



**Intelligent Plans**  
and examinations

# **Report on the Blakeney Neighbourhood Plan 2020 - 2040**

**An Examination undertaken for North Norfolk District Council with the support of Blakeney Parish Council on the July 2021 Examination Version of the Plan (Submission November 2021).**

Independent Examiner: Andrew S Freeman BSc(Hons) DipTP DipEM FRTPI

Date of Report: 19 January 2023

Intelligent Plans and Examinations (IPE) Ltd, 3 Princes Street, Bath BA1 1HL  
Registered in England and Wales. Company Reg. No. 10100118. VAT Reg. No. 237 7641 84

## Contents

Main Findings - Executive Summary .....	3
1. Introduction and Background .....	3
The Blakeney Neighbourhood Plan 2020 - 2040 .....	3
The Independent Examiner .....	3
The Scope of the Examination .....	4
The Basic Conditions .....	5
2. Approach to the Examination.....	5
Planning Policy Context.....	5
Submitted Documents .....	6
Site Visit .....	6
Written Representations with or without Public Hearing .....	6
Modifications .....	7
3. Procedural Compliance and Human Rights.....	7
Qualifying Body and Neighbourhood Plan Area.....	7
Plan Period.....	7
Neighbourhood Plan Preparation and Consultation.....	7
Development and Use of Land .....	8
Excluded Development .....	8
Human Rights.....	9
4. Compliance with the Basic Conditions .....	9
EU Obligations.....	9
Main Issues.....	9
Issue 1: Affordable Housing.....	11
Issue 2: Second Homes and Holiday Lets .....	12
Issue 3: Improving Design and Development.....	14
Issue 4: Drainage and Flooding.....	15
Issue 5: Natural Environment .....	16
Issue 6: Local Economy and Tourism .....	18
Other Matters .....	19
5. Conclusions.....	19
Summary.....	19
The Referendum and its Area .....	20
Overview .....	20
Appendix: Modifications.....	21

## **Main Findings - Executive Summary**

From my examination of the Blakeney Neighbourhood Plan (the Plan) 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 – Blakeney Parish Council;
- the Plan has been prepared for an area properly designated – the Blakeney Neighbourhood Area (Map 1 on Page 4 of the Plan);
- the Plan specifies the period to which it is to take effect – 2020 - 2040; 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**

### **The Blakeney Neighbourhood Plan 2020 - 2040**

- 1.1 Blakeney is a civil parish and popular holiday resort on the north Norfolk coast within the administrative area of North Norfolk District Council (the District Council). It is approximately 40 km to the northwest of the county town of Norwich. The village lies within the Norfolk Coast Area of Outstanding Natural Beauty (AONB) and the North Norfolk Heritage Coast. The North Norfolk Coastal Path passes along its quayside.
- 1.2 The Parish was designated as a neighbourhood area by the District Council in November 2017. Since then, the Plan's preparation has proceeded under the auspices of a Steering Group supported by the Parish Clerk and by consultants. The resultant draft Neighbourhood Plan has a vision, seven objectives and 17 policies grouped in three themes

### **The Independent Examiner**

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Blakeney Neighbourhood Plan by North Norfolk District Council with the agreement of Blakeney Parish Council.

- 1.4 I am a chartered town planner and former government Planning Inspector with over forty years' experience. I have worked in both the public and the private sectors. 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'; and
    - 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.
  - 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 (under retained EU law);<sup>1</sup> 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 making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>2</sup>

## **2. Approach to the Examination**

### **Planning Policy Context**

- 2.1 The Development Plan for this part of North Norfolk District Council, not including documents relating to excluded minerals and waste development, includes the Core Strategy Incorporating Development Control Policies, September 2008, and the North Norfolk Site Allocations Development Plan Document, February 2011.
- 2.2 Planning policy for England is set out principally in the National Planning Policy Framework (NPPF). Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented.

---

<sup>1</sup> The existing body of environmental regulation is retained in UK law.

<sup>2</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

2.3 There is an emerging Local Plan in the form of the North Norfolk Local Plan Proposed Submission Version. This has reached the stage where Regulation 19 representations have now been received. I examine the Neighbourhood Plan against the extant adopted Development Plan for the area, albeit taking into account the advice in the PPG in relation to the emerging Local Plan and its evidence base.<sup>3</sup>

### **Submitted Documents**

2.4 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:

- the draft Blakeney Neighbourhood Plan 2020 - 2040, Examination Version July 2021 (Submission November 2021);
- a map which identifies the area to which the proposed Neighbourhood Development Plan relates;
- the Consultation Statement, July 2021;
- the Basic Conditions Statement, July 2021;
- the Blakeney Baseline Data, November 2018 (Version 3, updated April 2020);
- the Strategic Environmental Assessment Screening Determination and the Habitat (sic) Regulations Assessment Screening Determination, both dated 26 April 2021, prepared by North Norfolk District Council;
- all the representations that have been made in accordance with the Regulation 16 consultation; and
- the request for additional clarification sought in my letters dated 27 June 2022 and 11 July 2022 and the response dated 11 July 2022 from North Norfolk District Council and from Blakeney Parish Council on 24 August 2022 and 14 September 2022.

### **Site Visit**

2.5 I made an unaccompanied site visit to the Neighbourhood Plan Area on 18 July 2022 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**

2.6 This examination has been dealt with by written representations. In this regard, a number of representors have expressed a wish to participate at

---

<sup>3</sup> PPG Reference ID: 41-009-20190509.

an oral examination, should one be held. 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**

- 2.7 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 Blakeney Neighbourhood Plan has been prepared and submitted for examination by Blakeney Parish Council, which is a qualifying body for an area that was designated by North Norfolk District Council on 30 November 2017.
- 3.2 It is the only Neighbourhood Plan for the Blakeney Neighbourhood Area and does not relate to land outside the designated Neighbourhood Plan Area.

### **Plan Period**

- 3.3 The Plan specifies clearly the period to which it is to take effect, which is from 2020 - 2040.

### **Neighbourhood Plan Preparation and Consultation**

- 3.4 Subsequent to designation of Blakeney Parish as a neighbourhood area by North Norfolk District Council in November 2017, plan preparation and consultation were carried out as detailed in the Parish Council's Consultation Statement, July 2021. The process and key steps are summarised in Section 3 of the draft Neighbourhood Plan.
- 3.5 An initial consultation event was held in February 2018 to introduce neighbourhood planning to the community and to seek residents' views. A Steering Group was subsequently set up to oversee production of the Plan. Further community events were held with a view to gaining a better understanding of important matters and to gather evidence.
- 3.6 Topics identified informed a questionnaire that was sent to every house in the village. Results were used to guide the Steering Group in drafting the vision and objectives. Together with the emerging policies, these were tested through subsequent community events. Contact was also

established with key stakeholders with further publicity in the Parish magazine and through other means. A dedicated page on the Parish Council's website was designed to provide further information and encourage feedback.

- 3.7 Formal consultation under Regulation 14 was carried out between 3 October and 15 November 2019. A summary of the main issues and concerns raised in 36 responses is set out in Paragraph 5.25 of the Consultation Statement. Details of all the consultation responses, together with the Parish Council's comments and proposed actions, are included in Appendix 14 of the Statement.
- 3.8 At the Regulation 16 stage (28 March to 9 May 2022), representations were made by some 18 different parties. They include those of statutory consultees, property owners and other individuals.
- 3.9 The District Council, in its Regulation 16 representations, is critical of several matters connected with the consultation process. Of concern is a view that there has been a misrepresentation of advice given by the District Council and a failure to take on board significant comments and issues, including matters raised in an independent health check. These are on-going matters, the substance of which I have taken into account as part of the examination process.
- 3.10 The District Council also has concerns over publicity at the Regulation 14 stage and the opportunity to comment. Actions by the Parish Council in this regard are set out in Section 5 of the Consultation Statement. For my part, as required under the regulations, I find that there are details of the persons or bodies who were consulted about the proposed Neighbourhood Plan; an explanation of how they were consulted; a summary of the main issues and concerns raised by the persons consulted; and a description of how those issues and concerns have been considered and, where relevant, addressed in the proposed Neighbourhood Plan.
- 3.11 All in all, I am satisfied that, at both the Regulation 14 and Regulation 16 stages, the consultation process met the legal requirements and there has been procedural compliance. Regard has been paid to the advice on plan preparation in the PPG.

## **Development and Use of Land**

- 3.12 The Plan sets out policies in relation to the development and use of land in accordance with Section 38A of the 2004 Act.

## **Excluded Development**

- 3.13 The Plan does not include provisions and policies for "excluded development".



## Human Rights

3.14 Blakeney Parish Council is satisfied that the Plan does not breach Human Rights (within the meaning of the Human Rights Act 1998). From my independent assessment, I see no reason to disagree.

## 4. Compliance with the Basic Conditions

### EU Obligations

- 4.1 The Neighbourhood Plan was screened Strategic Environmental Assessment (SEA) by North Norfolk District Council which found that it was unnecessary to undertake SEA. Having read the Strategic Environmental Assessment Screening Determination, I support this conclusion.
- 4.2 The Blakeney Neighbourhood Plan was further screened for Habitats Regulations Assessment (HRA), which also was not triggered. Within the Neighbourhood Plan Area, there are a number of European designated nature sites. However, bearing in mind the Local Plan mitigation measures and precautionary wording added to policies, there would be no adverse effects upon the integrity of any European site. Natural England agreed with this conclusion in correspondence dated 22 April 2022 (appended to the Screening Determination). From my independent assessment of this matter, I have no reason to disagree.

### Main Issues

- 4.3 Having regard to the Blakeney Neighbourhood Plan, the consultation responses and other evidence, and the site visit, I consider that there are six main issues relating to the Basic Conditions for this examination. These concern:
- Affordable Housing;
  - Second Homes and Holiday Lets;
  - Improving Design and Development;
  - Drainage and Flooding;
  - Natural Environment; and
  - Local Economy and Tourism
- 4.4 Before I deal with the main issues, I have a few observations to make with regard to the representations. First, the Blakeney Neighbourhood Plan should be seen in the context of the wider planning system. This includes the Core Strategy Incorporating Development Control Policies,

September 2008, and the North Norfolk Site Allocations Development Plan Document, February 2011; also, the NPPF and PPG. It is not necessary, and it would be inappropriate, to repeat in the Neighbourhood Plan matters that are quite adequately dealt with elsewhere and which apply to Blakeney in particular (see NPPF Paragraph 16 f)).

- 4.5 I acknowledge that, in several places, there is reference to provisions that are already covered in the NPPF or in the existing/emerging development plan. Be that as it may, my view is that the references give local expression and emphasis to the draft Plan. Direct repetitions of any substance are avoided.
- 4.6 Secondly, the Neighbourhood Plan does not have to deal with each and every topic raised through the consultation. In this regard, the content of the Neighbourhood Plan and the scope of the policies is largely at the discretion of the qualifying body, albeit informed by the consultation process and the requirements set by the Basic Conditions.
- 4.7 Thirdly, my central task is to judge whether the Neighbourhood Plan satisfies the Basic Conditions. Many of the representations do not demonstrate or indicate a failure to meet those conditions or other legal requirements. Similarly, many of the suggested additions and improvements are not necessary when judged against the Basic Conditions.
- 4.8 The following section of my report sets out modifications that are necessary in order to meet the Basic Conditions. Some of the proposed modifications are factual corrections.<sup>4</sup> Others are necessary in order to have closer regard to national policies and advice. In particular, plans should contain policies that are clearly written and unambiguous (NPPF, Paragraphs 15 and 16). In addition, the policies should be supported by appropriate evidence (PPG Reference ID: 41-041-20140306).
- 4.9 In considering whether it would be “appropriate to make the plan”, a distinction is to be drawn between the examination of a neighbourhood plan and the more investigative scrutiny required to determine whether a local plan meets the statutory test of soundness.<sup>5</sup> In neighbourhood plans, the aspirations of the community often form the basis of policies. This is a legitimate approach provided that, as indicated above, appropriate evidence is available.

---

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

<sup>5</sup> See Paragraph 29, R(Crownhall Estates Ltd) v Chichester District Council [2016] EWHC 73.

## Issue 1: Affordable Housing

- 4.10 Under Policy 1 (Affordable Homes for Local People), provision is to be directed at making affordable housing available to those with a local connection. This would reflect the vision that has emerged out of the Plan's preparation process (reflects the needs of local residents) as well as the objective of giving people with a connection to Blakeney priority for affordable homes (Objective 3). In community feedback, 100% of those responding "strongly agreed" or "agreed" that there should be more affordable housing specifically for those with a local connection.
- 4.11 In this regard, I can appreciate the difficulty faced by local residents. The housing mix in Blakeney is skewed towards larger, more expensive properties and this is reflected in relatively high prices and a wide gap between house prices and incomes. At the same time, the availability of smaller, less expensive houses to buy or rent, as well as properties that are by definition "affordable housing", is severely limited. The situation is unlikely to materially improve.
- 4.12 In these circumstances, a sustainable solution would be local homes for local people; and in the event of further development in the area, it would be reasonable for the host community to experience the benefits. Given all these factors, I see a "local connection" provision as a desirable and legitimate planning aim as well as being justified and equitable. However, in recognising circumstances in the future may be different, the policy should apply to the proposed strategic site BLA04/A (Land east of Langham Road) but to no other future strategic allocation.
- 4.13 I have considered whether there is general conformity with the Development Plan in circumstances where strategic policies require the settlement to contribute to the provision of general housing need. However, even though the occupation of affordable housing would be directed at those with a connection to Blakeney or the surrounding parishes, the quantum of both market and affordable housing, and the contribution to District supply, would remain the same. I find that there are no significant issues in this regard.
- 4.14 The problem comes in the way that the policy is constructed. As drafted, there would be a requirement to make affordable housing available to those with a local connection. However, the allocation of property, in this way, is not a planning function. It is the responsibility of the Local Housing Authority, housing association or similar provider in the exercise of their statutory obligations.
- 4.15 The *occupation* of property is a different matter. There are many examples, in neighbourhood plans and elsewhere,<sup>6</sup> where the requirement of a certain type of occupancy serves an appropriate planning purpose, as

---

<sup>6</sup> For example, agricultural occupancy or the Government's First Homes local connection test.

in this case. I am therefore recommending a requirement for occupation limited to households with a local connection. Such occupation would be needed to make the development acceptable in planning terms and would be secured by a planning obligation, as necessary.

- 4.16 A second policy issue is the matter of clarity in the definition of “local connection”. The published text is loosely worded and too imprecise. However, a definition based on the Local Allocations Agreement in the District Council’s Housing Allocations Scheme would give a clear steer to applicants and decision-takers alike. For practical reasons, the definition should be set out in a new appendix.
- 4.17 To reflect the evidence and to avoid ambiguity, the policy should be amended as in proposed modification **PM1**.

## Issue 2: Second Homes and Holiday Lets

- 4.18 The next issue concerns second homes and holiday lets. There are four related policies in the draft Neighbourhood Plan. The first (Policy 2) is concerned with managing second home ownership.
- 4.19 Second home ownership is a vexed matter. Locally, the vision is directed at preserving the unique character of Blakeney and supporting a vibrant and sustainable community whilst Objective 2 talks of balancing the number of second homes. In community feedback, 78% of respondents “strongly agree” or “agree” with limiting second home numbers.
- 4.20 The classic argument is that incomers are buying up local homes, driving up prices and reducing the stock of housing that is available to local people. Moreover, the holiday homes tend to be unoccupied for large periods of the year. Vibrancy and local spend are diminished.
- 4.21 The solution envisaged by the Parish Council is for future new housing in the Parish to be occupied solely by those for whom the property is their principal residence. Amongst other things, this would help meet the housing needs of local people, bring greater balance to the local housing market and strengthen the local community and economy.
- 4.22 For my part, I see this as a credible scenario. The evidence includes support from the community and a high (although stable) percentage of second and holiday homes at around 43%. This is in circumstances where house prices are relatively high and are likely to be buoyed by increased competition by incomers. Locals would lose out in the face of price competition. The other arguments also have validity.
- 4.23 On the other hand, there are questions about the likely efficacy of the policy. For example, it is argued that the policy may simply shift demand. Incomers may direct their attention to existing homes rather than new homes, inflating their prices and outbidding locals. If new purchases from incomers are concentrated in the village centre, vitality could be affected.

The viability of new housing developments, the interest of developers and ability to obtain mortgages may also be consequences.

- 4.24 When weighing all these factors in the balance, and drawing on my own experience, I would say that there is no definitive answer as to the likely consequences of the policy. Certainly, the Parish Council could not be expected to *prove* that the proportion of second homes would reduce or that locals would find it easier to buy homes in Blakeney and at more reasonable prices (and freedom from other negative effects); this would depend on a post-policy analysis.
- 4.25 Nevertheless, I am aware of popular local support for the policy. More particularly, I conclude that there are reasonable expectations of a positive outcome (so far as the local community is concerned). I would not expect there to be a material effect on developer interest in the housing market or on funding.
- 4.26 All in all, the policy is to be supported. However, I would expect the District Council, in harmony with the Parish Council, to closely monitor the situation and be prepared to take action should any significant unintended consequences become apparent.
- 4.27 Policy 3 aims to restrict changes of use from standard residential accommodation (Class C3) to holiday lets. Whilst this is consistent with the theme of safeguarding homes used as principal residences, one of the requirements of the policy is that the change should not result in a net increase in occupation. By way of explanation, the supporting text makes reference to impact on the amenity of local residents and increased recreational pressures on European sites.
- 4.28 I can see that, in both absolute and cumulative terms, increased occupancy could lead to, for example, an increase in noise, parking and recreational pressure. However, harmful effects will not necessarily flow from an increase in occupancy. As such, the policy should state that, where an increase in occupation would give rise to materially harmful effects, permission will be refused (see proposed modification **PM2**).
- 4.29 I note that Policy 3 does not generally support purpose-built holiday accommodation. In this regard, I have considered whether there is a conformity issue, specifically in relation to Core Strategy policies SS 5 (Economy) and EC 7 (The Location of New Tourism Development).
- 4.30 Policy SS 5 is supportive of new tourist accommodation which would help diversify the tourist offer and extend the season. On the other hand, under Policy EC 7 and Paragraph 3.4.26, purpose-built holiday accommodation in Blakeney is not a priority. Proposals should look first to re-use existing buildings and extensions to existing businesses. Given also that Policy 3 provides an exception if needs cannot be met by existing provision, I conclude that there is general conformity with strategic policies.

- 4.31 Policy 4 is supportive of changes of use (or removal of occupancy conditions) from holiday accommodation to principal residence housing. I appreciate that the policy is likely to be of very limited applicability. Nevertheless, it is a logical extension of the principal residence requirement set out in Policy 2 and is to be supported.
- 4.32 In terms of Policy 5 (Extensions to Holiday Let Accommodation), I can see that overdevelopment could give rise to unacceptable consequences. However, the policy, as written, raises a number of issues:
- Actions that render a property unsuitable for permanent occupation are mentioned in the supporting text but are not dealt with in the policy.
  - Not all accommodation (for example a first-floor flat) is going to have outdoor amenity space in the first place. Reference to the sufficiency of remaining space is inappropriate.
  - There are parts of Blakeney (for example, the historic heart) where properties do not have off-street parking and where the requirement to ensure retention within the curtilage would not apply.
- 4.33 For clarity and to accord with the evidence, the Neighbourhood Plan should set out the key considerations to be addressed if planning permission is to be granted for the extension of holiday let accommodation. Implementation of the policy would require professional judgement and reference to matters (such as parking and amenity) dealt with elsewhere in the Development Plan. Proposed modification **PM3** refers.
- 4.34 To ensure accuracy, clarity and accordance with the evidence, I recommend the policies on second homes and holiday lets should be modified as indicated.

### Issue 3: Improving Design and Development

- 4.35 Policy 6 concerns the design of development. It incorporates an eclectic range of design matters and, to some extent, is repetitive of policy set out elsewhere. Nevertheless, it is a useful focus on matters of local importance.
- 4.36 The criteria in the policy are intended to apply to all developments. However, the first criterion requires a mix of homes that would suit a variety of occupiers. As acknowledged in the answer to my questions,<sup>7</sup> this would not be possible in a scheme of say one or two houses. As recognised in proposed modification **PM4**, a scheme size of 10 or more dwellings would be more realistic.

---

<sup>7</sup> Blakeney Parish Council, 14 September 2022.

- 4.37 In terms of Policy 7 (Improving Design of New and Replacement Homes), there is a requirement to avoid a significant detrimental impact on “amenity views”. As clarified,<sup>8</sup> this is intended to be a reference to public views, not private views. Proposed modification **PM5** refers.
- 4.38 Policy 8 (Infill Development) applies to “small residential developments”. However, there is no indication in the Neighbourhood Plan of the size of such developments. The Parish Council has confirmed<sup>9</sup> that, typically, one or maybe two houses would be involved. Such clarification needs to be added to the policy.
- 4.39 Clarification is also needed with regard to the permissible location of development. Given that there is a settlement boundary for Blakeney (Map 4), this would provide greater clarity than reference to the “built-up area of the village”.
- 4.40 A final point concerns the “automatic” withdrawal, under the policy, of permitted development rights. As noted in the PPG,<sup>10</sup> conditions restricting the future use of permitted development rights may not pass the test of reasonableness and necessity. Cases should be decided on their merits. As such, it would be more appropriate to flag up the possible withdrawal of permitted development rights where this could lead to harmful overdevelopment of the site.
- 4.41 Clarity and regard to national advice would be covered through proposed modification **PM6**. The same point regarding the automatic withdrawal of permitted development rights applies to Policy 9 (Existing Dwelling Replacement). This would be changed under proposed modification **PM7**.

#### Issue 4: Drainage and Flooding

- 4.42 Within the Neighbourhood Plan, drainage and flooding are dealt with under a single policy, Policy 10. Again, the policy tends to repeat matters that are dealt with elsewhere. Nevertheless, it is helpful to identify and focus upon issues that are relevant to Blakeney.
- 4.43 The policy aims to ensure that new development is accompanied by satisfactory drainage solutions and that steps are taken to reduce the risk of flooding from all sources. In giving appropriate consideration to such matters, the policy calls for all developments to be accompanied by a flood risk assessment. However, this provision goes beyond the scope of national policy without justification.<sup>11</sup> A flood risk assessment could end up being provided in circumstances where a simple drainage assessment would be more appropriate.

---

<sup>8</sup> Blakeney Parish Council, 14 September 2022

<sup>9</sup> Blakeney Parish Council, 14 September 2022.

<sup>10</sup> PPG Reference ID: 21a-017-20190723.

<sup>11</sup> Footnote 55 of the NPPF states that a site-specific flood risk assessment should be provided for all developments *in Flood Zones 2 and 3*; and for certain developments and areas in *Flood Zone 1*.

4.44 To pay closer regard to national policy, the Neighbourhood Plan should allow for the preparation of a flood risk assessment (in accordance with footnote 55 of the NPPF) and/or a drainage assessment. In this way, proportionate evidence relevant to a particular site or development would be prepared. The option of a drainage assessment is covered in proposed modification **PM8**.

#### Issue 5: Natural Environment

4.45 Policy 11 has the title Biodiversity and Accessibility. The first paragraph of the policy calls for development to deliver "a 'net gain' in biodiversity". However, given the provisions of the Environment Act 2021, this should be expressed as "a minimum 10% net gain in biodiversity".

4.46 The second paragraph of the policy calls for the retention of trees unless their value "is deemed of category 'C' or below low in accordance with established practice". This requirement is lacking in clarity. Proposed modification **PM9**, in addition to addressing net gain, would amend the policy to require the retention of trees "unless removal is supported by an Arboricultural Impact Assessment carried out in accordance with BS5837:2012, *Trees in relation to design, demolition and construction*."

4.47 Policy 12 deals with Dark Night Skies. The application of the policy will be limited. Many lighting sources would not constitute development, would be permitted development or would be the responsibility of the highway authority. Nevertheless, the policy usefully draws attention to matters of concern and shows broad regard for national policy (NPPF Section 15. Conserving and enhancing the natural environment). There would be no material breach of the Basic Conditions and modification is not necessary.

4.48 Policy 13 (Open Space Preservation) has, for a variety of reasons, caused a deal of confusion:

- It is part of a section in the Neighbourhood Plan on Open Green Space but it is not limited to "green" space.
- There are similarities with Local Green Space (LGS) but LGS designation is not sought.
- There are similarities with Open Land Areas on which there are policies in the Core Strategy and the emerging Local Plan.
- There are similarities with open space as defined in the NPPF but clear differences also.

4.49 One of the main differences is the inclusion, within the types of open space to be preserved, of various car parks. These may have an amenity value in the sense of providing a convenient parking facility for locals and visitors. The car parks may also provide familiar and welcome visual gaps in the street scene. However, they are not normally regarded as open



space. Having said that, I see no reason in principle why the Parish Council should not seek to safeguard spaces of the types identified.

- 4.50 To avoid any confusion, and to clearly distinguish the Blakeney designation from other policy provisions concerning open space, LGS and Open Land Areas, a different name without the connotation should be used. "Valued sites" would be a suitable alternative.
- 4.51 Before looking at the individual spaces, I have given thought to the ownership of the sites and the opportunities given to make representations. In this regard, and bearing in mind analogous circumstances,<sup>12</sup> I consider that landowners should have been contacted about the proposals at an early stage. They would then have had the opportunity to make representations on the emerging draft Plan. However, no specific consultation took place.
- 4.52 There are a number of "quasi" public owners such as the National Trust, the British Legion and Victory Housing Association. Others are in private ownership. These include Field at Morston Road (Site 3) and North Granary, The Quay (Site 10). As none of the private owners have been specifically notified, they should be excluded from the allocation.
- 4.53 Two other privately owned sites have, in any event, attracted representations. The first representation concerns land at The Pastures (Site 16, in part) in the ownership of the Blakeney Hotel. The second relates to the site described as 39 New Road, Adjacent The Pastures (Site 9).
- 4.54 The Blakeney Hotel land is quite clearly separated, by robust fencing, from the main site at The Pastures that lies to the south and west. It does not enjoy public access or recreational use. Its amenity value is limited. Whilst the main site may have historic and strategic importance, there is no evidence that this extends to the hotel land. It certainly does not rely on the hotel land for any such status.
- 4.55 As to 39 New Road, this is private "garden" land separated from The Pastures by Little Lane. I saw that it is a site well contained by hedges and vegetation such that there are no significant public views of the site and its broader amenity value is limited. There is no material evidence as to its historic or strategic importance. The inclusion of the site as part of the Neighbourhood Plan is not justified.
- 4.56 By way of comment on the Parish Playing Field site (Site 11), I note that the proposed designation includes a small triangle of land that is part of the garden of Spring Cottage. I have evidence that this is Parish land.<sup>13</sup> Nevertheless, having regard to the land use, this parcel should be excluded from any designation.

---

<sup>12</sup> PPG on LGS at Reference ID: 37-019-20140306.

<sup>13</sup> See representations of Norfolk County Council (BNP10), Appendix 1.

- 4.57 Notwithstanding the above discussion, sites 4, 9, 11, 16 and 17 are designated as an Open Land Area in the Core Strategy, a designation that is carried forward into the emerging Local Plan. The provisions are very similar (development would not be permitted except in specific circumstances). However, the policy criteria are different from the draft Neighbourhood Plan and there would be a conflict with a strategic policy. For this reason, such sites need to be omitted.
- 4.58 In terms of the wording of the policy, this would preclude loss of spaces “unless the development has community support”. “Community support” is defined in the text as “the official view given by the Blakeney Parish Council”.
- 4.59 In my opinion, these provisions are lacking in accuracy and clarity. First, it is North Norfolk District Council that would be the arbiter on any planning application (albeit with comments from the Parish Council). More particularly, although similar, *community benefit* would be clearer and easier to judge than a determination as to whether community support has been established. A change in the wording is necessary.
- 4.60 A final point concerns the clarity of Maps 10 and 11 on which the sites are shown. The numbering of the sites is not clear. This should be remedied in the final version. In addition, Site 18 (Young’s Field) needs to be added to the key for Map 11.
- 4.61 Various amendments are therefore needed to accord with the evidence, ensure clarity and have regard to national guidance. Relevant matters are addressed in proposed modification **PM10**.
- 4.62 The next policy in the Neighbourhood Plan (Policy 14) concerns open space management. It addresses the problem of making sure that there are suitable arrangements in place for the on-going maintenance of open spaces of one sort or another. This could be through a management company or by a local authority/parish council.
- 4.63 The policy makes reference to arrangements “by an established management company”. However, there is no evidence to say why the management company would have to be *established*. Indeed, it could be a new company set up specifically to secure on-going management. Through proposed modification **PM11**, I have substituted the words “suitable management company”. In agreeing a suitable company, the local planning authority would have regard to its bona fides. I have also taken the opportunity to ensure that the policy wording is clear and succinct.

## Issue 6: Local Economy and Tourism

- 4.64 Policy 15 (Local Employment) is supportive of the retention of existing employment, the creation of new employment and homeworking subject to a number of criteria. The second criterion is that the development

should be “appropriate to a coastal village”. This means appropriate in scale and environmental impact.<sup>14</sup>

- 4.65 “Scale” is already dealt with under criterion 1. “Environmental impact” is dealt with under Criterion 3. To avoid any confusion over the terminology, the reference to a coastal village should be deleted. Proposed modification **PM12** refers.
- 4.66 Policy 16 (Retention of Business Premises for Blakeney) seeks to retain “commercial premises” in Blakeney. Commercial premises are not defined but are intended to be shops, offices, restaurants, hotels and businesses or places of work (non-residential).<sup>15</sup> For clarity, a footnote should be added to this effect as in proposed modification **PM13**.
- 4.67 Policy 17 (Tourism) is supportive of proposals that have the potential to create new or expand existing tourism. The policy will need to be considered in conjunction with policies such as Policies EC 7, EC 8 and EC 9 of the Core Strategy. However, given the general nature of Policy 17 and the safeguards therein, I see no general conformity issue.
- 4.68 There is the potential for internal conflict within the Neighbourhood Plan given that Policy 3 does not support purpose-built holiday accommodation. Proposed modification **PM14** sets out an amendment that would draw attention to Policy 3 and the separate role of that policy.

## Other Matters

- 4.69 All policy areas have been considered in the foregoing discussion. With the modifications that I have recommended, the Plan would meet the Basic Conditions. Other minor changes (that do not affect the Basic Conditions), including those suggested by the District Council as well as consequential amendments, corrections and up-dates, could be made prior to the referendum at the Councils’ discretion.<sup>16</sup>

## 5. Conclusions

### Summary

- 5.1 The Blakeney 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.

---

<sup>14</sup> Blakeney Parish Council, 14 September 2022.

<sup>15</sup> Blakeney Parish Council, 14 September 2022.

<sup>16</sup> PPG Reference ID: 41-106-20190509.

- 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. The Blakeney 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**

- 5.4 It is evident that a considerable amount of time and effort has been devoted to the development and production of this Plan and I congratulate those who have been involved. The Plan should prove to be a useful tool for future planning and change in Blakeney over the coming years.

*Andrew S Freeman*

Examiner

## Appendix: Modifications

<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 and any on the proposed strategic site BLA04/A (Land east of Langham Road) 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>Delete criterion 4) of Policy 3. Substitute the following paragraph: “Where increased occupation would give rise to materially harmful effects, planning permission will be refused.”</p>
PM3	Page 49	<p>Replace the text of Policy 5 with the following:</p> <p>“All proposals for extensions to holiday let accommodation shall meet the following criteria:</p> <ol style="list-style-type: none"> <li>1. Where there would be a reduction in the amount of open amenity space</li> </ol>

		<p>within the curtilage of the site, the amount and quality of any remaining space shall be appropriate to the needs of both the occupiers of the holiday let and residential occupiers if the property were occupied as a Class C3 dwellinghouse.</p> <p>2. There shall be a demonstration of the means by which additional on-street parking will be avoided with priority being given to the provision or retention of adequate car parking space within the curtilage of the site.</p> <p>3. Any intensification of use associated with the extended property shall not give rise to significant adverse effects on nearby residents as a result of noise or other amenity impacts."</p>
PM4	Page 60	At the beginning of Policy 6, criterion 1), insert "in schemes of 10 or more dwellings,".
PM5	Page 63	In Policy 7, criterion 2), insert "public" before "amenity".
PM6	Page 66	<p>In the first sentence of Policy 8, add "of one or two dwellings" after "small residential developments".</p> <p>In criterion 1, replace "built-up area of the village" with "settlement boundary".</p> <p>Replace criterion 2 with "will not involve extension beyond the settlement boundary".</p> <p>Replace the final paragraph of the policy with: "Permitted development rights may be withdrawn where permitted development could lead to overdevelopment of the site."</p>

PM7	Page 68	Replace criterion 3) of Policy 9 with: "permitted development rights may be withdrawn where permitted development could lead to a detrimental effect on the character of the locality."
PM8	Page 72	In the opening paragraph of Policy 10, after "flood risk assessment", add "(in accordance with footnote 55 of the NPPF) and/or a drainage assessment".
PM9	Page 83	In the first paragraph of Policy 11, insert "minimum 10%" before "'net gain'".  In the first sentence of paragraph 2, replace all words after "retained" with "unless removal is supported by an Arboricultural Impact Assessment carried out in accordance with BS5837:2012, <i>Trees in relation to design, demolition and construction.</i> "
PM10	Page 90	Change the title of Policy 13 to "Preservation of Valued Sites".  In the first sentence, change "Open Space" to "Valued Site".  Replace the third and fourth lines of the policy with "the community would gain equivalent or greater benefit from the development".  Delete Sites 3, 4, 9,10, 11, 16 and 17 from Table 2 and Map 11.  Clearly number the sites on Maps 10 and 11.  On Map 11, add Site 18 (Young's Field) to the key.  Carry out consequential amendments to the text (substitute "Valued Sites" for "Open Green Space").
PM11	Page 95	Substitute the following for the text of Policy 14:  "Development that provides elements of green infrastructure (including Open Space and play equipment) shall be subject to

		legally binding arrangements for the effective and sustainable on-going management, funding and maintenance of that green infrastructure through a suitable management company, local authority or parish council.”
PM12	Page 98	In Policy 15, criterion 2, delete “appropriate to a coastal village or”.
PM13	Page 99	In Policy 16, add a footnote to “commercial premises” saying “shops, offices, restaurants, hotels and businesses or places of work (non-residential)”.
PM14	Page 102	In the opening paragraph of Policy 17, after the word “Blakeney”, insert “(other than purpose-built holiday accommodation – see Policy 3)”.