

BRECKLAND DISTRICT COUNCIL

Report of: Paul Claussen: Executive Member for Planning

To: Cabinet: 20 September 2021

Author: Simon Wood: Director of Planning and Building Control
Andrew D’Arcy: Planning Policy Manager

Subject: Local Plan Review

Purpose: To seek Cabinet’s approval for changes to the proposed approach in respect of the Local Plan review

APPENDICES 1, 2 AND 4

APPENDIX 1: CHANGES IN CIRCUMSTANCES

Uncertainty and delays to the publication of the housing requirement and delays to work on the revised Strategic Housing Market Area Assessment (SHMAA)

- A1.1 In his Report, the Local Plan Inspector concluded that the Council should review the Plan evidenced by the outputs of a new SHMAA underpinned by the 2016 based housing figures that were published in September 2018. The 2016 based figures had already been replaced by MHCLG, that in February 2019 had announced that it would be undertaking a review of the methodology used for calculating the standardised housing figures and in the interim had reintroduced the 2014 based figures for the purposes of calculating the Government's 'Standard Method'. This conflicts with the content of the Inspector's Report that requires the use of the 2016 figure. It is considered that using the 2016 figures would have resulted in the Review being found unsound at examination. Furthermore, a review of Policy INF 03 based on the 2014 based figures would have meant that by the time of Submission in November 2022, the baseline for these figures would have been 8 years old and would likely have been superseded before the submission date. This could have resulted in the Council being required to undertake a further immediate review. It is considered that using 2014 based figures would be appropriate for councils who were at an advanced stage of plan preparation but not for those where a review was yet to begin.
- A1.2 The Review of the housing figures was not completed until December 2020 when the Government announced the outcome of its consultation on the standard method for calculating housing need. This produced a figure of 661 dwellings per annum for Breckland District. The transitional arrangements for those preparing plans using the 2014 housing figures were that for local authorities who are very close to publishing their Regulation 19 plan, there is a three-month window to publish their Regulation 19 plan for consultation, followed by the six months to submit. Critically, this means that if Breckland had commenced work on an immediate partial review of the Plan using the 2014 figures, it would have to have been in a position to consult on the Regulation 19 Plan by March 2021 and to submit by September 2021. Given the scope of the Review required by Policy INF 03, this would have been an impossible and unachievable task due to the amount of key evidence that would have been required, including a new Housing Needs Assessment, Gypsy and Traveller and Travelling Showpeople Assessment (GTAA) and internal space standards work as well as the statutory duty to prepare and consult on emerging formulative policies and proposals prior to submitting a Regulation 19 by September 2021.
- A1.3 The publication of this figure finally means that the Council can now commence meaningful work on the review of the Plan as required by Policy INF 03. However the Council has effectively lost 14 months of time due to the ongoing uncertainty of what the housing requirement would be as a basis to prepare the SHMAA and could not have met the transitional arrangements now confirmed by the Government in submitting its Regulation 19 Plan by September 2021 using the 2014 housing figures. Therefore, any work completed in the last 14 months would need to have been revisited and effectively statutory work on the Plan restarted.

- A1.4 To further complicate the situation in March 2021 the Office for National Statistics (ONS) published new data on the affordability of housing within local authorities across England and Wales. This data feeds into the government's standard method for calculating local housing need, against which councils set their housing targets. For Breckland this has reduced the annual requirement to 643 dwellings per annum (March 2021).
- A1.5 There has clearly been considerable uncertainty regarding the housing requirement element which the review of Policy INF 03 would need to plan for. In the meantime, the continuing strong performance in housing delivery as demonstrated by the Council's 5 Year Housing Land Supply position demonstrates that the adopted local plan's requirement figure (612), that is similar to the new 643 requirement is sufficient to meet need arising in Breckland and reduces the need for a partial review.
- A1.6 The adopted Local Plan is evidenced by the 2016 SHMAA that was jointly commissioned by the Central Norfolk local authorities (Norwich City, Broadland, Breckland, North Norfolk and South Norfolk, together with the Broads Authority Executive Area) as this best reflects the functional housing market within which Breckland lies. At the time the Local Plan was being finalised it had been envisaged that the housing requirements for a review would be based upon a joint review of the SHMAA. During 2020 the partner authorities worked together to agree a tender brief for the review of this key piece of evidence.
- A1.7 In September 2020, as a result of the uncertainty on how best to proceed with the Study, following the publication of the Changes to the Planning System consultation Paper, it was agreed that work on this document be paused until the results of the consultation were published.
- A1.8 In January 2021 it was agreed to consider ways in which work on the Study could be revived following the publication of the new standardised housing figures. Although Breckland remained committed to the review of the Study, at these discussions both Norwich City, Broadland and South Norfolk confirmed that they did not want to commit to a full review of the SHMAA as this could undermine the progress on its local plan, that has now been submitted for examination. This is because the housing element of the Plan is underpinned by the existing SHMAA.
- A1.9 Due to delays out of the Council's control, including the publication of the Government's consultation paper and the more recent decision by the Greater Norwich Local Plan Partnership has resulted in Breckland now having to commission its own SHMAA resulting in unavoidable delays to any prospect of delivering a review of the Local Plan within the timeframe prescribed by Policy INF 03.

The National Planning Policy Framework

- A1.10 The adopted Local Plan was examined under the 2012 National Planning Policy Framework. The revised National Planning Policy Framework (NPPF) was published in July 2021. This introduced a number of new plan-making requirements, including:
- a clear distinction between strategic and local policies,

- entry level homes;
- a time horizon of a minimum 15 years and at least 30 years for larger scale developments such as new settlements or significant extensions to existing villages and towns;
- a new focus on the design quality of *places and on* making ‘beautiful’ and ‘sustainable’ places, through the use of plans, design policy, guidance and codes including the statement that all *local planning authorities should prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code, and which reflect local character and design preferences;*
- A statement that local authorities, in regard to public service infrastructure, should work proactively and positively with promoters, delivery partners and statutory bodies to plan for required facilities and resolve key planning issues before applications are submitted.

A1.11 Many of these new elements of the NPPF relate to the delivery of housing. When combined with the need for a minimum 15-year horizon and in order to comply with the NPPF provisions regarding strategic policies (including the overall housing number as set out in Policy INF 03) and for the review to continue to plan for the period to 2036 (as with the current plan period) it would be necessary for the review to be adopted by November 2021. This is a year before the requirement in Policy INF 03 requiring the Plan to be submitted. Allowing for the examination this would have meant that the Plan would have needed to have been submitted at least 12 months prior to this date (November 2020) only 12 months after the adoption of the current Plan. When this is combined with the uncertainty over the housing requirement, such a deadline was never going to be an achievable option. The Council would then also be required to undertake an immediate full review of the Plan to take account of the need to keep plans up to date every 5 years and to reflect the outcomes of the forthcoming planning reforms.

Economic Development

A1.12 The Inspector referred to the dualling of a section of the A47 near Dereham to be completed by 2020 and that the effect of this on the economic strategy needed to be considered in the partial review. This refers to the proposed dualling of the A47 between North Tuddenham and Easton. The latest available information on the implementation of this scheme is that the Development Consent Order was lodged in Spring 2021, and the examination commenced in August. Work is scheduled to start in January-March 2022-23 and be completed in 2024-25. This timescale is considered to dovetail with a substantive review of the Plan and can be factored into this work.

Gypsy and Travellers

A1.13 The Inspector considered that Policy HOU 08 of the Plan should be reviewed in respect of meeting the identified demand for Gypsies and Travellers’ Sites under the Planning Policy for Travellers Site guidance 2015 (PPTS). The Council is yet to commission an up to date needs report for this particular issue. This work was to form part of the full review of the Plan as agreed in June 2020.

A1.14 The Council is aware of a recent hearing in the High Court (December 2020: *Lisa Smith v Secretary of State for Housing, Communities and Local Government*) that

raises questions of significant public interest concerning discrimination against Gypsies and Travellers. In particular Ground 1 concerns whether the definition of “Gypsies and Travellers” contained in Annex 1 of the PPTS is unlawfully discriminatory. That definition excludes, from the PPTS’ ambit, any Gypsy or Traveller who has ceased to travel “permanently”. That will exclude, for example, those Gypsies or Travellers who have permanently ceased to travel due to old age, disability or due to caring responsibilities.

- A1.15 In June 2021 the High Court found that the definition of “Gypsies and Travellers” is not unlawful. However, the timing of the judgement has meant that it is now unrealistic and unfeasible for the Council to complete the review of Policy INF 03 within the prescribed timescale set out in that Policy. In the meantime, applications will continue to be considered on their individual merits on a case by case basis with reference to policy HOU08 of the Local Plan.
- A1.16 Whilst it is possible that the total number of those meeting the definition and those not meeting it would be the same, it is important to note that only the need from those households who meet the definition and from those of the 'unknown' households who subsequently demonstrate that they meet it should be considered as need arising from the GTAA and that would need to be addressed through site allocation/intensification/expansion policies. The need for those households who do not meet the new definition will need to be addressed through other means such as the SHMAA.
- A1.17 Furthermore, the evidence base (2015) is relatively old and to rely on it could be challenged. Even if not, a review would be necessary in the near future to update the position and this could result in the Council having to identify more sites than in the partial review. Paragraph 31 of the NPPF states....’ *The preparation and review of all policies should be underpinned by relevant and up-to-date evidence*’. The Council considered that it would be prudent to await the outcome of this case and whether it would consequently require a change to the PPTS before commissioning an update to its evidence base.

Planning Reform

- A1.18 For some time, the Government had been signaling its intention to make radical changes to the planning system in England. The Covid-19 pandemic brought about some immediate changes to certain aspects of planning policy – such as enabling pubs to offer hot food takeaway services – while other, substantial changes to the planning system, aimed (the Government says) at creating a new system suitable for the 21st century, were published for consultation on 6 August 2020 through the White Paper Planning for the Future. The Government also proposed some changes to the current planning system and launched a concurrent consultation about that.
- A1.19 The consultation documents proposed fundamental changes to both the content of future local plans and to the way that they are to be prepared. Critically, the consultations also set out a new proposed methodology for the calculation of the new standardised housing number. For Breckland this calculation would have resulted in an annual housing figure of 1,077 dwellings.
- A1.20 As a result of these consultations Breckland resolved to pause work on the review of the Local Plan until there was greater certainty on the Plan making process and

in particular on the housing figures. The Council did not want to embark on potentially expensive and abortive work on the review as the Review would not have progressed to a sufficiently advanced stage by the introduction of any reforms (suggested to be November 2021) to trigger any transitional arrangements.

- A1.21 It is considered that this decision has now been further vindicated following the announcement of the Planning Bill in the Queen's Speech (May 2021). This confirmed the Government's intentions to press ahead with a root-and-branch shake-up of the planning system with the inclusion of a forthcoming planning bill. The bill, which is expected to be brought before Parliament in the autumn, is being designed to enact planning reforms trailed in last summer's planning white paper.
- A1.22 It is clear that councils will be required to prepare new local plans. At the LGA Annual Conference (July 2021) the Secretary of State for Housing stated *'Let me be clear, the proposals we will bring forward later in the year will be council led. They will also be plan led; in fact they will emphasise plans more than ever before. They will require up to date plans for every local authority because that at the end of the day is the foundation of a plan-based system'*.
- A1.23 What remains unclear is the degree of reform that the Government intends to propose to the plan making process and the timetable for introduction. The proposed planning reforms are facing scrutiny and there is pressure to abandon the proposals that are expected to be published in the autumn. The planning reforms are reportedly being blamed for the Conservatives' recent defeat in the Chesham and Amersham by-election. Earlier this month the Housing, Communities and Local Government (HCLG) Select Committee published a report urging the government to reconsider the reforms, which include a zonal approach for planning and replacing Section 106 with a national infrastructure levy.
- A1.24 The Planning Bill comprises several key strands to create what the government says will be a more streamlined process. These include:

- A traffic light system of zone planning

- A1.25 In August, the government recommended that a traffic light system of zone planning should be introduced which will classify land for either:

- Growth
- Renewal
- Protection

Land in growth areas will benefit from automatic permission, while land in urban renewal areas will be granted permission in principle.

- A digital planning system

The document-based planning system currently in effect would move to a digital one. This is designed to improve the speed and efficiency of application decisions and allow residents to be more engaged in the development of their local area.

- Scrapping Section 106

A new infrastructure levy has been proposed to replace Section 106, a legal agreement between an applicant seeking planning permission and the local planning authority. However, details on how the levy would work are yet to be outlined. The HCLG Select Committee is against this proposal and says it could jeopardise the availability of affordable housing in the UK.

- A Design Code

The reforms would also incorporate a National Model Design Code to improve the beauty, quality and design of homes in England. The code will include a 10-point checklist of design principles for councils to consider when approving new developments. The code also includes references to custom and self build, with accompanying guidance underlying how design codes can encourage self build and custom build developments.

- A1.26 The Housing Minister also re-iterated the commitment to the Future Homes Standard that will ensure that, from 2025, all new homes will be expected to have at least 75% lower carbon emissions and be zero carbon ready without the need for expensive retrofitting.
- A1.27 In May 2021, the Government published a Written Ministerial Statement to set out the Government's plans for the delivery of First Homes defining the product as affordable housing. These changes came into effect in June 2021 and would need to be considered in the Review of the Plan.
- A1.28 The Environment Bill was introduced in the House of Commons in January 2020. It has since been delayed three times, with ministers stating that the Covid-19 pandemic left too little parliamentary time for debate. The bill includes various environmental protection measures, these include the establishment of new environmental principles and legally binding environmental targets, including achieving net-zero greenhouse gas emissions by 2050.

Internal Space Standards

- A1.29 The Council acknowledges the Inspector's requirements to reconsider these optional standards as part of the partial review but considers that as these are optional the timing of when and if this is completed is a decision for the Council and can be done through a full review and should not be required to be submitted by November 2022. If the Council wanted to introduce optional standards then the requirement to undertake a viability assessment on this (as required by the Inspector) could impact on other parts of the plan, including critically remaining housing allocations. Therefore, standards cannot be considered to be a discreet and isolated part of the plan and as such are better considered as part of a full review that would also revisit existing allocations and be subject to a new plan wide viability assessment

APPENDIX 2: EXAMPLES OF THE EVIDENCE BASE THAT WILL BE AVAILABLE FROM OTHER SOURCES

- Norfolk Strategic Planning Framework
- Elderly Accommodation and Support Needs Study
- 4G and 5G / Broadband Infrastructure Guidance
- Climate Change topic paper
- Water Resources East
- Norfolk Green Infrastructure (GI) and Recreational impact Avoidance and Mitigation Strategy (RAMS)
- Norfolk and Suffolk's Local Industrial Strategy
- Breckland Town Delivery Plans
- Breckland District Council: Supply & Demand Study: Commercial Property and Allocated Land
- The Cambridge – Norwich Technology Corridor: Future Demand Study
- Breckland Sustainable Strategy
- Norfolk Local Energy Asset Representation
- Anglian Water (Water Resources Management Plan)

APPENDIX 4: COMPARATIVE STAFFING RESOURCE

| Name | Population | Area | Parishes | Resource |
|-----------------------------|--------------------|------------|-----------|---|
| Breckland | 140,000 | 1,035 | 113 | 3 FTE ¹ |
| Broadland and South Norfolk | 130,000 138,000 | 552 907 | 65 118 | 9.1 FTE Shared resource with South Norfolk Place Making Manager shared with Norwich City Joint Local Plan being prepared with Broadland and South Norfolk |
| Great Yarmouth | 100,000 | 174 | 21 | 6 FTE: Includes Tree work |
| Kings Lynn | 152,000 | 1,439 | 101 | 7 FTE: Includes Community Infrastructure Levy work |
| North Norfolk | 104,000 | 962 | 121 | 6.5 FTE |
| Norwich City | 213,000 | 52 | 0 | 6.5 FTE |

¹ This compares to 5.5 FTE in 2013