

# Saham Toney Neighbourhood Development Plan 2019

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## Submission Version

A Report to Breckland Council on the Examination of the Saham Toney  
Neighbourhood Plan

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## Executive Summary

My examination has concluded that the Saham Toney Neighbourhood Area Plan should proceed to referendum, subject to the Plan being amended in line with my recommended modifications, which are required to ensure the plan meets the basic conditions. The more noteworthy include –

- That unnecessary duplication of text should be removed.
- Remove reference to the applicant having to demonstrate that adequate social infrastructure capacity is available to serve the development and to require development contributions to meet the three tests in Regulation 122.
- Refer to housing numbers as approximate figures and remove all phasing requirements and accessibility criteria.
- Removing the contingency text to allow additional non-allocated sites to be developed if the requirements of local plan Policy HOU4 are not met on the basis that they have already been exceeded.
- Retain the local connection policy requirements on the social housing content on all major sites and refer to local occupancy criteria not as a hierarchy but as 4 alternative criteria.
- Requiring the housing mix to be set by the village housing needs assessment.
- Remove all requirements in policy which dictates which documents need to be submitted with a planning application.
- Delete from the plan all the indicative access drawings showing visibility splays.
- Amend the site boundary to allocation site STNP1 to incorporate land required for flood attenuation and landscaping.
- Requiring all development accesses and visibility splays to meet the up-to-date Highway Authority requirements.
- Incorporate into the Richmond Hall allocation a requirement to deliver by way of a planning obligation, public access to the land to the rear of Richmond Hall.

- Delete design requirements that require compliance with Building Regulations M4 (2) of the Building Regulations.
- Introduce a requirement to require provision for the charging of electric vehicles on all new housing and for its encouragement in communal parking locations.
- Remove the need for professionally produced landscape and visual appraisals on very minor and householder applications, as well as change of use.
- Replace eight flooding policies with a single comprehensive flood policy which draws upon local plan Policy ENV 09 and national flood policy.

The referendum area does not need to be extended beyond the Plan area.

## Introduction

1. Neighbourhood planning is a process introduced by the Localism Act 2011 that allows local communities to create the policies that will shape the places where they live and work. A neighbourhood plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies that will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the adopted Breckland Council Local Plan 2019. Decision makers are required to determine planning applications in accordance with the development plan, unless material considerations indicate otherwise.
2. The neighbourhood plan making process has been undertaken under the supervision of Saham Toney Parish Council. A Neighbourhood Plan Steering Committee and Work Group was appointed to undertake the Plan's preparation.
3. This report is the outcome of my examination of the Submission Version of the Saham Toney Neighbourhood Plan. My report will make recommendations, based on my findings, on whether the Plan should go forward to a referendum. If the Plan then receives the support of over 50% of those voting at the referendum, the Plan will be "made" by Breckland Council.

## The Examiner's Role

4. I was appointed by Breckland Council in December 2020, with the agreement of Saham Toney Parish Council to conduct this examination.
5. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 42 years' experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant and director of my neighbourhood planning consultancy, John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of Breckland

Council and Saham Toney Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

6. Under the terms of the neighbourhood planning legislation, I am required to make one of three possible recommendations:
  - That the Plan should proceed to referendum on the basis that it meets all the legal requirements.
  - That the Plan should proceed to referendum, if modified.
  - That the Plan should not proceed to referendum on the basis that it does not meet all the legal requirements.
7. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Saham Toney Neighbourhood Plan area.
8. In examining the Plan, the Independent Examiner is expected to address the following questions:
  - Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
  - Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 - namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
  - Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and been developed and submitted by a qualifying body?
9. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.
10. I am able to confirm that, if amended in line with my modifications, the Plan does only relate to the development and use of land, covering the area designated by Breckland Council, for the Saham Toney Neighbourhood Plan, on 17<sup>th</sup> March 2016.

11. I can also confirm that it does specify the period over which the Plan has effect, namely the period from 2019 up to 2036.
12. I can confirm that the Plan does not contain policies dealing with any “excluded development”.
13. There are no other neighbourhood plans covering the area covered by the neighbourhood area designation.
14. I am satisfied that Saham Toney Parish Council as a parish council can act as a qualifying body under the terms of the legislation.

## **The Examination Process**

15. The onset of the third COVID 19 lockdown meant that a site visit to the parish could not take place at the start of the process, which is my usual practice. However, rather than placing the examination into abeyance, I made a decision to call a public hearing before visiting the area. I came to that view having read the documents and also the tenor of the comments submitted by Breckland Council, which I believed warranted further examination. Ordinarily, the presumption is that examinations will proceed by way of considering the written evidence only. However, the legislation does allow an Examiner to be able to ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put forward a case.
16. The key issues I needed to explore in greater detail, were set out in the document entitled Initial Comments of the Independent Examiner, dated 20<sup>th</sup> January 2021. I followed this up with Guidance Notes and Agenda for Virtual Hearing in a document dated 28<sup>th</sup> January 2021. The Initial Comments document set out the four topics that I wish to be the basis for the discussion during the hearing.
17. That hearing took place on 17<sup>th</sup> February 2021 via video conferencing and lasted the full day. It was hosted by Breckland Council. A recording of the proceedings is available to view on the Parish Council’s dedicated Neighbourhood Plan website (<https://www.stnp2036.org/public-hearing-17-february-2021.html>) and / or the following link <https://www.youtube.com/channel/UCsrwxBp4CgTnn-7vwopIA7w/live>. At my request the principal parties submitted a summary of their respective positions on the four topics and these are available on the respective neighbourhood plan websites. I am grateful for the forbearance of all parties in

conducting what can be a difficult session, in a calm and constructive manner. I know that it was a tiring exercise for all involved.

18. I subsequently was able to carry out my visit to Saham Toney on 29<sup>th</sup> March 2021 - I had not previously been to the Waylands area of Norfolk. I spent the whole morning visiting the allocation sites and most of the other important sites which are identified in the plan, whether it be in respect of key views or local green spaces. I saw the watercourses that run through the village. I was also able to appreciate the various landscape character areas and I could appreciate the relationship with the neighbouring town of Watton.
19. Following my site visit, I issued another document "Further Comments of the Independent Examiner dated 13<sup>th</sup> April 2021, which sought clarification on a number of issues, some of which were prompted from what I saw on my visit and others matters that arose from the Breckland Council's explanation of the relationship between neighbourhood plans in Breckland and the Council's Housing Allocation Policy.
20. Both parties responded on 28<sup>th</sup> April 2021. The next day the Neighbourhood Plan Steering Group, without invitation, wrote to me submitting their comments on the response that I had been submitted by Breckland Council. I therefore felt obliged to offer Breckland Council the opportunity to respond to the Steering Group's commentary and also to say whether it wished to respond to any of the other Parish Council's comments, made in response to my Further Comments document. I received the Breckland Council's response on 21<sup>st</sup> May 2021.

## **The Consultation Process**

21. The full extent of the public consultation carried out on the plan prior to its submission is set out in the 449-page Consultation Statement.
22. Once the neighbourhood plan area had been designated, the first task of the working group was to send out questionnaires to all villagers and business/organisations, and this took place in the period July to December 2016. The Group also sought to raise the awareness of the plan and gather villager ideas through an information stand at the village fete that year. The responses were analysed and were used to develop the plan's vision and objectives and to start drafting policies, which initially took place in the period from October 2016 through to February 2017.



23. A first draft of the neighbourhood plan was published and following feedback from Breckland Council, there was a complete re-assessment of the plan's vision and revised policies were prepared. These were presented to the village in July 2017. In October 2017, a neighbourhood plan website was created.
24. A third version of the plan was presented at a village meeting held in December 2017. Input from consultants and feedback from Breckland Council led to the publication of what was to be the first of three Regulation 14 Pre-Submission versions of the plan, which was launched on 12<sup>th</sup> March 2018 and ran until 29<sup>th</sup> April 2018.
25. During the summer of 2018, various studies were commissioned and it was decided that the plan would look at incorporating site allocations. A call for sites was issued between 17<sup>th</sup> August 2018 and 15<sup>th</sup> October 2018. A total of 16 sites were identified. There were site assessments carried out between November 2018 and July 2019. This culminated in the publication of the second Regulation 14 submission, which was published on 19<sup>th</sup> August 2019 and ran until 13<sup>th</sup> October 2019.
26. Further work was carried out on site masterplanning and the development of flooding policies, which took place between September 2019 and April 2020, alongside the preparation of the SEA and HRA, as well as other studies supporting the neighbourhood plan.
27. All this extensive activity led to the preparation of the final Regulation 14 Pre-Submission version of the plan, whose consultation ran from 24<sup>th</sup> June 2020 to 14<sup>th</sup> August 2020. This produced comments from 16 persons, plus indications of support from another 56 parishioners and responses were received from 11 statutory and non-statutory consultees, including Breckland Council. These are set out, along with the Parish Council's response, in Appendices C3 to C6 of the Consultation Statement.
28. It is worth pointing out that the final stages of the plan's consultation had to be conducted against the background of the pandemic. Whilst it must have been challenging, I am entirely satisfied that the Parish Council continued to seek to engage with the community throughout this whole process, including taking appropriate measures to ensure public safety during the last year or so.
29. I am satisfied that the Parish Council has actively sought the views of local residents and other stakeholders and their input has helped shape the Plan.

## Regulation 16 Consultation

30. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation, which took place over a six-week period, between 29<sup>th</sup> October 2020 and 10<sup>th</sup> December 2020. This consultation was organised by Breckland Council, prior to the Plan being passed to me for its examination. That stage is known as the Regulation 16 Consultation.
31. In total, 12 responses were received, including: Natural England, Anglian Water, Norfolk County Council (in its capacity both as Highway Authority and Lead Local Flood Authority), Breckland Council, Cadent Gas, Highways England, Water Management Alliance, National Grid and Historic England. Representations were also submitted by Collective Community Planning on behalf of a local landowner, Mr Graham Tweed, and also from the local District Councillor, Councillor Crane. Also, one letter of support came from a local resident.
32. I have carefully read all the correspondence and I will refer to the representations where relevant to my considerations and conclusions in respect of specific policies or the Plan as a whole.

## The Basic Conditions

33. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what are known as the Basic Conditions as set down in legislation. It will be against these criteria that my examination must focus.
34. The five questions, which seek to establish that the Neighbourhood Plan meets the basic conditions test, are: -
- Is it appropriate to make the Plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State?
  - Will the making of the Plan contribute to the achievement of sustainable development?
  - Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?

- Will the making of the Plan breach or be otherwise incompatible with EU obligations or human rights legislation?
- Will the making of the Plan breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

## **Compliance with the Development Plan**

35. To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Breckland Council Local Plan, adopted on 20<sup>th</sup> November 2019. Breckland Council has provided me with a full list of what it considers to be the strategic policies.
36. Of particular relevance to the examination is Policy GEN 03 which identifies Saham Toney as one of a number of villages with boundaries. Policy GEN 05 states within defined settlement boundaries, proposals for new development are acceptable, subject to other development plan policies.
37. Policy HOU 01 sets out the district wide housing requirement for at least 15,298 new dwellings to be built in the period 2011 and 2036. Possibly the most important strategic policy covering Saham Toney is Policy HOU 04, which allows appropriate development “immediately adjacent to the settlement boundary, subject to, as well as other policies, meeting 4 criteria:
- the development is of an appropriate scale and design to the settlement.
  - it will not lead to the number of dwellings in the settlement increasing significantly more than 5% from the date of adoption of the plan. The settlement refers to a number of dwellings inside the defined settlement boundary.
  - the design concept contributes to preserving and where possible enhancing the historic nature and connectivity of the communities and
  - the development avoids coalescence of settlements.”
38. Policy HOU 06 addresses the issue of density and requires design layout to optimise the density to a level that is appropriate and justified for the locality. It does allow support to be given to low-density developments at the edge of the

settlement. Affordable housing requirements are set out in Policy HOU 07 which will be required to meet existing and future for housing needs of the district.

39. Policy ENV 01 addresses green infrastructure, Policy ENV 02 deals with biodiversity protection and in enhancement and Policy ENV 03 considers the impact of development on the Breckland SPA, which has been designated because of, inter alia, its population of Stone Curlew.
40. Policy ENV 04 is the strategic policy dealing with open space, sport and recreation including policies for local green space. Policy ENV 05 addresses the protection and enhancement of the landscape, including reference to landscape character assessment and settlement fringe landscape assessments.
41. Policy ENV 09 addresses flood risk and surface water drainage, requiring development to be sited to minimise the risk of flooding and mitigate that risk by implementing sustainable drainage and mitigation.
42. My overall conclusion is that the Neighbourhood Plan, apart from where I have noted in the commentary on individual policies, is in general conformity with these strategic policies in the Breckland Council Local Plan. The only area where there is an issue of general conformity is the scale of development being proposed in addition to development carried out in recent years does exceed by a significant extent the level of growth that would be expected under Policy HOU 04. I deal with that issue in a latter section of this report.

### **Compliance with European and Human Rights Legislation**

43. In September 2019, Breckland Council issued a draft screening report which concluded that a full strategic environmental assessment, as required by EU Directive 2001/42/EC, which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”, would not be required. An earlier screening undertaken in 2018 had reached the same conclusion, albeit based on an earlier version of the plan. However, the Steering Group took a contrary view, based on the fact that two of the consultees had recommended that an SEA should be undertaken. Accordingly, by email dated 6<sup>th</sup> November 2019, Breckland Council confirmed that, based on the statutory consultee responses, it had determined an SEA would be required.

44. Once the screening had been undertaken, it was followed by an SEA Scoping Report prepared by AECOM, dated February 2020, which was the subject of its own consultation with the three designated authorities, namely Historic England, Natural England and the Environment Agency.
45. A full Strategic Environmental Assessment was published in June 2020 the conclusions of which are summarised in paragraph 7.1.7 of the Basic Conditions Statement.
46. Norfolk County Council, on behalf of Breckland Council, the competent authority, advised that an Appropriate Assessment would be required, under the terms of the Conservation of Habitats and Species Regulations, (the Habitat Regulations), having received the views of Natural England. The Appropriate Assessment, formed part of a Habitats Regulations Assessment dated September 2020, which concluded that the plan would not have an adverse effect on European protected sites, either those in close proximity to Saham Toney, the Breckland SPA, Breckland SAC and the Norfolk Valley Fens SAC- The Great Cressingham component, or those further afield. The assessment did indicate that the text within the plan has addressed any concerns regarding mitigating any possible impact on the stone curlew.
47. I am satisfied that the basic conditions regarding compliance with European legislation, including the more recent basic condition which was introduced regarding compliance with the Habitat Regulations, are met. I am also content that the Plan has no conflict with the Human Rights Act.

## **The Neighbourhood Plan: An Overview**

### **The Plan as a Whole**

48. It is clear that the plan is well presented and is clearly set out. It generally makes good use of maps to illustrate the policies. This is a significant document which reveals a huge amount of work and is backed up by a substantial body of evidence, much of which has been produced by consultants. The plan itself runs to 233 pages. Whilst, there is no template for neighbourhood plans or has maximum length of document prescribed, nevertheless the NPPF does refer to plans being “succinct”. This is a point that has been made by Breckland Council and also by the Ward Councillor in her Regulation 16 comments.

49. I do not believe that anyone reading this neighbourhood plan would describe it as a succinct document. We discussed this at the hearing and it was agreed that there were opportunities to remove unnecessary duplication of text. There were obviously examples quoted, which the Parish Council conceded could be consolidated such as repeated references to requirements related to the Stone Curlew, comments on the plan's drainage policies, or where in terms of allocations it each time expresses the expectation that should a developer purchase the site than they do so in the knowledge of the policy requirements. I will be making some general recommendations that this information only needs to be set down once in the plan to avoid unnecessary duplication. I set out under the relevant recommendations, the paragraphs that can be removed due to unnecessary duplication.
50. I have been asked to provide detailed recommendations as to what changes are necessary to the supporting text. In nearly every examination I have conducted, and this will be my one hundredth examination, I have felt that such changes are a matter best resolved by the authors of the plan working collaboratively with the local planning authority, who will be responsible for preparing the Decision Statement once the examination has concluded, setting out how the plan needs to be amended having regard to my recommendations and whether it should proceed to referendum. However, in this instance, I can understand the reasons why I have been asked to also make recommendations as to how the supporting text should also be changed. In the main, I have only needed to recommend that text is removed if my recommendation alters the policy as well as the previously mentioned changes to avoid unnecessary duplication. With a small number of exceptions, I have not needed to prepare new text. I will still include a recommendation that minor changes to the document should be agreed between the Parish Council and Breckland planners as a result of my changes covering matters of punctuation, formatting and policy and paragraph numbering so that the referendum version reads as a coherent document.
51. I still feel that it is not really the examiners' role to re-write the plan and I am very conscious that this neighbourhood plan is the community's plan and reflects many hours of hard work and dedication by a small group of people who care passionately about Saham Toney and this plan. I have therefore tried to restrict the changes to those I have described above, and trust that after the

recommended changes, the plan still reads as a coherent document, although I expect some of my recommendations will disappoint the authors of the plan.

52. A neighbourhood plan is only required to include policies on the topics that are important for the community to see addressed. This plan focuses on housing, in terms of the overall quantity, the site allocations and indications of where development should and should not be allowed as well as the housing mix. The other issue which has been in the forefront of the Parish Council has been addressing the issue of surface water flooding, which is clearly in the light of events over the last five years also come to the fore.

53. Together they account for 24 policies in the plan. However, the Saham Toney Neighbourhood Plan is more than a housing and flood policy document. It introduces development plan policies covering design and density, climate change, heritage assets, biodiversity, key views and the Saham Tony rural gap as well as other issues. Whilst much of the examination and the hearing as well as my recommendations, have concentrated on the issues of the relationship between phasing and social infrastructure capacity and also to the extent of the level of prescription set out in the eight flood policies, I found that most of the other neighbourhood plan policies met the basic conditions without requiring substantial amendments. I hope that the Parish Council will appreciate that the changes that I am proposing are only those necessary which allow me to recommend that the plan as a whole can proceed to referendum.

### ***Recommendation***

***That minor changes to the text of the neighbourhood plan document which are required as a result of my recommendations, should be agreed between Saham Toney Parish Council and the Breckland Council, including any necessary changes to punctuation, formatting or paragraph numbering or other presentational issues.***

### **The Level of New Housing in Saham Toney**

54. The Breckland Local Plan identified, in Policy HOU 04, Saham Toney as a village with settlement boundaries. This policy states that the level of new housing will be restricted, consistent with a rural character and reflective of the more limited-service provision and infrastructure availability. Appendix 5 of the Local Plan sets out the methodology setting out how the housing figures are to be calculated.

55. Essentially it prescribes that through the life of the plan, the number of dwellings within the settlement should not increase by significantly more than 5% from the number of dwellings within the settlement boundary at the date of the adoption of the plan. That is to be calculated by reference to the number of dwellings which have been or will be built both within and outside of the settlement boundary. Therefore, the table states that the 5% growth for Saham Toney for the period up to 2036 is 33 dwellings.
56. The new dwellings that contribute to this figure are based on those sites that had previously been granted planning permission after the date of the Table's preparation, namely 31<sup>st</sup> March 2018 and the Local Plan's adoption in November 2019. That number will be used as part of the calculation of the 5% increase, and all planning permissions granted after that are explicitly counted. In the case of a consent which lapses it would no longer count towards the 5% total.
57. Recent monitoring by Breckland Council, which was conducted after the hearing was held, has revealed that the available supply based on the number of extant permissions, either where work is partially implemented or has not started, lies at 44 dwellings and there have been four units completed since the local plan's adoption.
58. The Parish Council have suggested that only the planning permissions granted after the local plan's adoption should count towards the 5% figure. That is not how I read Policy HOU 04, which refers to the increase in the number of dwellings in the settlement.
59. The implications of that need to be worked through. Firstly, I have treated the figure of 33 dwellings, as being the housing requirement set by the strategic policy, as required by paragraph 65 of the NPPF. That has been confirmed by Breckland Council. Therefore, in the light of the current position, all the proposed allocations in the neighbourhood plan are not actually required to be made to meet the housing requirements as set out in the Breckland Local Plan. That has consequential implications, in terms of the justification for the imposition of the local connection policy for social housing, which is an important aspect of Saham Toney's approach to new housing, which is set out in the document, Justification of a Minimum Housing Target for the Neighbourhood Plan.
60. The Parish Council's justification for promoting a higher figure, is set out fully in paragraph T2A.4 of the neighbourhood plan, although two of those reasons are



not in my view valid. It is not possible for part of the development plan, namely a neighbourhood plan, to be able to “futureproof” against compliance with a future version of the development plan, which could emerge, through a new local plan. If the strategic policies were to change, then this neighbourhood plan would need to be reviewed, otherwise this version of the plan will be out of date and be given less weight in decision-making. The local plan is referred to as setting a minimum figure, but that is not how Policy HOU 04 reads in that it says that the figure of 33 should not be exceeded to a *significant extent*. The Parish Council position is that it is concerned that Policy HOU4 does not set a cap on the level of new housing, but actually the plan is now setting a considerably higher figure for housing than if the village was solely covered by that policy.

61. At the hearing, there was a discussion as to whether the figure of an additional 70 units, which are allocated in the plan, along with windfall development taking place within the settlement boundary, constitutes a *significant* increase. I sensed from Breckland Council’s response to my questions, that it was not opposing the level of housing being promoted by the neighbourhood plan on the basis of the conflict with Policy HOU 04. This is a matter that I do need to consider in the context of the consideration of the basic condition test, regarding the general conformity with strategic policies in the adopted local plan. Equally I also need to have regard to the Secretary of State’s policy, which does say in paragraph 29 of the NPPF that neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies. By implication, the Secretary of State indicates that it is possible for neighbourhood plans to be promoting a higher level of development than required by the local plan and therefore it does, by implication, contribute to the Government’s objective that the planning system should deliver a significant increase in housing.

62. Whilst the Parish Council could have taken a far more restrictive approach towards new housing development, it has chosen to be proactive and is promoting a higher amount of development in the village than required by the local plan. I am further reinforced in my view that the plan can be ambitious in terms of housing numbers, by the fact that the Breckland Housing Allocation Policy rewards neighbourhood plans which promote high levels of housing than

the District Council proposes, by allowing the imposition a local connection policy.

63. The current position regarding completions and planning commitments renders the discussions, which took place through the examination of which sites should generate affordable housing with or without a local connection policy, essentially redundant. As the figure of 33 has been exceeded, then it would now have been possible for the plan to have been allocating land which will deliver a lower figure (or even zero) for housing within the village, but at the level proposed, it increases the amount of affordable housing delivered which have the local connection criteria imposed.

### **Location of New Housing in Saham Toney**

64. Whilst I am generally satisfied that the selection of sites has taken place on an objective basis, I do note that the approach to site selection has not adopted the sequential approach to site selection as set out by the Secretary of State in paragraph 158 of the NPPF, the aim of which is to steer new development to areas of the lowest risk of flooding. It has chosen to allocate housing to land part of which is at risk of flooding whilst discounting land that is not at risk of flooding. This was discussed at the hearing and I understand that the plan has chosen to give more weight in the site selection to other factors such as the sensitivity of the landscape. However, it is clear that the plan has taken the flooding risk of these sites seriously and is proposing site specific measures on a risk-based basis and whilst not strictly in line with Government guidance, I do not consider that invalidates the overall approach. Breckland Council confirmed that it is comfortable with the approach that Saham Toney is taking.

65. I have to admit that I was somewhat surprised with a number of the proposed allocations, particularly at the extreme edges of the village. The Plan has set out guidance, in terms of likely walking distance from walking to facilities as a basis for assessing sustainability, but the plan has chosen to allocate new housing in a number of locations, which are a considerable distance from local facilities and where there are no pavements or footways and it has appeared to have rejected concerns expressed by the Highway Authority who objected to a number of allocations, because of the lack of facilities for pedestrians. Whilst it could be argued that the plan is promoting new development in locations where residents

are likely to have no alternative but to use the car to access local facilities, I do accept that that probably reflects the situation that residents already face in the Parish. At the hearing, the Parish Council acknowledged that there were trade-offs in terms of allocating sites in what it considered to be sustainable locations and the sustainability criteria set out elsewhere in the plan.

### **Overall Conclusions on Flooding Policies**

66. As I understand it, from the evidence I heard at the hearing, the Parish Council's approach evolved during the latter stages of the pre-submission phase of the plan's gestation, from a single flood policy to one that now has eight separate policies. Serious concerns regarding the neighbourhood plan's approach were expressed by Breckland Council, in its Regulation 16 comments, where it pointed out that a lot of the policies in the flooding section were not actually land use planning policies, collectively the policies were too prescriptive and were now including extensive technical information, which could be liable to change, outside of the remit of the development planning system. Further much of the policies deal with matters that are dealt with under non-planning legislation, such as the Building Regs or the Water Acts.
67. The flooding policies also seem to seek to dictate to the planning authority, how planning applications should be processed, setting out who, for example, needs to be consulted on what particular scale of application. The Parish Council appears to have an expectation that much of the technical design should be carried out before the principle of the development is established, in that it is required with the submission of the planning application. This could lead to applicants being required to commission expensive studies, involving calculations and design work, when planning permission could be refused for the development for other non-flooding reasons.
68. In my experience, the accepted approach is that applicant will submit an overarching drainage strategy, which demonstrates that a sustainable drainage scheme is feasible and can prevent flooding on and off site, but the actual design details and technical justification is carried out by a specialist hydrology consultancy and is submitted pursuant to a planning condition. Only once the planning authority is satisfied, having consulted the relevant consultees, can the

development be allowed to be commenced. If the technical work is unacceptable then the condition should not be discharged.

69. My conclusions are that the majority of the flooding policies do not meet the definition of being policy for the use and development of land and do not accord with Secretary of State policy and advice and therefore do not meet that basic condition.
70. My approach, which is set out in my recommendations, is to remove policy which merely duplicates existing flooding policy whether it be in the Breckland local plan or national policy and guidance. That is pursuant to the advice set by the Secretary of State in paragraph 16 of the NPPF. The overall requirements for the applicant to demonstrate that, through a surface water strategy remains and individual elements of other policies, which I have proposed to be deleted but could usefully provide additional local guidance in a Saham Toney context, are retained in a more comprehensive single policy.

### **Information To Be Provided With A Planning Application**

71. The plan places great emphasis on what information is required to be submitted with planning applications within the parish and imposes that requirement as an integral part of its policies. This misunderstands the purpose of a neighbourhood plan policy, which is to be used to *determine* a planning application. The requirements as to what documents are required to be submitted to become a valid planning application are set out in the Town and Country Planning (Development Management Procedures) Order 2015. As well as information which is required across the country – what are known as the national requirements, the secondary legislation allows local authorities to require applicants to submit additional specific information or documents covering particular circumstances, for example, transport assessment. That is a district wide rather than village based requirement.
72. A number of the neighbourhood plan's policies refers to applicants providing information within the Design and Access Statement. Prior to the changes introduced in 2015, all applicants were required to submit this document, but legislation was introduced in 2015, as part of the burden relieving agenda, that ensures that these documents are now only required for major development, or development within conservation areas.

73. As far as I am aware, Breckland Council has not chosen to prepare a local list, so for example, the requirement to include information within a Planning Statement, cannot be required, even if it is referred to in a neighbourhood plan policy.
74. I have therefore made a number of recommendations to ensure that the neighbourhood plan policy does not require the submission of such information with a planning application.

### **Consideration of the Contribution of the Plan to Sustainable Development**

75. My assessment on the basic condition regarding the contribution the plan meets to the delivery of sustainable development is guided by the three strands of sustainable development as set out particularly in paragraph 8 of the NPPF.
76. The neighbourhood plan's policies support new business development, particularly start-up facilities and micro businesses and requires the right infrastructure to be in place to serve the development - all of which contributes to the economic objective.
77. The contribution to the social thread is illustrated by the ambitious programme for delivering new housing, at a level significantly beyond that required by the local plan and places particular emphasis on providing local homes for local people through a requirement for local connection to be offered priority in terms of the allocation of social housing on larger sites. It also aims to require the building of smaller properties to rebalance the housing stock to better reflect the demographics of the parish. It also protects the parish's social and community facilities which are clearly valued by residents.
78. The plan has a strong emphasis on the environmental objective, taking account the conservation and enhancement of the area's natural, built and historic environment including policies to protect the night sky, biodiversity and supporting development to adjust to climate change. It has strong policies to protect the habitat of the protected stone curlew.
79. As such I am clear that the making of the plan, taken as a whole, will lead to the delivery of a sustainable development.

80. I have also been able to conclude that the Plan, taken as a whole and if modified in accordance with my recommendations, has had regard to the policies and advice from the Secretary of State.

## **The Neighbourhood Development Plan Policies**

### **Policy 1: Services, Facilities and Infrastructure**

81. There was a lot of discussion at the hearing on the matter of the relationship between new development and the perceived lack of infrastructure within the parish. The policy sets an expectation that it is for the applicant to prove that the social infrastructure of the area has the capacity to cope with the increase the demands placed upon it, arising from the proposed development. In addition, the applicant is required to show that there is the utility capacity to serve the proposed development.

82. The policy then goes on to require the applicant or decision maker, in assessing the capacity of the social infrastructure, to have consideration as to how accessible those facilities are to the particular site, giving preference to sustainable modes of travel. The policy recognises that infrastructure has to be in place to support the development. The policy, somewhat unusually, includes a policy to support electric vehicle infrastructure, which I consider could be better located within the parking policy.

83. The planning system operates in the main, building on the basis that infrastructure suppliers are consulted upon the preparation of development plan documents (which is why a number are listed to be consulted at the Regulation 14 stage) and in many cases, also at the planning application stage. In some instances, where it is known that there are shortfalls in available capacity, such as the ability of a particular sewage treatment system, this can be a constraint on development until that facility is expanded. Other issues arise if the scale of the development requires the building of a new school where extensive new housing is being proposed. It is important that if the shortfall in capacity is to be a restraint on development, then such a policy is based on evidence and I would expect it to be confirmed by the service provider, rather than being based on anecdotal submissions and assertions.

84. Contributions via planning obligations to the enhancement of local infrastructure can be sought to assist in mitigating the impact of what would otherwise be unacceptable development, but these can only be required where they pass the three tests which are set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010, in that they must be:
- necessary to make the development acceptable
  - be directly related to that development and
  - be fairly and reasonably related in scale and kind to the development.
85. In terms of the social infrastructure the plan places the emphasis onto applicants who are expected to demonstrate adequate capacity covering community facilities, schools, healthcare, public transport, shops and businesses, employment, leisure facilities and recreation space.
86. I pressed this issue, during the morning session of the hearing, but I was not offered what I felt was tangible evidence of any village facilities which would be unable to cope with the increased demand imposed as a result of the level of development proposed by the neighbourhood plan. I did hear some evidence of lack of capacity in terms of healthcare and schools, but there were no indications from the health authorities or the local commissioning group, that they have lack of capacity in the local GP practices within the wider area. Indeed, whilst I heard that the local children could not be admitted to the village primary school, the actual figure quoted, following the request made to the education authority during the hearing, was that the village school had a capacity for 105 pupils but they were currently having 88 on the school roll and that priority would be given to those children from within the school catchment. It is not uncommon for service providers to highlight any capacity issues, as it can often be the trigger for developer contributions.
87. There was some discussion that during the lifetime of the plan, some social facilities could be reaching “a tipping point” in terms of being a constraint on the development of new housing of the scale proposed in the neighbourhood plan. However, it should be recognised that it is the neighbourhood plan which is promoting a level of development above that which would have been allowed under Policy HOU 04 of the Local Plan.

88. The second part of the policy relates to how accessible a site is from the parish's social infrastructure, but the plan has not chosen to utilise that criterion as a decision-making tool when it has come to identifying development sites. For example, many of the plan's allocations are well beyond the walking distance of the secondary school or the nearest shops. The existence of a settlement boundary, where inside of which, there is a general presumption, is in favour of new housing, militates against using the matter of accessibility to social facilities as a criterion for judging the acceptability of a site, particularly as it appears to have been discounted as a basis in making the site allocations. The situation may have been different had the plan chosen to use that accessibility criteria to determine the selection of the sites that have been allocated outside of the settlement boundary.
89. In terms of infrastructure requirements, as set out in paragraph T1 .9 the applicant could only be expected to contribute to the extent that the need for the improvements to infrastructure which are generated by the demands created by the development. A developer cannot be expected to contribute to addressing existing deficiencies in services. This was a point accepted during the hearing.
90. My recommendations are required to direct that infrastructure requirements or planning contributions that are to be sought, must be shown to be directly required as a result of the development and needs to meet the three statutory tests. This can either be through direct provision or making a financial contribution.
91. I will be recommending that reference to the accessibility of the site to social infrastructure be removed in terms of assessing the capacity of sites.

### ***Recommendations***

***In P1.1, replace "shall demonstrate" with "will be supported subject to", delete "social".***

***Delete P1.2 and P1.3.***

***In P1.4 delete "the timing of" and add to the end of the sentence, "either through on-site provision or through the making of a proportionate financial contribution which meets the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010".***

***Delete paragraphs T 1.2, T1.4 and T1.8.***

***In T 1.9, after "improvements" insert "identified by the local community".***



## Policy 2A Residential Housing Allocations

92. This policy records the fact that the plan is allocating nine sites for residential development for the period up to 2036. The figure set is exactly 70 units and this is the sum of the indicative figures for each allocation site if they were all built to the maximum allowed by reference to the “up to “policy. However, the plan does not actually deliver 70 net additional dwellings as Site STNP15 involves the loss of an existing dwelling.
93. One issue which was discussed at the hearing was whether the overarching policy or indeed the capacity of allocation sites should be expressed as an exact figure. There could be a scenario, where one site may be shown to be able to accommodate a higher number of units than contemplated by the plan. The District Council referred to the difficulty in refusing an application for a higher number, if it is demonstrated that there was no demonstrable harm demonstrated by a higher figure. If that were the case it would be inequitable (or naive) to expect another site to only be permitted to have a lower level of development, irrespective of the capacity in the individual allocation policy, to ensure that the exact figure in Policy 2A was not exceeded.
94. The Parish Council was anxious that the policy should not be expressed as a minimum level of development, either on individual sites or in terms of the parish as a whole. I can appreciate that bearing in mind that the plan has not been required to allocate any sites for development, but has taken an ambitious pro -development stance, that it does not wish to see the plan provide for higher levels of development. However, it would equally be inequitable for another site to be required to deliver a lower number to ensure that the figure of 70 new homes does not become a cap on development unnecessarily. It is unusual for a plan that allocates 9 sites, some of which are major development, to be exact as to the amount of development that these individually and collectively can deliver. The Parish Council seemed to be unable to accept that a degree of flexibility should be enshrined into the policy notwithstanding that paragraph 11 of the NPPF refers to plans needing to be sufficiently flexible to adapt to rapid change. I have given the matter much thought and I will be recommending that the

plan should be seen to be delivering *approximately* 70 dwellings and I will be recommending the same usage when it comes to the capacity of other sites.

95. At the hearing there were considerable discussions on the desirability of retaining the “indicative delivery” framework. It would appear that the policy was prompted by a sense that the village may feel overwhelmed by too much development taking place at any one time. The indicative timeframe and the allocation of sites to specific time periods was in the main, influenced by the stated intentions of the landowners, in terms of when they were contemplating making their sites available.
96. Whilst it is important that there is an understanding of the likely trajectory of housing delivery, I can see no justification for imposing a policy which allocates sites to come forward in a particular order or within one of four phases. I heard no evidence that there were no specific infrastructure constraints beyond those specific to individual sites, which dictated sites could only be delivered within a particular phase of the neighbourhood plan. That is often the reason for the inclusion of a phasing policy.
97. I believe that it was generally agreed by both the Parish Council and the Breckland planners that the expectation was that a planning application could not be refused on the grounds of its prematurity to the phasing set out in Policy 2A. I have concluded that the proposed indicative delivery policy has not been justified in planning terms. Accordingly, I do not consider that the phasing has been justified by evidence and accordingly is not in accordance with Secretary of State policy and hence does not meet the basic conditions.
98. The stated intentions of landowners may well deliver the smooth delivery of housing across the plan period which the Parish Council aspires to. The statement that “actual phasing will be carefully reviewed and determined against the availability of adequate infrastructure at the time of the development” does not create any certainty, especially as the plan has not indicated which infrastructure is critical to gauge whether adherence to a particular order of development is justified in planning policy terms.

### ***Recommendations***

***In P2A.1 insert “approximately” before “70 new homes” and delete the remainder of the policy after “: allocation of sites” and insert***

***“shown on Policy Map 2A and set out in Policies 2H to 2P.”***

***Delete the last sentence of the second paragraph of paragraph T2A.1 starting with “To be consistent with”.***

***Delete paragraph T2A.3.***

***In paragraph T2A.4 delete “and” at the end of a), and also delete “b) and c)”.***

### **Policy 2B: New Residential Development within the Settlement Boundary**

99. This policy could be argued to be more restrictive than is set out in Policy GEN 05 of the Breckland Local Plan in that it qualifies the “in principle” support for new housing within the settlement boundary set out in the local plan, so that decision makers must also take into consideration the landscape sensitivity of the site, the impact on the current character and appearance of the immediate surroundings, the density of the scheme has regard to guidelines set out in Policy 3B and sets development management criteria for infill plots.

100. The local plan policy is similarly qualified, offering support, subject to compliance with other development plan policy. I therefore do not consider the policy departed markedly from the local plan position, but it does place a local dimension to that policy.

101. During the examination, the Parish Council suggested a revised wording to criterion a) which will require proposals with “satisfactorily address the requirements for the relevant character areas as set out in Policy 7A”. The Parish Council is also suggesting an additional sentence to explain that rationale and the supporting text.

### ***Recommendations***

***In P2B.1 replace a) with “It satisfactorily addresses the requirements for the relevant village / settlement fringe character area as set out in Policy 7A.”***

***Delete T2B.3, T2B.5, T2B.6.***

***After T2B.8, insert a new paragraph “The Saham Toney Parish Character Assessment Parts 1 and 2 describe six “Village Character Areas” and eight “Settlement Fringe Areas” and set out the key landscape characteristics of each together with more detailed description of features that characterise each area.”.***

### **Policy 2C: New Residential Development Outside the Settlement Boundary**

102. Beyond the sites which the plan allocates for new housing development beyond the settlement boundary, this policy allows rural exception sites and residential development where there is need for a countryside location.
103. The policy goes on to introduce an exceptional circumstances clause, which will be triggered if the plan did not deliver the housing targets set out in Local Plan Policy HOU 04, on other land adjacent to the settlement boundary. As previously stated, the current position is that the commitments in Saham Toney clearly exceed the limit set in Policy HOU 04 and therefore this contingency clause is no longer required. It therefore follows that the subsequent policy criterion that directs those sites coming forward, towards brownfield sites rather than greenfield sites, is equally unnecessary.
104. This simplifies the policy and provides the clarity expected for a neighbourhood plan policy. Had the level of development not exceeded the local planning requirements, then it would have been necessary for me to examine issues which are discussed in the supporting text.

#### ***Recommendations***

***Delete P2C.2 and P2C.3.***

***Delete paragraphs T2C.2 through to T2C.7.***

***Delete the last two sentences of T2C.8.***

***Delete paragraphs T2C.9 to T2C.11.***

### **Policy 2D: Affordable Housing**

105. In my experience of neighbourhood plan examinations, policies which seek to restrict the occupancy of social houses built pursuant to affordable housing policies normally are not treated as being a policy for the use and development of land. Generally, there are seen as housing allocation

policies, which are set and used by the Housing Authority to make decisions on tenancy allocations, usually based on housing need and other criteria which can include a local connection dimension.

106. However, it emerged during the hearing, that in the case of Breckland, there is a direct correlation between how the housing allocation policy works and development plan policy. Essentially the housing allocation policy recognises that when neighbourhood plan policies propose allocations which exceed the housing requirements set out in the local plan, then any social housing allocated beyond that baseline figure, which is required to deliver affordable housing, can be offered to persons with a local connection, initially over a two-week window, who meet the criteria set out in the policy, in preference to other applicants in the district. Beyond the two-week window then allocation decisions revert to those in greatest housing need in the district.
107. At the time of the preparation of the plan, part of the Parish Council's rationale for proposing the scale of allocations, was the desire to be able to trigger the local connection policy and there was only one large site identified which would not have, at that point, been expected to meet the local connection criteria, namely Allocation Site STNP1. There were some discussions in the submissions as to whether the neighbourhood plan's choice of sites was unfairly tilted towards ensuring the local connection policy was activated.
108. The housing completion situation changing, as a result of monitoring, has meant that the number of units on sites being allocated, will all be above the baseline figure set by the Breckland Council. Therefore, any site, which delivers 10 or more units or has a site area of greater than 0.5 ha, will now trigger this local connection policy.
109. I will therefore be recommending the simplification of the wording, whereby any new sites which trigger a requirement for affordable housing should meet one of the criteria set out in the plan policy. In order that the policy does not diverge from the Breckland Housing Allocation Policy, the four criteria should not be seen as a hierarchy of priorities but rather just a number of criteria that a potential tenant should meet.
110. Based on the allocations in the plan, if delivered to the expected capacities sites STNP1, STNP4, STNP7 and STNP 16 will be covered by this policy.

## *Recommendations*

***In P2D.1 delete the remainder of the first sentence after “applied” except the full stop.***

***At the end of the first paragraph replace “hierarchy of priority” with “criteria”.***

***Insert “or” at the end of criteria a), b), and c).***

***Delete T2D.1.***

***In T2D.2 delete “cascading”.***

***In T2D.6 replace the first two sentences with “On 16<sup>th</sup> March 2020 Breckland Council adopted a new Housing Allocation Policy which includes specific policies in respect of housing allocations on sites planned for through the neighbourhood planning process.” and delete the last two sentences of this text starting with “Allocated sites STNP4,7 and 16...”.***

***Delete paragraph T2D.8.***

## **Policy 2E: Housing Mix**

111. It is entirely appropriate for a neighbourhood plan to be setting a policy for the size, type and tenure of housing for different groups in the community (para 61 NPPF). This is backed up the Saham Toney Housing Needs Assessment. I recommend the reference to the housing needs assessment is used, instead of the rather nebulous requirements to “have regard to the demographic characteristics of the parish of Saham Toney”. This document sets out the basis for the policy by stipulating the sizes of dwellings which the plan requires to be built. It also establishes that housing needs in the parish are different to those in the rest of the district, particularly due to the village’s predominance of larger properties. This information is derived from those looking for affordable housing as well as market housing.

112. Within the opening paragraph, the policy establishes the role of that housing needs assessment, as a source of the requirements regarding the size of units and does not need to be repeated in paragraph P2E.2.

113. In terms of this additional requirement, it places an obligation to show that applicants have addressed in a proportionate manner the needs for housing to be *designed for older adults*. I believe that this wording gives the

impression that the accommodation should be designed only for older person adults. I consider that a more appropriate phrasing is that the housing should be *suitable for older persons* which would be more in line with the Lifetime Homes philosophy.

114. The requirement in b) is somewhat unclear as to whether it is aimed at market housing or just affordable housing. The definition for affordable housing is set out in the Glossary of the NPPF which includes reference to starter homes, discounted market sales houses and other affordable routes to home ownership. These rights are available under Policy 2D. The government has recently announced the introduction of First Homes and this route to delivering homes for first time buyers may be a new opportunity that the Parish Council may wish to pursue, if it decides to review the plan in the future. The final requirement, c) merely repeats the requirements already set out in Policy 2D.
115. The final element of the policy requires a proposal to comply with another existing development plan policy, Policy HOU 10 which will already be relevant to Saham Toney. That policy relates to matters that are only available to local plans and cannot be imposed by a neighbourhood plan in any event.
116. I will be recommending that this paragraph also be deleted.

### ***Recommendations***

***In P2E.1 delete the text after “housing need” and insert “as set out in the Saham Toney Housing Needs Assessment 3<sup>rd</sup> Edition, April 2020 or any subsequent update to it” and delete the asterisk footnote at the end of the policy.***

***In P2E.2 delete “in line with local housing needs”.***

***In P2E.4 a) after “designed” delete “for the” and insert “to be suitable for occupation by”.***

***In b) delete the rest of the sentence after “three - bedroom homes”.***

***Delete c).***

***Delete P2E.5.***

***In T2E.7, at the end of the first sentence insert before the colon “the preferences of those on the Housing Register”.***

## Policy 2F: Common Criteria for all Residential Sites

117. The Secretary of State advice in Planning Practice Guidance is that a policy should be “clear and unambiguous”. The advice goes on “It should be drafted with sufficient clarity that a decisionmaker can applied it consistently and with confidence when determining planning applications.”
118. A neighbourhood plan policy cannot dictate what documents need to be submitted with the planning application. Under the terms of the Town and Country Planning (Development Management Procedures) Order 2015, it is the role of the local validation checklist which sets out any local requirements as to what information is required to be submitted with a planning application beyond the national requirements. The wording can be amended so that it clarifies that the decision maker should be satisfied that any mitigation measures to protect and enhance biodiversity of a site, have been taken.
119. This policy is perhaps unique, in my experience, in seeking to provide, through Policy Maps 2F.1. to 2F.9 indicative maps for the allocation sites, showing the proposed access arrangements. Whilst it strives to illustrate how acceptable access can be achieved, the necessary visibility splays cannot be provided, in a number of cases, either within the highway land or land within the control of the site owner. Reliance on third-party land to secure adequate visibility appears to be acknowledged in the AECOM Transport Study. It is noted that Norfolk County Council objects to some of the allocations, until it has been satisfactorily demonstrated that adequate visibility is achievable. Whilst the policy is prescriptive in terms of the visibility requirements for the allocation sites, in respect of other sites which are not allocated, the policy is happy to refer to proposals satisfying the County Council’s current standards as well as Manual for Streets.
120. I have concluded that to include access and visibility plans, especially those reliant upon third parties land which inadvertently could be creating a ransom situation, which could frustrate the delivery of the sites being promoted is not appropriate. I would therefore recommend that these specific drawings be removed from the plan and the policy expectations are that the access arrangements will be expected to meet the requirements of the County Highway Authority.



121. The protection of statutory undertakers' infrastructure is covered by separate legislation and does not need to be part of a planning policy. Similarly matters relating to the interception of surface water is covered by highways powers rather than is a planning policy consideration.

### *Recommendations*

**Replace P2F.2 with “A proportionate ecological assessment demonstrates that the development, as far as practical, protects, and where possible enhances, the biodiversity value of the site including incorporating any necessary mitigation measures.”**

**Delete P2F.5.**

**In P2F.6 replace “non allocated” with “new residential”.**

**Delete P2F.7 and P2F.8.**

**Delete T2F.2.**

**In T2F.7 replace “will not” with “is unlikely to”.**

**Delete paragraphs T2F.9 and T2F.10.**

**Delete Policy Maps 2F.1 through to 2F.9.**

### **Policy 2G: Masterplanning**

122. I have no fundamental concerns with the policy which only applies to sites of 10 or more dwellings. It will assist the interpretation of requirements if the area is of moderate – high or high combined landscape sensitivity the policy signposts readers to the table in P7. A. 1.1 and the Policy Map 7A as proposed by the Parish Council.

### *Recommendation*

**In P2G.3 after “landscape sensitivity” insert “(see Table 7A1.1 and Policy Map 7A.3)”.**

### **Policy 2H: Site Allocation STNP1: Grange Farm, Chequers Lane**

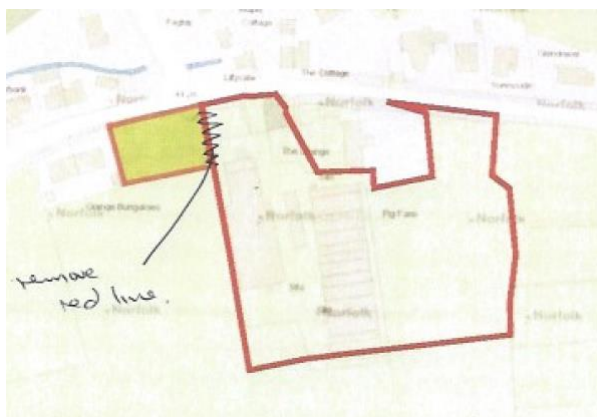
123. The Parish Council's definition of brownfield sites is at variance with that of the Secretary of State. The definition used in the Glossary to the NPPF specifically excludes “land that is or was last occupied by agricultural or forestry building.” Subsequent to the hearing, the Parish Council does not

wish to pursue its own interpretation and has proposed that the site, and others which provide for the redevelopment of farm buildings which can be described as “land predominantly occupied by agricultural buildings.”

124. The policy refers to the yield of the sites being *up to* 10 new dwellings.

However, if the site would be to go for less than 10 dwellings it would not be required to deliver any affordable housing, which is a key aspiration of the plan. The neighbourhood plan is encouraging the inclusion of a significant number of smaller units within developments and this site could deliver a great number of new homes but still be within the footprint of the plots shown in the masterplan. I propose that the number should be quoted as “*approximately* 10 units” in order to allow some flexibility.

125. In terms of the requirement to comply with the site boundary, I find that the Policy Map 2A could be interpreted as just covering the area surrounded by the red line and not the area edged in red and infilled with green, which is described as additional area for flood attenuation measures, landscaping and footpath link to Pages Lane. I recommend that this area should be included within the allocation site as the inclusion of such land is necessary to make the site acceptable, not least in flooding terms. I would propose that the boundary be amended so that the red edge goes around the whole site.



126. I appreciate that the layout plans have been prepared by AECOM, but they do refer to them as “site options”. It is not incompletely inconceivable that other layout options could come forward, but this is acknowledged in the policy and the requirement is the actual proposals are required only to be *guided* by the submitted layout.

127. The preference is for bungalows development, but the policy refers to the fact that two-storey dwellings may be acceptable subject to demonstrating

that the form will be sensitive to the open landscape setting. I consider that, as written, this introduces some uncertainty as to whether two-storey houses will actually be allowed. I would propose a more positively worded policy that refers to the fact that two-storey buildings will be allowed if the assessment shows that such a scale will be sensitive to the open landscape setting of the site.

128. On the question of the access, I do not consider that it would be “good planning” to require a layout that specifically prevents future access to the adjacent land, if say a future neighbourhood plan chose to allocate such land for development, which could be considered to be closer to village amenities than other possible sites. I recommend this element of the policy be deleted as it could prevent the delivery of what could be classed as sustainable development.

129. I have reviewed AECOM’s Transport Study’s comments on this site and this refers to the carriageway being approximately 6 metres in width, so I cannot see the necessity to require the widening referred to in requirement f).

130. I consider that for the purpose of identifying the area of the site at greatest risk of surface water flooding, that reference is made to the Environment Agency’s online map showing the extent of areas at risk from surface water flooding.

131. Again, the plan cannot dictate what documents should accompany a planning application and I will recommend that the policy should be referred to the LPA being satisfied the ground contamination can be dealt with.

132. In my view of my conclusions regarding the indicative phasing, I will be recommending that Policy P2H.2. be deleted.

### ***Recommendations***

***In P2H.1, replace “predominantly brownfield land” with “land predominantly occupied by agricultural buildings”.***

***Replace “up to” with “approximately”.***

***Amend the site boundary on Policy Map 2H as shown in paragraph 125 above and in the map legend delete “Additional”.***

***In d) change “may” to “will”.***

***In e) delete the full stop and final sentence.***

**Delete f).**

**In h) at the end of the second sentence insert “as shown on the Environment Agency’s online maps of areas at risk from surface water flooding”.**

**Delete P2H.2 and P2H.3.**

**Delete T2H.1 and T2H.2.**

**Delete paragraph T2H.22.**

## **Policy 2I: Site Allocation STNP 2: Disused Piggery, off Hills Road**

133. My earlier conclusions regarding reference to the policy to brownfield land apply equally to this policy and I was going to refer to the site being on land occupied by redundant agricultural buildings.

134. On my site visit, I was struck by the restricted width of the access but I was subsequently reassured by the measurements provided by the Parish Council that the width of 4.5 m as required by criteria c) is achievable throughout the access’s length.

135. Again, I will refer to the capacity of being *approximately* 4 dwellings to give some flexibility, depending on what form of development actually comes forward at development management stage.

136. Amendments regarding the ground contamination will be required but these are matters that can ordinarily be dealt with by planning condition. I will also recommend that reference to when the site will be developed should be removed from the policy.

### ***Recommendations***

**In P2I.1, replace “brownfield land” with “land predominantly occupied by disused agricultural buildings”.**

**Replace “up to “with “approximately”.**

**In f), delete “with the planning application”..**

**Delete P2I.2.**

**Delete T2I.1 and T2I.2.**

**Delete T2I.10.**

## **Policy 2 J: Site Allocation STNP4: Land at the junction of Pound Hill and Pages Lane**

137. Similar recommendations to previous policies apply, in terms of the number of units that can be achieved on the site.
138. I will again refer to the Environment Agency's maps of surface water flooding due to clarify which areas of the site are at surface water flooding and drainage risk.
139. I will again remove reference to the likely phasing of the development.

### ***Recommendations***

***In P2J.1 replace "up to" with "approximately".***

***In d) at the end of the second sentence insert "as shown on the Environment Agency's online maps of areas at risk from surface water flooding".***

***Delete P2J.2 and P2J.3.***

***Delete paragraphs T2J.1 and T2J.2.***

***Delete T2J.15.***

***Delete paragraph T2J.21.***

## **Policy Site 2K: Site Allocation STNP7: Pages Farm**

140. Previous comments regarding the use of brownfield sites and also comments regarding the capacity equally apply to this allocation, as well as reference to on-site contamination and I would recommend that the use of "brownfield" can be removed in o).

### ***Recommendations***

***In P2K.1, replace "predominantly brownfield land" with "land predominantly occupied by disused agricultural buildings".***

***Replace "up to" with "approximately".***

***In n) delete "with the planning application".***

***In o) remove "brownfield".***

***Delete P2K.2 and P2K.3.***

***Delete T2K.1 and T2K.2.***

***Delete T2K.9.***

**Delete T2K.18.**

**Delete T2K.23.**

### **Policy 2L: Site Allocation STNP: 9 Ovington Road**

141. I understand the planning permission has been granted on this site.

However, until such time is that development is fully implemented, it will be helpful to retain a policy in the plan, in case alternative proposals come forward. Similar comments to other sites equally apply.

#### ***Recommendations***

***In P2L.1 replace “up to” with “approximately.”***

***Delete P2L.2.***

***Delete T2L.1 and T2L.2.***

***Delete T2L.8.***

***Delete T2L.11.***

### **Policy 2M: Site Allocation STNP 13: Hill Farm**

142. Similar comments regarding the site capacity and the timeframe for the development apply.

#### ***Recommendations***

***In P2M.1 replace “up to” with “approximately”.***

***Delete P2M.2.***

***Delete T2M.1, T2M2, T2M.6.***

### **Policy 2N: Site Allocation STNP 14: Crofts Field**

143. Again, previous comments regarding the requirements to submit information with planning applications requires amendment. Planning legislation cannot prevent parking on a highway. That is a matter that is covered by Traffic Regulations.

#### ***Recommendations***

***In P2N.1 replace “up to” with “approximately”.***

***Delete d).***

***In e) remove “with the planning application”.***

***Delete P2N.2..***

***Delete T2N.1, T2N2, T2N.7.***

## **Policy 20: Site Allocation STNP 15: 8 Richmond Road**

144. Secretary of State advice is that the consideration of the impact of a proposal on non-designated heritage assets should assess the scale of any loss or harm against the significance of the asset. I will amend this part so that it meets the basic conditions.

145. I will be proposing the consolidation of criterion b) with P2O.2. and refer to the need for the access to provide adequate visibility splays to the satisfaction of the Highway Authority, as this was one of the sites where the required visibility splay impinges on land under the control of the adjoining landowner. I will also recommend that the maps on page 100 be removed from the plan.

### ***Recommendations***

***In P2O.1 replace “up to” with “approximately”.***

***In c) remove “and nearby non – designated heritage assets. At the end of the final sentence insert “which shall also assess the scale of any loss or harm to nearly non-designated heritage assets when balanced against the significance of those assets”.***

***Replace P2O.2 “Access to this site shall incorporate such visibility splays as shall be required by the Highway Authority on land within the applicants control or on highway land”..***

***Remove map on page 100 and delete T2O.11.***

***Delete P2O.3.***

***Delete T2O.1 and T2O.2.***

***Delete the final sentence of T2O.6.***

***Delete T2O.8 .***

***Delete T2O.12.***

## Policy 2P Site Allocation STNP 16 Richmond Hall

146. The neighbourhood plan has been the catalyst for the Parish Council to negotiate access to what is described as amenity land to the rear of Richmond Hall, which is the subject of Policy 2Q. The plan should, in my view, incorporate a formal linkage between the granting of planning permission for the proposed housing and the establishment of public rights of access to that land. Breckland Council has confirmed that this would be feasible via a Section 106 Agreement.
147. The policy requirement in c) is only a requirement to not prejudiced publicly accessible amenity land but it should, in my opinion, go further to require the delivery of that public benefit as that was the basis for the site's allocation. I will recommend an alternative wording to that proposal which should facilitate an appropriate linkage.

### *Recommendations*

***In P2P.1 replace “up to with “approximately”.***

***Replace c) with “Any planning permission for the development of the land that is the subject of this allocation is expected to be accompanied by a planning obligation which secures long term public access to the amenity land as shown on Policy Map 2P upon the completion of the development;”***

***Delete P2P.2 and P3P.3.***

***Delete T2P.1 and T2P.2..***

***Delete T2P.8 – 10, T2P.13 and T2P.17..***

## Policy 2Q: Amenity Land at Richmond Hall

148. I do not consider the development plan policy can safeguard in perpetuity access to such land. Such matters will require an appropriate agreement which will form part of a Section 106 agreement which Breckland Council will have to negotiate. However, it is important that a development plan policy should set out that as an expectation.

### *Recommendations*

***In P2Q.1, delete “in perpetuity”.***

***InP2Q.2 after “provision” insert “through requirements to be set out in a planning obligation”.***



## Policy 3A: Design

149. Again, a planning policy cannot require a planning application to be accompanied by a particular statement and an acceptable application could not be refused for want of such a statement. I recommend that the submission of such a statement will be *encouraged* rather than *required*.
150. In terms of the specifics of the policy, when considering the local context, the assessment of what constitutes the “best” features of the local built-in area is a subjective assessment. I recommend appropriate rewording which refers to “characteristic” features to provide greater clarity.
151. In P3A.7, I do not consider a development can be *required* to be designed in accordance with the principles of Secured by Design – it may not be relevant for some types of development. I will amend it to refer to such measures being encouraged.
152. The requirements for buildings to be designed to adaptable housing M4 (2) standard would not be accordance with Secretary of State’s policy as set out in a Written Ministerial Statement made to the House of Commons on 25<sup>th</sup> March 2015, which states that neighbourhood plans should not set any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. The requirements to comply with Building Requirement M4 (2) of the Building Regulations can only be imposed by a local plan policy, as set out in the section of the Planning Practice Guidance on Housing – Optional Technical Standards. The requirements regarding suitably located sprinklers could simply be contrary to Secretary of State advice and the matters that are already covered by the Building Regulations. These elements do not meet the basic conditions.

### *Recommendations*

***In the second sentence of P3A.1, replace “will be expected” with “are encouraged” .***

***In P3A.2 a) replace “best” with “characteristic”.***

***In P3A.7 b) at the start, insert “Are encouraged to be”. As a consequence, amend “Proposals shall:” to “Proposals:” and insert “Shall” at the start of criterion (a).***

***In P3A.10, delete d) and g) and insert “and” immediately before the semi colon in f) .***

### **Policy 3B: Density of Residential Development**

153. As a matter of principle, I do not consider that the fact that the plan is choosing to allocate so many housing sites, is a reason not to include policies to make effective use of land. Essentially, that approach would mean more greenfield sites need to be utilised to achieve the same number of units, if development is not required to make efficient use of the land. However, the NPPF, in paragraph 127, recognises that such decisions also need to take into account the maintenance of an area’s prevailing character and setting.

154. As Breckland Council has stated in its representations, two small semidetached properties can occupy the same footprint as one large property, but it would be seen, mathematically, as double the density. In this instance I am satisfied that policy can be used as a guide in development management decisions and I will propose the addition of further flexibility by proposing that “shall” be replaced by “is expected”.

#### ***Recommendations***

***In P3B.1 replace “shall” by “is expected to” and in the second sentence, replace “. To be supported, residential development proposals shall” by “and should”.***

### **Policy 3C: Site Access and On-Site Street Layout**

155. I have no comments to make on this policy which meets the basic conditions.

### **Policy 3D: Parking**

156. I have no concerns regarding this policy. However, I do consider the provision for parking should incorporate appropriate provision for the charging of electric vehicles. Such a requirement will be in line with the Secretary of State policy asset out in paragraph 105 of the Framework. I understand that the Parish Council would welcome me introducing such a requirement.

### *Recommendation*

***In P3D.1 add an additional principle. at the end of the bullet points “I) All new dwellings are expected to provide the necessary arrangements to provide for the home charging of electric vehicles. The provision of communal vehicle charging points within the parish will be encouraged.”***

### **Policy 3E: Dark Skies Preservation**

157. I have no comments to make regarding this policy, which is in line with the approach proposed by the Secretary of State.

### **Policy 3F: Climate Change Adaption and Mitigation**

158. The policy requires that to be supported, development should provide information on how it is expected to embed the principles of climate change adaption and mitigation in the Design and Access Statement or Planning Statement. As previously mentioned, under the terms of the Town and Country Planning (Development Management Procedures) Order 2015, Design and Access Statements are only required to be submitted when the scheme is proposing “major” development i.e. 10 units or more or developments in a Conservation Area. Similarly, a neighbourhood plan policy cannot stipulate that a Planning Statement must be submitted. I propose that the aspirations of policy can be achieved by being a policy that is one of encouragement. The policy needs to be consistent with paragraphs 149 to 154 of the Framework, which includes “any local requirements for the sustainability of buildings should reflect the Government policy for national technical standards”. This requires that such measures should only be required if incorporated through a local plan policy rather than neighbourhood plan. I propose that the aspirations of policy can be achieved by being a policy that is one of encouragement.

159. I note that the policy, apart from the paragraph, is supportive of development rather than imposing requirements. With my amendments to the first paragraph, I believe the policy will meet the basic conditions.

### ***Recommendations***

***In P3F.1 replace “will be expected” with “are encouraged”. Delete the second sentence.***

***In P3F.5 insert “the” before “impact”..***

***In T3F.3 replace in a) “Policies 8 A to 8H” by “Policy 8”..***

### **Policy 4: Non-Residential Development**

160. I have no comments to make on this policy which meets basic conditions.

### **Policy 5: Saham Toney Rural Gap**

161. From my site visit, I can appreciate the Parish Council and the community's desire to have such a policy because of the close proximity of Saham Toney to the town of Watton. I will remove reference to the need for Design and Access Statements (and Planning Statement) as these are only triggered by major development. Beyond that I consider the policy is justified and meets the basic conditions.

#### ***Recommendation***

***In Policy P5.3 replace “for example in any necessary Design and Access Statement and/ or Planning Statement together with” with “through”.***

### **Policy 6: Heritage Assets**

162. I have no comments to make on this policy which accords with national and local plan policy. The Parish Council has suggested that paragraphs T6.4 to T6.8 be removed. I will be pleased to recommend its removal as unnecessary text which essentially repeats national policy.

#### ***Recommendation***

***Delete paragraphs T6.4 through to T6.8.***

### **Policy 7A: Landscape Character Preservation and Enhancement**

163. This policy provides a local dimension to Policy ENV05 of the Breckland Local Plan. The NPPF and PPG guidance referred to the *conservation* and enhancement of landscape. Preservation implies that there will be no change whilst conservation implies that there will be an element of managing change

to achieve the protection of the landscape. The policy should also provide for adequate mitigation measures if it is shown that there will be an adverse impact.

164. In terms of the 4 criteria set in P7A.2, reference to “recent” development could be somewhat ambiguous as there could be some dispute as to what constitutes “recent”. It is the cumulative impact of development on the local landscape character that is important. This is recognised in paragraph 36 of the Landscape section of the Planning Practice Guidance.

165. In terms of threshold, the policy in P.7.A.5 refers to all proposals in settlement fringe areas of high and moderate – high combined landscape sensitivity being required to submit professionally prepared landscape and visual appraisals. Even if it were a proportionate response, I do not consider that it would be necessary for all applicants to go to the expense and trouble to commission such professional assessments for changes of use or minor developments which are unlikely to impact on the landscape in any meaningful sense. I will recommend that the thresholds be modified accordingly.

### ***Recommendations***

***Change title to Landscape Character Conservation and Enhancement.***

***In P7A.1, change “preserve” to “conserve”.***

***In P7A.2c) delete “recent”.***

***In P7A.3, change “preservation” to “conservation..”***

***In P7A.5, after “All proposals” insert “apart from change of use applications, very minor development and householder proposals”. After “Table P7A.1” insert “and Policy Map 7A.3” and after “shall” change “include” to “be informed by”.***

***At the start of the fifth line of P7A.5 replace “preserved” with “protected”.***

***In the final sentence, replace “degrade” with “lower”.***

### **Policy 7B: Key Views**

166. I visited each of the 10 locations, which the plan identifies as being key views. I am satisfied that this is a locally distinctive policy which is backed up by clear and well illustrated evidence. I would point out that a number of

supporting text criteria seek to cover matters that do not actually constitute development, such as the management of trees and hedges, tree planting and the management of meadow.

### **Policy 7C: Local Green Space**

167. I have no concerns regarding the neighbourhood plans choice of six local green spaces and there is clear evidence that they meet the strict requirements as set out in paragraph 100 of the NPPF. I am satisfied that the policy meets basic conditions.

### **Policy 7D: Biodiversity and Habitats**

168. This policy complements local plan Policy ENV 02. That policy sets out the hierarchical approach advocated by the NPPF to biodiversity sites. I consider that it would be helpful for the policy to cross reference the fact that proposals still have to have regard to policy ENV 02 and ENV 03.

169. There does appear to be an inherent contradiction in Policy P7D.3, which comes into play, where a proposal may adversely impact a primary habitat, priority habitat, or corridors between them, but then requires that the proposals will contribute to, rather than detract from the biodiversity value, yet that aspect of the policy is triggered by an adverse effect. I would recommend that the trigger should not be defined by being an adverse effect, but rather any scheme that affects these habitats should be covered by the policy. That would remove the contradiction.

170. The Parish Council has suggested that some paragraphs be removed as it repeats national advice. I will make those recommendations.

171. Beyond that I have no comments to make on the policy.

#### ***Recommendations***

***At the start of P7D.1, insert “As well as complying with the requirements of Local Plan Policies ENV 02 and ENV 03, development”.***

***In the first sentence of P7D.3, delete “adversely”.***

***Delete paragraphs T7D.12, 13, 15,16 and 23 .***

## Policy 7E: Green Infrastructure

172. As previously mentioned, a planning applicant is not, unless required by legislation, needing to prepare and submit a Design and Access Statement. Similarly, a Planning Statement cannot be required, unless it forms part of the Breckland's local validation checklist. I will therefore recommend the removal of P.7.E.2.
173. The final requirement through the use of "shall", in relation to the creation of small water bodies, may not be welcome, say in terms of some residential developments, particularly if the areas were unsupervised. Notwithstanding the caveat "wherever practical", I will propose that "shall" be replaced by "will be encouraged".
174. The Parish Council has suggested that a number of paragraphs which repeat national advice be removed.

### *Recommendations*

**Delete P7E.2.**

**In P7E.4 replace "shall" with "will be encouraged to".**

**Delete paragraphs T7E.5 – 11 and 15 – 18.**

## Policy 7F: Trees and Hedges

175. Whilst understanding and supporting the aspirations of the policy, it should be appreciated that a neighbourhood plan policy cannot prevent the removal of trees, unless they are subject to a tree preservation order or they are located within a conservation area. The policy cannot prevent unprotected trees being removed prior to the start of development.
176. In Policy P.7.F.3 I consider that the use of "shall" effectively removes any flexibility and there could be some reasons for some lost items not to be replaced. I will propose the use of "will normally be expected" to be adequately compensated for elsewhere on the site.
177. I have no other comments to make on this policy.

### *Recommendation*

**In P7F.3 "shall" should be replaced by "will normally be expected to".**

## Policy 8A: Surface Water Management General Provisions

178. Breckland Council's Local Plan Policy ENV 09 is one of the plan's strategic policies. As such, in accordance with paragraph 21 of the NPPF, that should "provide a clear starting point for any non-strategic policies that are needed" as such the neighbourhood plan should not undermine these strategic policies.
179. It is important that flood policies in the neighbourhood plan are read alongside the strategic policy and also the advice in the NPPF and the Planning Practice Guidance. I will be recommending that the flooding policy should not be duplicating policy that is already covering Saham Toney, but it can to an extent expand on those policy requirements.
180. Breckland Council has expressed concerns that the extent of the 8 policies in the plan covering surface water flooding often delves into too much technical detail which is not relevant for a development management policy. The support given to the policy from the County Council as LLFA and Anglian Water to the neighbourhood plan's approach does not alter my view as to the need to balance what can be sought through a planning policy and what is more appropriate through technical standards. That is not to denigrate the importance of having the policy tools to consider the flood implications of new development. I will be proposing a policy that builds upon the existing policy and covers at an appropriate level the matters that can be dealt with by way of a planning policy.
181. It will follow the lead of most development plans, whether neighbourhood plans or local plans and promotes a single comprehensive flood policy. Such policies seek to prevent flooding, as a result of new development, with the same rigour as Saham Toney.
182. In terms of the first paragraph, it diverges from the local plan. It requires the applicant to demonstrate the development will not result in an increase in flood risk either on the site or elsewhere. The local plan policy is more specific in the required applicants to demonstrate that the proposed development will not increase greenfield run-off rates and vulnerability of the site or the wider catchment area to surface water flooding from run-off from existing or predicted water flows. Reference to greenfield run-off rates is important as the DEFRA Non-Statutory technical standards for sustainable



drainage systems (March 2015) states that the peak run-off rate from the development for up to the 100-year event, should never exceed the peak rate in the same event. For previously developed land, the peak run off rates must be as close as reasonably practicable to the greenfield run off rates from the development. I propose to incorporate the wording from that part of the local plan as it clarifies how the increase in flood risk relates to the effect of the development taking place.

183. Turning now to the requirement set out in P8A.2 for a Surface Water Drainage Strategy, the Secretary of State in a Written Ministerial Statement dated 18<sup>th</sup> December 2014 set out the expectation that policies relating to *major* development as defined by the Town and Country Planning (Development Management Procedures) Order 2015, to ensure that sustainable drainage systems for the management of run-off are put in place unless it is demonstrated that it is inappropriate. It goes on to say that all new developments in areas at risk of flooding should give priority to the use of sustainable drainage systems. It specifically says that the statement should be taken into account in the preparation of local and neighbourhood plans.
184. The requirements for Flood Risk assessments in the policy is consistent with the national thresholds, set out in footnote 50 to the framework.
185. A neighbourhood plan policy is a policy to be used to determine a planning application. It is not clear whether the requirements in P8A.4 applies to applicants or decision makers. The use of the term “shall demonstrate” could be interpreted as an expectation that an acceptable development could be refused in the absence of such engagement. I will change the emphasise to one of encouragement.
186. This similarly applies to Policy P8A.5 which seeks to set out in a planning policy which bodies need to be consulted on a planning application. That is not the role of a development planning policy. The bodies that are required to be consulted are separately set out in secondary legislation, such as the previously mentioned, Development Management Procedures Order. I will be recommending that the clause be deleted along with the requirements in P8A.6.
187. The final two paragraphs of the policy are matters that are covered by areas beyond the Planning Act, whether for example by the Water Act or the

Building Regulations. Furthermore, they are detailed matters that do not necessarily relate to the principal of whether a development should be agreed and which could be addressed by way of planning condition. This is common practice the length and breadth of the country.

### ***Recommendations***

***Renumber Policy 8A as Policy 8..***

***Replace the policy with:***

***“In addition to meeting the policy requirements set out in Breckland Local Plan’s Policy ENV 09 and having regard to the Secretary of State’s policy set out in paragraph’s 155 to 165 of the NPPF and the advice in Planning Practice Guidance, proposals for major development will need to demonstrate, through a site-specific Surface Water Drainage Strategy, that the development will not increase flood risk on site or elsewhere by the installation of a site - specific sustainable drainage scheme. For smaller proposals, applicants will be expected to provide, through proportionate information, details of its surface water drainage proposals. All schemes shall justify the appropriateness of the proposals which shall include an allowance for climate change, in accordance with most up to date Environment Agency advice.***

***Surface water run off mitigation measures shall address any identified risk of flooding, based on the LLFA’s order of priority namely Access, Avoid, Manage and Mitigate.***

***Proposals for appropriate on-site storage and run off rates will be expected to meet the standards set in technical guidance issued by Norfolk County Council as LLFA and as set out in DEFRA’s Non-Statutory Standards for Sustainable Drainage, the CIRIA SuDS Manual and other relevant codes of practice. Applicants are also encouraged to have regard to the local guidance, set out in the Saham Toney Sustainable Drainage Systems Design Manual.***

***Any additional run off, apart from in exceedance events, should include measures to protect the sensitivities of the receiving water bodies including protected aquifer or the Breckland SPA and Norfolk SAC.”***

## Policy 8B: Surface Water Run Off (Discharge) Rates and Volume

188. This policy goes well beyond matters which are ordinarily covered by a development plan flood policy and enshrines into a planning policy, technical standards which are expected to be achieved. Whether it be by repeating what is in the SUDS Non-Technical Standards or by reference to British standard documents which are guidance for persons who are designing drainage solutions. In setting this down as a development plan policy, if these technical standards were to change or evolve, the neighbourhood plan could be left imposing outdated requirements. This is amply demonstrated by the fact that the document being quoted in Policy P8B.3, namely the British Standard document BS85333 2011 version has been superseded by the December 2017 version. It is also worth pointing out that this is not a freely available document and can only be purchased at a cost of £186. The Norfolk LLFA Guidance document was last published in 2019 and is currently awaiting publication of a more up to date version.

189. I do not consider setting such detailed standards as detailed run-off rates is appropriate for a policy covering the use and development of land. It is appropriate that a policy can clearly refer to measures which reflect best practice and lead local flood authority guidance, as it is already provided by the Local Plan Policy ENV 09. Such an approach will be outcome based and protect the policy aspirations, should technical standards change, without rendering the policy out of date.

190. I will therefore be proposing the policy be deleted although some matters such as the hierarchy of surface water run-off mitigation measures has been incorporated within an expanded Policy 8A.

### *Recommendation*

***That the policy and supporting text be deleted.***

## Policy 8C: Infiltration Testing

191. Again, this policy covers a technical matter that is not necessary, to form part of the consideration of a planning application and deals with matters such as the design and specification of soakaways. Such matters would ordinarily be covered by Building Regulation Approval Document H.

### *Recommendation*

***That the policy and supporting text be deleted.***

### **Policy 8D: Surface Water Flood Risk and Climate change**

192. This is another policy where the requirements are of a technical nature which go beyond the scope of policy requirements be within a neighbourhood plan. The policy is providing guidance to designers in terms of how sustainable drainage should be designed to show resilience to the impact of climate change. Such matters can be used to judge the effectiveness of a flood risk assessment. Reference to the use of the EA's required allowance for climate change is incorporated within Policy 8 as revised.

### *Recommendation*

***That the policy and supporting text be deleted.***

### **Policy 8E: Surface Water Drainage and Water Quality**

193. I do recognise the elements of the policy address issues which impact upon European protection and I will propose that the elements of this policy relating to the European protected SAC are included within the expanded Policy 8.

194. At the hearing the issue was debated as to whether it is possible to realistically incorporate measures in a major flood instance and it was suggested that would be unrealistic but measures should be incorporated to deal with normal operation of the sustainable drainage system. I have therefore caveated the recommended requirement, to not include "exceedance events".

### *Recommendation*

***That the policy and supporting text be deleted.***

### **Policy 8F: Management and Maintenance of Sustainable Drainage System**

195. I agree that the LPA needs to be satisfied with the proposals for the management and maintenance of these drainage arrangements. This is a

matter that is already policy which is contained within the final paragraph of Local Plan Policy ENV 09.

***Recommendation***

***That the policy and supporting text be deleted.***

**Policy 8G: Resistance and Resilience of Sustainable Drainage Systems**

196. I consider that this policy is effectively replicating the requirements of the exception test set in paragraph 160 and 163 of the NPPF, where there is a residual risk in areas at risk of flooding, which requires the applicant to demonstrate that the development will be safe for the lifetime of the development taking into account the vulnerability of the users and paragraph 163 to ensure that there is safe access and escape routes. There is no need to repeat that requirement in the neighbourhood plan as it would be unnecessary duplication.

***Recommendation***

***That the policy and supporting text be deleted.***

**Policy 8H: Design of Sustainable Drainage Systems**

197. I consider that the policy should only be required to show in sufficient details to allow a decision maker to reach a conclusion that the use of SUDS is acceptable in principle. That is achievable through the requirements in my revised Policy 8A and the information set out would be part of any technical assessment of any submission required, usually through the submission to discharge a planning condition.

***Recommendation***

***That the policy and supporting text be deleted.***

**Policy 9: Foul Sewerage Provision**

198. I have no fundamental concerns regarding the aspirations set out in this policy although I will be making a recommendation to accept suggestions

made at the Regulation 16 stage which I believe improves the usability of the policy.

199. The final element of the policy is a matter that comes under the remit of other, non-planning legislation and should be removed as a planning policy.

### *Recommendations*

***In P9.2 after “or” insert “either capacity” and insert at the end of this “or an acceptable alternative provision has been agreed by the LPA in consultation with the foul drainage provider”.***

***Delete P9.6.***

### **The Referendum Area**

200. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Saham Toney Neighbourhood Plan as designated by Breckland Council on 17<sup>th</sup> March 2016 is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

### **Summary**

201. I congratulate Saham Toney Parish Council on reaching this important stage in the preparation of the neighbourhood plan. I appreciate that a lot of hard work has gone into its production and the Parish Council can be proud of the final document, which is really professionally presented. It is a plan which has grasped the nettle of allocating sites for new housing and has taken a strong pro-growth approach to allocating sites and promoting a level of new housing well beyond that expected by the Breckland Local Plan.

202. This has been a challenging examination. I appreciate that some of my recommendations will come as a disappointment but my remit is to examine the plan having regard to compliance with the basic conditions and the other legal requirements. Without the significant changes that I have had to recommend I am afraid that my conclusion may well have been that the plan should not proceed to referendum, which is one of the three

recommendations that I am entitled to make. Notwithstanding that, there are many of the aspects of the plan which remain essentially unchanged as they meet the legal requirements. Such policies would have been lost if I had concluded that the key policies could not be amended and the plan would have failed its examination.

203. I am confident that if amended in line with my recommendations the plan will provide a strong basis for determining planning applications in Saham Toney for the next decade or so.

204. To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.

205. I am therefore delighted to recommend to Breckland Council that the Saham Toney Neighbourhood Plan, as modified by my recommendations, should proceed, in due course, to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI  
John Slater Planning Ltd  
13<sup>th</sup> July 2021