that it is accepted that there is a need for Gypsy and Traveller accommodation that is not currently being met and that having regard to this conclusion it is necessary to establish the level of harm, if any, that arises when the proposal is assessed against policy HOU08 and balance that against the unmet need. Policy HOU08 post-dates the PPTS and is considered to be compliant with it.

It was concluded that the use of the site for residential purposes and the stationing of residential caravans together with associated hardstanding and fencing would create an urban intrusion into an area of isolated countryside thereby harming the character and appearance of the area.

3PL/2019/0831/F

Status: Refusal (Appeal Dismissed)

Proposal: Use of land as a "plot" for travelling showpeople to include storage of fairground rides/equipment, touring caravan parking, standing of a mobile home and erection of a general purpose storage building

Location: Land at Meadow Lane Narborough

Parish: NARBOROUGH

The Inspector noted that Policy HOU 08 of the Local Plan identifies a need to deliver one plot in years 11-15 of the plan and a second in years 16-20 and that there was currently no identified need for a plot and that the Council is not failing to demonstrate an adequate supply. In dismissing the appeal, the Inspector concluded that the proposed development would significantly harm the character and appearance of the area and that it would therefore be contrary to the development plan as a whole and there are no other considerations which outweigh this finding.

29. What is the current level of need in the Council area? How has this changed since the adoption of the plan in 2019?

- 29.1 The Council does not have a revised figure for need in Breckland. The Council is committed to preparing an up to date needs assessment as part of the Full Update of the Local Plan. This work is currently out for tender and the Council has committed financial resources to completing this work in 2023.
- 29.2 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’* Although the Council is aware of the continuing legal case that may affect definitions used in the Planning Policy for Traveller Sites, the council considers that, whilst not ideal, it should not delay further and that this can be included as part of any work to be undertaken by the consultants in assessing the current need.

30. Is there any provision via sites permitted but pending construction (either private or council provision)?

- 30.1 The Council is not aware of any such provision.

### **Technical Design Standards**

31. How does the change to accessible homes required by building regulations affect the Councils assessment of the technical design standards?

- 31.1 The Building Regulations control certain building work – principally to secure the health, safety, welfare and convenience of people in and around buildings. Part M of the Building Regulations sets minimum access standards for all new homes. In 2015 government made some important changes to Part M, with the introduction of a new way of setting technical housing standards in England. This included a new, simpler set of access standards as set out below. Further guidance can be found in BS:8300.
- 31.2 The requirements in the regulations are supported by statutory guidance in Approved Document M. Building Regulations apply to new buildings, major refurbishments, and changes of use. Volume 1 applies to dwellings:
- Requirement M4(1) sets basic standards for all new buildings. Known as “Category 1: Visitable dwellings”.

Requirement M4(2), introduced in 2015, sets a higher standard for accessible homes, which is broadly equivalent to the Lifetime Homes Standard. Known as “Category 2: Accessible and adaptable dwellings”.

Requirement M4(3) sets a standard for wheelchair accessible homes. Known as “Category 3: Wheelchair user dwellings”.

- 31.3 The Policy in the Draft Local Plan that was amended by Main Modification following the Examination was as follows:

**Policy HOU 10 (extract)**

**Accessibility of Homes:**

**Market Housing**

A minimum of 20 % of all new major housing developments are to meet building regulation M4(2) – ‘Accessible and adaptable dwellings’

**Affordable Homes**

1. A minimum of 20 % of all new housing developments, excluding low-rise non-lift serviced flats , should meet building regulation M4(2) – ‘Accessible and adaptable dwellings’.
2. A minimum of 5 % of all new affordable housing developments should meet building regulation M4(3) (2) (b) – ‘Wheelchair user dwellings’ standards. When providing for wheelchair user housing, early discussion with the Council is required to obtain the most up-to-date information on specific need in the local area. Where there is no specific need identified, then M4 (3) (2) (a) will apply, to allow the adaptation of the dwelling to meet the need of occupants who use wheelchairs.

Sufficient space should be provided in the curtilage of the site to provide parking standards to meet Building Regulations and BS8300.

- 31.4 Under the 2015 Regulations, Categories M4(2) and M4(3) are optional requirements which local authorities can apply through local planning policies where they have identified a local need and where the viability of development is not compromised. This will change in respect of M4(2) from 2024.

- 31.5 The existing minimum standard for accessible housing in England has four main requirements that make homes accessible and visitable for most people, including wheelchair users: level access to the main entrance; a flush threshold; sufficiently wide doorways and circulation space; and a toilet at entrance level.
- 31.6 This applies as the minimum for all new build homes; but not to extensions or changes of use. However, where there is a material alteration to a building's access, the building cannot be made less compliant than it was before the alteration.
- 31.7 The higher M4(2) standard requires additional features including having a living area at entrance level and step-free access to all entrance level rooms and facilities, wider doorways and corridors as well as clear access routes to reach windows. It also includes further features to make homes more easily adaptable over time for a wide range of occupants, including older people, those with reduced mobility and some wheelchair users, for example sanitary provisions that can be adapted easily for installation of grab rails and stairs designed to allow easy fit of a stair lift.
- 31.8 The M4(3) requirement is achieved when a new dwelling provides reasonable provisions for a wheelchair user to live in the dwelling and have the ability to use any private outdoor space, parking and communal facilities.
- 31.9 In November 2022 the Government announced that it intended to introduce stricter minimum accessibility standards on new homes that will force all new homes in England to be built to the M4(2)\* standard of accessibility, except for cases where this is "impractical and unachievable".
- 31.10 This will mean that all new homes will need step-free access to all entrance-level rooms, as well as facilities and other features that will make the homes more easily adaptable over time.
- 31.11 But the government has opted not to introduce rules that would ensure a minimum proportion of new homes are built to fully wheelchair-accessible standards, known as M4(3). Instead, the decision on what proportion of new homes have to be wheelchair-accessible will continue to be left to local authorities in their local plans.
- 31.12 The 2022 Part M Regulations are operative from 1 January 2023, subject to certain transitional periods. Essentially, they will apply where to works or to a building in which a material change of use takes place, where the works commence or change of use take place on or after 1 January 2024.
- 31.13 The Council supports the new requirements under Part M of the Building Regulations and in particular the requirement that all homes will be required to meet M4(2) from 2024.

- 31.14 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.
- 31.15 The Council considers that if it had undertaken an immediate review, including the commissioning of evidence, as part of any justification for local standards that at least in part this would have been potentially costly and abortive work as it would have been overtaken by the Government's announcement in respect of the M4(2) standards. Standard in the same month as the Partial update would have been required to be submitted for examination (November 2022). Furthermore, the Council considers that the introduction of such 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 update of the Plan that would also revisit existing allocations and be subject to a new plan wide viability assessment.
- 31.16 In respect of M4(3) the Council notes that introducing local standards is optional and is yet to take a view on whether to commission viability evidence to introduce higher optimal standards. This will depend on the outcomes of the Housing Needs Assessment that is currently underway.

### **Economic Development and the effect of the A47 dualling**

#### 32. What is the progress of the dualling of the A47?

- 32.1 Progress on gaining approval for the Scheme has continued but is yet to be concluded. In August 2017<sup>2</sup>, it was announced that a further statutory, public consultation exercise would be undertaken in early 2018 at which more detailed drawings plans and assessments would be available for the public and stakeholders to view, discuss with Highways England and to make further comment upon and allow the public and stakeholders further opportunity to influence the proposals prior to a formal application for Development Consent Order.
- 32.2 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 for protected species was adequate and whether it has any concerns about the impact of the proposed development on the Land at Berry Hall. The Applicant was also asked if the advice issued

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<sup>2</sup> [https://highwaysengland.citizenspace.com/he/a47-north-tuddenham-to-easton-dualling/results/a47-tuddenham-cons-report\\_final\\_080817.pdf](https://highwaysengland.citizenspace.com/he/a47-north-tuddenham-to-easton-dualling/results/a47-tuddenham-cons-report_final_080817.pdf)

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.

- 32.3 it was not until August 2022 that the Development Consent Order was approved.
- 32.4 In December 2022 it was reported that a legal challenge has been made to the Secretary of State (SoS) for Transport's decision to grant Development Consent Order (DCO) for three A47 schemes including the A47 North Tuddenham to Easton scheme<sup>3</sup>. The challenge mainly focuses on the way cumulative carbon assessments were carried out, along with local carbon plans, bat licences and the completeness of the briefings given to the Ministers prior to the decisions. It has been decided that all three challenges should proceed to a full hearing which is likely to be late spring/early summer 2023. This is likely to push the timetable back significantly

33. Why was it not possible for the Council to consider the economic implications of the construction of the A47?

- 33.1 It is clear from paragraph 215 of the Inspector's Report that the implementation of the scheme was imminent and that it would be completed by 2020. Had this been the case then the Council considers that it could have considered the economic implementations of the scheme.
- 33.2 However, it is also important to note that, in his Report, the Inspector In reaching these conclusions, noted that the effects at the current time were somewhat uncertain.
- 33.3 The scheme is yet to be approved or started. The economic implications of this strategic highway improvement is linked to other forms of development such as housing growth. The delay in approval and delivery has presented the Council with an opportunity to consider this single issue and dovetail it alongside these linked forms of development such as housing. The issue is not as pressing as was considered by the Local Plan Inspector. The Council believes that it is preferable to look at this as part of a whole and holistic approach under the Full Update of the Local Plan. This is considered to be good plan making.

34. What progress has been made towards the delivery of the employment allocations identified in Policy EC 01?

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<sup>3</sup> <https://nationalhighways.co.uk/our-roads/east/a47-north-tuddenham-to-easton-improvement/>

Location	Update
Attleborough (10ha)	This allocation is part of the Attleborough Sustainable Urban Extension and has not yet been developed
Dereham - at least 3Ha Site D5: Adjacent to Elizabeth House	No planning history
Swaffham – at least 9Ha Sites SW2 and SW3 -	Reference 3PL/2022/0412/H Status Undecided Proposal: Hybrid planning permission comprising: Full Planning Permission for the construction of buildings for light industrial, storage or trade counter uses (Class E(g) (ii) [R&D] and (iii) [Light Industrial], Class B2 and B8 [Storage]) to the western end of the Application Site (Phase 1) and Outline Planning Permission for the remaining site for flexible employment development (Phase 2).  SW3: No planning history
Thetford – at least 22Ha Near Tesco 4.0Ha Phase 1 Lodge Way 14.5Ha Phase 2 Off Croxton Road 2.5Ha Phase 3: Off Norwich Road 7.2Ha	Sites part of Thetford SuE. Yet to be implemented
Snetterton – at least 20Ha	Reference: 3PL/2022/0422/O Status: Approved (September 2022) Proposal: Outline Land South of Falcon Road for development of up to 20439 square meters of internal floor space for B2/B8/E use.

- 34.1 Although delivery of sites under Policy EC01 is limited this has been affected by the pause in construction and inward investment during the pandemic. The Plan was adopted in November 2019, just before the pandemic hit and the country is still experiencing the impact of the event and related issues affecting the UK economy. However, there remains a strong available supply of employment land under Policy EC 01, whilst the Full Update of the Local Plan is progressed.
- 34.2 In March 2021 a major new initiative to support the long-term success of Breckland began. The Future Breckland project has led to the creation of

Town Delivery Plans for each of Breckland's five market towns. These documents lay out the Council's shared vision for what it wants the 5 market towns within Breckland to look like in the future. To bring these very different plans together, the 'Breckland Prospectus' has been created to provide the glue that ties the five plans into one cohesive approach. The work brings together the work and ideas of over 22,000 businesses and residents of Breckland and represents truly district-wide vision of the change that residents expect over the next decade. The prospectus provides a robust evidence base and has resulted in the creation of an overarching vision for the district, with specific plans for each of the five towns, and identified priorities which tackle challenges while capitalising on the district's strengths. This will assist in securing new external funding, whilst also using its shared resources better to deliver transformational change across the district.

34.3 There are 6 key objectives for each of the towns:

- regenerating and placemaking
- building on our heritage and culture
- growing our business and enterprise base
- investing in housing and infrastructure
- improving sustainability and wellbeing
- encouraging educational attainment.

34.4 This work is an important evidence base document that will underpin the future direction of economic growth for the towns within the District that will be set out in the Full Update of the Local Plan.

35. Does the Plan Review represent an appropriate strategy in the circumstances?
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35.1 The Council believes that the approach it is proposing to the Update of the Plan by combining a Partial Update with a simultaneous Full Update of the Plan to be the most appropriate strategy. The Council believes that a number of issues, outside the Council's control and unknown at the time the Plan was adopted, have arisen since the Local Plan was adopted in 2019 that have combined to result in significant consequences for the Council's ability to progress the Partial Update within the timescales set out in the Policy INF 03.

35.2 These are detailed in the Topic Paper and summarised here.

- 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 approved and therefore commenced and have been delayed since they were considered by the Local Plan Inspector in 2018.
- The definition of Gypsies and Travellers remains before the Courts
- 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

35.3 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 further announcements as to how national planning policy is likely to change 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).