

## Matter 10: HC Policies

### 10.4 Policy HC2 – Provision and Retention of Open Spaces

#### Requested modification to the Local Plan:

We are suggesting that the extent of the Open Land Area designation OSP154 (named in the plan as The Pastures Blakeney) needs to be amended on the Policies Map by removing the garden of 39 New Road from OSP154. We are requesting this modification because the designation of the garden of 39 New Road as Open Land Area is not justified and is not supported by evidence.

We have already provided a detailed case in support of this proposed modification (at Regulation 18 and 19 stages of the Local Plan) so we will not repeat this in full but note the principal reasons as follows:

- OSP154 comprises two separate, different and unconnected parcels of land. One parcel of land (known locally as The Pastures) is a publicly accessible area of amenity land, the second parcel of land is the private garden of 39 New Road (our garden). This garden is not part of The Pastures and none of the evidence supporting the designation of OSP154 relates to the garden.
- OSP154 includes the garden of 39 New Road to within three metres of our front door but does not include any neighbouring gardens. There seems to be no boundary feature in front of the house to define the limit of the designation and no justification has been provided to explain this extent.
- 39 New Road does not meet the NPPF or the NNDC definitions of Open Space nor does it meet the NNDC definition of Open Land Area.
- No evidence has been provided which justifies the inclusion of the garden of 39 New Road in OSP154.

Having restated the broad position, we would like to bring to your attention four matters which post-date Regulation 19:

1. the Council Response to our Regulation 19 submission;
2. some issues raised in our submissions on which the Council has remained silent;
3. the assessment of 39 New Road by the Examiner of Blakeney Neighbourhood Development Plan;
4. discussion at the NNDC Planning Policy & Built Heritage Working Party Meeting on 12 December 2022.

We detail each of these below:

#### 1. The Council Response to our Regulation 19 Submission (Examination Document ref A5.10 p 45)

The Council's response to our submission fails to address our fundamental point that the designation of the garden of 39 New Road is not justified by evidence. Whilst the Council cites the **Amenity Green Space Study** and asserts that this document justifies the designation of OSP154, our detailed analysis of the Amenity Green Space Study (provided at Regulation 19) clearly shows that this document does not support the designation of the garden of 39 New Road. For ease of reference, we have copied this section of Jane's submission as Appendix I to this statement.

The only reference to 39 New Road in the Amenity Green Space Study (under "Local Green Space Review") states: *"the site does not meet the test for Local Green Space."*

The Council also cited the **Blakeney Conservation Area Appraisal & Management Plan** as supporting the designation. This is incorrect. This document highlights a number of notable views around the village but none of these is into or across 39 New Road. Further, the Blakeney Conservation Area Appraisal distinguishes between The Pastures and the garden of 39 New Road on its map (p 61). The Pastures is defined as *"Significant Green Space"* while 39 New Road is defined as *"Green Space: Other"* thus highlighting the difference between the two parts of OSP154. We would add that the first draft of the Conservation Area Appraisal (produced by independent professionals looking at Blakeney with fresh eyes) did not highlight 39

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New Road as any type of green space. It would seem that this amendment to “*Green Space: Other*” was as a result of NNDC’s subsequent input.

The Council cites a **planning appeal** which was dismissed in 2016. We don’t feel this is relevant because the appeal inspector was not adjudicating on whether the garden of 39 New Road was worthy of Open Space designation. Rather, he was assessing a planning application against the (then current) Local Plan under which Policy CT1 (which prohibited most development) applied to the area. Thus the appeal was dismissed.

Finally, the Council notes that the garden of 39 New Road is significantly more vegetated than it used to be. This is correct. If, by this comment, the Council is observing that, in 2023, views into or across 39 New Road are limited by its vegetation then we agree.

### 2. Some issues raised in our submissions on which the Council has remained silent

- OSP154 is unique in being the only Open Land Area in the district which comprises two separate (ie non contiguous) pieces of land. In all other designations, every area has been assessed individually. If 39 New Road had been assessed on its own, it would have been found that it does **not** meet the criteria for designation.
- The garden of 39 New Road does not fulfil the NPPF / NNDC definition of “Open Space”, nor does it fulfil the NNDC definition of Open Land Area.
- There is no explanation for the extent of the proposed designation which reaches almost to the front door of the house but does not include any neighbouring gardens.

### 3. The assessment of 39 New Road by the Examiner of Blakeney Neighbourhood Development Plan

In January 2023 the Blakeney Neighbourhood Plan was examined and the Independent Examiner published his report. This Plan included a policy on Open Space Preservation. The spaces which were proposed to be preserved under this policy included all undeveloped gaps within the village including car parks and patches of grass as well as areas like The Pastures and even some peripheral fields. 39 New Road was one of the proposed spaces – it was not combined with The Pastures but was listed separately.

The Examiner addressed the inclusion of 39 New Road as follows: *“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.”* Thus, 39 New Road was excluded from the list of spaces.

This is a clear and succinct assessment of the garden by a professional who was looking at it impartially and independently rather than trying to include it with a different and separate area simply because this was how it had been classified in the previous two Local Plans.

### 4. Discussion at the NNDC Planning Policy & Built Heritage Working Party Meeting 12 December 2022

We provide below a link to the livestream video of this meeting. The discussion on this matter is between minutes 2 and 20 of the recording

<https://www.youtube.com/live/TZKcJAFP7g?si=u3kjiU81CdCwhlvcm&t=17>

An extract from the minutes of this meeting is also provided at Appendix II of this Statement

Jane attended the above meeting when the Committee reviewed the proposed amendments to the Local Plan following Regulation 19 Consultation. She drew the Working Party’s attention to the anomaly of the garden of 39 New Road being designated as part of OSP154 as though it was an integral part of The Pastures. She also pointed out the dearth of evidence to support the garden’s designation (because all the evidence published relates to the part of OSP154 known locally as The Pastures, ie the publicly accessible, publicly

owned, open area.) She also drew the Committee's attention to the comments made by the Blakeney Neighbourhood Plan Examiner when he excluded 39 New Road from the list of designated open areas.

The Planning Policy Manager was invited by the Chair of the meeting to respond to the comments. We note his main points in **blue** with our thoughts below them in black:

- **He recommended that the Working Party leave OSP154 as currently drafted and rely on the Examining Inspector to make the adjudication on this site.**

We found this response surprising: the Planning Policy Manager did not present any evidence to help the Working Party. Surely the objective of the lengthy Local Plan consultation process was to conclude issues based on evidence not to leave them for the Examining Inspector?
- **The Planning Policy Manager acknowledged that the opinion of the Examiner of the Blakeney Neighbourhood Plan was that 39 New Road did not meet the criteria for open land designation. However, he referenced that, in 2016, a planning inspector found differently when adjudicating in a planning appeal on this site. He suggested that this showed an overall balanced opinion with one inspector in favour and one against.**

We disagree with this. As outlined under point 1 above, we believe that the decision of the appeal inspector to dismiss the appeal is not relevant. He was judging the proposal against the ruling Policy CT1 which prevented development on this site. He was not assessing whether the space was worthy of Open Space designation. In contrast the Neighbourhood Plan Examiner's assessment related only to the appropriateness of the open space designation. In addition, the appeal inspector's decision was in 2016 whereas the Neighbourhood Plan Examiner's decision was very recent.
- **The Planning Policy Manager stressed that the process for assessing a site is subjective and that public access to and the function of an area are not determining factors in the decision to designate (as recorded in the meeting minutes, see Appendix II).**

This contradicts Policy HC2 which, in its definition of "open space", emphasizes function and access and recognises visual contribution. Furthermore, our search of the Amenity Green Space Study found only one Open Land Area with no public access – the garden of 39 New Road!
- **The Planning Policy Manager, to quote from the minutes of the meeting (see Appendix II) "stated that the determining factor for this matter was whether the parcel of land contributed towards the openness of that part of Blakeney".**

We found this surprising because this was the first time that "openness" had been mentioned as the determining factor in designating Open Land Area. Policy HC2 defines Open Land Area to be "*principally 'open' areas ... that make a significant contribution to the character of the area*". The garden of 39 New Road is not an "open area", it is an enclosed, private garden. Further, neither the Conservation Area Appraisal nor the Amenity Green Space Study recognised any such "*...significant contribution...*" from 39 New Road.
- **The Planning Policy Manager observed that when 39 New Road was originally designated as open land in earlier Local Plans, it was a very open area but that it is now different in appearance as a result of the growth of hedging and other vegetation.**

We were interested by this reference to a change in the appearance of 39 New Road since it was first designated: this comment supports our belief that 39 New Road has been included in OSP154 simply because it was included in a previous designation which has been carried forward rather than because the garden has been assessed as meeting the criteria of the new policy.
- **The Planning Policy Manager noted (in response to a direct question from a member of the Working Party) that other private gardens across the district have been designated in the same way as 39 New Road.**

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We subsequently investigated the existence of other private gardens which have been designated as Open Land Areas. We found none. In the Amenity Green Space Study we found only 5 references to gardens (that weren't public gardens) and in every case the reference related to a proposed designation being **ruled out because the area was a private garden**. It would appear that, contrary to what the Planning Policy Manager said, 39 New Road is unique in being the only private garden that has been designated as an Open Land Area.

- **The Planning Policy Manager told the meeting that the Amenity Green Space Study supported the designation of the garden of 39 New Road but he didn't provide any detail. Jane used her one permitted question at the meeting to ask him to direct her to the evidence which is relevant to the garden (as distinct from that which relates to The Pastures). He responded at length to this question but did not point to any specific evidence.**

Our principal point remains - there is no evidence to support the designation of 39 New Road as part of OSP154.

### Summary

In conclusion we reiterate that the inclusion of the garden of 39 New Road in OSP154 is not justified as it is not supported by evidence and, in this respect, the Local Plan is unsound. We believe the resolution to this is to redraw the boundary of OSP154 on the Policies Map to exclude 39 New Road.

Appendix I: Extract from Jane Armstrong's Regulation 19 Submission

The NNDC Amenity Green Space Study April 2019 describes OSP154 as:

*"Accessible and highly valued amenity green space centrally located within the settlement. Forms a defining edge and green setting to the historic village core and gives a degree of separation from the later development to the south. Highly significant being one of the few areas of open space within the Conservation Area. There is a significant visual quality to the site and also in its visual connection with the two sites to the south. Long range contextual views from the site to the coast are noteworthy. Collectively forms an important part of the notable composite green space within the settlement."*

The paragraph above is the full extent of published evidence to support the designation of OSP154 so I have examined it in some detail and would make the following comments on it:

2.3 *"Accessible and highly valued amenity green space..."*

This can only be referring to the northern parcel of land as it does not acknowledge that the southern parcel (comprising about 20% of the whole) offers no public access or amenity space.

2.4 *"...defining edge and green setting to the historic village core and gives a degree of separation from the later development to the south."*

This description is inaccurate in respect of both parcels of land within OSP154: The Blakeney Conservation Area Appraisal (2019) provides mapping of the buildings in Blakeney's Conservation Area by age and distinguishes between pre and post 1952. According to this map, before 1952 the area of OSP154 was surrounded to the north, east and south by a wide tract of undeveloped land. Most of this land, including that *"...to the south..."*, was subsequently developed around the same time in the late 20<sup>th</sup> and early 21<sup>st</sup> centuries. Thus the OSP154 area is mostly surrounded by recent development – it does not adjoin *"the historic village core"* so it cannot *"form a defining edge"* to it. Neither does it give *"...a degree of separation from later development to the south..."* because the development to the south was not later than that to the north or east. (In fact, much of the development to the south pre-dates that to the north and east.) The only place where OSP154 could be said to be close to the *"...historic village core..."* is the north western corner of OSP154 where the gardens of a couple of 18<sup>th</sup> century cottages on Westgate Street abut the northern parcel of land.

2.5 *"...one of the few areas of open space within the Conservation Area..."*

It would be surprising if there were **more** than a **few** areas of open space within Blakeney's Conservation Area as the area is quite small. Nonetheless, there are various other open spaces within Blakeney's Conservation Area (as identified in the Blakeney Conservation Area Appraisal 2019) including Friary Hills, the Quay, the Carnser, Mariners Hill and the area around St Nicholas' Church. Therefore, to note that OSP154 is *"...one of the few areas of open space within the Conservation Area..."* is hardly evidence to support the designation of the two parcels of land within OSP154.

2.6 Open space in Blakeney is not limited to that within the Conservation Area. The North Norfolk Open Space Assessment (2019) conducted an audit of open space in North Norfolk and compared the amount in each settlement against quantity standards of various types of open space per 1,000 of population. In Blakeney, it found significantly more than the standard quantity of most types of open space. For example, the standard of "Amenity Greenspace" per 1,000 of population is 1.00 hectare, Blakeney has 3.52 hectares. The standard of "Accessible Natural Greenspace" per 1,000 of population is 1.50 hectares, Blakeney has a staggering 488.20 hectares! The amount of recreation ground and play areas in Blakeney is also well in excess of the standards.

2.7 *"There is a significant visual quality to the site..."*

There is no elaboration on this statement. In my opinion, the northern parcel of land with its open access, parkland setting, trees and paths and defined edge is an important and attractive open space in Blakeney. In contrast, the southern parcel of land, a private garden surrounded by mature hedges, provides little *"...significant visual quality..."* as visibility into it from public spaces is limited.

2.8 *“...visual connection with the two sites to the south.”*

When standing in the middle of the publicly accessible northern parcel of land there is clearly a strong visual connection, with the *“...two sites to the south...”* (OSP155 and OSP156) which gives an open and connected feel, partly due to the topography. However, from this same point in the northern parcel of land there is no comparable visual connection with the garden of 39 New Road because it is largely obscured by the hedges on both sides of Little Lane. Further there is little visual connection from OSP155 and OSP156 to the garden of 39 New Road. Blakeney Conservation Area Appraisal draws attention to noteworthy views within the village. One of these views is looking north west from the northern parcel of land in OSP154 – no view into the garden of 39 New Road is noted. Thus this part of the description would appear to apply only to the northern parcel of land in OSP154 and does not apply to the garden of 39 New Road.

2.9 *“Long range contextual views from the site to the coast are noteworthy...”*

This comment clearly relates to the northern parcel of land and the view noted in the Blakeney Conservation Area Appraisal. As there is no public access to the garden of 39 New Road, any view from it is not relevant to the assessment.

2.10 *“Collectively forms an important part of the notable composite green space within the settlement”.*

There is no further explanation of the *“composite green space”*. This would appear to refer to the close proximity of OSP154 to OSP155 and OSP156 and to the views between certain parts of these spaces as noted above in 2.8. I examine *“composite green space”* further below at 3.5.

Appendix II: Extract from Minutes of the NNDC Planning Policy & Built Heritage Working Party Meeting  
12 December 2022

**PLANNING POLICY & BUILT HERITAGE WORKING PARTY**

**Minutes of the meeting of the Planning Policy & Built Heritage Working Party held on Monday,  
12 December 2022 at the Council Chamber - Council Offices at 10.00 am**

**Committee Members Present:**

Mr A Brown (Chairman)	Mrs P Grove-Jones (ViceChairman)
Mr N Dixon	Mr P Fisher
Ms V Gay	Mr P Heinrich
Mr R Kershaw	Mr G Mancini-Boyle
Mr N Pearce	Mr J Punchard
Mr J Toye	

**Officers in Attendance:**

Planning Policy Manager (PPM)  
Assistant Director – Planning (ADP)  
Senior Planning Officer – CD  
Senior Planning Officer – ST  
Democratic Services Officer – Regulatory

**Also in attendance:** Ms J Armstrong (Public Questions)

**37 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Cllr C Stockton, there were no substitute Members in attendance.

**38 PUBLIC QUESTIONS**

- i. There was 1 public question from Ms J Armstrong with relation to Agenda Item 11 - Local Plan Submission Modifications (Policies) re Policy HC2, proposed modification reference LPS252.
- ii. The PPM responded to the public question and suggested that the proposed modification be left as an issue for the Planning Inspector to consider through the examination process, clarifying that the public representation had been made in writing and would be supplied to the Inspector. He stated that the Council had appraised the area and were satisfied that it met the qualifying criteria and contributed to openness, and further commented that Members were in a difficult position to make a judgement on this matter without seeing the land.

He cautioned Members against applying weight to the Examiners comments put forward in the report regarding the emerging Blakeney Neighbourhood Plan referenced by the Public Speaker, stating that the Examiner's final decision had not yet been reached.

The PPM noted a couple of issues raised in the submission and commented that there was no requirement for open land areas to be publically accessible, this was therefore not a consideration, nor would Officers rely upon the fact that a site is located within a conservation area or AONB, as they were separate designations made for different considerations. The PPM

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stated that the determining factor for this matter was whether the parcel of land contributed towards the openness of that part of Blakeney.

- iii. The public speaker was granted a supplementary question and asked for evidence cases which related to the garden.
- iv. The PPM advised that Officers had appraised all existing open land areas of the core strategy, undertaken site visits and assessed whether the existing boundaries should be retained or not. He stated that the criteria for designation required subjective assessment.

The PPM noted the conflicting assessments from two different Inspectors, one with regard to a Planning Appeal and the other in relation to the emerging Blakeney Neighbourhood Plan, forming two opposing views as to whether the land should be designated. He concluded that the Planning Inspector for the Local Plan would be best placed to make a decision through the examination process.

- v. Cllr J Toye agreed with the course of action set out by the PPM and questioned if Members were sufficiently qualified to make a judgement and stated that the Inspector for the Local Plan would be a specialist sitting above opinions and would consider all representations submitted through the examination process.
- vi. Cllr V Gay noted this would be a third Inspectors decision, and there was grounds to consider that a third decision would be decisive. She asked whether there had been other gardens in the District treated in the same manner as this parcel of land.
- vii. The PPM advised other land had been treated in the same manner, and reiterated the qualifying criteria was whether a piece of land contributes to openness of this part of the settlement in a positive meaningful way, irrespective of its use. He confirmed it was a subjective opinions based assessment of the quality of space, and not its function. The PPM noted the historic nature of the site, being one of openness as part of the larger pastures, which had subsequently changed with the land owner forming boundaries around the curtilage of their property, altering the character of that area from the date of its original designation under the core strategy. He advised that Officers have since specifically reviewed each designated open land area and had formed the opinion that the land continued to deserve designation, and concluded that the fairest approach would be for the Local Plan Inspector to come to a decision as part of the examination process.
- viii. Cllr N Dixon considered that he was not sufficiently well informed of both arguments, including pros and cons to make a decision either way, and stated he was content to accept the PPM's recommendation.
- ix. The PPM noted that the public speaker's representation was contained within a later item, and should Members accept the Officers recommendations, the modification would not be accepted and would be put before the Local Plan Inspector for consideration.

The PPM advised that all written representations made at the Regulation-19 (Reg-19) stage would be presented to the Local Plan Inspector, along with working party papers, minutes, transcripts of the meetings and others. He further added that, as part of the process it was often the case that the Inspector invited individuals to make representations at hearing sessions. It was at the Inspector's discretion to allow representations, with the PPM advising these were public meetings which anyone was able to view.