



06.10.2017

Mr S Vincent
Holt Neighbourhood Plan
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The Close
Norwich
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Via email: shaun.vincent@Abzag.com

Ref: 967.01.03.a Holt NP SA scoping IW

Dear Mr Vincent,

Sustainability Scoping Report of the emerging Holt Neighbourhood Plan

I refer to your email on behalf of Holt Town Council concerning a formal consultation on the emerging Sustainability Appraisal (SA), Scoping Report relating to the Holt Neighbourhood Plan dated 08.09.2017.

The Council as the Local Planning Authority has the responsibility for the neighbourhood planning process in the District. It is the role of the Council to provide advice and assistance and to take decisions at key stages in the neighbourhood planning process. In doing so it is important to note that the Council must satisfy itself that any future submitted neighbourhood plan complies with the relevant statutory requirements and it is incumbent that the neighbourhood plan group (the qualifying body) liaise with officers to establish and where necessary agree the process and required documentation to ensure that the authority has all the information it needs.

The comments contained in this letter although lengthy, are intended to be informative and constructive to aid the formation of a sound document and the effective formation of and use of policies that complement the wider existing and emerging Development Plan.

There are a number of misleading statements and inaccurate interpretations in the consultation document around the legislative process and the requirements of neighbourhood planning. If these are left unchecked there is the potential to carry forward serious issues into those later stages of the neighbourhood plan making process and examination.

It is strongly recommended before the next stages are embarked upon that the neighbourhood plan group engage with officers of the Council, not only to establish the required process but also in compilation of the emerging plan's content and structure. This letter highlights some of the areas of concern however I would strongly advise the Holt neighbourhood plan group make an appointment to see me where I will explain these fully and seek agreement on how to take the emerging neighbourhood plan forward. In the meantime your attention is drawn to a series of guidance notes which have been issued to assist local communities in the production of neighbourhood plans which can be found on the council's web site:

<https://www.north-norfolk.gov.uk/tasks/planning-policy/neighbourhood-planning/>

Detailed in the guidance are links to independent guidance that detail how neighbourhood plan groups should engage with their local authority as well as guidance around when it is appropriate to undertake a Sustainability Appraisal and, Strategic Environmental Assessment, who should undertake these and how.

Contrary to the assertions in the consultation document there is no requirement to undertake a Sustainability Appraisal SA in the Neighbourhood Planning Regulations, nor is there a requirement to produce a Sustainability Appraisal Scoping Report. It is recognised that in some cases, depending on the content of the emerging neighbourhood plan, undertaking an SA may offer the precautionary route of demonstrating how the neighbourhood plan meets one of the "basic conditions" tests; however there is no requirement to undertake such a scoping report. In such cases the national Planning Practice Guidance is clear that where a Sustainability Appraisal is carried out material produced for the Local Plan would be relevant.

If the group is intent on undertaking an SA then the interim SA Framework, already developed for the Local Plan and freely available, should be used. This will also help the neighbourhood plan group demonstrate conformity with the Local Plan. However it is considered that such an approach has the potential to add a significant and potentially unnecessary amount of complexity to the process as well as adding to the financial burdens and costs of producing a neighbourhood plan by incurring additional consultant's costs. At this stage it is thought that undertaking an SA may not be necessary. It is not yet clear what areas of land use planning the neighbourhood plan is seeking to address and until this has been established it is hard to advise on the most appropriate approach.

Sustainability Scoping Report

It is noted that the SA Scoping Report contains a series of Objectives for the Holt neighbourhood plan. This is the first time officers have seen these Objectives and it is considered that the SA Scoping Report is not the correct place to seek consultation feedback on the aspirations that the neighbourhood plan group are suggesting the plan seek to address.

It is recommended that the Vision and Objectives are grounded by evidence, consulted on through community consultation and that they are sense checked with

the local authority to make sure they are deliverable and offer a suitable foundation from which to build a Land Use Plan which will be used in the determination of planning applications. For example objective three is seeking to make affordable housing in “sensitive areas” occupied by “local people”. Putting aside the ambiguity around what is meant by “sensitive areas” any policy approach which seeks to add further local connection criteria outside of the Council’s Choice Based Lettings Scheme would not only be contrary to the Councils allocation policy but also contrary to the legislation to which Local Authorities must conform to. Any such policy has the strong potential to be in direct conflict with the statutory requirements of the Council and the policies of the Local Plan to which neighbourhood plans are required to be in general conformity with. Other neighbourhood plans which tried to go down this route have all been revised. Our advice is that these Objectives should be refined to ensure they create an appropriate basis from which land use policies can be derived.

There is concern that the Scoping Report as presented is misleading in places, while in others it is incorrect in its interpretation of the legislation and due process. Going forward it is recommended that officer’s opinions are sought so that there is a mutual understanding between officers and the neighbourhood plan steering group around the neighbourhood plan process and the documentation required.

Although there is an acknowledgment that the Council’s SA Scoping Report has informed the development of this report, it would appear that the content has in places been largely reproduced from the Council’s own document. Text, Maps and diagrams should as a minimum be acknowledged and identified by source. Permission should be sought before reproducing images and maps, and it is also worth noting that more updated mapping around flooding and in particular surface water flooding could have been provided. The Document Review contained in appendix 3 is a reproduction for the Local Plan SA Scoping Report 2016; it is unlikely to have been used to inform the development of the SA Framework contained in this document.

It is not known if the Holt Town Council has obtained a public sector mapping licence for the reproduction of OS mapping. If they have then the appropriate license number should be displayed on each map otherwise the group should contact the Council for advice.

SA Framework

A Sustainability Appraisal is a systematic process. Its role is to promote sustainable development by identifying indicators and assessing the extent to which emerging plans, when judged against reasonable alternatives, will help achieve relevant environmental, economic and social objectives. The SA Framework contained in the Holt neighbourhood plan SA Scoping Report is largely a reproduction of that contained in the Local Plan Draft Sustainability Appraisal Scoping Report consultation version September 2016. It is not the case of picking and choosing which Objectives to use as all the Objectives are relevant for all communities across the District. As

such these should all be used in any Sustainability Appraisal of the Holt neighbourhood plan. You should also be aware that since the publication and consultation of the Local Plan Draft SA Framework it has been updated. These updates have not been reflected in the Holt SA Scoping Report. It is recommended that going forward the Holt neighbourhood plan adopt the use of this readily available and updated SA Framework.

Strategic Environmental Assessment

In some limited circumstances, where a neighbourhood plan is likely to have a significant environmental effect, it may require a strategic environmental assessment. The guidance is clear that draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects. This process is commonly referred to as a **screening assessment** and the requirements are set out in [regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004](#).

To avoid any ambiguity the Council as the Local Planning Authority and the responsible body has, as part of its duty to assist, in place processes to determine whether proposed neighbourhood plans will require a Strategic Environmental Assessment. Guidance is clear that the qualifying body should work with the Local Planning Authority to be sure that the authority has the information it needs for such a determination.

The SA Scoping Report contains a section in the appendix detailed Screening Determination.

- A) ABZAG are not the “responsible” determining body to whom the regulations apply and the determination of whether SEA is required lies with the Council. Rather than a screening determination, what should be provided is a screening report detailing the plan characteristics and the environmental characteristics that the plan may impact on. Further guidance on this is available in the national Planning Practice Guidance and in a specific Locality guide accessed through the NNDC planning guidance fact sheet;
- B) It is premature to undertake such an exercise and too early to make a “judgment” around the potential effects the Holt neighbourhood plan may or may not have on the environment especially as the content of the plan is not known;
- C) There is concern that the other Statutory bodies will not consider the screening section contained in this report, it is tucked away in an appendix and they may not realise that the consultation on the sustainability appraisal scope includes elements of SEA screening, it is best practice to separate these out;
- D) The determination concludes that the neighbourhood plan “may” have a significant effect. The test however is around whether the neighbourhood plan is likely to have significant effect.

Whether a neighbourhood plan proposal requires a strategic environmental assessment, and (if so) the level of detail needed, will depend on what is proposed. A Strategic Environmental Assessment may be required, for example, where:

- A neighbourhood plan allocates sites for development – (it is our understanding that the neighbourhood plan is not intending to allocate growth, though this is not clear);
- The neighbourhood area contains sensitive natural or heritage assets that may be affected by the proposals in the plan;
- The neighbourhood plan is likely to have significant environmental effects that have not already been considered and dealt with through a sustainability appraisal of the Local Plan.

Put simply there are three steps to checking whether an SEA is required for neighbourhood plans:

1. The neighbourhood plan group should prepare a Screening Report;
2. Request a Screening Opinion from the “responsible body” who will in turn consult with the statutory bodies;
3. In light of their response the responsible body will determine whether the emerging neighbourhood plan is likely to have significant effects on the environment and therefore be a requirement for the neighbourhood plan group to undertake an SEA;

Habitats Directive

Schedule 2 of the Neighbourhood Planning (General) Regulations 2012¹ refers to the Habitats Directive. The Regulations require Habitats Regulations Assessment (HRA) screening to be undertaken (by the qualifying body) to identify if a neighbourhood plan would have a significant impact on nature conservation sites that are of European importance, also referred to as Natura 2000 sites. Article 6 (3) of the EU Habitats Directive² and Regulation 61 of the Habitats and Species Regulations 2010³ (as amended) requires that an Appropriate Assessment is carried out on any plan or project likely to have a significant effect on a European Site.

To fulfil the legal requirements to identify if likely significant effects will occur on European Sites through the implementation of the neighbourhood plan, the neighbourhood plan group should undertake an HRA Screening Assessment and submit to the competent authority (LPA), for the purpose of determining if further assessment of the implications for European Sites is required. Details of the internationally designated sites need to be assessed to see if there is the potential for the implementation of the Neighbourhood Plan to have an impact on the sites. The Regulations state⁴ that any assessment should be in view of the sites

¹ http://www.legislation.gov.uk/uksi/2012/637/pdfs/ukxi_20120637_en.pdf

² http://ec.europa.eu/environment/nature/natura2000/management/guidance_en.htm

³ <http://www.legislation.gov.uk/uksi/2010/490/contents/made>

⁴ Regulation 102A (3) Schedule 2 of the Neighbourhood Planning (General) Regulations 2012

conservation. Any such affect needs to be ascertained and this can be done at the time the screening opinion is being sought.

Way Forward

As a way forward once more details of the plan's contents and policy approaches are known and documented a Screening Report should be submitted to the Council along with a formal request for a SEA Screening Opinion.

In the production of a neighbourhood plan close working relationship should be sought with the Council and it is recommend that the neighbourhood plan group contact me to set up an appointment at the earliest opportunity.

Yours sincerely,

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