

**North Norfolk District Council**  
**Blakeney Neighbourhood Plan**  
**Interim DECISION STATEMENT**

Following the submission of the Draft Neighbourhood Plan by Blakeney Parish Council dated July 2021, the submitted Plan was publicised and representations were invited between 28<sup>th</sup> March 2022 and 9<sup>th</sup> May 2022.

The Plan was subject to independent examination between 4<sup>th</sup> July 2022 and 19<sup>th</sup> January 2023 with the issuing of a final report on that day.

The Neighbourhood Planning (General) Regulations 2012 (as amended) require the Local Planning Authority (LPA) to outline what action to take in response to the recommendations the Examiner makes in a report under paragraph 10 of Schedule 4A to the 1990 Act (as applied by Section 38A of the 2004 Act) in relation to a Neighbourhood Development Plan.

Paragraph 12(4) of Schedule 4B to the Town and Country Planning Act 1990 (“the 1990 Act”) states that a referendum must be held on a proposal for a neighbourhood development plan or order if the LPA is satisfied that it meets the Basic Conditions tests and other legal requirements or would do so if modifications were made to the draft plan or order (whether or not recommended by the Examiner).

## **Decision**

The independent examiners report recommends 14 modifications to the policies of the submitted Draft Blakeney Neighbourhood Plan to ensure it meets the Basic Conditions tests set out in legislation, along with recommending the Council undertake other factual corrections, updates, and consequential amendments to the body of supporting text/mapping prior to proceeding to a referendum. The Council have considered each of the recommendations contained in the Independent Examiners report, and the reasons for them, and it is considered that three further modifications are required. These further changes and the reasons for them are set out below.

Subject to the incorporation of the modifications set out in the independent examination report, the factual and consequential changes and the additional modifications set out below the Council agrees to modify the neighbourhood plan and that the modified Blakeney Neighbourhood Plan should proceed to public Referendum. The Council also agrees with the Examiner’s recommendation that the Referendum of the Neighbourhood Plan should be based on the designated Neighbourhood Area that was designated by North Norfolk District Council as a Neighbourhood Area on 30<sup>th</sup> November 2017

The Council intends to modify the Plan in-line with the Examiners recommendations and the additional changes put forward and are inviting representations on these additional modifications for a six-week period between 23.02.23 and 6.4.2023- 5pm from the qualifying body and those that have previously been consulted and/or engaged at submission and examination stages.

Following this period NNDC will issue its final decision within 5 weeks, unless an alternative time period has been agreed with the qualifying body.

The Blakeney neighbourhood plan as submitted (March 2022), and the Examiner’s report, can be viewed on the District Councils website at: [www.north-norfolk.gov.uk/blakeneynp](http://www.north-norfolk.gov.uk/blakeneynp)

The documents are also available for inspection at the District Council offices at Holt Road, Cromer, NR27 9EN. Monday - Friday 9:00am - 5:00pm (4:30pm, Fridays).

### **Additional modifications**

1. The proposed modification PM1, which addresses local occupancy in Policy 1, is amended to remove reference to its application to the emerging strategic site allocation BLA04/A, Land east of Langham Road.
2. The proposed modification PM2, which clarifies the circumstances around where a change of use in Policy 3 can be applied, is amended with the addition of 'Where an application is required' at the start of the sentence and by replacing the words 'planning permission will be *refused*' with 'planning permission will *not be supported*.'
3. The proposed modification PM10, which amends Policy 13 to the preservation of Valued Sites, is amended to at Paragraph 6.268 of the Neighbourhood Plan and Table 2, from 'Valued Sites of *Strategic* Importance' to 'Valued Sites of *Visual* Importance' and by replacing a word in the second line of Policy 13 from 'will not be *permitted* unless...' to 'will not be *supported* unless...'

These are transcribed as tracked changes in appendix 1 to this note for clarity.

#### Explanation change - 1.

The Examiner recognises that the original intent of Policy 1 of the BNP, to control occupancy through a local connection cascade, is not a planning function and is a matter for the Housing Authority and its Housing Strategy. He has proposed a modification which aligns with the Council's current approach to occupancy, in the main. However, he also suggests this could be applied to the emerging Local Plan strategic allocation BLA04/A but qualifies that this should apply to no other future strategic housing allocation. It is considered that this is beyond the scope of the basic conditions where alignment and examination is restricted to that of the adopted Core Strategy and not an emerging Local Plan which at this stage is still subject to examination and change and where the principle of this allocation is challenged. Such a modification if left unchecked would bring into contention the primacy of the Local Plan and due process and the Council's Housing Strategy, and negatively affect the council's ability to meet its responsibilities around its duties to fulfil its statutory function under housing legislation.

Blakeney is a strategic growth location as identified in the hierarchy of settlements in the Local Plan and as such, growth through the strategic allocations in the settlement of Blakeney through the Local Plan is in part justified to contribute to meeting the district wide need of affordable and market housing, and the strategic allocation is justified and intended to function that way. It remains important that Blakeney, as part of the strategic settlement hierarchy, continues to contribute to the wider district growth and maintain a mix of housing options to address the wider general affordable housing need through the emerging Plan's allocation in the parish. If PM1 is left unchanged, then conflict between the neighbourhood plan and the Council's strategic objective would remain.

Other policies in the development plan comprising the Local Plan (Core strategy and emerging Local Plan) and the draft BNP, (following successful referendum) ensure that appropriate qualifying development in the parish will provide for the local ambition.

There is also the potential that if such conflict is left in the Blakeney Neighbourhood plan the application of Policy 1 would be short lived. Planning Practice Guidance states that any conflict between Plans should be resolved in favour of the newest Plan adopted. It is anticipated that the Local Plan will be adopted following the BNP and as such, the provisions in the neighbourhood plan would become outdated in relation to the strategic site allocation, as the newest policy would apply. Furthermore, there would be the impacts on the delivery of the strategic site and future affordable

housing provision should it not be modified. Restricting occupancy through local connections is well known to impact delivery finance and the modification has been made without any appropriate assessment, evidence, or engagement. It is contended that these issues are likely to impact on the deliverability of the site in the interim. This would result in the non-achievement of the Examiners intentions, potentially by stalling delivery of the proposed strategic site and the overall housing requirements.

#### Explanation change - 2

The circumstances where the policy could be applied are extremely limited. To be clear, it is not possible to control the use of the existing housing stock as second homes through planning policies. In the case of commercial holiday lets, case law upholds that using a dwellinghouse for commercial holiday lets would not always amount to a material change, and therefore, not need planning permission. In applying Policy 3 of the BNP, officers will need to be mindful of the size and the sensitivity of its location. Any increased intensity of its use, which would render it outside of what would be considered the 'normal' characteristics of a residential dwelling may constitute a material change and planning permission may be required. For example, large groups staying all together or use only at weekends. The Neighbourhood Plan itself in Para 6.86- 6.87, recognises that "whether a change of use has occurred when a house is let out for short-term holiday or leisure use is a matter for the Local Planning Authority (North Norfolk District Council) with each case considered upon the particular characteristics of the use as holiday accommodation" and that the policy can only be applied where a material change of use has occurred, which itself depends on the facts of the case. For reasons of clarity and to manage the expectations around the application of the policy the additional wording 'Where an application is required.' is necessary. This should ensure that the pre application advice service could be utilised.

It must also be recognised that in such cases, the Parish Council will not be the decision maker– that is the role of the Local Planning Authority, LPA, and will be a matter for assessment on a case-by-case basis, rather than a direct application / instruction of policy. To avoid any future misunderstanding and conflict and to ensure the LPA retains its judgement function, the words *planning permission will be refused* are replaced in the proposed modification PM2 with *planning permission will not be supported*. Such a change would ensure a clear separation in areas of decision making and allow the LPA to exercise its judgement on a case-by-case basis.

#### Explanation change - 3

The Examiners recommendation in PM10 creates a new term of Valued Sites, in order to avoid confusion, by clearly distinguishing them from existing open space designations. He further removes the sites, which already benefit from higher order designations, and this is considered appropriate and necessary. The Examiner has also removed all of the privately owned sites as part of the proposed modification PM10, acknowledging that no specific consultation with any of the owners had been carried out as part of the Neighbourhood Plan process.

The first part of the Council's amendment would relate to Paragraph 6.258 and Table 2 of the Neighbourhood Plan in replacing the term Valued Sites of *Strategic* Importance with the term Valued Sites of *Visual* Importance'. This is considered necessary in order to accurately reflect the basic assessment tabled at Para. 6.258, which states, 'There are certain designated and non-designated open spaces within Blakeney, which because of their location, openness and topography allow views across a wider area enhancing the village perception, character and countryside feel.' It is clearly evident that the sites are not strategic in nature, and, for reasons of clarity, this term will be replaced to better align with its purpose.

The recommended change of a word within the second line of Policy 13 from 'permitted' to 'supported' is considered necessary to recognise that it is the Local Planning Authority (LPA) who will act as the decision maker in the determination of any relevant planning application. Such a change

would ensure a clear separation in regard to decision making and allow the LPA to exercise its judgement on a case-by-case basis, as justified above.

**Phillip Rowson**



**Assistant Director Planning**  
17.2.23

Appendix 1 Modifications incorporating additional tracked Changes

<b>Proposed modification number (PM)</b>	<b>Page no./ other reference</b>	<b>Modification</b>
PM1	Page 41	<p>Substitute the following for the first paragraph of Policy 1:</p> <p>“For the lifetime of the development, occupation of all new affordable housing on non-strategic sites <del>and any on the proposed strategic site BLA04/A (Land east of Langham Road)</del> shall be limited to eligible households with a local connection (defined in Appendix X) to the Parish of Blakeney or adjoining parishes.”</p> <p>Delete the second paragraph of Policy 1 (local connection priority cascade criteria).</p> <p>In the third paragraph of Policy 1, substitute the following for the words commencing with “allocations”:</p> <p>“occupancy shall be in accordance with the District Council’s Housing Allocation Scheme”.</p> <p>In a new appendix, add a definition for “local connection” based on the Local Allocations Agreement in the District Council’s Housing Allocations Scheme (Appendix 4) but unrelated to Exception Housing Schemes</p>
PM2	Page 47	<p>Add at start of the policy <b>Where an application is required</b> proposals to change the use from residential (C3)<sup>12</sup> use to holiday accommodation (sui generis)<sup>13</sup> must demonstrate that:.....</p> <p>Delete criterion 4) of Policy 3. Substitute the following paragraph: “Where increased occupation would give rise to materially harmful effects, planning permission will be <b>refused-not be supported</b> .”</p>
PM10	Page 90	<p>Change the title of Policy 13 to “Preservation of Valued Sites”.</p> <p><b>Change the term ‘Strategic’ to ‘Visual’ in Paragraph 6.258 and Table 2.</b></p>

	<p>In the first sentence, change “<del>Open Space</del>” to “Valued Site”.</p> <p>In the second sentence change ‘<del>permitted</del>’ to ‘supported’.</p> <p>Replace the third and fourth lines of the policy with “the community would gain equivalent or greater benefit from the development”.</p> <p>Delete Sites 3, 4, 9,10, 11, 16 and 17 from Table 2 and Map 11.</p> <p>Clearly number the sites on Maps 10 and 11.</p> <p>On Map 11, add Site 18 (Young’s Field) to the key.</p> <p>Carry out consequential amendments to the text (substitute “Valued Sites” for “Open Green Space”).</p>
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