



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

**Legal requirements and procedural matters
Issue 1: Have the relevant procedural and legal
requirements been met, including the duty to
co-operate (DTC)?**

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 Note¹, 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.

¹ Examination Document ID-01

Matters Issues and Questions

Legal requirements and procedural matters

Issue 1: Have the relevant procedural and legal requirements been met, including the duty to co-operate (DTC)?

1. In respect of the Duty to Co-operate, have the Council engaged constructively, actively and on an ongoing basis in the preparation of the Breckland Local Plan Partial Review (BLPPR)?
 - What consultation on the BLPPR has been undertaken with neighbouring districts and the county council prior to its submission for examination?
 - What are the outcomes from the co-operation with neighbouring authorities?
 - Where can the DTC statement of compliance referred to in the July 2022 SCI be found in the documentation?
(Para3.24)

- 1.1 The Local Plan has been prepared in accordance with the section 33A duty to cooperate (DTC). The steps that have been taken to discharge the duty to cooperate are outlined in Section 4 of the Council's Regulation 22(1)(c) Consultation Statement of Breckland Council in support of Breckland Local Plan 2011 - 2036 (Partial update)² and are detailed further below.
- 1.2 Following the submission of the Partial Update of the Local Plan for examination the Council has updated the DTC Statement to detail the Council's process of engagement with the other local planning authorities and bodies prescribed by section 33A(1) and section 33A(9), as set out by Regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (together "the prescribed bodies") in relation to each of the strategic objectives listed in the NPPF (paras. 24 - 27) and other key policy issues managed on a strategic basis. Opportunities have been taken to engage with neighbouring authorities outside the set consultation periods for the Local Plan, particularly through the Norfolk Strategic Planning Forum and

² LPR/PU/SUB/003

agreement of Statements of Common Ground This is detailed in full within the DtC Statement that is in Appendix 1 to this Statement.

- 1.3 The Council considers that the Partial Update of the Local Plan does not in itself raise any strategic matters which fall within the scope of the duty to cooperate that need to be addressed. In response to the requirement for local planning authorities to cooperate over strategic issues, in 2015 all the local authorities in Norfolk established the Strategic Norfolk Planning Member Forum (“the Forum”). The Forum is made up of elected members from each of the Norfolk local authorities. It meets regularly. The Forum oversees the preparation of the Norfolk Strategic Planning Framework (“the NSPF”) which records a series of agreements in relation to the strategically important cross-boundary issues affecting the delivery of growth in Norfolk. The NSPF is intended to inform the preparation of statutory development plans and will be used to inform the Full Update of the Local Plan as it progresses.
- 1.4 The Council will continue to engage with the prescribed bodies during the preparation of the Full Update of the Local Plan and will remain part of and actively engaged with the Strategic Norfolk Planning Member Forum, overseeing the implementation, and any subsequent reviews, of the NSPF or successor mechanisms such as formal Statements of Common Ground on strategic matters.
- 1.5 The Local Plan (partial Update) was raised under a standing item (local plan update) at both officer working group meetings and at the NSPF meetings and opportunity made available for discussion. A statement of Common Ground has also been prepared and agreed with neighbouring authorities and the County Council.

<p>2. What is the distribution area of the notice published on 9 August 2022 inviting representations between 11 August and 23 September? (Referred to on page 24 of the Reg 22 statement?)</p>

- 2.1 The Notice was placed in the Eastern Daily Press (EDP). The EDP is a regional newspaper covering Norfolk (including the whole of Breckland District) as well as northern parts of Suffolk and eastern Cambridgeshire. It is published daily in Norwich. In the latest period certified (July to December 2022) it had a circulation of 15,255 (average per issue). It is also available as a digital online edition that is available across the world wide web and via an app.

3. Is the Sustainability Appraisal (SA) of the Partial Review as set out in the Capita Integrated Assessment comprehensive in the context of the revised INF03 Policy? Which reasonable alternatives did the Council consider and what other options were available?

3.1 The Partial Review Draft Integrated Assessment (September 2022)³ provides a summary of the effect of the proposed amendment and the reasonable alternative that was considered, ie: to not amend Policy INF03. The policy amendment would remove the requirement to submit a partial review of four policies in the adopted Local Plan by November 2022, in favour of submission of a Full Update by 2024. Whilst this means the original intention of undertaking an early review will not be fulfilled, the amendment can ensure Local Plan policies regarding housing supply, gypsy and travellers and economic development, can continue to be deemed up to date and implemented accordingly. If policy INF 03 were not amended, implementation of the existing policy wording of the policy would mean in addition to the four policies identified for early review (HOU 01, HOU 08, HOU 10 and EC 01) a range of policies including GEN 05 regarding town and settlement boundaries, HOU 02, HOU 03, HOU 04, HOU 05 would become out of date and the Council's ability to effectively manage development would be reduced. There are not considered to be any other reasonable alternatives.

4. What evidence is there that options have been consulted upon with bodies or persons required by Regulation 18 (1) (a) and on matters contained in Regulation 18 (1) (b).

4.1 The consultation was advertised on the Council's website and on a community engagement platform (Commonplace) and further notification was implemented through emails and letters to residents, organisations and statutory consultees registered on the Council's planning policy consultation database.

5. Between which dates and to what extent was the July 2022 SCI subject to public consultation?

³ LPR/PU/SUB/013

- 5.1 The SCI was subject to a period of consultation between Monday 22nd November 2021 and Friday 21st January 2022. The SCI consultation was advertised on the Council's website and further notification was implemented through emails and letters to residents, organisations and statutory consultees registered on the Council's planning policy consultation data base. A total of 141 representations were received from 23 statutory consultees as well as from residents and other organisations within the District. Statutory consultees which made representation included, Natural England, Historic England and Norfolk County Council and town and parish councils. All representations were summarised and the final SCI was adopted by Cabinet in July 2022⁴ (Item 67/22).

6 How has the BLPPR been prepared to comply with the adopted Statement of Community Involvement, and to meet the minimum consultation requirements set out in the Regulations?

- 6.1 The Council considers that the consultation was undertaken in accordance with the SCI.
- 6.2 Regulation 22(1)(c) envisages two separate opportunities for the making of representations – under Regulation 18 and Regulation 19 – and how the Regulation 18 representations were taken into account in formulating the plan that was prepared and submitted. Furthermore a plan may not be submitted unless the LPA is satisfied the regulations have been complied with (see s20(2)).
- 6.3 The Council acknowledges that at first there was no 'identified' Regulation 18 consultation and that in effect the Regulation 18 and Regulation 19 processes were combined into a single consultation. Consultation responses identified this issue To rectify this the Council resolved to treat the first Regulation 19 consultation as a Reg 18 consultation⁵. This approach was considered appropriate on the grounds that the consultation document⁶ at paragraph 3.2 states "*we are asking for comments on our proposed approach*" – that is considered to be commensurate with a Regulation 18 issue. The paragraph also added "*including the proposed wording to policy INF03*" – which again can be considered as both a Regulation 18 and Regulation 19 issue.
- 6.4 Furthermore, the Council diligently and conscientiously considered all responses to the first consultation and the implications of these on the proposed approach towards the Partial Update. These were considered and, in accordance with the Cabinet decision,⁷ the Deputy Chief Executive in

⁴ <https://democracy.breckland.gov.uk/ieListDocuments.aspx?CIId=116&MIId=4847>

⁵ LPR/PU/C/005

⁶ LPR/PU/SUB/001

⁷ LPR/PU/C/005

agreement with the Portfolio Holder agreed to make changes to the proposed wording of the Partial Review consultation that were considered necessary following the end of the first consultation. The Cabinet agreed to:

- to approve and publish an updated Local Development Scheme;
- to agree to publish and invite representations upon the Local Plan Partial Update document for a six week period in accordance with Regulation 19 of the Town and Country Planning (Local Planning) (England) regulations 2012.

6.5 All representations received at both the consultation stages have been made available to the Examination in order not to prejudice or preclude anyone making a representation.

7 Has consultation on the BLPPR been undertaken in accordance with the Local Development Scheme?

7.1 The Local Development Scheme (LDS) sets out the intended programme and timetable for producing the Local Plan and Policies Maps. The current version of the LDS was published in September 2022 and this sets the stages for the production of the Local Plan and Policies Maps. Whilst the process of developing the Local Plan (Partial Update) was followed in accordance with a previous version of the LDS, an amendment was required following the decision to re-visit the consultation process for the Partial Update in September 2022. The Partial Update of the Plan is in accordance with the current LDS⁸.

8 What are the consequences of the renaming of the August 2022 Regulation 19 consultation as a Regulation 18 consultation?

8.1 The Council does not consider there to be any adverse consequences of the revised consultation process. The important thing is not the 'label' given to each round of consultation but that as a matter of substance the public and others have been properly consulted. This is set out in the response to Q7 above and it is important to reiterate that all responses made to both sets of public consultation have been submitted to the Inspector for consideration so as not to prejudice any respondent's views from being taken into account.

⁸ LPR/PU/SUB/005

9 Is the BLPPR legally compliant given the approach taken in respect of Regulation 18 and Regulation 19?

9.1 For the reasons set out in response to Q7 and Q8 the Council considers that the approach taken to the consultation is legally compliant.

10 Does the BLPPR make it clear, as required by Part 4, paragraph 8(5) of the Local Plan Regulations, which parts of the existing development plan it will supersede?

10.1 The Council considers that the Partial Update documentation makes it clear as to which parts of the existing Plan the Update would supercede. This is clearly set out in the Breckland Local Plan Partial Update Submission Document (Regulation 19)⁹ as follows:

Para 8.22

~~Policy INF03 sets out the Council's commitment to undertake an immediate partial review of the Plan, with regard to housing, non-travelling gypsy and travellers, accessibility of homes standards and economic development. This shall be completed and submitted for examination 3 years after the date of adoption of this Plan or by November 2022, whichever is soonest.~~ **Policy INF03 sets out the Council's commitment to undertake an immediate full review of the Plan and to submit it by December 2024.**

Policy INF 03: Local Plan Policy Review

~~The Council will undertake an immediate Partial Review of the Plan, with regard to the following matters:~~

- ~~• Policy HOU 01 Development Requirements (minimum): To consider housing need and the subsequent strategy for meeting the identified need.~~
- ~~• Policy HOU 08 Gypsy and Travellers: To consider the needs of non travelling gypsy and travellers and identify suitable provision to meet such a need.~~
- ~~• Policy HOU 10 Technical Design Standards for New Homes: To consider the accessibility of homes standards.~~
- ~~• Policy EC 01 Economic Development: To consider the effect of the dualling of the A47 on the Plan's economic strategy.~~

~~The Partial Review of the Plan will be submitted for examination 3 years after the date of adoption of this Plan or by November 2022, whichever is soonest. In the event that the review is not submitted for examination by this time, then the Council's policies that relate to the supply of housing, economic development and gypsy and travellers will be deemed to be out of date.~~

⁹ LPR/PU/SUB/011

The Council will undertake an immediate full review of the Plan. The full Review of the Plan is planned to be submitted for examination by December 2024.