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Report on Swanton Morley Neighbourhood Plan 2017- 2037

An Examination undertaken for Breckland District Council with the support of the Swanton Morley Parish Council on the June 2017 submission version of the Plan.

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Date of Report: 19 January 2018

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Main Findings - Executive Summary

From my examination of the Swanton Morley Neighbourhood Plan (the Plan/SMNP) and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – the Swanton Morley Parish Council;
- The Plan has been prepared for an area properly designated – the Parish Council area shown on Map 1 in the Neighbourhood Plan;
- The Plan specifies the period to which it is to take effect – 2017 - 2037; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to Referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

1. Introduction and Background

Swanton Morley Neighbourhood Plan 2017 - 2037

- 1.1 Swanton Morley is a relatively self-contained village located in rural Norfolk, around 18 miles (29kms) from Norwich and 3 miles (4.5kms) from the market town of Dereham. Originally a Saxon hamlet and recorded in the Domesday Book, the village has grown considerably in the last 100 years. The 2011 Census shows a population of 2,100, a small reduction from the 2001 population of 2,415. Currently, the village has many services and facilities including shops and post office, two pubs, a garage, medical practice, a successful primary school and a village hall. The village has strong links with the armed forces since it was home to RAF Swanton Morley until 1996 when it was handed over to the army and, as Robertson Barracks, is home to the Light Dragoons.
- 1.2 The Swanton Morley 'Neighbourhood Area' was designated by Breckland District Council (BDC) on 6 July 2015 with the entire parish to be included in the SMNP area. BDC has also confirmed the Swanton Morley Parish Council (SMPC) as the qualifying body, authorised to act in relation to the neighbourhood area. The Parish Council proceeded to form a Steering Group to undertake the detailed preparation of the SMNP with the support

of consultants, Abzag Ltd. A Neighbourhood Plan Newsletter was distributed and a launch event held, inviting members of the community to join the Steering Group. Terms of Reference were agreed for the Steering Group and a series of public events and activities were held during the development of the Plan between October 2015 and January 2017, when the pre-submission consultation was held on the draft SMNP and the Sustainability Appraisal (SA) Report.

The Independent Examiner

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Swanton Morley Neighbourhood Plan by BDC, with the agreement of the SMPC.
- 1.4 I am a chartered town planner and former government Planning Inspector, with more than 20 years experience inspecting and examining development plans. I am an independent examiner, and do not have an interest in any of the land that may be affected by the draft Plan.

The Scope of the Examination

- 1.5 As the independent examiner I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
 - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
 - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.6 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
- Whether the Plan meets the Basic Conditions;
 - Whether the Plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
 - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
 - it sets out policies in relation to the development and use of land;

- it specifies the period during which it has effect;
 - it does not include provisions and policies for 'excluded development';
 - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area;
 - whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to referendum; and
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').

1.7 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

The Basic Conditions

1.8 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area;
- Be compatible with and not breach European Union (EU) obligations; and
- Meet prescribed conditions and comply with prescribed matters.

1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the neighbourhood plan should not be likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2017) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats etc.) Regulations 2007), either alone or in combination with other plans or projects.

2. Approach to the Examination

Planning Policy Context

- 2.1 The Development Plan for this part of BDC, not including documents relating to excluded minerals and waste development, is the adopted Core Strategy and Development Control Policies Document 2009 (CS & DCP) and the adopted Site Specific Policies and Proposals Document 2012 (SSPPD). BDC is in the process of producing a new (emerging) Local Plan which will replace the Core Strategy and the other documents comprising the current adopted Local Plan and will run from 2011 to 2036. The draft Breckland Local Plan (BLP) was submitted for examination on 30 November 2017 and BDC anticipate that the Plan will be adopted in 2018.
- 2.2 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented. PPG makes clear that whilst a draft neighbourhood plan is not tested against the policies in an emerging Local Plan, the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the Basic Conditions against which a neighbourhood plan is tested. It cites, as an example, that up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan contributes to the achievement of sustainable development¹. Paragraph 184 of the NPPF also provides, "*The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider area*". On this basis, I make reference to the emerging Local Plan in this report.

Submitted Documents

- 2.3 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the draft SMNP 2017-2037, June 2017;
 - Map 1 of the Plan which identifies the area to which the proposed neighbourhood development plan relates;
 - the Consultation Statement, June 2017;
 - the Basic Conditions Statement, June 2017;
 - all the representations that have been made in accordance with the Regulation 16 consultation;
 - the Sustainability Appraisal prepared on behalf of SMPC; and
 - SMPC's responses to my questions set out in my letter of 12 October 2017.²

¹ PPG Reference ID: 41-009-20160211.

² <http://parishclerk.wixsite.com/swantonmorleypc/neighbourhood-plan>

Site Visit

- 2.4 I made an unaccompanied site visit to the Neighbourhood Plan Area on 8 October 2017 to familiarise myself with it, and visit relevant sites and areas referenced in the Plan and evidential documents.

Written Representations with or without Public Hearing

- 2.5 This examination has been dealt with by written representations. There was one formal request to be heard amongst the Regulation 16 representations. However, I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan, and presented arguments for and against the Plan's suitability to proceed to a referendum.

Modifications

- 2.6 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

- 3.1 The SMNP has been prepared and submitted for examination by SMPC which is a qualifying body. The Neighbourhood Plan Area covering the whole of the Parish of Swanton Morley was designated by BDC on 6 July 2015.
- 3.2 It is the only neighbourhood plan for Swanton Morley, and does not relate to land outside the designated neighbourhood area.

Plan Period

- 3.3 The Plan specifies clearly the period to which it is to take effect, which is from 2017 to 2037. My report makes further comment regarding the Plan period at paragraphs 4.7 – 4.8.

Neighbourhood Plan Preparation and Consultation

- 3.4 Work began on the SMNP in May 2015 when the SMPC resolved to produce a neighbourhood plan, applied for a designated Neighbourhood Area and later formed a Steering Group to undertake the preparation of the Plan with the support of consultants from Abzag Ltd. The SMPC

requested that the whole of the Parish of Swanton Morley be included and, following a six week consultation period, BDC approved the designation on 6 July 2015. Members of the community were invited to join the Steering Group following the publication of Edition 1 of the Neighbourhood Plan Newsletter.

- 3.5 The Steering Group met regularly from its first meeting on 13 January 2016. Public consultation events and activities took place at key stages in the process, with events at the Village Hall in October and November 2015, February 2016 and a series of open meetings between April and November 2016. The Consultation Statement contains details of the various methods of communication used, including who was consulted, how the consultation took place and what response was received. The methods of communication included the Newsletter, Parish Magazine, a website, Facebook and Twitter, and press releases in addition to the statutory consultation. Full details of the Communication Strategy are included in Appendix 4 of the Consultation Statement.
- 3.6 The Pre-submission (Regulation 14) consultation on the draft SMNP and the SA Report was held for 6 weeks running from 12 January to 24 February 2017. 49 responses were received and recorded in full in Appendix 16 of the Consultation Statement. The Plan was subject, in some instances, to amendment in the light of the representations and began its Regulation 16 consultation on 21 July until 1 September 2017.
- 3.7 A total of 12 responses received from the Regulation 16 consultation were submitted along with the amended Plan. Of these, seven expressed support, made no further comment or withdrew previous comments. Responses requesting further action included those submitted by BDC, Gladman Developments Ltd, Anglian Water, Historic England and the Ministry of Defence. In its response, BDC has confirmed that the SMNP is considered to have generally met the legal requirements in paragraph 6 of Schedule 4B to the 1990 Act. I take account of these responses in my assessment of the Plan. I confirm that the consultation process has met the legal requirements for procedural compliance on neighbourhood plans and has regard to advice on plan preparation in the PPG.

Development and Use of Land

- 3.8 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act. However, Policies 4 and 6 do not relate to the development of use of land and I have recommended modifications in paragraphs 4.34 and 4.40 to 4.41 to recommend their deletion.

Excluded Development

- 3.9 The Plan does not include provisions and policies for 'excluded development'.

Human Rights

- 3.10 As indicated in the Basic Conditions Statement, paragraph 3.37, SMPC is satisfied that the Plan does not breach Human Rights (within the meaning of the Human Rights Act 1998), and from my independent assessment I see no reason to disagree.

4. Compliance with the Basic Conditions

EU Obligations

- 4.1 The Plan was screened for Strategic Environmental Assessment (SEA) by consultants Abzag Ltd acting on the instructions of SMPC. The Screening Determination is included as Appendix 2 in the SA Scoping Final Report (October 2016) which concluded that the SMNP falls within the scope of the Environmental Assessment of Plans and Programmes Regulations 2004 on the basis that it is likely to have significant environmental effects. However, the Report concluded that the requirements of the SEA will be met through the undertaking of a Sustainability Appraisal (SA) of the SMNP³. The SA Final Report (May 2017) includes, at Appendix T, a similarly worded Screening Determination but, following the responses from the Statutory Bodies it was determined that the SMNP “*..is unlikely to have any significant environmental effect and will not require a Strategic Environmental Assessment*”⁴. Having read the Strategic Environmental Assessment Screening Opinion, I support this latter conclusion.
- 4.2 BDC has indicated that the SEA of plans requires the assessment of reasonable alternatives, and that the SA does not appear to have been used to assess alternative options. Appendix B to the SA Final Report indicates that for Policy 2, the primary focus of new development would be the 3 allocated sites: LP(098)013; LP(098)014 and LP(098)016, and these were not assessed separately. Rather, the SA considered the Policy as a whole against the SA objectives. The Appendix also indicates that 12 other sites for development were assessed by BDC against the impact on the Local Plan SA objectives, showing little to differentiate their performance. Some sites were identified as ‘not suitable’. Accordingly, the decision was taken by the SMPC to proceed with the most supported sites whilst the ‘do nothing’ option was considered and dismissed as it would not allow the local community to guide the location of future development.

³ Sustainability Appraisal Scoping Final Report (October 2016) Appendix 2.

⁴ Sustainability Appraisal Final Report (May 2017) Appendix T.

- 4.3 I have considered whether this is a reasonable approach to undertaking an SA for the SMNP and, in doing this I have borne in mind:
- i) there is no legal requirement for a neighbourhood plan to have a SA⁵;
 - ii) in this instance, the screening determination indicated that SEA would not be required; and
 - iii) that where a neighbourhood plan is brought forward before an up-to-date local plan is in place, the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the Basic Conditions against which a neighbourhood plan is tested.
- 4.4 My conclusion is that it is a reasonable approach, since there appears to be little point in carrying out a further assessment of alternative allocations at neighbourhood plan level which have been shown to be less suitable or not suitable at all at local plan level. The approach also ensures that conflict between the emerging local plan and the neighbourhood plan policies is minimised and that the neighbourhood plan policies would not be overridden by a new local plan⁶. In arriving at this conclusion, I have been aware of the judgement in the case of R (Stonegate Homes Ltd and Littleworth Properties Ltd) v Horsham District Council [2016] EWHC 2512 (Admin)⁷. However, that case involved the SEA process which was, in the event, judged to be flawed so that the making of the neighbourhood plan was incompatible with EU obligations (paragraph 78 of the approved judgement): As I have indicated, the circumstances are different in this Plan. I shall give further consideration to the 3 allocated sites in my assessment of Policy 2 (paragraphs 4.25 – 4.30).
- 4.5 The Swanton Morley Neighbourhood Plan was further screened by Abzag Ltd acting for SMPC for Habitats Regulations Assessment (HRA), which was not triggered. Although 7 Natura 2000 sites were identified in proximity to Swanton Morley, only part of one site is in the Neighbourhood Area (The River Wensum Special Area of Conservation). Nevertheless, all the sites were considered and it was concluded that there is likely to be no significant negative effects on the European Designated Sites. Natural England agreed with the conclusion and from my independent assessment of this matter, I have no reason to disagree.

⁵ PPG Reference ID: 41-072-20140306.

⁶ PPG Reference ID: 41-009-20160211.

⁷ View at: https://www.horsham.gov.uk/data/assets/pdf_file/0006/40956/R-Stonegate-v-Horsham-DC.pdf

Main Issues

- 4.6 I have approached the assessment of compliance with the Basic Conditions of the SMNP as two main matters:
- General issues of compliance of the Plan, as a whole; and
 - Specific issues of compliance of the Plan policies.

General issues of compliance of the Plan.

- 4.7 The Plan period is shown as 2017 – 2037 which is at variance with the emerging BLP. This may be regarded as not a substantive issue in that there is no statutory requirement for these plans to have the same end date. However, BDC has requested that the plan period should be aligned with the BLP and the justification for not complying with the request contained in the SA⁸ is not convincing. The SMNP acknowledges (paragraphs 6.23 – 6.32) that its Policy 2, 'Growth in the Right Places', has been developed using the spatial and strategic context, and growth calculations to 2036 contained in the emerging BLP (SMNP: paragraphs 7.5.2 (*sic*), 6.11 and 6.31).
- 4.8 When brought into force the SMNP becomes part of the development plan so far as the neighbourhood area is concerned and PPG urges that potential conflicts should be minimised⁹. Accordingly, to ensure clarity¹⁰ in the development plan as a whole, and in the absence of convincing contrary evidence, the Plan period should be aligned with that of the emerging BLP as shown in proposed modification **PM1**.
- 4.9 The purpose of neighbourhood plans, is set down in the NPPF, paragraph 183, as giving communities the power to develop a shared vision for their neighbourhood and deliver the sustainable development they need, and set planning policies to determine decisions on planning applications. Bearing this in mind, the SMNP effectively commences with Section 4 at page 23. There is a brief statement of the Vision for Swanton Morley followed by 9 detailed, specific objectives covering matters from protection of the countryside and character of the village to support for housing and employment development. I make comments regarding the objectives at paragraph 4.89.

⁸ Sustainability Appraisal, Paragraph 4.32.

⁹ PPG Reference ID: 41-009-20160211.

¹⁰ The NP should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. See PPG Reference ID: 41-041-20140306.

Regard to national policies and advice

- 4.10 The SMNP identifies the need for positive growth and for development to be sustainable with reference made to the NPPF.
- 4.11 The SMNP makes provision for a more than adequate supply of housing land to meet the identified need, although this is a matter to which I will return (paragraph 4.26), and uses a defined settlement boundary to control development within the countryside. It also seeks to provide support for local employment opportunities and protect local open spaces through the Local Green Space designation.
- 4.12 In all of these matters the SMNP makes reference to national advice in the relevant parts of the NPPF and, subject to the detailed comments I make about individual policies and proposals, I am satisfied that the Plan has had regard to national policies and advice to meet the Basic Conditions.

Contributing to the achievement of sustainable development

- 4.13 Although there appeared to be little appetite shown locally for new development within the village, SMPC has shown determination to make allocations to fully meet the housing requirement in line with the emerging BLP and to take account of national planning policy in the NPPF, which indicates a presumption in favour of sustainable development and a requirement for local planning authorities to “*boost significantly the supply of housing*” (paragraph 47). It has also ensured that the allocations chosen are in a sustainable location close to the village centre, its shops, school and other facilities and services.
- 4.14 The Plan also seeks to support and aid the growth of employment opportunities along with local community facilities and services. Subject to the detailed comments I make below about individual policies, I am satisfied that the Plan makes a contribution to the achievement of the economic, social and environmental aspects of sustainable development.

General conformity with strategic policies in the development plan

- 4.15 The SMNP clearly states the particular local policies considered to be most relevant, and identifies the wider spatial and strategic policy context, including the adopted CS & DCP and the emerging BLP. Paragraph 7.5.3 (*sic*) on page 27 makes reference to the Preferred Site Options and Settlement Boundaries documentation. However, the information is incomplete as no mention is made of the Pre-submission Breckland Local Plan which has been subject to consultation, ending on 2 October 2017, and its submission for Examination on 30 November 2017. The paragraph

will require amendment to take this into account and I have included a proposed modification **PM3** in the interests of accuracy¹¹.

- 4.16 The main body of the SMNP follows in Section 6 with a total of 19 policies grouped into six policy themes designed to aid interpretation. These are: Growth, Landscape and Environment, Design, Local Economy, Community Facilities and Transport. The themes are well thought out and provide a useful structure to aid the understanding and use of the Plan.
- 4.17 A key consideration for conformity with the local development plan is the degree to which the SMNP provides allocations to meet the housing requirement for the village. Whilst the emerging BLP has demonstrated a residual housing requirement of 85 dwellings for the Plan period, the SMPC has sought to allocate land for a substantially greater total. Even though over-allocation is not, in principle, wrong, I consider that the SMNP should be more closely aligned with the emerging BLP in this regard and have recommended accordingly below.
- 4.18 For all of these reasons I am satisfied that the SMNP has taken account of the policies in the adopted development plan and the emerging Local Plan, and is in general conformity with the strategic policies of the development plan for the area.

Specific Issues of Compliance of the Plan Policies.

- 4.19 As already indicated the Plan includes a total of nineteen policies divided into six 'policy themes' dealing with Growth; Landscape and Environment; Design; Local Economy; Community Facilities and Transport. The policies will be considered under these headings.

Theme 1: Growth

- 4.20 *Policy 1: Protecting the Identity of Swanton Morley* seeks to prevent the coalescence between the village and neighbouring towns and villages, and in particular, Dereham. It also seeks to prevent development which would reduce the openness and visual break between Swanton Morley and Dereham, and to prevent the intensification of development within existing curtilages that would lead to an increased sense of coalescence. A key consideration in achieving the policy aim would be through the control of development outside the built up area – in other words, outside the settlement boundary.
- 4.21 The supporting text acknowledges that the CS and the emerging BLP set the agenda for housing numbers and growth (paragraph 6.11) and that

¹¹ Modifications for the purpose of correcting errors is provided for in Paragraph 10(3)(e) of Schedule 4B to the 1990 Act.

Swanton Morley is identified in the CS, Policy SS1, as a Service Centre Village (now identified as a Local Service Centre in the BLP). However, the SMNP does not identify a settlement boundary that differs from that defined through the CS, Policy CP14, or the emerging BLP, nor does it acknowledge that Policy 1 would apply to development outside the BLP defined settlement boundary. As drafted, the Policy has no basis on which decisions may be taken regarding whether development proposals fall within or outside the settlement boundary and, therefore, whether the Policy should be applied. For this reason, it is necessary to state within the Policy that the settlement boundary is 'defined'.

- 4.22 Whilst the adopted CS Policy CP14 indicates that settlement boundaries will be defined for rural communities, the main aim is focussing new development to sustainable locations, and protecting the form and character of a settlement. The focus has changed with the emerging BLP, Policy GEN 05 which restricts development outside the defined settlement boundary to preserve the countryside. Policy GEN 05 also indicates that development outside the boundary will only be acceptable if it is compliant with other, defined policies set out in the emerging BLP.
- 4.23 The SMNP Policy makes no distinction between different types of development within the countryside and seeks only to prevent development which would result in increasing coalescence with neighbouring settlements. However, national policies to prevent coalescence are only found in relation to the purpose of Green Belts¹² although a central theme running through national policy is achieving sustainable development and this is supported by the avoidance of isolated new development in the countryside, apart from certain exceptions such as rural exception sites and rural workers' essential housing. These national policy directions are followed in the adopted and emerging elements of the local development plan. In order to have regard to national policy and advice, and be in general conformity with local planning policy, the wording of Policy 1 should be amended to provide a clear indication of the purpose of the Policy and the exceptions to its otherwise blanket restriction on development outside the designated settlement boundary. Appropriate text is provided through proposed modification **PM5** to ensure the Policy meets the Basic Conditions.
- 4.24 Map 4 shows the designated settlement boundary but mainly emphasises the BLP preferred directions and site allocations which are not relevant to the SMNP. The Map lacks clarity of purpose and should be deleted. There is also a need to indicate the derivation of the definition in the supporting text at paragraph 6.14. **PM 4** makes this modification.

¹² NPPF Paragraph 80.

- 4.25 *Policy 2: Growth in the Right Places* indicates that the primary focus of new residential development will be within allocated sites LP(098)013, LP(098)014 and LP(098)016. Paragraph 6.11 refers to both the adopted CS and the emerging BLP as setting the agenda for housing numbers and growth. The total number of new homes across the District is indicated at 15,298, whilst the emerging BLP allocates 180 new dwellings to Swanton Morley for the period to 2036. Of these, completions and commitments total 95, leaving a requirement of 85 to be allocated. To meet this requirement, the BLP allocates a single site: LP(098)013. This is a 4.9ha site off Rectory Road and adjacent to the almost completed development by Hopkins Homes. The BLP indicates that the site could deliver at least 85 dwellings, although a previous assessment suggests a capacity of 98 dwellings. By contrast the total yield from the three sites allocated in the SWNP could be in the region of 200 dwellings, although the Policy provides no information of the quantum of residential development and there is no estimate of the potential yield from site LP(098)016.
- 4.26 The Government advises that neighbourhood plans should not promote less development than set out in the local plan¹³ so that, in principle, there is nothing wrong with over-allocation – indeed the NPPF, paragraph 47, indicates a need to significantly boost the supply of housing. It is also the case that, where there is no up-to-date local plan in place, the allocation of reserve sites can ensure emerging evidence of housing need is addressed¹⁴. However, the three allocations in the SWNP do not include reserve sites and there are concerns arising through the significant over-allocation. There does not appear to have been a separate appraisal of individual sites to underpin the selection of these three allocations and the SA has not carried out any appraisal at site level. The site appraisal carried out by BDC as part of the emerging BLP¹⁵ identifies LP(098)013 as the preferred site, although it indicates that LP(098)002, LP(098)003, LP(098)014 are considered as alternative options, whilst LP(098)016 is not considered an alternative option in isolation because of the access constraints. The SMNP gives no indication of why the latter pair were chosen for inclusion in the SMNP over the first pair, other than views expressed by local residents (paragraphs 6.28, 29 and 32). The process of making these important choices is not satisfactory.
- 4.27 It is also the case that the SMNP selection process has not carried out any in-depth appraisal of the potential impact of developing all three sites within the Plan period on the village infrastructure, or the resulting visual impact of in the region of 200 dwellings on the village character. The BDC appraisal does provide information on the impact on infrastructure,

¹³ NPPF Paragraph 184.

¹⁴ PPG Reference ID: 41-009-20160211.

¹⁵ Preferred Sites and Settlement Boundaries 2016, Section 24.

although that was in relation to a proposal for 85 dwellings over the Plan period.

- 4.28 None of the evidence before this Examination provides justification for a substantial allocation above the 85 dwellings proposed in the emerging BLP. For this reason, even though over-allocation is not, in principle, wrong the Policy should be more closely aligned to the housing requirement evidence which underpins the emerging BLP allocation. As a result I consider the Policy should focus solely on the allocation of the BLP preferred site - LP(098)013. Suitable amendments are provided by proposed modification **PM6** to ensure the Policy meets the Basic Conditions.
- 4.29 A number of deletions are necessary to the supporting text, particularly paragraph 6.24 which is confusing and unnecessary; paragraphs 6.26 – 6.28 which relate to the consultation process rather than providing a factual basis for choice; and paragraphs 6.33 – 6.35 which are concerned with the calculation of a Five Year Housing Land Supply which is a local planning authority responsibility. Additionally, paragraphs 6.31 and 6.32 will require revision to take account of the progress of the emerging BLP.
- 4.30 It is also necessary to delete Map 5 as no longer relevant since the Preferred Directions and Site Allocations stage has now been superseded. It should be replaced by a map showing the site allocated for residential development in Policy 2.
- 4.31 Policy 3: Enabling Growth on Sites LP(098)014 and LP(098)016. The purpose of this Policy is to set down specific requirements related to the development of these sites. The aim is to ensure sustainable growth whilst providing specific benefits to the local community. There are a number of matters identified to be addressed by the Policy, including the impact of further development on highway safety and car parking related to the school, and the visual impact resulting from development on site LP(098)016. However, the proposed modification to Policy 2 deleting both allocations means that Policy 3 is no longer necessary.
- 4.32 For this reason the Policy should be deleted together with the supporting text at paragraphs 6.43 – 6.58 as shown in proposed modification **PM7**.
- 4.33 Policy 4: Housing for the Local Community (Local Lettings) seeks to create the opportunity for Swanton Morley residents or those with connections to the village who are on the housing register to have the ability to access affordable housing. Paragraph 6.72 indicates that the Policy is intended to apply to “*affordable rent tenure*” whilst the preceding paragraph indicates that the Policy “*..will be managed by Breckland District Council*”.

- 4.34 The Policy is not a land-use planning policy and, indeed, has no basis in planning law. The allocation of social housing is a function of a housing authority under Part 6 of the Housing Act 1996 and in framing an allocation scheme to determine priorities the housing authority must ensure that reasonable preference is given to certain categories of people (S166A(3)) and have regard to certain considerations. The SMNP Policy seeks to give preference to local people, or those with local connections without consideration being given to other categories such as homeless people or those living in insanitary or otherwise unsatisfactory housing conditions contrary to the requirements of the Housing Act. In addition, the Policy is not compliant with the CS Policy DC 4 which sets down affordable housing principles and seeks to ensure affordable housing is secured to meet the needs of Breckland consistent with the Strategic Housing Market Assessment. For these reasons Policy 4 does not meet the Basic Conditions and its application would be unlawful. It should be deleted along with the supporting text at paragraphs 6.60 – 6.76 and appendices 6 and 8 as shown in proposed modification **PM8**.
- 4.35 Policy 5: Affordable Housing on Exception Sites. The adopted CS includes Policy DC 5 which provides criteria for assessing proposals for affordable housing developments on rural exception sites. The emerging BLP includes a similar Policy HOU 14. These policies follow Government advice that local planning authorities should be responsive to local circumstances, including through rural exception sites¹⁶. The composition of the development in terms of housing mix and tenure is required to reflect the identified and proven need in the parish or settlement (criteria (a) and (b)).
- 4.36 The first sentence of the SMNP Policy 5 is a general statement of intent which would effectively give SMPC a veto over individual proposals since the imperative “*will be permitted*” is replaced by “*may be permitted*”, subject to two criteria. The grant of planning permission is for the local planning authority to determine in accordance with the development plan, it is not dependent on local support, so the first criterion should be deleted in any event. The reference to the CS Policy should be replaced with a more general statement, recognising that it will be replaced at some point with an equivalent policy in the emerging BLP.
- 4.37 The comments by BDC responding to the Regulation 16 consultation suggest it would be content with using the criteria from deleted Policy 4, subject to certain modifications, substituted for criterion (b). It is also necessary to delete paragraph 6.81, recognising that it is necessary to change the text of paragraph 1 of the Policy. With amendments shown in proposed modification **PM9** to ensure the Policy is in general conformity with those elements in the adopted development plan (and aligns with the

¹⁶ NPPF Paragraph 54.

emerging development plan) and has regard to national advice, the Policy does comply with the Basic Conditions.

- 4.38 Policy 6: Delivery of Planning Obligations. The supporting text to this Policy is heavily critical of the handling of planning obligations by BDC and seeks a greater part in negotiating specific requirements and to be a signature to agreements. However, the Town and Country Planning Act 1990, Section 106 (S106), subsection 9 (d) identifies the local planning authority as the body responsible for enforcing an obligation. PPG does indicate that local communities should be involved in the setting of planning obligations policies in a local plan or neighbourhood plan¹⁷ but Policy 6 does not provide such a policy. Rather it makes two requests: firstly, to be consulted on 'heads of terms', specific specifications and delivery requirements and secondly to be a signatory to all S106 agreements within the parish relating to the delivery of open and recreational space and any additional community requested benefits.
- 4.39 The first of these requests may well be reasonable but seeking a greater role in the negotiating process is not a land-use planning matter and so cannot be part of a policy in the neighbourhood plan. The second part of the Policy is a statement of intent rather than a request: "*Swanton Morley Parish Council will be a signatory to all section 106 agreements within the parish...*". Planning obligations under S106 are private agreements between the local planning authority and a prospective developer of land. Only parties with a legal interest in land may be signatories to the agreement
- 4.40 The Policy has not had regard to national policy and advice and is not compliant with the adopted local development plan. It is not a land-use planning policy meeting the Basic Conditions and so should be deleted along with the supporting text and Appendix 7 as shown in proposed modification **PM10**.
- 4.41 Paragraphs 6.95 - 6.96 should be relocated in Section 7 to indicate the Parish Council's willingness to be involved in ensuring delivery of the outcomes for Swanton Morley as shown in **PM10**.

Theme 2: Landscape and Environment

- 4.42 Policy 7: Local Green Space and Policy 8: Protection of Open Space. These two policies both seek to protect local open space which is seen of great importance to the local community, contributing to the character and identity of Swanton Morley. Policy 7 designates 3 areas of open space within or adjacent to an area of mature local authority housing. The Policy will afford protection to the spaces using the Government's Local

¹⁷ PPG Reference ID: 23b-003-20150326.

Green Space (LGS) designation for green areas of particular importance to local communities¹⁸. The designation rules out new development other than in very special circumstances.

- 4.43 There is no issue with the designations at Gray Drive and Thompson Avenue, both of which are 'embedded' within the housing areas and are valuable for children's play and as amenity spaces. However, the land at Middleton Avenue is outside the main housing area and adjacent to the settlement's cemetery. In its comments at Regulation 16 stage BDC indicated that designation of the site as LGS is not acceptable as its future is currently under review. It also offered to put forward 2 alternative sites in place of the land at Middleton Avenue. Although no clear location plan has been made available to the Examination, from the description provided it is probable that neither site would satisfy the requirements for designation as LGS, and neither is acceptable to SMPC in any event.
- 4.44 PPG makes it clear that the LGS designation should not be used in a way that undermines the aim of plan making¹⁹, so whilst the future of the Middleton Avenue land is under review it should not be designated as LGS. It would appear from evidence provided by SMPC that the planning issues regarding these sites have been under consideration for some time and it is important to the local community that these matters are resolved. However, for the purposes of this SMNP, the designation of the Middleton Avenue site should be deleted from the Policy, together with the references in the supporting text. The final sentence of the Policy does not provide a clear statement of intent and should be amended to follow advice in the NPPF²⁰. Map 8 in the SMNP will also require relevant amendment. Appropriate amendments to Policy 7 are provided through proposed modification **PM11** and with these changes Policy 7 is in general conformity with the local development plan, specifically CS Policy DC 11. It also has regard to national policy and advice and so meets the Basic Conditions.
- 4.45 *Policy 8: Protection of Open Space* is problematic in that it introduces a different designation for the protection of some Open Spaces – Areas of Important Open Space. This is not a designation supported by national Government policy, and this policy seeks to afford protection from new development similar to that of LGS. Whilst some of the 15 different spaces included within the list at Table 3 appear to meet the requirements of LGS designation, they have not been proposed for inclusion in Policy 7 and so cannot be transferred to that Policy. These are entries 1 – 8 and entry 10 in Table 3. From my visit, all of these are appropriate areas of

¹⁸ NPPF Paragraphs 76-77.

¹⁹ PPG Reference ID:37-007-20140306.

²⁰ NPPF Paragraph 78.

existing Open Space for which protection may be afforded by aligning Policy 8 with the advice in the NPPF, paragraph 74.

- 4.46 Protection through Open Space designation is not appropriate for the remaining sites (entries 9 and 11-15 in Table 3). The school playing field at Manns Lane is part of the school site for which the Open Space designation is not appropriate as the Local Plan does not identify School Playing Fields as Open Space; the three areas of common land (Mill Common, Burgh Common and Little Common) have protection provided through legislation²¹ and the two locations shown at Robertson Barracks are within a military establishment, to which public access is not available and the future of which is presently uncertain.
- 4.47 The Policy 8 designation as Areas of Important Open Space should be changed to 'Existing Open Space' reflecting the advice at paragraph 74 of the NPPF. The text of the Policy should be amended to take account of the national advice by using a criteria-based approach to provide appropriate protection. Suitable amendments to the Policy wording are provided by proposed modification **PM12**. It will also be necessary to amend the wording of paragraph 8.129 as shown in **PM12**.
- 4.48 *Policy 9: Management of Open Space* is based on a desire to ensure all open space is managed appropriately and sustainably with a preference that ownership is transferred to SMPC. It appears to reflect a perception amongst local residents that 'management companies' are failing to maintain areas correctly or shutting down through lack of funds (paragraph. 6.135). The truth or otherwise of this perception cannot be ascertained from the evidence before this Examination.
- 4.49 The Policy seeks to address the issue through providing 3 alternative management solutions that new developments providing elements of green infrastructure will be required to fulfil. The first is to transfer ownership to SMPC, together with funding for future upkeep for a ten year period. Alternatively, an effective transition to local authority ownership will be required, whilst the third possibility would be a legally binding agreement to establish a viable management company.
- 4.50 The Policy has two significant problems, firstly, that any of these solutions would require a S106 agreement and secondly that BDC has indicated that it is not currently adopting open space so that criterion (b) could not be implemented. However, as previously stated, SMPC is not a party to S106 agreements which are negotiated between the local planning authority and the prospective developer. SMPC cannot stipulate conditions or require a particular course of action for a legally binding agreement when it is not a party to that agreement.

²¹ Commons Act 2006.

- 4.51 It is also the case that each S106 agreement will be unique to the planning permission to which it relates and the actual terms will be the result of the negotiating process with the local planning authority – although the general approach will follow guidelines set down in local planning policies. The adopted CS, Policy CP 6, seeks on-site provision and/or off-site contributions to green infrastructure and provision for its future management and/or maintenance. The emerging BLP also includes Policy INF 02 relating to developer contributions with similar provisions regarding the delivery and ongoing maintenance of formal and informal open space.
- 4.52 In summary, whilst SMPC will, in any event, have opportunities to provide input to the content of any S106 agreement within the Parish, it cannot dictate the content. Therefore, the Policy is incapable of implementation and so it does not meet the Basic Conditions. It also does not offer any practical addition to policies already contained in the adopted development plan and the emerging BLP and so should be deleted as shown in proposed modification **PM13**. The supporting text reports locally held opinion but no hard evidence to support a policy and so should also be removed from the SMNP.
- 4.53 *Policy 10: Important Views* seeks to protect locally important views across the River Wensum Valley and Castle Farm Valley Floor to the north and east of the Parish. The Policy intent is in general conformity with the adopted CS Policy CP 11 which seeks to protect and enhance the landscape for the sake of its own intrinsic beauty, with a requirement that development should have regard to maintaining the aesthetic qualities of the landscape. Particular reference is made in Policy CP 11 to the importance of the undeveloped character of the river valleys.
- 4.54 However, the SMNP Policy 10 wording lacks clarity and, in its present form, would not be effective and be difficult to implement. It does not properly define the area over which control of development proposals is sought, or what aspects of developments would be within its remit. Potentially, the Policy could prevent the development of very small scale proposals having little or no visual impact on the wider landscape. PPG advises that a policy in a neighbourhood plan should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence²² and proposed modification **PM14** provides a revised wording to fulfil this requirement and so meet the Basic Conditions.
- 4.55 Map 9 which supports the Policy is not clear and requires amendment. It should identify the areas of the Wensum River Valley and Castle Farm Valley Floor within the Parish boundary, within which development

²² PPG Reference ID: 41-041-20140306.

proposals would be subject to scrutiny under the Policy, identifying the extremities of the area by reference to the Worthing Road and Elsing Road.

- 4.56 Policy 11: Accessibility and Biodiversity. The Policy's ambition, to enhance the rural setting and provide habitats for wildlife whilst improving access to the countryside, is laudable. It has regard to national advice in the NPPF, paragraph 109 *et seq* concerning minimising impacts and providing net gains to biodiversity, and to seek opportunities to provide better access (paragraph 75). The Policy is also generally compliant with the adopted local development plan which includes CS Policy CP 10 concerning the enhancement of biodiversity and geodiversity. Although Policy CP 10 does not specify the need for connectivity relating to footpaths and cycleways, it does seek to create green networks and to maximise opportunities for the creation of new green infrastructure and networks through development. Further support for the approach is found in the emerging BLP through policy ENV 01 regarding the impact of development on green infrastructure and the potential to enhance and integrate local green infrastructure.
- 4.57 In order for Policy 11 to achieve general conformity with the local development plan, the second part of the Policy, which seeks to enhance connectivity and encourage the use of existing footpath and cycleway links, should also encourage new developments to exploit opportunities to integrate and enhance the existing local green infrastructure. An appropriate amendment is shown in proposed modification **PM15**. With this modification, the Policy meets the Basic Conditions.

Theme 3: Design

- 4.58 Policy 12: The Design of Development is intended to promote a high standard of design in new development. The Policy has had regard to national policy and advice in the NPPF, paragraph 59, which recommends the use of design codes to help deliver high quality outcomes. In addition, it largely avoids the use of unnecessarily prescriptive or detailed requirements. Furthermore, it is in general conformity with the CS design policy, DC 16, and is in line with design principles set down in Policy COM 01 in the emerging BLP.
- 4.59 There are some detailed considerations which should be addressed by proposed modifications to meet the Basic Conditions regarding clarity and precision. The first sentence requires new developments to '*preserve and enhance the village*'. This phrase is open to misinterpretation, firstly because the term is used specifically in the context of the character and appearance of Conservation Areas²³ and secondly because it is imprecise

²³ Planning (Listed Buildings and Conservation Areas) Act 1990, Section 69.

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in relation to what aspect or aspects of the village should be preserved or enhanced. A more appropriate phrase is included in the proposed modification.

- 4.60 Criterion 1 could be a source of confusion in that it seeks to ensure that new development does not adversely impact on local heritage assets and natural assets. These are two quite different matters so, for clarity, they should be the subject of separate criteria. The proposed modification includes appropriate amendments.
- 4.61 BDC has suggested in its Regulation 16 responses that Criterion 11, requiring external amenity space and refuse/recycling facilities, should clarify the location of such space. This is an appropriate amendment. Additionally, the Criterion does not provide a clear indication of the requirements for the purposes of development control and an amended text is provided in the proposed modification.
- 4.62 Criterion 12 seeks to control the configuration and standard of street lighting. Although usually the detail of street lighting is a matter for the highway authority, exceptionally compared with the rest of the County, SMPC is responsible for street lighting as well as the footpath lights which it owns. In the interests of clarity additional text should be included in the justification following paragraph 6.176.
- 4.63 Anglian Water has raised a question regarding the third bullet in the first paragraph of Policy 14 regarding implementation of solutions prior to occupation. The reference is more appropriately placed in this Policy as an amendment to Criterion 13 and appropriate text is included in the proposed modifications.
- 4.64 Provided the proposed modifications at **PM16** are incorporated, the Policy meets the Basic Conditions.
- 4.65 *Policy 13: Parking Provision* provides minimum standards for the provision of car parking for new residential development. The only evidence provided to support the Policy (Figure 1) shows Swanton Morley to have a slightly higher proportion of households having one or more cars compared to Breckland as a whole and the rest of England. The Plan also cites Norfolk County Council as wanting to address the issue of indiscriminate parking (paragraph 6.186), and community feedback on the issue of parking provision in new residential developments. No evidence is provided to support the provision of communal car parking areas and no guidance is provided to identify 'appropriate locations' for such provision.

- 4.66 The Policy specifies the minimum number of off-road spaces for different sizes of dwelling, with 4 or more bedrooms being required to provide 4 spaces. This compares to a requirement for a minimum of 2 spaces per dwelling in the adopted CS, Policy DC 19, and the local parking standards included at Appendix D (with similar standards included in the emerging BLP at Appendix 2). There is no assessment of the potential impact on the viability of development proposals, or whether the additional requirement above adopted local standards might put development at risk contrary to NPPF, paragraph 174.
- 4.67 The Policy is also in conflict with the national approach to sustainable development contained in the NPPF, Section 4, which seeks to reduce reliance on the motor vehicle through promoting sustainable transport.
- 4.68 For the reasons stated, the Policy is not in general conformity with adopted development plan CS, has not sought to align with the similar approach contained in the emerging BLP, and has not had regard to national policy and advice in the NPPF and so does not meet the Basic Conditions. The Policy should be deleted, along with the supporting text at paras 6.182 – 6.189, as shown in proposed modification **PM17**.
- 4.69 *Policy 14: Flooding.* The intent of the Policy is stated at paragraph 6.194 as *"to contribute to efforts to reduce the risk of surface water flooding"*. The Policy provides for new development proposals to be accompanied by an appropriate assessment, incorporate appropriate mitigation measures to manage flood risk and reduce surface water run-off. According to the supporting text, paragraph 6.193, the Policy has been developed to incorporate the specific wording and requirements of the lead Flood Authority, Norfolk County Council, working with Anglian Water.
- 4.70 The Policy wording is confusing in the first part, requiring an appropriate assessment to accompany all new developments, which *"..gives adequate and appropriate consideration to all sources of flooding and proposed surface water drainage.."*. This is required to demonstrate that there would be no increase *"..in the flood risk to the site or wider area from fluvial, surface water, groundwater, sewers or artificial sources.."*. However, the Environment Agency Flood Map for Planning shows that the whole of Swanton Morley within the designated Settlement Boundary is in Flood Zone 1 with a low probability of flooding, and where flood risk assessments are not required for developments smaller than one hectare. The requirement could place an unreasonable burden on proposals for small developments and alterations to existing buildings and may be unnecessary in most instances.
- 4.71 In general terms the Policy is compliant with the local development plan, CS Policy DC 13 and follows national advice to minimise the vulnerability

of new development to climate change and manage flood risk from all sources “..taking account of advice from the Environment Agency and other flood risk management bodies..”²⁴. However, the SMNP Policy text requires amendments to meet the Basic Conditions. These are necessary to clarify its purpose and to give a more precise indication of the requirements to be met by proposals for development. These include clarifying the circumstances in which an assessment will be required to accompany planning applications for development; removing the requirement for implementation prior to any occupation (bullet point 3 in the first paragraph) since Anglian Water has indicated this refers to foul water drainage solutions which are subject to Policy 12, criteria 13; remove bullet point 2 in paragraph 2 as this simply repeats the requirement for a flood risk assessment and placing a qualification on the requirement for Sustainable Drainage Systems for compliance with CS, Policy DC13.

- 4.72 Appropriate amendments are included in proposed modification **PM18** and with these amendments, the Policy meets the Basic Conditions since it is in general conformity with the adopted development plan and follows national policy and guidance.
- 4.73 *Policy 15: Housing Mix* seeks to address the imbalance in the existing housing stock to create a greater number of smaller dwellings to meet local needs. BDC welcomes a drive to create more smaller dwellings and CS Policy DC 2 regarding the principles of new housing, criterion c, seeks to secure an appropriate mix of dwelling size, type and tenure “...in order to meet the needs of Breckland’s citizens”. However, the CS does not specify a precise mix for all developments of 10 or more dwellings as proposed in Policy 15. Rather, the supporting text to the CS Policy (paragraph 4.14) suggests the proposed balance will reflect the mix identified in the latest Strategic Housing Market Assessment 2015 (SHMA) - a common approach reflected, for example, in the Neighbourhood Plan for nearby Yaxham.
- 4.74 National advice in the NPPF, paragraph 50, encourages the delivery of a wide choice of high quality homes and the need to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community. Whilst Policy 15 of the SMNP seeks to achieve a mix of housing types, the proportions of 1, 2, 3 and 4 bedroom or larger dwellings in the Policy are proposed for both market and affordable housing. This is contrary to projections for the 2016-2036 period shown in the SHMA 2015, Table 4, which indicates no households in 1 bedroom dwellings and a very small proportion in 2 dwellings in the private market housing sector. It also seeks to restrict the range of housing types provided by the market housing sector without

²⁴ NPPF paragraph 100.

having regard to the viability implications for development which could, as BDC has pointed out, prevent sustainable development contrary to the principle of the presumption in favour of sustainable development – the ‘golden thread’ running through plan-making and decision-taking²⁵ .

- 4.75 The Policy should also refer to developments of more than 10 dwellings, rather than ten or more dwellings to avoid confusion with national advice regarding the provision of an affordable element in new developments.
- 4.76 Paragraph 6.205 is factually incorrect in suggesting there does not appear to be an existing policy on housing mix for the district or one as part of the emerging Local Plan. CS, Policy DC 2, indicates that the BDC will apply a principle of an appropriate mix and type of housing, an intention carried forward in the emerging BLP through Policy HOU 06. The paragraph should therefore be deleted.
- 4.77 As drafted, Policy 15 does not meet the Basic Conditions and requires amendments to the text to achieve general conformity with the local development plan, and to ensure that regard has been had to national policy and advice. The amended text shown in proposed modification **PM19** will ensure that the Basic Conditions are met.

Theme 4: Local Economy

- 4.78 *Policy 16: Broadband and Mobile Communications* follows the NPPF, paragraph 43, advice to local planning authorities to support the expansion of the electronic communications network, including telecommunications and high speed broadband. The Policy provides a simple statement that enhancement of the infrastructure will be supported and no modification is necessary.
- 4.79 *Policy 17: Employment and Local Shops* provides support for the creation of employment opportunities and new local shops. It places emphasis on the desirability of seeking small units appropriate in scale. This follows Government support in the NPPF, paragraph 28, for prosperous rural communities through promoting development of rural businesses and the retention and development of local services such as local shops. It is also in general conformity with CS, Policy CP 14 which seeks to support sustainable rural communities through appropriate development.
- 4.80 The Regulation 16 representation by BDC suggests that the phrase “..that fit within the surroundings..” is unclear and should be removed. Whilst I agree that there is a lack of clarity which may render the Policy difficult to implement, the sentiment behind the phrase is laudable and I have set out what I consider to be a clearer phrase in proposed modification **PM20**.

²⁵ NPPF paragraph 14.

With this modification, the Policy has clarity of purpose and meets the requirements of the Basic Conditions.

Theme 5: Community Facilities

- 4.81 Policy 18: Additional Community Facilities provides support for the provision of community facilities such as recreational space, play space and sports facilities. This follows national policy in the NPPF which promotes healthy communities and advises, paragraph 70, that planning policies should plan positively for such provision. It is also compliant with local Policy DC 18 in the adopted CS&DCP.
- 4.82 The Policy draws special attention to the perceived need for additional parking near the school. This does not sit well with the general approach to sustainable transport promoted in the NPPF (Section 4), which encourages solutions supporting the reduction in greenhouse gases and the reduction in the use of high-emission vehicles. From my visit, it is clear that the village is relatively compact with short walking distances and a well-established pedestrian route connecting the main village with the school. In these circumstances highlighting the provision of additional school parking as, in effect, the most important additional facility is unjustified and unsupported by substantive evidence. There is a superfluous word "additional" in the final sentence which, for clarity of intent, should be deleted. I have included amendments to the Policy in proposed modification **PM21** which will ensure the Policy has proper regard for national policy and advice so that the Basic Conditions are met.

Theme 6: Transport

- 4.83 Policy 19: Traffic Impact requires new development of 10 or more residential dwellings and all commercial development proposals to quantify the level of traffic movements likely to be generated and its cumulative effect (with other developments in Swanton Morley and surrounding parishes). The second part of the Policy requires appropriate and proportionate measures to mitigate negative impacts.
- 4.84 I have noted the concerns of the local residents relating to higher volumes of traffic, increasing numbers of HGVs and speeding issues. However, BDC's Local List specifying the requirements for a valid planning application indicates that transport assessments will be required generally for larger developments such as schemes for more than 50 houses. Norfolk County Council advises that the need for transport assessments are usually associated with sites in excess of 100 dwellings, although it does suggest this does not preclude seeking to ensure developers provide appropriate mitigation.

4.85 The stance adopted by both the District and County Councils is supported by the NPPF, paragraph 32, which indicates that “*all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment*”. A requirement for a Transport Assessment for all developments of 10 or more dwellings cannot be said to be in general conformity with local planning policy, or to have had regard to national advice. The supporting text at paragraphs 6.260 - 6.264 does not provide sufficient evidence to support a significant departure from local policy and guidance. I have therefore proposed that the first paragraph of the Policy is deleted, and the second paragraph amended as shown in proposed modification **PM22**. With these amendments, the Policy will achieve general conformity with local planning policy and has regard to national policy and advice and so meets the Basic Conditions.

General points

- 4.86 The SMNP is illustrated throughout with maps and photographs and has 8 appendices attached. The maps are not always appropriate to the illustration of policies, not always legible and do not always include important information such as a full key to the information shown and some include unnecessary information, depending on their source. I have noted those instances where maps should be amended or replaced at the appropriate place in my report.
- 4.87 Section 2, subsections 2.4 and 2.6 provide a list of ‘*key dates through history*’ and a list of ‘*movers and shakers of the time*’. Interesting though these lists are, they do not add to the brief history of the village included in other parts of the Section. Nor do they provide any useful background material to inform the plan making process. Although their presence is not contrary to the requirement of the Basic Conditions, they do interfere with the reading process and would be better placed in a new appendix.
- 4.88 Section 3 reports the process of developing the SMNP, including details such as membership of the Steering Group and the consultation process. This is material which should properly be included in the Consultation Statement rather than in the Plan itself. Although its presence is not a reason for failure to meet the Basic Conditions I would suggest that it is removed from the Plan.
- 4.89 In Section 4, I have noted issues with the objectives which should be addressed in the interests of achieving clarity and for consistency with other proposed modifications in this report. A proposed modification is provided at **PM23**. The issues are:
- i) The reference to ‘*historical assets*’ in Objective (c) is erroneous and should be stated as ‘*heritage assets*’; and

- ii) The statement in Objective (d) that new housing should be made available to people from Swanton Morley first is not a planning objective, but falls to be determined under provisions in housing legislation and through local housing allocation policies. It cannot, therefore, be part of the land use planning policies in a neighbourhood plan.

4.90 Appendices 4 – 8 do not provide proportionate or robust evidence to support the land use planning policies chosen to include in the SMNP. Although it is not necessary to remove the appendices to meet the requirements of the Basic Conditions, no useful purpose is served by their inclusion within the SMNP and Appendices 4 and 5 would be more appropriately located in the Consultation Statement. I consider that their deletion would assist users of the SMNP in understanding the intent and purpose of the relevant policies. In view of my conclusions and proposed modifications relating to Policies 4, 5 and 6, it is necessary to remove appendices 6, 7 and 8 in any event (see paragraphs 4.35 and 4.41 of this report).

4.91 Paragraphs in Section 5 have been erroneously numbered 7.1.1 – 7.5.3. These should be correctly renumbered as indicated in proposed modification **PM2**. I am content for any necessary consequential changes to be made to the SWNP contents page, figures, maps, policy and paragraph numbers etc, to take account of the recommendations contained in this Report.

5. Conclusions

Summary

5.1 The Swanton Morley Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the neighbourhood plan, and the evidence documents submitted with it.

5.2 I have made recommendations to modify a number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

The Referendum and its Area

5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates.

- 5.4 The Swanton Morley Neighbourhood Plan as modified has no policy or proposals which I consider significant enough to have an impact beyond the designated neighbourhood plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated neighbourhood plan area.

Overview

- 5.5 It is clear from the Neighbourhood Plan that the Parish Council, reflecting views of local residents, is proud of the history and character of Swanton Morley. Initially, it would appear there was resistance to the idea of development within the village, but it also appears that residents have been willing to think carefully about the case for new development, showing commitment to the Plan process and a determination to seek the best ways of absorbing new development. Throughout conducting this examination, it has been very evident to me that the Steering Group and the community have worked hard to produce a Plan which reflects their hopes for the future of the village. For this, and for the thorough approach taken, they may be commended. It is to be hoped that the resulting Plan will provide an effective basis for managing development within the village.

Patrick T Whitehead Dip TP(Nott), MRTPI

Examiner

Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Front cover and paragraph 1.5.1; 7.1	Delete reference to "2017 – 2037" and replace with "2016 – 2036" in both instances.
PM2	Pages 25 - 27	Replace paragraph numbers "7.1.1 – 7.5.3" in Section 5 with "5.1.1 – 5.5.3"
PM3	Page 27	Add the following sentence to the end of paragraph 7.5.3 (renumbered to 5.5.3): "The Breckland Local Plan Pre-submission document was published for consultation purposes on 21 August 2017, with the consultation closing on 02 October 2017. It was submitted for Examination on 30 November 2017."
PM4	Page 30	Add the following sentences to paragraph 6.14: "Policy GEN 05 in the emerging Local Plan defines a settlement boundary for Swanton Morley which identifies the area which is acceptable, in principle, for further development. Outside of the settlement boundary the open countryside will be subject to a greater degree of protection. Policy 1 seeks to reinforce the approach in the Local Plan, whilst identifying those exceptions to the Policy which will be supported. Following Government advice in the NPPF (paragraph 53) inappropriate development of residential curtilages in the countryside will be resisted."
PM5	Page 31	Policy 1: Replace the first paragraph with the following: "Outside the defined settlement boundary development will not be

		<p>supported unless it involves:</p> <ul style="list-style-type: none"> i) Rural exception sites; ii) Dwellings to meet the essential need for a rural worker; iii) Development involving the re-use of redundant or disused buildings. iv) Farm diversification, and v) Rural tourism related development.” <p>Replace the numbered points with the following:</p> <p>“The development of residential curtilages in the countryside will be resisted where it would lead to significant change to the landscape character.”</p> <p>For clarity, an appropriate map showing the defined settlement boundary should accompany Policy 1 and delete Map 4.</p>
PM6	Pages 32 - 37	<p>Policy 2</p> <p>Amend the Policy wording as follows:</p> <p>“The primary focus of new residential development in the Swanton Morley Neighbourhood Plan area will be within the three allocated housing sites identified on Map 5 as:</p> <p>1)LP(098)013;</p> <p>2)LP(098)014 and</p> <p>and</p> <p>3)LP(098)016</p> <p>A planning application for this three allocated residential sites will be supported where it complies with the other policies...”</p> <p>Amend Paragraph 6.11 to read: “..with no fewer than 14,925 15,298 new homes across the Breckland District between 2011 and 2036.”</p>

		<p>Delete the following paragraphs of the supporting text:</p> <p>Paragraphs 6.24, 6.26 – 6.28.</p> <p>Paragraphs 6.31 and 6.32 will require substantial revision removing references to the Local Plan Preferred Options and Settlement Boundaries (Sept 2016) to take account of the progress of the emerging BLP.</p> <p>Delete paragraphs 6.33 – 6.35.</p> <p>Delete Map 5 and replace with a map showing the allocated site.</p> <p>Amend paragraph 7.5.2 (sic) to read: “..and provide for no less than 14,925 15,298 new homes between 2011 and 2036.</p>
PM7	Pages 38 - 41	<p>Policy 3</p> <p>The Policy and its supporting text at paragraphs 6.43 – 6.59 should be deleted in their entirety.</p>
PM8	Pages 42 - 44	<p>Policy 4</p> <p>The Policy and its supporting text at paragraphs 6.60 – 6.77, and related appendices 6 and 8 should be deleted in their entirety.</p>
PM9	Pages 45 - 46	<p>Policy 5</p> <p>Amend the first paragraph as follows:</p> <p><i>“Development of affordable housing on an exception site may will be permitted where it satisfies the requirements of <u>relevant policies in Policy DC5 of the Core Strategy and Development Control Policies adopted local development plan and the following additional requirements:</u>”</i></p> <p>Delete the first criterion a. and replace the second criterion with the following:</p> <p><i>“The allocation of dwellings should be</i></p>

		<p>to those in housing need and with a connection to the Parish of Swanton Morley in accordance with the following cascade criteria:</p> <ul style="list-style-type: none"> a. Residents of Swanton Morley Parish for the previous three years; b. Households with a local family connection; c. Former residents of Swanton Morley Parish including those who have had to leave the Parish due to a lack of suitable affordable housing; d. People with an employment connection to the Parish; e. Residents of adjacent parishes; f. Residents of Breckland District.” <p>Delete paragraph 6.81 of the supporting text.</p>
PM10	Pages 47 - 49	<p>Policy 6</p> <p>The Policy and its supporting text at paragraphs 6.86 – 6.101, and related Appendix 7 should be deleted in their entirety.</p> <p>Except paragraphs 6.95 - 6.96, which should be relocated in Section 7 as paragraphs 7.9.3 -7.9.4.</p>
PM11	Pages 52 - 54	<p>Policy 7</p> <p>Delete item 3, “; and 3) Middleton Avenue”.</p> <p>Amend the final sentence as follows:</p> <p><u>“Applications for development on the identified local green spaces, which would adversely affect their function, and essential open character as of designated open Local Green Spaces will not be permitted unless very special circumstances can be demonstrated.”</u></p> <p>Map 8 will require amendment to delete the area adjacent to Middleton Avenue.</p>

PM12	Pages 54 – 56	<p>Policy 8</p> <p>The Policy title amended to "<i>Protection of Existing Open Space</i>"</p> <p>The Policy should be amended as follows:</p> <p><i>"Proposals for development, which would result in the loss of part or all of an Area of Important Existing Open Space, as defined in Table 3 {Areas of Important Open Space within Swanton Morley} and Location Maps in Appendix 3, will not be permitted unless it can be demonstrated...":</i></p> <p>The following criteria should be added to the Policy:</p> <p><i>"a) An assessment has been undertaken which clearly shows the open space to be surplus to requirements; OR</i></p> <p><i>b) the loss resulting from the proposed development would be replaced by the equivalent provision in a suitable location; OR</i></p> <p><i>c) the development is for an alternative sports or recreation provision, the need for which clearly outweighs the loss of the existing open space".</i></p> <p>Paragraph 6.129 amended as follows:</p> <p>"See the location maps in Appendix 3 for specific details and locations of each of the Areas of Important <u>Existing</u> Open Space listed within Table 3."</p> <p>Table 3 amended, replacing "Important" with "Existing" in the title and by deleting references to the following items;</p> <p>"School Playing Field;</p> <p>Mill Common;</p> <p>Burgh Common;</p> <p>Little Common;</p>
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		<p>North Avenue Play Area; Edwards Close Play Area.”</p> <p>Appendix 3 will require amendment to delete maps of those sites which are not included in the revised list of Existing Open Spaces: Burgh Common, Little Common, Mill Common, School Playing Field, North Avenue Play Area and Edwards Close Play Area.</p>
PM13	Pages 57 - 58	<p>Policy 9</p> <p>The Policy and its supporting text at paragraphs 6.134 – 6.140 should be deleted in their entirety.</p>
PM14	Page 61	<p>Policy 10</p> <p>Amend the Policy as follows:</p> <p>Delete the first paragraph and replace the second paragraph with the following:</p> <p><i>“All development proposals having a significant visual impact on those parts of the River Wensum Valley and Castle Farm Valley Floor within the Parish boundary must maintain and protect important views from the following public places identified on Map 9:</i></p> <ol style="list-style-type: none"> <i>1. Primrose Hill;</i> <i>2. The Churchyard;</i> <i>3. The Bowling Green and</i> <i>4. Worthing Road.”</i> <p>Amend Map 9, supporting the Policy, by delineating the areas of the River Wensum Valley and Castle Farm Valley Floor and identifying the extremities of the area within the Parish boundary to which the Policy will be applied by reference to the Worthing Road and Elsing Road.</p>
PM15	Page 65	<p>Policy 11</p> <p>Amend the second paragraph as follows:</p> <p><i>“All new development should maximise opportunities to enhance</i></p>

		<p><u>connectivity the existing local green infrastructure and, where possible, create network links to encourage the use of existing footpath and cycleway links to the wider parish and countryside.</u></p>
PM16	Page 68	<p>Policy 12</p> <p>Amend the first sentence as follows:</p> <p><u>"New development, including infill development and residential extensions, should preserve and enhance respect and, where possible, enhance the character of the village..."</u></p> <p>Divide the first Criterion into two parts as follows:</p> <p><u>"1) Respecting and protecting local heritage assets and their settings;</u></p> <p><u>2) Protecting natural assets, enhancing the natural environment and biodiversity;"</u></p> <p>Amend Criterion 11 as follows:</p> <p><u>"New residential development should provide sufficient private external amenity space appropriate to the size and type of dwelling, and refuse and recycling storage facilities;</u></p> <p>Criterion 13 should be amended by the addition of the following at the end of the sentence:</p> <p><u>"Where a need for mitigation is identified within the foul sewerage network, any foul drainage solution to be implemented prior to the development being occupied."</u></p> <p>There is an error in the first sentence of the Criterion which should be corrected:</p> <p><u>"..to undertaken a sewage capacity assessment."</u></p> <p>Insert new paragraph following paragraph</p>

		<p>6.176 as follows:</p> <p>"Swanton Morley Parish Council is the relevant authority for street lighting and for the footpath lights which it owns. Therefore Criterion 12 has been included in the Policy to ensure street lighting provided as part of new developments meets the Parish's configuration and standard."</p>
PM17	Pages 69 – 70	<p>Policy 13</p> <p>Delete the Policy and its supporting text at paragraphs 6.182 – 6.190.</p>
PM18	Pages 72 – 73	<p>Policy 14</p> <p>Amend the first paragraph as follows:</p> <p><i>"<u>Any Proposals for new development of more than 1 hectare (residential or commercial) or significant alteration to an existing building within the Swanton Morley area should be accompanied by an appropriate flood risk assessment</u></i></p> <p>Insert "to" in the first sentence of paragraph 2 as follows:</p> <p><i>"...to incorporate appropriate mitigation measures to manage flood risk".</i></p> <p>Delete bullet 3 in the first paragraph:</p> <p><i>"Any water drainage solution to be implemented prior to any occupation."</i></p> <p>Delete bullet 2 in the second paragraph:</p> <p><i>"Where appropriate undertake sequential and/or exception tests;"</i></p> <p>Amend bullet 5 in the second paragraph as follows:</p> <p><i>"Inclusion of a Sustainable Drainage System (SuDS) with an appropriate discharge location, <u>subject to feasibility</u>"</i></p>

PM19	Pages 75 and 78	<p>Policy 15</p> <p>Replace the first sentence and bullet points of the Policy with the following:</p> <p><i>"New developments of more than 10 dwellings should provide a mix of dwelling sizes to meet local need, as evidenced by the latest published Strategic Housing Market Assessment.</i></p> <p>Delete paragraph 6.205.</p>
PM20	Page 82	<p>Policy 17</p> <p>Amend the first part of the Policy to read as follows:</p> <p><i>"The Swanton Morley Neighbourhood Plan supports planning applications that seek the creation of employment opportunities in new small commercial and office units that fit within the <u>are compatible with their immediate surroundings,...</u>"</i></p>
PM21	Page 85	<p>Policy 18</p> <p>Amend the first paragraph by deleting the following:</p> <p><i>"especially parking near the school,"</i></p> <p>And by deleting the first occurrence of the word "additional" in the second sentence as follows:</p> <p><i>"..to ensure that additional provision of additional local facilities..."</i></p>
PM22	Page 87	<p>Policy 19</p> <p>Delete the first paragraph and amend the first part of the second paragraph as follows:</p> <p><i><u>"New developments that generate a significant amount of traffic They will also be expected to assess the impact of traffic generated by the proposals and include appropriate and proportionate measures to mitigate</u></i></p>

		<i>any significant negative impacts on...."</i>
PM23	Page 24	Objectives Replace the reference to "historical assets" in Objective (c) with " <i>heritage assets</i> "; Delete Objective (d).