

**Borough Council of King's Lynn & West
Norfolk:**

**Old Hunstanton Neighbourhood Plan 2021-
2036 – Decision on Examiner's
recommendations**

20 November 2023

Borough Council of
**King's Lynn &
West Norfolk**



**Borough Council Decision on the Examiner’s recommendation for the Old
Hunstanton Neighbourhood Plan**

Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Old Hunstanton Neighbourhood Area
Parish Council	Old Hunstanton Parish Council
Submission Plan (Regulation 16) consultation	30 September – 11 November 2022
Examination	January – July 2023
Examiner’s Report Received	3 July 2023
Consultation on Proposed Modifications of the Examiners Report (proposed deviation from Examiner’s Recommendations), September 2023	6 September – 18 October 2023

1.0 Introduction

- 1.1 The Town and Country Planning Act 1990 (as amended), states that the Council has a statutory duty to assist communities in the preparation of neighbourhood development plans and to take the plans through a process of examination and referendum.
- 1.2 The Localism Act 2011 (Part 6 chapter 3) details the Local Planning Authority's responsibilities under Neighbourhood Planning.
- 1.3 This Decision Statement confirms that the modifications proposed in the Examiner's Report, have mostly been accepted. Accordingly, the draft Old Hunstanton Neighbourhood Plan has been amended, taking account of these proposed modifications and where the Borough Council has decided to deviate from the Examiner’s recommendations. The Borough Council has now reached the decision that the Old Hunstanton Neighbourhood Plan 2021-2036 should proceed to referendum.

2.0 Background

- 2.1 The Neighbourhood Area of Old Hunstanton was designated on 25 July 2018. The Neighbourhood Area corresponds with Parish boundaries for Old Hunstanton Parish Council. The Old Hunstanton Neighbourhood Plan has been prepared by Old Hunstanton Parish Council, the Qualifying Body. Work on the production of the plan has undertaken by members of the Parish Council and the local community, since 2018.
- 2.2 The first draft Plan was published by the Parish Council for Regulation 14 consultation in March 2021. The Regulation 14 consultation took place over 8 weeks, from 1 May – 26 June 2021, inclusive. The consultation took place over

8-weeks (as opposed to the normal statutory 6-weeks requirement) due to Covid-19 restrictions. Further details are set out in the Consultation Statement¹.

- 2.3 The Plan was submitted to the Borough Council of King's Lynn and West Norfolk in August 2022. A consultation under Regulation 16 took place between 30 September and 11 November 2022 (inclusive), inviting comments from the public and stakeholders.
- 2.4 In January 2023 an independent examiner, Mr Nigel McGurk (Erimax Planning), was appointed by the Borough Council with consent of the Qualifying Body, to undertake the examination of the Old Hunstanton Neighbourhood Plan. The examination took place between January and July 2023; reviewing whether the plan meets the basic conditions required by legislation and should proceed to referendum. This culminated in the Examiner's Report being issued on 3 July 2023.
- 2.5 The Examiner's Report concludes that subject to making the modifications recommended by the examiner, the plan meets the basic conditions as set out in legislation and should proceed to a Neighbourhood Planning Referendum. A limited number of modifications were not accepted by the Borough Council and/ or Old Hunstanton Parish Council.

3.0 Proposed Modifications of the Examiners Report (proposed deviation from Examiner's Recommendations)

- 3.1 In cases where it is proposed to deviate from the Examiner's recommended modifications (ERMs) it is necessary to consult further where these represent a material change to the content of the Neighbourhood Plan. This is necessary to ensure that any such changes are subject to appropriate scrutiny and do not breach the basic conditions.
- 3.2 In August 2023, agreement was agreed between Old Hunstanton Parish Council and the Borough Council about a limited number of proposed deviations from ERMs. These relate to the following policies and/ or supporting text in the submitted Plan:
- Policy 2 Settlement Breaks
 - Policy 6 New Housing as Permanent Dwellings
 - Policy 7 Consultation
 - Policy 8 Community Facilities
 - Policy 9 Infill Development
 - Policy 15 Mobile Phone and Broadband Provision
 - Policy 16 Existing and New Businesses

¹ https://www.west-norfolk.gov.uk/download/downloads/id/7352/old_hunstanton_neighbourhood_plan_consultation_statement.pdf

- Policy 17 Advertising and Signage
- Policy 19 Dark Night Skies
- Policy 20 Green Spaces

3.3 These were duly subject to further “Consultation on Proposed Modifications of the Examiners Report (proposed deviation from Examiner’s Recommendations)”. The 6-weeks consultation ran from 6 September – 18 October 2023 (inclusive). An extract from the consultation paper² providing analysis of, and justification for, deviation from the ERMs, is set out in Appendix 1.

3.4 The Borough Council is required to consider all the Examiner’s recommendations and/ or any feedback received through the subsequent “deviation” consultation (September – October 2023). Individual modifications proposed by the Examiner are set out in Appendix 2 (below) alongside the council’s decision in response to each recommendation and the reasons for them. Where it is proposed to deviate from an ERM, the rationale/ justification for this is also summarised in Appendix 2.

4.0 Reasons for Decision

4.1 The Old Hunstanton Neighbourhood Development Plan (the Plan) as modified by the Examiner’s recommendations and the Borough Council (in agreement with Old Hunstanton Parish Council), has had regard to national policies and advice contained in guidance issued by the Secretary of State. A requirement to have regard to policies and advice does not require that such policy and advice must necessarily be followed, but it is intended to have and does have to a significant effect. A neighbourhood plan must not constrain the delivery of important national policy objectives. The Plan was examined against policies in the National Planning Policy Framework (NPPF), July 2021 version³ and this conclusion is reached bearing this in mind. The advice within National Planning Practice Guidance (NPPG)⁴ has also been borne in mind in reaching this conclusion.

4.2 Paragraph 13 of the 2021 NPPF is clear that neighbourhood plans should support the delivery of strategic policies contained in local plans and spatial development strategies. The recent (5 September 2023) NPPF update did not inform the independent examination, as this concluded before release of the updated NPPF. Notwithstanding, NPPF paragraph 13 remains unchanged between the 2021 and 2023 versions.

² [https://www.west-norfolk.gov.uk/download/downloads/id/8000/consultation on deviating from examiners recs august - october 2023.pdf](https://www.west-norfolk.gov.uk/download/downloads/id/8000/consultation+on+deviating+from+examiners+recs+august+-+october+2023.pdf)

³ The September 2023 NPPF update (<https://www.gov.uk/government/publications/national-planning-policy-framework--2>) has not been taken into account, as the Plan Examination concluded prior to publication of the updated NPPF.

⁴ <https://www.gov.uk/guidance/neighbourhood-planning--2>

- 4.3 Qualifying bodies should plan positively to support local development, shaping and directing development in their area that is outside these strategic policies. Specifically, NPPF paragraph 29 states that neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.
- 4.4 Beyond this, the content of a draft neighbourhood plan will determine which other aspects of national policy are or are not relevant considerations, to be taken into account. The basic condition allows qualifying bodies, the independent examiner and local planning authority to reach a view in those cases where different parts of national policy need to be balanced.
- 4.5 Having considered all relevant information, including representations submitted in response to the Plan (at all stages of the process), the Examiner's analysis and recommendations, the Borough Council has come to the view that the Plan recognises and respects relevant constraints. The Plan has developed a positive suite of policies that seek to bring forward positive and sustainable development in the neighbourhood area. The Vision sets a clear focus on managing development to be sympathetic to the unique character of the village, maintaining the integrity of Old Hunstanton and nearby settlements, and safeguarding its local and distinctive character whilst allowing the economy to flourish and managing tourism.
- 4.6 The Examiner's Report concludes that subject to making the modifications recommended by the examiner, the plan meets the basic conditions as set out in legislation and should proceed to a Neighbourhood Planning Referendum. Old Hunstanton Parish Council and the Borough Council accepted most of the proposed modifications. However, it is proposed to deviate from ERMs regarding policies 2, 6, 7, 8, 9, 15, 16, 17, 19 and 20, and/ or supporting text. Most significantly it is proposed to reinstate the second homes/ principal residences policy (submission Plan Policy 6 "New Housing as Permanent Dwellings"), contrary to the Examiner's recommendation for deletion.
- 4.7 The "Consultation on Proposed Modifications of the Examiners Report (proposed deviation from Examiner's Recommendations)" (6 September – 18 October 2023) did not raise any substantive issues or objections regarding compliance with the basic conditions. On this basis, the Old Hunstanton Neighbourhood Plan can now proceed to referendum without a need to re-open or undertake further independent examination of proposed deviation from the ERMs, against the basic conditions.
- 4.8 Having carefully considered each of the recommendations made within the Examiner's Report and the reasons for them, and feedback from the subsequent (September – October 2023) consultation, the Borough Council (in accordance with the 1990 Act; Schedule 48 paragraph 12) has decided to make the modifications to the draft plan referred to in Appendix 2 (incorporating deviations from ERMs, as set out in Appendix 1) and Appendix 3 (Revised Maps: Map 3 and Map 10), below. The changes set out at appendices 2 and 3 should ensure that the draft plan meets the basic conditions set out in legislation.

- 4.9 Appendix 2 explains how agreement has been reached between Old Hunstanton Parish Council and the Borough Council, as to how the ERMs and/ or deviations from these should be clearly and systematically presented with this report. Appendix 2 is separated into appropriate columns. As stated by the examiner in the final examination report (July 2023) and left apparent in the table: Areas that need modification are expressed in column 2. Columns 3-6 explain the response(s) of the Parish Council and Borough Council to each, showing how the Plan is to be amended accordingly.
- 4.10 To comply with the basic conditions on the European Union legislation, the Qualifying Body produced a Strategic Environmental Assessment. The Strategic Environmental Assessment and Habitats Regulation Assessment Screening Report (February 2021)⁵ sets out the introduction and background in sections 1, 2 and 3. Section 4 sets out the application of SEA Directive to plans and programmes. Section 5 sets out the framework for Habitats Regulation Assessment. Section 6 sets out the screening outcome, summary and monitoring of the assessment.
- 4.11 The Plan, as modified by the Examiner's recommendations and the Borough Council, is in all respects fully compatible with Convention rights contained in the Human Rights Act 1998. There has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known.
- 4.12 The Plan, as modified by the Examiner's recommendations, complies with the definition of a Neighbourhood Development Plan (NDP) and the provisions that can be made in an NDP. The Plan sets out policies in relation to the development and use of land in the whole of the neighbourhood area; it specifies the period for which it is to have effect and it does not include provision about development that is 'excluded development'.

5.0 Decision

- 5.1 The Neighbourhood Planning (General) Regulations 2012 requires the local planning authority to outline what action to take in response to the recommendations that the examiner made in the report under paragraph 10 of Schedule 4A to the 1990 act (as applied by Section 38A of the 2004 Act) in relation to a neighbourhood development plan.
- 5.2 King's Lynn and West Norfolk Borough Council has carefully considered each of the recommendations made in the Examiner's Report and the reasons for them. The Borough Council has decided to accept most of the modifications to the draft plan, except for recommendations regarding the following Plan policies and/ or supporting text, as set out in the "Consultation on Proposed Modifications of the Examiners Report (proposed deviation from Examiner's

⁵ https://www.west-norfolk.gov.uk/download/downloads/id/7354/old_hunstanton_neighbourhood_plan_sea_and_hra_screening_report_2021.pdf

Recommendations)” (section 3.0 above/ Appendix 1; 6 September – 18 October 2023):

- Policy 2 Settlement Breaks;
- Policy 6 New Housing as Permanent Dwellings;
- Policy 7 Consultation;
- Policy 8 Community Facilities;
- Policy 9 Infill Development;
- Policy 15 Mobile Phone and Broadband Provision;
- Policy 16 Existing and New Businesses;
- Policy 17 Advertising and Signage;
- Policy 19 Dark Night Skies; and
- Policy 20 Green Spaces.

5.3 Representations were received from National Highways, Natural England, Norfolk County Council and Holme Next The Sea Parish Council. These consisted of “no comments” or supporting representations, highlighting approval for deviations from ERMs, particularly support for revised policies 2 and 6. No representations raised issues or concerns regarding compliance with the basic conditions, especially given the additional evidence presented to accompany/ support proposed changes to the Examiner’s modifications (Appendix 1).

5.4 Following the modifications made (set out in appendices 2 and 3), the Old Hunstanton Neighbourhood Development Plan meets the basic conditions:

- a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- b) The making of the neighbourhood plan contributes to the achievement of sustainable development;
- c) The making of the neighbourhood plan is in general conformity with the strategic policies contained in the King’s Lynn and West Norfolk Local Plan - Core Strategy (2011) and Site Allocations and Development Management Policies Plan (2016);
- d) The making of the neighbourhood plan does not breach and is otherwise compatible with EU obligations; and;
- e) The making of the neighbourhood plan is not likely to have a significant effect on a European site either alone or in combination with other plans and projects.

5.5 It is recommended that the Old Hunstanton Neighbourhood Plan progresses to referendum.

Decision made by:



Lorraine Gore
(Chief Executive)

20 November 2023

(On behalf of Geoff Hall (Executive Director Environment and Planning)
and the Cabinet Member for Development and Regeneration)