

INDEPENDENT EXAMINATION OF THE SUDBROOKE PARISH NEIGHBOURHOOD PLAN

EXAMINER: Patrick Whitehead DipTP (Nott) MRTPI

Examination Ref: 02/PW/SNP

Ms Christine Myers  
Clerk to Sudbrooke Parish Council

Mr Nev Brown  
West Lindsey District Council

Via email

18 October 2019

Dear Ms Myers and Mr Brown

SUDBROOKE PARISH NEIGHBOURHOOD PLAN EXAMINATION

Thank you for your comments of 7 and 8 October on the fact check version of my report on the Sudbrooke Parish Neighbourhood Plan (the Plan) examination.

I have considered carefully all the comments you have made, including your views on discerning the scope of matters which might be considered “factual” in nature and those that might be considered “principle” in nature. Notwithstanding this, as was made clear when the report was sent, this stage is not an opportunity to re-examine issues and put forward further evidence, opinions and submissions that would ultimately change the recommendations. Accordingly, I respond to the points you raise with this in mind.

Paragraph 4.48

I have corrected the references to ‘Foreword’.

PM3: Policy 1

The reference in PM3 to sub-paragraphs “a-e” was an error and I have corrected it to read “a-f”. PM3 now also explicitly instructs the deletion of paragraphs 2 and 3.

As regards the replacement of the word “must” in paragraph 1 of Policy 1, it is noted that I have taken a different view to that of the examiner of the Spridlington Neighbourhood Plan.

In my independent assessment, there is no imperative in strategic Policy LP2 (or related LP4) of the Central Lincolnshire Local Plan 2012 – 2036 (CLLP): it states that the pre-application consultation exercise should be thorough but proportionate and goes on to say: “If an applicant is in doubt as to what would constitute a ‘thorough, but proportionate, pre-application consultation exercise’, then the applicant should contact the applicable local planning authority”.

There is no requirement that the applicant must agree the scope of the statement with the Parish Council in advance and to require this would not be in general conformity with the strategic approach of the CLLP. It would also be contrary to advice in the National Planning Policy Framework (NPPF) at paragraph 40, which provides “local planning authorities cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of

any pre-application services they offer” and “should.. encourage any applicants.. to engage with the local community.. before submitting their applications”. As a consequence, I remain of the (independent) view that the use of the imperative does not generally conform with the strategic approach of the CLLP and has not had regard to national policy, thus breaching two Basic Conditions. I do fully appreciate the tension this might cause in terms of two differing approaches. Nonetheless, much as I would like to address the anomalous position that arises, I can see no legitimate basis on which I can rectify this without resulting in a flawed conclusion in relation to this examination.

#### PM7: Policy 5

The modification “unless there is clear public benefit to outweigh the loss or harm, and a suitable compensatory strategy is included in the proposals” is intended to reflect the advice given in the NPPF, paragraph 175 (c) and footnote 58. The thrust of this advice is that development resulting in the loss or deterioration of irreplaceable habitats should be refused, “unless (my emphasis) there are wholly exceptional reasons and a suitable compensation strategy exists”. A blanket protection for trees would not have regard to this national advice.

If one does take the view that there is a conflict between the two parts of Policy 5, then that conflict is embodied in the NPPF, since paragraph 175 and footnote 58 make it clear that the protection of trees and irreplaceable habitats should be refused “unless there are wholly exceptional reasons and a suitable compensation strategy exists”. Policy 5 indicated that there should be no harm or loss of irreplaceable habitats and proposals that “unduly remove..would not be supported”. This is a vague caveat which provides no clarity for developers about what circumstances would constitute “unduly”.

I am now clear that Figure 11. as originally submitted shows all 4 types of tree preservation order. Accordingly, I have deleted the relevant paragraph in PM7 and revised paragraph 4.31 through the deletion of the first 4 sentences and the word “Additionally”, which prefixed the fifth sentence.

#### PM10: Appendix 2 (Non-Designated Heritage Assets)

The submission Plan included unresolved differences between the councils in the form of Appendix 2. The extent of the dispute was significant and documented in West Lindsey District Council’s (WLDC) Regulation 16 responses. Of the 30 assets listed, 12 were not supported by WLDC on the basis that more evidence was required. This was compounded by the fact the standard of evidence provided overall did not reflect the process of identification and selection as set out in the guidance “Local Heritage Listing: Historic England Advice Note 7”.

I gave careful consideration as to whether this might be rectified, albeit the examination stage is not an appropriate point to put forward new evidence. Had new evidence been produced, this would have necessitated, at the very least, further public consultation and suspension of the examination. In the event and on balance, I took the view that the most proportionate approach was to retain an amended policy, whilst excluding the Appendix. This course of action will potentially enable the Plan to go forward to referendum, whilst giving the councils time to resolve matters outside the neighbourhood plan process.

Please find enclosed my final report. I congratulate you on progressing the Plan to this advanced stage and wish you well in moving forward.

Yours sincerely

**Patrick T Whitehead**

Examiner