

THE WATLINGTON NEIGHBOURHOOD PLAN 2019 - 2036

(Submission Version 2023)

**Report of the Examination into the**  
**Watlington Neighbourhood Plan 2019 - 2036**

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To the Borough Council of King's Lynn and West Norfolk  
And to Watlington Parish Council

23<sup>rd</sup> September 2023.

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**1. Introduction**

*Neighbourhood planning*

1. The Localism Act 2011 Part 6 Chapter 3 introduced neighbourhood planning, including provision for neighbourhood development plans. A neighbourhood development plan should reflect the needs and priorities of the community concerned and should set out a positive vision for the future, setting planning policies to determine decisions on planning applications. If approved by a referendum and made by the local planning authority, such plans form part of the Development Plan for the neighbourhood concerned. Applications for planning permission should be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
2. This report concerns the Submission draft of the Watlington Neighbourhood Plan 2019-2036 (“the Draft NDP”).

*Appointment and role*

3. The Borough Council of King’s Lynn and West Norfolk (“the Borough Council”), with the agreement of qualifying body Watlington Parish Council (“WPC”), has appointed me to examine the Draft NDP. I am a member of the planning bar and am independent of the Borough Council, WPC, and of those who have made representations in respect of the Draft NDP. I have been trained and approved by the Neighbourhood Planning Independent Examiner Referral Service and trained others who wish to be examiners. I have extensive experience both as a planning barrister and as a neighbourhood plan examiner. I do not have an interest in any land that is, or may be, affected by the Draft NDP.
4. My examination has involved considering written submissions and a detailed site visit on 4<sup>th</sup> September 2023. I have considered all the documents with which I have been provided.
5. My role may be summarised briefly as to consider whether certain statutory requirements have been met, to consider whether the Draft NDP meets the basic conditions, to consider human rights issues, to recommend which of the three options specified in paragraph 14 below applies and, if appropriate, to consider the referendum area. I must act proportionately, recognising that Parliament has intended the neighbourhood plan process to be relatively inexpensive with costs being proportionate.

## **2. Preliminary Matters**

### *Public consultation*

6. Consultation and community involvement are important parts of the process of producing a neighbourhood plan. I am satisfied that WPC took public consultation seriously and that consultation is accurately recorded in the Consultation Statement March 2023. It is particularly important that those whose homes and property are affected are consulted. I was therefore concerned about misdescriptions of some of the non-designated assets in case this led to an occupier or owner of the property not being consulted.<sup>1</sup> Having considered the totality of the consultation, I am satisfied that this danger has been avoided.

7. I am satisfied that the consultation recorded in the consultation statement was adequate and that no relevant person has been substantially prejudiced. I am also satisfied that, taken as a whole, the statutory Regulation 16 consultation from 19<sup>th</sup> May 2023 to 30<sup>th</sup> June 2023 and from 5<sup>th</sup> July 2023 until 15<sup>th</sup> August 2023 was satisfactory. I do not consider there has been a failure in consultation. Consultation has been sufficient and meets the requirements of the Neighbourhood Planning (General) Regulations 2012 (“the General Regulations”) and the human rights of occupiers of homes and of property owners.

8. On 28<sup>th</sup> September 2022 the Borough Council concluded (subject to confirmation by the relevant statutory consultation bodies), that the draft NDP did not require a full Strategic Environmental Assessment and that it did not require an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017. The SEA and HRA Screening Assessment Update October 2022 concluded that a full SEA/HRA and Appropriate Assessment was not required at this point and was screened out. I am satisfied with these determinations.

### *Other statutory requirements*

9. I am also satisfied of the following matters:

(1) The neighbourhood area is the parish of Watlington.<sup>2</sup> The Borough Council designated this on 5<sup>th</sup> March 2020. WPC is authorised to act in respect of this area (Town and Country Planning Act 1990 (“TCPA”) s61F (1) as read with the Planning and Compulsory Purchase Act 2004 (“PCPA”) s38C (2)(a));

(2) The Draft NDP does not include provision about development that is excluded development as defined in TCPA s61K (PCPA s38B (6)), and does not relate to more than one neighbourhood area (PCPA s38B (1)(c));

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<sup>1</sup> I deal with the details in paragraph 94 below.

<sup>2</sup> This is shown on the Plan titled ‘Watlington Parish Boundary & Neighbourhood Plan Area’ with which I have been supplied and also on Figure 1 of the draft NDP.

- (3) No other neighbourhood development plan has been made for the neighbourhood area (PCPA s38B (2));
- (4) There is no conflict with PCPA s38A and s38B (TCPA Sch 4B para 8(1)(b) and PCPA s38C (5)(b)); and
- (5) The Draft NDP specifies the period for which it is to have effect, namely 2019-2036, as required by PCPA s38B(1).

### **3. The Extent and Limits of an Examiner's Role**

10. I am required to consider whether the Draft NDP meets the basic conditions specified in TCPA Sch 4B para 8(2) as amended and as varied for neighbourhood development plans, namely:

- (a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Plan;
- (d)<sup>3</sup> The making of the Plan contributes to the achievement of sustainable development;
- (e) The making of the Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- (f) The making of the Plan does not breach, and is otherwise compatible with, retained EU obligations; and
- (g) Prescribed conditions are met in relation to the Plan and prescribed matters have been complied with in connection with the proposal for the Plan.

11. There is one relevant prescribed basic condition:<sup>4</sup> *“The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.”* Chapter 8 comprises regulations 105 to 111.

12. TCPA Sch 4B para 8(6) and para 10(3)(b) and the Human Rights Act 1998 mean that I must consider whether the Draft NDP is compatible with Convention rights. ‘*Convention rights*’ are defined in the Human Rights Act 1998 as (a) Articles 2 to 12 and 14 of the European Convention on Human Rights (“the Convention”), (b) Articles 1 to 3 of its First Protocol, and (c) Article 1 of its Thirteenth Protocol, as read with Articles 16 to 18 of the Convention. The Convention rights that are most likely to be relevant to town and country planning are those under the Convention’s Article 6(1), 8 and 14 and under its First Protocol Article 1.

13. In my examination of the substantial merits of the Draft NDP, I may not consider matters other than those specified in the last three paragraphs. In particular, I may not consider whether any other test, such as the soundness test provided for in respect of independent

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<sup>3</sup> The omission of (b) and (c) results from these clauses of para 8(2) not applying to neighbourhood development plans (PCPA s38C (5)(d)).

<sup>4</sup> Sch 2 para 1 of the General Regulations prescribes this. PPG Reference ID: 41-079-20190509.

examinations under PCPA s20, is met.<sup>5</sup> Rather, Parliament has decided not to use the soundness test, but to use the, to some extent, less demanding tests in the basic conditions. It is important to avoid unduly onerous demands on qualifying bodies. It is not my role to rewrite a neighbourhood development plan to create the plan that I would have written for the area. It is not my role to impose a different vision on the community.

14. Having considered the basic conditions and human rights, I have three options, which I must exercise in the light of my findings. These are:

- (1) that the Draft NDP proceeds to a referendum as submitted;
- (2) that the Draft NDP is modified to meet basic conditions and then the modified version proceeds to a referendum; or
- (3) that the Draft NDP does not proceed to referendum.

If I determine that either of the first two options is appropriate, I must also consider whether the referendum area should be extended. My power to recommend modifications is limited by statute in the following terms:

*The only modifications that may be recommended are—*

- (a) modifications that the examiner considers need to be made to secure that the draft [NDP] meets the basic conditions mentioned in paragraph 8(2),*
- (b) modifications that the examiner considers need to be made to secure that the draft [NDP] is compatible with the Convention rights,*
- (c) modifications that the examiner considers need to be made to secure that the draft [NDP] complies with the provision made by or under sections 61E(2), 61J and 61L,*
- (d) modifications specifying a period under section 61L(2)(b) or (5), and*
- (e) modifications for the purpose of correcting errors.<sup>6</sup>*

15. The word “only” prevents me recommending any other modifications. The fact that a modification would be of benefit is not a sufficient ground in itself to recommend it. So, for example, the fact that a policy could be strengthened or added to does not justify a modification unless this is necessary for the reasons given above. I must not take an excessively restrictive view of the power to recommend modifications, but must bear in mind Lindblom LJ’s explanation of its extent in his judgment in Kebbell Developments Ltd v. Leeds City Council.<sup>7</sup> I may not recommend a modification that would put the draft NDP in breach of a basic condition or of human rights. When I conclude that a modification is necessary, I must, in deciding its wording, bear in mind material considerations including government advice. This

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<sup>5</sup> Woodcock Holdings Ltd v. Secretary of State for Communities and Local Government [2015] EWHC 1173 (Admin), 1<sup>st</sup> May 2015, Holgate J., para 57; R. (Crownhall Estates Limited) v. Chichester District Council [2016] EWHC 73 (Admin) 21<sup>st</sup> January 2016, Holgate J., para 29; PPG Reference ID: 41-055-2018022.

<sup>6</sup> TCPA Sch 4B, para 10(3). The provisions in (a), (c) and (d) are in the TCPA.

<sup>7</sup> [2018] EWCA Civ 450, 14<sup>th</sup> March 2018, paras 34 and 35.

includes the importance of localism. Where I properly can, my recommended modifications seek to limit the extent to which the substance of the draft NDP is changed.

16. It is not my role to consider matters that are solely for the determination of other bodies such as Norfolk County Council, the Borough Council in a non-planning capacity, or the Environment Agency. Nor is it my role to consider matters that an NDP could consider, but which are not considered in the Draft NDP, unless this is necessary for my role as explained above. It is not my role to consider aspirations that are not policies.

#### **4. Consideration of Representations**

17. I have given the representations careful consideration, but have not felt it necessary to comment on all of them. Rather in accordance with the statutory requirement and bearing in mind the judgment of Lang J in *R. (Bewley Homes Plc) v. Waverley Borough Council*,<sup>8</sup> I have mainly concentrated on giving reasons for each of my recommendations.<sup>9</sup> Where I am required to consider the effect of the whole Draft NDP, I have borne it all in mind.

#### **5. Public Hearing and Site Visit**

18. The general rule is that the examination of the issues by the examiner is to take the form of the consideration of the written representations.<sup>10</sup> However, an examiner must cause a hearing to be held for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure (1) adequate examination of the issue or (2) a person has a fair chance to put a case.<sup>11</sup> Since neither applied in this case, I did not hold a public hearing. The holding of a public hearing is very much an exception.

19. I decided that an unaccompanied site visit was necessary and held one on 4<sup>th</sup> September 2023. The weather was fine and there were no significant impediments to the visit.<sup>12</sup> The site visit helped me to gain a sufficient impression of the nature of the area for the purpose of my role.

#### **6. Basic Conditions and Human Rights**

*Regard to national policies and advice*

20. The first basic condition requires that I consider whether it is appropriate that the NDP should be made “*having 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

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<sup>8</sup> [2017] EWHC 1776 (Admin), Lang J, 18<sup>th</sup> July 2017.

<sup>9</sup> TCPA Sch 4B, para 10(6).

<sup>10</sup> PPG Reference ID: 41-056-20180222.

<sup>11</sup> TCPA Sch 4B paras 9(1) and (2).

<sup>12</sup> Angel Field Millennium Green was closed for grass-cutting, but I had good clear views of it.

that such policy and advice must necessarily be followed, but they should only be departed from them only if there are clear reasons, which should be explained, for doing so.<sup>13</sup>

21. The main document in which national planning policy is contained is the National Planning Policy Framework 5<sup>th</sup> September 2023 (“NPPF”) and I have borne that in mind. This superseded National Planning Policy Framework 20<sup>th</sup> July 2021 at a late stage on the examination, but the differences do not require further consultation. Other policy and advice that I have borne in mind includes national Planning Practice Guidance (“PPG”).

22. The NPPF provides that neighbourhood plans should support the delivery of strategic policies contained in local plans and should shape and direct development that is outside of these strategic policies.<sup>14</sup> Its paragraphs 28 and 29 state:

*28. Non-strategic policies should be used by... communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.*

*29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.*

23. NPPF paragraphs 61 and 63<sup>15</sup> state:

*61. To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.*

*63. Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).*

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<sup>13</sup> R. (Lochailort Investments Limited) v. Mendip District Council [2020] EWCA Civ 1259, Lewison LJ, 2<sup>nd</sup> October 2020, paras 6, 31 and 33.

<sup>14</sup> NPPF para 13.

<sup>15</sup> Formerly 60 and 62.



24. Paragraphs 61 and 63 mean that a Local Plan should meet all those needs. That will be addressed within the emerging Local Plan process. Not surprisingly, it does not mean that every parish (or even every relatively sustainable parish) should meet all of them. In my experience the need for affordable homes is more difficult to meet (often a lot more difficult to meet) than the need for open-market housing. I therefore welcome the intended provision of both rented and ownership affordable homes on Local Plan site allocation G112.1.

*Contributing to the achievement of sustainable development*

25. The second basic condition means that I must consider whether the making of the Plan contributes to the achievement of sustainable development. Unless the Draft NDP, or the Draft NDP as modified, contributes to sustainable development, it cannot proceed to a referendum. This condition relates to the making of the Plan as a whole. It does not require that each policy in it must contribute to sustainable development. It does require me to consider whether constraints might prevent sustainable development and, if they might, whether the evidence justifies them. That involves consideration of site-specific constraints, both existing and those proposed in the Draft NDP. The total effect of the constraints introduced by the Draft NDP when read with existing constraints must not prevent the achievement of sustainable development.

*General conformity with the development plan's strategic policies*

26. The third basic condition means that I must consider whether the Draft NDP as a whole is in general conformity with the strategic policies contained in the development plan for the area of the authority. The strategic framework for development is set by the Borough Council's adopted Local Plan which currently comprises the Core Strategy (July 2011) and the Site Allocations and Development Management Policies Plan (2016).

27. The adjective 'general' allows a degree of (but by no means unlimited) flexibility and requires the exercise of planning judgement. The draft NDP "*need not slavishly adopt every detail*".<sup>16</sup> This condition only applies to strategic policies - there is no conformity requirement under this basic condition in respect of non-strategic policies in the development plan, in respect of the emerging Local Plan, or in respect of other local authority documents that do not form part of the adopted development plan, although such documents may be relevant to other matters. The submissions that basic condition (e) applies to the emerging local plan and that the emerging Local Plan carries weight are wrong. In assessing general conformity and whether a policy is strategic, I have borne in mind helpful PPG advice.<sup>17</sup> I have also borne in mind the relevant part of the judgment in R. (Swan Quay LLP) v. Swale District Council.<sup>18</sup>

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<sup>16</sup> Wiltshire Council v. Cooper Estates Strategic Land Ltd [2019] EWCA Civ 840, para 3, 16<sup>th</sup> May 2019.

<sup>17</sup> PPG Reference IDs: 41-074-20140306; 41-075-20190509; 41-076-20190509; and 41-077-20190509.

<sup>18</sup> [2017] EWHC 420 (Admin), para 29, Dove J, 27<sup>th</sup> January 2017.

### *Retained EU obligations*

28. The fourth basic condition requires me to consider whether the Draft NDP breaches, or is otherwise incompatible with, retained EU obligations. I have in particular considered the following, together with the UK statutory instruments implementing them in England: the Strategic Environmental Assessment Directive (2001/42/EC); the Environmental Impact Assessment Directive (2011/92/EU); the Habitats Directive (92/43/EEC); the Wild Birds Directive (2009/147/EC); the Waste Framework Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); the Water Framework Directive (2000/60/EC); and the General Data Protection Regulation (2016/679/EU). I have also considered the judgment of the European Court of Justice in People Over Wind v. Coillte Teoranta.<sup>19</sup> I have borne in mind that proportionality is a concept of and underlies EU law and must be wary of requirements that would be disproportionate to the Draft NDP.

29. I am satisfied that no issue arises in respect of equality under general principles of EU law or any EU equality directive.

### *Conservation of Habitats and Species Regulations 2017*

30. I am satisfied that the making of the NDP would not be incompatible with the prescribed basic condition and that it is not necessary to consider the matter further in this report.

### *Human Rights*

31. The planning law of England and Wales in general complies with the Convention. This matter can be dealt with briefly in advance of further consideration of the contents of the Draft NDP. I have considered whether anything in the Draft NDP would cause a breach of any Convention right. In particular, I have considered the Convention's Articles 6(1), 8 and 14 and its First Protocol Article 1. This last-mentioned article reinforces the common-law principle that private property rights should not be removed without proper justification, and I have borne that in mind. Apart from that, nothing in my examination of the Draft NDP has required further consideration of human rights.

## **7. The emerging Local Plan**

32. A replacement Local Plan was submitted in March 2022. The inspectors raised concerns, including a specific concern relating to Watlington in their letter of 30<sup>th</sup> January 2023. Consultation on new evidence base documents began on 8th September 2023 and will close on 20th October. I have considered these documents bearing in mind that they are for

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<sup>19</sup> Case C-323/17, 12<sup>th</sup> April 2018.

consultation and that I. have not seen any consultation responses. The Topic Paper – Spatial Strategy and Settlement Hierarchy (August 2023 includes<sup>20</sup>:

*2. The Inspectors are concerned that the notion of a strategic growth corridor is not justified by the evidence. That concern stems from the fact that there is no new growth proposed at ... Watlington other than allocations for... 32 dwellings..., carried forward from the previous local plan.*

*3. The Council accept the Inspectors' concern is well founded. Most of the growth that is contemplated within the notional corridor that runs along the A10/ and King's Lynn to London railway line is concentrated in King's Lynn and West Winch. The limited growth that is proposed in Watlington reflects the lack of facilities to support the provision of a significantly greater number of houses and jobs without substantial investment in infrastructure, which is not planned.*

33. As mentioned in paragraph 27 above, this is not relevant to basic condition (e). An emerging local plan and the evidence submitted in respect of it is sometimes relevant to other basic conditions. If when it is adopted a policy contained in a replacement local plan to any extent conflicts with a policy in a previously adopted NDP, the conflict must be resolved in favour of the former and to that extent the NDP would be out of date.<sup>21</sup> The existence of an emerging local plan does not make an NDP premature.

## **8. The Nature of the Neighbourhood Area**

34. In considering the contents of the Draft NDP I must consider the nature of the neighbourhood area. Its gist is adequately described in the Draft NDP. The 2011 Census records a population of 2,455, formed into 1,021 households and occupying 1,074 dwellings. The 2021 Census records a population of 2,795 for the ward which also includes the small community of Tottenhill beyond the parish to its east.<sup>22</sup> The area contains the whole of the village of Watlington together with nearby countryside.

35. Most of the parish is open countryside, mainly low-lying fields. In many places this countryside is some distance from the village.

36. The village of Watlington, the only built-up area in the parish, is a “key rural service centre” in the local plan settlement hierarchy.<sup>23</sup> This is the fourth of six tiers in the hierarchy. Watlington is one of 21 settlements in this tier. As such the following applies, “*Limited growth*

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<sup>20</sup> [https://www.west-norfolk.gov.uk/download/downloads/id/8020/f47\\_topic\\_paper\\_spatial\\_strategy\\_settlement\\_hierarchy\\_neighbourhood\\_areas.pdf](https://www.west-norfolk.gov.uk/download/downloads/id/8020/f47_topic_paper_spatial_strategy_settlement_hierarchy_neighbourhood_areas.pdf)

<sup>21</sup> Planning and Compulsory Purchase Act 2004 s38(5).

<sup>22</sup> Watlington Neighbourhood Plan Evidence Base 2023 p. 3.

<sup>23</sup> As a result of a decision of the Borough Council's Cabinet on 7<sup>th</sup> March 2023 agreed by the full council on 30<sup>th</sup> March 2023, the same classification applies in the current state of the emerging Local Plan.

*of a scale and nature appropriate to secure the sustainability of each settlement, will be supported within the Development Limits of the Key Rural Service Centres. In accordance with Policy CS06 Development in rural areas”.*<sup>24</sup>

37. The most prominent building, the Anglican church of St Peter and St Paul in Church Road, is a grade I listed building. As such it is of exceptional importance, being in the top 2% of all listed buildings. Its tower is visible over a substantial area. It is the oldest surviving building in the parish, dating from the 13<sup>th</sup> century. The six other listed buildings (all grade II) are all the eastern part of the village in Church Road and Downham Road. They are:

- a garden wall 35 metres south-east of Manor Farmhouse, Church Road;
- a garden wall 35 metres south-west of Manor Farmhouse, Church Road;
- Manor Farmhouse, 5 Church Road;
- Watlington House, 33 Downham Road;
- The Old Rectory, 53 Downham Road; and
- Watlington War Memorial in the churchyard, Church Road.

There is one other designated heritage asset in the parish: the moat at the Old Rectory, a Scheduled Ancient Monument.

38. Facilities within the village include a primary school (Watlington Community Primary School), a GP surgery/medical centre with a pharmacy attached, a well-stocked general store containing a post office (Watlington Post Office and Store), a public house (the Angel), a fish and chip shop (Rodwell’s), a place of worship (St Peter and St Paul’s church), a village hall, recreational spaces including a playing field, a multi-use games area and children’s play areas, a sports and social club with a bowling green and allotments. Watlington station on the western edge of the village is served by hourly trains between King’s Cross, Cambridge and King’s Lynn. There are bus services which also run north-south.<sup>25</sup> There are no routes dedicated to cyclists, but St Peters Road and Downham Road form part of National Cycle Network’s Route 11.

39. There are no Natura 2000 wildlife sites and no sites of special scientific interest in the parish. There are three County Wildlife Sites (“CWSs”) (Watlington Railway Sidings CWS, Runs Wood Meadow CWS and part of Thieves Bridge Meadow CWS) and also part of a candidate County Geodiversity Site.

40. A substantial proportion of the parish, including most to the land to the west of the railway, is in flood zones 2 and 3. This is helpfully shown on the draft NDP’s Figure 10.

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<sup>24</sup> Core Strategy Policy CS02 The Settlement Hierarchy.

<sup>25</sup> 37 Kings Lynn - West Winch - Downham Market and Southery (Lynx) and 47 Kings Lynn - Downham Market (Go to Town).

41. The extent of public footpaths is limited and, in my experience, low for a mainly rural parish. The only public bridleway, the Fen Valley Way, runs alongside the River Great Ouse (the western boundary of the parish), about a kilometre west of the village. The parish does not contain any restricted byway or byway open to all traffic.

## **9. The contents of the Draft NDP**

### Introduction

*Page 2 (and also page 10)*

42. Paragraph 7 includes “...over the last five years permission has been granted for 41 new dwellings”. Paragraph 26 makes the same statement. The figure of 41 must come from the Evidence Base’s Figure 5. This include three annexes, one of which is to a holiday-let. Since an annex does not constitute a new dwelling, the number should be modified to 38.

#### Recommended modification 1

*Page 2 paragraph 7 and page 10 paragraph 26*

**Replace “41” with “38” in both paragraphs and “81” with “78” in the first-mentioned paragraph.**

### Housing and Design

*Page 11*

43. There is a small error on the last line of page 11. The number 6 should be in superscript.

#### Recommended modification 2

*Page 11, last line*

**Put “6” in superscript.**

*Pages 19*

44. Policy 2 includes among its considerations: “(b) *Density of new residential development should have consideration to the fact that Watlington overall is of a low density and scale.*” NPPF paragraphs 124 and 125 discourage inefficient use of land and low-density development. Since encouragement of low-density development can increase the cost of open-market and affordable housing and increase pressure for development of greenfield land, it needs robust justification. Given the different characters of different parts of the village, such justification needs to be for each character area. One-bedroom housing shown as needed by the Watlington Housing Needs Assessment 2022 undertaken by AECOM and two-bedroom housing shown as wanted by local consultation is likely to involve a greater density than larger houses. Consideration (b) is not justified, and I recommend its deletion.

45. Nothing in this or the following recommendation should be taken as encouraging development at a density that would be harmful. National and local policy will continue to apply, as, if it is made, will other NDP policy (including policy 3). My recommended modifications simply mean that restriction on density requirements should not exceed those which arises from those policies.

Recommended modification 3

*Page 19 Policy 2*

**Delete “(b) Density of new residential development should have consideration to the fact that Watlington overall is of a low density and scale.”**

**Re-letter subsequent considerations appropriately.**

*Page 20*

46. Similarly, paragraph 51 and policy 3 should not increase restrictions on density beyond those which would otherwise apply.

Recommended modification 4

*Page 20, paragraph 51*

**Delete “increase the density of development within Watlington and”.**

*Page 20 policy 3*

**Delete “(a) Be of a similar density to properties in the immediate vicinity, with similar spacing between buildings;”**

**Replace (c) with “integrate with adjacent properties in proximity of the proposal site; and”.**

**Re-letter appropriately.**

Natural Environment

*Page 24*

47. Paragraph 59 states, “Approximately 4.5km outside of the neighbourhood plan area is the SSSI at Setchey...”. This is an error and should be corrected to the intended 0.45km.

Recommended modification 5

*Page 24, paragraph 59*

**Replace “Approximately 4.5km” with “0.45km”.**

*Page 25*

48. Paragraph 64 includes:

*“The Environment Act (2021) requires all development schemes to deliver a mandatory 10% biodiversity net gain (BNG) to be maintained for a period of at least 30 years... This will become law mid-2023 or 2024 for smaller sites, with secondary legislation and detail yet to come...”*

49. This is based on the Environment Act 2021 s 98 and Sch 14. These are not yet in force and will not be in force in what is left of “mid-2023”. It seems that they will commence in November 2023. My recommended modification reflects this, but should not impede a different modification should the situation change.

**Recommended modification 6**

*Page 25, paragraph 64*

**Replace “mid-2023” with “November 2023”.**

*Pages 26 to 31*

50. Paragraph 66 explains that *“As part of developing the neighbourhood plan Green Corridors have been identified to connect areas of wildlife habitat across the parish.”* Figure 8 shows indicative green corridors outside the neighbourhood area. This cannot be done, even to a modest extent. An NDP can only create policy in its area. (There is no objection to indisputable matters outside the area such as existing CWSs being shown on plans.)

51. The key to figure 8 includes “Geodiversity Sites”, but does not show any. This might cause confusion. There is no geodiversity site within the parish, although the parish does include part of a candidate site. The reference to “Geodiversity Sites” should be deleted.

**Recommended modification 7**

*Page 29 to 31, Figure 8*

**Delete all colouring that shows a green corridor outside the parish boundary.**

**Delete the reference to “Geodiversity Sites”.**

*Pages 32 to 35*

52. These pages consider 12 proposed local green spaces (“LGSs”):

- (1) Angel Field Millennium Green;
- (2) Land between Downham Road and Mill Road;
- (3) Glebe Field, Downham Road;
- (4) Pope’s land (Sheep field), Lynn Road;
- (5) Martingales Green Space;
- (6) Meadows Green (John Davis Way Green Space);
- (7) Featherby Drive Green Space;

- (8) Woodland west of Glebe Avenue;
- (9) Warren Close Play Area;
- (10) Watlington Railway Sidings;
- (11) Runs Wood Meadow; and
- (12) The part of Thieves Bridge Meadow that is in the parish.

53. The explanation for the selection of these LGSs is in the Local Green Space Assessment (March 2023) (“LGSA”).<sup>26</sup> Of these sites:

- a) (1) is essentially a park in a central part of the village, is owned by Angel Field Millennium Green Trust (which has not objected to the allocation) and is open to the public;
- b) (2), (3), (4) and (8) do not enjoy a general right of public access<sup>27</sup> and have in different way been put forward for development within the last decade;
- c) (5), (6) (7) and (9) serve housing developments and appear to have been designed to do this; and
- d) (10), (11) and (12) are the CWSs mentioned in paragraph 39 above.

54. The NPPF provides for Local Green Spaces in its chapter 8, which is headed “Promoting healthy and safe communities”. Under the sub-heading “Open Spaces and Recreation”, its paragraphs 101 to 103 state:

*101. The designation of land as Local Green Space through ... neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.*

*102. The Local Green Space designation should only be used where the green space is:*

- a) in reasonably close proximity to the community it serves;*
- b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- c) local in character and is not an extensive tract of land.*

*103. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.*

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<sup>26</sup> The references to the NPPF in its paragraphs 6 and 7 are out of date, but this is not significant. The temporary TPO to which it refers has not been confirmed.

<sup>27</sup> (2) includes a well-used public footpath that is believed to be an “ancient right of way” – nothing in the neighbourhood plan process can alter that.



55. PPG chapter 37 also provides guidance on LGSs. Among other things it states:

How does Local Green Space designation relate to development?

*Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making.<sup>28</sup>*

What about public access?

*Some areas that may be considered for designation as Local Green Space may already have largely unrestricted public access, though even in places like parks there may be some restrictions. However, other land could be considered for designation even if there is no public access (eg green areas which are valued because of their wildlife, historic significance and/or beauty).*

*Designation does not in itself confer any rights of public access over what exists at present. Any additional access would be a matter for separate negotiation with land owners, whose legal rights must be respected.<sup>29</sup>*

Does land need to be in public ownership?

*A Local Green Space does not need to be in public ownership. However... the qualifying body (in the case of neighbourhood plan making) should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan.<sup>30</sup>*

56. These paragraphs are central to any consideration of whether land should be designated as an LGS. They should be followed unless there is a sufficient good reason not to do so and none is apparent to me. In considering the proposed LGS designations, I have borne in mind and found helpful the judgment Court of Appeal in R. (Lochailort Investments Ltd) v Mendip District Council.<sup>31</sup> The phrase in paragraph 101 “*capable of enduring beyond the end of the plan period*” was given specific consideration. While this is a less demanding policy than applies to Green Belt designation where the stronger “*permanently*” is used, it is still important.

57. I have considered each proposed LGS and the reason for their designation in the papers that I have seen.

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<sup>28</sup> PPG Reference ID: 37-007-20140306.

<sup>29</sup> PPG Reference ID: 37-017-20140306.

<sup>30</sup> PPG Reference ID: 37-019-20140306.

<sup>31</sup> [2020] EWCA Civ 1259, 2<sup>nd</sup> October 2020.

58. With regard to (1), (5), (6) (7), (9), (10), (11) and (12), they satisfy the requirements for inclusion in an NDP as an LGS for the reasons given in the LGSA.

59. (2), (3), (4) and (8) require fuller consideration.

60. None of these are subject to a statutory designation, allocated for development or with an extant planning permission.

61. Land owned by WPC originally identified as an LGS was removed to prevent the area in the vicinity of (2), (3), (4) and (8) being an extensive area of land. None of these four proposed LGSs taken individually constitutes an extensive area of land. The totality of undevelopable land in this area bounded by Church Road, Lynn Road, Mill Road, Thieves' Bridge Road and Downham Road is an extensive area of land. It is artificial to exclude land that is and is likely to remain a green space from consideration because it is not designated as such. I share the Borough Council's concern regarding the cluster of sites (revised numbers 2, 3 and 8) remains, "as these (together) may be argued to represent an extensive tract of land".<sup>32</sup> I have not been persuaded that every privately-owned undeveloped part of that area can be designated as an LGS capable of enduring beyond the end of the plan period or that the total of the four designations would not cause the draft NDP to breach basic condition (d). These matters are however academic, since I have concluded that three of the proposed LGSs in this area would fail to comply national policies and advice contained in guidance issued by the Secretary of State to an extent sufficient to cause a breach of basic condition (a).

62. Photographs of the proposed green spaces are included in the LGSA. Nobody has said that these are in any way misleading or unfairly selective, and nothing on my site visit caused me to consider that this might be the case. The same applies to the photographs in the Preliminary Ecological Appraisal.

63. As the PPG makes clear private land to which there is no or only limited right of access may be allocated as LGS if it meets the criteria. In considering such land, particular care is required in respect of consultation and of the need for sufficiently robust evidence.

64. In respect of (2) and (3) I have considered Prime Environment's Preliminary Ecological Appraisal ("PEA"). That divided the site into 7 habitats. In respect of each habitat, it gave a quality assessment of low and stated that it was not a habitat of principal importance. It rightly recognised the importance of Species Lists. It did not find protected and priority species, but considered that the site was suitable to support them. It raises a possibility of great crested newts being present and identifies other protected species that the site has the potential to support. The most likely great crested newt habitat seems to be a pond in a section of moat within the Old Rectory gardens, which is not in (2) or (3).

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<sup>32</sup> Legal check letter page 4.

*Land between Downham Road and Mill Road (2)*

65. LGSA pages 7 to 10 and 36 give the reasons for selecting this 3.7-hectare site, which comprises three privately-owned meadows. Among other things it describes it and points out that it had originally been selected for growth in the emerging Local Plan, but was deselected “partly due to strong local opposition” and refers to the PEA.

64. Protected species are mentioned in the LGSA, but no specific species is identified. The absence of any mention of a specific species on (2) in the LGSA, the PEL or elsewhere is noteworthy and makes it unlikely that (2) contains any. I have no reason to consider that the local community values the site for the presence of a protected species. There is insufficient other wildlife to give rise to sufficient local value for the site.

65. A public footpath, which links Downham Road with Mill Road crosses the site. I walked this in each direction and viewed the site from it. I note that part of the footpath (the southern side of the squashed triangle shown on Ordnance Survey and other maps) to the immediate west of (2) was overgrown and impassable to normal pedestrian use.

68. Norfolk County Council in its regulation 16 representations<sup>33</sup> has stated that this site is underlain by safeguarded sand and gravel resources.

69. Agents for the prospective developers have objected on the grounds: that the land is privately owned; that the landowners are unwilling for the land to be used as open space for public recreation purposes or otherwise for the enjoyment of the village; that the proposed designation has not been informed by technical evidence of biodiversity value and previous ecological surveys have demonstrated that the ecological value of the site is low; and that there is a lack of evidence base or justification for designation. Their regulation 16 representations include: *“the clustering of sites i.e. 2,3,4 and 8 forms an extensive tract of land with no evidence to support/justify why this full extent of land fulfils the criteria set down in national policy, but instead is seeking to impose a quasi-green belt around the village to resist future growth ...”*.

70. The owners have objected on the grounds: that the land privately owned and has no right of access apart from the public footpath that runs across the middle field; that they wish to obtain planning permission on the land, with the site previously identified as a preferred option for growth by the Borough Council; and that the land, having previously been used for grazing horses and being regularly mowed, has little or no ecological value.

71. Proposed LGS (2) is described as “Land between Downham Road and Mill Road” in policy 6, but as “Land east of Downham Road and Mill Road” in Figure 9. The latter is inaccurate: the land lies to the west of Mill Road.

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<sup>33</sup> Para 3.1.

72. I have given careful consideration to proposed LGS (2), both as a whole and in respect of each of the three fields that form part of it, and concluded that neither the whole, nor any part of it meets the requirements for LGS designation. In particular there is insufficient evidence in respect wildlife, historic significance or beauty in respect of this largely inaccessible site to justify the designation. Nature conservation concerns are adequately met by the indicative green corridors shown on Figure 8, to which I am not recommending any modification relevant to LGS 2.

*Glebe Field, Downham Road (3)*

73. LGSA pages 11, 12 and 36 give the reasons for selecting this 0.6-hectare site, which comprises a field owned by the Diocese of Ely. Among other things it describes it and points out that it had originally been selected for growth in the emerging Local Plan but was deselected “ due to strong local opposition”.

74. The owner has objected on the grounds: that there is a lack of justification; that the field has no public right of way; that it is barely visible; and that it was previously identified as a suitable site for development. The agents’ regulation 16 representation includes:

- *“it is not demonstrated that the LGS designations satisfy criterion (b) above.<sup>34</sup> In particular, we question the special significance of LGS 3.... It has no public access or rights of way, and is barely visible from the public rights of way network.”*
- *“many of the proposed LGS, and especially when taken together, would constitute an extensive tract of land. The scale of the designations lacks justification and so criterion (c) above is not satisfied. The LGS designations should therefore be reduced in scale and number.”*
- *“Given the serious issues raised by the examining Inspector with the emerging Local Plan’s lack of allocations within Watlington, the indications are that LGS designations in the NP would not be consistent with local planning for sustainable development in the area, and their designation would be premature. This is especially the case when LGS 3 Glebe Field was identified as a suitable development site in a previous draft of the Local Plan. The LGS Assessment notes that it was previously proposed for allocation, suggesting the proposed designation is simply a reactionary measure which undermines proper plan-making.”*
- *“The central group amounts to an extensive tract of land.”*

75. I do not accept the prematurity argument. It is common for NDPs to be adopted while an emerging local plan process is underway.

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<sup>34</sup> I.e. NPPF para 102(b).

76. On my site I looked towards the field from Downham Road and only had a substantial view from close to a gate at its north-western corner. I of course bear in mind that this was at a time of year when there is full leaf-cover on deciduous trees.

77. Proposed LGS (3) has been used for *ad hoc* parking the extent of which (including whether it exceeds permitted development rights) has not been specified in any document that I have seen. There is also mention of its use for a fun fair in the Consultation Statement.<sup>35</sup>

78. The absence of any mention of a specific species on (3) in the LGSA, the PEL or elsewhere is noteworthy and makes it unlikely that (3) contains any or that the local community values the site for the presence of a protected species and there is insufficient that other wildlife creates sufficient local value for the site. In particular, despite the permissive use just mentioned, no bat or protected bird has been mentioned.

79. I have given careful consideration to proposed LGS (3) and concluded that it does not meet the requirements for LGS designation. In particular there is insufficient evidence in respect wildlife, historic significance, or beauty in respect of this inaccessible site (except for occasional permissions) to justify the designation.

*Pope's land (Sheep field), Lynn Road (4)*

80. LGSA pages 13, 14 and 36 give the reasons for selecting this 1.5-hectare site, which comprises two privately-owned fields.

81. The owner has objected on the grounds: that there have been no previous designations upon it; that it has been maintained for grazing only; that it is not open to the general public; and that there are and will remain no public or permissive paths associated with it.

82. It is a grass field with no special features. Its description includes "Sheep field" and sheep were grazing on it during my site visit.

83. I have given careful consideration to proposed LGS (4) and concluded that it does not meet the requirements for LGS designation. In particular there is insufficient evidence in respect wildlife, historic significance, or beauty in respect of this wholly inaccessible site to justify the designation. Nature conservation concerns are adequately met by the indicative green corridor shown on Figure 8, to which I am not recommending any modification relevant to LGS 4.

*Woodland west of Glebe Avenue (8)*

84. LGSA pages 21, 22 and give the reasons for selecting this c 0.35-hectare site, which includes woodland. Among other things it states that the land is on an aquifer which feeds the medieval moat (*i.e.*, the Scheduled Ancient Monument mentioned in paragraph 37 above and

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<sup>35</sup> Page 47.

that lapwings, jays and owls have been seen on it. The sustained decline in the lapwing population in England is well known, Lapwings are: in the Birds of Conservation Concern 5 Red list (December 2021); a priority Species under the UK Post-2010 Biodiversity Framework; and listed as near-threatened on the global International Union for the Conservation of Nature Red List of Threatened Species.<sup>36</sup> Lapwings are listed in Wild Birds Directive (2009/147/EC) Annex II part B under their Latin name *vanellus vanellus*<sup>37</sup> and hunting of them is prohibited in the United Kingdom. They are protected under regulation 47 of the Conservation of Habitats and Species Regulations 2017. They are resident in West Norfolk and winter in the Wash.

85. LGSA pages 22 and 37 refer to a temporary TPO issued in respect of (8). This was the Borough Council of King's Lynn and West Norfolk Tree Preservation Order 2/TO/00650 (3rd February 2023). This related to mixed woodland covering the whole of (8) and a small proportion of (2). On 23<sup>rd</sup> July 2023 the Borough Council decided not to confirm the order.

86. Paragraph 58 of the Draft NDP states, *“There is an area of Open Mosaic Habitat west of Barley Close, where a minor aquifer is located, which also has particular nature conservation value.”*

87. The owner has objected objects to the designation on the grounds: that the aquifer holds no significance to the local community; that the land is a small, fenced, area adjoining other residential development; that it is not visible to the public; and that there is no public access; and that there is an intention to develop this land, so it is not a green space in practice. It disputes that claim that there is an underground water source. Regulation 16 representations on behalf of the owner include:

*“It is submitted that collectively areas 2, 3 and 8 form an extensive tract of land and for that reason do not meet the Local Green Space criteria. It also seems illogical to exclude following first consultation those areas of Green Space which are owned or leased by the Parish Council and utilized as open green space for recreation and which would link with areas 2,3 and 8 to form part of the wider area of undeveloped land in this location, solely to ensure that the extent of Local Green Space was not considered an extensive tract. The omitted Parish Controlled areas represent the areas providing access recreation and use by and for the local community and should be the prime candidates for Local Green Space designation. We agree that collectively LGS 2, 3 and 8 taken with the Parish Controlled adjoining areas now proposed not to be designated do form an extensive tract of open land.”*

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<sup>36</sup> The PEL, which has been available to all involved in this NDP process, lists species lists in its section 2.2.1.

<sup>37</sup> As the PPG explains, this makes them one of Europe’s most important species, PPG Reference ID: 41-078-20140306.

*“The majority of the site is not visible from the street, or from any through route, and whilst neighbouring residents may like its undeveloped nature it holds no special character or significance for the wider village, not being visible from most locations.”*

*“It is a fenced area of land beyond modern development, which is not visible (because it is fenced) from any particular direction. It comprises the residue of a parcel of land previously in Commercial Use, most of which has previously been developed. It has no designation as formal open space in any previous planning consent and has no public access.”*

88. While there is a dispute in respect of the aquifer, the professional representations on behalf of the owner have not disputed (or even queried) the presence of lapwings, something that is clearly stated in the LGSA. Nothing that I have seen or read causes me to doubt their presence of lapwings on this land, which is subject to little human interference. This makes this land of particular significance in wildlife terms, and I have no doubt local people will value it for this reason. The NPPF refers to richness of wildlife. That involves considering the totality of the wildlife. This includes the jays and owls mentioned in LGSA, species that, although not protected in the case of jays and not necessarily protected in the case of owls, are widely considered to be of interest and the bees feeding on the extensive buddleia that are clearly visible from the gate to Glebe Avenue.

89. This small area of land is not an extensive area of land and if my other recommendations are followed will not form part of an extensive area of land. It is some distance from the publicly owned and leased recreational land next to Church Road and Lynn Road. It immediately adjoins in Glebe Avenue, Barley Close and Beechwood Close that do not have easy pedestrian access to that recreational land. I am satisfied that it will demonstrably special to this local community for its wildlife and that (provided it is not added to other LGS in the immediate vicinity) it meets all the requirements for LGS designation. The NPPF refers to “a local community” and this need not be the wider community of the whole village. LGSs are often only special to a limited area.

90. While I am recommending removal of some of the proposed LGSs, I am not recommending an alteration of Figure 8 within the parish. This and other constraints will remain. My recommended modification is not an allocation and should not be read as indicating the development of the (2), (3) and (4) is appropriate. That is a matter for the emerging Local Plan process, where need and the relative merits and demerits of sites are being considered on a borough-wide basis.

91. I am satisfied that including (1) and (5) to (10) in the NDP as LGSs involves no conflict with either the NPPF or the Local Plan and is justified. The extent of LGS designation in the Draft NDP as modified would not undermine sustainable development.

Recommended modification 8

*Page 32 paragraph 74 and Appendix C paragraph*

**Replace “12” with “9”.**

*Page 35 policy 6 and Figure 9*

**Delete the whole of the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> proposed LGSs and renumber accordingly.**

Community Services and Facilities

*Page 47*

92. Figure 15 contains a key listing ten key services and shows them by red circles. However, the latter are not numbered. They should be for clarity and for the avoidance of doubt.

Recommended modification 9

*Page 47, Figure 15*

**Number the red circles, so the key services that are listed in the bottom left hand of the figure can be identified.**

Historic Environment

*Pages 53 to 54*

93. Policy 12 identifies the following non-designated heritage assets:

- (A) Queen’s Head, Plough Lane;
- (B) Old School House (No 23) and the Old School (No 25) School Road;
- (C) Church House, Church Road;
- (D) The Old Butcher’s Shop, Church Road;
- (E) The Angel, School Road;
- (F) Magdalen Road Signal Box;
- (G) The Poplars, 2 Fen Road;
- (H) The Plough, Plough Lane;
- (I) Two rows of Victorian Terraced Cottages, 24-32B and 40-48 Mill Road;
- (J) Two Victorian Terraced Cottages, Mill Road;
- (K) Row of Terraced Cottages, 2-7 Station Road;
- (L) Row of Terraced Cottages, Station Road; (L) Victorian Gothic House, Station Road;
- (M) Morton’s Cottage, 72 and 74 Fen Road;
- (N) White House Cottage;
- (O) The Old Market Garden;
- (P) The Elms, 40 Fen Road;
- (Q) Row of Victorian or earlier Terraced Cottages, 20-30 Fen Road;



- (R) Row of Victorian or earlier Terraced Cottages, 50-60 Fen Road;
- (S) Orchard Nook;
- (T) Park House, Lynn Road; and
- (U) 54 Mill Road.

94. Some of the descriptions are wrong in that they do not correspond with the photographs in the Non-Designated Heritage Assessment 2022 or are inadequate. It is important that an NDP is easy to understand for both local and non-local people. This means that street names should be given. There is also a minor error with two Ls.

- “(A) Queen’s Head, Plough Lane” should be given its number so that it reads “(A) Queen’s Head, 1 Plough Lane”;
- (E) “The Angel, School Road” should be given its number so that it reads “(E) The Angel, 41 School Road”;
- “(F) Magdalen Road Signal Box” should be “(F) Magdalen Road Signal Box, Station Road”;
- “(I) Two rows of Victorian Terraced Cottages, 24-32B and 40-48 Mill Road” should be “(I) Three rows of Victorian Terraced Cottages 24-30, 32a, 32 and 32B and 40-48 Mill Road”;
- “(J) Two Victorian Terraced Cottages, Mill Road” should be “(J) Two Victorian semi-detached cottages 20 and 22 Mill Road”;
- “(K) Row of Terraced Cottages, 2-7 Station Road” is not in Station Road and should be “(K) Row of Terraced Cottages, 1, 3, 5, 9, 11 and 13 School Road”;
- “(L) Row of Terraced Cottages, Station Road” would more accurately be described as “(L) Pair of semi-detached cottages, 2 and 4 Station Road”;
- “(N) White House Cottage” should be “(N) White House Cottage, Church Road”;
- “(O) The Old Market Garden” should be “(O) The Old Market Garden, Fen Road”; and
- “(S) Orchard Nook” should be “(S) Orchard Nook, 29 Downham Road”.

95. The explanation for the selection of these buildings is in the Non-Designated Heritage Assessment (2022). I am satisfied that all the buildings were constructed before the United Kingdom entered the First World War.

96. Three of the above are in Church Road (C, D and N) re close to five of the listed buildings mentioned in paragraph 33 above. One of the above (S) is next to another of the listed buildings, 33 Downham Road.<sup>38</sup> It is not necessary for me to determine whether and to what extent each of these is within the setting of a listed building, so that Planning (Listed Buildings and Conservation Areas) Act 1990 s66 might apply. I am satisfied that each of these four buildings significantly complements the area of at least one listed building.

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<sup>38</sup> There is no 31 Downham Road.

97. Until relatively recently, signal boxes were fairly common. In recent years many have been demolished, increasing the importance of those that remain. Magdalen Road Signal Box is unusual in that it was erected outside the parish in the 1890s as a Great Central signal box and re-erected in 1927 in its current location. The non-designated Heritage Assessment gives the impression that it has always been in Watlington, but this inaccurate impression does not reduce its importance as a non-designated heritage asset. It is a landmark building.

98. Watlington is a village with relatively few heritage assets. I am satisfied that each of the buildings in the Non-Designated Heritage Asset assessment 2022 should be identified as such in the draft NDP. The text of policy 12 needs to be altered for accuracy and precision. .

#### Recommended modification 10

*Pages 53-54*

**Alter the list of non-designated heritage assets as follows:**

**Replace “(A) Queen’s Head, Plough Lane” with “(A) Queen’s Head, 1 Plough Lane”;**

**Replace (E) “The Angel, School Road” with “(E) The Angel, 41 School Road”;**

**Replace “(F) Magdalen Road Signal Box” with “(F) Magdalen Road Signal Box, Station Road”**

**Replace “(I) Two rows of Victorian Terraced Cottages, 24-32B and 40-48 Mill Road” with “(I) Three rows of Victorian Terraced Cottages 24-30, 32a, 32 and 32B and 40-48 Mill Road”;**

**Replace “(J) Two Victorian Terraced Cottages, Mill Road” with “(J) Two Victorian semi-detached cottages 20 and 22 Mill Road”;**

**Replace “(K) Row of Terraced Cottages, 2-7 Station Road” with “(K) ) Row of Terraced Cottages, 1, 3, 5, 9, 11 and 13 School Road”;**

**Replace “(L) Row of Terraced Cottages, Station Road” with “(L) Pair of semi-detached cottages, 2 and 4 Station Road”;**

**Replace “(N) White House Cottage” with “(N) White House Cottage, Church Road”;**

**Replace “(O) The Old Market Garden” with “(O) The Old Market Garden, Fen Road”;**  
**and**

**Replace “(S) Orchard Nook” with “(S) Orchard Nook, 29 Downham Road”.**

#### Policies Map

99. The modifications recommended in respect of LGSs should be reflected in the policies map.

## Recommended modification 11

*Page 56 Appendix A*

**Remove LGSs (2), (3) and (4) from the policy map and the inset.**

### **10. Updating**

100. It may be that certain passages in the draft NDP need updating. Nothing in this report should deter or delay appropriate updating prior to the referendum in respect of incontrovertible issues of primary fact.

### **11. The Referendum Area**

101. I have considered whether the referendum area should be extended beyond the designated plan area.<sup>39</sup> However, I can see no sufficient reason to extend the area and therefore recommend that the referendum area be limited to the neighbourhood area, the parish of Watlington.

### **12. Summary of Main Findings**

102. I commend the Draft NDP for being clear, intelligible and well written, and for the thought and effort that has gone into its creation. It has struck the right balance between intelligibility to a lay person and the use of technical words that ensure precision.

103. I recommend that the Draft NDP be modified in the terms specified in Appendix A to this report to meet basic conditions and to correct errors. I am satisfied with all parts of the Draft NDP to which I am not recommending modifications.

104. With those modifications, the Draft NDP will meet all the basic conditions and human rights obligations. Specifically:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it will be appropriate to make the NDP;
- The making of the NDP will contribute to the achievement of sustainable development;
- The making of the NDP will be in general conformity with the strategic policies contained in the development plan for the neighbourhood area;
- The making of the NDP will not breach, and will not otherwise be incompatible with, retained EU obligations;
- The making of the NDP will not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and

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<sup>39</sup> PPG Reference ID: 41-059-20140306.

- The modified Draft NDP will in all respects be fully compatible with Convention rights contained in the Human Rights Act 1998.

103. I recommend that the modified NDP proceed to a referendum, the referendum area being the area of the Draft NDP, *i.e.* the parish of Watlington.

Timothy Jones, Barrister, FCI Arb,

Independent Examiner,

No 5 Chambers

23rd September 2023.

## **Appendix A: Recommended Modifications**

### **Recommended modification 1**

Page 2 paragraph 7 and page 10 paragraph 26

Replace “41” with “38” in both paragraphs and “81” with “78” in the first-mentioned paragraph.

### **Recommended modification 2**

Page 11, last line

Put “6” in superscript.

### **Recommended modification 3**

Page 19 Policy 2

Delete “(b) Density of new residential development should have consideration to the fact that Watlington overall is of a low density and scale.”

Re-letter subsequent considerations appropriately.

### **Recommended modification 4**

Page 20, paragraph 51

Delete “increase the density of development within Watlington and”.

Page 20 policy 3

Delete “(a) Be of a similar density to properties in the immediate vicinity, with similar spacing between buildings;”

Replace (c) with “integrate with adjacent properties in proximity of the proposal site; and”.

Re-letter appropriately.

### **Recommended modification 5**

Page 24, paragraph 59

Replace “Approximately 4.5km” with “0.45km”.

### **Recommended modification 6**

Page 25, paragraph 64

Replace “mid-2023” with “November 2023”.

### **Recommended modification 7**

Page 29 to 31, Figure 8

Delete all colouring that shows a green corridor outside the parish boundary.

Delete the reference to “Geodiversity Sites”.

Recommended modification 8

Page 32 paragraph 74 and Appendix C paragraph

Replace “12” with “9”.

Page 35 policy 6 and Figure 9

Delete the whole of the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> proposed LGSs and renumber accordingly.

Recommended modification 9

Page 47, Figure 15

Number the red circles, so the key services that are listed in the bottom left hand of the figure can be identified.

Recommended modification 10

Pages 53-54

Alter the list of non-designated heritage assets as follows:

Replace “(A) Queen’s Head, Plough Lane” with “(A) Queen’s Head, 1 Plough Lane”;

Replace (E) “The Angel, School Road” with “(E) The Angel, 41 School Road”;

Replace “(F) Magdalen Road Signal Box” with “(F) Magdalen Road Signal Box, Station Road”

Replace “(I) Two rows of Victorian Terraced Cottages, 24-32B and 40-48 Mill Road” with “(I) Three rows of Victorian Terraced Cottages 24-30, 32a, 32 and 32B and 40-48 Mill Road”;

Replace “(J) Two Victorian Terraced Cottages, Mill Road” with “(J) Two Victorian semi-detached cottages 20 and 22 Mill Road”;

Replace “(K) Row of Terraced Cottages, 2-7 Station Road” with “(K) ) Row of Terraced Cottages, 1, 3, 5, 9, 11 and 13 School Road”;

Replace “(L) Row of Terraced Cottages, Station Road” with “(L) Pair of semi-detached cottages, 2 and 4 Station Road”;

Replace “(N) White House Cottage” with “(N) White House Cottage, Church Road”;

Replace “(O) The Old Market Garden” with “(O) The Old Market Garden, Fen Road”; and

Replace “(S) Orchard Nook” with “(S) Orchard Nook, 29 Downham Road”.

Recommended modification 11

Page 56 Appendix A

Remove LGSs (2), (3) and (4) from the policy map and the inset.

## **Appendix B: Abbreviations**

The following abbreviations are used in this report:

Borough Council	Borough Council of King’s Lynn and West Norfolk
Convention	European Convention on Human Rights
CWS	County Wildlife Site
Draft NDP	Submission draft of the Watlington Neighbourhood Plan 2019-2036
EU	European Union
General Regulations	Neighbourhood Planning (General) Regulations 2012 (as amended)
LGS	local green space
LGSA	Local Green Space Assessment (March 2023)
NDP	Neighbourhood Development Plan
NPPF	National Planning Policy Framework (September 2023)
para	paragraph
PCPA	Planning and Compulsory Purchase Act 2004 (as amended)
PEL	Prime Environment’s Preliminary Ecological Appraisal (April 2019)
PPG	national Planning Practice Guidance
s	section
Sch	Schedule
TCPA	Town and Country Planning Act 1990 (as amended)
WPC	Watlington Parish Council

Where I use the verb ‘*include*’, I am not using it to mean ‘*comprise*’. The words that follow are not necessarily exclusive.