

URN: 21-155

Subject: Filby Neighbourhood Plan examination & recommendation

Report to: Full Council – 9 December 2021

Report by: Nick Fountain, Senior Strategic Planner

SUBJECT MATTER

Filby Neighbourhood Plan examiner's report & recommendation

RECOMMENDATION

That Full Council:

- Approves the recommended modifications to the Neighbourhood Plan as set out in the Examiner's Report
- Approves the referendum area as the neighbourhood plan area as recommended in the Examiner's Report.
- Agree the Neighbourhood Plan (as modified) proceeds to referendum.
- Approves the publication of a Decision Statement setting out the Council's and the Broads Authority's response to the Examiner's recommendations and announcing the intention for the Neighbourhood Plan to proceed to a referendum.

1. Introduction

- 1.1. A neighbourhood plan is a plan prepared by a local community (usually led by the parish council), that contains land use policies. The Borough Council formally designated the Neighbourhood Area for Filby in June 2019 at which point the parish council (working with consultants) began preparing the neighbourhood plan. The parish council has engaged with the local community including consultation on a pre-submission draft of the neighbourhood plan.
- 1.2. The designated neighbourhood area, which is the whole parish, also extends into the Broads area, meaning that the Broads Authority has joint responsibility in decision making (with the Borough Council) for local planning authority duties. The Borough Council and Broads Authority have provided advice and assistance over the course of the plan being prepared. The Borough Council also provided some final comments on the plan proposals as part of an informal 'health-check' before the plan was submitted.

Local Plan Working Party

- 1.3. Throughout plan preparation and formal decision making, the progress of the neighbourhood plan has been presented to members of the Local Plan Working Party. Members have had opportunities to feedback ideas to officers to shape consultation responses, and in providing advice and guidance to the parish council. The Examiner's Report recommendations were taken to Local Plan Working Party and endorsed to Full Council on 23rd November 2021.

Final stages of the plan

- 1.4. The plan was submitted to the Borough Council in December 2020, with the parish council having undertaken early local consultations. The Borough Council published and consulted on the submitted plan in April 2021. An independent examiner was then appointed to examine the plan. To aid the examination, the Examiner then asked the Borough Council to undertake a focused consultation on implications of the revised National Planning Policy Framework on the neighbourhood plan. Responses from each of the respective consultations were passed to the Examiner for consideration, though it is worth noting that few responses were received at either of these stages.
- 1.5. The appointed Examiner has now examined the Filby Neighbourhood Plan and published their report with recommendations. The Examiner can only examine the plan in so far as to determine whether it meets the '[basic conditions](#)' required by the legislation. The Examiner can also recommend on that basis whether the plan should proceed to referendum, and if so whether the referendum area should be extended beyond the designated neighbourhood plan area.
- 1.6. It is worth noting that officers had a chance to look through a draft of this report for fact checking. This included the opportunity to identify any factual errors before the final report was issued on 15th November 2021.
- 1.7. In summary, the Examiner has found that subject to some necessary modifications, the neighbourhood plan meets the basic conditions and can proceed to referendum. No extension has been recommended to the referendum area, which would maintain the whole parish of Filby as the area over which the referendum would apply.

2. Filby Neighbourhood Plan

- 2.1. The plan encompasses visions and objectives covering housing and design, natural environment, built and historic environment and access and transport. The plan period runs to 2030 aligning with the Core Strategy.
- 2.2. In summary the policies in the submission plan seek to:
 - Support low occupancy and adaptable homes
 - Preserve and enhance the existing village character through design measures
 - Support conservation and habitat enhancement, including biodiversity net gain on new developments
 - Retain trees and hedgerows
 - Designate local green space
 - Preserve dark skies
 - Conserve and enhance existing landscape character
 - Encourage the use of sustainable urban drainage systems

- Identify non-designated heritage assets
- Retain a village gap
- Promote sustainable transport

3. Examiner recommendations

3.1. The full Examiner's Report is attached to this paper. To summarise the Examiner recommendations to the submitted plan are as follows:

- Subject to modifications the plan meets the basic conditions including:
 - Having regard to national policies and advice
 - Is in general conformity with the strategic policies of the Development Plan
 - Meets the retained European Union Obligations (transposed into UK law):
 - The Environmental Assessment of Plans and Programmes Regulations 2004 (Environmental Assessment Regulations)
 - The Conservation of Habitats and Species Regulations 2017 (Habitat Regulations)
 - Does not breach the European Convention on Human Rights
- The modifications to policies and supporting text were relatively minor text changes, with the exceptions of adaptable housing standards (H1), energy efficiency standards and design (H2), Local Green Space (CA3), village gap (BE2) policies where text has either been removed or added. Recommended modifications include:
 - Updating any references to the NPPF as necessary
 - Removing the adaptable housing standards requirement in accordance with the Written Ministerial Statement
 - Encouraging (but not requiring) energy efficiency standards in accordance with the Written Ministerial Statement
 - Adding requirement for tree-lined streets
 - Ensuring Local Green Space policy is consistent with Green Belts as set out in national policy
 - Removing the Local Green Space at the Church of All Saints which is Grade II listed and of which the area mainly comprised car park and the building
 - Ensuring that 'Community Aspirations' are distinguished from policies in the plan
 - Aligning heritage policy with the NPPF in consideration of non-designated heritage assets
 - Reducing the village gap that was identified to just the frontage to protect landscape views

4. Decision on Examiner's Recommendations

4.1. Regulation 24A of the Neighbourhood Planning Regulations sets out that the local planning authority needs to make a decision within 5 weeks of the examiner's report being issued unless a date is otherwise agreed with the qualifying body (the parish council). The Local Planning Authority must consider whether to decline/refuse the plan or to accept the report recommendations and set out its reasons in a decision statement that must then be published. It is possible for the local planning authority to make a decision which differs from that recommended by the examiner, but this would require a statement of reason, further consultation, and the possibility of re-examination.

- 4.2. Such decisions must be made within the framework set out in the Regulations and Schedule 4B to the 1990 Town and Country Planning Act (as amended). Broadly speaking the only reasons to decline or reject the plan are where the plan fails to meet the basic conditions or Human Right Convention as set out in the legislative requirements. Based on the Examiner's findings it is considered unlikely that the plan falls short of the basic conditions or wider legislative requirements.
- 4.3. Having carefully reviewed the Examiner's report and recommendations, officers consider that the examination has been carried out correctly in considering the basic conditions and where necessary this has required modifications to the policies and supporting text. Officers, therefore, see no justification to depart from the recommendations contained within the Examiner's report.

Joint decision

- 4.4. The designated neighbourhood area, which is the whole parish, also extends into the Broads area, meaning that the Broads Authority has joint responsibility in decision making (with the Borough Council) for local planning authority duties. The Borough Council has taken the lead in supporting the parish council preparing the plan by providing advice and assistance, organising and coordinating actions, responses, consultations, and decisions. The Broads Authority will also need to consider the Examiner's recommendations and come to a decision at their Planning Committee (scheduled on 3rd December 2021). Therefore, a formal joint decision will not be issued until the decision is made by Full Council.

General conformity with existing Local Plan

- 4.5. One of the key basic conditions is that the neighbourhood plan is in general conformity with the strategic policies of the adopted local plan. It is important to note that officers have over the preparation of the plan provided advice in respect of the emerging Local Plan Part 2 (LPP2) strategic policies. While policies from the LPP2 cannot be considered under the basic conditions (as they are not adopted policies), the Examiner's report does have regard to these, and officers are content that the neighbourhood plan is in any case in general conformity with these policies. This is of particular relevance as it is anticipated that the LPP2 will be formally adopted at the same Full Council meeting just after the decision on the Examiner's recommendations is made.
- 4.6. Where there are elements of policy that may conflict, these will be resolved by favouring the most recently adopted policy. Therefore, the neighbourhood plan policies would take precedence as they will be formally adopted following the referendum (which will occur after the LPP2 is adopted). Such conflicts should only occur in very limited circumstances and would only apply in non-strategic policy matters.

Environmental Assessment & Habitat Regulations

- 4.7. Another important consideration at this stage is compliance with the Environmental Assessment and Habitat Regulations Assessment (HRA) legislative requirements, as the Borough Council (along with the Broads Authority) is the 'competent authority'. The parish council prepared a screening report which along with the Borough Council's screening assessment was consulted on (with the statutory bodies) and the screening determination published in February 2020.

- 4.8. The screening determination confirmed that the plan would not have any likely significant effects on the environment or any likely significant effects on nearby habitat sites (National Site Network habitat sites), and therefore the plan did not require a full Sustainability Appraisal or Appropriate Assessment. Since then, the plan has been subject to relatively minor updates by the parish council following consultation, and those suggested modifications from the Examiner. Having considered these, officers have concluded that the findings of the 2020 screening determination remain valid and appropriate, meeting the legislative requirements.
- 4.9. It is therefore important to acknowledge that by accepting the Examiner's recommendations, that the Borough Council (and Broads Authority) as competent authority accept the findings of the Screening Determination that the plan would not have any likely significant effects on the environment or any likely significant effects (including the consideration of in-combination effects) on nearby habitat sites (National Site Network habitat sites). The neighbourhood plan is therefore 'screened out' and does not require a full Sustainability Appraisal or Appropriate Assessment.

Neighbourhood Referendum

- 4.10. If the neighbourhood plan and the modifications that the Examiner has proposed are accepted, the plan should proceed to a neighbourhood referendum. The referendum asks whether residents would like the neighbourhood plan to help decide on planning applications in their area. Essentially, a successful vote ensures that the local authority will adopt the plan as part of their Development Plan to be used when determining planning applications.
- 4.11. Such a referendum needs to take place within 56 days from the day after the date of the decision on examiner recommendations. A 28 day notice period of the referendum date also needs to be published within that 56 day period. Having liaised with the Electoral Services team, the referendum could be held on **Thursday 24th February 2022**. The Examiner has recommended that the referendum area is not expanded beyond the designated neighbourhood plan area; and therefore, it would remain as the whole parish area. There appears little justification to disagree with this approach.

Decision Statement

- 4.12. In accordance with the Regulations, the Borough Council must publish a decision statement setting out what action is being taken on the Examiner's report and the recommendations contained within it. A draft statement has been prepared and is attached to this report, with a decision based on accepting all of the Examiner's recommendations. As the decision is joint with the Broads Authority, the statement is on behalf of both councils.

5. Next Steps

- 5.1. Subject to the Examiner's recommendations being accepted, a decision statement will be issued and published on the Borough Council's website. A notice will be published proposing the referendum date (ensuring that the 28 days' notice requirement is met). The referendum will be held in the parish. The result will be determined by a majority of over 50% of the votes cast. The result of that referendum will be reported. Upon a 'yes' vote, the plan must be adopted by the local planning authority within a period of 8 weeks following the referendum date. The plan would then need to be formally adopted by Full Council, forming part of the Development Plan. A decision statement will need to be published on the Borough Council's website.

- 5.2. As discussed above, should Full Council come to a different recommendation to that of the Examiner, a decision statement will still need to be issued and this could require further consultation and potentially re-examination.

6. Financial Implications

- 6.1. The Borough Council has already received £5,000 for the adopted neighbourhood plan area (it has actually received 5 of these through the first 5 adopted areas). This funding will support the payments required to appoint independent examiners.
- 6.2. The Borough Council should receive a further Government grant of £20,000 when a decision statement is issued to send the neighbourhood plan to referendum.
- 6.3. All costs associated with officer resources, the examination and referendum of the Neighbourhood Plans are expected to be covered by this Government funding.

7. Conclusion

- 7.1. The first recommendation is that the Full Council accepts the Examiner's proposed modifications to the Filby Neighbourhood Plan. This decision accepts that the plan meets the basic conditions. In addition, as the Examiner has advised in the report, it is recommended that the referendum area is maintained as the neighbourhood plan area.
- 7.2. It is then recommended that Full Council agrees that the plan should proceed to referendum. The referendum would be held next year within the required time limit, and **Thursday 24th February 2022** is the proposed date for this to take place.
- 7.3. Finally, to meet the legislative requirements at this stage, it is recommended that Full Council approves the attached Decision Statement for publication on the Borough Council's website.

8. Links

- [Submission version of Filby Neighbourhood Plan \(pre-examination therefore excludes modifications\)](#)
- [SEA & HRA Screening Assessment](#)

9. Appendices

Appendix 1 – Examiner's Report on Filby Neighbourhood Plan

Appendix 2 – Filby Examiner's Report Decision Statement

Areas of consideration: e.g. does this report raise any of the following issues and if so how have these been considered/mitigated against?

Area for consideration	Comment
Monitoring Officer Consultation:	n/a
Section 151 Officer Consultation:	n/a
Existing Council Policies:	Local Plan Part 1: Core Strategy, 2001 Borough-wide Local Plan

Financial Implications (including VAT and tax):	See Section 6
Legal Implications (including human rights):	See Section 4
Risk Implications:	See Section 4
Equality Issues/EQIA assessment:	n/a
Crime & Disorder:	n/a
Every Child Matters:	n/a

Filby Neighbourhood Plan 2020-2030

Report by Independent Examiner to Great Yarmouth Borough Council

Ann Skippers BSc (Hons) MRTPI FHEA FRSA AoU
15 November 2021

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Summary

I have been appointed as the independent examiner of the Filby Neighbourhood Development Plan.

Filby lies about six miles northwest of Great Yarmouth and some 16 miles east of Norwich. It is a long, linear settlement along the A1064 and is at the edge of the Norfolk Broads. Part of the Plan area is within the Norfolk and Suffolk Broads and therefore falls under the jurisdiction of the Broads Authority. Filby has a population of 765 according to the Census 2011.

The Plan is presented to a high standard and contains 12 policies covering a range of topics from design, heritage assets and Local Green Spaces. There are no site allocations. All of the policies seek to add local detail to local planning authority level policies or cover issues which are particularly pertinent to the Parish, but may not be included in a local plan. The Plan is accompanied by an evidence base which is a good resource and all the supporting documents are clear and easy to read.

It has been necessary to recommend some modifications. In the main these are intended to ensure the Plan is clear and precise and provides a practical framework for decision-making as required by national policy and guidance. These do not significantly or substantially alter the overall nature of the Plan.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend to Great Yarmouth Borough Council that the Filby Neighbourhood Development Plan can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI
Ann Skippers Planning
15 November 2021



1.0 Introduction

This is the report of the independent examiner into the Filby Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by Great Yarmouth Borough Council (GYBC) with the agreement of the Parish Council and the Broads Authority (BA), to undertake this independent examination. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

Part of the Plan area falls within the Norfolk and Suffolk Broads and falls under the jurisdiction of the BA. I have been instructed by Great Yarmouth Borough Council and therefore can only address my report to that authority as my client. However, all parties are aware that the BA plays an important role as the other authority responsible for progressing the Plan to its next stages.

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over thirty years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and professional experience to carry out this independent examination.

2.0 The role of the independent examiner

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The basic conditions¹ are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area

¹ Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

- The making of the neighbourhood plan does not breach, and is otherwise compatible with, retained European Union (EU) obligations²
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to in the paragraph above. Only one is applicable to neighbourhood plans and was brought into effect on 28 December 2018.³ It states 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.

The examiner is also required to check⁴ whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.⁵

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

² Substituted by the Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018/1232 which came into force on 31 December 2020

³ Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

⁴ Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

⁵ The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authorities, in this case GYBC and the BA. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

3.0 The examination process

I have set out my remit in the previous section. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).⁶

Planning Practice Guidance (PPG) confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.⁷ Often representations suggest amendments to policies or additional policies. Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further amendments or additions are required.

PPG⁸ explains that it is expected that the examination will not include a public hearing. Rather the examiner should reach a view by considering written representations. Where an examiner considers it necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case, then a hearing must be held.⁹

After consideration of all the documentation, I decided that it was not necessary to hold a hearing.

In 2018, the Neighbourhood Planning Independent Examiner Referral Service (NPIERS) published guidance to service users and examiners. Amongst other matters, the guidance indicates that the qualifying body will normally be given an opportunity to comment upon any representations made by other parties at the Regulation 16 consultation stage should they wish to do so. There is no obligation for a qualifying body to make any comments; it is only if they wish to do so. The Parish Council did not make any comments.

The Government published a new National Planning Policy Framework (NPPF) in July 2021 about a month after the Regulation 16 stage had ended but before the examination had commenced. Given that the NPPF is a key document issued by the Secretary of State against which the Plan is examined, I suggested that a short period of consultation specifically on the newly published NPPF be held. This was to give all interested parties, GYBC, the BA and the Parish Council an opportunity to consider

⁶ PPG para 055 ref id 41-055-20180222

⁷ Ibid

⁸ Ibid para 056 ref id 41-056-20180222

⁹ Ibid

whether the new NPPF had any implications for the Plan.

This stage of focused and extended consultation resulted in one representation. The Parish Council was also given an opportunity to comment on any representations received, but chose not to do so.

I am very grateful to everyone for ensuring that the examination has run so smoothly and in particular Nick Fountain at GYBC.

I made an unaccompanied site visit to familiarise myself with the Plan area on 3 November 2021.

Where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in ***bold italics***.

Given that the Plan refers to the NPPF in places, these references will need to be updated to refer to the new NPPF.

As a result of some modifications consequential amendments may be required. These can include changing section headings, amending the contents page, renumbering paragraphs or pages, ensuring that supporting appendices and other documents align with the final version of the Plan and so on.

I regard these as primarily matters of final presentation and do not specifically refer to such modifications, but have an expectation that a common sense approach will be taken and any such necessary editing will be carried out and the Plan's presentation made consistent.

- **Update any references to the NPPF throughout the Plan including its appendices as necessary**

4.0 Neighbourhood plan preparation

A Consultation Statement has been submitted. It meets the requirements of Regulation 15(2) of the Neighbourhood Planning (General) Regulations 2012.

Work began on the Plan in 2019 following a public meeting to discuss the development of a neighbourhood plan. A Working Group was established in mid 2019 to lead preparation on the Plan.

An Issues and Options consultation was held with local residents and businesses in August 2019. This took the form of a survey. An event was also held. Both the survey and event were publicised in the Mercury and in the village shop. A 34% response rate to the survey was achieved and 24 people attended the event.

Throughout the Plan preparation process, a variety of focused evidence gathering and liaison with key organisations and landowners has taken place.

A dedicated page was set up on the Parish Council website.

Pre-submission (Regulation 14) consultation took place between 27 July – 20 September 2020. A leaflet and survey was delivered to all households in the Parish. Hard copies of the Plan were available and all documents available online. Posters around the village advertised the consultation as did the website, local Facebook pages and in the local magazine.

I consider that the consultation and engagement carried out is satisfactory.

Submission (Regulation 16) consultation was carried out between 2 April – 11 June 2021.

Just before the examination commenced, as explained earlier, the Government published a new NPPF. In order to give all interested parties, GYBC, the BA and the Parish Council an opportunity to consider whether this had any implications for the Plan, a further two-week period of consultation was carried out. This consultation ended on 21 September 2021.

A total of five representations were received. Whilst I make reference to some responses and not others, I have considered all of the representations and taken them into account in preparing my report.

5.0 Compliance with matters other than the basic conditions

I now check the various matters set out in section 2.0 of this report.

Qualifying body

Filby Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is satisfactorily met.

Plan area

The Plan area is coterminous with the administrative boundary for the Parish. GYBC and the BA approved the designation of the area on 28 June 2019. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Plan area is shown on page 4 of the Plan.

Plan period

The Plan period is 2020 – 2030. This is clearly stated in the Plan itself and confirmed in the Basic Conditions Statement. This requirement is therefore satisfactorily met.

Excluded development

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also helpfully confirmed in the Basic Conditions Statement.

Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the development and use of land. If I consider a policy or proposal to fall within this category, I will recommend it be clearly differentiated. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.¹⁰

In this instance, three Community Policies, arising from the Plan-making process, have been identified. I have recommended later in this report that they are renamed as "Community Aspirations" and that an explanatory paragraph regarding their status is included within the Plan. Subject to these modifications, the Plan will satisfactorily deal with this requirement.

6.0 The basic conditions

Regard to national policy and advice

The Government revised the National Planning Policy Framework (NPPF) on 20 July 2021. This revised Framework replaces the previous National Planning Policy Framework published in March 2012, revised in July 2018 and updated in February 2019.

The NPPF is the main document that sets out the Government's planning policies for England and how these are expected to be applied.

In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the delivery of

¹⁰ PPG para 004 ref id 41-004-20190509

strategic policies in local plans or spatial development strategies and should shape and direct development outside of these strategic policies.¹¹

Non-strategic policies are more detailed for specific areas, neighbourhoods or types of development.¹² They can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment as well as set out other development management policies.¹³

The NPPF also makes it clear that neighbourhood plans should not promote less development than that set out in strategic policies or undermine those strategic policies.¹⁴

The NPPF states that all policies should be underpinned by relevant and up to date evidence; evidence should be adequate and proportionate, focused tightly on supporting and justifying policies and take into account relevant market signals.¹⁵

Policies should be clearly written and unambiguous so that it is evident how a decision maker should react to development proposals. They should serve a clear purpose and avoid unnecessary duplication of policies that apply to a particular area including those in the NPPF.¹⁶

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at www.gov.uk/government/collections/planning-practice-guidance which is regularly updated. The planning guidance contains a wealth of information relating to neighbourhood planning. I have also had regard to PPG in preparing this report.

PPG indicates that a policy should be clear and unambiguous¹⁷ to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the planning context and the characteristics of the area.¹⁸

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.¹⁹ It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.²⁰

¹¹ NPPF para 13

¹² Ibid para 28

¹³ Ibid

¹⁴ Ibid para 29

¹⁵ Ibid para 31

¹⁶ Ibid para 16

¹⁷ PPG para 041 ref id 41-041-20140306

¹⁸ Ibid

¹⁹ Ibid para 040 ref id 41-040-20160211

²⁰ Ibid

Whilst this has formed part of my own assessment, the Basic Conditions Statement sets out how the Plan has responded to national policy and guidance. A table²¹ sets out how the Plan aligns with the (previous) NPPF.

Contribute to the achievement of sustainable development

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development.

The NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development.²² This means that the planning system has three overarching and interdependent objectives which should be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives.²³ The objectives are economic, social and environmental.²⁴

The NPPF confirms that planning policies should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account to reflect the character, needs and opportunities of each area.²⁵

Whilst this has formed part of my own assessment, the table in the Basic Conditions Statement cross-references how each Plan policy helps to achieve sustainable development as outlined in the (previous) NPPF.²⁶

General conformity with the strategic policies in the development plan

The Plan area falls within two local authority boundaries; GYBC and the BA.

The development plan consists of the Great Yarmouth Local Plan Core Strategy 2013 – 2030 (CS), a number of saved policies from the Borough-wide Local Plan 2001 also remain in force until the emerging Local Plan Part 2 is adopted and the Local Plan for the Broads 2015 – 2036 (LP).

GYBC confirmed that in terms of the saved policies of the Borough-wide Local Plan 2001, Policies HOU7, HOU8 and HOU10 are in regular use and regarded as strategic. The GYBC Local Plan 2001 was adopted in February 2001, the CS was adopted on 21 December 2015 and the Local Plan for the Broads in May 2019.

The LP is applicable to the part of the Plan area which falls within the BA's jurisdiction. The LP contains three types of policies; strategic, development management and site specific. I have considered the whole plan, but paid particular attention to the strategic policies given the wording of the relevant basic condition.

²¹ Basic Conditions Statement Figure 2 on page 3

²² NPPF para 7

²³ Ibid para 8

²⁴ Ibid

²⁵ Ibid para 9

²⁶ Basic Conditions Statement Figure 2 on page 3

In addition there are three minerals and waste planning policy documents which also make up the development plan for the area; these are the Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010 – 2026 adopted in September 2011, the Minerals Site Specific Allocations Development Plan Document (DPD) adopted in October 2014³ and amended in December 2017 and the Waste Site Specific Allocations DPD adopted in October 2013.

Whilst this has formed part of my own assessment, the Basic Conditions Statement contains an assessment of how each policy generally conforms to relevant CS and LP policies.²⁷ Where I have not specifically referred to a strategic policy, I have considered all strategic policies in my examination of the Plan.

Emerging Plan

GYBC submitted the Great Yarmouth Local Plan Part 2 Development Management Policies and Site Allocations to the Inspectorate on 31 July 2020 for independent examination. Examination hearing sessions took place between 2 March - 29 April 2021. The hearing sessions were formally closed by the Inspector on 29 April 2021. In response to the Inspector's post-hearings note, the Council has prepared potential modifications to the Local Plan Part 2. Public consultation on the potential modifications closed on 3 September 2021. The Inspector's Final Report dated 5 November was received by GYBC during the course of this examination. GYBC's website indicates that "it is currently expected that the Council will consider the adoption of the plan at the Full Council meeting on 09 December 2021".

There is no legal requirement to examine the Plan against emerging policy. However, PPG²⁸ advises that the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which the Plan is tested.

Furthermore Parish Councils and local planning authorities should aim to agree the relationship between policies in the emerging neighbourhood plan, the emerging Local Plan and the adopted development plan with appropriate regard to national policy and guidance.²⁹

Retained European Union Obligations

A neighbourhood plan must be compatible with retained European Union (EU) obligations. A number of retained EU obligations may be of relevance for these purposes including those obligations in respect of Strategic Environmental Assessment, Environmental Impact Assessment, Habitats, Wild Birds, Waste, Air Quality and Water matters.

²⁷ Basic Conditions Statement Figure 3 on page 7

²⁸ PPG para 009 ref id 41-009-20190509

²⁹ Ibid

With reference to Strategic Environmental Assessment (SEA) requirements, PPG³⁰ confirms that it is the responsibility of the local planning authority, in this case GYBC and the BA, to ensure that all the regulations appropriate to the nature and scope of the draft neighbourhood plan have been met. It states that it is GYBC and the BA who must decide whether the draft plan is compatible with relevant retained EU obligations when it takes the decision on whether the plan should proceed to referendum and when it takes the decision on whether or not to make the plan.

Strategic Environmental Assessment and Habitats Regulations Assessment

The provisions of the Environmental Assessment of Plans and Programmes Regulations 2004 (the 'SEA Regulations') concerning the assessment of the effects of certain plans and programmes on the environment are relevant. The purpose of the SEA Regulations, which transposed into domestic law Directive 2001/42/EC ('SEA Directive'), are to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes.

The provisions of the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations'), which transposed into domestic law Directive 92/43/EEC (the 'Habitats Directive'), are also of relevance to this examination.

Regulation 63 of the Habitats Regulations requires a Habitats Regulations Assessment (HRA) to be undertaken to determine whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects. The HRA assessment determines whether the Plan is likely to have significant effects on a European site considering the potential effects both of the Plan itself and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, an appropriate assessment of the implications of the Plan for that European Site, in view of the Site's conservation objectives, must be carried out.

A Screening Opinion dated February 2020 has been prepared by GYBC. Although it is titled SEA Screening Opinion it also covers HRA matters. It also refers to the SEA and HRA Screening Report of December 2019 prepared by Collective Community Planning on behalf of the Parish Council.

Dealing with SEA first, the Screening Opinion concludes that the Plan does not require a SEA. This was based on the Plan generally conforming to the adopted CS, its operation at a relatively small scale of development or land use, the lack of any site allocations, the general limited opportunity for new development in the area and its recognition of sensitive landscape and environmental assets.

Consultation with the three statutory bodies, the Environment Agency (EA), Natural England (NE) and Historic England (HE), was undertaken. All agreed with the conclusion of the Screening Report.

³⁰ PPG para 031 ref id 11-031-20150209

The Screening Opinion therefore concludes that the Plan does not require a SEA.

I have treated the Screening Opinion of February 2020 to be the statement of reasons that the PPG advises must be prepared and submitted with the neighbourhood plan proposal and made available to the independent examiner where it is determined that the plan is unlikely to have significant environmental effects.³¹

Taking account of the characteristics of the Plan, the information and the characteristics of the areas most likely to be affected, I consider that retained EU obligations in respect of SEA have been satisfied.

Turning now to HRA, the Screening Opinion of February 2020 also addresses HRA. The Screening Report of December 2019 also addresses HRA.

The Screening Report explains that the Plan area falls within the Broads Special Area of Conservation (SAC), the Norfolk and Suffolk Broads National Park and the Trinity Broads Site of Special Scientific Interest (SSSI) which is also a Biodiversity Action Plan Priority Habitat. In addition, the HRA Screening Report also considered other European sites within 20km of the Plan area. These are the Winterton-Horsey Dunes, the Broads and the Haisborough, Hammond and Winterton SACs, the Special Protection Areas (SPA) of Broadland, Outer Thames Estuary, Breydon Water and Great Yarmouth and North Denes and the Broadland and Breydon Water Ramsar sites.

As the Plan does not make any site allocations and many policies seek to conserve or enhance the environment, it was considered that the Plan is unlikely to present additional residential or recreational disturbance beyond that identified in the CS. In relation to other issues such as air and water quality, again it was found no likely significant effects would result.

In April 2018, the Court of Justice of the European Union delivered its judgment in Case C-323/17 People Over Wind and Peter Sweetman v Coillte Teoranta. The judgment clarified that when making screening decisions for the purposes of deciding whether an appropriate assessment is required, competent authorities cannot take into account any mitigation measures. As a result, a competent authority may only take account of mitigation measures intended to avoid or reduce the harmful effects of a plan or project as part of an appropriate assessment itself.³²

For the avoidance of any doubt, I note that the assessment of likely significant effects describes some of the policies as [a] “mitigation policy”. However, these policies are not mitigation measures designed to remove, avoid or reduce or make acceptable any harmful or other effects of development or impacts from development as I read them. This is because the policies concerned in themselves do not support or promote development subject to mitigation measures and the requirements in these policies are common requirements seen in many planning policies. I am therefore confident that no mitigation has been taken into account during this screening stage in line with the case

³¹ PPG para 028 ref id 11-028-20150209

³² Ibid para 005 ref id 65-005-20190722

law described above. In any case the responsibility lies with the competent authority and no concerns have been raised by either GYBC or the BA in this respect.

The Screening Opinion concludes that the Plan will not have any likely significant effects either alone or in combination with other plans and projects and therefore screens the Plan out from requiring an appropriate assessment. NE was consulted and agreed with the conclusions.

The conclusion is therefore that the Plan does not require further assessment.

On 28 December 2018, the basic condition prescribed in Regulation 32 and Schedule 2 (Habitats) of the Neighbourhood Planning (General) Regulations 2012 (as amended) was substituted by a new basic condition brought into force by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 which provides that the making of the plan does not breach the requirements of Chapter 8 of Part 6 of the Habitats Regulations.

Given the distance, nature and characteristics of the nearest European sites and the nature and contents of this Plan, I agree with the conclusion of the Screening Opinion that an appropriate assessment is not required and accordingly consider that the prescribed basic condition is complied with, namely that the making of the Plan does not breach the requirements of Chapter 8 of Part 6 of the Habitats Regulations.

Conclusion on retained EU obligations

National guidance establishes that the ultimate responsibility for determining whether a plan meets EU obligations lies with the local planning authority.³³ In undertaking work on SEA and HRA, GYBC has considered the compatibility of the Plan in regard to retained EU obligations and does not raise any concerns in this regard. The BA has not raised any concerns.

European Convention on Human Rights (ECHR)

The Basic Conditions Statement contains a statement in relation to human rights.³⁴ Having regard to the Basic Conditions Statement, there is nothing in the Plan that leads me to conclude there is any breach or incompatibility with Convention rights.

³³ PPG para 031 ref id 11-031-20150209

³⁴ Basic Conditions Statement page 9

7.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. As a reminder, where modifications are recommended they appear in **bold text** and where I suggest specific changes to the wording of the policies or new wording these appear in ***bold italics***.

The Plan is presented to a very high standard and contains 12 policies. The Plan begins with a helpful contents page.

Introduction

This is an interesting and helpful section which sets out the context for the Plan.

Neighbourhood Planning

This section sets out how the Plan has evolved; it does so in an engaging and informative way.

Vision and Objectives

The vision for the area is:

“The rural character and special identity of Filby, nestled as it is alongside the Norfolk and Suffolk Broads, will be protected and enhanced. The rural character is defined by many features, but especially habitats and green infrastructure for wildlife, the openness of the landscape, historic buildings, and the tranquility of the parish and village.

In protecting and enhancing this rural character, the plan will result in a more coherent, connected and expansive ecological network of key habitats that delivers a significant net ecological gain for wildlife over the plan period. The plan will ensure that the openness of the landscape is retained for the enjoyment of residents and visitors alike, adding as it does to the tranquility of Filby, and that the parish’s historic and heritage assets continue to provide a sense of place. Where possible, the plan will help ensure that the impact on tranquility of the heavy traffic flows through the parish are minimised. Underpinning life in Filby is the wonderful community spirit, and the plan will build on this, helping people to stay in the parish, and creating opportunities for people to meet, interact, and get to know each other.

Finally, the plan will make a key contribution towards addressing climate change, both through reducing greenhouse gas emissions and overseeing a radical change in the development of a network of trees and hedgerows to absorb CO2.”

This detailed vision is supported by nine objectives. All the objectives are articulated well, relate to the development and use of land and will help to deliver the vision.

At the start of each topic section containing the policies, reference is made to the relevant objectives. This means there is a clear and welcome link back to the vision and objectives.

Housing and Design

Policy H1: Housing Type and Mix

It is useful for me at this juncture to set out the planning context. Filby is identified as a Secondary Village in the CS. The CS describes these as villages with few services and facilities, limited access to public transport and few employment opportunities.

CS Policy CS2 directs that about 5% of new residential development will take place in the Secondary and Tertiary Villages.

Neither the CS, the LP or the emerging LP Part 2 allocate any sites for housing development to Filby. As the latest available figure, emerging Policy GSP2 sets out a zero housing requirement for Filby, although this does not in itself preclude any development coming forward through the neighbourhood planning mechanism.

Policy SP15 of the Local Plan for the Broads, sets out a housing need of 66 dwellings within the Great Yarmouth Borough Housing Market Area out of a total of 286 dwellings across the whole of the Broads area.

The Plan explains that 28 new homes have been built over the last six years with a further 26 with consent. This is a significant increase of some 17% in homes in the Plan area.

Whilst the Plan does not identify any sites for housing, it seeks to ensure that any new development reflects the type and size of home most needed in the locality. This is in line with the supporting text for CS Policy CS2 which acknowledges the need for additional housing to meet local housing needs, especially for young families and older people balanced against the need to protect the individual character and identity of each village.

The NPPF states that the needs of groups with specific housing requirements should be addressed to support the Government's objective of significantly boosting housing supply.³⁵

The Plan explains that work carried out during the preparation of the Plan revealed that the Parish is dominated by detached houses with about a third of houses having four or more bedrooms. Smaller units are under-provided.

This policy seeks a mix of housing types and sizes on sites of five or more units. Whilst there is little explanation of this threshold in the Plan, the Consultation Statement explains there have been applications for similar sized schemes in the Parish and it does reflect the five units threshold for affordable housing in designated rural areas (although Filby is not a designated rural area) meaning there is some precedent for such a figure in planning terms. Given the requirements of the policy a threshold below this number would be difficult to deliver in my view. I am therefore comfortable with this as a policy basis.

The mix should reflect local needs based on the latest available information. The policy seeks the inclusion of accessible and adaptable homes, referring to the M4(2) standard.

It encourages the provision of bungalows and sheltered housing recognising that the population is ageing and seeks a minimum 25% provision of homes with two or less bedrooms. Nationally, PPG states that the need to provide housing for older people is critical and offering a choice of accommodation to suit changing needs can help independent living for longer.³⁶ The evidence sitting behind the emerging Local Plan Part 2 also indicates that the Borough has a relatively aged population structure and this is likely to become more pronounced.³⁷

The policy positively discourages larger units unless there is a proven need.

The policy also supports the provision of affordable housing in schemes which would not otherwise provide affordable housing; this is to be regarded as a community benefit, helping to deliver sustainable development in the Plan area.

The NPPF states that the provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies can set a lower threshold of 5 units or fewer).³⁸

This element of the policy then represents a departure from the NPPF. However, given the need to provide more affordable housing and the benefits of such provision for this community, I consider that such a departure is, in this instance, justified. The policy also does not lower the threshold in the NPPF, but rather indicates it support for schemes which provide affordable housing.

³⁵ NPPF para 60

³⁶ PPG para 001 ref id 63-001-20190626

³⁷ Emerging Local Plan Part 2, Tracked Changes Version page 126

³⁸ NPPF para 64

Whilst the policy is prescriptive, there is also inbuilt flexibility within the policy as it acknowledges the latest evidence available and also viability.

However, the reference to the M4(2) standard, however desirable, should be removed from the policy. This is because the Government introduced national technical standards for housing in 2015. A Written Ministerial Statement (WMS)³⁹ explains that neighbourhood plans should not set out any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings; instead these must be contained in local plans. I note that the emerging Local Plan Part 2 seeks to deliver the M4(2) standard on all new housing and so this ambition in the Plan should be delivered at local planning authority level.

The BA also point to a lack of clarity in whether the whole policy applies to sites of five or more. With some additional wording I consider this concern will be addressed. Subject to these modifications, the policy will have regard to national policy, contribute to the achievement of sustainable development and be in general conformity with strategic policy, particularly CS Policies CS2, CS3 and LP Policy SP15.

- **Delete the words “...M4(2) standard...” from criterion a) of the policy**
- **Add the word “All” in front of “Proposals for sheltered housing...” and “Proposals within the development limits...”**
- **Consequential amendments will be needed including the deletion of paragraph 34 on page 10 of the Plan**

Policy H2: Design

The NPPF states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.⁴⁰

It continues that neighbourhood plans can play an important role in identifying the special qualities of an area and explaining how this should be reflected in development.⁴¹

It refers to design guides and codes to help provide a framework for creating beautiful and distinctive places with a consistent and high quality standard of design.⁴²

It continues that planning policies should ensure developments function well and add to the overall quality of the area, are visually attractive, are sympathetic to local character

³⁹ Written Ministerial Statement 25 March 2015

⁴⁰ NPPF para 126

⁴¹ Ibid para 127

⁴² Ibid para 128

and history whilst not preventing change or innovation, establish or maintain a strong sense of place and optimise site potential.⁴³

Policy H2 sets out the expectations for new development whilst not seeking to stifle innovation.

It also seeks to encourage energy efficiency proposals and requires all new housing to be designed to the highest allowable prevailing energy efficiency requirements.

The supporting text for this policy refers to the possibility of planning policies requiring energy efficiency standards 20% above building regulations and refers to the Code for Sustainable Homes. This is correct, PPG does say that development plan policies can set energy performance standards at this level.⁴⁴ However, this relates to local planning authorities not qualifying bodies. It refers to the Planning and Energy Act 2008 which allows local planning authorities to set energy efficiency standards in their development plan policies.

In addition, the WMS, referred to in relation to the previous policy, indicates that neighbourhood plans cannot set any standards relating to the construction, internal layout or performance of new dwellings. The WMS also withdrew the Code for Sustainable Homes. Therefore this element of this policy requires modification to ensure it has regard to national policy and guidance alongside consequential changes to ensure the policy still makes sense.

Another element of the policy seeks to ensure that any residential development does not constitute overdevelopment. This is a laudable aim; however the policy includes a plot coverage requirement that any building footprint does not exceed 50% of the plot area. Whilst this is designed to prevent overdevelopment, I am not clear where the 50% has come from. In addition, this is but one element of good design which would achieve the policy's aims. Furthermore there may well be individual sites which could be developed more or those which even a 50% coverage would be inappropriate depending on the character and appearance of the area and the site's context. A modification is therefore recommended to address this concern.

The latest revision of the NPPF⁴⁵ makes it clear that the Government's intention is that all new streets include trees unless in specific cases there are clear justifiable and compelling reasons why this would be inappropriate. In addition, opportunities should be taken to incorporate trees elsewhere in developments; appropriate measures should be in place to secure the long-term maintenance of newly-planted trees; and existing trees should be retained where possible. The NPPF indicates that planning policies should ensure that streets are tree-lined. Therefore, to have regard to national policy it is necessary to include such requirements in Policy H2.

⁴³ NPPF para 130

⁴⁴ PPG para 012 ref id 6-012-20190315

⁴⁵ NPPF para 131

With these modifications, the policy will meet the basic conditions. It will have regard to the NPPF, be in general conformity with CS Policies CS9 and CS12 and Policy SP3 of the Local Plan for the Broads in particular and help to achieve sustainable development.

- **Change the words “All new housing will need to...” in the third sentence of the third paragraph of the policy and substitute with “...All new housing is encouraged...” and delete the words “...as a minimum...” and delete the words “...unless clear evidence is provided that this makes the proposal unviable.”**
- **Amend the fourth paragraph of the policy to read: “New residential development should *ensure that the dwelling’s footprint and any outbuildings is in keeping with the predominant pattern of development in the area and the site’s immediate context. Sufficient and usable outdoor amenity space and landscaping must be provided.*”**
- **Add a new paragraph to the policy that reads: “Tree-lined streets should be included in developments unless in specific cases there are clear justifiable and compelling reasons why this would be inappropriate. Trees should be included within developments where the opportunity arises. Where development is permitted, conditions will be imposed to secure the long-term maintenance of newly-planted trees. Existing trees, tree belts and hedgerows should be retained wherever possible.”**
- **Change the supporting text at paragraph 37 on page 11 of the Plan to read:**

“Planning practice guidance allows *local planning authorities to require* planning policies to require energy efficiency standards 20% above building regulations. *This is encouraged* to be used for Policy H2 unless the guidance changes and more rigorous standards can be applied. In support of the emerging Local Plan 2 for Great Yarmouth Borough an area wide viability study has been undertaken which demonstrates that there is sufficient viability for such standards to be met and achieved on small sites under 0.5 ha or for 10 units.”

Environment

Policy E1: Habitat for Wildlife

The Plan explains that the Parish nestles on the east side of the Trinity Broads catchment with two of the five broads within its boundaries. This part of the Broads network is a SAC and a SSSI. There is therefore a rich biodiversity and important connections with habitats.

The NPPF⁴⁶ is clear that planning policies should contribute to and enhance the natural and local environment including through minimising impacts on biodiversity and providing net gains.

Policy E1 seeks to protect and safeguard the Parish's habitats and requires a 10% net gain in biodiversity amongst other things.

The Government announced it would mandate net gains for biodiversity in the Environment Bill. The Environment Bill received Royal Assent on 9 November 2021. The mandatory biodiversity gain is, as I understand it, likely to become law through secondary legislation in 2023.⁴⁷ Whilst this is not yet a statutory requirement, there is some basis for introducing a policy basis in this Parish with its sites of importance including the SAC and SSSI and its location in and close to the Norfolk and Suffolk Broads. The NPPF promotes the pursuance of opportunities for securing net gains⁴⁸ and PPG indicates that policies can be used to set out a suitable approach.⁴⁹ One method of evidencing this is through DEFRA's biodiversity metric, referred to in the supporting text for this policy. No representations have raised concerns about the introduction of this into policy.

The policy also seeks to ensure that existing biodiversity features are retained and opportunities taken to enhance the Trinity Broads area and wildlife corridors.

It refers to Sustainable Urban Drainage Systems (SuDs) as a mechanism to help achieve this. I note this is welcomed by the lead local flood authority. There is a cross-reference to Policy E6 which may need to be reconsidered as I make recommendations on Policy E6 later in my report.

It expects compensation through habitat improvement to local wildlife corridors if there is any net loss of biodiversity on site. This network of wildlife corridors has been identified through work on the Plan in conjunction with the Norfolk Wildlife Trust and Trinity Broads Partnership; the wildlife corridors are identified in Figure 5 on page 17 of the Plan. This work is to be welcomed in line with the NPPF which encourages such mapping to protect and enhance biodiversity.⁵⁰

I consider this well thought through policy meets the basic conditions. It takes its lead from the NPPF and will help to achieve sustainable development given the net gain in biodiversity currently sought. The policy is supported by local evidence and is in general conformity with CS Policies CS9 and CS11 and Policy SP6 of the Local Plan for the Broads in particular and specifically on Trinity Broads, Policy SSTRI. It is clearly written and no modifications are recommended.

⁴⁶ NPPF para 174

⁴⁷ Source of information Local Government Association www.local.gov.uk accessed 12 November 2021

⁴⁸ NPPF para 179

⁴⁹ PPG para 021 ref id 8-021-20190721

⁵⁰ NPPF para 179

Policy E2: Trees and Hedgerows

Trees and hedgerows are essential to Filby's character as well as providing important wildlife corridors, providing food for wildlife and homes for species.

The NPPF recognises the the wider benefits from natural capital and ecosystems, particularly referencing trees and woodland.⁵¹ It also resists the loss or deterioration of irreplaceable habitats such as ancient woodland and veteran trees unless there are exceptional circumstances.⁵²

This policy has regard to the NPPF, is in general conformity with CS Policies CS9 and CS11 and Local Plan for the Broads Policy SP6 and will help to achieve sustainable development. It meets the basic conditions and no modifications are recommended except to correct a typographical error in the policy, to update a reference to the NPPF in the supporting text, to clarify the supporting text and to add a word to the supporting text to ensure it makes sense.

- **Change the word “Parich” in the policy to “*Parish*”**
- **Change the second sentence of paragraph 48 on page 16 of the Plan to read: “A map of protected trees is available from Great Yarmouth Borough Council and *information on protected trees falling within the Broads Authority, from the Broads Authority.*”**
- **Change the reference to “Paragraph 175” in paragraph 49 on page 16 of the Plan to “Paragraph 180”**
- **Add the word “*land*” after “Any areas of purchased...” in the fourth sentence of paragraph 50 on page 18 of the Plan**

There are also two Community Policies in this section. There has been no previous explanation of these policies. However, it is, as explained earlier, possible for neighbourhood plans to contain non development and land use aspirations if they are clearly identified. In this case, I consider it would be preferable for the Community Policies to be called something other than policies to make sure there is clarity. In addition it would be useful to add an explanatory paragraph elsewhere in the Plan to set out the status of these aspirations.

- **Change the “Community Policy” to “*Community Aspiration*” [this will apply throughout the Plan document and this modification is not repeated elsewhere]**
- **Add a new paragraph at an appropriate location in the Plan which reads: “A number of *Community Aspirations* have also been developed alongside the**

⁵¹ NPPF para 174

⁵² Ibid para 180

planning policies. These cover issues which are not development and use of land related, but nevertheless are important considerations which arose through work on the Plan. Their status is as non-statutory aspirations which the Parish Council will seek to progress during the lifetime of the Plan."

Policy E3: Local Green Space

Ten areas of Local Green Space (LGS) are proposed. These are shown on Figure 6 on page 22 of the Plan. A table on pages 20 and 21 of the Plan assesses each proposed LGS against the criteria in the NPPF. As a small point, this table and the location map are both called Figure 6 and in the interests of clarity, a modification is made to alter this.

The NPPF explains that LGSs are green areas of particular importance to local communities.⁵³

The designation of LGSs should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.⁵⁴ It is only possible to designate LGSs when a plan is prepared or updated and LGSs should be capable of enduring beyond the end of the plan period.⁵⁵

The NPPF sets out three criteria for green spaces.⁵⁶ These are that the green space should be in reasonably close proximity to the community it serves, be demonstrably special to the local community and hold a particular local significance and be local in character and not be an extensive tract of land. Further guidance about LGSs is given in PPG.

I saw each of the proposed spaces at my site visit.

1. **Playing field, play area and bowls green, off Main Road** is valued for its recreational purposes.
2. **Allotments, off Thrigby Road** is valued for the opportunity to grow food, as a recreational facility and as a wildlife habitat. They were well-used and tended at the time of my visit.
3. **Community Orchards, off Thrigby Road** are adjacent to the allotments. They are valued for recreation and wildlife.
4. **Community Paddocks, off Thrigby Road** are currently used for grazing horses. There are some stabling buildings on the land. The land can be differentiated from

⁵³ NPPF para 101

⁵⁴ Ibid

⁵⁵ Ibid

⁵⁶ Ibid para 102

the areas around and near by. The paddocks are valued for their recreational and wildlife value.

5. **Village Pond, off Main Road** the lead local flood authority comments on the inclusion of this space as it is a “potential present surface water drainage feature” and therefore recommends “against development of this space to limit any negative impact on the current drainage contrubtions”. I have interpreted this as support for the designation which would limit development.
6. **Filby Dissenter Chapel, off Thrigby Road** is near to the Community Orchards and Community Paddocks. It is of historical value and also valued for its recreational function. I found it to be an area of quiet reflection.
7. **Church of All Saints, Church Lane** has been proposed as a LGS for its heritage and wildlife value. The Church is Grade II listed. The proposed designation includes the Church building, its car park and two areas of graveyard.
8. **The Pound, Pound Lane** is to be found on the corner of Main Road and Pound Lane. It is a grassed area with seating and the location of the village sign. It was a colourful area at the time of my visit with many flowers in bloom. It is valued for its heritage and wildlife value, but it also provides a focal point.
9. **Filby Common, off Common Lane** is valued for its wildlife, beauty and tranquility as well as its views.
10. **Filby Claypits, Thrigby Road** is a small area close to the school. There is a pond and it is valued for its heritage and wildlife value.

In my view, all, but one of the proposed LGSs meet the criteria in the NPPF satisfactorily. The one which does not meet the criteria is the Church of All Saints. This is because buildings and car parks are not green spaces. In addition, the Church is Grade II listed and so given the listed status offers protection to both the building and its setting, it is not clear to me what the additional designation of LGS might achieve.

Otherwise, all are demonstrably important to the local community, all are capable of enduring beyond the Plan period, all meet the criteria in paragraph 102 of the NPPF and their designation is consistent with the local planning of sustainable development and investment in sufficient homes, jobs and other essential services given the housing figures for this local area and other policies in the development plan and this Plan.

Turning now to the wording of the policy, the NPPF indicates that policies for managing development within a LGS should be consistent with those for Green Belts. The supporting text to the Plan seeks to explain why some of the development which is regarded as not inappropriate in the NPPF for green belts would not be suitable in this particular location. Whilst it would, in principle, be possible that a policy could diverge from national policy, there needs to be substantive evidence to support taking such an approach.

However, following a recent Court of Appeal case with regard to the lawfulness of a LGS policy in a neighbourhood plan (*Lochailort Investments Limited v. Mendip District Council and Norton St Philip Parish Council*, [2020] EWCA Civ 1259), I consider it necessary to delete any wording that sets out how development proposals should be managed. The restrictions on development with regard to LGS designation will continue to apply through the NPPF. This will ensure that policies for managing development within a LGS are consistent with those for Green Belts. This approach helps to ensure that the policy meets the basic conditions and is lawful.

With these modifications, Policy E3 will have to regard to national policy, contribute towards sustainable development, particularly the environmental objective and be in general conformity with strategic policy thereby meeting the basic conditions.

- **Change the title “Figure 6” on page 22 of the Plan to “Figure 7”**
- **Consequential renumbering of the figures will be needed**
- **Delete proposed LGS 7, Church of All Saints and amend the map accordingly**
- **Change the first paragraph of the policy to read: “The areas shown in Figure 7 are designated as Local Green Spaces.”**
- **Delete the sentence which begins: “Development on designated Local Green Space will only...”**
- **Retaining the first sentence of paragraph 54 on page 19 of the Plan, delete the remainder of this paragraph but retain the sentence which begins: “Policy E3 does not prevent adjacent proposals...”**

Policy E4: Dark Skies

The NPPF highlights the impact light pollution can have on health and living conditions as well as the natural environment, both locally and in relation to the wider area.⁵⁷

This policy seeks to provide a balance between safety, security and community benefit that lighting can bring with the harm that light pollution can cause.

It is clearly worded with flexibility. It meets the basic conditions particularly having regard to the NPPF and helping to achieve sustainable development. No modifications are put forward.

I note that paragraph 57 on page 23 of the Plan refers to Policy DM22 of the Local Plan for the Broads. This is a detailed policy in the Local Plan for the Broads and the Plan is

⁵⁷ NPPF para 185

clear at paragraph 57 on page 23 that Policy E4 will only apply outside of the BA's jurisdiction. I consider this is clearly set out and that this approach is acceptable.

Policy E5: Landscape Character

The NPPF requires the planning system to contribute and enhance the natural and local environment including protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils.⁵⁸ Recognition of the intrinsic character and beauty of the countryside is also acknowledged.⁵⁹

This policy seeks to do a number of things. Firstly, development should conserve and enhance the character, utility and setting of the Parish. I am not sure what the utility of the Parish means. A modification is therefore made to address this concern.

Secondly, 11 views are identified and protected. These views are important to defining and reinforcing the sense of place and local distinctiveness. The views are shown on Figure 7 and photographs are included in the Plan. Their identification is supported by the Filby Views Assessment.⁶⁰ I am satisfied from the evidence in the Assessment together with what I saw on my site visit, that the views selected are appropriate given the character and setting of the Parish.

The wording of the policy does not prevent any development per se, but rather seeks to ensure that development does not have a detrimental impact on the views. I consider this to be an appropriate and sufficiently flexible approach.

The next element of the policy refers to Grade 1 agricultural land. Figure 8 shows the agricultural land classification. The NPPF recognises the wider benefits from natural capital and ecosystems services including the economic and other benefits of the best and most versatile agricultural land.⁶¹ This part of the policy seeks to protect Grade 1 land unless the community benefits outweigh such protection.

CS Policy CS6 refers to minimising the loss of the best and most versatile agricultural land, only permitting development if it can be shown there is an overriding sustainability benefit and no realistic opportunity for the development to go elsewhere.

I note that Policy SP4 of the Local Plan for the Broads on soils, protects the best and most versatile agricultural land (defined as Grades 1, 2 and 3a) and as well as some Grade 1 land, some Grade 3 land falls within the Plan area covered by the BA according to Figure 8 in the Plan. On the face of it, this policy would then seem not to be in general conformity with this strategic policy. However, I see the supporting text does include a caveat for the need for the development clearly outweighing the need to

⁵⁸ NPPF para 174

⁵⁹ Ibid

⁶⁰ To be found in the Evidence Base document

⁶¹ NPPF para 174

protect such land in the long term and I consider the wording of Policy E5 is therefore in general conformity with this strategic policy.

Finally, the policy refers to proposals adjacent to the Broads, recognises the transitional nature of this area and seeks the reinforcement of hedgerows and conserving wetland areas.

With this modification, the policy will have regard to national policy and guidance by recognising the intrinsic character and beauty of the countryside and promoting and ensuring any development is sympathetic to local character including landscape settings,⁶² will be in general conformity with, and add a local layer of detail to, strategic policies CS Policies CS6 and CS11 and Local Plan for the Broads Policy SP4 in particular and will help to achieve sustainable development.

- **Change the word “utility” in the first sentence of the policy to “appearance”**

Policy E6: Managing Surface Water

The first part of this policy seeks the incorporation of SuDs in all development appropriate to the scale and nature of the proposal.

The NPPF indicates that major development⁶³ should incorporate SuDs unless there is clear evidence that this would be inappropriate.⁶⁴ I note that the Broads Authority defines major development as that covered in the NPPF’s definition, but not limited to that. The NPPF states that for the purposes of paragraphs 176 and 177 of the NPPF, what constitutes a major development will be a matter for the decision maker when considering applications for development within the Broads.⁶⁵

The CS states that the use of SuDs has a key role in reducing flood risk⁶⁶ and Policies CS11, CS12 and CS13 all refer to the appropriate use of SuDs in all developments.

Policy SP2 of the Local Plan for the Broads requires appropriate surface water drainage mitigation measures and Policy DM6 indicates SuDs should be used, unless soil conditions and engineering feasibility indicate otherwise.

I note the lead local flood authority highlight the importance of considering surface water within the Plan area. They recommend that the Plan includes a caveat that any development desmontartes there is no increased risk of flooding and mitigation measures are implemented to address surface water within development sites. As part

⁶² NPPF para 174

⁶³ Major development is defined in the NPPF as development of 10 or more homes or where the site has an area of 0.5 hectares or more. For non-residential development this means an additional floorspace of 1000 square metres or more or a site of 1 hectare or more

⁶⁴ NPPF para 169

⁶⁵ Ibid para 177 and footnote 60

⁶⁶ CS page 93

of their recommendation, the inclusion of SuDs is referred to. Whilst I do not recommend the inclusion of the text and policy Norfolk County Council (NCC) recommends as this would amount to a rewrite of this part of the Plan, I do consider the information given by NCC is sufficient to justify the policy as written, particularly as the policy has inbuilt flexibility over the appropriateness of such use.

The second part of the policy seeks the use of permeable materials.

The last part of the policy encourages SuDs to link with the wildlife corridors to act as a stepping stone.

The policy therefore has regard to the NPPF, is in general conformity with CS Policies CS11, CS12 and CS13 and helps to achieve sustainable development thereby meeting the basic conditions. No modifications to it are recommended.

Built and Historic Environments

Policy BE1: Heritage Assets

The NPPF is clear that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.⁶⁷ It continues that plans should set out a positive strategy for the conservation and enjoyment of the historic environment.⁶⁸

The Plan explains that Filby evolved as a farming community. With evidence of Bronze Age, Iron Age and Roman occupation. There are nine Grade II listed buildings in the Parish and All Saints Church is Grade II* listed.

This policy seeks to deal with both designated and non-designated heritage assets. The NPPF distinguishes between designated heritage assets and non-designated heritage assets outlining different approaches and it is important the policy reflects this. A modification is therefore made to address this point.

In relation to designated heritage assets, the NPPF is clear that great weight should be given to the asset's conservation.⁶⁹ Where a proposal would lead to the total loss or substantial harm to a designated heritage assets, consent should be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss or other circumstances outlined in the NPPF.⁷⁰

⁶⁷ NPPF para 189

⁶⁸ Ibid para 190

⁶⁹ Ibid para 199

⁷⁰ Ibid para 201

Where there is likely to be less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.⁷¹

Work on the Plan has also identified 12 non-designated heritage assets which the policy should be clearer and designate them as such. A modification is made in this respect.

These assets have been identified and assessed against the criteria produced by Historic England, have been based on the Historic Environment Record and after consultation with the Norfolk Historic Environment Service. This assessment is available as a supporting document to the Plan.⁷² The assets are listed on page 33 and shown on Figure 9 on page 35. Should any more assets be identified in the future, they would need to go through a separate process.

Unfortunately, whilst the Plan contains a list of the non-designated assets and they are shown on Figure 9 on page 35 of the Plan, one asset, H, the Toll House does not appear to be shown on the map. I have considered whether the inclusion of it on the map would cause any unfairness to any party, but given the asset is clearly listed and discussed in paragraph 70 of the Plan and no representations have been made in this respect, I consider an amendment to Figure 9 would be acceptable in this instance.

In relation to non-designated heritage assets, the NPPF explains that a balanced judgement will be needed having regard to the scale of any harm or loss and the significance of the heritage asset.⁷³ A modification is made to ensure the policy has regard to this stance.

The BA indicate that there is some superfluous wording in the policy and I agree. A modification is made in the interests of clarity.

I note that Historic England welcome the policy and the identification of non-designated heritage assets.

With these modifications, the policy will have regard to the NPPF, be in general conformity with CS Policies CS9 and CS10 and Policy SP5 of the Local Plan for the Broads in particular and help to achieve sustainable development.

- **Add a new sentence at the start of the first paragraph of the policy that reads: *"Heritage assets should be conserved in a manner appropriate to their significance."***
- **Delete the words "...through agreement with the local planning authority" in the second paragraph of the policy**

⁷¹ NPPF para 202

⁷² To be found in the Evidence Base document

⁷³ NPPF para 203

- Add a new third paragraph which reads: *“The assets listed in paragraph 70 and shown on Figure 9 are designated as non-designated heritage assets.”*
- Add a new criterion a) to the [existing] third paragraph that reads: *“a) for applications which directly or indirectly affect the non-designated heritage assets, a balanced judgement will be made having regard to the scale of any harm or loss and the significance of the asset.”*
- Correct Figure 9 to ensure it clearly includes non-designated heritage asset H
- Consequential amendments will be needed

Policy BE2: Village Gap

There are three distinctive parts to Filby village.

This policy defines a village gap which is shown on Figure 10 on page 37. Within the defined gap, the policy resists development which would detract from the open character of the area or which would reduce visual separation.

The justification for this policy explains that the gap has a historical context and any development detracting from the gap would adversely affect the rural setting of these two parts of the village and affect long views into the countryside. Of equal importance is the local character and distinctiveness of each area. Both are recognised contributors to what makes a place special.

Whilst I agree it is important for the different parts of the village to be retained in the interests of local character and distinctiveness and the principle of the village gap has logic to it, the defined area is too big to serve its purpose. This is because it includes the backs of dwellings and land that does not contribute directly to the maintenance of the gap. Therefore a modification to reduce and redefine the area is made. As the area becomes smaller as a result of the modification, I do not consider anyone would be prejudiced by the revision.

I consider the wording of the policy to be overly restrictive. As I read it, it would effectively prevent most types of development. I consider that a more flexible approach would have better regard to the NPPF and help to achieve sustainable development.

I note the CS acknowledges the need to provide additional housing to meet local housing needs as explained in my discussion of Policy H1. However, the CS also recognises this needs to be balanced with the need to protect the individual character

and identity of each settlement including its setting, key historical characteristics and local features.⁷⁴

CS Policy CS9 seeks to conserve and enhance landscape features and reinforce local identity. Its supporting text especially refers to the how distinctiveness matters in helping to create a sense of ownership and community pride. CS Policy CS11 refers to strategic gaps to help retain the separate identity and character of settlements in close proximity to each other and so the principle is accepted.

I consider this policy seeks to help to achieve that and therefore is in general conformity with the CS.

With these modifications, the policy will meet the basic conditions.

- **Reword the policy to read:**

“An area of separation between the two distinct parts of the village settlement, as defined in Figure 10, *is identified*.

Development proposals within the defined area should respect the individual and distinct identities of the different parts of the village. Development will not be permitted if, individually or cumulatively, it would result in the loss of the visual and physical separation of these two distinctive parts or lead to their coalescence.”

- **Reduce the proposed Village Gap defined on Figure 10 by removing the backs of dwellings from the gap, reducing its width to be in line with the properties and other changes in line with the orange shading on the proposed map at Appendix 2 of this report**

Access and Transport

This section contains a community aspiration.

Policy AT1: Sustainable Transport

The NPPF is keen to ensure that transport issues are considered from the earliest stages of plan-making so that, amongst other things, opportunities to promote walking, cycling and public transport use are taken.⁷⁵

⁷⁴ CS page 37

⁷⁵ NPPF para 104

Policy AT1 encourages sustainable transport choices including the promotion of safe walking links to key facilities, the enhancement of footpaths where necessary and the promotion of public transport use through, for example, improved waiting facilities. It seems to me that this policy has particular regard to the NPPF, is in general conformity with CS Policies CS9 and CS16 and Policy SP8 of the Local Plan for the Broads and will help to achieve sustainable development. It meets the basic conditions and it is not necessary for me to recommend any modifications to it.

Policy AT2: Traffic and Speed

This policy seeks to ensure that development is not detrimental to highway safety and mitigates any adverse impacts. It then refers to new development taking reasonable opportunities to reinforce the current 30 mph speed limit through Filby on the A1064. The Plan explains this road is a popular commuter route and that traffic is often diverted along it if the A47 Acle Straight is closed. As well as the volume of traffic, the type of traffic including lorries and farm vehicles and the speed of traffic is a concern for the local community.

Given the NPPF indicates that the impact of development on transport networks can be addressed⁷⁶ and that impacts on the transport network in terms of capacity and congestion and highway safety can be mitigated,⁷⁷ I consider this policy meets the basic conditions. In particular it has regard to the NPPF and will help to achieve sustainable development.

As a result, no modifications are proposed.

8.0 Conclusions and recommendations

I am satisfied that the Filby Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to Great Yarmouth Borough Council that, subject to the modifications proposed in this report, the Filby Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion.

⁷⁶ NPPF para 104

⁷⁷ Ibid para 110

I therefore consider that the Filby Neighbourhood Development Plan should proceed to a referendum based on the Filby Neighbourhood Plan area as approved by Great Yarmouth Borough Council and the Broads Authority on 28 June 2019.

Ann Skippers MRTPI

Ann Skippers Planning

15 November 2021

Appendix 1 List of key documents specific to this examination

Filby Neighbourhood Plan 2020 – 2030 December 2020

Statement of Basic Conditions October 2020 (Collective Community Planning)

Consultation Statement September 2020 (Collective Community Planning)

Strategic Environmental Assessment Screening Opinion February 2020 (GYBC) which includes the Habitats Regulations Assessment Screening Opinion

Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report December 2019 (Collective Community Planning)

Evidence Base December 2020 (Collective Community Planning)

Great Yarmouth Local Plan: Core Strategy 2013 – 2030 adopted December 2015

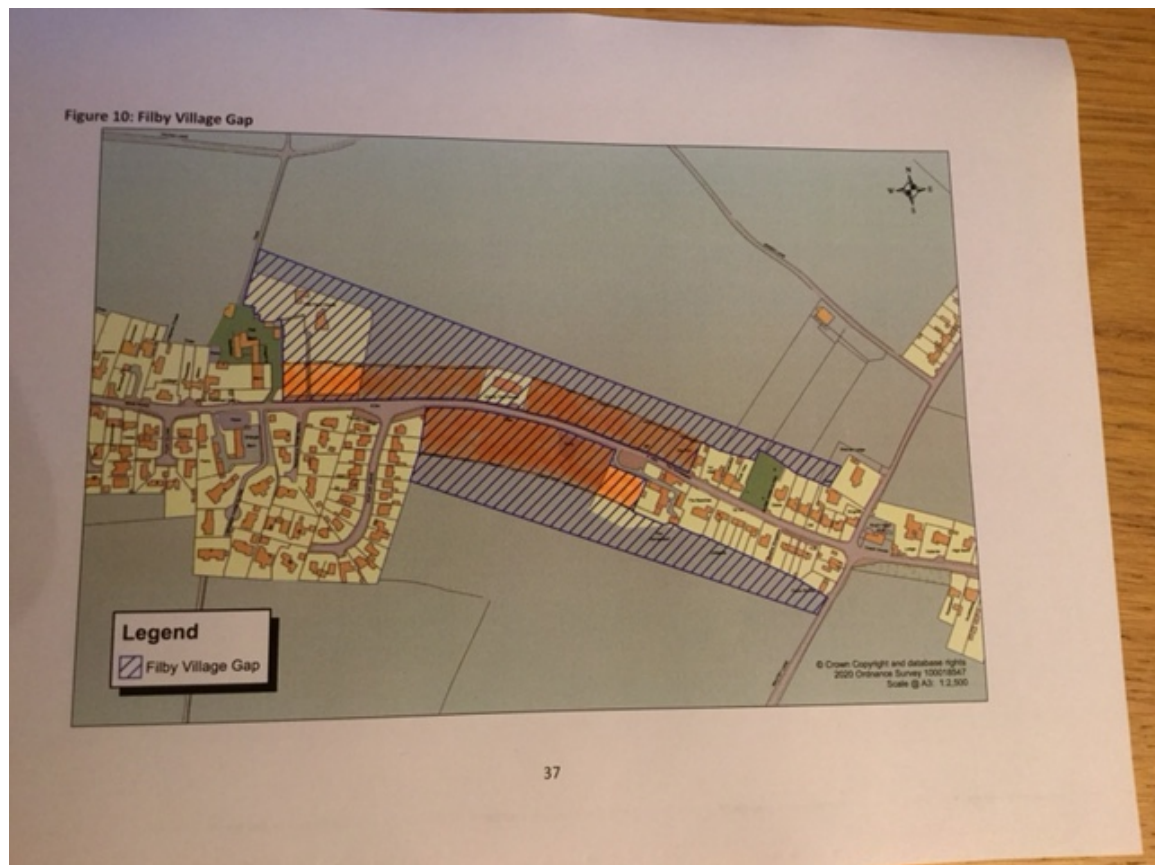
Great Yarmouth Borough-wide Local Plan 2001 adopted February 2001

Local Plan for the Broads 2015 – 2036 adopted May 2019

Great Yarmouth Local Plan Part 2 Final Draft Plan with Proposed Main Modifications and Additional Modifications July 2021

Appendix 2 Policy BE2 Filby Village Gap

Map showing proposed modification





Great Yarmouth Borough Council & Broads Authority Filby Neighbourhood Plan Examiner's Report – Decision Statement

9th December 2021

1. Purpose of Statement

The Filby Neighbourhood Plan has been examined by an independent Examiner and they have issued the Examiner's Report. The report makes a number of recommendations for making modifications to policies within the submitted Neighbourhood Plan. In accordance with Regulation 17A and 18 of the Neighbourhood Planning (General) Regulations 2012 (as amended) and paragraph 12 of Schedule 4B to the 1990 Town and Country planning Act (as amended) Great Yarmouth Borough Council and the Broads Authority (as joint responsible authority) propose to accept each of the examiner's recommendations, as set out below.

2. Plan background

Under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) the plan was submitted to the Borough Council in March 2021, with the parish council having undertaken early local consultations. In accordance with Regulation 16, the Borough Council published and consulted on the submitted plan in May 2021.

An independent examiner was then appointed to examine the plan in accordance with paragraph 7 of Schedule 4B to the 1990 Town and Country planning Act (as amended). To aid the examination, the Examiner then asked the Borough Council to undertake a focused consultation on implications of the revised National Planning Policy Framework on the neighbourhood plan. Responses from each of the respective consultations were passed to the Examiner for consideration.

The appointed Examiner has now examined the Filby Neighbourhood Plan and published their report with recommendations. The Examiner can only examine the plan in so far as to determine whether it meets the 'basic conditions' required by the legislation. The Examiner can also recommend on that basis whether the plan should proceed to referendum, and if so whether the referendum area should be extended beyond the designated neighbourhood plan area.

Under Regulation 24A of the Neighbourhood Planning (General) Regulations 2012 (as amended), the Borough Council along with the Broads Authority (as part of the neighbourhood plan area falls within the Broads Local Planning Authority Area) have to make a decision on the Examiner's recommendations. The Local Planning Authority must consider whether to decline/refuse the plan or to accept the report recommendations and set out its reasons in a decision statement that must then be published. It is also possible for the local planning authority to make a decision which differs

from that recommended by the examiner, but this would require a statement of reason, further consultation, and the possibility of re-examination.

3. Consideration of Basic Conditions

The Examiner has concluded: *'Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine.'*

This assessment includes consideration of the Environmental Assessment of Plans and Programmes Regulations 2004 (formerly the Strategic Environmental Assessment Directive) and the Conservation of Habitats and Species Regulations 2017 (or 'Habitat Regulations'). After consultation with the statutory bodies, the submitted Screening Opinion concluded that the Plan is not likely to have significant environmental effects. The Screening Opinion also concludes that the Plan will not have any likely significant effects upon nearby habitat sites (National Site Network designated habitat sites) either alone or in combination with other plans and projects, and therefore screens the Plan out from requiring an appropriate assessment.

The Examiner concludes that: *'Taking account of the characteristics of the Plan, the information and the characteristics of the areas most likely to be affected, I consider that retained EU obligations in respect of SEA have been satisfied... Given the distance, nature and characteristics of the nearest European sites and the nature and contents of this Plan, I agree with the conclusion of the Screening Opinion that an appropriate assessment is not required and accordingly consider that the prescribed basic condition is complied with, namely that the making of the Plan does not breach the requirements of Chapter 8 of Part 6 of the Habitats Regulations.'*

As competent authority, Great Yarmouth Borough Council and the Broads Authority accept these findings.

4. Reason for decision

Having considered each of the recommendations within the examiner's report and the reasons for them, Great Yarmouth Borough Council and the Broads Authority has decided to approve each of the recommended modifications. This is in accordance with section 12 of Schedule 4B to the Town and Country Planning Act 1990.

The following table sets out each of the examiner's recommended modifications to the submitted neighbourhood plan, the Council's consideration of those recommendations, and the Council's decision in relation to each recommendation.

Section of Submitted Neighbourhood Plan	Examiner's recommendation	Council consideration of recommendation	Council decision
Whole document	As a result of some modifications consequential amendments may be required. These can include changing section headings, amending the contents page, renumbering paragraphs or pages, ensuring that supporting appendices and other documents align with the final version of the Plan and so on.	The Councils agree with the Examiner that the contents page, renumbering paragraphs or pages, should be renumbered as they appear sequentially.	Accept Examiner's recommended modifications.
Vision & Objectives	No modifications	Agree	Accept Examiner's recommendation. No modification necessary.
Policy H1: Housing Type and Mix	<ul style="list-style-type: none"> Delete the words "...M4(2) standard..." from criterion a) of the policy Add the word "All" in front of "Proposals for sheltered housing..." and "Proposals within the development limits..." Consequential amendments will be needed including the deletion of paragraph 34 on page 10 of the Plan 	The Councils agree with the Examiner's reasoning that the plan cannot include national technical standards such as M4(2) standards as set out in a Written Ministerial Statement & the additional wording to ensure that the policy applies to all relevant development proposals.	Accept Examiner's recommendation. No modification necessary.
Policy H2: Design	<ul style="list-style-type: none"> Change the words "All new housing will need to..." in the third sentence of the third paragraph of the policy and substitute with "...All new housing is encouraged..." and delete the words "...as a minimum..." and delete the words "...unless clear evidence is provided that this makes the proposal unviable." Amend the fourth paragraph of the policy to read: "New residential development should ensure that the dwelling's footprint and any outbuildings is in keeping with the predominant pattern of development in the area and the site's immediate 	<p>The Councils agree with the Examiner's reasoning that:</p> <ul style="list-style-type: none"> the plan cannot include national technical standards such as energy efficiency standards as set out in a Written Ministerial Statement Ensure that plot sizes are appropriate to the immediate area but that there is still flexibility within the policy The policy should reflect the NPPF's requirement to secure tree-lined streets. 	Accept Examiner's recommended modifications.

	<p>context. Sufficient and usable outdoor amenity space and landscaping must be provided.”</p> <ul style="list-style-type: none"> • Add a new paragraph to the policy that reads: “Tree-lined streets should be included in developments unless in specific cases there are clear justifiable and compelling reasons why this would be inappropriate. Trees should be included within developments where the opportunity arises. Where development is permitted, conditions will be imposed to secure the long-term maintenance of newly-planted trees. Existing trees, tree belts and hedgerows should be retained wherever possible.” • Change the supporting text at paragraph 37 on page 11 of the Plan to read: “Planning practice guidance allows local planning authorities to require planning policies to require energy efficiency standards 20% above building regulations. This is encouraged to be used for Policy H2 unless the guidance changes and more rigorous standards can be applied. In support of the emerging Local Plan 2 for Great Yarmouth Borough an area wide viability study has been undertaken which demonstrates that there is sufficient viability for such standards to be met and achieved on small sites under 0.5 ha or for 10 units.” 		
Policy E1: Habitat for Wildlife	No modifications	Agree	Accept Examiner’s recommendation. No modification necessary.
Policy E2: Trees and Hedgerows	<ul style="list-style-type: none"> • Change the word “Parich” in the policy to “Parish” • Change the second sentence of paragraph 48 on page 16 of the Plan to read: “A map of protected trees is available from Great Yarmouth Borough 	<p>The Councils agree with the Examiner’s reasoning to:</p> <ul style="list-style-type: none"> • Amend the typographical error 	Accept Examiner’s recommended modifications.

	<p>Council and information on protected trees falling within the Broads Authority, from the Broads Authority.”</p> <ul style="list-style-type: none"> • Change the reference to “Paragraph 175” in paragraph 49 on page 16 of the Plan to “Paragraph 180” • Add the word “land” after “Any areas of purchased...” in the fourth sentence of paragraph 50 on page 18 of the Plan 	<ul style="list-style-type: none"> • Ensure that protected trees can be inspected at each Council • Amend paragraph references to the latest version of the NPPF • Clarify that reference to areas purchased refers to land. 	
Community Policies	<ul style="list-style-type: none"> • Change the “Community Policy” to “Community Aspiration” [this will apply throughout the Plan document and this modification is not repeated elsewhere] • Add a new paragraph at an appropriate location in the Plan which reads: “A number of Community Aspirations have also been developed alongside the planning policies. These cover issues which are not development and use of land related, but nevertheless are important considerations which arose through work on the Plan. Their status is as non-statutory aspirations which the Parish Council will seek to progress during the lifetime of the Plan.” 	The Councils agree with the Examiner’s reasoning that ‘community policies’ should be clearly distinct from policies and therefore identified as aspirations.	Accept Examiner’s recommended modifications.
Policy E3: Local Green Space	<ul style="list-style-type: none"> • Change the title “Figure 6” on page 22 of the Plan to “Figure 7” • Consequential renumbering of the figures will be needed • Delete proposed LGS 7, Church of All Saints and amend the map accordingly • Change the first paragraph of the policy to read: “The areas shown in Figure 7 are designated as Local Green Spaces.” 	<p>The Councils agree with the Examiner’s reasoning to:</p> <ul style="list-style-type: none"> • Amend the typographical errors such as numbering • To remove the Local Green Space at All Saints Church given that much of the space identified does not meet the criteria and that the space is also protected as part of the listed status of the building 	Accept Examiner’s recommended modifications.

	<ul style="list-style-type: none"> Delete the sentence which begins: "Development on designated Local Green Space will only..." Retaining the first sentence of paragraph 54 on page 19 of the Plan, delete the remainder of this paragraph but retain the sentence which begins: "Policy E3 does not prevent adjacent proposals..." 	<ul style="list-style-type: none"> The policy should be worded consistently with Green Belt policy as set out in the NPPF. 	
Policy E4: Dark Skies	No modifications	Agree	Accept Examiner's recommendation. No modification necessary.
Policy E5: Landscape Character	Change the word "utility" in the first sentence of the policy to "appearance"	The Councils agree with the Examiner's reasoning that the word 'appearance' provides more clarity to the intention of the policy.	Accept Examiner's recommended modification.
Policy E6: Managing Surface Water	No modifications	Agree	Accept Examiner's recommendation. No modification necessary.
Policy BE1: Heritage Assets	<ul style="list-style-type: none"> Add a new sentence at the start of the first paragraph of the policy that reads: "Heritage assets should be conserved in a manner appropriate to their significance." Delete the words "...through agreement with the local planning authority" in the second paragraph of the policy Add a new third paragraph which reads: "The assets listed in paragraph 70 and shown on Figure 9 are designated as non-designated heritage assets." Add a new criterion a) to the [existing] third paragraph that reads: "a) for applications which directly or indirectly affect the non-designated heritage assets, a balanced judgement will be made 	<p>The Councils agree with the Examiner's reasoning to:</p> <ul style="list-style-type: none"> Ensure that the policy aligns with the NPPF in terms of considering non-designated heritage assets To correct the error on Figure 9 To make any necessary consequential amendments. 	Accept Examiner's recommended modifications.

	<p>having regard to the scale of any harm or loss and the significance of the asset.”</p> <ul style="list-style-type: none"> • Correct Figure 9 to ensure it clearly includes non-designated heritage asset H • Consequential amendments will be needed 		
Policy BE2: Village Gap	<ul style="list-style-type: none"> • Reword the policy to read: “An area of separation between the two distinct parts of the village settlement, as defined in Figure 10, is identified. Development proposals within the defined area should respect the individual and distinct identities of the different parts of the village. Development will not be permitted if, individually or cumulatively, it would result in the loss of the visual and physical separation of these two distinctive parts or lead to their coalescence.” • Reduce the proposed Village Gap defined on Figure 10 by removing the backs of dwellings from the gap, reducing its width to be in line with the properties and other changes in line with the orange shading on the proposed map at Appendix 2 of this report. 	<p>The Councils agree with the Examiner’s reasoning to:</p> <ul style="list-style-type: none"> • Define how the village gap contributes to the setting of the village and how cumulative development can also harm this setting • To identify the gap as the frontage element of the space. 	Accept Examiner’s recommended modifications.
Policy AT1: Sustainable Transport	No modifications	Agree	Accept Examiner’s recommendation. No modification necessary.
Policy AT2: Traffic and Speed	No modifications	Agree	Accept Examiner’s recommendation. No modification necessary.

5. Next steps

This Decision Statement and the Examiner's Report into the Neighbourhood Plan will be made available at the following online locations:

- <GYBC webpage>
- <Broads webpage>
- <PC webpage>

Inspection copies?

- Town Hall
- Village Hall

The next stage is for the Neighbourhood Plan to proceed to a referendum within the neighbourhood area. Such a referendum needs to take place within 56 days from the day after the date of the decision. Notice will be given 28 days before the referendum takes place.