

Breckland Local Plan Examination

Matter 12:

Environment (Policies ENV 01, ENV 02, ENV 03, ENV 04, ENV 05, ENV 06, ENV 09 and ENV 10)

**Breckland District Council
Hearing Statement**

March 2018



Matter 12: Environment (Policies ENV 01, ENV 02, ENV 03, ENV 04, ENV 05, ENV 06, ENV 09 and ENV 10)

12.1: Policy ENV 01 sets out that if a development will have a detrimental effect on the quantity or function of existing green infrastructure, applications will be expected to demonstrate how the green infrastructure will be enhanced? How can this be achieved in such circumstances?

1. The intention of the policy is to ensure that any loss of green infrastructure due to development is adequately compensated for. The policy wording could be clarified by a small modification as suggested below:

Policy ENV 01, amend 3rd para, second sentence:

...Where it is considered that the development will have a detrimental effect on the quantity or function of existing green infrastructure, ~~applications will be expected to demonstrate how the green infrastructure network will be enhanced as a result of the development~~ compensatory provision will be required in the form of new and/or enhancements to the existing green infrastructure. Where appropriate, the Council will seek to secure through planning obligations provision for the future management and/or maintenance of green infrastructure. Developments that fail to exploit opportunities...

12.2: To be positively prepared should the Plan identify a network of Green Infrastructure?

2. The Local Plan glossary defines Green Infrastructure as 'the multifunctional, interdependent network of open and green spaces and green features. This network includes urban areas, the urban fringe and the countryside. It provides multiple benefits for people and wildlife'. Using a broad definition requires consideration to be given to the value of all green space when assessing proposals for development. This approach means that no green infrastructure is excluded from opportunities for enhancement, simply because it was not defined on a map.
3. As part of the collective work under the umbrella of the Norfolk Strategic Framework (NSF), all Norfolk authorities are collaborating on the production of a Norfolk Green Infrastructure Strategy. The Norfolk Strategic Framework document (LP/S/28) contains a chapter on Green Infrastructure (section 7.8, pg 66-69) and a map of the GI corridors (figure 11, pg 68) as well as a collective agreement to produce the Norfolk Green

Infrastructure Strategy in early 2018 which will aid Local Plans in protecting and where appropriate enhancing the relevant assets.

4. At the time of developing the policy, the NSF and green corridors map had not been finalised or approved by each Norfolk District Council. Since submitting the local plan, the NSF has been finalised and Breckland District Council has signed up to the collective agreements within the NSF under the Duty to Cooperate, including the production of the Norfolk Green Infrastructure Strategy. The Council requests that the Inspector recommends that reference be made to the Norfolk Green Infrastructure Strategy in the supporting text for policy ENV 01, and the NSF Green Corridors map in policy ENV 01, in addition to the current policy wording. This can be subject to discussion during the hearing sessions.

12.3: To be effective should Policy ENV 01 or its supporting text refer to existing local Green Infrastructure strategies?

5. Breckland District Council commissioned two local Green Infrastructure strategies: Thetford Green Infrastructure Study, produced by Land Use Consultants in Sept 2007 and Dereham Green Infrastructure Study and Implementation Strategy produced by Ecology Land and People in Sept 2008. The policy context and specific implementation measures and timescales as set out within the documents is now out of date, as they were principally linked to the adopted Core Strategy and Development Control Policies (2009). Some areas of the studies are still relevant and valuable, although this hasn't been specifically outlined as updated versions were not produced. As these documents do not form part of the evidence base for the new Breckland Local Plan, reference to the studies in the supporting text is considered unjustified. However, the Council has committed to partnership working on a Norfolk wide Green Infrastructure Strategy. Consequently these local studies could be reviewed in the future and updated to ensure conformity with the Norfolk GI Strategy, and to retain the relevant and valuable proposals within these local GI studies.

12.4: Overall, is Policy ENV 01 justified, effective and consistent with national policy (namely Paragraph 114 of the NPPF)?

6. Paragraph 114 of the NPPF is as follows:

114. Local planning authorities should:

•set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure

7. Policy ENV 01 will ensure the protection of existing green infrastructure as it states that new development will be expected to exploit opportunities to incorporate green infrastructure and enhance connectivity. The policy additionally ensures there will be no loss of green infrastructure, as where development proposals result in a loss of green infrastructure the policy stipulates there must be compensatory provision. The policy sets out a strategic approach by ensuring that green infrastructure will be considered in every development proposal. It is therefore consistent with national policy as the policy plans positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure in line with paragraph 114 of the NPPF.
8. The policy has been subject to consultation at Preferred Directions (LP/S/8) and Submission stage (LP/S/1) and is justified in the Sustainability Appraisal (LP/S/3) against reasonable alternatives. The policy ensures that all development proposals that are submitted will be scrutinised to determine the impact on green infrastructure, and whether proposals are taking the opportunity to enhance the green infrastructure network (which the policy sets out is required for a development proposal to be considered favourably). This sets a requirement on both the planning officer and the developer, to consider how green infrastructure can be incorporated in the development and enhanced.
9. The policy sits alongside other environmental policies in the plan, particularly Policy ENV 04 Open Space, Sport and Recreation, which will deliver new, accessible green infrastructure and policies ENV 02 and ENV 03 which add further protection to the most sensitive green areas for the benefit of biodiversity, particularly key protected species.
10. The second part of NPPF para 114 is not relevant to Breckland as there are no areas of coastline within the boundary.

12.5: Is Policy ENV 02 justified and consistent with legislation and national policy, insofar, that it requires all development that may affect a designated site, protected species or any species or habitat of principal importance for conservation to be subject to an Environmental Impact Assessment?

11. The first paragraph of the policy is intended to be an overarching policy statement which sets out that development would not be permitted if it has an adverse effect on the integrity of a European Site. As currently worded, the first paragraph of Policy ENV 02 could be misinterpreted to mean that all development proposals, regardless of scale, type or location, will be required to demonstrate that there will be no adverse effect on the integrity of European Sites. This was not the Council's intention and therefore the following modification is proposed addressing this issue:

Policy ENV 02 - Delete part of first sentence of policy:

'The highest level of protection will be given to European Sites, with development only permitted where ~~it can be demonstrated that~~ there will be no adverse effect (either directly or indirectly) on the integrity of any European site ...'

12. Paragraph 5 of the policy sets out the requirement to submit an Environmental Impact Assessment (EIA) in the case that a designated site, protected species or any species or habitat of principal importance for conservation may be affected by a development proposal. The policy was intended to refer to Ecological Assessments as opposed to Environmental Impact Assessments. The following modification is therefore proposed to clarify the requirement regarding Ecological Assessments:

Policy ENV 02 – Amend 5th paragraph of policy:

'Where the Council considers that a designated site, protected species or any species or habitat of principal importance for conservation may be adversely affected by a development proposal, an ~~environmental impact assessment~~ Ecological Assessment will be required to be submitted with the planning application to assess effects on European sites and effects on flora and fauna. Whilst the ~~EIA~~ Ecological Assessment and Habitats Regulations Assessment (HRA) are separate and distinct elements, the ~~EIA~~ Ecological Assessment information is likely to inform the Councils HRA where an appropriate assessment is required.'

13. The Council considers that, following these minor amendments, Policy ENV 02 is justified and consistent with national legislation and policy.

12.6: Is Policy ENV 03 effective, to ensure that no adverse impacts would occur to the Brecks SPA/SAC through increased recreational pressure from new housing?

14. The Habitats Regulation Assessment (HRA) (LP/S/4) for the plan provides consideration of urban effects from recreational pressure on the Brecks SPA/SAC as a result of increased population proposed in the plan in Chapter 5 of the HRA (page 35-38). Part of the approach to mitigation set in Policy ENV 03 is to continue with the use of a 1500m primary buffer zone around The Brecks, and an additional secondary buffer zone around areas which have a functional link to the SPA. These buffers have also been adopted by neighbouring authorities in their Local Plans¹. Within this primary and secondary buffer zone development is subject to additional policy restrictions. A further orange cell area has been defined which highlights areas that could potentially have a functional link to the SPA and therefore may also be subject to additional restrictions, subject to further data. The policy will restrict new development close to the SPA/SAC thereby helping to reduce disturbance during construction, but also increased recreational pressure and other urban effects post occupancy.
15. Proposed modifications to Policy ENV 03 and the supporting text set out in Matter 1, Appendix 1 will help to clarify the policy and requirements in relation to the primary, secondary buffers and orange cells which will aid implementation of the policy. In addition, a modification is required to Map 5.1, page 157 of the Local Plan (LP/S/1) and the Policies Map (LP/S/2) to include the orange cell area referred to in Policy ENV 03 and illustrated in the HRA (LP/S/4).
16. The key provision set in Policy ENV 03 in relation to addressing the impact of proposed growth on recreational pressure in The Brecks is the Council's commitment to work with partners to develop a Monitoring and Mitigation Framework. The Council have been in discussion with the RSPB regarding forming a Statement of Common Ground to agree detail of the proposed Monitoring and Mitigation Framework. This work will continue in the hope that a SoCG can be agreed prior to the examination hearings. It is anticipated this SoCG will agree the scope and key overarching principles of the Monitoring and Mitigation Framework including partners, funding, timescales and key measures. Monitoring undertaken will determine the impact (if any) of increased recreational pressure on The Brecks over the course of the plan period. This will inform any necessary mitigation measures which will be driven by the Framework.
17. The combination of the use of buffer zones which set restrictions on new development within close proximity of the SAC/SPA and additional monitoring and mitigation linked to

¹ Neighbouring authorities refer to the Borough Council of King's Lynn and West Norfolk and West Suffolk joint authority comprising of Forest Heath District Council and St. Edmundsbury Borough Council.

growth proposed in the plan will ensure that no adverse impacts would occur to the Brecks SPA/SAC through increased recreational pressure from new housing.

12.7: Is Policy ENV 04 based on robust and up-to-date evidence?

18. The Council have produced the Breckland Open Space Assessment (2015) (LP/E/8) and The Indoor Built Sports and Recreational Facilities Study (2017) (LP/V/7) which form the evidence base for developing policy ENV 04. These studies are considered to provide a robust, comprehensive and up to date evidence base to inform the policy.

19. Designated open spaces, which have been derived from the Breckland Open Space Assessment (2015) (LP/E/8) are shown on the Policies Maps (LP/S/2) but their status is not referred to in Policy ENV 04. A modification is proposed to provide a link between Policy ENV 04 and designated open space shown in the Policies Maps, and a full list of sites will be added as an appendix in the Local Plan:

Policy ENV 04, Before 'Existing Provision' add the following wording:

Open space designations as identified through the 2015 Open Space Assessment are shown on the Policies Maps. Appendix 6 identifies new open space sites identified within the 2015 Open Space Assessment.

12.8: Is Policy ENV 04 justified and effective, insofar that it does not recognise the need for different types of open space?

20. The Council considers that policy ENV 04 does recognise the need for different types of open space. The supporting text to the policy at paragraph 5.27 seeks to define open space in accordance with Town and Country Planning Act 1990. Policy ENV04 seeks to prevent the loss of existing open space. The policy also needs to be read in conjunction with other policies in the plan, including Policy ENV01 Green Infrastructure, which seeks to ensure new developments exploit opportunities to incorporate green infrastructure and enhance existing connectivity.

21. Further to the above, Policy ENV04 seeks the provision of outdoor playing space from new development. As set out above, the policy is supported by the Open Space Assessment which is based on the Fields in Trust standards for playing space. Within

Policy ENV04 the outdoor playing space requirement are split between children's play space and outdoor sports facilities.

22. In order to make the policy effective in its implementation, the Council recommends the following proposed modification to the supporting text to provide clarification of the definition of outdoor sports provision:

ENV 04 supporting text - insert after policy, before table 5.1 occupancy rates:

Forms of outdoor sports provision and ancillary facilities can include, but are not limited to: multi-use games areas, sports playing pitches, bowling greens, tennis courts, parking and sports pavilion/changing rooms. Having regard to the availability and quantum of land sought, proposals to improve the provision of sports facilities onsite will be considered favourably. Where it is not possible to accommodate outdoor sports areas onsite, negotiations will occur on a site-by-site basis to determine specific provision for space and financial contributions, taking into account the financial viability of any development.

12.9: In relation to open space, are the occupancy rates set out in Table 5.1 based on robust and up-to-date evidence?

23. The occupancy rates reflect the requirements set out within the existing Core Strategy Policy DC11, which when adopted Policy ENV04 will replace. As part of the Breckland Open Space Assessment (LP/E/08) the existing policy was reassessed (section 9.3 page 63). The assessment concluded that the occupancy rates remained relevant and up to date.

12.10: Is Policy ENV 04 consistent with national policy and justified, insofar, that it requires all residential development to make provision for outdoor playing space?

24. Policy ENV04 has been informed by the Breckland Open Space Assessment (LP/E/8). This shows at chapter 7 that there is a shortage of outdoor playing space across the District when assessed against the fields in trust standards. This is particularly acute in relation to children's play space where Lexham is the only parish in Breckland to meet the standard. In relation to outdoor sports facilities whilst a larger number of parishes particularly in the more rural areas are able to meet the standard, a large number including all five of the market towns do not. Policy ENV04 is considered to be justified based on the findings of open space assessment.

25. The Council consider the approach set out in ENV04 to be consistent with national policy. In accordance with regulation 122 of the Community Infrastructure Levy

Regulations 2010 obligations must only be sought where they are necessary to make a development acceptable in planning terms. Furthermore, they must directly relate to the development. Policy ENV04 only seeks contributions for new development in accordance with the Fields in Trust standards. The policy does not require new development to supply in excess of the Fields in Trust requirement in order to meet a pre-existing deficit, as this would not be in accordance with regulation 122.

26. Whilst the policy requires all new residential development to provide contributions towards outdoor playing space, the requirements of the Government's online Planning Practice Guidance (PPG) are also relevant here. This sets out that planning obligations should not be sought from developments of 10 units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres (gross internal area) (Paragraph: 031 Reference ID: 23b-031-20161116). Policy ENV04 is therefore considered to be consistent with national policy and justified.

12.11: Is the requirement within Policy ENV 04 for outdoor playing space at 2.56 hectares per 1,000 population justified and supported by robust evidence and a sound assessment of viability?

27. Policy ENV 04 is based on local evidence in the form of the Breckland Open Space Assessment (2015) which cites the Fields in Trust (FIT) standards and justifies the use of these figures as a national benchmark in the assessment of open space provision. It highlights that open space deficiency is highest in more populated areas, particularly the market towns. The Open Space Assessment also recommends that in view of the quantitative audit findings of provision within Breckland, future open space provision needs to be addressed within the Local Plan period up until 2036.

28. The (FIT) guidelines set out in the 'Guidance for Outdoor Sport and Play Beyond the 6 Acre Standard' (2015) no longer differentiates between urban and rural areas and provides an updated national standard. However, there is little justification to deviate from the policy recommendations set out in the Breckland Open Space Assessment due to the critical need for open space playing space provision in Breckland district.

29. The Local Plan and CIL Viability Assessment (LP/V/2) assessed the impact of the proposed Local Plan policies on viability, including the policy requirement for open space proposed in ENV 04 (Chapter 8, section 8.12, pg 88). The consultants based modelling in the Viability Assessment on the proposed assumption of outdoor playing space at 2.56

hectares per 1,000 population, therefore demonstrating this to be deliverable in Breckland.

12.12: Are the Local Green Space designations identified on Page 162 of the Plan justified and based on a sound and robust selection methodology?

30. As part of the 2015 Open Space Assessment (LP/E/8), all 113 Parish Councils in Breckland were contacted with a questionnaire which provided the opportunity to submit sites for Local Green Space Designation in the emerging Local Plan. The Open Space Assessment assessed submitted sites to determine whether they conformed to the three defining criteria set in the NPPF (paragraph 77). Those sites that met all three criteria are proposed as designated Local Green Space in the Local Plan. This does not preclude opportunities for neighbourhood plans to make further Local Green Space designations where national criteria are met.

12.13: Is the approach of Policy ENV 05 consistent with national policy, most notably, Paragraphs 17, 109, 113 of the National Planning Policy Framework?

31. The policy approach to ENV 05 is considered to be consistent with the NPPF. Paragraph 17 of the NPPF sets out the 12 core land-use planning principles, paragraph 109 outlines how the planning system should contribute to, and enhance the natural and local environment. Paragraph 113 of the NPPF states that local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged and that distinctions should be made between the hierarchy of international, national and locally designated sites.

32. Policy ENV 05 is very similar to the currently adopted Core Strategy Policy CP 11. It is proposed that the policy approach be carried forward as it has been successfully implemented and presently aids the consideration of planning applications. Whilst there is always a degree of subjectivity in assessing impact on the landscape, the policy gives a clear policy steer to inform decisions on planning applications as it is supported by, and linked directly to, detailed evidence base documents.

33. The Landscape Character Assessment (LP/E/1) and associated Settlement Fringe Study (LP/E/2) produced by Land Use Consultants in 2007 provide a comprehensive categorisation of the different landscape typologies across Breckland, including a classification of their sensitivity to change. Furthermore, for each classified landscape type the document sets out key development considerations which aid assessment of

the impact of a development proposal on the wider landscape. Whilst the evidence was produced over 10 years ago it remains relevant as there has not been significant change in landscape typologies and characterisation classifications since the study was originally produced.

34. Policy ENV 05 is consistent with the NPPF in that it will aid the protection and enhancement of the natural landscape. The policy provides significant weight to the Landscape Character Assessment which aids the consideration of the impact of development proposals on the landscape, particularly in determining the areas which are sensitive to change. Policy ENV 05 identifies The Brecks landscape and river valleys and chalk rivers as areas which will receive high protection. The policy works alongside Policies ENV 02 and ENV 03 which provide additional protection to sites of international and national importance, therefore ensuring consistency with para 113 of the NPPF.

12.14: Is Policy ENV 06 consistent with national policy, most notably Paragraph 118 of the National Planning Policy Framework?

35. Policy ENV 06 is designed to build upon national policy to provide additional clarity of the rare circumstances in which a protected tree or hedgerow could be lost through development proposals, and the specific measures required to mitigate that loss. Paragraph 118 of the NPPF states that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss. Part b of policy ENV 06 conforms to the NPPF in that regard.

36. Policy ENV 06 adds an additional clause (part a) which is not covered in national policy. This sets out that the loss of a protected tree or hedgerow will only be permitted where this will enhance the survival and growth of other protected trees and species. This aligns with the strategic policy direction of the NPPF in that it is still seeking to ensure the protection of identified veteran trees, but also the survival or growth of the majority where one tree has an adverse impact on the growth and survival of other protected trees or hedgerows.

12.15: Is the approach of Policy ENV 06, in relation to the loss of protected trees justified?

37. Whilst the strategic policy direction is considered justified in its approach to protecting the loss of protected trees, a modification is proposed to clarify that the loss of a

protected tree (as opposed to trees) should be replaced with at least a single tree and that loss of protected hedgerow should be replaced, where possible, in recognition that losses must be adequately compensated for. The suggested wording change is outlined as follows:

Policy ENV 06. After point b insert the following wording and amend policy wording:

Where the loss of such features is demonstrably unavoidable, adequate replacement provision, preferably by native species will be sought. Where the loss of ~~trees~~ a tree is accepted in these circumstances, developers will be required to retain enough space to ensure that at least one tree of a similar ultimate size to that removed is planted with sufficient room to reach maturity without pressure for pruning or removal.

12.16: Is Policy ENV 09 consistent with national policy?

38. Policy ENV 09 is designed to work in conjunction with national policy, and therefore does not repeat guidance on the sequential approach and exception test, other than to specify the instances where a site specific flood risk assessment is required. The policy is designed to set local policy requirements based on evidence, particularly focusing on the use of SUD's, addressing surface water drainage issues and referring to the Lead Local Flood Authority guidance. This policy is considered to be consistent with national policy and will aid developers in submitting planning applications to ensure that they fully address the risk from flooding in delivering sustainable development.

12.17: Are the Strategic Flood Risk Assessment (2017), Sequential Test (2017) and Water Cycle Study (2017) robust and should they have considered 'villages with boundaries'?

39. The Strategic Flood Risk Assessment (2017) and the Water Cycle Study (2017) are up to date and robust as they were formulated in consultation with key statutory bodies including Anglian Water, the Environment Agency and the Norfolk County Council as the Lead Local Flood Authority. The Sequential test brings together advice from different strands of evidence, including comments made on individual sites by the LLFA during the Regulation 18 consultation on the local plan, to provide an in depth consideration of flood risk for each proposed allocation.

40. The NPPF advises that evidence used to inform Local Plans should be proportionate. The evidence did not therefore provide an in depth consideration of settlements defined as 'villages with boundaries' because it was not required to inform allocations (as no

development allocations were made in these settlements). Furthermore, any development in these locations must be small scale (5 dwellings or less). Where proposals in these locations may be at risk of flooding these will be assessed in line with national policy, including the sequential and exception tests and Policy ENV 09.

12.18: With particular regard to, but not limited to wind energy development, is Policy ENV 10 consistent with national policy?

41. The NPPF states that local planning authorities should have a positive strategy to promote energy from renewable and low carbon sources, while ensuring that adverse impacts are addressed satisfactorily. LPAs are also required to consider identifying suitable areas for renewable and low carbon energy sources and supporting infrastructure, where this would help secure the development of such sources. The Council have complied with national policy in developing Policy ENV 10 Renewable Energy Development; the policy enables development to be permitted provided that it complies with the restrictions outlined in this criteria based policy which have been designed to prevent unacceptable adverse impacts as a result of renewable energy development proposals.

12.19: Is the Plan effective in terms of its consideration of potential cumulative effects on the environment?

42. The Sustainability Appraisal (LP/S/3) provides a detailed consideration of cumulative effects of the policies on each SA objective, a number of which directly relate to environmental sustainability. Cumulative, secondary or synergistic impacts on the local plan were identified to cover both the overlapping effect of other plans (inter-effects) on the Local Plan and the effects within the policies of the Local Plan (intra-effects). Therefore, detailed consideration has been provided to the cumulative effect of proposed local planning policies on the environment, both within the plan and for policies at a wider level such as the cumulative housing growth planned in the District. This is further considered within the HRA (LP/S/4) and collective work on addressing environmental impacts of plans is documented in the Duty to Cooperate Statement – Natural Environment, pg 14-18 (LP/S/18) and in the background to the proposed Monitoring and Mitigation Framework in Appendix 1.