

Aylsham Neighbourhood Plan

2018-2038

The Report by the Independent Examiner

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6 March 2019

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Summary

I have concluded that, if the modifications that I have recommended are made:

- The Aylsham Neighbourhood Plan has been prepared in accordance with Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 and the Neighbourhood Planning Regulations 2012 (as amended) and that;
- Having regard to national policies and advice contained in guidance issued by the Secretary of State it would be appropriate to make the Plan;
- The making of the Plan would contribute to the achievement of sustainable development;
- The making of the Plan would be in general conformity with the strategic policies of the development plan for the area;
- The Plan would not breach and will be otherwise compatible with European Union obligations and the European Convention on Human Rights;
- 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.

I am therefore pleased to **recommend that the Aylsham Neighbourhood Plan should proceed to a referendum subject to the modifications that I have recommended.**

I am also required to consider whether or not the referendum area should extend beyond the Neighbourhood Plan Area. I have not received any representations or seen any other evidence to suggest that the policies of the Plan will have “a substantial, direct and demonstrable impact beyond the neighbourhood area”. **I therefore conclude that there is no need to extend the referendum area.**

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Introduction

1. The Localism Act 2011 has provided local communities the opportunity to have a stronger say in their future by preparing neighbourhood plans which contain policies relating to the development and use of land.
2. Aylsham Town Council (ATC) is the qualifying body for the Aylsham Neighbourhood Plan, which I shall refer to as the ANP or the Plan.
3. Aylsham is an attractive and growing market town situated 14 miles north of Norwich and 11 miles south of the seaside town of Cromer. It experienced great prosperity based on the production of linen and wool in the sixteenth to eighteenth centuries and, following a long period with a relatively stable population from the early eighteenth to mid twentieth centuries, it has grown substantially from a population of 2635 in 1961 to almost 7000 in 2016. There has been further significant housing development since then. The town has a wealth of historic buildings with a vibrant town centre, a substantial industrial estate, a secondary school and a range of local services. The River Bure flows around the northern and eastern sides of the town and parts of the town are subject to flood risk.
4. If, following a recommendation from this examination, the ANP proceeds to a local referendum and receives the support of over 50% of those voting, it can be made and will then form part of the statutory development plan. This would make it an important consideration in the determination of planning applications, as these must be determined in accordance with development plan policies unless material considerations indicate otherwise.

Appointment of the Independent Examiner

5. I have been appointed by Broadland District Council (BDC), with the agreement of ATC to carry out the independent examination of the ANP.
6. I confirm that I am independent of both BDC and ATC. I have no interest in any land which is affected by the ANP. I have had no professional involvement in Aylsham since 1989 when I left Norfolk County Council, but I have carried out several other independent examinations of neighbourhood plans in Broadland District.
7. I am a Chartered Town Planner with over 30 years experience in local government, working in a wide range of planning related roles, including 15 years as a chief officer. Since 2006 I have been an independent planning and regeneration consultant. I have completed over 30 neighbourhood plan examinations and three health checks. I therefore have the appropriate qualifications and experience to carry out this examination.

The Scope of the Examination

8. The nature of the independent examination is set out in Sections 8-10 of Schedule 4B of the Town and Country Planning Act 1990.

9. I must:
- i. Decide whether the Plan complies with the provisions of Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004. These requirements relate primarily, but not exclusively, to the process of preparing the Plan and I shall deal with these first.
 - ii. Decide whether the neighbourhood development plan meets the basic conditions contained in Schedule 4B paragraph 8(2) of the Town and Country Planning Act 1990. This element of the examination relates mainly to the contents of the Plan.
 - iii. Make a recommendation as to whether the Plan should be submitted to a referendum, with or without modifications, and whether the area for the referendum should extend beyond the Plan area.
10. The Plan meets the basic conditions if:
- i. Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the Plan;
 - ii. The making of the Plan contributes to sustainable development;
 - iii. The making of the Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - iv. The making of the Plan does not breach, and is otherwise compatible with, EU obligations;
 - v. 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 2017.¹
11. I am also required to consider whether the Plan is compatible with the European Convention on Human Rights.
12. Paragraph 9 of Schedule 4B indicates that as a general rule the examination should be carried out on the basis of written representations unless a hearing is necessary to allow adequate consideration of an issue or to allow a person a fair chance to put a case. In carrying out the examination I concluded that the examination could be completed without a hearing.
13. The main documents to which I have referred in the examination are listed below:
- Aylsham Neighbourhood Plan 2018-2038 Examination Version July 2018
 - Aylsham Neighbourhood Plan Consultation Statement
 - Aylsham Neighbourhood Plan Basic Conditions Statement August 2018

¹ This basic condition was added in an amendment to the Neighbourhood Planning (General) Regulations 2012 set out in The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018. 8

- Aylsham Neighbourhood Plan Habitats Regulations Assessment Screening August 2018
 - Aylsham Neighbourhood Plan Habitats Regulations Assessment Screening Opinion September 2018
 - Aylsham Neighbourhood Plan Sustainability Appraisal Final Scoping Report November 2017
 - Aylsham Neighbourhood Plan Sustainability Appraisal August 2018
 - Responses to Regulation 16 publicity on the Submission Plan
 - Aylsham Neighbourhood Plan: Response to regulation 16 comments by Aylsham Neighbourhood Plan Steering Group
 - Joint Core Strategy for Broadland, South Norfolk and Norwich adopted in January 2014 (JCS)
 - Broadland District Council Site Allocations Development Plan Document 2016 (SADPD)
 - Broadland District Council Development Management Development Plan document 2015 (DMDPD)
 - Emerging Greater Norwich Local Plan (GNLP) Regulation 18 Consultation, Site Proposals and Growth Options
 - The Neighbourhood Planning (General) Regulations 2012 as amended (NPR)
 - The Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR).
 - The Conservation of Habitats and Species Regulations 2017 (CHSR)
 - The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018
 - The National Planning Policy Framework 2012 which is referred to as the NPPF and the new edition of the Framework issued in July 2018 (NPPF2)
 - National Planning Practice Guidance referred to as PPG
14. The documents submitted include all of those that are required to be submitted under regulation 15 of the NPR. As the Plan was submitted prior to 24 January 2019 it will be examined against the policies in the 2012 NPPF.²
15. I made an unaccompanied visit to Aylsham on 6 February 2019 to familiarise myself with the area. I spent several hours walking around the town and visiting all the key sites referred to in the Plan's policies.
16. During the examination I sought clarification on some issues by email. My emails and the response to them have been posted on the BDC website.

The Preparation of the Plan

17. ATC made an application for the designation of the parish of Aylsham as a neighbourhood area on 29 October 2012, together with a map of the area to be designated. Following

² NPPF2 paragraph 214

consultation between 7 December 2012 and 24 January 2013, in accordance with the regulations at that time, the designation was confirmed by Broadland District Council on 9 May 2013.

18. The Planning and Compulsory Purchase Act 2004 requires that the Plan clearly states the period to which it relates. The Submission Plan shows clearly that the plan period is 2018-2038.
19. The Plan must not include any provision about development that is excluded development as defined in section 61K which is inserted into the Town and Country Planning Act 1990. Excluded development includes “county matters”, such as mineral extraction and waste disposal, and major infrastructure projects. I am satisfied that the submitted Plan contains no policies which relate directly to these matters.
20. I am also satisfied that the Plan does not relate to more than one neighbourhood area.

Public Consultation

21. The preparation of the ANP has involved extensive consultation which is described clearly and comprehensively in the Consultation Statement.
22. Although the neighbourhood area was designated in 2013, relatively little progress was made initially. A questionnaire was issued with the “Just Aylsham” magazine in October 2013, but it only received 28 responses and there is no record of any further activity until early in 2016 when the Steering Group to manage the preparation of the Plan was re-established (the ANPSG). The ANPSG was made up of a mix of Parish Councillors and local residents. Meetings of the Steering Group have been open to the public.
23. The Consultation Statement sets out in detail the consultation that has been carried out.
24. In December 2016 a public consultation event was held to report back from the initial consultation and seek views on the vision, aims and objectives and on a series of statements that could be developed into policies. This event was attended by just over 100 people and the vision aims and objectives were well received.
25. The Draft Plan was developed during 2017 and the statutory consultation in accordance with Regulation 14 of the NPR took place between 7 December 2017 and 19 January 2018. Although this period straddles the Christmas period which is not ideal, it complies with the legal requirement for a minimum period of 6 weeks. A consultation event attended by 160 people was held on 9 December 2017.
26. The consultation was publicised in a Neighbourhood Plan Newsletter which was delivered to every household and business in Aylsham, on social media from two months prior to the consultation, on the Neighbourhood Plan pages of the Town Council website, on banners and posters in the town and by email reminders to residents who had requested updates. Printed copies of the pre-submission draft of the Neighbourhood Plan and Sustainability Appraisal were available to view at the Library, the “Just Regional” office and the Town Council offices; the

documents were also available online on the Town Council website. A list of statutory consultees and local stakeholders who were consulted is included in the Consultation Statement. A response form was available from the website. I am satisfied that the arrangements made to publicise the Plan meet the requirements of regulation 14 of the NPR. The Consultation Statement presents the comments made at this stage in full and clearly explains the action taken in response to them.

27. From the responses to the regulation 14 consultation it was apparent that there was some confusion between the ANP and the emerging Local Plan. It was therefore decided to address this issue through a newsletter explaining the distinction and a further consultation event at which the changes made to the Pre-submission Draft following the statutory consultation would be explained. This was a helpful and positive step and the event was attended by almost 50 people.
28. I am satisfied that the measures taken to publicise the Plan were very thorough and clearly meet the requirements of regulation 14 of the NPR. The Consultation Statement also clearly sets out the measures taken and meets the requirements of regulation 15(2) of the NPR.

The Basic Conditions Test – The Plan taken as a whole

29. The consideration of whether the Plan meets the basic conditions is the main focus of the independent examination process. This section of my report clarifies the meaning of each of these conditions and considers how the Plan, taken as a whole, meets them.

“having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan”

30. National policy is set out in the National Planning Policy Framework (NPPF). The NPPF was first published in 2012. A revised version of the NPPF was issued in July 2018 (NPPF2). However, Annex 1 of NPPF2 indicates that neighbourhood plans submitted in accordance with Regulation 15 of the NPR on or before 24 January 2019 should be examined against the 2012 edition of the NPPF.
31. There are two important points to emphasise in relation to this basic condition. The first is that I must consider this requirement in relation to the making of the Plan; it thus applies to the Plan as a whole rather than to individual policies. The second point is the use of the phrase *“having regard to”*. This means that I must consider national policy and advice, but it does not mean that each policy should be in absolute conformity with it. PPG explains that *“having regard to national policy”* means that *“a neighbourhood plan must not constrain the delivery of important national policy objectives.”*³ The Plan as a whole is clearly the sum of its policies and it is therefore necessary to consider the extent to which each policy complies with national policy and

³ PPG – what does having regard to national policy mean? Reference ID: 41-069-20140306

guidance. However, in reaching my conclusion on this basic condition it is the relationship of the Plan as a whole with national policies and guidance rather than individual policies which is the key consideration.

32. Also, relevant to this element of the basic conditions test is “...guidance issued by the Secretary of State” as set out in PPG. This contains extensive guidance on both general principles and specific aspects of the preparation of neighbourhood plans⁴ some of which I have already referred to. It is important to be able to demonstrate that the preparation of the Plan has had regard to this. The Basic Conditions Statement does not refer to PPG, but in my report, I make frequent reference to it. At this stage I need to emphasise the importance of the guidance on the formulation of policies. *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood plan for which it has been prepared”*⁵. Also *“Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn on to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan...”*⁶
33. Table (a) in the Basic Conditions Statement sets out for each policy its relationship to both the NPPF2 and the development plan documents. Unfortunately, as I have already explained, the Plan must be examined against the 2012 NPPF and the references I make are therefore to this version of the NPPF. Nonetheless the Basic Conditions Statement is commendably thorough in explaining the relationship to national policy and the differences between the two versions of the NPPF are not substantial in relation to the policies of the ANP.
34. One of the important considerations for a neighbourhood plan is that they *“...should not promote less development than set out in the Local Plan or undermine its strategic policies”*.⁷ The ANP does not provide for any scale of development explicitly. Section 5 and paragraphs 6.9-6.12 of the Plan present the strategic context in broad terms, they do not fully explain the scale of growth envisaged by existing development plan policies or how policies of the ALP would relate to these.
35. Policy 13 of the JCS makes provision for 300 dwellings at Aylsham subject to the resolution of sewerage constraints up to 2026. Policies AYL1 and AYL2 of the SADPD reflect previous planning permissions and provide respectively for 250 dwellings on a site north of Cawston Road and 300 dwellings on a site north of Burgh Road and west of the A140. These allocations therefore substantially exceed the provisions of the JCS. In addition, Policy GC2 of the DMDPD states that new development will be accommodated within defined settlement boundaries. It is therefore clear that the Plan is consistent with national policy in not providing for “less

⁴ PPG Neighbourhood Plan, Reference ID Paragraphs 41-001 to 41-087

⁵ PPG How should the policies in a neighbourhood plan be drafted? Reference ID: 41-041-20140306

⁶ PPG What evidence is needed to support a neighbourhood plan or Order? Reference ID: 41-040-20160211

⁷ NPPF paragraph 184

development than set out in the Local Plan or undermine its strategic policies”.

36. I have found it necessary to recommend the modification or deletion of several policies either because they do not add to national or strategic development plan policies, or because they relate to matters that are not appropriate for neighbourhood plan policies. In other cases, they are not expressed clearly enough to provide useful guidance to a decision maker. I shall return to the issue of sewerage capacity in relation to consideration of the Habitats Regulations and in relation to policies 1., 2 and 12. Subject to this and to the modifications I have recommended I am satisfied that having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the Plan.

“The making of the Plan contributes to sustainable development”

37. There is inevitably considerable overlap between the requirements for satisfying this basic condition and the previous one as the NPPF clearly states that *“the purpose of the planning system is to contribute to the achievement of sustainable development and the policies in paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.”*⁸
38. The NPPF then spells out the three dimensions of sustainable development: economic, social and environmental, and emphasises the interdependent nature of these. Again, it is important to note that the assessment to be undertaken relates to the Plan as a whole, but clearly the contribution of each policy needs to be considered to enable a conclusion to be reached. Policies which fail to demonstrate that they contribute to sustainable development are likely to require modification or deletion. As the NPPF points out, local circumstances vary greatly and that influences the way in which contributions to sustainable development can be made.⁹
39. The Basic Conditions Statement identifies for each of the strands of sustainable development which of the ANP policies makes a contribution. It recognises that many of the policies have the potential to contribute to more than one of the strands and there is a particularly strong focus on policies which contribute to the social strand.
40. The Plan is also accompanied by a Sustainability Appraisal (SA) which is intended to assess how the Plan contributes to sustainable development. The SA uses the sustainability objectives used in the SA of the JCS. A Scoping Report was prepared early in the plan preparation process. It was the subject of consultation with the statutory consultation bodies, Norfolk County Council and Broadland District Council and was modified to reflect the comments received. The SA Final Report considers:
- The compatibility of the sustainability appraisal objectives with the neighbourhood plan objectives;
 - The overall effect of the neighbourhood plan policies on the sustainability appraisal objectives;

⁸ NPPF Paragraph 6

⁹ NPPF Paragraph 10

- The specific effects of policies taking account of short, medium and long-term effects and identifying alternative options.

41. In all three cases, the report identifies whether the effect will be positive, negative or neutral. In all except a very few instances the effects are positive or neutral. Some conflict between objectives to protect elements of the natural and built environment and policies which encourage development to meet economic or social objectives is to be expected. However, the only clear conflict identified between the policies and the sustainability objectives relates to the effect of the Policy 12 which is designed to minimise flood risk on the objective relating to the supply of housing. It is not within the scope of this examination to explore the reasoning behind the conclusion reached in each and every case and there are some cases where this is not clear to me. However, it is clear that the balance of effects is very strongly positive.

42. I am satisfied that the Plan contributes to sustainable development.

“The making of the plan is in general conformity with the strategic policies contained in the development plan for the area”

43. As with the previous two conditions, the test applies to the Plan as a whole, but also requires consideration of individual policies against relevant strategic policies in order to reach an overall conclusion. The test of “*general conformity*” is fundamentally that the neighbourhood plan policies should not undermine the strategic policies of the Local Plan. The test is spelt out more fully in PPG.¹⁰ It does not preclude some variation from a strategic policy where it is justified by local circumstances providing the proposal upholds the general principle that a strategic policy is concerned with. However, any departure from development plan policies needs to be clearly justified.

44. The adopted development plan documents for Aylsham are:

- The Joint Core Strategy for Broadland, South Norfolk and Norwich, January 2014 (JCS)
- Broadland District Council Site Allocations Development Plan Document 2016 (SADPD)
- Broadland District Council Development Management Development Plan Document 2015 (DMDPD)
- Norfolk County Council Minerals and Waste Core Strategy and Development Management Development Plan Document 2010-2026

45. Table (a) of the Basic Conditions Statement describes the relationship of each policy of the Plan to the JCS and what it describes as the Broadland Local Plan. The latter is a reference to the DMDPD. It makes no reference to the SADPD which allocates the two major sites for housing development and two areas of land for industrial development.

46. With regard to the Minerals and Waste Plan, parts of the parish of Aylsham lie within the Mineral Safeguarding Area for sand and gravel. However, as the Plan does not make allocations

¹⁰ PPG What is meant by ‘general conformity’? Reference ID 41-074-20140306

for new development it does not conflict with this policy. Any future permissions may be subject to requirements regarding site investigation and prior extraction of minerals deposits.

47. I have considered the relationship of each of the policies to development plan policies and have not identified any which are not in general conformity. However, several of the policies do not add significantly to existing development plan policies and are therefore unlikely to effectively influence the determination of planning applications.

“The making of the order does not breach and is otherwise compatible with EU obligations” and “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.”

Strategic Environmental Assessment and Appropriate Assessment under the Habitats Regulations

48. PPG indicates that *“In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects it may require a strategic environmental assessment”*, subsequently referred to as SEA. A SEA requires the preparation of an environmental report. In order to determine whether the plan is likely to have a significant environmental effect, a screening assessment is necessary.
49. Regulation 15 of the NPR requires that the submission of a neighbourhood plan must include: *“(i) an environmental report prepared in accordance with paragraphs (2) and (3) of regulation 12 of the Environmental Assessment of Plans Regulations (EAPPR) or (ii) where it has been determined under regulation 9(i) of these Regulations that the proposal is unlikely to have significant environmental effects (and accordingly does not require an environmental assessment), a statement of reasons for the determination”*.
50. The submission documents include a Sustainability Appraisal (SA) dated August 2018 which I have already referred to in paragraphs 40-41. There is no legal requirement for a neighbourhood plan to be accompanied by a SA, as the PPG referred to in paragraphs 48 and 49 makes clear. The SA is therefore incorrect in stating at paragraph 2.3.1 that there is a requirement for all plans to undertake a SEA. However, no screening assessment to determine whether SEA is necessary has been submitted in this case and in these circumstances an environmental report as referred to in paragraph 48 is required.
51. The SA has been prepared to meet these requirements and provide a wider test of sustainability by considering the economic and social impact of the Plan. The Scoping Report identifies the relationship of the Plan to other plans and programmes and identifies the environmental characteristics of the area and relevant issues. Each of the policies in the ANP is evaluated against a set of sustainability objectives for which criteria on which to make a judgement are identified. These objectives and criteria relate closely to the issues listed in paragraph 6 of Schedule 2 of the EAPPR. Positive and negative effects in the short, medium and long term are considered and a brief commentary is given to justify the assessment. For each policy reference is made to alternative policies which have been considered and a do nothing strategy, which would effectively mean reliance of the JCS, DMDPD and SADPD

policies. While a full assessment of the alternatives is not shown there is a clear explanation for the reason for not pursuing the alternatives. The SA also includes a brief non-technical summary of its findings.

52. In almost all cases the effects of the policies when considered against the environmental objectives are positive or neutral. The one exception relates to Policy 12 where the requirements for mitigation against flood risk and the maintenance of open space could adversely affect the viability of developments that would provide new houses. The assessment of alternatives is rather simplified but, as the Plan does not make new allocations, I am satisfied that, having regard to the guidance in PPG that SEA *“does not need to be done in any more detail, or using more resources, than is considered to be appropriate for the content and level of detail in the neighbourhood plan”*,¹¹ the SA meets the requirements of the EAPPR for strategic environmental assessment.
53. The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 changed the prescribed condition for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act to read 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”. Regulation 105 of the Conservation of Habitats and Species Regulations 2017 (CHSR) puts into effect the requirements of Article 6.3 of the EU Habitats Directive and requires that:
*“(1) Where a land use plan -
is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects) and is not directly connected with or necessary to the management of the site, the plan-making authority must before the plan is given effect, make an appropriate assessment of the implications of the site in view of that site’s conservation objectives.”*
Regulation 106 of the CHSR requires that:
“A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 102 or to enable them to determine whether that assessment is required.”
54. The submitted documents include a Habitats Regulations Assessment Screening Report dated August 2018. The report identifies the Broadland Special Protection Area, the Broads Special Area of Conservation and the Broadland Ramsar as three designated European sites which are within 15km of Aylsham. It identifies the characteristics of these areas, and their vulnerability. One of the risks to the Broadland SPA, the Broads SAC and the Broadland Ramsar is *“eutrophication, brought through the build-up of nutrients over a long period primarily through sewage outfalls”*.¹² The report then considers the potential effects of each of the

¹¹ PPG What level of detail is required in a strategic environmental assessment? Reference ID:11-030-20150209

¹² Habitats Regulations Assessment Screening pages 20 and 22 under the heading vulnerability

policies of the ANP. It concludes that there are likely to be no significant negative effects on the European Designated Sites and that an Appropriate Assessment is not required. The main reason for this conclusion is that the Plan does not propose development on a larger scale than has already been subject to Appropriate Assessments of the effects of the JCS, DMDPD and SADPD.

55. This report was the subject of consultation with Natural England and their response, confirming the conclusion of the report, is given in a Habitats Regulations Screening Opinion dated 2018
56. A recent legal judgement¹³ drew attention to the way in which potential mitigation of effects on European designated sites should be considered. In essence the judgement concluded that it is not appropriate to take into account the effect that mitigation proposed in policies of the Plan would have on of any harmful effects of other policies in reaching a conclusion in a Screening Assessment that a full Appropriate Assessment is not required. Any such mitigation should be taken into account at the Appropriate Assessment stage.
57. In this context I have given careful consideration to whether the potential effects of development on water quality in the designated sites have been properly considered in the report, having regard to the limited capacity of the Water Recycling Centre in Aylsham. Comments made by Anglian Water (AW) and the Environment Agency (EA) in relation to policies 1,2 and 12 refer to the potential for harm to the European designated sites in the Norfolk and Suffolk Broads as a result of inadequate sewage treatment capacity and suggest modifications to mitigate that risk.
58. The comments of the EA and AW are considered fully in relation to the relevant policies, but, having regard to the Habitats Regulations, the policies of the Plan are intended to guide development that takes place in accordance with the strategic policies of the JCS and DMDPD and do not themselves propose new development. Moreover, JCS Policy 3 is designed to ensure that sewage treatment capacity is adequate to prevent harm to sensitive environments as a result of pollution. Any provision for mitigation in the ANP relates to the development provided for in the JCS and DMDPD and would assist the delivery of Policy JCS3. It is not required to mitigate the effects of other ANP policies. I have therefore concluded that the conclusion in the Screening Assessment, that a full Appropriate Assessment under the Habitats Regulations is not required, does not conflict with the legal judgement which I referred to in paragraph 56.
59. I am therefore satisfied that the making of the Plan does not breach and is otherwise compatible with European obligations and that the making of the Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

¹³ People over wind and Sweetman v Coillte Teoranta (C-323/17)

Human Rights

60. Nothing in the Plan suggests that there would be any breach of the European Convention on Human Rights.

Vision

61. The Vision for Aylsham is:

“The market town of Aylsham is renowned for its individuality and historical importance. It is vital that these are protected whilst promoting its unique character, excellent location and strong sense of community.”

The Vision clearly expresses the pride of the residents of Aylsham in the character of the town and the entirely appropriate aspiration to maintain it.

Aims and Objectives

62. The Plan sets out 4 thematic aims relating to:

- Employment
- Leisure, culture and sport
- Additional development
- Infrastructure.

63. Each theme has one or more objectives associated with it. The Aims and Objectives will not have the status of development plan policies but as they are used to help shape the policies it is important that they do not point in a direction which would be inconsistent with the basic conditions.

64. The two objectives under the aim *“To develop sustainable employment opportunities”* are to *“encourage a mix of local and national businesses appropriate to the character of Aylsham and the local rural economy”* and *“to support the growth of economic activity serving the needs of local people through employment opportunities.”* Both of these are positively expressed and entirely consistent with the basic conditions.

65. The second aim has just one objective which is *“To support new and existing activities in the town to offer more diversity and encourage social interaction”* and is also consistent with the basic conditions.

66. The third aim is rather more ambiguously expressed: *“To be aware there will be further pressure for additional development in the town and ensure this meets local needs.”* It is supported by three objectives. The first supports *“new housing that meets local needs, with a mix of accommodation suitable for all generations, and which encompasses high quality design.”* While it is appropriate for new housing to meet local needs, neither the aim or the objective acknowledge the strategic context for Aylsham. Aylsham is identified as one of 4

main towns in addition to the City of Norwich in the JCS. Policy 13 of the JCS indicates a requirement for 300 new homes in the period 2008-2026 in Aylsham subject to the resolution of sewage disposal capacity problems.

67. The SADPD allocated two sites, which were the subject of earlier planning permissions, for the development of a total of 550 new dwellings, an area north of Cawston Road for a development of 250 dwellings and an area west of the Aylsham bypass and north of Burgh Road for 300 dwellings. The first of these is nearing completion and construction is well under way on the other. I understand that some additional sewage disposal capacity was created to enable these developments to take place but that little spare capacity remains. The JCS need for 300 dwellings is therefore more than satisfied. However, the timescale for the ANP extends to 2038, 12 years beyond that of the JCS.
68. The preparation of the Greater Norwich Local Plan is still at an early stage and it is not clear whether or not there will be a requirement for Aylsham to accommodate additional growth. The growth options paper which was the subject of consultation early in 2018 referred to a commitment of 350 dwellings in Aylsham, largely reflecting the uncompleted parts of the two permissions I have referred to. The paper set out a range of growth strategies which envisaged new allocations of between 550 and 1650 new dwellings in the 4 main towns in different growth scenarios. The commentary on these placed an emphasis on Wymondham and, to a lesser extent, Diss and Harleston, but there is clearly a possibility that Aylsham will be required to accommodate some of this growth.
69. The focus on local needs in the aim and objective relating to new housing does not address this possibility. While there is no requirement for the Plan to be in general conformity with the emerging Local Plan, and it is at too early a stage for this to be possible, PPG points out that *“the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date-housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan...contributes to the achievement of sustainable development.”*¹⁴ Section 5 of the Plan which is considered below addresses the strategic context to an extent but does not refer to the potential needs arising from the emerging Local Plan. To recognise the role which Aylsham may be required to play in meeting housing need I recommend the following modifications.

Recommendations

Modify Aim 3 to read “To accommodate strategic requirements for development in the town and ensure this meets local needs”

In objective (iv) after “...housing that meets” insert “strategic and”.

70. The fourth aim relates to infrastructure provision and has 5 objectives relating to water and sewerage, healthcare and education, digital communications, integrated public transport and

¹⁴ PPG Can a neighbourhood plan come forward before an up-to-date Local Plan is in place?
Reference ID 41-009-20160211

the road network, traffic management and road safety. Some of these aims are only partly or marginally capable of delivery through neighbourhood plan policies. However, they are all entirely consistent with sustainable development.

71. BDC have commented that there is no objective relating to the natural environment. However, there is no requirement for a neighbourhood plan to address all issues and therefore no modification is necessary to meet the basic conditions.

Sustainable Growth and Development

72. Before the policies section of the Plan, there is a helpful section which does relate the Plan to its wider context and in particular it sets out the main site allocation policies in the SADPD and describes how the Plan responds to the strategic objectives of the JCS. This provides helpful continuity between strategic policy and the ANP.
73. In relation to Objective 2 of the JCS there is reference to “The Local Housing Needs Survey”. I have sought clarification on what this relates to. The responses I have received make it clear that no Housing Needs Survey below the District level has been carried out. This reference is therefore inaccurate and misleading.

Recommendation

On page 24 in relation to Objective 2 delete “The Local Housing Needs Survey has identified the local housing needs for Aylsham and” and replace with “Up to date evidence of housing needs”.

74. BDC refer to the absence of any reference to the emerging Local Plan in this section. While I agree this would be helpful no modification is necessary to meet the basic conditions. There is also reference to the emerging plan under the housing section on page 27.

Policies

75. I have considered all the policies of the Plan against the basic conditions, having regard to the evidence provided to justify them. Where necessary I have recommended modifications. I am only empowered to recommend modifications necessary to meet the basic conditions, to comply with the convention on Human Rights, to comply with the legal requirements in relation to neighbourhood plans or to correct errors.¹⁵
76. In considering the policies I have taken account of all the comments made during the preparation of the Plan with a particular focus on comments made in response to the regulation 16 consultation on the submitted plan. While I have not referred directly to all the comments made I have given attention to all of them.

¹⁵ Section 10 paragraphs (a) – (e) of Schedule 4B to the Town and Country Planning Act 1990

Housing

Policy 1. Improving Housing Design

77. The policy aims to ensure that new homes in Aylsham are built to a high standard and sets out specific design requirements. BDC has commented that the first two criteria are expressed in very general terms, do not add to the provisions of JCS policies 3 and 4 and do not present any specific evidence in support of local requirements. The ANPSG has replied to the effect that there is no guarantee that these requirements will remain in the emerging GNLP.
78. The only evidence provided in support of the emphasis on first time buyers, starter homes and good quality homes for local people is in paragraph 6.14 drawing on the results of consultation. This is not quantified in any way and does not provide any objective evidence of need. While it is true that the policies of the GNLP are as yet unknown, the policy does not effectively add to the guidance in the first bullet point of paragraph 50 of the NPPF.
79. With regard to the encouragement to be given to the requirement for renewable energy, it is not at all clear what this would mean for those making decisions on planning applications. Although the JCS has some specific requirements, these have been superseded by the guidance in the Ministerial Statement of March 2015.¹⁶ This states that *“qualifying bodies preparing neighbourhood plans should not set in their emerging... neighbourhood plans... any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*. Energy standards are now controlled through building regulations and are therefore not a matter for decision makers on planning applications.
80. Criteria III. and IV. relate to the provision of car parking adjacent to or in front of new dwellings and the location and design of garages. I am satisfied that they meet the basic conditions.
81. Criterion V. requires access to rear gardens by a garden gate rather than through homes and criterion VI. requires accessible screened storage space for refuse and recycling within the curtilage of each property. Both requirements are consistent with good practice and are consistent with the guidance in Building for Life 12¹⁷ which is endorsed in the NPPF2¹⁸.
82. The final criterion requires that new homes are not occupied until they have a permanent connection to main sewerage. Both Anglian Water and the Environment Agency have commented that there are concerns about the capacity of the Aylsham Water Recycling Centre, particularly because of the sensitivity of the River Bure because of the European sites in the Broads downstream from Aylsham and because of the potential for additional flows to increase flood risk. They suggest modifications which would require proposals to demonstrate

¹⁶ Planning Update March 2015 Written Statement to Parliament by Eric Pickles Secretary of State for Communities and Local Government

¹⁷ Birkbeck D and Kruczkowski S Building for Life (2015)

¹⁸ NPPF2 paragraph 129

that, where necessary, there is appropriate mitigation of any harmful effects. These modifications would greatly extend the scope of this criterion which is simply designed to ensure that a sewerage connection has been made before a house is occupied. I shall consider these representations further in relation to Policies 2 and 12.

Recommendations

Delete criteria I. and II.

Policy 2. Improving the Design of Development

83. The policy sets out ten criteria relating to the design of new developments. The distinction between the purpose of this policy and that of Policy 1 is not entirely clear. The title suggests that it relates to all new developments and not just housing, but several criteria appear to relate specifically to housing developments. Many of the criteria are expressed in very general terms which add little local detail to design guidance in the NPPF and Policy GC4 of the DMDPD.
84. The first criterion requires development to recognise and reinforce local character in relation to several design characteristics, many of which are referred to in the NPPF¹⁹. It is consistent with the basic conditions.
85. Criterion II requires new development to respect local designated and non-designated heritage assets and their settings and to protect natural assets, the natural environment and biodiversity. This is a very broad and generally expressed requirement, which does not provide any clear guidance to a decision maker beyond that available in national policy. However, it over-simplifies the national policy in some respects.
86. The way in which development affecting designated heritage assets should be considered is clearly set out in the NPPF²⁰. It sets out an approach which balances any harm to the significance of a heritage asset against the benefits of the development. Thus, requiring development to simply protect heritage assets does not reflect this approach. While designated heritage assets are recorded nationally, non-designated heritage assets need to be identified if the policy is to be applied. The Plan does not do this and thus this element of the policy is not enforceable. PPG sets out some very helpful guidance on how neighbourhood plans can address heritage issues.²¹ It suggests that “*where relevant, neighbourhood plans need to include enough information about local non-designated heritage assets including sites of archaeological interest to guide decisions*”. While the Scoping Report for the Sustainability Appraisal lists the listed buildings in Aylsham, it provides no information on their significance or any information on non-designated heritage assets.
87. The requirement to protect natural assets, enhancing the natural environment and biodiversity is again consistent with national policy but provides no local detail.

¹⁹ NPPF paragraph 59

²⁰ NPPF Section 12

²¹ PPG How should heritage issues be addressed in neighbourhood plans? Reference ID 18a-007-20140306

88. I have recommended modifications to reflect the points I have made.
89. Criterion III. Requires new development to demonstrate how it will be integrated with existing homes and the town centre and to incorporate crime prevention principles. This is consistent with sustainable development. Westmere Homes have commented that there may be a conflict between the application of community safety principles and the protection of local distinctiveness. While this may be a design challenge, it is one that should not be insuperable. As the policy applies to all development, the requirement to integrate just with “existing homes” is too narrow. There are some grammatical discontinuities in the policy which I have addressed in recommended modifications.
90. Criterion IV. Does not effectively add to the reference to density in criterion I.
91. Criterion V. encourages the provision of at least 5% of homes as self-build plots on developments of 20 homes or more. Some evidence is presented to support this, but BDC has questioned it and suggested that it does not provide significant evidence of demand for plots like this in Aylsham. It is appropriate and consistent with national policy to encourage the provision of self build plots but there is no clear justification for the figure of 5%. I have therefore recommended the removal of this figure but there is no reason in terms of sustainable development why developments of below 20 dwellings should not also be encouraged to include self-build opportunities.
92. Criterion VI. Requires new roads to be built to adoptable standards. The technical highway standard of road design is not a development and land-use planning matter and thus is not appropriate for a policy in a neighbourhood plan.
93. Criterion VII. relates to the layout of roads and parking and in particular the relationship between them and pedestrian routes, public transport and areas where children play. This is a long criterion which as currently worded is difficult to follow because the structure of the policy as a whole limits it to one sentence. It would therefore be clearer if it was split into two. In the first part “effects” could be positive or negative and I have recommended a minor modification to clarify that it is harmful effects that should be minimised. In the second part it is not clear what “indiscriminate parking means” and I have recommended a modification to prevent parking that would be harmful to highway or pedestrian safety or visually intrusive. Otherwise this criterion meets the basic conditions.
94. Criterion VIII. seeks to incorporate landscaping to mitigate the visual impact of development and retain important trees and hedgerows. I am satisfied it meets the basic conditions.
95. Criterion IX. requires boundary treatment to reflect distinct local character in relation to materials, layout, height and design and, where gardens are not enclosed for new development to replicate this. In many cases boundaries can be erected under permitted development, but where permission is required the criterion meets the basic conditions.
96. Criterion X. requires developments of 10 dwellings or more and all commercial development to undertake a sewerage capacity assessment. Both Anglian Water and the Environment

Agency have highlighted the limited capacity of the Aylsham Water Recycling Centre. AW have suggested that the policy should be strengthened to require a proportionate assessment of sewerage capacity for all development and a requirement for appropriate mitigation of any potential harm as a result of inadequate capacity.

97. I referred in paragraph 56 to the recent legal judgement relating to the way policies which mitigate harm to European sites should be treated in Habitats Screening Assessments. I have concluded that, as the ANP does not itself propose additional development and any mitigation proposed under criterion X. would relate to development proposed in the JCS, SADPD or DMDPD, it would not be mitigating the effects of ANP policies. The inclusion of such requirements would not therefore prejudice the conclusion that Appropriate Assessment under the Habitats Regulations is not necessary.
98. I am satisfied that the modifications sought by AW are consistent with the achievement of sustainable development and will assist the delivery of Policy 3 of the JCS which states that *“The release of land for development will be dependent on there being sufficient water infrastructure to meet the additional requirements arising from the new development and to ensure that water quality is protected or improved, with no significant detriment to areas of environmental importance...”*

Recommendations

In Policy 2:

Delete criteria II., IV. and VI. and renumber the remaining criteria accordingly;

In criterion III. Delete “Demonstrating how they will”, change “integrate” to “integrating” and in the third line delete “, to incorporate” and insert “by incorporating”.

Modify criterion V. to read “Encouraging the provision of self-build housing plots”.

Divide criterion VII. into two, the first of which would be renumbered as IV. to read:

“Designing roads and parking areas within any site to minimise conflict between vehicles and pedestrians which would be harmful to pedestrian safety, and particularly safeguard children in areas where they walk or play.” The second which would be renumbered V. to read “Enabling safe access to public transport with appropriately located bus stops and designing in measures to remove the opportunity for parking which would be harmful to highway or pedestrian safety or visually intrusive.”

In criterion IX. Inset at the beginning “Where possible”.

Modify criterion X. to read: “All new development which requires a connection to the public sewerage network will be required to demonstrate that there is sufficient capacity in the sewerage network to accommodate the development and may be subject to conditions to ensure that dwellings are not occupied until the capacity is available.”

Policy 3. Dementia Friendly Communities

99. This policy encourages development proposals to incorporate the principles of dementia friendly communities and cross-refers to a publication attached in an appendix which expands

on this. In many cases the measures outlined in this publication relate to the detailed interior design and fittings of buildings and are beyond the scope of planning control, but many of the measures reflect principles of good design in Building for Life. I am satisfied, that with the substitution of “appropriate” for “possible” it meets the basic conditions.

Recommendation

In Policy 3:

in the first line replace “possible” with “appropriate”

Environment

Policy 4. Open Space Protection

100. This policy identifies 33 Areas of Important Open Space to be protected unless proposals can demonstrate that the benefit to the community outweighs the loss. The justification for the policy makes it clear that the policy does not seek the designation of these spaces as Local Green Spaces which meet the criteria in paragraphs 76-78 of the NPPF. I visited all these spaces on my visit, and they vary greatly in terms of their size, character and significance. However, in almost all cases it is evident that the spaces contribute to the quality of the environment and the quality of life for residents near to them.
101. The National Trust has objected to the designation of two of the spaces, which are in its ownership, the Market Place and the Buttsland Car Park. I do not accept that the use of these spaces for parking cars precludes their designation as open spaces. Parking is a use that is temporary by nature, and it is clear that both these spaces are important in their own right to the character of Aylsham. The Market Place is the focal point of Aylsham and home to many community events. The Buttsland is an unusual space reflecting its historic use. It also serves as an attractive pedestrian route connecting residential areas to the south to the town centre and is a distinctive part of the urban fabric.
102. However, I see no clear justification for the protection proposed for two of the spaces. The Burgh Road car park is simply a car park. There is no evidence of its use as an open space and it has no special character. Also, the space described as Spratts Green Common appeared to me to be a small overgrown area of woodland and scrub to which there is no easy public access and no sign of any community use. Its designation as common land is not in itself evidence of public access and that depends on the ownership of the rights to it. Indeed, part of the space designated as common land appears closed in as a private paddock. It would be subject to countryside policies but there is no evidence of justification for any other additional protection.

Recommendations

Delete spaces 20 and 30 from Table 3 and delete these spaces from Maps F and J.

Policy 5. Heritage Protection

103. The policy aims to protect Aylsham's historic heritage. This is a legitimate aim and this heritage is clearly vital to the identity of Aylsham. However, to a large extent this policy replicates the provisions of criterion II of Policy 2 which I have recommended should be deleted. I set out in paragraph 86 the approach of the NPPF to the protection of designated and non-designated heritage assets and the difficulty of protecting non-designated assets which have not been identified. I also referred to the guidance in PPG on the treatment of heritage assets. I do not need to repeat these points in full here. The policy as expressed does not add to national guidance and conflicts with it to some extent as it does not fully reflect the balanced approach of the NPPF because it does not refer to the potential benefits of development.
104. BDC has commented that the policy is not necessary, and I agree. While modifications could address the slight conflict with the NPPF they would not add anything to the national guidance. This is not to say that the heritage of Aylsham is not important, this is recognised by the large number of designated heritage assets which already enjoy the protection of national policy. The intention of neighbourhood plans is to put forward policies which relate specifically to local circumstances and this policy does not do that.²²

Recommendation

Delete Policy 5

6. Accessibility and Biodiversity

105. This policy links improvements to accessibility for cyclists and pedestrians to the enhancement of biodiversity and ecological connectivity. It expects new development to take opportunities to connect existing footpaths and for green infrastructure provided as part of new development to improve biodiversity and connections to existing open spaces. The policy is consistent with the support given in the NPPF for priority to be given to pedestrian and cycle movements²³ and to the provision of wildlife corridors²⁴. I am satisfied that it meets the basic conditions.

Local Economy

7. Employment and Tourism Opportunities

106. The policy supports proposals that will create new employment and or increased tourism subject to four criteria. The criteria relate to: respect for their immediate surroundings, appropriateness to a market town or supporting agriculture, impact on the environment and local amenities and effect on the viability of the town centre.
107. The policy is generally consistent with the support given in the NPPF for encouraging the

²² How should the policies in a neighbourhood plan be drafted? Reference ID: 41-041-20140306

²³ NPPF paragraph 35

²⁴ NPPF paragraph 117

growth of the rural economy²⁵. However, the NPPF encourages support for the growth of all types of business whereas the second criterion limits it to businesses “appropriate to a market town or support rural farming or agriculture”. It is not clear how it is to be determined whether a business is appropriate to a market town. The other criteria relating to environmental impact or effect on the town centre would effectively control the scale and impact of business development and I accept that these are necessary to ensure that development is sustainable. Apart from these criteria, any assessment would be subjective and potentially in conflict with the NPPF.

Recommendation

In Policy 7 delete the second bullet point.

Policy 8. Mobile Communications and Broadband

108. This policy supports the enhancement of mobile communications and ‘superfast broadband’ infrastructure. This policy reflects the support given in the NPPF to improved telecommunications but does not add to Policy 6 of the JCS. It provides no guidance for decision making that is not already contained in the NPPF and JCS.

Recommendation

Delete Policy 8

Recreation

Policy 9. Additional Community Facilities

109. Policy 9 supports proposals which relate to the provision of additional community and recreation facilities and the provision of parking near the town centre subject to compliance with other development plan policies. This policy reflects the strong support for such facilities in the NPPF and the JCS. There is an ambiguity in the proposed wording as it is not clear whether the words “near the town centre” are intended to apply to the full list of facilities or just parking. It has been clarified to me that it only applies to parking and I have recommended a modification to make that clear. The second part of the policy is not necessary as it is generally understood that the relevance of all development plan policies is to be taken into account in the consideration of any planning application.

Recommendation

In Policy 9:

**In the second line insert “and” before “sports” and in the third line insert “to” after “and”.
Delete the last three lines.**

10. Planning Gain

²⁵ NPPF Paragraph 28

110. This policy seeks the involvement of ATC in the negotiation of planning obligations and the inclusion of ATC as a signatory to all s106 agreements relating to open space and community facilities.
111. The title of the policy, “Planning Gain” suggests that there is a misunderstanding of the purpose and scope of planning obligations. Planning obligations are not intended to be a way of securing desirable improvements to community infrastructure, though they may contribute to this in some instances. They are only to be used where they are:
- Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.²⁶
112. Both BDC and Westmere Homes have objected to the policy on the basis that it is not a planning policy relating to development.
113. It is for the local planning authority to determine whether a planning obligation is necessary and what the terms of it should be. While there may be some circumstances in which it would be appropriate for ATC to be a signatory, where it is directly affected by the terms of the agreement, it is not within the powers of a neighbourhood plan to alter the powers clearly given to the local planning authority in section 106 of the Town and Country Planning Act 1990.
114. It is of course possible for the local planning authority to consult ATC on the terms of a planning obligation at its own discretion. It is appropriate for ATC to encourage BDC to do this in the supporting text, as paragraphs 6.134 and 6.135 do, but this is not something that the neighbourhood plan can require through a policy. ATC will of course have the opportunity to express a view on the need for and terms of a planning obligation as a statutory consultee on all planning applications.
115. PPG does identify a role for neighbourhood plans in the formation of policies on planning obligations²⁷. Such policies would set out the circumstances in which obligations would be sought and how they would be applied. However, this is not such a policy as it relates to the procedure for planning obligations rather than their scope.

Recommendations

Delete Policy 10 and paragraph 6.132 in the supporting text

11. Management of Open Space

116. Policy 11 is designed to ensure that green infrastructure provided as part of new developments is managed and maintained in a sustainable way. It sets out three possible ways in which this could be done: transfer to ATC with appropriate funding, or transfer to BDC

²⁶ NPPF paragraph 204

²⁷ PPG Should policy on seeking planning obligations be set out in the development plan? Reference ID: 23b-003-20150328

or a legally binding arrangement for management by a management company. I am satisfied that satisfactory arrangements for the management of open space are essential to achieve sustainable development and that the policy meets the basic conditions.

Infrastructure

Policy 12. Flood Risk

117. The policy aims to ensure that new development does not result in flood risk either within the site or elsewhere. It also lists appropriate mitigation measures to reduce the risk of flooding. BDC has stated that the policy largely overlaps with Policy 1 of the JCS and Policy CSU5 of the DMDPD and does not add any local detail. The policy is expressed in much more detail than Policy 1 of the JCS but it is true that there is a very substantial overlap with Policy CSU5. However, the ANPSG point out that the end date for the ANP extends substantially beyond that for the DMDPD and there can be no certainty what policies will be contained in the emerging GNLP. I accept this argument, but it is unfortunate that the Plan does not take the opportunity to present information on the areas at risk of flooding in Aylsham and on the incidence of flooding in recent years.
118. The Environment Agency has commented generally in support of the policy and that it is investigating the reasons for flooding that takes place in Aylsham and whether there are ways in which it could be reduced. This is the kind of information that would be appropriate in a neighbourhood plan, and reference to this work would enable the policy to reflect the specific circumstances of Aylsham and thus more effectively reflect PPG. I have therefore recommended a modification to this effect. The Environment Agency has also commented that the location of new development should be subject to a sequential test, but this is not necessary as it would replicate the provisions of the NPPF²⁸.
119. Anglian Water has replicated the comments it made in relation to Policies 1 and 2 about the risks of downstream flooding as a result of inadequate capacity in the foul sewerage network. It has suggested that the policy should be extended to require appropriate mitigation of any flood risk resulting from new development. This is consistent with the modification I have recommended to Policy 2 X. and with sustainable development.
120. Norfolk County Council has pointed out errors in the reference to their role as Lead Local Flood Authority.

Recommendations

Modify the introductory paragraph to the second section of Policy 12 to read: “Development proposals must demonstrate that they have taken account of the most up to date information from the Environment Agency and Anglian Water on the risks and causes of flooding in Aylsham, and how these can be addressed. They must also include appropriate measures to manage flood risk and to reduce surface water run-off to the development and

²⁸ NPPF paragraph 100 and attached technical guidance

wider area such as:"

Modify the third bullet point of the first section of the policy by adding "and include appropriate mitigation of any risk of downstream flooding identified by the sewerage capacity assessment required by Policy 2 X."

In paragraphs 6.157 and 6.158 correct the reference to the role of Norfolk County Council to "Lead Local Flood Authority".

Policy 13. Streetlights

121. Policy 13 requires that where street lighting is required in any development it minimises light pollution in accordance with standards set out in a standard Clause used by ATC in response to planning applications. Measures to minimise light pollution are consistent with paragraph 125 of the NPPF and the requirement for low energy lights is in general conformity with Policy 1 of the JCS and EN4 of the DMDPD. While these standards recommended by ATC appear to make sense, I do not have any evidence that these are recognised standards which are technically sound or appropriate in all circumstances. I therefore cannot be sure that the enforcement of these standards would be consistent with the presumption in favour of sustainable development. I have therefore recommended a minor modification to reflect this uncertainty.

Recommendation

In policy 13 line 4 after "...street lighting and" insert ", where appropriate,"

Policy 14. Sustainable Transport

122. Policy 14 requires development to provide access and linkages to existing footpaths and cycleways so as to encourage the use of sustainable transport modes. The second part of the policy partly duplicates the first but has a slightly wider scope aiming to encourage the use of sustainable transport more widely. The aims of the policy are entirely in alignment with the priority attached to sustainable transport in the NPPF²⁹ and Policy 6 of the JCS.
123. The structure of the second sentence is not grammatical as it does not have a main verb. I have therefore recommended the restructuring of the policy into two parts, putting the second part first as the measures identified in the first part (prior to amendment) are one example of the broader intentions of the second part.
124. BDC has suggested that there is an error in the supporting text at paragraph 6.169, which states that there is no connection from the new development at Willow Park to the footpath network. ANPSG has responded, acknowledging that a connection has now been made to Marriot's Way but that because the footpath is unlit and unsurfaced it is only a practical route in daylight hours. I have some sympathy with the view of the ANPSG as the pedestrian links to the Marriot's Way development are intermittent and not clearly legible. In particular there is no footpath along the section of the B1145 between Cawston Road and Mileham Drive or along Cawston Road from its junction with the B1145 to the former railway bridge which

²⁹ NPPF paragraphs 29, 34 and 35

carries Marriot's Way. I have recommended a modification to correct the inaccuracy and reflect the actual position.

Recommendations

Modify Policy 14 to read:

Development should where appropriate and practicable:

- a) create opportunities to enhance and encourage the use of sustainable transport modes through the provision of footpaths, cycleways and public transport improvements;**
- b) provide access, connectivity and linkages to the existing network of footpaths and cycleways and, in particular to the town centre, schools, community facilities and recreational spaces.**

Modify paragraph 6.169 to read "Although the new Willow Park development is connected to Marriot's Way, this does not provide good access to the town centre or wider services as it is not lit and unsurfaced and therefore only safely usable in daylight hours. Thus, new residents are somewhat isolated from the town centre and likely to access local services or facilities by using a car or walking along the B1145 or Cawston Road, where footpaths are not continuous."

15. Traffic Impact

- 125. Policy 15 requires all new development of 10 or more dwellings and all commercial proposals to quantify the level of traffic movements they are likely to generate and their cumulative impact with other developments in and around Aylsham. The policy also requires the assessment to include appropriate and proportionate measures to mitigate harmful effects. Norfolk County Council has commented that the threshold for such an assessment is below that formerly used in national guidance, which was 50 dwellings, and BDC has suggested that this issue is effectively covered in higher level policies. Policy TS2 of the DMDPD requires the preparation of traffic assessments or travel plans for major developments.
- 126. I accept that there is an element of overlap between Policy 15 and Policy TS2. However, I also recognise the significance attached to transport issues by the local community in their comments on the Plan. Policy 15 is in general conformity with Policy TS2 but provides more detail on the issues that should be addressed in any study relating to Aylsham.
- 127. The NPPF requires that *"All developments that generate significant amounts of movement should be supported by a Transport Statement or Traffic Assessment"*³⁰. It also expects a Travel Plan for such developments³¹. These requirements are combined in NPPF2³².
- 128. The requirement for mitigation measures in Policy 15 recognises the need for these to be *"appropriate and proportionate"*. However, the first part of the Policy does not qualify the scope of the assessment of traffic generation in any way. The effects of relatively small

³⁰ NPPF Paragraph 32

³¹ NPPF Paragraph 36

³² NPPF2 Paragraph 111

commercial and residential developments are likely to be very local in nature and the requirement for the assessment to quantify “*cumulative effects with other developments in and around Aylsham*” is potentially very onerous for such developments. It is likely to require complex traffic modelling and would be disproportionate in the light of NPPF guidance that “*development should only be refused on transport grounds where the residual cumulative impacts of development would be severe*”.³³ I have therefore recommended a modification to make the requirement for a transport assessment proportionate to the scale of development, using the thresholds previously used, which the County Council has suggested may still be useful. Subject to this modification I am satisfied that the policy meets the basic conditions.

Recommendation

In the first part of Policy 15, delete “and its cumulative effect with other developments in and around Aylsham.” And insert “. The scope of the assessment will be proportionate to the scale of development and for residential developments of more than 50 dwellings and commercial developments of more than 250sq.m. should be agreed with the highways authority.”

16. Healthcare and Educational Facilities

129. Policy 16 supports the provision of additional healthcare and educational facilities to meet the needs of the growing population of Aylsham. This aim is entirely consistent with national and local strategic policy. The last part of the Policy refers to the requirements of other development plan policies. As stated earlier, it is not necessary to include this requirement.

Recommendation

In Policy 16 insert a full stop after “...will be supported” and delete the rest of the policy.

Delivery, Implementation and Monitoring

130. Section 7 of the Plan sets out the approach of ATC to the delivery of the Plan, highlighting the areas in which it will seek to co-operate with other agencies to achieve the aims and objectives of the Plan. It also refers to the potential of the Community Infrastructure Levy (CIL) and planning obligations in delivering infrastructure improvements. I note BDC’s comment regarding the separate streams of funding to the District and Town Councils from CIL, but there is no need to change the wording to meet the basic conditions.

Conclusions and Referendum

131. The Aylsham Neighbourhood Plan has been prepared to influence the form of new development rather than promote additional development. It does not preclude additional

³³ NPPF Paragraph 32

development but leaves decisions on the scale of new development to existing strategic policies and the emerging GNLP. It also aims to protect and reinforce the distinctive character of Aylsham.

132. In carrying out my examination I have found it necessary to recommend several modifications to some policies and the deletion of part or all of others in order to meet the basic conditions. Many of the suggested modifications are minor in nature and are designed to clarify the intentions of the policy and give clearer guidance to decision makers. In some cases, I have found it necessary to delete policies or parts of policies because they are not clearly justified or because they do not add to national policy.

133. Subject to the modifications that I have recommended, being made, I am satisfied that:

- The Aylsham Neighbourhood Plan has been prepared in accordance with Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 and the Neighbourhood Planning Regulations 2012 (as amended) and that;
- Having regard to national policies and advice contained in guidance issued by the Secretary of State it would be appropriate to make the Plan;
- The making of the Plan would contribute to the achievement of sustainable development;
- The making of the Plan would be in general conformity with the strategic policies of the development plan for the area;
- The Plan would not breach and would be otherwise compatible with European Union obligations and the European Convention on Human Rights and
- 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.

134. I am therefore pleased to **recommend that the Aylsham Neighbourhood Development Plan should proceed to a referendum subject to the modifications that I have recommended.**

135. I am also required to consider whether or not the referendum area should extend beyond the Neighbourhood Plan Area. I have seen nothing to suggest that the policies of the Plan will have “a substantial, direct and demonstrable impact beyond the neighbourhood area”.³⁴ **I therefore conclude that there is no need to extend the referendum area.**

Richard High

6 March 2019

³⁴ PPG Reference ID: 41-059-20140306