

Ryburgh Parish Council

Ryburgh Neighbourhood Development Plan

A report to North Norfolk District Council of the Independent
Examination of the Ryburgh Neighbourhood Development Plan

Independent Examiner Christopher Edward Collison

Christopher Edward Collison

BA (Hons) MBA MRTPI MIED MCMi IHBC

Planning and Management Ltd

collisonchris@aol.com

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Summary of Main Findings

This is the report of the Independent Examination of the Ryburgh Neighbourhood Development Plan. The plan area comprises the entire administrative area of Ryburgh Parish Council within the North Norfolk District Council area. The plan period runs to 2036. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for residential development.

This report finds that subject to specified modifications the Neighbourhood Plan meets the Basic Conditions and other requirements. It is recommended the Plan should proceed to a local referendum based on the plan area.

Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities the power to develop a shared vision for their area*”.¹
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Ryburgh Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Ryburgh Parish Council (the Parish Council). The draft plan has been submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Ryburgh Neighbourhood Area (the Neighbourhood Area) which was formally designated by North Norfolk District Council (the District Council) on 3 April 2017. The Neighbourhood Plan has been produced by a Working Group made up of Parish Councillors, representatives nominated by stakeholder organisations in the Neighbourhood Area, and other volunteers from the local community.
4. The submission draft of the Neighbourhood Plan and accompanying documents were submitted to the District Council on 16 March 2020. The District Council arranged a period of publication between 6 April 2020 and 8 June 2020 and subsequently submitted the Neighbourhood Plan to me for independent examination.

Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan.² The report makes recommendations to the District Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The District Council will decide what action to take in response to the recommendations in this report.

¹ Paragraph 29 National Planning Policy Framework (2019)

² Paragraph 10 Schedule 4B Town and Country Planning Act 1990

6. The District Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and a decision statement is issued by the local planning authority outlining their intention to hold a neighbourhood plan referendum, it must be taken into account and can be given significant weight when determining a planning application, in so far as the plan is material to the application.³
7. Should the Neighbourhood Plan proceed to local referendum⁴ and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area⁵ unless the District Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan.⁶ The Framework is very clear that where a planning application conflicts with an up to date neighbourhood plan that forms part of the Development Plan, permission should not usually be granted.⁷
8. I have been appointed by the District Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the District Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of neighbourhood plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years

³ Paragraph 48 of the National Planning Policy Framework 2019 explains full weight is not given at this stage. Also see Planning Practice Guidance paragraph: 107 Reference ID: 41-107-20200407 Revision date: 07 04 2020 for changes in response to the coronavirus (COVID-19) pandemic

⁴ The Local Government & Police & Crime Commissioner (Coronavirus) (Postponement of Elections & Referendums) (England & Wales) Regulations 2020 Regulation 13 states referendums that would have been held from 7 April 2020 up to 6 May 2021 will be held on 6 May 2021

⁵ Section 3 Neighbourhood Planning Act 2017

⁶ Section 156 Housing and Planning Act 2016

⁷ Paragraph 12 National Planning Policy Framework 2019

professional planning experience and have held national positions and local authority Chief Planning Officer posts.

9. As independent examiner, I am required to produce this report and must recommend either:

- that the Neighbourhood Plan is submitted to a referendum, or
- that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
- that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.

10. I make my recommendation in this respect and in respect to any extension to the referendum area,⁸ in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.⁹

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.¹⁰ The Planning Practice Guidance (the Guidance) states “*it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.*”

12. The examiner has the ability to call a hearing for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had the opportunity to state their case. The Regulation 16 responses clearly set out any representations relevant to my consideration whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements. As I did not consider a hearing necessary, I proceeded on the basis of examination of the written representations and an unaccompanied visit to the Neighbourhood Plan area.

⁸ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁹ Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

¹⁰ Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

Basic Conditions and other Statutory Requirements

13. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.¹¹ A neighbourhood plan meets the Basic Conditions if:

- 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 neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan 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 2017.¹²

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights.¹³ All of these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’ and ‘The Neighbourhood Plan Policies’.

15. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.¹⁴ I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 as amended (the

¹¹ Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

¹² This Basic Condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 are amended. This basic condition replaced a basic condition “the making of the neighbourhood plan is not 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”.

¹³ The Convention Rights has the same meaning as in the Human Rights Act 1998

¹⁴ In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

Regulations) which are made pursuant to the powers given in those sections.

16. The Neighbourhood Plan relates to the area that was designated by the District Council as a neighbourhood area on 3 April 2017. A map of the Neighbourhood Area is included in Annex 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Ryburgh Parish Council boundary. The Neighbourhood Plan does not relate to more than one neighbourhood area,¹⁵ and no other neighbourhood development plan has been made for the neighbourhood area.¹⁶ All requirements relating to the plan area have been met.
17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;¹⁷ and the Neighbourhood Plan does not include provision about excluded development.¹⁸ I am able to confirm that I am satisfied that each of these requirements has been met.
18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.¹⁹ The front cover of the Submission Version Plan clearly states the Plan period is 2019 – 2036. Part 1.6 of the Neighbourhood Plan explains the end date of 2036 is aligned with the emerging North Norfolk Local Plan.
19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the tests of soundness provided for in respect of examination of Local Plans.²⁰ It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.

¹⁵ Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

¹⁶ Section 38B (2) Planning and Compulsory Purchase Act 2004

¹⁷ Section 38A (2) Planning and Compulsory Purchase Act 2004

¹⁸ Principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

¹⁹ Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

²⁰ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with all land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.²¹ I refer to the matter of minor corrections and other adjustments of general text in the Annex to my report.

Documents

23. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:
- Ryburgh Neighbourhood Plan (2019-2036) Submission Version for Independent Examination (including Annexes 1 to 8) April 2020
 - Ryburgh Neighbourhood Plan Consultation Statement, including Annexes 1 and 2 April 2020 [*In this report referred to as the Consultation Statement*]
 - Ryburgh Neighbourhood Plan Basic Conditions Statement April 2020 [*In this report referred to as the Basic Conditions Statement*]
 - Strategic Environmental Assessment Screening Report for Consultation, Ryburgh Neighbourhood Plan - Submission Version January 2020 (Final)
 - Habitats Regulations Assessment Screening Report for Consultation Ryburgh Neighbourhood Plan – Submission Version January 2020 (Final)
 - Strategic Environmental Assessment Screening Determination Ryburgh Neighbourhood Plan - Submission Version March 2020 (Final)

²¹ See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Habitats Regulations Assessment Screening Determination Ryburgh Neighbourhood Plan – Submission Version March 2020 (Final)
- Ryburgh Neighbourhood Plan Submission Version Evidence Pack including Evidence Documents 1 to 4 (April 2020)
- Information available on the Ryburgh Parish Council and North Norfolk District Council websites including Neighbourhood Planning Guidance NPG2 - Conformity Advice: Basic Conditions & Strategic Policies prepared by the District Council in November 2019
- Representations received during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and the Borough and Parish Councils including: the initial letter of the Independent Examiner dated 25 June 2020; the Parish Council comments on the Regulation 16 representations of other parties dated 2 July 2020; the letter of the Independent Examiner seeking clarification of various matters dated 16 July 2020; and the response of the Parish Council, that had been discussed between the Parish Council and the District Council, dated 23 July 2020. The District Council has confirmed this latter point in writing on 4 August 2020 at the fact checking stage of preparation of my report.
- North Norfolk Core Strategy incorporating Development Control Policies adopted in 2008 (with Proposals Map and insets)
- North Norfolk Site Allocations Plan adopted in 2011
- North Norfolk Local Plan 2016-2036 (Part 1) First Draft and Alternatives Considered document. Consultation Period 7 May 2019 to 19 June 2019
- North Norfolk Landscape Character Assessment Draft SPD LUC November 2018
- North Norfolk Landscape Sensitivity Assessment Draft SPD LUC November 2018
- North Norfolk Design Guide Supplementary Planning Document 2008
- National Planning Policy Framework (February 2019) and subsequently updated [*In this report referred to as the Framework*]
- Permitted development rights for householders' technical guidance MHCLG (10 September 2019) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated) [*In this report referred to as the Guidance*]
- Town and Country Planning (Use Classes) Order 1987 (as amended)
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Equality Act 2010
- Localism Act 2011
- Housing and Planning Act 2016

- Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations*]
- Neighbourhood Planning (General) (Amendment) Regulations 2015
- Neighbourhood Planning (General) incorporating Development Control Procedure (Amendment) Regulations 2016
- Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018
- Local Government & Police & Crime Commissioner (Coronavirus) (Postponement of Elections & Referendums) (England & Wales) Regulations 2020

Consultation

24. The two Regulation 16 representations submitted by Savills question whether consultation in plan preparation has *“been adequate and whether they sufficiently reflect the aspirations of the local community”*. I have noted the Parish Council comments in this respect. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the submission plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.

25. The Working Group that has led the preparation of the Neighbourhood Plan has, since it first met in April 2017, been open to anyone interested in the process. Working Group members included representatives of the Parish Council and locally significant businesses and organisations, and other community volunteers. Minutes of all Working Group meetings have been published on the Parish Council website. An initial public meeting was advertised on the Parish Council website; on village noticeboards and two roadside verge notices; through emails to village groups; and through delivery of invitations to every house in the Neighbourhood Area. Approximately 90 people attended the meeting on 12 July 2017. A staffed booth at the village dog show held on 16 July 2017 was visited by approximately 20 people. The 44 written submissions left in a collection box at the village shop were supplemented by direct contact with other people

who had attended the public meeting, and contact with major stakeholders. A second public meeting, advertised by a flyer delivered to every house in the Neighbourhood Area, was held on 22 November 2017, and attended by approximately 35 people. A note outlining progress made in preparing the Neighbourhood Plan and emerging policies, with a housing topic questionnaire, was delivered to every household in the Neighbourhood Area in November 2018. An analysis of the 32 responses to the housing questionnaire was produced for the Working Group on 11 December 2018. The progress made by the Working Group has been overseen by the Parish Council including consideration of a second draft plan in January 2019.

26. In accordance with Regulation 14 the Parish Council consulted on the pre-submission version of the draft Neighbourhood Plan between 12 August 2019 and 23 September 2019. Publicity included: a flyer delivered to every household; a letter to businesses and statutory consultees; and notices in the village newsletter, in the Upper Wensum Diary, in the Parish Magazine, and on noticeboards. The draft Neighbourhood Plan and supporting evidence were posted on the Parish Council and District Council websites, and paper copies were made available in Saint Andrews Church, in the Memorial Hall, and at the village shop. The 21 representations received in response to the consultation are summarised in Annex 2 of the Consultation Statement. Action taken by the Working Group, including modification and correction of the emerging Neighbourhood Plan, is also set out in Annex 2. Suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was submitted by the Parish Council to the District Council.

27. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 6 April 2020 and 8 June 2020. This extended time period and adjusted arrangements for publicity and accessibility were adopted in response to the circumstances arising from the Covid 19 pandemic at that time. 53 representations were submitted in total. 42 of the representations have been submitted by residents of the Neighbourhood Area, supporting either the entire Neighbourhood Plan or specified elements of the plan. A representation on behalf of the Ryburgh Village Amenity Group supported every policy of the Neighbourhood Plan. A number of residents commented on the representation submitted on behalf of Crisp Maltings Group, and commented on the current planning applications submitted by Crisp Maltings Group. In a representation the District Council refer to a trio of planning applications related to the

expansion of the Crisp Maltings business, and including residential development proposals, that have been registered since the Neighbourhood Plan was submitted. The District Council states “*On reviewing the submitted RNP it is not considered that there are any detailed matters or issues which are not consistent with government legislation and in particular the Basic Conditions set out in paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) that run through the document.*” The District Council added a number of additional comments. The Environment Agency are content that the issue of flooding is addressed by national policy, and flood risks will be considered at the application stage within the planning process. The Environment Agency draw attention to the requirements of the Framework regarding groundwater and contaminated land, and of the Water Framework Directive regarding effect on local watercourses or to groundwater, but those requirements do not have to be repeated in the Neighbourhood Plan.

28. A substantial representation has been submitted by agents on behalf of Crisp Malting Group. This representation includes a statement regarding the role of Crisp in the Norfolk economy; details of a proposed expansion of the Crisp site at Great Ryburgh (in the form of a description of three planning applications that are currently being considered by the District Council); a review of the Neighbourhood Plan against the Basic conditions; a review of the Neighbourhood Plan supporting text; and a conclusion and appendix. Other representations have been submitted by Historic England; Natural England; Norfolk County Council; Anglian Water Services; Ryburgh Wildlife Group; and by agents on behalf of two individual landowners.

29. I have been provided with copies of each of those representations. In preparing this report I have taken into consideration all of the representations submitted, in so far as they are relevant to my role, even though they may not be referred to in whole, or in part in my report. Some representations, or parts of representations, are not relevant to my role which is to decide whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. Where the representation of Norfolk County Council, and other representations, suggest additional matters that could be included in the Neighbourhood Plan that is only a matter for my consideration where such additions are necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements that I have identified. Where relevant representations relate to specific policies, I have taken them into consideration later in

my report when considering the policy in question.

30. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. Whilst I placed no obligation on the Parish Council to offer any comments, such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. On 2 July 2020 the Parish Council responded to the opportunity to comment by setting out a statement in respect of two of the Regulation 16 representations. I have taken the Parish Council comments into account in preparing my report. The Parish Council comments included reference to personal interests. There is no requirement for any party to declare personal interests when submitting Regulation 16 representations.
31. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:
- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
 - b) explains how they were consulted;
 - c) summarises the main issues and concerns raised by the persons consulted; and
 - d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.²²
32. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. In addition, sufficient regard has been paid to the advice regarding plan preparation and engagement contained within the Guidance. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

²² Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

The Neighbourhood Plan taken as a whole

33. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and Human Rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the Development Plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this. In considering all of these matters I have referred to the submission, background, and supporting documents, and copies of the representations and other material provided to me.

Consideration of Convention Rights; and whether the making of the Neighbourhood Plan 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

34. The Basic Conditions Statement states the Neighbourhood Plan “*has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998.*”

35. I have considered the European Convention on Human Rights and in particular Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).²³ Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. I am satisfied the Neighbourhood Plan has been prepared in accordance with the obligations for Parish Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010. Whilst no Equality Impact Assessment has been undertaken in respect of the Neighbourhood Plan, from my own examination the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

²³ The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

36. The objective of EU Directive 2001/42²⁴ is *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”* The Neighbourhood Plan falls within the definition of ‘plans and programmes’²⁵ as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.²⁶
37. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to North Norfolk District Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.
38. The Strategic Environmental Assessment Screening Report for Consultation, Ryburgh Neighbourhood Plan - Submission Version January 2020 (Final) sets out the following screening outcome *“As a result of the assessment in section 5, it is considered that it is unlikely to be any significant environmental effects from the implementation of the proposals in the emerging Draft Neighbourhood Plan for Ryburgh. As such it is considered under the Regulation 9(1) of the Environmental Assessment of Plans and Programmes Regulations 2004, that the emerging draft Ryburgh neighbourhood plan does not require an SEA to be undertaken.”* Consultation had been undertaken with the Environment Agency, Historic England and Natural England between 30 January and 5 March 2020, none of which indicated likely significant environmental effects. The Strategic Environmental Assessment Screening Determination Ryburgh Neighbourhood Plan - Submission Version March 2020 (Final) has been prepared by the District Council. This Regulation 9 Screening Determination²⁷ states *“The screening assessment identifies that based on the information available to date, there are unlikely to be significant environmental effects from the implementation of the proposals contained in the emerging Draft Ryburgh Neighbourhood Plan”,* and *“On the basis of material supplied and that the plan is concluded to be in general*

²⁴ Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

²⁵ Defined in Article 2(a) of Directive 2001/42

²⁶ Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

²⁷ Habitats Regulations Assessment and the Environmental Assessment of Plans and Programmes Regulations 2004

conformity with the North Norfolk Districts emerging Local Plan along with the understanding that there are no housing allocations included in the Ryburgh neighbourhood plan Natural England agree with the Council's SEA screening assessment. Historic England also concurs with the Council's assessment. In considering the level of future growth which the Ryburgh Neighbourhood Plan demonstrates within the parish over the plan period the Environment Agency conclude that the policies limit the impact of larger growth sites in the plan area and conclude that the recommendations and conclusions of the screening assessment are suitable. In light of the Screening report consulted on and the responses from the three statutory bodies it is determined that the Draft Ryburgh Neighbourhood Plan does not require a strategic Environmental Assessment in accordance with the Environmental Assessment of Programmes Regulations 2004." I am satisfied the requirements regarding Strategic Environmental Assessment have been met.

39. The Habitats Regulations Assessment Screening Report for Consultation Ryburgh Neighbourhood Plan – Submission Version January 2020 (Final) states *"The Ryburgh Neighbourhood Plan Area (RNA) contains the following designated European sites and nature conservation sites: • The River Wensum Special Area of Conservation • Component SSSI: The Wensum Special Site of Scientific Interest. The District contains a number of European sites however none other than the River Wensum SAC are within 10Km of Ryburgh Village where the growth proposed in the neighbourhood plan is to be facilitated."* Having considered and found no in-combination effects the screening report *"went on to conclude after a further detailed review of the likely effects of the proposed plan on the qualifying features of the European site that there would be no adverse effects upon the integrity of any European site."*
40. The Habitats Regulations Assessment Screening Determination Ryburgh Neighbourhood Plan – Submission Version March 2020 (Final) confirms a statutory consultation with Natural England and concludes *"it is determined that the Ryburgh Neighbourhood Plan as submitted does not require a habitats regulation assessment"*. I have earlier in my report, in Footnote 11, referred to the replacement on 28 December 2018 of the Basic Condition relating to Habitats that had previously been in place throughout much of the period of preparation of the Neighbourhood Plan. The Screening Determination is dated March 2020. I am satisfied that the Neighbourhood Plan meets the

requirements of the revised Basic Condition relating to Habitats Regulations.

41. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.

42. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

43. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The District Council as Local Planning Authority must decide whether the draft neighbourhood plan is compatible with EU obligations:

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).²⁸

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

44. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the tests of soundness provided for in respect of examinations of Local Plans²⁹ which requires plans to be “*consistent with national policy*”.

²⁸ Planning Practice Guidance paragraph 031 Reference ID: 11-031-20150209 revision 09 02 2015

²⁹ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

45. Lord Goldsmith has provided guidance³⁰ that *'have regard to'* means *"such matters should be considered."* The Guidance assists in understanding *"appropriate"*. In answer to the question *"What does having regard to national policy mean?"* the Guidance states a neighbourhood plan *"must not constrain the delivery of important national policy objectives."*
46. The most recent National Planning Policy Framework published on 19 February 2019 (subsequently updated) sets out the Government's planning policies for England and how these are expected to be applied. In my initial letter published by the District Council I confirmed that I would undertake this Independent Examination of the Neighbourhood Plan in the context of the Framework published in February 2019 (as updated) and the most recent Planning Practice Guidance.
47. The Basic Conditions Statement includes, in part 2, a Table which sets out a summary of how each policy of the Neighbourhood Plan has regard to the Framework. I am satisfied the Basic Conditions Statement demonstrates how the Neighbourhood Plan has regard to relevant identified components of the Framework.
48. The Neighbourhood Plan includes a positive vision for Ryburgh. Section 3.2.2 of the Neighbourhood Plan states *"Ryburgh will be a place where people want to live that has a stimulating environment with access to all the facilities and amenities to enable someone to live a happy and fulfilling life from cradle to grave within a thriving village community."* The aims identified through public consultation are set out in section 3.1.1 of Neighbourhood Plan. The aims include economic dimensions (*"the encouragement and management of sustainable housing growth through the use of infill sites in Great Ryburgh"*), and social components (*"traffic safety"*, and provision for active travel) whilst also referring to environmental considerations (*"sympathetic to the distinctive character of the landscape"*, *"to conserve and protect valued habitat"*). The vision statement and the aims for the Neighbourhood Area, and the analysis of key topics, provide a framework for the policies that have been developed.

³⁰ The Attorney General, (Her Majesty's Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the House of Lords Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England's Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

49. Annex 3 of the Neighbourhood Plan sets out a memorandum of aspirations for action by the Parish Council that includes issues raised in community consultations that are not capable of being dealt with by planning policies in the Neighbourhood Plan. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on ways to improve a neighbourhood other than through the development and use of land. It is important that those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that does not have a direct relevance to land use planning represents good practice. The Guidance states, “*Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan*”.³¹ I am satisfied the approach adopted, presenting issues for action by the Parish Council in Annex 3, and explaining the approach adopted in part 1.5 of the Neighbourhood Plan, differentiates those community projects from the policies of the Neighbourhood Plan and has sufficient regard for the Guidance.

50. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to ‘*have regard to*’ national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.*”

51. At the heart of the Framework is a presumption in favour of sustainable development³² which should be applied in both plan-making and decision-taking.³³ The Guidance states, “*This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will*

³¹ Planning Practice Guidance *Paragraph: 004 Reference ID: 41-004-20190509 Revision 09 05 2019*

³² Paragraph 10 National Planning Policy Framework 2019

³³ Paragraph 11 National Planning Policy Framework 2019

contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions”³⁴.

52. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.
53. The Framework states there are three dimensions to sustainable development: economic, social and environmental. Section 2.4(d) of the Basic Conditions Statement presents the results of an analysis which demonstrates how policies of the Neighbourhood Plan contribute to the economic, social or environmental dimensions of sustainable development. The analysis confirms that more than one policy contributes to each dimension. The analysis does not highlight any negative impacts.
54. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes are of an appropriate nature and quality; and will protect important environmental features of the Neighbourhood Area. In particular, I consider the Neighbourhood Plan as recommended to be modified seeks to:
- Avoid significant development related diminution of HGV associated highway safety on the main road through Great Ryburgh;
 - Not diminish the potential of the former railway land for active travel, and ensure any development proposals affecting that

³⁴ Planning Practice Guidance Paragraph 072 Ref ID:41-072-20190509 Revision 09 05 2019

- land enhance the provision of green infrastructure and opportunities for public access;
- Conditionally support proposals for new dwellings representing small-scale growth, within the defined settlement boundary of Great Ryburgh;
 - Ensure development proposals are informed by, and sympathetic to identified landscape characteristics;
 - Ensure development proposals conserve, and where possible enhance, local distinctiveness and settlement character;
 - Ensure development proposals for lighting are essential, and limit light spillage beyond the site boundary;
 - Ensure development proposals outside the settlement boundary of Great Ryburgh conserve and enhance identified wildlife-rich habitats and wider ecological networks; and
 - Establish requirements in respect of archaeological surveys.

55. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood 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)

56. The Framework states neighbourhood plans should “*support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies*”.³⁵ Plans should make explicit which policies are strategic policies.³⁶ “*Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area*”³⁷. “*Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies*”.³⁸

³⁵ Paragraph 13 National Planning Policy Framework 2019

³⁶ Paragraph 21 National Planning Policy Framework 2019

³⁷ Footnote 16 National Planning Policy Framework 2019

³⁸ Paragraph 29 National Planning Policy Framework 2019

57. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 21 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”³⁹

58. In this independent examination, I am required to consider whether the making of the Neighbourhood 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). The District Council has informed me that the Development Plan applying in the Ryburgh Neighbourhood Area and relevant to the Neighbourhood Plan are the Core Strategy incorporating Development Control Policies adopted in 2008 (with Proposals Map and insets), and the Site Allocations Plan adopted in 2011⁴⁰. The District Council has considered the extent to which its adopted policies in the Core Strategy are aligned with the Framework and over the period March 2012 to date has made a small number of policy adjustments. The District Council website refers to an adjustment of Core Strategy Policy HO9. The District Council has issued Neighbourhood Planning Advice in November 2019 which states the following policies are regarded as strategic: Core Strategy incorporating Development Control Policies SS1; SS2; SS3; SS4; SS5; SS6; SS7-14; HO1 (part); HO2; HO3 (part); HO4; HO5; HO6; HO7; HO8 HO9; EN1; EN2; EN3; EN4 (part); EN5; EN6; EN7; EN8; EN9; EN10; EN11; EN12; EN13; EC1; EC2; EC3 (part); EC4 (part); EC5; EC6; EC7; EC8; EC9; EC10; CT1 (part); CT2; CT3; CT4; CT5; CT6; CT7; Policies in Site Allocations DPD CO1-WEY09 and Tattersett Business Park.

59. The District Council resolved in November 2014 that it would commence the production of a new Local Plan in May 2015 with the intention of adopting any new Local Plan (combined Core Strategy and Site Allocations DPD) covering the period 2016-2036 towards the end of 2018. The District Council consulted on the First Draft Local Plan (Part 1) and Alternatives Considered documents from May - June 2019. The Neighbourhood Planning Advice issued by the District Council in November 2019 states “*These advanced documents included the emerging policies and the options considered along with the required Sustainability Appraisal, Interim Habitats Regulation Assessment and a number of background papers, all of which are relevant to emerging neighbourhood plans*”. The Guidance states

³⁹ Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20190509 Revision 09 05 2019

⁴⁰ The Norfolk Minerals and Waste Development Framework (2010-2026) also forms part of the Development Plan but this does not appear relevant to the Independent Examination of the Neighbourhood Plan

*“Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan 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.”*⁴¹ Whilst the District Council has commenced work on the preparation of a new Local Plan the latest timetable approved by the District Council Cabinet in May 2020 envisages adoption in August 2022. I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and any future Local Plan when it is adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan, unless the later plan states otherwise.

60. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The Guidance states *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan”*⁴². In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.
61. In considering a now-repealed provision that *“a local plan shall be in general conformity with the structure plan”* the Court of Appeal stated *“the adjective ‘general’ is there to introduce a degree of flexibility.”*⁴³ The use of *‘general’* allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.
62. The Guidance states, *“When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:*
- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;*

⁴¹ Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision date: 09 05 2019

⁴² Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

⁴³ *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”⁴⁴*

My approach to the examination of the Neighbourhood Plan Policies has been in accordance with this guidance.

63. Consideration as to whether the making of the Neighbourhood 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) has been addressed through examination of the plan as a whole and each of the plan policies below. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

The Neighbourhood Plan Policies

64. The Neighbourhood Plan includes 11 policies as follows:

- Policy 1 Traffic Safety
- Policy 2 Land Safeguarded for Public Access
- Policy 3 Infill Housing in Great Ryburgh
- Policy 4 Landscape Character
- Policy 5 Protection and Enhancement of Local Habitats, Landscape and Amenity
- Policy 6 Dark Night Skies
- Policy 7 Protection and Enhancement of Local Habitats (1)
- Policy 8 Protection and Enhancement of Local Habitats (2)
- Policy 9 Ecological Network
- Policy 10 Open Land
- Policy 11 Archaeology

65. Paragraph 29 of the Framework states *“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the*

⁴⁴ Planning Practice Guidance Paragraph 074 ID ref: 41-074 20140306 Revision 06 03 2014

statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies”. Footnote 16 of the Framework states “Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”

66. Paragraph 15 of the Framework states *“The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”*
67. Paragraph 16 of the Framework states *“Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”*
68. The Guidance states *“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 area for which it has been prepared.”⁴⁵*
69. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence*

⁴⁵ Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306 Revision 06 03 2014

should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan".⁴⁶

70. A neighbourhood plan should contain policies for the development and use of land. *"This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).*"⁴⁷
71. *"Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need."*⁴⁸ *"A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available."*⁴⁹
72. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is 'made' they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn. I have considered any inter-relationships between policies where these are relevant to my remit. A Regulation 16 representation has highlighted a possible conflict between Policies 2 and 7.

Policy 1 Traffic Safety

73. This policy seeks to establish that proposals for development that would result in sustained additional HGV movements in Bridge Road, Station Road and/or Fakenham Road will not be supported. The policy defines the terms *"HGV"* and *"sustained"*.

⁴⁶ Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

⁴⁷ Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20190509 Revision 09 05 2019

⁴⁸ Planning Practice Guidance Paragraph 040 Reference ID 41-040-20160211 Revision 11 02 2016

⁴⁹ Planning Practice Guidance Paragraph 042 Reference ID 41-042-20170728 Revision 28 07 2017

74. In a representation the District Council states *“Since the submission of the Draft RNP a trio of planning applications related to the expansion of the Crisp Maltings business, including the provision of additional residential development, have been submitted to the Council. Although these are undetermined at present it would be helpful for future readers of the Neighbourhood Plan if references to the Crisp Maltings are updated in the final version. It is noted that some of the commentary and opinions expressed in the early paragraphs, notably 2.1.3 – 2.1.7, are not supported by subsequent policy text, and, as per officers commentary at the pre-submission stage, there remains a notable gap in the Draft Neighbourhood Plan to explore further sustainable growth options and influence economic growth in the Neighbourhood Plan through adding further local dimension to the adopted Core Strategy policies in this area. It is however accepted that the subjects that the RNP addresses are at the Parish Council’s discretion and have been informed through the development of the Neighbourhood Plan. There is concern that Policy 1 could be considered as restrictive from this perspective and may impact on the operational requirements of the Crisp Maltings and as such will need to be considered carefully against the Basic Conditions tests at examination.”* I refer to the District Council suggestion that the Neighbourhood Plan should be updated in the annex to my report.
75. The Parish Council commented on the District Council representation stating *“Policy 1 is considered positive, not restrictive, in that it safeguards future development in the village as a whole which would otherwise be blighted by any increase in the frequency of HGV traffic using the High Street. In addition, we rely upon the comments in relation to Policy 1 contained in the Basic Conditions Statement.”*
76. A representation on behalf of the Crisp Malting Group states *“the policy fails to achieve the economic and environmental objectives of sustainable development, and conflicts with paragraphs 83 and 84 of the NPPF.”* The representation states the policy will undermine Crisp’s development proposals which will remove 66 daily HGV vehicle movements from the heart of the village, and undermines the sustainable expansion of the Maltings. The representation states *“While the NPPF and Core Strategy both support the growth of the rural economy, it is apparent that the NPPF apportions more weight to securing the prosperity of the rural economy than the adopted Core Strategy, by recognising that expanding existing rural businesses may require land beyond settlement boundaries, in areas that are not well served by public transport (Paragraphs 83 & 84). Due to the age of the*

Core Strategy (adopted 2008), and its misalignment with the direction of the NPPF on this aspect, it is considered that the policy direction of the NPPF outweighs Core Strategy policies EC3 and CT5 when considering the soundness of Policy 1. From this, it is apparent that Policy 1 should be sufficiently flexible to facilitate the expansion of Crisp's Ryburgh site, to align with Paragraphs 83 and 84 of the NPPF. Moreover, the delivery of the HGV access road, as part of the expansion proposals, is the only way to realise the core aim of the NDP (improving traffic safety in Ryburgh), given the current well-established existence of the maltings facility within the centre of the village. The representation proposes Policy 1 should be modified as follows: *"Proposals for development within the Neighbourhood Area should seek to minimise HGV movements on Bridge Road, Station Road and/or Fakenham Road wherever possible. Development proposals will be supported if technical evidence demonstrates that any additional HGV movements would not lead to an unacceptable impact upon the highway network in Ryburgh."* The representation includes the term *"when considering the soundness of Policy 1"*. I have earlier in my report stated the role of an independent examiner of a neighbourhood plan is defined. I am not examining the tests of soundness provided for in respect of examination of Local Plans.⁵⁰

77.A number of the representations of residents supporting the Neighbourhood Plan refer to the importance they attach to Policy 1. One resident stated a new access road to Crisp Maltings is a necessity and stated that if more housing is planned a 7.5 tonne weight limit should be put on the village bridge. Another resident stated the current proposals for expansion of the Crisp Malting site and building of a relief road are not matters for my consideration but are for the Local Planning Authority to consider at some future date when it considers the planning applications. The representation states *"neither the expansion nor the building of the road may ever take place..."* and *"Policy 1 does not inhibit the expansion nor the building of a relief road by Crisp, the land for doing so is available, it simply requires that HGV traffic from such development should exit to the West, and not through the village"*. A representation on behalf of the Ryburgh Village Amenity Group supports the policy and states any increase in HGV traffic poses a potential hazard to the safety of other road users in particular children, cyclists, people with pushchairs, horse riders, and people using disability buggies.

⁵⁰ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

78. The Neighbourhood Plan preparation process, including Regulation 16 representations, has highlighted concerns within the local community relating to the movement of HGV vehicles on the main road through Great Ryburgh. In some areas of the country Highway Authorities have reviewed road classifications and introduced Traffic Regulation Orders putting in place weight or width restriction limits, and/or left and right turn bans at junctions, with exemptions for local access and essential vehicles. These actions are usually supported by detailed evidence and analysis within the context of any general growth of traffic levels. The Neighbourhood Plan pursues an alternative approach, namely a land use policy that seeks to establish that development proposals that will result in additional HGV movements on named roads will not be supported.
79. Evidence Document 4 presents 12 photographs that each show one or more HGVs on the main road through Great Ryburgh. These each show one or more HGVs with wheels on a narrow footway, in some cases passing a large vehicle travelling in the same direction, and in other cases passing a large vehicle travelling in the opposite direction. Although not illustrated on the photographs, Regulation 16 representations have referred to use of footways in the village centre by a range of pedestrians including schoolchildren and people pushing buggies. There is clearly a road safety issue. Other photographs included in Evidence Document 4 show cars, apparently stationary showing brake lights lit, whilst an HGV undertakes a turning manoeuvre at the sharp bend on Station Road. Whilst not road congestion in the sense of traffic volume causing slow traffic flows, there would appear to be, on at least some occasions, time delays being experienced by road travellers. Evidence Document 4 does not indicate the frequency of any of these occurrences, nor does it provide information to confirm whether or not the HGVs are passing through the Neighbourhood Area without visiting/parking at premises within the area. The Neighbourhood Plan includes: at paragraph 4.1.3 information about carriageway widths at four locations on Fakenham Road; and, at paragraph 4.1.5, HGV traffic movement information between 05.30 and 18.30 on a typical day in October 2019 at the three gates of Crisp Maltings, supplied by the company.
80. I have earlier in my report identified the part of the Guidance that states *“Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft*

neighbourhood plan".⁵¹ Policy 1 as submitted seeks to establish that a development proposal at any location in the Neighbourhood Area that would result in one or more sustained additional HGV movements, on the main road through Great Ryburgh will not be supported. The evidence supporting Policy 1 is not sufficient to justify the degree of restriction that the policy as submitted seeks to introduce. It is, however, evident that during the Neighbourhood Plan preparation process traffic safety issues have been identified as matters that are of considerable importance to the community and these should not be completely lost.

81. The Framework seeks to promote sustainable transport and includes at paragraph 102 *"Transport issues should be considered from the earliest stages of plan-making and development proposals, so that: a) the potential impacts of development on transport networks can be addressed; ...e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places"*. Paragraph 103 of the Framework includes *"the planning system should actively manage patterns of growth in support of these objectives."* Paragraph 127 of the Framework states planning policies should ensure developments function well and add to the overall quality of the area and create places that are safe.
82. Paragraph 109 of the Framework states *"Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."*
83. Paragraph 84 of the Framework states *"Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist."* Whilst paragraph 84 of the Framework makes reference to unacceptable impact on local roads

⁵¹ Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

this is in the circumstances that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. The Neighbourhood Plan does not seek to identify sites to meet local business and community needs.

84. Paragraph 83 of the Framework states *“Planning policies and decisions should enable: a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; b) the development and diversification of agricultural and other land-based rural businesses; c) sustainable rural tourism and leisure developments which respect the character of the countryside; and d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.”* Policy 1 has the implication that a development proposal that would result in as little as one sustained additional HGV movement on the named roads would not be supported. Policy 1 does not have sufficient regard for national policy in respect of the sustainable growth of all types of business in rural areas.
85. Paragraph 111 of the Framework requires that *“All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or assessment so that likely impacts of the proposal can be assessed.”* The Guidance states *“Transport Assessments and Transport Statements primarily focus on evaluating the potential transport impacts of a development proposal. (They may consider those impacts net of any reductions likely to arise from the implementation of a Travel Plan, though producing a Travel Plan is not always required.) The Transport Assessment or Transport Statement may propose mitigation measures where these are necessary to avoid unacceptable or “severe” impacts. Travel Plans can play an effective role in taking forward those mitigation measures which relate to on-going occupation and operation of the development. Transport Assessments and Statements can be used to establish whether the residual transport impacts of a proposed development are likely to be “severe”, which may be a reason for refusal, in accordance with the National Planning Policy Framework.”*⁵²

⁵² Planning Policy Guidance Paragraph: 005 Reference ID: 42-005-20140306 Revision date: 06 03 2014

86. In a representation Norfolk County Council, the Highway Authority, state Policy 1 should be worded to allow consideration of development proposals, their impacts and any proposed mitigation. I agree with this approach which has regard for national policy set out in the Framework. I have recommended a modification of Policy 1 on this basis.
87. A representation states “*the roads named do not extend beyond the village confines/built environment*”. The supporting text and justification in the Neighbourhood Plan, and in the photographs in Evidence Document 4, have a focus on the public highway that is the high street of Great Ryburgh “*in the village*”. I have noted some digital maps indicate Bridge Road extends from Station Road Great Ryburgh in an easterly direction as far as the A1067, and Fakenham Road extends from Station Road Great Ryburgh in a westerly direction as far as the B1146. The spatial application of the policy is unclear. This distinction, between the entire length of road and that part of it that is in the village, would be of relevance in the context of a development proposal offering a planning obligation that would result in HGV traffic entering and leaving Fakenham Road to the west of the village and only resulting in HGV traffic passing between that access point and the B1146. Similarly, the distinction would be relevant in the context of a development proposal offering a planning obligation that would result in HGV traffic entering and leaving Bridge Road to the east of the village and only resulting in HGV traffic passing between the access point and the A1067. As a point of clarification, I questioned whether it is intended the policy should relate to the entire length of road between the B1146 and the A1067, or whether it is intended it should relate to the parts of the named roads that are within or immediately adjacent to the settlement boundary identified in Annex 5 of the Neighbourhood Plan. The Parish Council has confirmed the latter intention. I have recommended a modification in this respect so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
88. It is unnecessary and confusing for a policy to include the term “*within the Neighbourhood Area*” as all the policies of the Neighbourhood Plan relate to the Neighbourhood Area unless a lesser geographic application is specified. Paragraph 2.1.7, including Note 1, seeks to introduce elements of policy which it may not. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to*

development proposals” as required by paragraph 16d) of the Framework.

89. Strategic Policy SS6 seeks to maximise the use of non-car modes but recognises in the context of a rural area there are limited alternatives to the car. Strategic Policy EC3 relates to extensions to existing businesses in the countryside which are to be of a scale appropriate to the existing development and would not have a detrimental effect on the character of the area. This policy relates to character of an area. Strategic Policy CT5 sets out policy with respect to the transport impact of new development and seeks to ensure development is capable of being served by a safe access to the highway network without detriment to the amenity or character of the locality. This policy relates to access to the highway network. As recommended to be modified Policy 1 is in general conformity with the strategic policies included in the Core Strategy incorporating Development Control Policies adopted in 2008 as amended (with Proposals Map and insets), and the Site Allocations Plan adopted in 2011 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

90. Policy 1 seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. It is appropriate for the Neighbourhood Plan to add an additional level of detail or distinct local approach to national policy. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy, promoting healthy and safe communities, promoting sustainable transport, and achieving well designed places the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 1:

Replace Policy 1 with “To be supported development proposals that will generate significant amounts of movement must be accompanied by a transport statement or assessment that demonstrates:

- **there will be no likely sustained significant negative HGV related highway safety impacts of the development on Station Road, and on those parts of Bridge Road and**

- Fakenham Road that are within or immediately adjacent to the settlement boundary identified in Annex 5; or**
- **the proposals include all possible viable and practical avoidance and mitigation measures necessary to reduce any likely sustained significant negative HGV related highway safety impacts of the development on Station Road, and on those parts of Bridge Road and Fakenham Road that are within or immediately adjacent to the settlement boundary identified in Annex 5.”**

Insert a footnote to the policy explaining sustained traffic movements are ongoing and do not include construction project related traffic.

Delete Paragraph 2.1.7 including Note 1.

Policy 2 Land Safeguarded for Public Access

91. This policy seeks to establish that development proposals on the dismantled railway identified in Annex 4 will not be supported if they diminish the potential use of the land for a footpath, bridleway or cycleway. The policy also seeks to establish green infrastructure requirements and public access enhancement in respect of any development proposals affecting the dismantled railway.
92. A representation states *“a revision of the policy is required to clarify that no public access is permitted on land within our client’s ownership without prior agreement.”* Another representation states *“As a point of clarity, it should be noted that the following land is within private ownership - Land relating to the former railway line extending immediately to the south of Great Ryburgh - Land running along the river and north of the bridge. At present (our client) has granted informal permissive access to the railway line only. Suggested Remedy - A revision to policy 2 is required to clarify that no public access is permitted on land within our client’s ownership and without consultation and our client’s prior permission.”* Policy 2 relates to potential use of the dismantled railway for a footpath, bridleway or cycleway, and seeks to establish requirements of development proposals. No modification is necessary in respect of the access issue raised in representations.
93. Paragraphs 96 and 98 of the Framework stress the importance of opportunities for physical activity and enhancement of public rights of way and access, including adding links to public rights of way

networks. Paragraph 104 of the Framework states planning policies should “provide for high quality walking and cycling networks”. Strategic Policy SS4 refers to the creation of green networks linking urban areas to the countryside and Policy SS6 encourages the enhancement and promotion of active travel routes. Strategic Policy CT7 Safeguarding Land for Sustainable Transport Uses states “Former railway trackbeds, and other railway land will be protected from development that would be prejudicial to the re-use of railway, or sustainable transport links and facilities in the following locations: Sheringham; Fakenham to the District Council boundary (to the south of Great Ryburgh); and sites currently in use as, or with potential for, rail freight terminal facilities in the following settlements: Cromer, Fakenham, Great Ryburgh and North Walsham”. Text supporting Policy CT7 states “Such routes could also provide walking and cycle routes as an interim measure prior to the introduction of rail services.”

94. Paragraph 4.2.2 of the Neighbourhood Plan states “It is accepted that Policy 2 cannot apply to that part of the dismantled railway passing through the Industrial Site where it is impracticable due to existing buildings.” This is not consistent with Policy 2 and not consistent with the map at Annex of the Neighbourhood Plan. Supporting text cannot introduce elements of planning policy. In response to my request for clarification the Parish Council has confirmed “Policy 2 is intended to apply to the whole length of the dismantled railway with the exception of that part passing through the Industrial Site where it is impracticable due to existing buildings. Policy CT7 relates to the dismantled railway without this exception. The Parish Council have introduced the exception to its Policy in response to a request by Crisp Maltings to do so”. I have recommended a modification in this respect so that the Neighbourhood Plan “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework. As recommended to be modified Policy 2 will safeguard the potential use of part of the dismantled railway as an active travel route which is in general conformity with strategic policy and has regard for national policy. As recommended to be modified Policy 2 adds additional detail regarding green infrastructure requirements and public access enhancement. I am satisfied the approach adopted in the Neighbourhood Plan in this respect meets the Basic Conditions.

95. The term “fully incorporate green infrastructure principles” is imprecise. In response to my request for clarification the Parish Council has

confirmed *“There is no definition of the expression in the Neighbourhood plan. It is suggested that the following words be added at the end of Policy 2. The expression green infrastructure shall have the meaning given to that expression in Annex 2: Glossary – National Planning Policy Framework - February 2019”*. The Glossary to the Framework defines green infrastructure but not green infrastructure principles. I have recommended the deletion of the words *“fully incorporate green infrastructure principles and”*. I have recommended a modification in this respect so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

96. As recommended to be modified the policy is in general conformity with the strategic policies included in the Core Strategy incorporating Development Control Policies adopted in 2008 as amended (with Proposals Map and insets), and the Site Allocations Plan adopted in 2011 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

97. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting sustainable transport, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 2:

In Policy 2

- **replace “(Annex 4) running through the Neighbourhood Area” with “both north and south of the Crisp Malting site, but not including that site (identified on the Map in Annex 4)”**
- **delete “fully incorporate green infrastructure principles and”**

In Annex 4 delete the cross hatching on that part of the dismantled railway that is within the Crisp Maltings site.

Policy 3 Infill Housing in Great Ryburgh

98. This policy seeks to establish conditional support for proposals for new dwellings representing small-scale growth within the settlement boundary of Great Ryburgh defined in Annex 5 of the Neighbourhood Plan. The policy also requires proposals to provide adequate information to support a project level “HRA”. The policy also seeks to establish conditional in principle support for extension of existing buildings and replacement of existing buildings for housing.
99. In a representation the District Council states “*Policy 3 proposes small-scale growth in order to assist in the sustainability of the village in accordance with that envisaged for rural areas in the NPPF, and the clear expectation that Neighbourhood Plans should seek to meet their needs when aligned with the strategic approach of the overall development plan.*” “*Ryburgh Parish is identified as open countryside in the existing and emerging Local Plan and as such sits outside the settlement hierarchy where residential development would normally be permitted. The distribution of growth and the housing target are seen as strategic policies that Neighbourhood Plans are required to conform with. The Government’s overall premise for Neighbourhood Plans however is to bring forward additional growth and to seek to add local distinction providing it is justified, supported by appropriate evidence and in general conformity with the strategic priorities and strategic local planning policies, though regard should also be had to the draft policies in the emerging Local Plan which was recently consulted on*⁵³. *In doing so, for Neighbourhood Plans it is clear that the expectation is that: ‘[Communities] are able to choose where they want new homes*⁵⁴, *shops and offices to be built, have their say on what those new buildings should look like and what infrastructure should be provided... In order to ... ‘meet their community’s needs and where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area’... i.e. as set out in the Planning Practice Guidance - paragraph 001. In recognising the small-scale nature of the village of Ryburgh and seeking to support a small but limited amount of growth through the establishment of a settlement boundary and an infill policy, the ambition of the community to plan for the sustainability of Ryburgh is supported by the Council in this regard. Though it should be noted that given the small scale of development that is likely to*

⁵³ Footnote in NNDC representation - The National Planning Policy Framework outlines in [paragraph 13](#) that a neighborhood plan should support the delivery of strategic policies set out in the Local Plan and should shape and direct development that is outside of those strategic policies.

⁵⁴ Footnote in NNDC representation - i.e. in addition to the growth set out in the Local Plan

come forward through Policy 3 ⁵⁵ and the identified settlement boundary in Annex 5 it is unlikely in the main to provide for new affordable homes given the existing policy thresholds.” I have earlier in my report noted the District Council has stated “On reviewing the submitted RNP it is not considered that there are any detailed matters or issues which are not consistent with government legislation and in particular the Basic Conditions set out in paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) that run through the document.”

100. A representation states it is “important that the Neighbourhood Plan pursues a development strategy which allows for the growth of Ryburgh, particularly Great Ryburgh, as a means of ensuring its long-term sustainability”. A further representation expresses concern that piecemeal development of green fields does not contribute to community infrastructure which should be delivered in advance. The representation also states “An approach to growth which allows for development at an appropriate scale, triggering the provision of affordable housing is vital.” No modification of the Neighbourhood Plan is necessary in these respects to meet the Basic Conditions.

101. A representation objects to the “tightly drawn” settlement boundary and the “limit of infill development of up to 5 dwellings.” In response to my request for clarification how the limit of up to 5 dwellings has been determined the Parish Council stated “Evidence Document No1 (Housing Report) Page 3 deals with recent house building in Great Ryburgh. An average of 2.4 dwellings were completed each year in Ryburgh Parish during the period 2001-2016. This was taken to be historical evidence of the growth of the village in recent years acceptable to and consistent with the residents’ conception of their village. Page 4 of the Housing Report establishes a low ‘local housing need’ and the responses to the supplementary housing questionnaire (Para 4.3.9 of the Submission Version of the Neighbourhood Plan) also support a limited level of new housing. Having regard to this evidence the Working Group adopted the figure of 5.” I have earlier in my report identified the part of the Guidance that states “Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft

⁵⁵ The District Council has confirmed reference is to Policy 3 not Policy 5 as stated in the representation

neighbourhood plan".⁵⁶ The limit of 5 dwellings has not been adequately justified. I have recommended it is deleted from the policy.

102. A representation proposes the settlement boundary should be extended to north of Highfield Lane and west of the settlement and suggests a "*broad area for growth*" to the north where rural exception housing or an entry level exception site could be brought forward over the plan period. The representation also considers the Neighbourhood Plan could secure affordable housing. These suggested modifications are not necessary to meet the Basic Conditions.
103. The representation also states "*the evidence base does not demonstrate that the District Council has suggested a specific housing need figure for the Ryburgh Neighbourhood Plan area.*" Another representation states "*by stating that infill housing would be acceptable, the NDP seeks to permit more housing development than set out in the strategic policies for the area.*"
104. The representation of Anglian Water Services Ltd and the representations of many residents support the policy. One resident stated a small development of up to 50 dwellings could enhance the village and make local amenities viable. The representation of Norfolk County Council recommends greater attention to flood risk in the Neighbourhood Plan as a whole. There is no requirement for the Neighbourhood Plan to include any particular policies but I do note Policy 3 does in part 6 require consideration of all sources of flooding, and surface water drainage. The representation of the Ryburgh Wildlife Group includes an addendum that sets out a non-exhaustive list of examples of notable species utilising the Crisp Maltings proposed housing development field and hedges.
105. A representation on behalf of the Crisp Malting Group states "*Paragraph 77 of the National Planning Policy Framework (NPPF) recognises the need for housing in rural areas to enhance and maintain the vitality of rural communities. In line with the NPPF, planning policies concerning housing in rural settlements like Ryburgh should facilitate the provision of proportionate housing growth, to support and enhance the vitality of rural settlements. Policies HO3 and SS2 of the Adopted Core Strategy, and Policy SD 4 of the Emerging Local Plan, allows for housing development in the Countryside, where it meets certain criteria. This criterion does not limit housing growth in settlements defined as Countryside, like Ryburgh, to infill sites of between one to five dwellings. Policy 3 of the Ryburgh NP is,*

⁵⁶ Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

therefore, in conflict with Paragraph 29 of the NPPF, by seeking to promote less development than set out in the strategic policies for the area. Policy SS2 of the adopted development plan sets out criteria to guide development proposals in areas designated as Countryside. The BCS interprets Policy SS2 as follows: Policy SS2 “Development in the Countryside permits extensions and replacement of dwellings and other (not relevant) exceptions but prohibits all other proposals”. This interpretation of Policy SS2 is not appropriate to inform Policy 3. The adopted development plan (2008) is considered outdated, as key elements of the plan fail to comply with relevant parts of the NPPF. For instance, the NPPF does not endeavour to ‘prohibit’ development in the Countryside in the same manner as the Core Strategy. Paragraph 77 of the NPPF recognises that “in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs”. From a review of Evidence Document 1 – Housing Report within the Evidence Pack accompanying the Pre-Submission consultation, we understand that infill housing is the preferred form of development within the village. Just 41 residents responded to a housing-specific questionnaire, which has shaped the content of Policy 3. In addition to the evidence gathered as part of the NDP Housing Report, feedback was received as part of the public consultation with the community in July 2017 concerning the proposed expansion of the Maltings site. During this consultation, local support for some new housing in the settlement, to support local families and the vitality of the village, was identified. It is therefore considered that Policy 3 should remain sufficiently flexible to comply with the NPPF’s approach to rural housing proposals, and to ensure that Policy 3 does not promote less development than that set out in the strategic policies for the area”. The representation proposes an alternative wording for Policy 3.

106. The Guidance states “The National Planning Policy Framework expects most strategic policy-making authorities to set housing requirement figures for designated neighbourhood areas as part of their strategic policies. While there is no set method for doing this, the general policy making process already undertaken by local authorities can continue to be used to direct development requirements and balance needs and protections by taking into consideration relevant policies such as the spatial strategy, evidence such as the Housing and economic land availability assessment, and the characteristics of the neighbourhood area, including its population and role in providing services. In setting requirements for housing in designated neighbourhood areas, plan-making authorities should consider the

areas or assets of particular importance (as set out in paragraph 11, footnote 6), which may restrict the scale, type or distribution of development in a neighbourhood plan area.”⁵⁷

107. *“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.”*⁵⁸

108. *“Where neighbourhood planning bodies have decided to make provision for housing in their plan, the housing requirement figure and its origin are expected to be set out in the neighbourhood plan as a basis for their housing policies and any allocations that they wish to make. Neighbourhood planning bodies are encouraged to plan to meet their housing requirement, and where possible to exceed it. A sustainable choice of sites to accommodate housing will provide flexibility if circumstances change, and allows plans to remain up to date over a longer time scale. Where neighbourhood planning bodies intend to exceed their housing requirement figure, proactive engagement with their local planning authority can help to assess whether the scale of additional housing numbers is considered to be in general conformity with the strategic policies. For example, whether the scale of proposed increase has a detrimental impact on the strategic spatial strategy, or whether sufficient infrastructure is proposed to support the scale of development and whether it has a realistic prospect of being delivered in accordance with development plan policies on viability. Any neighbourhood plan policies on the size or type of housing required will need to be informed by the evidence prepared to support relevant strategic policies, supplemented where necessary by locally-produced information.”*⁵⁹

109. *“The scope of neighbourhood plans is up to the neighbourhood planning body. Where strategic policies set out a housing requirement figure for a designated neighbourhood area, the neighbourhood planning body does not have to make specific provision for housing, or seek to allocate sites to accommodate the requirement (which may have already been done through the strategic policies or through non-strategic policies produced by the local planning authority). The*

⁵⁷Planning Practice Guidance Paragraph: 101 Reference ID: 41-101-20190509 Revision date: 09 05 2019

⁵⁸ Planning Practice Guidance Paragraph: 040 Reference ID: 41-040-20160211 Revision date: 11 02 2016

⁵⁹ Planning Practice Guidance Paragraph: 103 Reference ID: 41-103-20190509 Revision date: 09 05 2019

strategic policies will, however, have established the scale of housing expected to take place in the neighbourhood area. Housing requirement figures for neighbourhood plan areas are not binding as neighbourhood planning groups are not required to plan for housing. However, there is an expectation that housing requirement figures will be set in strategic policies, or an indicative figure provided on request. Where the figure is set in strategic policies, this figure will not need retesting at examination of the neighbourhood plan. Where it is set as an indicative figure, it will need to be tested at examination.”⁶⁰

110. *“Where an indicative housing requirement figure is requested by a neighbourhood planning body, the local planning authority can follow a similar process to that for providing a housing requirement figure. They can use the authority’s local housing need as a starting point, taking into consideration relevant policies such as an existing or emerging spatial strategy, alongside the characteristics of the neighbourhood plan area. Proactive engagement with neighbourhood plan-making bodies is important as part of this process, in order for them to understand how the figures are reached. This is important to avoid disagreements at neighbourhood plan or local plan examinations, and minimise the risk of neighbourhood plan figures being superseded when new strategic policies are adopted”.*⁶¹

111. *“Where strategic policies do not already set out a requirement figure, the National Planning Policy Framework expects an indicative figure to be provided to neighbourhood planning bodies on request. However, if a local planning authority is unable to do this, then the neighbourhood planning body may exceptionally need to determine a housing requirement figure themselves, taking account of relevant policies, the existing and emerging spatial strategy, and characteristics of the neighbourhood area. The neighbourhood planning toolkit on housing needs assessment may be used for this purpose. Neighbourhood planning bodies will need to work proactively with the local planning authority through this process, and the figure will need to be tested at examination of the neighbourhood plan, as neighbourhood plans must be in general conformity with strategic policies of the development plan to meet the basic conditions.”*⁶²

112. *“If a local planning authority is also intending to allocate sites in the same neighbourhood area the local planning authority should avoid duplicating planning processes that will apply to the*

⁶⁰ Planning Practice Guidance Paragraph: 104 Reference ID: 41-104-20190509 Revision date: 09 05 2019

⁶¹ Planning Practice Guidance Paragraph: 102 Reference ID: 41-102-20190509 Revision date: 09 05 2019

⁶² Planning Practice Guidance Paragraph: 105 Reference ID: 41-105-20190509 Revision date: 09 05 2019

neighbourhood area. It should work constructively with a qualifying body to enable a neighbourhood plan to make timely progress. A local planning authority should share evidence with those preparing the neighbourhood plan, in order for example, that every effort can be made to meet identified local need through the neighbourhood planning process.”⁶³

113. *“Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan 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 need evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date local plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*
the emerging neighbourhood plan
the emerging local plan (or spatial development strategy)
the adopted development plan
with appropriate regard to national policy and guidance.”

114. *“The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body so that complementary neighbourhood and local plan policies are produced. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. Strategic policies should set out a housing requirement figure for designated neighbourhood areas from their overall housing requirement (paragraph 65 of the revised National Planning Policy Framework). Where this is not possible the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body, which will need to be*

⁶³ Planning Practice Guidance Paragraph: 043 Reference ID: 41-043-20140306 Revision date: 06 03 2014

tested at the neighbourhood plan examination. Neighbourhood plans should consider providing indicative delivery timetables, and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new local plan.”⁶⁴

115. *“A neighbourhood plan can allocate additional sites to those identified in an adopted plan so long as the neighbourhood plan meets the basic conditions.”⁶⁵ and “A neighbourhood plan can allocate additional sites to those in a local plan (or spatial development strategy) where this is supported by evidence to demonstrate need above that identified in the local plan or spatial development strategy. Neighbourhood plans should not re-allocate sites that are already allocated through these strategic plans. A neighbourhood plan can also propose allocating alternative sites to those in a local plan (or spatial development strategy), where alternative proposals for inclusion in the neighbourhood plan are not strategic, but a qualifying body should discuss with the local planning authority why it considers the allocations set out in the strategic policies are no longer appropriate. The resulting draft neighbourhood plan must meet the basic conditions if it is to proceed. National planning policy states that it should support the strategic development needs set out in strategic policies for the area, plan positively to support local development and should not promote less development than set out in the strategic policies (see paragraph 13 and paragraph 29 of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the local plan or spatial development strategy. Should there be a conflict between a policy in a neighbourhood plan and a policy in a local plan or spatial development strategy, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.”⁶⁶*

116. Whilst it is not within my role to test the soundness of the Neighbourhood Plan it is necessary to consider whether the Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or

⁶⁴ Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision date: 09 05 2019

⁶⁵ Planning Practice Guidance Paragraph: 009 Reference ID: 67-009-20190722 Revision date: 22 07 2019

⁶⁶ Planning Practice Guidance Paragraph: 044 Reference ID: 41-044-20190509 Revision date: 09 05 2019

undermine those strategic policies, as required by paragraph 29 of the Framework; and meets the requirements set out in the Guidance.

117. In response to my request for clarification regarding any housing target and any indicative housing requirement figure the Parish Council has stated *“Ryburgh Parish is identified as open countryside in the existing and emerging Local Plan. It is situated outside of the settlement hierarchy where residential development would normally be permitted. As such no housing target has been identified in strategic policies. No housing target has been requested by the Neighbourhood Plan Working Group from the District Council, but in recognising the small-scale nature of the village of Great Ryburgh and seeking to support a small, but limited, amount of growth through the establishment of a settlement boundary and an infill policy, the ambition of the community to plan for the sustainability of Ryburgh is supported by the District Council. No conformity issues have been raised by the District Council in this regard. The approach for housing recognises a level of local need which is demonstrated as being ‘limited’ in Evidence Document 1 - Housing Paper, which references the Districts Council’s record of those with a local connection in housing need, and, two resident questionnaires.”* The Core Strategy designates Ryburgh Parish as “countryside” where development will be limited to that which requires a rural location and is for one or more of specified types that do not include general market housing development. The District Council has not provided a housing target at neighbourhood area level and the Parish Council have not requested an indicative housing requirement figure. The revisions to the Guidance relating to these matters were published in May 2019 when the Neighbourhood Plan was at an advanced stage of preparation.

118. The Neighbourhood Plan Evidence Document 1 provides information on past housing completions and anticipates small scale provision in the future in the context of future Local Plan policies remaining similar to those at present. The Neighbourhood Plan places no cap or limit on the number of homes that can be provided within the settlement boundary identified in Annex 5 where it meets stated criteria, nor beyond the built framework boundaries where the proposal is accepted in terms of Development Plan and national planning policy. In this policy context it is reasonable to assume there will be some windfall supply during the Plan period up to 2036 which will boost the supply of homes in the Neighbourhood Plan area, for example, through the District Council’s rural exception policy and extension and replacement of dwellings policies along with, but not limited to the

approach set out in Policy SS2 of the Core Strategy. In addition to Policy 3, Policies 8 and 10 of the Neighbourhood Plan, are relevant to housing supply. I am satisfied the approach adopted to address housing need in the Neighbourhood Area is appropriate for the purpose of neighbourhood plan preparation for Ryburgh parish and provides the necessary justification that those policies (after recommended modification or deletion) that are relevant to housing supply will result in local housing needs being met. The Neighbourhood Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, and will not undermine those strategic policies.

119. Paragraph 77 to 79 of the Framework state *“In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby. Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply: a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside; b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; c) the development would re-use redundant or disused buildings and enhance its immediate setting; d) the development would involve the subdivision of an existing residential dwelling; or e) the design is of exceptional quality, in that it: - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.”*

120. Policy 3 provides for a greater level of residential development than is provided for in strategic policies by defining a settlement

boundary within which the development of new dwellings is conditionally supported. Whilst some representations have proposed the Neighbourhood Plan should provide for a greater level of housing growth, I have seen no evidence of local housing need to support that view.

121. Strategic Policy SS2 provides for the development of affordable housing in accordance with the Council's rural exception site policy. Core Strategy Policy HO3 sets out the criteria where affordable housing development will be permitted in areas defined as countryside, which includes the Neighbourhood Area. Strategic Policies HO4 and HO5 also provide for specific types of residential sites and accommodation where specified criteria are met. Strategic Policy HO8 also provides for development of house extensions and replacement dwellings that could result in additional residential floorspace. Strategic Policy HO9 applies in specific areas identified on the Proposals Map. The identified areas include a substantial part of the Neighbourhood Area centred on Great Ryburgh village. In this defined area Policy HO9 establishes that the conversion and re-use of suitably constructed buildings in the countryside for permanent residential purposes will be permitted provided stated criteria are met. In addition, Policy HO9 provides that in the remainder of the Neighbourhood Area conversion of a building of exceptional historic, architectural or landscape value may be converted subject to stated criteria being met.

122. Paragraph 126 of the Framework states *"To provide maximum clarity about design expectations at an early stage, plans or supplementary planning documents should use visual tools such as design guides and codes. These provide a framework for creating distinctive places, with a consistent and high-quality standard of design. However, their level of detail and degree of prescription should be tailored to the circumstances in each place, and should allow a suitable degree of variety where this would be justified"*. Paragraph 127 of the Framework states *"Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the*

arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.” I am satisfied the approach adopted in the Neighbourhood Plan in these respects has sufficient regard for national policy.

123. Representations raise the issue whether the development boundary proposed in Policy 3 should include additional land. Paragraph 4.3.7 of the text supporting Policy 3 states *“The settlement boundary for infill housing has been drawn to confine any new housing development to the limits of the existing settlement of Great Ryburgh. It has therefore been drawn to go around all existing domestic housing and to meet the following criteria: a. to be on one of the following roads: Station Road, Fakenham Road, Highfield Lane, Highfield Close, Westwood Lane; and b. generally, be no more than 25 metres from an existing house.”* A development boundary can represent the dividing line between built areas and open countryside, and can follow clearly defined features such as walls, hedgerows or water courses. Extant planning permissions and allocations can be included within the development boundary. The definition of the boundary however does not have to relate to some observable land use difference or dividing feature. A development boundary does not have to include the full extent of a settlement, and a development boundary does not have to reflect land ownership boundaries or the precise curtilages of properties. Development boundaries can be used to identify the limits to future development of a settlement. One approach is to exclude curtilages of properties which have the capacity to extend the built form of a settlement in areas where this is not considered desirable. Such areas could include whole properties or parts of large residential gardens. Paragraph 4.3.7 of the Neighbourhood Plan sets out the basis on which the development boundary has been determined.

124. The development boundary proposed in Policy 3 has been subject to community engagement and consultation during the Plan preparation process. Whilst consideration has been given to the current development form of the settlement, the development

boundary does not define the built-up area of Great Ryburgh as it excludes the Church and other buildings south of Bridge Street and a substantial built area occupied by the Crisp Malting Group. I am satisfied the development boundary indicates a physical limit to development within which infill development will be conditionally supported over the plan period, unless otherwise provided for in the Neighbourhood Plan or in strategic policies. Policy 3 uses the settlement boundary as a mechanism to define the area within which proposals for infill housing development will be conditionally supported, and will guide development to sustainable solutions. It is beyond my role to consider whether any alternative alignment of the development boundary would offer a more sustainable solution. It is beyond my role to recommend modification of the Neighbourhood Plan where this is not necessary to meet the Basic Conditions or other requirements that I have identified.

125. In response to my request for clarification as to the meaning and purpose of criterion 3 the Parish Council has stated "*It is a statement of intention additional to the defined Settlement Boundary and clarifies the intention of the Settlement Boundary*". The settlement boundary is clearly defined. In this context the imprecise term "*will not involve the outward extension of the village of Great Ryburgh*" is unnecessary and confusing. I have recommended criterion 3 of Policy 3 is deleted.
126. Paragraph 164 of the Framework states "*Applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 50.*" I am satisfied the approach adopted in the Neighbourhood Plan in this respect has sufficient regard for national policy.
127. The policy includes the abbreviation "*HRA*". The Parish Council has confirmed this is a reference to Habitats Regulations Assessment. It is preferable to refer to Habitats Regulations Assessment for the avoidance of doubt. The content of the final two paragraphs of the policy are not reflected in the policy title. These two paragraphs of the policy each include the imprecise term "*local policy guidance*". This term does not provide a basis for the determination of planning proposals. It is in any case unnecessary and confusing for a policy to refer to other policies of the Development Plan, as the Development Plan should be read as a whole. Strategic Policy HO8 relates to house extensions and replacement dwellings in the countryside. The term "*in principle*" used in the final two paragraphs of Policy 3 introduces uncertainty. In response to my request for clarification the Parish

Council has stated *“It is accepted that these sentences offer nothing additional to the provisions of the NNDC Local plan and could therefore be omitted from Policy 3.”* I have recommended the final two paragraphs of the policy are deleted. The supporting text in paragraphs 4.3.4 and 4.3.11 seeks to introduce an element of planning policy which it may not. Planning policy can only be introduced in the Neighbourhood Plan policies. I have recommended a modification in these respects so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework. Whilst the term *“small-scale”* is imprecise the policy as a whole provides sufficient guidance to decision makers to determine proposals in this respect.

128. As recommended to be modified the policy is in general conformity with the strategic policies included in the Core Strategy incorporating Development Control Policies adopted in 2008 as amended (with Proposals Map and insets), and the Site Allocations Plan adopted in 2011 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

129. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes; promoting sustainable transport, making effective use of land, achieving well-designed places, meeting the challenge of climate change and flooding, conserving and enhancing the natural environment, and conserving and enhancing the historic environment the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 3:

In Policy 3

- **replace “with one to five” with “between existing”**
- **delete criterion 3 and renumber the following criteria**
- **replace “HRA” with “Habitats Regulations Assessment”**

- delete the final two paragraphs

Delete supporting text paragraphs 4.3.4 and 4.3.11

Policy 4 Landscape Character

130. This policy seeks to establish that development proposals should be informed by, and sympathetic to, the key characteristics and landscape guidelines of defined landscape character areas.
131. Paragraph 170 of the Framework includes “*Planning policies ... should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes ... b) recognising the intrinsic character and beauty of the countryside...*”. I am satisfied the approach adopted in Policy 4 has sufficient regard for national policy in this respect.
132. Core Strategy Policy EN2 requires proposals for development to be informed by, and be sympathetic to, the distinctive character areas in the North Norfolk Landscape Character Assessment. The North Norfolk Landscape Character Assessment Supplementary Planning Document June 2009 recognises the large valley associated with the River Wensum in the north and east central part of the Neighbourhood Area, and tributary farmland to the west and extreme east of the Neighbourhood Area. The North Norfolk Landscape Character Assessment Draft SPD prepared by LUC in November 2018 includes the Neighbourhood Area partly in the River Wensum and tributaries river valley, and partly in the North Norfolk tributary farmland character areas. Evidence Document 2 is a Landscape Character Assessment prepared in November 2019. The Landscape Character Assessment identifies 11 distinct character areas within the Neighbourhood Area. The report refers, at paragraph 2.1.9, to the North Norfolk District Landscape Character Assessment 2009, and the Landscape Character Assessment supporting the emerging Local Plan. Evidence Document 2 refers to a hierarchical approach and provides an additional level of detail to the District wide assessments. I am satisfied the Landscape Character Assessment prepared to inform the Neighbourhood Plan fulfills the role for it set out in Policy 4.
133. It is unnecessary and confusing for the policy to include the term “*within the Neighbourhood Area*” as all the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a smaller geographic area is stated. The term “*should be informed*”

does not provide a basis for the determination of planning proposals. The policy states “*herein referred to as ‘LCA’*” but the policy does not include that term nor does the text supporting the policy. It is confusing for Policies 4,5 and 8 to refer to landscape matters. I have recommended a consolidation in this respect. In answer to my request for clarification the Parish Council has confirmed the key to the Map on page 108 of Evidence Document 2 incorrectly switches the colour coding of the Lt Ryburgh and North of Great Ryburgh small field landscape areas. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

134. As recommended to be modified the policy is in general conformity with the strategic policies included in the Core Strategy incorporating Development Control Policies adopted in 2008 as amended (with Proposals Map and insets), and the Site Allocations Plan adopted in 2011 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

135. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 4:

Replace Policy 4 with “To be supported proposals for development must demonstrate how they are informed by, and sympathetic to, the key characteristics and landscape guidelines of the Landscape Character Areas defined in the Ryburgh Landscape Character Assessment*. To be supported all development proposals must include landscape planting that integrates with local existing natural features.

***CJ Yardley Landscape, Survey Design & Management Nov 2019”**

Correct the key to the Map on page 108 of Evidence Document 2 in respect of the colour coding of the Lt Ryburgh and North of Great Ryburgh small field landscape areas.

Policy 5 Protection and Enhancement of Local Habitats, Landscape and Amenity

136. This policy seeks to establish that development proposals should demonstrate that their location, scale, design and materials will protect, conserve and where possible enhance the local distinctiveness of the area, the settlement character and the key landscape features and characteristics.
137. A representation states planting could obscure ugly buildings. A representation on behalf on Crisp Malting Group states *“Paragraph 170 of the NPPF encourages the protection and enhancement of valued landscapes, sites of biodiversity or geological value and soils, in line with Policy EN2. NPPG Guidance Note (ref: 8-036-20190721) adds further detail to Paragraph 170, recognising that: “plans can also include policies to avoid adverse impacts on landscapes and to set out necessary mitigation measures, such as appropriate design principles and visual screening, where necessary”. Policy ENV2 of the emerging development plan incorporates this guidance, by incorporating the following wording: “Development should, where possible, be directed to areas where the landscape is either not sensitive to change, or is of a lower landscape sensitivity. Where development is proposed in areas of higher landscape sensitivity, applications will be expected to demonstrate how the impact on the landscape will be minimised by appropriate mitigation. In the case that a development is not able to be made acceptable by mitigation measures, such proposals will be refused.” It is therefore considered that Policy 5 of the Ryburgh NDP should be amended to direct development in Ryburgh to the less visually sensitive areas of the village, and to allow for development proposals to demonstrate how the impact on the landscape will be minimised by appropriate mitigation. Through incorporating the suggested amendment to Policy 5 below, it is considered that the Policy will achieve general conformity with the NPPG and the emerging development plan.”* The Basic Conditions do not require my consideration of general conformity with the Framework, nor general conformity with the emerging Development Plan.
138. A representation states *“The Landscape Character Assessment (LCA) demonstrates in detail the local character of the landscape of the Neighbourhood Area. It is not practical to add a requirement to*

distinguish areas as “not sensitive to change” and or “of lower landscape sensitivity”. Such a provision casts uncertainty upon the structure and classifications of the LCA and raises questions of subjectivity, thereby, weakening what is an objective LCA.”

139. Paragraph 170 of the Framework includes *“Planning policies ... should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes ...”*. Paragraph 127 of the Framework includes *“Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;... “*.
140. Policy 4 relates to landscape character and policies 7, 8 and 9 relate to habitats. It is confusing for Policy 5, not least through the stated policy title to purport to also address these matters. Policy 5 does however address matters of design and in this respect, I am satisfied the approach adopted in Policy 5 has sufficient regard for national policy.
141. It is unnecessary and confusing for the policy to include the term *“within the Neighbourhood Area”* as all the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a smaller geographic area is stated. The term *“should”* does not provide a basis for the determination of planning proposals. I have recommended a modification in these respects so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
142. As recommended to be modified the policy is in general conformity with the strategic policies included in the Core Strategy incorporating Development Control Policies adopted in 2008 as amended (with Proposals Map and insets), and the Site Allocations Plan adopted in 2011 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose

by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

143. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 5:

In Policy 5

- **replace the text before “demonstrate” with “To be supported proposals for development must”**
- **replace the text after “the area” with “and settlement character”**

Retitle the policy “Development design”

In supporting text insert reference to part 12 of the Framework and the North Norfolk Design Guide SPD 2008

Policy 6 Dark Night Skies

144. This policy seeks to establish that development proposals for external lighting will minimise impact on dark skies, in particular in terms of luminance levels, period of illumination, and light spillage beyond the site boundary.

145. The Guidance includes *“for maximum benefit, it is important to get the right light, in the right place and for it to be used at the right time. Artificial light is not always necessary. It has the potential to become what is termed ‘light pollution’ or ‘obtrusive light’, and not all modern lighting is suitable in all locations. It can be a source of annoyance to people, harmful to wildlife and undermine enjoyment of the countryside or the night sky, especially in areas with intrinsically dark landscapes. Intrinsically dark landscapes are those entirely, or largely, uninterrupted by artificial light.”*⁶⁷ I am satisfied the approach

⁶⁷ Planning Practice Guidance Paragraph: 001 Reference ID: 31-001-20191101 Revision date: 01 11 2019

adopted in Policy 6 pays sufficient regard for national policy in this respect.

146. It is unnecessary and confusing for a policy to state “*requiring planning permission*” as all the policies of the Neighbourhood Plan only apply to development requiring planning permission. I have recommended a modification in this respect so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework. Whilst the term “*minimise*” is imprecise the second sentence of the policy provides the necessary explanation.
147. As recommended to be modified the policy is in general conformity with the strategic policies included in the Core Strategy incorporating Development Control Policies adopted in 2008 as amended (with Proposals Map and insets), and the Site Allocations Plan adopted in 2011 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
148. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 6:

In Policy 6 delete “requiring planning permission”

**Policy 7 Protection and Enhancement of Local Habitats (1)
Policy 8 Protection and Enhancement of Local Habitats (2)**

149. Policy 7 seeks to establish that a development proposal that is within the habitat areas identified on the map in Annex 6 will only be

permitted if the primary objective of the proposal is to conserve or enhance the habitat.

150. Policy 8 seeks to establish that development proposals that would be significantly detrimental to the nature conservation interests of the River Wensum and local habitat areas defined on a map in Annex 6 will not be permitted and seeks to establish development principles to apply to all development proposals. The policy also seeks to establish criteria for development proposals outside both the Settlement Boundary defined in Annex 5 and the Habitat Areas defined in Annex 6.
151. A representation submitted by the Environment Agency states *“We are pleased to see that our request, from the Regulation 14 consultation response, to specify how the natural environment will be protected and enhanced has been applied, we refer specifically to the wording of Policy 8.”* Two representations state the identification of a local habitat area would not grant public access and *“It is particularly important to appropriately manage land to protect its value as habitat by preventing pollution, litter, and disturbance to biodiversity/species”*. The policy does not indicate any grant of public access.
152. In a representation the District Council states *“from reviewing the ecological sections of the plan and the evidence document by Wild Frontier Ecology, it seems odd that the designated habitat areas in the RNP do not include the tributary of the River Wensum and the woodland (which is also a CWS) to the south of the village. This seems an omission when this part of the RNP area would meet with the objectives of policies 7, 8 and 9. It is noted that the land/tributary to the north of the village (and next to the Crisp Maltings site) is included within the Habitat areas.”* The Parish Council commented on the representation of the District Council as follows: *“the tributary of the River Wensum to the South of the village was not included within the Habitat Area because it is little more than a ditch and has no flood plain. The woodland was considered to be detached from the body of the Habitat Area and in any event, protected as a CWS.”*
153. A representation on behalf of Crisp Malting Group refers to Policies 7, 8, 9, and 10 together and recommends policy 7 should be deleted. The representation states that Policy 7, 8 and 10 are not conducive to the delivery of the HGV access road, or any development outside the Ryburgh Settlement Boundary. The representation also states *“Policy 8 is in clear conflict with Paragraph 29 of the NPPF, by seeking to promote less development than set out in the strategic*

policies for the area". The representation also states *"the approach taken with these NDP policies is not reflective of Section 8.3 of the Ecology Report prepared by Wild Frontier, which contains recommendations for the implementation of a biodiversity policy within the NDP. The recommendation sensibly follows the example of the Corpusty & Saxthorpe NDP, which incorporates a policy designed to safeguard the ecologically significant Bure Valley from inappropriate development proposals. The Report suggests adapting this policy for the Wensum Valley within Ryburgh Parish to form a biodiversity policy (see page 35 of the Wild Frontier Report within the NDP Evidence Pack)."* I have, earlier in my report, stated I have taken representations into account so far as they are relevant to my role.

154. Another representation states the Neighbourhood Plan includes no reference to the second section of paragraph 175 of the Framework. The representation also states *"Paragraph 176 (of the Framework) specifies protection to habitat sites as set out at Annex 8 which relate to River Wensum Special Area of Conservation and River Wensum Site of Special Scientific Interest. Annex 6 of the Draft Neighbourhood Plan identifies a much wider area which it seeks to define as a 'Habitat Area'. This includes land which was not identified in the supporting evidence base, and should not seek to designate land where it is not appropriately justified. Concern is raised that Draft Policy 7 and Draft Policy 8 seek to elevate the status of the entire draft Neighbourhood Plan 'Habitat Area' (Annex 6) to that defined in paragraph 176 of the NPPF."*
155. A further representation states *"The authors of the Ecology report, Wild Frontier, have approved the extent of the Habitat area in their email of 5 February 2020 (see Annex 2 of the Consultation Statement)."* I have noted the email referred to states the policy approach seems entirely consistent with the report (as defined in section 6 of the report) which specifies enhancement of the Wensum valley as a wildlife corridor including supporting habitats and tributary water-bodies.
156. Paragraphs 174 to 177 of the Framework state *"To protect and enhance biodiversity and geodiversity, plans should: a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity⁶⁸; wildlife*

⁶⁸ (Footnote 56 in the Framework) Circular 06/2005 provides further guidance in respect of statutory obligations for biodiversity and geological conservation and their impact within the planning system.

corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation⁶⁹; and b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity. When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest; c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons⁷⁰ and a suitable compensation strategy exists; and d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity. The following should be given the same protection as habitats sites: a) potential Special Protection Areas and possible Special Areas of Conservation; b) listed or proposed Ramsar sites⁷¹; and c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites. The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or

⁶⁹ (Footnote 57 in the Framework) Where areas that are part of the Nature Recovery Network are identified in plans, it may be appropriate to specify the types of development that may be suitable within them.

⁷⁰ (Footnote 58 in the Framework) For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.

⁷¹ (Footnote 59 in the Framework) Potential Special Protection Areas, possible Special Areas of Conservation and proposed Ramsar sites are sites on which Government has initiated public consultation on the scientific case for designation as a Special Protection Area, candidate Special Area of Conservation or Ramsar site

projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.”

157. It is intended that Policy 7 should apply in the Habitat Area defined on the map in Annex 6 of the Neighbourhood Plan. The identified area includes European and nature conservation sites - The River Wensum Special Area of Conservation and the River Wensum Site of Special Scientific Interest. The Framework establishes planning policy to apply in those areas. Policy 7 does not have sufficient regard for national policy. The map in Annex 6 includes a significant area of other land in addition to the European and nature conservation sites. Paragraph 171 of the Framework states *“Plans should: distinguish between the hierarchy of international, national and locally designated sites...”*. The map in Annex 6 does not have sufficient regard for national policy.

158. In response to my request for clarification *“please direct me to the existing evidence that supports the precise boundaries of the habitat area identified on the Map in Annex 6”* the Parish Council has responded *“As stated in Para. 4.5.2 of the Neighbourhood Plan the extent of the habitat area is drawn to incorporate the open and undeveloped areas which are the flood plain of the river valley and its tributaries. The object of Policies 7&8 is the protection of the Environment and that object is not susceptible to precise boundaries. Nevertheless, the extent of the area adjoining the River Wensum and its tributaries which has not been subject to intensive agriculture is clearly defined on the ground by the long-term absence of intensive farming damage, natural grass, drainage channels, marshy ground and an abundance of insect life and bird life. The existing evidence relied upon as to the extent of the land is therefore that the area identified in Annex 6 is readily identified as being of ecological importance and as a part of the major ecological corridor referred to in Para.1 of the Ecological Report (Evidence Document 3). The Inspector will have noted from the Consultation Statement the very considerable level of acceptance for the boundaries defined by Annex 6.”*

159. The Guidance states *“Proportionate, robust evidence should support the choices made and the approach taken.”* The Habitat Area identified on the map in Annex 6 of the Neighbourhood Plan is presented with precise boundaries and those boundaries are used to define where Policies 7 and 8 are to apply. This has a major implication affecting the development potential of land. Whilst the Parish Council has stated *“The object of Policies 7&8 is the protection*

of the Environment and that object is not susceptible to precise boundaries” the Map in Annex 6 identifies precise boundaries of the Habitat Areas. Those boundaries are not sufficiently justified. The precise boundaries of the Habitat Areas presented on the Map in Annex 6 are not sufficiently justified by Evidence Document 3 – Ecological Report August 2018 or in any other evidence. I have recommended Annex 6 is deleted and all references to the “*Habitat Areas*” identified on the Map in Annex 6 are also deleted from the Neighbourhood Plan. This has the implication that Policy 7 and Policy 8 should be modified. The European and nature conservation sites identified in Annex 8 will remain subject to national policy that I have identified. I have recommended a modification in these respects so that the policy has sufficient regard for national policy.

160. Policy 8 does not have sufficient regard for the principles set out in paragraph 175 of the Framework in particular with respect to an approach based on avoidance, mitigation, and as a last resort compensation. When considering Policy 3 earlier in my report I stated Policy 8 of the Neighbourhood Plan is relevant to housing supply. I am satisfied the approach adopted to address housing need in the Neighbourhood Area is appropriate for the purpose of neighbourhood plan preparation for Ryburgh parish and provides the necessary justification that those policies that are relevant to housing supply, as recommended to be modified, will result in local housing needs being met. The Neighbourhood Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies. As recommended to be modified Policy 8 does not seek to promote less development than set out in the strategic policies for the Neighbourhood Area, nor does it undermine the strategic policies, but it does seek to shape, direct and help to deliver sustainable development. It is inappropriate for Policy 7 and Policy 8 to contain the term “*permitted*” as it is necessary to take account of material considerations that may not be known until the time of decision making.⁷² The term “*for example*” in Policy 8 introduces uncertainty. Paragraph 175 of the Framework sets out national policy in respect of irreplaceable habitats including ancient woodland and ancient and veteran trees. The Hedgerows Regulations 1997 establish a balanced regime to protect hedgerows in specified locations but exclude any hedgerow which is within, or borders, a domestic garden. Policy 4 as recommended to be modified sets out a policy approach relating to

⁷² Paragraph 2 National Planning Policy Framework 2019

landscape character. It is confusing for another policy to seek to introduce landscape related requirements. I have recommended modifications in these respects so that the Neighbourhood Plan has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

161. Strategic Policy SS4 seeks to protect open spaces and areas of biodiversity interest through a variety of measures. Development Control Policy EN9 sets out a comprehensive policy approach in respect of biodiversity. As recommended to be modified Policy 7 and Policy 8 will provide an additional level of detail or distinct local approach to that set out in the strategic policies. Evidence Document 3 – Ecological Report August 2018 is a thorough valuable study that has revealed a great deal of detailed knowledge about the ecology of the Neighbourhood Area. The Ecological Report sets out helpful information that could assist the preparation and determination of development proposals. I have recommended a modification of Policy 8 so that the Ecological Report can perform that role.

162. As recommended to be modified Policy 7 and Policy 8 are in general conformity with the strategic policies included in the Core Strategy incorporating Development Control Policies adopted in 2008 as amended (with Proposals Map and insets), and the Site Allocations Plan adopted in 2011 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policies serve a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

163. As recommended to be modified Policy 7 and Policy 8 seek to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, Policy 7 and Policy 8 are appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance Policy 7 and Policy 8, as recommended to be modified, are appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification Policy 7 and Policy 8 meet the Basic Conditions.

Recommended modification 7:

- replace Policy 7 with “Development proposals within, or which will have a likely impact on, the River Wensum (SAC and SSSI) habitat areas identified on the Map in Annex 8 will only be supported if the primary objective of the proposal is to conserve or enhance the habitat, or is otherwise provided for in national policy. Any development that may have an impact on the aquatic or terrestrial ecology of the River Wensum habitat areas must be accompanied by an ecological assessment, and any necessary Habitats Regulations Assessment, and demonstrate how any mitigation and/or compensation measures identified in an assessment will be achieved.”
- replace Policy 8 with “To be supported development proposals outside, and that will not have an impact on, the River Wensum (SAC and SSSI) habitat areas identified on the Map in Annex 8, and outside the settlement boundary identified on the Map in Annex 5, must demonstrate how they enhance; and how they avoid, or adequately mitigate, or as a last resort compensate for; significant harm to wildlife-rich habitats and wider ecological networks with reference to the Ecological Report (August 2018), or more recent ecological appraisals or evidence.”
- delete Annex 6 and delete all references to the Habitat Areas identified on the Map in Annex 6

Policy 9 Ecological Network

164. This policy seeks to establish that development proposals that would lead to the enhancement of the ecological network would be supported particularly where they would improve habitat connectivity.
165. A representation on behalf of Crisp Malting Group refers to Policies 7, 8, 9, and 10 together and recommends policy 9 should be deleted.
166. Paragraph 174 of the Framework states “*To protect and enhance biodiversity and geodiversity, plans should: a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity⁷³; wildlife*

⁷³ (Footnote 56 in the Framework) Circular 06/2005 provides further guidance in respect of statutory obligations for biodiversity and geological conservation and their impact within the planning system.

corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation⁷⁴; and b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity. I am satisfied Policy 9 has sufficient regard for national policy in this respect.

167. The term “*would be supported particularly*” does not provide a basis for the determination of planning proposals. I have recommended a modification in this respect so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

168. As recommended to be modified the policy is in general conformity with the strategic policies included in the Core Strategy incorporating Development Control Policies adopted in 2008 as amended (with Proposals Map and insets), and the Site Allocations Plan adopted in 2011 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

169. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 9:

In Policy 9 replace the text after “network” with “, including where they would improve habitat connectivity, will be supported”

⁷⁴ (Footnote 57 in the Framework) Where areas that are part of the Nature Recovery Network are identified in plans, it may be appropriate to specify the types of development that may be suitable within them.

Policy 10 Open Land

170. This policy seeks to establish that development on visually important Open Land Areas identified in Annex 7 will not usually be supported.
171. Two representations state the Open Land Area designation would not grant public access. The policy does not indicate any grant of public access. One representation also states *“The Draft Neighbourhood Plan is supported by a Landscape Character Assessment which has considered the ability of land surrounding the settlement to accommodate additional development. In addition to the tightly drawn settlement boundaries, the Neighbourhood Plan itself defines at Annex 7 a suggested ‘Open Land Area’ where development ‘will not normally be supported’. This area is very similar to the extent of the proposed ‘Habitat Area’ contained at Annex 6. In the future site-specific proposals, which are supported by detailed Landscape Visual Impact Assessments, may well be brought forward for development and could be found to be acceptable in these locations. It is considered that Policy 10 is unnecessary and it should be removed from the Neighbourhood Plan.”*
172. A representation on behalf of Crisp Malting Group states *“It is recognised that the proposed Open Land Area is identical to the Habitat Area. The rationale for the extent of the Open Land Area is, like with the Habitat Area, not directly informed by the Landscape Assessment prepared within the Evidence Pack. Its inclusion within the NDP is therefore unsupported. As the Open Land Area is intrinsically connected with the Habitat Area, Policy 10 and Section 4.6 of the NDP should be deleted, as the proposed revision to Policy 8 above addresses development proposals within both areas. Additionally, Policies 4 and 5 represents the Ryburgh NDP’s approach to landscape matters. It should also be noted that The Conservation of Habitats and Species Regulations 2017 shall separately govern any planning applications likely to have significant impacts on European Sites, such as the River Wensum SAC, and to ensure that through Appropriate Assessment, no adverse impacts arise (unless justified by overriding public interest). The NDP should not seek to duplicate such statutory controls.”*
173. In response to my request for clarification *“please direct me to the existing evidence that supports the precise boundaries of the open land area identified on the Map in Annex 7”* the Parish Council has responded *“As stated in Para. 4.5.2 of the Neighbourhood Plan the*

extent of the Open Land is the area that makes an important positive contribution to the appearance of the area as a visual amenity. The object of Policy 10 is the protection of the very unique setting/landscape which characterises the village of Great Ryburgh and a setting is not susceptible to precise boundaries. The evidence relied upon to fix the boundary is the patent beauty, tranquillity, richness of wildlife and historic significance of the Wensum Valley and its tributaries and the evidence as to the extent thereof is as stated above in the Response to Para.9. We also rely upon the correlation between the extent of valley landscapes contained in Evidence Document 2 and those identified in Annex 7. The Inspector will have noted from the Consultation Statement the very considerable level of acceptance for the boundaries defined by Annex 7.”

174. In response to my request for clarification *“Please advise me where the variation between the ‘North of Great Ryburgh small field landscape’ area identified on page 108 of Evidence Document 2, and the area in that vicinity identified on the Map in Annex 7 is explained”* the Parish Council has responded *“The variation between ‘North of Great Ryburgh small field landscape’ and that area as shown in Annex 7 is because the Annex 7 map was drawn without reference to the Landscape Report, and substantially follows the Habitat Areas Map (Annex 6). It is accepted that it is arguable that the whole of the North of Great Ryburgh small field landscape should be included in Annex 7 because it forms an integral part of the landscape and visual amenity enjoyed by the houses on the North side of the village high street. Planning policy must operate in the public interest. I have noted parts of the North of Great Ryburgh small field landscape included within the Open Land Area, apart from glimpsed views, are not readily seen from locations to which the general public have free and unrestricted access. This reduces the significance of the positive contribution this land makes to the appearance of the Open Land Area as a visual amenity, as referred to in paragraph 4.6.1 of the text supporting Policy 10.*

175. Strategic Policy SS4 states *“Open spaces and areas of biodiversity interest will be protected from harm, and the restoration, enhancement, expansion and linking of these areas to create green networks will be encouraged through a variety of (stated) measures.”* Development Control Policy CT1, which is in part regarded as a strategic policy by the District Council, identifies Open Land Areas *“where development will not be permitted except where it enhances the open character or recreational use of the land”*. The emerging

Local Plan includes a classification of open space that is referred to as “*Open Land Areas - areas of open land which make an important contribution to the appearance of an area and may provide opportunities for informal recreation. We are proposing that these areas are protected principally as a result of being free of built development and because they make a positive contribution to the character of the wider area.*”

176. Paragraph 170 of the Framework states planning policies should protect and enhance valued landscapes, and recognise the intrinsic character and beauty of the countryside. Paragraph 127 of the Framework states planning policies should ensure developments are sympathetic to the surrounding built environment and landscape setting. Ensuring developments are sympathetic to the surrounding built environment and landscape setting is not the same as preventing any development. Sustainable development could occur in the Open Land Areas that does not undermine their visual importance. A policy defining an area where no development is to be supported would seek to establish a regime that is more restrictive than even that applying in designated Green Belt. Such an approach would not have sufficient regard for national policy for it to be appropriate. Whilst the resistance of all forms of development in a defined area of open countryside would not have sufficient regard for national policy, ensuring developments are sympathetic to the surrounding built environment and landscape can be a legitimate objective of land use policy. Supporting text paragraph 4.6.1 confirms “*the purpose of this policy is to provide and protect open space which makes a significant contribution to the character of the NDA and to the health and well-being of the community.*”

177. Paragraph 99 of the Framework provides for the designation of Local Green Space through Neighbourhood Plans and paragraph 101 of the Framework states “*policies for managing development within a Local Green Space should be consistent with those for Green Belts*”. The Open Land Areas referred to in Policy 7 and identified on the map in Annex 7 are an extensive tract of land and, in accordance with paragraph 100 of the Framework, would not be appropriate for designation as Local Green Space. The Neighbourhood Plan does not seek to designate any Local Green Space. Paragraph 4.6.1 supporting Policy 10 states “*the Open Land holds a particular local significance because of its beauty, tranquillity, richness of its wildlife and historic significance.*” These are four of the five examples of reasons why Local Green Space may be demonstrably special to a local community

and holds a particular local significance set out in paragraph 100 b) of the Framework. I have earlier in my report referenced the Guidance where it refers to “*proportionate, robust evidence*” for policies and “*appropriate evidence*” for neighbourhood plans. Paragraph 100 of the Framework refers to “*tranquillity*”. Where formal tranquillity assessments have been produced elsewhere, they include evidence, for example of background noise levels, measured on site. Whilst no formal tranquillity assessment has been undertaken in respect of the Open Land Areas, I am satisfied a local community could imagine the Open Land Areas are tranquil. The proposed designation as Open Land Areas would not in itself confer any rights of public access over what exists at present. Any additional access would be a matter for separate negotiation with land owners, whose legal rights must be respected. Whilst tranquillity can be imagined or anticipated, it is a location specific experience. Tranquillity, cannot be demonstrated to exist, and importantly cannot be experienced, without access. No public right of access to most of the Open Land Areas has been confirmed. I conclude tranquillity should not be a basis for designation of the land identified on the map in Annex 7 as Open Land Areas.

178. Paragraph 4.6.2 of the Neighbourhood Plan states the evidence in support of Policy 10 is “*the patent benefit to all of the protection of this visual amenity*” and evidence documents 2 and 3 relating to landscape character and ecological importance respectively. Policy 4 of the Neighbourhood Plan establishes a policy approach to landscape character, and Policies 7, 8 and 9 of the Neighbourhood Plan establish a policy approach to ecology. In so far as Policy 10 is presented as though it is supported by evidence relevant to landscape character and ecology the Neighbourhood Plan fails to be “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

179. Even in an area designated as Green Belt, of which there is none within the Neighbourhood Area, and where openness is a significant consideration, paragraph 145 of the Framework recognises that new buildings may not be inappropriate, and paragraph 146 of the Framework provides that certain other forms of development are also not inappropriate. Those other forms of development include engineering operations and local transport infrastructure which can demonstrate a requirement for that location. With the exception of the European and nature conservation sites within the Open Land Area identified in Annex 8 which are protected by statute, no evidence has

been provided to justify the introduction of a planning policy regime that is more restrictive than Green Belt policy. Policy 10 fails to explicitly recognise that there can be exceptions where the construction of new buildings and other forms of development including uses of land, engineering operations, and local transport infrastructure can demonstrate a requirement for a location within the Open Land Areas; and that are not inappropriate in a countryside location in terms of national and strategic policies; and that conserve and enhance the natural environment in line with national and strategic policies; and which preserve the openness of the area.

180. Policy 10 does not have sufficient regard for those elements of the Framework that specifically recognise the importance of economic growth in rural areas; and the special circumstances where isolated homes in the countryside will be acceptable. Policy 10 does not have sufficient regard for the components of the Framework concerned with delivering a sufficient supply of homes; supporting a prosperous rural economy; and the more balanced approach adopted in parts of the section titled conserving and enhancing the natural environment. Use of the term “*not usually*” in Policy 10, without explanation in supporting text, introduces uncertainty. In this respect the policy fails to be “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework. In these respects, the policy does not have sufficient regard for national policy.

181. The area identified in Annex 7 loosely corresponds to a combination of some of the Landscape Character Areas presented on page 108 of Evidence Document 2 including some, but not all, of the Valley Types, and the North of Great Ryburgh small field landscape.⁷⁵ The boundaries of the Open Land Area are different to the boundaries of Landscape Character Areas in several locations, for example with respect to the North of Great Ryburgh small field landscape. These variations are not supported by any justification. Whilst the Parish Council has stated “*the object of Policy 10 is the protection of the very unique setting/landscape which characterises the village of Great Ryburgh and a setting is not susceptible to precise boundaries*” the Map in Annex 7 identifies precise boundaries of the Open Land Areas. Those boundaries are not sufficiently justified.

⁷⁵ The key to this map appears to incorrectly switch the colour coding of the Lt Ryburgh and North of Great Ryburgh small field landscape areas

182. The Parish Council has stated *“the Annex 7 map was drawn without reference to the Landscape Report, and substantially follows the Habitat Areas Map (Annex 6).”* Earlier in my report I have found the Habitat Areas identified on the Map in Annex 6 are not sufficiently justified. Policy 10 refers to the Open Land Areas as being *“visually important”* and both paragraphs 4.6.1 and 4.6.2 refer to visual amenity. The visual importance of the identified areas is not sufficiently evidenced. The Guidance states *“Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”*.⁷⁶

183. This policy does not meet the Basic Conditions. I recommend the policy and supporting text are deleted. The aspiration to pursue the identification of an Open Land Area in the Neighbourhood Area through the Local Plan preparation process could be included in ‘Annex 3 Memorandum of Aspirations’ of the Neighbourhood Plan.

Recommended modification 10:

- **delete Policy 10 and supporting text in section 4.6. Renumber Policy 11 as Policy 10**
- **delete Annex 7**

Policy 11 Archaeology

184. This policy seeks to establish that applications for development within 250 metres of an existing Historic Environment Record should consult with the Norfolk Environment Service as to whether a more detailed archaeological survey is needed prior to the determination of the proposal.

185. In a representation Historic England states *“We welcome the consideration given in the plan to Ryburgh’s archaeological significance, and the inclusion of Policy 11. Given that the policy requires all applicants to consult the HER in order to understand whether a site is within 250m of an existing record, we would suggest that this policy could be refined to simply require that, as a minimum, a proportionate Archaeological Desk Based Assessment is undertaken for any proposals for development within the neighbourhood plan area. This is in line with NPPF paragraph 189, and would strengthen the Ryburgh neighbourhood plan’s positive strategy further in line with paragraph 185, owing to the (fact) that it would automatically invoke*

⁷⁶ Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

the requirement for consultation with Norfolk County Council's archaeological service regarding the requirement for any further investigation and mitigation."

186. Paragraph 189 of the Framework states *"Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation."* I have recommended a modification in this respect so that the policy has sufficient regard for national policy.
187. The term *"Due to the number of spot finds and non-designated archaeological areas in the Neighbourhood Area"* is a statement of justification for the policy and does not represent an element of planning policy. It is unclear how a decision *"whether a more detailed archaeological survey is needed"* should be taken. The policy could be interpreted as relying on the Norfolk Historic Environment Service to take that decision. A planning policy cannot rely on a third party for its realisation. I have recommended a modification in these respects so that the policy *"is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals"* as required by paragraph 16d) of the Framework.
188. As recommended to be modified the policy is in general conformity with the strategic policies included in the Core Strategy incorporating Development Control Policies adopted in 2008 as amended (with Proposals Map and insets), and the Site Allocations Plan adopted in 2011 applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
189. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the historic environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 11:

Replace Policy 11 with “All development proposals must demonstrate consultation with the Norfolk Historic Environment Record and where proposals are within 250 metres of, or otherwise have potential to affect, any heritage asset with archaeological interest, an appropriate desk-based assessment, and where necessary a field evaluation, must be submitted.”

Conclusion and Referendum

190. I have recommended 11 modifications to the Submission Version Plan.

191. I am satisfied that the Neighbourhood Plan⁷⁷:

- is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the Statutory Requirements set out in paragraph 8(1) of schedule 4B of the Parish and Country Planning Act 1990 and meets the Basic Conditions:
- 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 neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and

⁷⁷ The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

- 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 2017.⁷⁸

I recommend to North Norfolk District Council that the Ryburgh Neighbourhood Development Plan for the plan period up to 2036 should, subject to the modifications I have put forward, be submitted to referendum.

192. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.⁷⁹ I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”⁸⁰. I have seen nothing to suggest the referendum area should be extended for any other reason. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by North Norfolk District Council as a Neighbourhood Area on 3 April 2017.

Annex: Minor Corrections to the Neighbourhood Plan

193. In a representation the District Council has suggested that references to the Crisp Maltings are updated to refer to a trio of planning applications relating to expansion of the Crisp Maltings site, including residential development, that have been registered since the submission of the Neighbourhood Plan. This could be achieved by updating paragraph 2.1.3.

194. I have only recommended modifications and corrections to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.⁸¹ If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy.

⁷⁸ This basic condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 (5) are amended

⁷⁹ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁸⁰ Planning Practice Guidance Paragraph 059 Reference ID: 41-059-20140306 Revision 06 03 2014

⁸¹ See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

195. The District Council must consider each of the recommendations I have made and decide what action to take in response to each recommendation. The District Council may choose to make other modifications to the Neighbourhood Plan so long as they are in accordance with paragraph 12 (6) of Schedule 4B to the Town and Country Planning Act 1990.

Chris Collison
Planning and Management Ltd
collisonchris@aol.com
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REPORT ENDS