



## **HEARING STATEMENT**

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

On behalf of:  
**The Holkham Estate**

Date:  
**March 2023**

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**GA/DJ/01712/S0004**

## 1.0 INTRODUCTION

1.1 This Hearing Statement has been prepared on behalf of our client, the Holkham Estate, in response to the Matters, Issues and Questions for the Examination of the Breckland Local Plan Partial Review.

1.2 The Statement is intended to assist the Inspector's consideration of the soundness of the Plan and will form the basis of our points for discussion at the examination hearing sessions. We have responded to questions in Issues 2 and the Topic Areas that relate to our previous representations.

### Overview

1.3 The Local Plan Partial Review does not accord with the requirements of adopted Policy INF03. Rather than undertake a timely review of the housing requirement to ensure that it meets the area's needs, the Council is instead seeking to remove any requirement to undertake such a review and to replace it with a statement that they intend to produce a full review of the Local Plan, but with no consequences should they fail to do so. This is not a sound approach and the amended wording to Policy INF03 does not meet the tests of soundness at NPPF paragraph 35:

- **It is not positively prepared** as it does not provide a strategy which, as a minimum, seeks to meet the area's Objectively Assessed Needs (OAN) for housing;
- **It is not justified** as it does not present an appropriate strategy that would meet the area's OAN and there are no justifiable reasons why the Council could not have undertaken the review required by Policy INF03;
- **It is not effective** as it removes any consequences for failing to bring forward the full review and it would not deliver against the area's OAN; and
- **It is not consistent with national policy** at NPPF paragraphs 11, 23 and 61 as it does not seek to meet the area's OAN informed by a local housing needs assessment.

1.4 The sole reason the Council is seeking to amend Policy INF03 is to avoid policies in the adopted plan being out-of-date. This is despite the Council clearly understanding that this would be the consequence of not undertaking the review required by Policy INF03 and despite the previous Local Plan Inspector's clear reasoning for why an immediate review of the housing requirement was needed (i.e. to ensure that the area's needs are appropriately planned for). It is entirely appropriate that a failure to undertake the required review should render the housing requirement out-of-date as this will enable homes to come forwards outside of the local plan process. The Local Plan Partial Review should therefore be found unsound to ensure homes are delivered to meet needs in the short-term and to encourage the Council to plan positively to meet their OAN for housing.

## 2.0 Issue 2.

**What is the justification for pursuing the BLPPR by means of an alternative timetable rather than a review of the four key policy areas set out in INF03 as required by the Inspector?**

### Question 11

**How is the alternative wording to Policy INF03, justified, effective and consistent with national policy and guidance?**

2.1 The adopted wording of Policy INF03 requires an immediate Partial Review of the Local Plan to include several detailed matters, including a review of the housing requirement, and it sets out that if this review is not submitted for examination by November 2022 then the Council's policies that relate to these matters will be deemed to be out of date. It is now March 2023 and the Council has failed to prepare the required Partial Review. Instead they propose to amend the wording of Policy INF03 to replace the requirement for a Partial Review by November 2022, with a requirement to undertake an immediate Full Review that is planned to be submitted by December 2024 but for which the Council proposes to remove any consequence for not submitting the Full Review by this time. For the reasons set out below, the proposed alternative wording to Policy INF03 is not justified, not effective and it is not consistent with national policy and guidance.

### *Justified*

2.2 The Council's proposed amendments to Policy INF03 are not justified for the following reasons:

- **Not an Appropriate Strategy:** At Paragraph 29 of the previous Local Plan Inspector's report (Ref: LPR/PU/SD/001) he sets out his reasoning for requiring an immediate review of the Local Plan's housing requirement. That is, that the housing requirement of 612 dpa was lower than the 2014-based standard method figure of 682 dpa at the time and that despite the 2016-based figures lowering projected housing requirements across the country, they increased them in Breckland. For these reasons, the Inspector considered that the now adopted housing requirement of 612 dpa was not a true reflection of the district's true OAN and he set the requirement for an immediate review to ensure that the plan delivered sufficient housing to meet the district's needs. The Council's proposed amendments to the wording of Policy INF03 would allow the current 612 dpa housing requirement to remain up-to-date, risking a significant undersupply of housing against the district's needs. This cannot be considered to be an appropriate strategy.
- **Reasonable Alternatives:** There is a clear reasonable alternative strategy available that

would accord with Policy INF 03. The Council could and should have undertaken an immediate review of their Local Plan in accordance with the requirements of Policy INF 03. The Council has put forward numerous reasons why it couldn't have undertaken the required Partial Review of the Local Plan, but in essence their case is that "*a number of unforeseen changes in circumstances since that time [i.e. the adoption of the Local Plan in November 2019] has required the Council to take a different course of action*" (Partial Update Submission Letter. Ref: LPR/PU/SUB/004). As set out in our previous representations, this reasoning doesn't stand up to scrutiny. The Council decided not to undertake a Partial Review of the Local Plan in accordance with Policy INF03 in June 2020 (see Cabinet Report Ref: LPR/PU/C/001) which is prior to the unforeseen circumstances that the Council sets out in the Partial Review Topic Paper (Ref: LPR/PU/SUB/012) as the reasons why it couldn't undertake the Partial Review as required. Furthermore, the June 2020 Cabinet report makes clear at paragraph 4.6 that the Council made the decision not to proceed with the Partial Review in full knowledge that it would render its housing requirement out-of-date from November 2022. It was only subsequent to this in September 2021 (see Cabinet Report Ref: LPR/PU/C/002) that the Council decided to undertake the current Partial Review due to concerns that the previously agreed approach would render their housing requirement out-of-date. In summary, the Council's justification for not undertaking the required Partial Review puts the cart before the horse. They decided not to follow the requirements of Policy INF03 well before any of the unforeseen circumstances occurred that they state meant they couldn't have undertaken the required review. In truth, they could have undertaken the very reasonable alternative of undertaking the required review, but they chose not to.

### ***Effective***

- 2.3 The Council's proposed amendments to Policy INF03 are not effective as there are no consequences should the full review of the local plan not take place. The policy states that it is the Council's intention to submit the full review for examination by December 2024, but there are no consequences for not doing so. As set out in our previous representations, we do not consider that the Local Plan Partial Review can be amended to be made sound. However, should the Inspector disagree, to ensure that the policy is effective we recommend the following amendment:

*"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. **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.**"*

### ***Consistent with National Policy***

- 2.4 The National Planning Policy Framework (NPPF) at paragraph 11(b) requires strategic policies to provide for OAN for housing. At paragraph 23, the NPPF states that strategic policies should provide a clear strategy for bringing sufficient land forward to address the OAN over the plan period. And at paragraph 61 the NPPF states that the minimum number of homes needed should be informed by a local housing needs assessment using the standard method. The Partial Update does not provide a housing requirement based on a local housing needs assessment, nor does it seek to meet the area's OAN. It would simply re-adopt the current housing requirement for the remainder of the plan period to 2036. The previous Local Plan Inspector found this requirement to require an immediate review precisely because it didn't reflect the true OAN. The Partial Review does not therefore accord with national policy and against the tests set by NPPF paragraph 35 it cannot be considered to be sound.

**Question 15.**

**Is there sufficient justification to revise the wording of INF03 to undertake an immediate full review of the BLP and to submit it by December 2024?**

- 2.5 No. See above.

**Question 17.**

**Is the BLPPR effective? – What would be the consequences if the Council do not adhere to the submission of the full Local Plan Review by December 2024?**

- 2.6 There would be no consequences for the Council (as the amended wording removes any consequences for not submitting the plan by the intended date), but the consequences for local people in need of housing could be severe. The adopted Local Plan sets a housing requirement of 612 dpa for the period 2011 to 2036 or a total requirement of 15,298 new homes. The Council's current local housing need (calculated using the most recent 2022 affordability ratio) is 661 dpa which would give a total minimum requirement of 16,525 dwellings over the plan period. There is therefore a risk, should the full review not progress, of a significant shortfall in housing delivery during the plan period of 1,227 dwellings. This would have a significant impact on the affordability of housing and the delivery of affordable homes.

**Question 18.**

**What is the justification for seeking to delete the text which refers to policies becoming out of date (should the December 2024 date not be met)?**

- 2.7 There is none. See comments above.

### 3.0 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; 3) 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.**

#### **Question 20.**

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

- 3.1 Policy HOU 01 would remain up-to-date, contrary to the recommendations of the previous Local Plan Inspector. As set out above, the proposed changes would effectively re-adopt the currently unsound housing requirement for the remainder of the plan period.

### **Housing**

#### **Question 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?**

- 3.2 It cannot be considered to be an effective strategy. Policy INF03 was considered necessary for the soundness of the Local Plan to ensure that the housing requirement (and proposed housing delivery) met the Council's true OAN. The Council's current local housing need (calculated using the standard method and 2022 affordable ratio) is 661 dpa which is significantly above the adopted requirement of 612 dpa. Current evidence therefore demonstrates that the housing requirement needs urgently updating to ensure that the Local Plan effectively plans for the area's housing needs.

#### **Question 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?**

3.3 As far as we can tell this option was discounted at the Cabinet meeting in June 2020 (Ref: LPR/PU/C/001) for the following reasons:

- **Securing a timely housing requirement:** officers advised members that there was a risk that they wouldn't be able to secure a timely housing requirement due to uncertainties regarding the standard methodology. As set out in our previous representations, aside from a very short period for the so called 'mutant algorithm', the Council's local housing need figure has remained remarkably stable over the last 3 years. There is therefore no reason why the Council couldn't have identified a housing requirement.
- **Reforms to the planning system:** officers advised members that the Planning White Paper and proposed changes to the planning system could have implications for local plan making. This is despite repeated advice at the time from the Department for Levelling Up, Housing and Communities that Local Planning Authorities should continue to progress Local Plan development under existing arrangements.
- **Duty to Cooperate:** officers advised members that there was a risk that they wouldn't be able to secure timely agreements with neighbouring authorities or other stakeholders. This may have been a risk, but surely not such a significant risk to prevent the Council from proceeding.
- **Staff Resources:** officers advised members that there was a risk that they wouldn't have the staff resources to complete the review in time, but that additional resources could be drawn on from Capita. This is an internal matter for the Council, but the ultimate strategy of progressing a two separate reviews of the Local Plan at the same time is surely more resource hungry than undertaking a single review.

3.4 In conclusion, we see no reason why the Council couldn't have reviewed their housing requirement and identified additional sites to meet the identified need within the 3 year time period set by the Inspector. This is especially the case given that the evidence base for the adopted Local Plan identifies numerous reasonable alternative sites that were assessed as suitable for housing but deemed to be surplus to requirements.

### **Question 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.**

- 3.5 It has not been positively prepared. When the Council initially decided (in June 2020) not to progress with the required Partial Review under Policy INF03 they recognised that there would be a consequence to this decision in that it would render the policies referred to in Policy INF03 out-of-date until the proposed full review of the Local Plan was adopted. The only reason for subsequently deciding to undertake the current Partial Review was to try to avoid a situation where the Council's adopted plan was out-of-date. To be considered 'positively prepared', NPPF paragraph 35 requires policies to provide a strategy which, as a minimum, seeks to meet the area's OAN. The proposed amendments to Policy INF03 do precisely the opposite to this. They seek to remove the requirement at Policy INF03 that would ensure the Local Plan meets its OAN.

**Question 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?**

- 3.6 On the basis that Policy INF03 must be now be considered out of date, the housing land supply statement published in August 2022 is now inaccurate. The annual requirement in the assessment should be based on the Council's current local housing need of 661 dpa.

**Question 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?**

- 3.7 As set out above, we understand the Council's current local housing need to be 661 dpa.

**Question 26.**

**Would a 'consequences clause' within INF03 be justified and effective?**

- 3.8 See above. It would make the policy effective in the sense that the full review could be considered to be deliverable, but it would not make the policy as a whole either effective or justified.

**Question 27.**

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



- 3.9 See above. With regards to housing needs, Policy HOU 01 would remain up-to-date, contrary to the recommendations of the previous Local Plan Inspector.