

Neighbourhood Plan for Yaxham
“NP4Yaxham”
2016-2036

The Report by the Independent Examiner

Richard High BA MA MRTPI

7 March 2017

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Summary

The preparation of a neighbourhood plan is a substantial undertaking for a small parish like Yaxham. It is evident that the community has approached the task with enthusiasm and commitment and has identified some key issues that it wishes to address through the Plan. There has been close community involvement during the preparation of the Plan and, although there are a few strong objections to some aspects of the Plan there is evidence that the policies of the Plan reflect the body of opinion expressed during its preparation. It is also clear that the Plan has been carefully prepared having regard to the basic conditions and the legal requirements for neighbourhood plans. I am grateful for the co-operation and help I have received from Breckland Council and The Parish Council in carrying out my examination.

My examination revealed one important deficiency in the Consultation Statement as it did not include a summary of the comments made by individuals in response to the regulation 14 consultation. This omission has been addressed by the NP4Yaxham Working Party and a revised statement including this important information has been produced and subject to consultation in accordance with regulation 16 of the NPR.

One of the key issues for the Plan is the concept of “strategic gaps” to maintain the separate identity of the settlements of Yaxham and Clint Green from the neighbouring settlements of Dereham and Mattishall and from each other. This is a far-reaching policy which I concluded required a hearing to address the justification for both the concept and the detail of the three strategic gaps proposed. As a result of the hearing I found it necessary to recommend substantial changes to the policy a substantial reduction of the area designated as Strategic Gap 1 and the deletion of specific areas for Strategic Gaps 2 and 3, but I hope that a full public airing of the issues involved and the reasons given in this report mean that there is clear understanding of the reasons for these modifications.

I have also found it necessary to recommend some modifications to other policies in order to meet the basic conditions, in particular to ensure that the wording gives sufficient guidance to decision makers to enable them to apply the policies consistently. I have concluded that, if the modifications that I have recommended are made:

The Neighbourhood Plan for Yaxham Plan has been prepared in accordance with Sections 38A and 38B of the Town and Country Planning Act 1990 and the Neighbourhood Planning Regulations 2012;

having regard to national policies and advice contained in guidance issued by the Secretary of State it would be appropriate to make the Plan;

The making of the Plan would contribute to the achievement of sustainable development;

The making of the Plan would be in general conformity with the strategic policies of the development plan for the area;

The making of the Plan would not breach and would be otherwise compatible with European Union obligations and the European Convention on Human Rights.

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

I am also required to consider whether or not the referendum area should extend beyond the Neighbourhood Plan Area. The Plan covers the whole of the Parish of Yaxham and I have seen nothing to suggest that the policies of the Plan will have “a substantial, direct and demonstrable impact beyond the neighbourhood area”.¹ **I therefore conclude that there is no need to extend the referendum area.**

¹ PPG Does an independent examiner consider the referendum area as part of their report?
Reference ID: 41-059-20140306

Introduction

1. The Localism Act 2011 has provided local communities with the opportunity to have a stronger say in their future by preparing neighbourhood plans which contain policies relating to the development and use of land.
2. Yaxham Parish Council is the qualifying body for the Neighbourhood Plan for Yaxham 2016-2036 (which I shall refer to as the (NP4Yaxham or the Plan). The Plan area covers the whole of the parish of Yaxham. It has been prepared by a working group of Parish Councillors, local residents and business representatives which was set up as a Sub-Committee of the Parish Council.
3. The Parish of Yaxham lies about 1.5 miles to the south of the market town of Dereham. It contains the three significant clusters of development: Yaxham, Clint Green and Brakefield Green. and had a total population of 772 in 2011. Yaxham is separated from Dereham by the valley of the River Tud, and lies on the B1135 which connects Dereham with Wymondham.
4. If, following a recommendation from this examination, the Plan proceeds to a local referendum and receives the support of over 50% of those voting, it can be made and will then form part of the statutory development plan. As such it will be an important consideration in the determination of planning applications, as these must be determined in accordance with development plan policies unless material considerations indicate otherwise. In this context, I note and accept the comments made by Breckland Council (BC) regarding a number of technical errors in references to the development plan.

Recommendation

That the errors listed in Appendix 1 be corrected.

Appointment of the Independent Examiner

5. I have been appointed by Breckland Council with the agreement of Yaxham Parish Council (YPC) to carry out the independent examination of the NP4Yaxham.
6. I confirm that I am independent of both Breckland Council and Yaxham Parish Council and have no interest in any land which is affected by the NP4Yaxham.

7. I am a Chartered Town Planner with over 30 years' experience in local government, working in a wide range of planning related roles, including 15 years as a chief officer. Since 2006 I have been an independent planning and regeneration consultant. I have completed 16 neighbourhood plan examinations and three health checks. I therefore have the appropriate qualifications and experience to carry out this examination.

The Scope of the Examination

8. The nature of the independent examination is set out in Sections 8-10 of Schedule 4B of the Town and Country Planning Act 1990.
9. I must:
 - a) decide whether the Plan complies with the provisions of Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004. These requirements relate primarily, but not exclusively, to the process of preparing the Plan and I shall deal with these first.
 - b) decide whether the Neighbourhood Development Plan meets the basic conditions contained in Schedule 4B paragraph 8(2) of the Town and Country Planning Act 1990. This element of the examination relates mainly to the contents of the Plan.
 - c) make a recommendation as to whether the Plan should be submitted to a referendum, with or without modifications, and whether the area for the referendum should extend beyond the Plan area.
10. The Plan meets the basic conditions if:
 - a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the Plan;
 - b) the making of the Plan contributes to sustainable development;

- c) the making of the Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- d) the making of the Plan does not breach, and is otherwise compatible with, EU obligations.

11. Paragraph 9 of Schedule 4B indicates that as a general rule the examination should be carried out on the basis of written representations unless a hearing is necessary to allow adequate consideration of an issue or to allow a person a fair chance to put a case. In carrying out the examination I concluded that a hearing was necessary to explore the justification for Policy STR1 -Strategic Gaps. A hearing was held on 21 February 2017 at Yaxham Village Hall. In addition to this I sought clarification by e mail from BC on some procedural matters.

12. The documents which I have referred to in the examination are listed below.

- Neighbourhood Plan for Yaxham 2016-2036 Regulation 16 The Plan August 2016
- Neighbourhood Plan for Yaxham 2016-2036 Regulation 16 Accompanying Document 1- Statement of Basic Conditions August 2016
- Neighbourhood Plan for Yaxham 2016-2036 Regulation 16 Accompanying Document 2 Consultation Statement August 2016
- Neighbourhood Plan for Yaxham 2016-2036 Regulation 16 Accompanying Document 3 Evidence Base August 2016
- Neighbourhood Plan for Yaxham 2016-2036 Regulation 16 Accompanying Document 3 Evidence Base Appendix 1 ENV3 and ENV4 Reviews August 2016
- Neighbourhood Plan for Yaxham 2016-2036 Regulation 16 Accompanying Document 3 Evidence Base appendix 2 STR Strategic Gaps Field Work
- Breckland District Core Strategy and Development Control Policies Development Plan document 2009
- Emerging Breckland Local Plan Preferred Sites and Settlement Boundaries Consultation September 2016

- Responses received to publicity in accordance with Regulation 16 of the Neighbourhood Plan Regulations
 - The Neighbourhood Planning (General) Regulations 2012 as amended in 2015 which are referred to as the NPR
 - The Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR)
 - The National Planning Policy Framework which is referred to as the NPPF
 - National Planning Practice Guidance referred to as PPG
13. These documents include all of those that are required to be submitted with a neighbourhood plan under regulation 15 of the NPR.
14. I made an unaccompanied visit to Yaxham on 11 November 2016 to familiarise myself with the Parish and help me to understand the implications of the Plan policies. I spent most of a day walking round the parish and its surroundings to view all the key locations referred to in the Plan.

The Preparation of the Plan

15. An application for the designation of the whole of the Parish of Yaxham as a Neighbourhood Area was submitted by YPC to BC on 14 September 2015. The Council undertook consultation as required by regulation 6 of the NPR from 24 September to 28 October 2015. The Council approved the designation under delegated powers on 12 December 2013. The designation was subsequently published on the Council's website in accordance with regulation 7(1) of the NPR.
16. As required under Section 38B (1) (a) of the Planning and Compulsory Purchase Act 2004 the Plan clearly states the period to which it relates, which is 2016-2036.
17. The Plan must not include any provision about development that is excluded development as defined in Section 61K, which is inserted into the 1990 Town and Country Planning Act. Excluded development includes "*county matters*"

such as mineral extraction and waste disposal and major infrastructure projects. I am satisfied that the submitted plan contains no such provision.

18. I am also satisfied that the NP4Yaxham does not relate to more than one neighbourhood area.

Public Consultation

19. The preparation of the NP4Yaxham built on the Yaxham Community Led Plan prepared in 2013, which addressed many non-planning issues but was based on the concept of involving the community in decisions about its future. The process for the NP4Yaxham started with a drop-in morning at the Village Hall which was very widely publicised with banners, posters and leaflets. At the event there were separate stands relating to key issues at which a wide range of views were collected. This was followed by a series of other surveys and meetings to cover significant issues which had not been covered at the first event and to target particular sections of the population. These included a survey of primary school parents, a survey of businesses and an attempt to get the views of young people. Three newsletters were also circulated, one to outline the process, one to publicise emerging policy ideas and the third to publicise the regulation 14 consultation of the Pre-Submission plan.
20. Pre-Submission Consultation took place between 18 April 2016 and 30 May 2016. During this period the draft Plan was available online at www.np4yaxham.com and at the Village Hall, Primary School, Church and Yaxham Waters Café and Shop. The consultation was publicised in the local press and on the BC website. E mails or letters were sent to local businesses, statutory consultees, and local organisations. Three public drop-in meetings were held, two at the Village Hall on 12th and 19th May 2016 and one at the Primary School on 16th May.
21. Paragraph 11.4 of the Consultation Statement indicates that each response was tabulated and considered by the Working Group and feedback on this consultation was provided by press releases, online and through social media. Appendix 1.5 of the Consultation Statement records the issues raised by BC and other statutory consultees and the response by the consultants appointed

by YPC to assist with the preparation of the Plan. Table 1.6 provides some general points raised by statutory consultees. Table 1.7 summarises the points raised by local businesses and refers to two letters of objection from local businesses which the report states were noted. However, the submitted Consultation Statement itself contains no information on the responses received and the reaction to them from local residents, either in full or in summary form. In this respect it failed to meet the requirements of regulation 12 (2) (c) and (d) which requires that the statement *“(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. Thus, while I could see what issues were raised by the statutory consultees there was no information before me to show what issues were raised by local residents and what the response of the Working Group was to these issues. Also, importantly local residents and businesses could not see this information.
23. I sought clarification on where this information can be found and was provided with two weblinks which gave access to this information. However, this did not get over the absence of any information on how the steering group responded to these comments and why. This meant that the Consultation Statement did not contain the information required by the regulations. I therefore requested that this information should be put together in a form which meets the regulations, inserted into the Consultation Statement and publicised in accordance with regulation 16 for a period of 6 weeks. My e mail to this effect is attached as Appendix 2.
24. A revised version of the Consultation Statement was produced including two additional tables in Appendix 1. Appendix 1.8 tabulates responses from individual parishioners in summary form and gives the response of NP4Y to them. It indicates that 47 individual responses were received and these show a high level of support for the main policy areas of the Plan, 95% or more in all cases. While this is a relatively small proportion of the population, it is a significant volume of comment and the failure to include it in the original Consultation Statement was a serious omission. Appendix 1.9 presents the

detailed responses of two significant landowners to the regulation 14 consultation. These comments relate in large part to the development potential of the sites in the ownership of these consultees and to the ongoing debate as to whether Yaxham should be designated a Local Service Centre in the emerging Local Plan, which is addressed later in my report. Again, it is important that these responses should be published so that the community has the opportunity to see what comments have been made and how they have been addressed by the NP4Yaxham steering group.

25. The revised Consultation Statement was published on 12 January 2017 and was subject to any representations in accordance with regulation 16 of the NPR for a period of 6 weeks until 23 February. Three responses all indicating that they had no further comments.
26. Within a representation regarding the hearing into the strategic gaps policy Mr P Dimoglou, the owner of Yaxham Waters Holiday Park made comments on the consultation process. He expressed concern regarding the overall approach of the NP4Y steering group. He also stated that he had not been consulted on the draft NP4Yaxham but had found out about it by chance. Appendix 1.2 of the Consultation Statement lists the businesses contacted on the Regulation 14 Plan and the list includes Yaxham Waters Café and Holiday Park. Moreover, Yaxham Waters Café is listed as one of the locations where a hard copy of the Plan was available. It is therefore clear that his business was consulted at that stage.
27. Mr Dimoglou also claims he was evicted from a meeting held on 15 July 2016 before it had started. I had some concerns regarding the possible implications of this for the openness and fairness of the plan preparation process. However, consultation with both the Parish Council and Breckland Council has established that the dispute relates to whether Mr Dimoglou should have declared an interest at the meeting as a Parish and District Councillor. This matter has not been fully resolved. However, the standards of behaviour of councillors fall within the remit of the Monitoring Officer of Breckland Council and are not within the terms of reference for my examination. I am satisfied that Mr Dimoglou had the opportunity to make representations on the Plan and

did so at both the regulation 14 and regulation 16 consultation stages. I find no reason to question the openness of the plan preparation process.

28. I am satisfied that the consultation process clearly met the requirements of regulation 14 of the NPR and that the revised Consultation Statement meets the requirements of regulation 15(2)

The Development Plan

29. The statutory development plan relating to Yaxham is made up of:
- The Breckland Core Strategy and Development Control Policies (CSDCP) Development Plan Document 2009
 - Site Specific Policies and Proposals Development Plan Document adopted in 2012
 - The Norfolk Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2006 (adopted September 2011)
 - Norfolk Minerals Site Specific Allocations Development Plan Document adopted October 2013)
 - The Norfolk revised PDF policies map and revised interactive policies map which includes site specific allocations and Mineral Safeguarding Areas
30. The Breckland Core Strategy and Development Control Policies will in due course be replaced by the emerging Breckland Local Plan. Consultation on Preferred Site Options and Settlement Boundaries last took place in September/ October 2016, and the Plan is thus still at a relatively early stage. There is no requirement for the neighbourhood plan to be compliant with the emerging Local Plan as it may well be subject to change.

The Basic Conditions Test

31. The consideration of whether the Plan meets the basic conditions is at the heart of the independent examination process. It is therefore essential to be absolutely clear on the meaning of each of the basic conditions. Detailed

consideration of the first three conditions is carried out in relation to the policies of the Plan but the fourth relating to EU requirements is considered in detail at the end of this section.

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

32. There are two important points to emphasise in relation to this. The first is that this requirement relates means that an examiner must consider this requirement in relation to the making of the plan; it thus applies to the plan as a whole, rather than to individual policies. The second point is the use of the phrase *“having regard to”*. This means that the examiner must consider the national policy and advice but it does not mean that each policy must be in absolute conformity with it. It provides for an element of flexibility. PPG explains that *“having regard to national policy”* means that *“a neighbourhood plan must not constrain the delivery of important national policy objectives”*. The Plan as a whole is clearly the sum of its policies and it is therefore necessary to consider the extent to which each policy complies with national policy and guidance. However, in reaching my conclusion on this basic condition it is the relationship of the plan as a whole with national policies and guidance rather than individual policies which is the key consideration.
33. The Basic Conditions Statement submitted with the NP4Yaxham sets out the ways in which its policies relate to the main themes and specific paragraphs of the NPPF and these references will be addressed in my consideration of individual policies. Clearly every location is different and some elements of the NPPF are not directly applicable in Yaxham.
34. Also relevant to the basic conditions test is *“guidance issued by the Secretary of State”* as set out in PPG. The PPG provides a great deal of advice on procedural and policy related matters related to neighbourhood plans². It provides clear explanations on what can or cannot be done in a neighbourhood plan and useful advice on the requirement for policies to be adequately justified and clearly expressed. Significant departure from the PPG is likely result in a

² Planning Practice Guidance Neighbourhood Planning: Reference ID: 41 paragraphs 001-087

conflict with the basic conditions. The Basic Conditions Statement does not consider the relationship of the Plan to PPG but I have had frequent need to relate aspects of the Plan to it.

“The making of the plan contributes to sustainable development”

35. Sustainable development is the fundamental principle guiding the planning process³ and the assessment of this basic condition is therefore of prime importance. The NPPF spells out the three dimensions of sustainable development: economic, social and environmental and the interdependent nature of these. Again, it is important to note that the assessment to be undertaken relates to the plan as a whole, but clearly the contribution of each policy needs to be considered to enable a conclusion to be reached and policies which fail to contribute to sustainable development are likely to require modification or deletion. There may on occasions be a tension between the different dimensions of sustainable development which requires the definition of an appropriate balance.
36. The Basic Conditions Statement links the policies of the NP4Yaxham to main themes in the NPPF to demonstrate its contribution to sustainable development. As the NPPF points out⁴ local circumstances vary greatly and that influences the way in which contributions to sustainable development can be made.
37. Appendices 1 and 2 to The Screening Assessment for Strategic Environmental Assessment carried out by Breckland Council, which is considered in paragraphs 37-40, contain guidance on the preparation of a sustainability appraisal and advises that all neighbourhood plans within Breckland are accompanied by a sustainability appraisal. This is not a formal requirement for neighbourhood plans but PPG suggests that a sustainability appraisal may be a

³ NPPF para 6

⁴ NPPF paragraph 10

helpful way of meeting the requirement for the plan to contribute to sustainable development⁵.

38. The NP4Yaxham is not accompanied by a full sustainability appraisal, but it does provide a simple sustainability statement. This uses the 19 sustainability objectives identified in the BC guidance, which derive from the sustainability appraisal framework for the emerging Local Plan. The 18 policies of the NP4Yaxham are assessed against these objectives using a simple three point scale of a positive, neutral or negative effect. In over 80% of cases the Plan is considered to have a neutral effect and only one potential negative effect is shown, relating to the effect of Policy ENV1, which seeks to minimise external lighting to retain rural character, on the objective to reduce crime. I have found this simple approach to be a helpful summary of the effects of the Plan when used alongside a more specific consideration of each policy.

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

39. As with the previous two conditions the test applies to the plan as a whole, but this requires consideration of individual policies against relevant strategic policies in order to reach an overall conclusion. The test of “*general conformity*” is fundamentally that the neighbourhood plan policies should not undermine the strategic policies of the Local Plan. The test is spelt out more fully in PPG⁶. It does not preclude some variation from a strategic policy to reflect local circumstances providing the proposal upholds the general principle that underlies the strategic policy. The Basic Conditions Statement helpfully relates the policies of the CSDCP to those of the NP4Yaxham. It also relates the policies of the emerging Local Plan to the NP4Yaxham, though conformity with these policies is not a basic condition as they are subject to change.

⁵ PPG Does a neighbourhood plan require a sustainability appraisal? Reference ID: 11-026-2014030

⁶ PPG What is meant by ‘general conformity’? Reference ID: 41-074-20140306

“The making of the Plan does not breach, or is otherwise compatible with EU obligations”

40. As this condition relates to the process of plan preparation I shall deal with it in detail at this stage.

a) Strategic Environmental Assessment

41. PPG indicates that *“where a neighbourhood plan is likely to have significant environmental effects it may require a strategic environmental assessment”*⁷, subsequently referred to as SEA. An SEA requires the preparation of an environmental report. In order to determine whether the plan is likely to have significant environmental effects, a screening assessment is necessary.
42. Regulation 15 of the NPR requires that the submission of a neighbourhood plan must include:
*“either (i) an environmental report prepared in accordance with paragraphs (2) and (3) of regulation 12 of the Environmental Assessment of Plans Regulations (EAPPR) or
(ii) where it has been determined under regulation 9(i) of these Regulations that the proposal is unlikely to have significant environmental effects (and accordingly does not require an environmental assessment), a statement of reasons for the determination”.*
43. In the case of Yaxham an SEA Screening Assessment has been carried out by BC in accordance with the methodology set out in Schedule 1 of the EAPPR and Figure 2 of “A Practical Guide to the Strategic Environmental Assessment Directive”. This assessment concluded that the Plan is unlikely to have significant environmental effects. The statutory consultees were consulted and were in agreement with this conclusion and BC determined in August 2016 that an SEA would not be necessary.

⁷ PPG Does a neighbourhood plan require a strategic environmental assessment? reference ID: 11-027-20150209

b) Appropriate Assessment under the Habitats Directive

44. Regulation 102 of the Conservation of Habitats and Species Regulations 2010 (CHSR) requires that where a plan is likely to have a significant effect on a European designated site, *“the plan-making authority must before the plan is given effect, make an appropriate assessment of the implications of the site in view of that site’s conservation objectives”*. Schedule 2 to the NPR inserted Regulation 102A to the CHSR: *“A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 102 or to enable them to determine whether that assessment is required.”*
45. There are no European designated sites in Yaxham but Badley Moor, which adjoins the northern boundary of the parish is part of the Norfolk Valley Fen network of Special Areas of Conservation. However, the response of Natural England to the consultation on the SEA Screening indicated that the Plan was unlikely to have significant environmental effects and, in view of the absence of major development proposals in the Plan I am satisfied that there is not a need for an appropriate assessment under the habitats regulations.

c) Human Rights

46. I am also satisfied that nothing in the NP4Yaxham is in conflict with the requirements of the European Convention on Human Rights.
47. I therefore conclude that the NP4Yaxham would not breach and would be otherwise compatible with EU obligations.

The Vision, Principles and Objectives

48. Section 4 of the Plan sets out a broad vision, guiding principles and objectives for the parish of Yaxham. The vision spells out in some detail the aspiration of the parish to retain its rural character and separate identity from the expanding town of Dereham to the north and the larger village of Mattishall to the east. To

achieve this the village seeks small scale organic growth which relates well to its surroundings. This would allow for small scale employment opportunities. Although the private car is likely to continue to be the predominant form of movement improvements the vision seeks improvements to footpaths, cycleways and public transport. Finally, the vision aims to protect the built and natural environment of Yaxham.

49. The Vision is supported by three key principles which align with the three dimensions of sustainable development set out in the NPPF: environmental, economic and social. The environmental principle is very much about ensuring that the scale of development is aligned with the character of the village. The economic dimension recognises the need for employment opportunities and housing to meet local needs and the social dimension seeks the enhancement of community facilities and improved connectivity within the village.
50. The Vision and principles are followed by 19 objectives under the headings of: Key Aims, Housing, Environment, Economy, Transport and Community and in each case shows a linkage between the objective and the policy or policies which will help to deliver it.
51. The Vision, Principles and Objectives will not form part of the development plan, but as they seek to define the overall philosophy of the Plan it is important that they should be consistent with the basic conditions. This section of the Plan tries to define the factors which help to define Yaxham and contribute to local distinctiveness, which is in accordance with the NPPF⁸. While there is a sense of restraint towards development which could create tension with the presumption in favour of sustainable development, the wording of this section contains sufficient flexibility to avoid this.

Specific Policy and Parish Action Areas

52. I have considered all of the policies of the Plan in relation to the basic conditions. In doing so I have taken account of all of the comments that have been made on the Plan as it has been developed and in particular those

⁸ NPPF paragraph 60

comments made in response to the Regulation 16 consultation on the submitted plan. While I have not referred explicitly to every comment that has been made, I have taken them all into account.

53. I also need to clarify that I am only empowered to recommend modifications that I consider are necessary to meet the basic conditions or to correct errors. This includes modifications to improve the clarity of the wording of policies as one of the important elements of PPG is that *“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.”*⁹
54. In setting out its policies the Plan clearly differentiates between planning policies, shown in boxes with a yellow background, and parish action points shown in boxes with a blue background. The parish action points are not planning policies and do not form part of the development plan. Non-land use proposals of this sort are often set out in a separate section or annex to the plan but I am satisfied that the clear presentational distinction made in the NP4Yaxham meets the requirement of PPG for them to be clearly identifiable.¹⁰

Strategic Planning Context

55. Prior to presenting the policies in the Plan the current strategic context is helpfully explained. In the adopted Breckland Core Strategy and Development Management Policies Development Plan Document 2009 (CSDMP) the Parish is designated in the *“Rural Settlements”* category. These are *“small rural villages that have few, or in some cases no, local services”* and *“The Sustainability Appraisal has identified that these settlements do not represent a sustainable option for significant expansion.”* The policy for rural settlements is

⁹ PPG Neighbourhood Planning, how should the policies in a neighbourhood plan be drafted? Reference ID: 41-041-20140306

¹⁰ PPG Neighbourhood Planning, what should a Neighbourhood Plan address? Reference ID: 41-004-20140306

that “*These rural settlements will provide nominal housing and employment growth during the Plan period, where local capacity allows*”¹¹.

56. Two emerging Local Plan documents that were the subject of consultation in 2016¹² suggested that Yaxham should be designated as a Local Service Centre. This reflected a shift in the spatial strategy towards a somewhat more dispersed pattern of development than that in the CSDMP. Under this strategy, the number of Local Service Centres would be increased based on an assessment of the availability of the following local services: school, shop/post office, community facility, employment, public transport. This approach was the subject of consultation early in 2016 and was retained in the September 2016 consultation document on site allocations.
57. The emerging Local Plan Documents envisaged up to 1500 new homes on the south side of Dereham, 200 homes in Mattishall to the east and up to 90 homes in Yaxham of which 65 have been built or have planning permission. This is on the basis that Yaxham is designated as a Local Service Centre.
58. The NP4Yaxham indicates that the designation of Yaxham as a Local Service Centre is not supported by the Parish Council because of the lack of services and the Plan is prepared on the basis of the existing CSDMP.
59. During the Examination of the NP4Yaxham I was informed that the Breckland Council Local Plan Working Group had resolved to remove Yaxham from the list of Local Service Centres, because the dispersed settlement pattern within the parish means that not all residents have good access to the services that exist. I cannot attach any weight to either the earlier proposals or this recent change as there is still some way to go before the emerging plan is adopted. The recent change demonstrates that emerging plans are subject to change and that there remains uncertainty as to what form the strategic policies affecting Yaxham will take. That is why there is no requirement under the basic conditions for a neighbourhood plan to comply with the policies of an emerging plan. There is clearly a risk that the strategic policies eventually adopted could

¹¹ Breckland Core strategy and Development Management Policies Policy SS1.

¹² Breckland Local Plan Part 1 Preferred Directions December 2015 and Breckland Local Plan Preferred sites and Settlement Boundaries September 2016

make some aspects of the NP4Yaxham out of date quite early in the plan period, though it is possible that the recent change reported to me means that this risk is somewhat reduced with regard to the possible designation of Yaxham as a Rural Service Centre.

60. At this point I also need to make a more general point regarding the relationship between policies in the NP4Yaxham and those in either the existing Local Development Framework or the emerging Local Plan. Comments from Breckland Council suggest that the NP4Yaxham policies could become out of date and in some cases BC has suggested that policies should be deleted because they will be superseded by the policy of the emerging plan. As I have explained there is no requirement for a neighbourhood plan to be compliant with an emerging plan. There is therefore no need to delete these policies unless they are clearly not compliant with the strategic policies of the adopted development plan. Whether or not any policies will become obsolete once the emerging Local Plan is adopted will depend on whether they are they are *“in general conformity with the strategic policies of the development plan”*. Thus some variation in wording may be acceptable and The NPPF states with regard to neighbourhood plans that, if the policies are non-strategic, *“the policies it contains take precedence over existing non-strategic policies in the Local Plan where they are in conflict”* and *“local planning authorities should avoid duplication planning processes for non-strategic policies where a neighbourhood plan is in preparation”*.¹³ As the NP4Yaxham working group point out the timescale for the adoption of the emerging Local Plan is uncertain and the deletion of policies which could eventually be superseded would leave a policy vacuum for an unknown and possibly extended period.

The Plan Policies

Strategic Planning Policy STR1- The Strategic Gaps (the “Gaps”)

61. This policy is central to the vision and principles of the Plan and aims to prevent the coalescence of the Yaxham with Dereham, Clint Green with Mattishall and Yaxham with Clint Green. In considering it, I had significant concerns regarding

¹³ NPPF paragraph 185

the justification for both the concept of “*strategic gaps*” and the nature and extent of the three proposed gaps. There were representations from both BC and third parties which required serious consideration. I therefore decided to hold a hearing to consider this policy. My request for a hearing forms part of the email attached at Appendix 2 and a further e mail attached as Appendix 3 set out the questions that I wished to address at the hearing.

62. My initial concern was that the designation of large areas around the settlements of Yaxham as strategic gaps created a level of protection from development over and above that offered by the wide range national and local policies for the protection of the countryside for which a clear justification was necessary. It could be argued that the designation of strategic gaps is an attempt to achieve the sort of protection offered by Green Belts in another way. This would not be consistent with the basic conditions as it would run counter to the NPPF. Most rural settlements would wish to retain their separate identity, but in most cases the designation of strategic gaps is not necessary and if it was the effect of the whole concept would be seriously diluted.
63. It is therefore necessary for there to be clear reasons why these particular gaps need to be protected in this way. The term “*strategic*” suggests that these gaps differ from most gaps between villages and have some strategic significance and it is important to define what this is. Relevant factors may include: the distance between two settlements being particularly small, the nature of development pressures that may override existing policies for the protection of the countryside, or the unique physical or functional characteristics of the gaps in question. This overall approach was broadly accepted by the parties at the hearing and I have considered each of the proposed strategic gaps on this basis.

Strategic Gap 1

64. This strategic gap relates to the gap between Dereham and Yaxham and it is clear both from the documentation and from the submissions of the representatives of the NP4Yaxham Working Group at the hearing that this is the one to which the highest priority is attached. The gap between the built-up

areas of Dereham and Yaxham is only about 1km at its narrowest. The valley of the River Tud passes through this gap and the River Tud coincides with whole of the northern boundary of the parish of Yaxham. Dereham is a substantial and growing market town and the emerging Local Plan envisages development on a fairly large scale on its southern and eastern sides of the town. Sections 2.1 and 2.2 of the detailed justification for the strategic gaps policy shows the sites which were identified as “*emerging residential site options*” by BC in December 2015, and the “preferred and alternative sites” which were the subject of consultation in September/ October 2016. These include large sites on both sides of Yaxham Road on which planning applications have already been submitted and are awaiting determination. It is thus clear that the combination of the narrow gap between Yaxham and Dereham and the support in the emerging Local Plan for significant development on the southern side of the town suggest that the separateness of Yaxham from Dereham is under some threat. There was no dissent at the hearing for a policy which would seek to protect the gap from further erosion within the Parish of Yaxham.

65. However, the justification for the area which Policy STR1 seeks to designate as a strategic gap is much less clear. The Policy identifies a broad swathe of countryside along the whole of the northern boundary of the Parish, approximately 0.5km wide for most of its length but a maximum of about 1km wide where it extends south as far as Norwich Road between Yaxham and Clint Green. The extent of this area was discussed in some detail during the hearing; this resulted in a good measure of consensus between BC the NP4Yaxham representatives, which helped me greatly in addressing the issue.
66. The development pressures that I have described are greatest at the western end of the strategic gap where the distance between Dereham and Yaxham is its narrowest. Further to the east the gap between Dereham and Yaxham / Clint Green is much wider and any development on the south-eastern side of Dereham presents much less of a threat to the sense of separateness between the Parish of Yaxham and Dereham. I was informed of a proposal for a business park on the south side of the A47 to the east of Dereham that would be a break from previous policy which would begin to erode this gap, but the

prospects for this are uncertain and it would be approximately 2km from the northern edge of Yaxham.

67. It is true that the very extensive fieldwork that has been carried out demonstrates the visibility of landmarks in Dereham including the water tower and windmill from positions close to the Norwich Road and that more can be seen in the winter months when the screening effect of tree belts is less. However, the prospects of development pressure during the plan period within the area proposed for strategic gap 1 to the east of Yaxham are not great. Moreover, protection offered to the countryside by national and existing development plan policies is increased by the significance of the Badley Moor Norfolk Valley Fens SAC.
68. On the basis of these conclusions I do not consider that there is justification for the whole of the area identified as Strategic Gap 1. I recommend that the area is substantially reduced to cover just the area where the narrowness of the gap coupled with the development pressures provide a clear justification for the identification of a strategic gap of this sort. I have defined this area in the Map attached at Appendix 4.

Strategic Gap 2

69. The second Strategic Gap relates to the countryside between Clint Green and Mattishall and the gap between the two settlements is only about 1km. However, the Yaxham parish boundary lies only about 170m to the east of the edge of Clint Green; thus, most of the gap is in Mattishall Parish. It is accepted that significant development pressures are likely relate to the expansion of Mattishall and that there is no realistic prospect of substantial development pressure for the eastward expansion of Clint Green. There is an emerging neighbourhood plan for Mattishall which is currently the subject of regulation 16 consultation. It includes a draft policy to maintain the separateness of Mattishall from neighbouring settlements including Clint Green. This policy, which may be subject to modification before the Mattishall NP is made, reads: *“A clear visual break must be retained between Mattishall and nearby villages/settlements, for example Clint Green / Yaxham.....Development that*

significantly reduces this separation will not be permitted.”

I have concluded that there is no clear justification for the identification of the area proposed as Strategic Gap 2 for special protection, but that a policy on the lines of that proposed for Mattishall would meet the basic conditions.

Strategic Gap 3

70. Strategic Gap 3 lies between the settlements of Yaxham and Clint Green within the parish of Yaxham. It was not identified as a strategic gap in the early stages of plan preparation but emerged as a result of public engagement. As with the other two gaps, the two settlements are only about 1km apart, but in character the gap is quite different. The services of the parish of Yaxham are split between the two settlements, with the shop, village hall, recreation ground and Church in Yaxham and the Primary School in Clint Green. The Mill that lies between the two settlements was until two years ago, a pub/restaurant that was a facility for both settlements. Thus, the two settlements are in some ways interdependent, drawn together and part of the same community. Some representations have argued against the principle of a strategic gap between them and suggested that it would be natural and appropriate for them to develop towards each other.¹⁴
71. Evidence was submitted of development pressure which could lead to the erosion of the gap between Yaxham and Clint Green in the form of sites on both sides of Norwich Road put forward by Lanpro for a major development of up to 332 dwellings in response to the call for sites for the emerging Local Plan. However, at that stage it is quite normal for a very large number of sites to be put forward for consideration and this cannot reasonably be considered as a realistic indication of the scale of development for which there is likely to be pressure during the plan period. I have already referred to the continuing consideration of whether Yaxham should be designated as a Local Service Centre. The Preferred Site Options and Settlement Boundaries Consultation was based on the designation of Yaxham as a Local Service Centre. On this

¹⁴ The representations of Lanpro and P Dimoglou and comments 24,27 and 34 of Appendix 2 Table 3

basis, it proposed an allocation to the east of Yaxham for 25 dwellings. This together with existing commitments would provide the 90 dwellings which would be sought for Yaxham during the timescale of the emerging Local Plan. The latest position is that Yaxham is not recommended for designation as a Local Service Centre. This could change again and so could the required number of dwellings. However, from the evidence available it would appear that the scale of realistic development pressure during the Plan period on the gap between Yaxham and Clint Green is relatively modest, in the context of the possible emerging strategic policy. Nonetheless, it could have some impact on the extent and character of the gap. An outline application for 25 dwellings has been submitted on the site identified in the Preferred Site Options and Development Boundaries Document but has yet to be determined.

72. Table 1 of Appendix 2 to the Consultation Statement showed clear support for the statement that Yaxham and Clint Green are two distinct settlements and the Accompanying Document 3 refers to the emergence of Strategic Gap 3 from a Consultation Event on emerging policies. However, while the Evidence Base includes several photographs of the gap there is no clear explanation of the rationale for the strategic gap in terms of its significance for the communities of the two settlements.
73. At the hearing, it was clarified to me that the space between the two villages is a valued resource in terms of recreation and access to the countryside. There is a network of footpaths that provide access to the countryside and the proposed Local Green Space at Pinns Corner is an important focal point in this. The sense of space and access to the countryside is important for both communities and perhaps particularly for Clint Green where there is no formal open space. I can therefore understand the aspiration to maintain the separate identity of the two settlements of Yaxham and Clint Green and recognise that development pressures could erode this over time. I also do not consider that the expression of this aspiration in a policy would be unduly restrictive in terms of the presumption in favour of sustainable development and other requirements of the NPPF as it need not preclude all development between the two settlements.

74. The area defined for Strategic Gap 3 is very extensive. To the north of Norwich Road, it connects with the area proposed for Strategic Gap 1 and it extends approximately 700m to the south of Norwich Road. It is clear from the Evidence Base Document 3 pages 24-30, that the definition of areas for all the strategic gaps was not easy and the area shown for Strategic Gap 3 changed perhaps more than any. This suggests there was considerable uncertainty regarding the criteria to be used in defining the areas. There was a clear consensus at the hearing that the sensitive area with regard to Gap 3 is the land immediately on both sides of Norwich Road between Yaxham and Clint Green. Much of the area further south of Norwich Road does not really lie between Yaxham and Clint Green and is not subject to significant development pressure.
75. Even along the line of Norwich Road the definition of an area presents difficulties, as it was agreed by parties at the hearing that the policy need not preclude all development and the definition of any particular area may be superseded by the emerging Local Plan. In my judgement, the definition of any specific area would be somewhat arbitrary as it would suggest a clear distinction in policy terms between the land within it and that excluded that would not be clearly justified. I have therefore concluded that the approach to Strategic Gap 3 should be the same as that for Strategic Gap 2, namely a policy to maintain the separateness of the two settlements without the definition of a specific area. This is capable of providing meaningful guidance to decision makers without the somewhat arbitrary definition of an area to which specific policies apply.
76. Breckland Council has suggested that the wording of Policy STR1 could be refined to provide more detailed guidance to protect specific features or indicate how development could take account of these. The changes that I am recommending to the policy take account of the Council's comments to a large extent in that they substantially reduce the areas specifically designated as strategic gaps. Moreover, I am only able to recommend modifications that are necessary to meet the basic conditions, not simply to improve it. The wording used in the policy has been accepted in another neighbourhood plan and I find no reason to question it in terms of the basic conditions. I have therefore only

recommended modifications to it which reflect the distinction I have drawn between Strategic Gap 1 and the other proposed Strategic Gaps in terms of their justification and the definition of a specific area.

Recommendations

Reword Policy STR1 to read

“STRATEGIC PLANNING POLICY STR1 – THE GAPS BETWEEN SETTLEMENTS

1. The objective of this policy is to direct development in such a way as to respect and retain the generally open and undeveloped nature of the gaps between settlements to help prevent the coalescence and retain the separate identity of the settlements of Yaxham and Clint Green from the neighbouring settlements of Dereham and Mattishall and from each other.

2. Within the Strategic Gap between Yaxham and Dereham defined on Map 10 development will only be permitted if:

a) it is consistent with policies for development in the countryside and

b) it would not undermine the physical and/or visual separation of Yaxham and Dereham and

c) it would not compromise the integrity of the strategic gap, either individually or cumulatively with other existing or proposed development; and

d) it cannot be located elsewhere.

3. Development that would, individually or cumulatively with other development, substantially undermine the physical and / or visual separation of Clint Green and Mattishall or Yaxham and Clint Green will only be permitted where the harm would clearly be outweighed by the benefits of the development.”

Delete Maps 10.1, 10.2 and 10.3 and insert a new map 10 showing the revised boundary for the Strategic Gap between Yaxham and Dereham as shown in Appendix 3

Delete paragraph 7.2 and insert the following supportive text at the end of the exiting paragraph 7.3, which will need to be renumbered:

“The boundary of the Strategic Gap has been determined on the basis of an assessment of the sensitivity of this area to potential development pressures and extensive fieldwork to assess the physical characteristics

of the gap.”

In the heading to the existing Paragraph 7.4 delete “Strategic” and “2 (Plan 10.2, page 35).”

In the heading to the existing Paragraph 7.5 delete “Strategic” and “3 (Plan 10.2, page 35).”

Housing Policy HOU1 – Location of New Residential Development

77. Policy HOU1 accepts the principle of new residential development within the settlement boundary and aims to prevent development outside the settlement boundary unless it meets defined criteria. These criteria relate to other policies in the plan, rural exception sites for affordable homes and material considerations which strongly favour development. The third criterion simply adds the word “*strongly*” to the existing wording of the NPPF regarding development which departs from development plan policies¹⁵. There is no need to repeat the wording of the NPPF and the alteration is a significant departure from the NPPF so this criterion should be deleted. The 4th criterion provides for development of an appropriate scale and design which does not increase the size of the settlement by more than 10%. It also requires that the benefits of development clearly outweigh any adverse impacts particularly those relating to strategic gaps and the quality of the countryside.
78. This is generally a positively framed policy which strikes an appropriate balance between the need for new development and the need to protect the countryside. However, Paragraph 45 of the NPPF identifies several circumstances where development in the countryside is appropriate. It could be argued that these categories of development may be included under the third criterion of “*material considerations strongly indicate otherwise*” but, I have recommended the deletion of that criterion. To clearly meet the basic conditions an additional criterion would be appropriate. I have taken account of the comments of BC regarding the 4th and 5th bullet points. With regard to the 4th bullet point, I am satisfied that the limit to an increase in the size of the settlement by 10% is appropriate guidance for development outside the

¹⁵ NPPF Paragraph 2.

settlement boundary. Of course, if site allocations in the emerging Local Plan render the settlement boundary out of date the policy will not apply in the locations affected. I accept that the wording of the 5th bullet point sets a very high test having regard to the NPPF. However, I do not consider that it is in direct conflict with the NPPF as it does not apply to all development, only to development that would not be permitted under the other criteria in the policy. This provides for some flexibility and with the additional criterion and subject to a minor modification I am satisfied that it meets the basic conditions and is not unduly restrictive

79. BC has also pointed out that new development should not have an adverse impact of the Badley Moor SSSI and the Norfolk Valley Fens SAC. This consideration applies to development within or outside the settlement boundary and I have recommended an additional paragraph to reflect this.

Recommendation

In Policy HOU1:

After the first bullet point insert a new bullet point to read “they fall within the categories of development which the NPPF identifies as appropriate for the countryside or”;

Delete the third bullet point;

In the 5th bullet point delete “significantly and demonstrably” and replace with “clearly”

After the bullet points insert a new paragraph to read “Development within or outside the settlement boundary will not be permitted where it has a significant adverse impact, whether direct or indirect, on the Badley Moor SSSI or the Nar Valley Fens SAC.”

Policy HOU2 – Housing Density

80. This Policy aims to ensure that new development reflects the generally low density of housing in the parish and suggests a density of up to 17.5 dwellings per hectare unless a higher density is required for reasons such as viability. It is entirely appropriate to seek to reinforce local distinctiveness and prevailing housing density is an important component of this. From my observation, the density of development in Yaxham is relatively low but no clear evidence on this

has been provided. However, the proposed density is very low and the use of a precise figure as an upper limit is too rigid to be consistent with the presumption in favour of sustainable development, particularly in the absence of clear evidence to justify it. A modification to provide rather more flexibility is therefore recommended.

Recommendation

In Policy HOU2 reword the second sentence to read “In keeping with the generally low density within the parish, the density of new residential development will not normally exceed approximately 20 dwellings per hectare, unless there are material considerations which clearly justify a higher density, which may include the need for the development to be viable or the quality of the design of the proposal.”

Policy HOU3 – Scale of Housing Development

81. The policy aims to ensure that new housing development takes place in relatively small developments which will not exceed 10 homes on a single site without clear need or other justification. This reflects the generally small scale incremental growth of the settlements in the parish, with a few exceptions. I am satisfied that the broad approach outlined in this policy is consistent with the legitimate aim of maintaining local distinctiveness. The detailed wording contains some flexibility to enable the policy to take account of the presumption in favour of sustainable development, but there may also be a need to provide some flexibility regarding the need for development to be viable.
82. I note the comment of BC regarding the need for all development to avoid or mitigate significant effects on the Norfolk Valley Fens SAC but there is no need to refer to this twice as if it applies to all development it clearly applies to development of more than 10 dwellings.
83. There is an inconsistency between this policy and Policy HOU1 which allows for developments outside the settlement boundary of up to 10% of the existing settlement size in some circumstances. In the case of the settlement of Yaxham that would amount to approximately 20 dwellings. 10 dwellings would be close to 10% in the case of Clint Green and would more than double the size of the hamlet of Brakefield Green. In the interests of consistency and to reflect

the differing size of the settlements I recommend the use of the 10% threshold rather than a specific number of dwellings. As in the case of Policy HOU1, with the modifications I am proposing I am satisfied that the Policy is consistent with the NPPF.

Recommendations

In Policy HOU3:

After “...will be supported” insert “All developments will need to be designed to avoid or mitigate likely significant effects to the Norfolk Valley Fens SAC, both individually or cumulatively”

Delete “of more than 10 homes” and insert after “...on a single site” “that would increase the size of the settlement by more than 10%”:

After “...affordable homes” insert “or to make the development viable,”

In the last line of the policy delete “significantly and demonstrably” and replace with “clearly”.

Policy HOU4 – Existing Land Use

84. This policy states a clear preference for brownfield and infill sites over development on agricultural land or where it would encroach on the open countryside. This policy is entirely consistent with the principles of the NPPF¹⁶ and I satisfied it meets the basic conditions.

Policy HOU5 – Housing Mix

85. Policy HOU5 aims to ensure that new residential development meets local housing need and refers particularly to a need for one and two bedroom dwellings. It does not explain how local need is to be identified and does not present any justification for the preference for smaller 1-2 bedroom dwellings. PPG clearly indicates that policies should be supported by proportionate robust evidence.¹⁷ It is normal practice to identify need from the latest published Strategic Housing Market Assessment, supplemented by a local housing needs survey where there is one and I have recommended a modification to reflect

¹⁶ NPPF paragraph 17 bullet points 7 and 8

¹⁷ PPG Neighbourhood Planning What evidence is need to support a neighbourhood plan reference ID: 41-040-20160211

this. I have also referred to the Strategic Housing Market Assessment for Central Norfolk published in January 2016. While I accept that the figures relate to the whole of Breckland and the findings for Yaxham could be different, the results indicate that only a small proportion of the need for market housing is for one or two bedroom dwellings but that almost half of the need for affordable housing falls in these categories.¹⁸ I have therefore recommended a modification to reflect this.

86. The requirement that smaller dwellings should “*not have the appearance of flats or apartments*” relates to design rather than housing mix and there is no clear justification for it. Moreover, there is no clear justification for the encouragement for bungalows as distinct from other forms of one or two bedroom dwellings.

Recommendations

In Policy HOU5 at the end of the first sentence insert “as evidenced by the latest published Strategic Housing Market Assessment or local housing needs survey”. In the second sentence insert “affordable” after “smaller”.

Replace the comma after “...encouraged” on the third line with a full stop and delete the last two lines of the policy thereafter.

Policy HOU6 – Design

87. This policy sets out requirements for the design of new dwellings. It requires developers to take account of Building for Life 12, seeks to ensure that new development is compatible with adjoining development and the countryside and lists several more detailed criteria relating to scale, practical living requirements and materials.
88. Building for Life 12 is a government backed industry standard to encourage and assess the quality of design of new residential development. However, it is not an absolute standard, as it consists of 12 headline questions each relating to a different aspect of design, and within each main question there is a series of

¹⁸ Central Norfolk Strategic Housing Market Assessment January 2016

sub-questions. On the basis of the answers to these questions developments may be scored on a traffic light system in relation to each question. For Building for Life to be applied in a policy to be used in determining planning applications it needs to be clear how it will be applied. This is not explicit in the current wording of the policy which simply refers to “*Building for Life Accreditation*” with a cross reference to the source publication. This accreditation requires 9 green scores out of the 12 possible.

89. While this is desirable aspiration, particularly for relatively large scale residential developments, it would be excessively onerous to demand expect a full Building for Life Assessment in relation to all developments including single dwellings. The publication itself suggests that it should be used as a tool to assist good design rather than a rigid standard¹⁹ and in some circumstances specific site considerations may make it impossible to meet some of the standards. The guide makes it clear that, in relation to any one proposal, the avoidance of red scores and the achievement of as many green scores as possible is what is important rather than the achievement of an absolute standard. I have therefore recommended modifications to reflect this.
90. The first of the detailed bullet points states that houses of more than two storeys will be considered inappropriate. Again, this is a very rigid policy. While the NPPF encourages design guidance on a range of issues including height, it also discourages unnecessary prescription²⁰. There are some buildings of more than two stories in Yaxham that make a positive contribution to its character, and while in most instances, a limit to two stories may well be appropriate, there may well be cases where an exception can be justified. I have therefore recommended a modification to reflect this in order to meet the basic conditions.

Recommendations

**Modify the second sentence of the first paragraph of Policy HOU6 to read:
“Proposals for major residential development of 10 dwellings or more,²¹**

¹⁹ Building For Life 12 2015 p4.

²⁰ NPPF paragraph 59

²¹ This is the legal definition of “major” residential developments.

will be accompanied by a Building for Life 12 assessment and will be expected to show no red scores and the industry standard of 9 green scores unless it can be clearly demonstrated that this is not possible for practical or viability reasons”. Delete the third sentence.

In the first bullet point of Policy HOU6 after “...inappropriate” insert “unless they can be shown to contribute positively to the character and appearance of the area”.

Policy HOU7 – Affordable Housing

91. This policy encourages the provision of affordable housing where it is commensurate with the scale and nature of need for such housing locally. This is a very generally worded policy that does not provide very clear guidance to a decision maker as to how it should be applied. However, in some circumstances it could be a material consideration in the planning balance relating to proposals and I am therefore satisfied that it meets the basic conditions. The likelihood that the emerging Local Plan will provide more specific guidance on affordable housing is not a reason for deleting the policy now.
92. Following this policy there is a Parish Action Point, PAP3 which sets out the intention of the Parish to seek the allocation of affordable housing within Yaxham to people who have a local connection. This does not carry the weight of a Policy, but it is clearly differentiated from the policies of the Plan and is entirely appropriate.

Environment

Policy ENV1- Dark Skies

93. Policy ENV1 aims to maintain the rural character of Yaxham by minimising the use of artificial lighting and it draws on documents produced by Breckland Council which have similar aims. It is a carefully worded policy and I am satisfied that it meets the basic conditions. With reference to Policy HOU6 this is a clear instance of why the rigid application of Building for Life 12 may not always be appropriate. The safety considerations in that document may well suggest a need for significant artificial lighting, but in a rural context such as

Yaxham it may not be appropriate. A supporting Parish Action Point contains a commitment to resist the introduction of street lighting.

Policy ENV2 – Conservation Area and Heritage Assets

94. This policy requires that new development close to the Conservation Area, listed buildings, trees protected by preservation orders and non-designated heritage assets should take account of these assets and that applications should be accompanied with a heritage statement outlining the significance of the asset and the possible effect of the development on it. This approach reflects that set out in the NPPF and I am satisfied that it meets the basic conditions. There is a minor error in the reference to Tree Preservation Orders.

Recommendation

In the 6th line of Policy ENV2 delete “Designation”.

Policy ENV3 - Green Infrastructure

95. Policy ENV3 designates 4 sites as Local Green Spaces, supports the improvement of pedestrian links in the Parish and aims to retain hedgerows fronting roads in the event of development.

Local Green Spaces

96. The supporting text contains a justification for all of the sites designated as Local Green Spaces in relation to Paragraphs 76 and 77 of the NPPF. I also visited all of the proposed Local Green Spaces on my site visit and made this evaluation for myself.

97. Site 1 Recreation Ground and Beech Avenue

This site lies in a central position in the village; it clearly performs a very valuable recreational function for the village and is a focal point for many community events. The proposed Local Green Space also includes Beech Avenue which is clearly a very attractive feature and the site of the Church Room. I am quite satisfied that it clearly meets the criteria for designation as a Local Green Space.

98. Site 2 Pinns Corner between Yaxham and Clint Green

This is a triangular site approximately midway between Yaxham and Clint Green. It is owned by the Parish Council and has been maintained by the community as an area of woodland which has several footpath links to different parts of the parish and is part of the Yaxham circular walk. The biodiversity value of the site is also being enhanced. Although it is some distance from the settlements of Yaxham and Clint Green, it is centrally situated in the Parish and is a notable feature on the road between the two settlements. I am satisfied that it is appropriate for designation as a Local Green Space.

99. Site 3 Central Site and Village Pond

This site is quite different in nature as it is in private ownership and there is no public access to it. However, it occupies a very prominent site within the village on the corner of the B1135 and is an area of grassland in agricultural use across which there are attractive views of the church and the listed Willow Farmhouse. The justification for the designation of the site suggests that this site helps to define the identity of Yaxham. From my visit, I accept that this is the case. The B1135 is the main route through Yaxham and for many people the attractive green space that they pass in going round the sharp bend as they come into the village from the south will be an enduring and attractive image of Yaxham. This site was not identified as a Local Green Space in the Regulation 14 Consultation Version of the Plan, but was subsequently included on the basis of comments received at that time. I have taken account of objections that the site is not known as the Old Green and Village Pond and that the site is in active agricultural use, that its appearance changes during the year and that on occasions bales of silage, farmyard manure or farm machinery are stored on the site which affect its appearance. However, overall I do not accept that these considerations negate the positive role which the site plays in defining the unique identity of Yaxham. The site is relatively small, close to the village and is clearly regarded as special by the community. I am therefore satisfied that the designation of the site as a Local Green Space is appropriate.

100. Site 4 Parochial Church Charity Land, Yaxham.

This is a triangular area of grazing land on the eastern edge of Yaxham in the angle between Norwich Road and Stone Road. It is held in trust for the benefit

of the village as a green space and generates a small income for charitable use. It does not appear to offer public access or any recreational use, but although this site is less prominent than Site 3 it is also significant in defining the character and setting of Yaxham and I am satisfied that it meets the criteria for designation as a Local Green Space.

101. Site 5 Land at Paper Street Clint Green

This site was originally proposed as a Local Green Space forward by the NP4Yaxham Working Group but subsequently withdrawn by the Parish Council. As it does not form part of the Plan proposals I could only consider it if the inclusion of this site was necessary to meet the basic conditions and that is not the case.

102. While I accept that the proposed Local Green Spaces meet the criteria for designation, the policy does not explain how proposals relating to these sites should be considered. Designation as a Local Green Space is not an absolute ban on development and the NPPF²² explains that policy for managing development within a Local Green Space should be consistent with policy for Green Belts. Within Green Belts there are several categories of development which are not considered inappropriate²³. These cannot be transposed directly to Local Green Spaces which are much smaller than Green Belts, but the essential consideration is that any development should be consistent with the value of the sites as Local Green Spaces. For instance development related to the recreational use of Site 1 may well be appropriate and the supporting text refers to the potential for the renovation of the Church Room. I have therefore recommended a modification to reflect this.

Recommendation

In Policy ENV3 amend the heading of the first section to read Local Green Space designation.²⁴ At the end of this section insert “Development will only be permitted on the sites designated as Local Green Spaces where it is consistent with the character and use of the spaces.”

²² Paragraph 78

²³ NPPF Paragraph 89

²⁴ I.e. use capital letters for Local Green Space to reflect its formal status in the NPPF

Rights of Way and Footpaths

103. This section of the policy requires new developments to provide offsite footpaths to improve pedestrian connectivity in the Parish, and to secure the provision of wider footpaths. The provision of offsite infrastructure can only be required where it meets the very specific criteria set out in paragraph 204 of the NPPF. There clearly has to be a very clear relationship between the development proposed and the requirements of agreements. The submitted wording of the policy does not reflect these limitations and a modification is therefore necessary to meet the basic conditions. It would, of course, be possible for the parish to use any money raised through the Community Infrastructure Levy, if it was to be introduced, to improve the parish footpath network.
104. There is no clear evidence to support the requirement for footpaths to be 1.5m wide and it may well not be possible to justify the requirement for all footpaths to be surfaced to be usable in all weathers.

Recommendation

Modify the second part of Policy ENV3 to read: “New developments will be required to contribute to the provision of improved pedestrian links which will help to develop and coherent network connecting different parts of the parish, where the legal requirements for such contributions are met.”

Hedgerows

105. I am satisfied that this element of the policy meets the basic conditions.

Policy ENV4-Surface Water Management Plans

106. Policy ENV4 aims to ensure that new development does not increase the risk of surface water flooding. I am satisfied that the first part of the policy meets the basic conditions. The second part simply replicates the provisions of Part H of the Building Regulations without adding to them and therefore is not necessary. In the final section the reference to “*our existing and future customers*” appears

to be written from the viewpoint of Anglian Water and needs to be written as a planning policy.

Recommendation

In Policy ENV4 delete the second section and modify the end of the last sentence to read “...to protect both existing and future development.”

Policy ENV5 – Sewerage Provision

107. This policy requires that all development should be connected to mains sewerage unless it is demonstrated to be unviable, in which case an effective private sewerage system must be agreed and in place prior to the occupation of the first dwelling. I am satisfied that the policy meets the basic conditions.

Economic Development

Policy ECN1 – New Economic Development

108. As worded the policy gives specific encouragement new micro or small businesses and sets out criteria to be met by all proposals for employment generating uses. I have suggested minor amendments to express the policy more positively, clarify that the policy includes the expansion of existing businesses and that it is planning permission that is subject to the stated criteria. Subject to these I am satisfied that it meets the basic conditions.

Recommendations

In Policy ECN1:

At the end of the first sentence delete “conditional on appropriate mitigation and design” as these points are covered in the criteria that follow.

Modify the second sentence to read: “Planning permission for any proposal for an employment generating use, including the expansion of existing businesses, will be granted where it can be demonstrated that it will:

- **not have an unacceptable effect on residential amenity**
- **not have an unacceptable effect on the transport network**
- **be able to accommodate all parking within its site; and**

- **not have any other unacceptable environmental impacts, including impacts on the historic environment**
- **not conflict with other development plan policies.”**

Transport

109. This section is introduced by a Parish Action Point which sets out a general aspiration to make the parish more “*walkable*” and lists several action points that would help to achieve this, including a reduction in speed limits and improvements to footpaths.

Policy TRA1 – Traffic and Sustainable Transport

110. The policy aims to ensure that new development promotes sustainable development and minimises the generation of traffic. It also somewhat duplicates the section of Policy ENV3 that relates to connectivity with footpaths. I am satisfied that the policy meets the basic conditions subject to minor clarification of the wording of the last sentence.

Recommendation

Modify the last part of the last sentence of Policy TRA1 to read “should be mitigated where this is viable and the measures are of a scale that is commensurate with the development.”

Policy TRA2 – Parking Provision

111. The Policy suggests minimum standards of parking provision for new development. Norfolk County Council objects to these on the basis that they are too “*descriptive*”, though I believe that this may be intended to say “*prescriptive*”. While paragraph 39 of the NPPF makes provision for the possibility of local parking standards and some neighbourhood plans include such policies, it is clear that these should only be imposed on the basis of a clear justification. In this case no justification is given. PPG also makes clear that policies should be supported by “*proportionate robust evidence*”. Similarly, the policy proposes a minimum width for garages of 3.3m with no explanation of how this relates to other standards that may be applied or justification for this

particular figure. These elements of the policy therefore need to be deleted to meet the basic conditions.

112. The rest of the policy relates to the layout of parking to the front of new dwellings, general discouragement of rear parking courts in the interests of crime prevention and the provision of secure and convenient cycle storage. Again I find these elements too prescriptive to be consistent with the presumption in favour of sustainable development. In many cases, particularly with larger properties where there is space for several cars, the need for turning space within the curtilage may mean necessitate the use of a large proportion of the area in front of the house being is taken up by parking and turning space. However, the impact of parking in front of a dwelling is determined by more factors than the proportion of space devoted to it. Boundary treatment, particularly hedging or judicious planting of trees and shrubs covering a relatively small area can substantially obscure or soften the impact of a large drive area. A modification to reflect this is therefore recommended.

Recommendation

Delete all of Policy TRA2 except for the following modified section:

“Where parking provision is made to the front of the property, its impact on the street scene should be mitigated by appropriate boundary treatment and planting and, where possible the provision of an equal area of landscaped front garden. In the interests of crime prevention and protecting the rural character of the area rear parking courts will be discouraged.”

“Secure and convenient cycle storage should be provided of a quantity consistent with the number of bedrooms to encourage increased cycle usage.”

Community Benefit

Policy COM1 – Existing Parish-Based Community Services

113. Policy COM1 aims to protect existing community facilities by setting out the criteria to be met where there are proposals for a change of use. The criteria require either the relocation of the service within the Parish, the existence of

adequate similar facilities within reasonable walking distance of most of the population or clear evidence that the continuation of the use is not viable. I am satisfied that these criteria are consistent with the basic conditions.

Policy COM2 – Developer Funding Priorities

114. This policy sets out priorities for the Parish for the provision of new or improved community facilities where funding can be secured either through section 106 agreements or the Community Infrastructure Levy. The supporting text sets out very clearly the legal constraints relating to the provision of funding through section 106 agreements and makes it clear that the Community Infrastructure Levy has yet to be introduced in Breckland. The wording of the policy clearly indicates that it will only apply where the legal requirements are met and I am satisfied that it sets out a useful set of community priorities which all relate to the development and use of land and meets the basic conditions.
115. This section also includes a Parish Action Point to work with the relevant authorities to ensure that Yaxham Primary School can meet the needs of the parish for primary education and to address parking problems at the beginning and end of the school day and to try to establish a pre-school facility close to the Primary School. These are appropriate aspirations to be expressed in this way.

Monitoring/Implementation – Future Directions Plan (FDP)

116. This section does not include any policies but includes a Parish Action Point to seek to establish a group that would monitor the implement the policies of the Plan, and aim to progress the Parish Action Points. This is good practice. While this is not a policy and therefore no modification is necessary to meet the basic conditions, I should point out that over the period of the Plan the documents which make up the adopted development plan are likely to change and thus the wording of the first part of paragraph 13.1 may not remain applicable.

Summary and Referendum

118. The preparation of a neighbourhood plan is a substantial undertaking for a small parish like Yaxham. It is evident that the community has approached the task with enthusiasm and commitment and has identified some key issues that it wishes to address through the Plan. There has been close community involvement during the preparation of the Plan and, although there are a few strong objections to some aspects of the Plan there is evidence that the policies of the Plan reflect the body of opinion expressed during its preparation. It is also clear that the Plan has been carefully prepared having regard to the basic conditions and the legal requirements for neighbourhood plans. I am grateful for the co-operation and help I have received from Breckland Council and The Parish Council in carrying out my examination.
119. My examination revealed one important deficiency in the Consultation Statement as it did not include a summary of the comments made by individuals in response to the regulation 14 consultation. This omission has been addressed by the NP4Yaxham Working Party and a revised statement including this important information has been produced and subject to consultation in accordance with regulation 16 of the NPR.
120. One of the key issues for the Plan is the concept of “*strategic gaps*” to maintain the separate identity of the settlements of Yaxham and Clint Green from the neighbouring settlements of Dereham and Mattishall and from each other. This is a far-reaching policy which I concluded required a hearing to address the justification for both the concept and the detail of the three strategic gaps proposed. As a result of the hearing I found it necessary to recommend substantial changes to the policy a substantial reduction of the area designated as Strategic Gap 1 and the deletion of specific areas for Strategic Gaps 2 and 3, but I hope that a full public airing of the issues involved and the reasons given in this report mean that there is clear understanding of the reasons for these modifications.
121. I have also found it necessary to recommend some modifications to other policies in order to meet the basic conditions, in particular to ensure that the wording gives sufficient guidance to decision makers to enable them to apply the policies consistently.

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

The Yaxham Neighbourhood Plan has been prepared in accordance with Sections 38A and 38B of the Town and Country Planning Act 1990 and the Neighbourhood Planning Regulations 2012;

Having regard to national policies and advice contained in guidance issued by the Secretary of State it would be appropriate to make the Plan;

The making of the Plan would contribute to the achievement of sustainable development;

The making of the Plan would be in general conformity with the strategic policies of the development plan for the area;

The Plan would not breach and would be otherwise compatible with European Union obligations and the European Convention on Human Rights.

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

124. I am also required to consider whether or not the referendum area should extend beyond the Neighbourhood Plan Area. I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”.²⁵ **I therefore conclude that there is no need to extend the referendum area.**

Richard High

7 March 2016

²⁵ PPG Does an independent examiner consider the referendum area as part of their report?
Reference ID: 41-059-20140306

Appendix 1 Errors

In the first sentence of the 3rd paragraph of the Preface to the Plan replace “*Breckland Local Plan*” with “*development plan for Breckland*”.

In the second sentence of the 3rd paragraph of the Preface replace “*Core Strategies in the current Breckland Development Plan Document 2009*” with “*strategic policies in the Core Strategy and Development Control Policies Development Plan Document (2009)*”.

In the Abbreviations listed at the bottom of Page i replace the wording against LDF with “*Local Development Framework made up of a number of documents including three Development Pan Documents*”.

In paragraph 1.2 replace “*Core Strategies in the current Breckland Development Plan Document 2009*” with “*Core Strategy and Development Control Policies Development Plan Document (2009)*”

In paragraph 1.12 replace “*the policies in Breckland’s Local Plan*” with “*strategic development plan policies*”.

Delete Paragraph 1.21.

Appendix 2 e mail to Breckland Council dated 23 November 2016 and copied to Maggie Oechsle, Ian Martin and Peter Lowings of the NP4Yaxham Working Group regarding omissions from Consultation Statement and the Need for a Hearing.

Dear Ms Heinrich

In carrying out my examination of the Yaxham Neighbourhood Plan I have identified two matters which will affect the timescale for its completion.

Consultation Statement

A consultation statement is one of the documents which must be included with the submission of a neighbourhood plan. Regulation 15 (2) of the Neighbourhood Plan Regulations sets out the requirements for a consultation statement.

“In this regulation 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 plan”

The Consultation Statement that has been submitted does not fully meet the requirements of c) and d) above. In Appendix 2 there is a full table of responses by regulatory bodies with a recommended comment by the consultants who have supported the Parish Council on the matters raised by Breckland District Council and a brief note of the action taken. There is also a summary table of responses from businesses. However, there is no information on responses from members of the public. On questioning this in my e mail of 10th November I was sent a pdf document and a weblink which showed a small number of responses from members of the public. However, there is no information to show how these were dealt with or what the response of the Parish Council was to these comments. While there was not a large number of comments in the document sent to me, this omission does mean that the Consultation Statement is not in accordance with the regulations.

In order to progress, it will be necessary for the Parish Council to re-submit an amended consultation statement which includes at least a summary of the issues raised by members of the public and the response of the Parish Council to them. It would be helpful to confirm that the comments that were sent to me on 11th November, which appear to represent 17 responses, are all that have been received. There is also no reason to redact the names of those making representations. As all the documents submitted must be subject to consultation for a period of 6 weeks, it will be necessary for the revised consultation statement to be publicised in the same way as the originally submitted documents and for the publicity to also provide easy access to the other submitted documents with clear notification that these are unchanged.

Hearing

I have come to the conclusion that a hearing is necessary for me to give proper consideration to Policy STR1 Strategic Gaps. I have reached this conclusion because I have

concerns whether the policy in its present form can be justified and there have also been substantial comments on this issue raised by Breckland District Council and in other representations. I am not satisfied that I can fully address my concerns and the issues raised without discussing them more fully in a hearing. I would like to explore for each of the strategic gaps:

- a) The justification for the strategic gap in principle
- b) The justification for the specific area defined
- c) The specific wording of the proposed policy

having regard to the strategic policy context, the perceived pressure for development, the physical characteristics of the gaps to be protected and the presumption in favour of sustainable development.

I anticipate that the hearing is unlikely to take more than half a day.

I should be grateful if you could make arrangements for a hearing to be held, preferably in Yaxham on a suitable date that will provide at least three weeks' notice of the hearing. Clearly the Christmas period will constrain the choice of dates and I should be grateful if you could consult the Parish Council on this. It may be that both Breckland District Council and the Parish Council would prefer a date after Christmas. This will not delay the outcome of the examination because of the additional work and consultation required in relation to the Consultation Statement which I have already referred to. However, if a date before Christmas is preferred the mornings of 16th, 19th, 20th and 21st December would be possible for me. I suggest a start time of 10 am which will allow for the hearing to extend into the afternoon if necessary.

The hearing should be publicised on the District Council website and in any other ways considered appropriate.

I envisage that those appearing will be representatives of Yaxham Parish Council and Breckland District Council. Those parties who made representations on this issue in the regulation 16 consultation should also be invited to appear namely Lanpro, P Dimoglou, J Cheetham. The publicity for the hearing should make it clear that anyone else wishing to speak at the hearing should contact Breckland District Council.

The hearing will be informal with questioning from the examiner and there will be no cross examination. I envisage that the greater part of the hearing will take the form of questions from me, but there will be the opportunity for parties to make a brief introductory statement if they wish. This should not exceed 10 minutes.

At this stage I do not envisage that the hearing will need to address any other issues, but I should be grateful if before publicising the hearing you could confirm with me that there are no other issues.

If you need to discuss any of the matters raised in this e mail do not hesitate to contact me.

Yours Sincerely

Richard High

Appendix 3 E mail to Breckland Council dated 4/12/2016 and copied to Maggy Oechsle, Ian Martin and Peter Lowings of the NP4Yaxham Working Group

Dear Susan

I'm sorry that I was not available when you called on Friday and I am afraid that it will be difficult to contact me between about 9am and 2.30pm on Monday.

Thank you for putting the A3 version of the evidence on the strategic gaps in the post for me.

The questions which I would like to address are set out below. They flow directly from the main issues that I identified in my e mail of 23 November. If the Parish Council, the District Council, or any other party appearing would like to make a written submission in advance of the hearing, it would be helpful if I could receive it by Thursday 5 January and for it to be posted on the District website at the same time. However, it is not essential to prepare a written statement.

Questions: Except where specified, these questions relate to all of the strategic gaps. They are directed initially to the Parish Council initially, but it would be also be helpful if representations from the District Council and other parties relate to them.

a) The principle of the strategic gap

1. Why is there a need for a strategic gap between these two settlements? How does this need differ from that which might apply to the gap between any two villages?
2. What evidence is there of development pressures that may threaten this gap?
3. In the case of Strategic Gap 3, to what extent are Yaxham and Clint Green separate communities? What facilities and services are shared by them?
4. Why will national and local policies for development in the countryside be inadequate for the protection of this gap.

b) The specific definition of the strategic gap

1. What are the factors that have influenced the definition of the strategic gap?
2. How does accompanying document 3 justify the area which has been identified?
3. What other policies or constraints will limit development in the area defined?

c) The wording of Policy STR1

1. What sort of development does the policy seek to prevent and what development would be acceptable in the strategic gaps?
2. Is there any effective difference between criteria a) and b) in part 2 of Policy STR1?
2. Are all 3 of the criteria in part 2 of Policy STR1 intended to be met?

In all cases I may have follow up questions to any of the parties but would not wish to direct the nature of the discussion before hearing the answers to these main questions.

Regards

Richard

Appendix 4
Definition of Strategic Gap between Yaxham and Dereham for amended map 10

