

Saham Toney Neighbourhood Development Plan 2019 - 2036

Initial Comments of the Independent Examiner

Prepared by

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Introductory Remarks

1. As you will be aware, I have been appointed to carry out the examination of the submission version of the Saham Toney Neighbourhood Plan. I have now carried out my initial review of the plan document.
2. My normal practice when conducting neighbourhood plan examinations, is to carry out, at the start of the examination, a site visit to the parish, to gain an appreciation of the plan area, its character and its landscape, as well as view specific sites mentioned in the document, whether it be site allocations, local green spaces or proposed locally listed buildings.
3. However, under the current, post - Christmas COVID 19 Government restrictions, non-essential travel is now strongly discouraged and in view of the distance from Devon to Norfolk, any visit would entail an overnight stay. I have therefore reluctantly concluded that at the present time, it would not be sensible for me to undertake an overnight visit to Saham Toney, but I do still intend to make my visit as soon as the restrictions on travel are relaxed and I feel that it is safe to do so.
4. I do, however, wish to still progress the examination in a timely fashion, at least to the extent that I am able to do, prior to making my visit to Saham Toney. I therefore wish to explore a number of issues with Saham Toney Parish Council, as the Qualifying Body, who have submitted the plan and Breckland Council, the Local Planning Authority (LPA).
5. Whilst generally the presumption is that neighbourhood plan examinations will proceed, based on the consideration of written material only, in this case there are matters which I wish to further explore, in more detail. These are matters which have been prompted by my initial review of the document and Regulation 16 submissions. Normally these would have led me to call a public hearing, but the situation at the present time, is far from normal.
6. The Secretary of State last year, issued fresh advice in his Planning Practice Guidance regarding the conduct of neighbourhood planning examinations during the COVID 19 crisis.

“Examinations: The general rule remains that examinations should be conducted by written representations. If an examiner considers that oral representations are necessary, these should not take place in person. *Where feasible, oral representations may still take place using video conferencing or other suitable technologies.”*

7. I therefore propose to invite representatives from Breckland Council and Saham Toney Parish Council to join me in a video conference call. The purpose of the video conference call is essentially, for me to lead a discussion on a specific number of key topics. I will set these matters out below, and each topic contain a number of questions. I will use the responses to guide the debate and discussion.

8. I have asked Susan Heinrich at Breckland Council, to make the necessary arrangements and to host the conference call and I will ask her to liaise with all parties, regarding a suitable date and time and check that everyone has the necessary IT equipment to participate. It would be ideal if the video conference call could be streamed live, in case interested parties, wish to view the proceedings, although third parties would not be allowed to participate. However, I am not relying on live streaming being available, as I have requested that a recording be made, which the public could view on the respective websites. My aim is that the examination process is as transparent as possible.
9. I expect the hearing will be able to be concluded in half a day but I would ask parties to be available for a whole day if that is necessary. If I conclude that the session is likely to run into the afternoon, I will adjourn the call to allow for a lunch break.
10. My intention is that this conference call should take place as soon as parties have had an opportunity to adequately prepare and respond to the matters I raise in this note. I am conscious that all parties will expect the momentum on this examination to be maintained, even during these difficult times.
11. This part of the examination and this virtual hearing will be focussing on non-site-specific issues, until I have been able to make my site visit. If there are further matters of clarification needed following that visit, I will issue an additional note and invite further representations on those issues.
12. I hope that I have made it clear by the use of italics which organisation is expected to respond to each question, some questions will be relevant to both parties. If the other party wishes to comment on a question, which I have asked of the other, then these can be submitted.
13. I am requesting that Breckland Council and the Parish Council provide me with a brief summary of its response to each topic / question I set out in paragraphs 19 to 32. These position statements will allow me to prepare and to lead the discussion at the hearing. I am only seeking an outline of each parties' positions at this stage and to that end I would request that the responses from each party to the 4 individual topics, should be limited to one A4 page per topic. In addition to being emailed to me, the responses must also be copied into the other party at the same time. They should be sent electronically, by 12 noon, two working days before the hearing date. In due course these documents should also be included on the respective websites.
14. I must stress that at this stage, I have not come to any conclusions, whatsoever and that by raising specific issues or by asking particular questions, does not mean that I am in any way prejudging my considerations of the issues before me. It is perfectly normal for an examiner to seek comments on issues arising from a plan, which can allow him/ her to come to a conclusion on the individual policies and the plan as a whole.

Procedural Matters

15. Whilst I understand that the usual practice, adopted by other Examiners in Breckland, is for all correspondence to the examiner to be directed through the Council, which acts as a post box, it is my normal practice to send correspondence direct to the principal parties, but I do so on the basis, that any correspondence must be copied to the other party. It is important that I act impartially when conducting this examination. I also require such correspondence to be placed on the respective websites so that there is full transparency.
16. As I have said, I wish the video call to concentrate on a limited number of key policy issues, but there are some other matters which can be dealt with by way of further written submissions at this stage. These are related to Regulation 16 consultee responses and strategic local plan policy.

Regulation 16 Comments

17. Firstly, I would like to offer the Parish Council the opportunity to respond to any of the comments made in the representations submitted as part of the Regulation 16 consultation. I will ask the Council to forward them to the Parish Council. I would also request they be published on the Breckland website. I am not suggesting every representation requires a response, but if there are any matters which the Parish Council wish to comment on, I would be pleased to receive any submissions before the hearing, in case the responses are relevant to our discussions.

Strategic Policies

18. I would also be grateful if Breckland Council could advise me, prior to the video conference call, with a list of its policies in the development plan, it considers are the strategic policies, for the purpose of the considering the plan's compliance with the basic condition, namely that the neighbourhood plan is in general conformity with the strategic policies in the development plan.

Topics for Discussion During Video Conference Call

Topic A: The Plan as a Whole

19. Planning Practice Guidance entitled "What should a plan look like?" states "Whilst the contents of plans will vary depending on the nature of the area and matters to be addressed, all plans need to be as focussed, concise and accessible as possible." I would ask *both parties* whether they consider there is scope for removing some of the repetitive text within the plan document. For example, will a neighbourhood plan that has 8 policies covering surface water flooding, be readily understandable by applicants or decision makers?

20. Does the *Parish Council* appreciate that statements and requirements set out in the supporting text cannot be used as policy statements, used to determine planning applications?
21. I would ask *both parties* to give their views as to whether the requirements contained within the plan too prescriptive, for example:
- is the detailed phasing of the sites justified, when a planning permission has a three-year period for implementation?
 - to what extent is the delivery of social infrastructure crucial, having regard to the scale of development envisaged within the plan?
 - is it realistic for every applicant to have to demonstrate the availability of adequate social infrastructure capacity and utility capacity and to what extent is that a matter that should be considered at a more strategic level e.g. via the local plan when setting general levels of development?
 - should the masterplans be described as illustrative?
 - should allocation policies refer to the delivery of at least x dwellings and do the density requirements meet the Government's requirements that planning policies should promote an effective use of land (para 117 of the NPPF)?
22. Would *Breckland Council* comment as to what extent a neighbourhood plan policy can dictate what documents must accompany a planning application e.g. ecological assessments, Design and Access Statements and drainage strategy and is that not the role for the separately published Local Validation Checklist? Can the LPA provide me with a copy of its published requirements?

Topic B Limits of Planning Policies

23. The Secretary of State in a Written Statement to the House of Commons dated 25th March 2015, stated that "neighbourhood plans should not set ...any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings." To what extent are the policies relating to the performance of surface water run off setting local technical standards rather than acting as statements of planning policy. Is it appropriate for a planning policy to be repeating requirements from technical documents that might change during the lifetime of the plan period? Comments from *both parties* would be welcomed.
24. To what extent is Policy 2D a policy for the use and development of land and to what extent is it a housing allocation policy, which would be administered by the Housing Authority, rather than the Planning Authority? Is it appropriate for the policy to be restricting occupancy on all forms of affordable housing, such as starter homes, or discounted market sales housing, as defined in the glossary of the NPPF? Is the plan's reliance on information from the housing register, a comprehensive measure of those that are in need of affordable housing? Comments from *both parties* please.

25. In Policy 2E4 b), is the reference to all schemes having to demonstrate how they have addressed “homes at a cost suitable for first time buyers and other low – income households” pointing to a need for developments to be providing affordable housing on schemes below the affordable housing threshold? A response from only the *Parish Council* is requested.

Topic C Site Allocation

26. To what extent has the neighbourhood plan’s site allocation process, applied the sequential, risk-based approach to the location of development, as required by paragraphs 157 and 158 of the NPPF, steering development to areas at lowest risk of flooding. This is an important factor, in that sites allocated in a development plan do not need to be subject of a sequential test. The *Parish Council* to respond.
27. Are there any issues within the plan area in ensuring safe access and escape routes in times of flooding? *Both parties* are requested to comment.
28. Why is it appropriate for the neighbourhood plan to be specifying visibility splays on allocating sites, but non allocated sites have to comply with published NCC guidance and Manual for Streets? Could such guidance apply to the allocation sites? The *Parish Council* to address this question.
29. Can the *Parish Council* provide documentary evidence of the landowners agreeing to the constraints set out in the allocation policies?

Other Flooding Issues

30. Can the *Parish Council* expand on why it considers that the policies in the NPPF/ PPG and the Local Plan Policy ENV09 do not provide adequate policy protection? The Secretary of State in Paragraph 165 of the NPPF requires the incorporation of SUDS on major schemes only. Does *Breckland Council* have a view as to whether applying it to *all* development is justified?
31. Can the *Parish Council* clarify what body it expects to adopt SUDS schemes and is that necessary, if *Breckland Council* is satisfied that ongoing measures are put in place for its maintenance and management?
32. Is it really appropriate for the design and details of the SUDS scheme to be provided, before the principle of the development has been established? In my experience, such matters are normally covered by planning condition requiring the submission of details prior to the commencement of works, once planning permission has been granted. *Both parties* to respond please.

Concluding Remark

33. I am sending this note direct to Saham Toney Parish Council, as well as Breckland Council.
34. I will be grateful, if a copy of this note and any subsequent responses are placed on the appropriate neighbourhood plan websites.
35. These are unusual times and I am sure that I can rely upon everybody’s cooperation and forbearance in making these arrangements work.

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Independent Examiner to the Saham Toney Neighbourhood Development Plan.

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