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# Report to the Broads Authority

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an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 13<sup>th</sup> June 2014

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

## REPORT ON THE EXAMINATION INTO THE BROADS AUTHORITY SITE SPECIFIC POLICIES

### LOCAL PLAN

Document submitted for examination on 27 September 2013

Examination hearings held on 12 and 13 February 2014

File Ref: PINS/E905/429/6

## Abbreviations Used in this Report

¶	Paragraph
BA	Broads Authority
Circular	English National Parks and the Broads UK Government Vision and Circular 2010
CS	Core Strategy
DPD	Development Plan Document
DtC	Duty to Co-operate
EA	Environment Agency
EH	English Heritage
Framework	National Planning Policy Framework
HRA	Habitats Regulation Assessment
LDS	Local Development Scheme
LP	Local Plan
MM	Main Modification
NE	Natural England
p	page
Plan	Site Specific Policies Local Plan
SA	Sustainability Appraisal
SAC	Special Area of Consultation
SCI	Statement of Community Involvement
SCS	Sustainable Community Strategy
SPA	Special Protection Area
SSPLP	Site Specific Policies Local Plan
SSSI	Site of Special Scientific Interest

## **Non-Technical Summary**

This report concludes that the Broads Authority Site Specific Policies Local Plan provides an appropriate basis for the planning of the Broads Authority area for the period 2013 to 2028 providing a number of modifications are made to the plan. The Broads Authority has specifically requested me to recommend any modifications necessary to enable the plan to be adopted.

All of the modifications to address this were proposed by the Broads Authority and I have recommended their inclusion after considering the representations from other parties on these issues.

The Main Modifications can be summarised as follows:

- Providing for archaeological surveys;
- Protecting certain heritage assets;
- Addressing water quality monitoring;
- Addressing sewerage capacity issues for development in Horning;
- Ensuring protection for biodiversity;
- Reducing and restricting housing development in West Somerton;
- Increasing the areas for residential moorings;
- Introducing a tourist accommodation allocation for Thurne; and
- Providing for reviews of the Plan.

These modifications do not significantly alter the thrust of the overall Plan.

## Introduction

1. This report contains my assessment of the Broads Authority (BA) Site Specific Policies Local Plan (SSPLP) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate, in recognition that there is no scope to remedy any failure in this regard. It then considers whether the Plan is compliant with the legal requirements and whether it is sound. The National Planning Policy Framework (the Framework) at paragraph 182 makes clear that to be sound a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local authority has submitted what it considers to be a legally compliant and sound plan. The basis for my examination is the second publication version of the draft plan submitted in September 2013, which was consulted upon from mid July to mid September 2013. This followed the first publication version of the draft plan published for consultation during November and December 2012.
3. My report deals with the main modifications that are needed to make the Plan legally compliant and sound and they are identified in bold in the report (**MM**). In accordance with section 20(7C) of the 2004 Act the BA requested that I should make any modifications needed to rectify matters that make the Plan not legally compliant or unsound and thus incapable of being adopted. These main modifications are set out in the Appendix.
4. The main modifications that are necessary for soundness all relate to matters that were discussed at the Examination hearings. Following these discussions, the BA prepared a schedule of proposed main modifications which were subjected to sustainability appraisal (SA) and habitats regulation assessment (HRA). This schedule was also subjected to public consultation for six weeks.
5. As a result of this consultation Natural England (NE), whilst supporting those main modifications in which it has an interest, made representations requesting some rewording/additions with which the BA agrees. Some of this rewording makes little difference to the effect of the policies, but makes for improved reading. Other rewording is not strictly necessary to achieve the protections sought, as this is generally provided for in the Development Management Development Plan Document (Development Management DPD). Nonetheless, the amendments do provide clarity and detail and, consequently, I have made the requested minor adjustments to the advertised wording of main modifications **MM7, MM8, MM9, MM11, MM13, MM19** and **MM27**.
6. English Heritage (EH), as a result of the main modifications consultation, also requested an amendment, with which the BA agrees. This is simply to include an additional monitoring indicator in **MM20** to reflect the main modification to the policy. This minor adjustment has been made by inserting the suggested new indicator with the suggested wording.
7. In coming to my conclusions in this report, I have also taken account of all other consultation responses.

## Assessment of Duty to Co-operate

8. Section s20(5)(c) of the 2004 Act requires that I consider whether the BA complied with any duty imposed on it by section 33A of the 2004 Act in relation to the Plan's preparation. Section 33A requires constructive, active and ongoing engagement with local authorities and a variety of prescribed bodies in order to maximise the effectiveness of plan preparation.
9. Details of how the BA has met its duty to co-operate are set out in its *Duty to Cooperate Statement*<sup>1</sup>. This demonstrates co-operation with other relevant planning authorities and organisations including the Environment Agency (EA), NE, Local Enterprise Partnerships and Local Nature Partnerships, as required by the Local Planning Regulations<sup>2</sup>.
10. Due to the Broads' designated area falling within the administrative areas of six district level councils<sup>3</sup>, whose planning functions are restricted to their administrative areas outside the Broads, there has been particularly close involvement and co-operation between the BA and these authorities. This has taken many forms and is facilitated by each district, as well as the two county councils<sup>4</sup>, appointing one of its Councillors to membership of the BA, resulting in each of them having representation on the BA's Planning Committee<sup>5</sup>.
11. Although the BA is a local planning authority, it does not have statutory responsibilities for a range of matters, such as housing and employment, which remain the responsibility of its constituent authorities. In this regard memorandums of understanding have been produced between the BA and the districts<sup>6</sup> to provide documentary evidence of existing practices in and around the Broads following revocation of the Regional Spatial Strategy.
12. Liaison at county level occurs on a variety of matters, including highways issues, and in a variety of forms including through membership of the *Norfolk Strategic Planning Group* of which Norfolk County Council is also a member.
13. Whilst the BA's *Duty to Cooperate Statement* does not refer to co-operation with EH, in answer to my "Matters and Issues" questions<sup>7</sup>, I was told that the BA met with EH at the start of the plan making process and undertook site visits with respect to heritage structures, including drainage mills/pumps<sup>8</sup>, which required consideration. Consultations and representations from EH have been considered throughout and have influenced the plan making process.

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<sup>1</sup> SD11

<sup>2</sup> Section 4 of the Town and Country Planning (Local Planning)(England) Regulations 2012 SDSI No. 767 as amended

<sup>3</sup> Broadland, South Norfolk, North Norfolk, Waveney, Great Yarmouth Borough and Norwich City

<sup>4</sup> Norfolk and Suffolk

<sup>5</sup> See Appendix A of SD11

<sup>6</sup> EPS2

<sup>7</sup> BALP pp 3 & 4

<sup>8</sup> See the Mills Strategy at Policy XNS5

14. The SSPLP has taken account of plans and strategies of neighbouring authorities and other relevant agencies. These include Sustainable Community Strategies (SCSs) of neighbouring authorities<sup>9</sup>, EA guidance<sup>10</sup>, neighbouring authorities' local plans<sup>11</sup> and a range of other relevant strategies<sup>12</sup>.
15. From the submitted evidence I consider that the BA has worked closely throughout the period of plan preparation with the relevant prescribed bodies and persons, other statutory and regulatory organisations, and other authorities. Therefore, taking all factors into consideration, I am satisfied that this amounts to constructive, active engagement on an ongoing basis. Consequently, the duty to co-operate has been fulfilled.

## Assessment of Legal Compliance

16. The Broads is an internationally important wetland and a nationally designated protected landscape that has national park equivalent status. Its statutory purposes, none of which takes precedence, are set out in the Norfolk and Suffolk Broads Act 1988 (as amended)<sup>13</sup> as follows:
  - To conserve and enhance the natural beauty, wildlife and cultural heritage of the Broads;
  - To promote opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and
  - To protect the interests of navigation.
17. Under the Act<sup>14</sup> the BA, in discharging its functions, must also have regard to:
  - The national importance of the Broads as an area of natural beauty and one which affords opportunities for open-air recreation;
  - The desirability of protecting the natural resources of the Broads from damage; and
  - The needs of agriculture and forestry and the economic and social interests of those who live and work in the Broads.
18. The BA's primary responsibility is to deliver the statutory purposes as advised in the English National Parks and the Broads UK Government Vision and Circular 2010 (the Circular)<sup>15</sup>. It has demonstrated that it has done so by encompassing criteria in policies that aim to protect biodiversity, landscape, heritage and water quality, and by including policies covering the coast, sensitive areas, historic drainage mills, water-side pubs, moorings and

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<sup>9</sup> See SD19

<sup>10</sup> See for example SD20

<sup>11</sup> See for example TP1

<sup>12</sup> See for example SD21

<sup>13</sup> Section 2(1)

<sup>14</sup> Section 2(4)

<sup>15</sup> Circular ¶28

boatyards. Other policies address local economic and social interests. Furthermore, the BA has produced its own check of the SSPLP policies against these statutory provisions<sup>16</sup>, thereby showing compliance with these statutory duties.

19. The SSPLP has had regard to all other development documents adopted by the BA<sup>17</sup>, and is also generally consistent with the Core Strategy (CS) and Development Management DPD<sup>18</sup>. The assessment of the SSPLP policies against each of the CS objectives and the most relevant adopted development plan policies<sup>19</sup> demonstrates that the SSPLP flows from the CS. Indeed the four objectives of the SSPLP<sup>20</sup> aim to give effect to the CS by identifying specific sites or areas for special treatment.
20. However, account has been taken of the age of the CS, which was adopted in 2007, and the five policies within it that have been assessed as not being fully compliant with the Framework<sup>21</sup>. The SSPLP compliance note<sup>22</sup>, on the other hand, demonstrates overall how the SSPLP does comply with the Framework.
21. The Circular advises that the Broads Plan should set the context for the local development framework for the Broads<sup>23</sup>. Accordingly, the CS was produced in the context of the Broads Plan 2004, which has since been superseded by the Broads Plan 2011<sup>24</sup>. Nonetheless, the three main priorities of the Broads Plan 2011 are addressed in the CS and, in turn, are reflected within the SSPLP. As for other relevant post CS development documents, such as the Anglian River Basin Management Plan 2009, there is no conflict.
22. With respect to the Development Management DPD, whilst the SSPLP departs in some respects from some of its provisions, the assessed comparison of each of these Plans' policies shows sufficient consistency<sup>25</sup>. In any event, the relevant departures are justified due to changes in circumstances since the adoption of the Development Management DPD in November 2011.
23. In delivering the Broads' statutory purposes, the Circular requires the BA to ensure that it achieves sustainable development<sup>26</sup>. The BA has fulfilled its statutory duty of preparing the SSPLP with the objective of contributing to the achievement of sustainable development<sup>27</sup> as demonstrated by the SA<sup>28</sup>, and

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<sup>16</sup> SD17

<sup>17</sup> As required by Section 19(2)(h) of the Planning and Compulsory Purchase Act 2004, as amended

<sup>18</sup> As required by Section 1(4) Town and Country Planning (Local Planning)(England) Regulations 2012

<sup>19</sup> See SD17 and BALP Appendix 2

<sup>20</sup> SD2 ¶1.4.1

<sup>21</sup> AD5.

<sup>22</sup> SD18

<sup>23</sup> Circular ¶133

<sup>24</sup> BA2

<sup>25</sup> BALP Appendix 1

<sup>26</sup> Circular ¶28

<sup>27</sup> Section 39 Planning and Compulsory Purchase Act 2004, as amended

<sup>28</sup> SD4a and SD4b

also the SA of the recommended main modifications<sup>29</sup>.

24. Overall, my examination of the compliance of the SSPLP with the legal requirements is summarised in the table below. I conclude that the Plan meets them all.

<b>LEGAL REQUIREMENTS</b>	
Local Development Scheme (LDS)	The SSPLP is identified within the approved LDS October 2013 which sets out an expected adoption date of February 2014. The SSPLP's content and timing are generally compliant with the LDS.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in March 2008 and consultation has been compliant with the requirements therein, including the consultation on the post-submission main modifications.
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Habitats Regulations Assessment (HRA)	The HRA Screening Report of June 2013, updated in March 2014 to include screening of main modifications, sets out why Appropriate Assessment is not necessary. This position has been endorsed by NE.
National Policy and the Circular	The SSPLP complies with national policy except where indicated, and modifications are recommended to resolve this.
Sustainable Community Strategy (SCS)	Satisfactory regard has been paid to the SCS for Norfolk and Suffolk (Norfolk Ambition 2003-2023, Transforming Suffolk 2008-2028) as well as those for each of the Broads' constituent districts.
Public Sector Equality Duty	The SSPLP complies with the duty.
1988 Act (as amended) 2004 Act (as amended); 2012 Regulations.	The SSPLP complies with the Acts and the Regulations.

<sup>29</sup> EPS26



## Assessment of Soundness

### Preamble

25. The SSPLP policies replace the remaining policies of the Broads Local Plan, adopted in 1997<sup>30</sup>, apart from Policy TSA2 (Thorpe Island), which is saved. The options for Thorpe Island have proved to be controversial and the area is subject to ongoing enforcement issues, which have gone to appeal and been successfully challenged in the High Court. At the time of the examination hearings into the SSPLP the re-determination of the appeal was still outstanding, thereby resulting in uncertainty over the area's planning status<sup>31</sup>.
26. The BA wish to reflect the outcome of this appeal in any new policy and, therefore, rather than delaying the rest of the SSPLP pending the appeal decision, it has decided to retain the existing 1997 Policy TSA2 for the time being, and to proceed with the examination of the rest of the SSPLP without a new Thorpe Island Policy. However, the BA plans to review all parts of its Local Plan in the near future and the 1997 Thorpe Island Policy will be included in this review. Under the circumstances, I am content that this provides a reasonable way forward and avoids unnecessary delay of the SSPLP examination.
27. The Government's new Planning Practice Guidance was published on 6 March 2014 (after the examination hearings) and previous planning practice guidance, which it replaces, was cancelled. However, there is nothing within this Guidance which necessitates any additional modification to the SSPLP, over and above what was discussed at the hearings.

### Main Issues

28. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings I have identified six main issues upon which the soundness of the Plan depends.

#### **Issue 1 – Whether the overall Plan meets in general the tests of soundness.**

##### *Positive preparation*

29. The SSPLP seeks to deliver the assessed development requirements for the Broads as set out in the CS, taking account of development constraints in the area and particularly the need to protect from flood risk<sup>32</sup>, and the need to protect the area's Ramsar Sites, Special Protection Areas (SPAs) and Special Areas of Conservation (SACs)<sup>33</sup>.
30. With respect to seeking to meet any unmet needs from neighbouring authorities, the SSPLP's housing allocations contribute to the constituent district's housing targets by providing windfall sites. Furthermore, the Broads

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<sup>30</sup> SD2 Appendix A

<sup>31</sup> See TP2

<sup>32</sup> See maps at SD3

<sup>33</sup> See maps at SD3

contributes to the recreational needs of residents from nearby authorities.

31. On this basis, I find that the Plan has been positively prepared.

*Justified*

32. The SSPLP policies reflect the special qualities of the Broads' area, including those associated with its cultural heritage, wide open spaces, coastlines, and sense of relative wilderness and tranquillity, as required by the Circular<sup>34</sup>. From the *Evidence Base Note*<sup>35</sup> it appears that the Plan's policies are based on proportionate, up-to-date and accurate evidence.
33. All reasonable alternatives have been sufficiently considered as demonstrated by the SA<sup>36</sup>, which provides a clear audit trail. Apart from Policy WES1, which is dealt with under Issue 2, the SA informs and supports the Plan's policies and the evidence suggests that the site allocations are appropriate for their suggested use.
34. The methodology used for the site selection process is appropriate and appears to have been properly carried out with checks put in place to ensure proper assessment and no bias<sup>37</sup>. Appropriate consultation took place at the relevant stages<sup>38</sup> and consultation responses were considered resulting in some amendments. Where a requested change did not occur, the reasoning for this was explained.
35. However, to meet this soundness test, a number of main modifications are required as set out in the sections below. Subject to these modifications, the SSPLP policies are justified.

*Effective*

36. Many of the SSPLP policies are protective or permissive and there is no reason to suggest that they should not be deliverable. The BA has, however, produced a viability note<sup>39</sup> in accordance with Framework requirements<sup>40</sup>, which is a proportionate approach to the requirements of the SSPLP policies and which considers relevant viability issues which are integral to the Broads.
37. When preparing development proposals, consideration of issues such as flood risk, cultural heritage, navigation, biodiversity, amenity, water quality and landscape impact is indicated as being a normal cost in the Broads Executive Area. Therefore, the BA has concluded that whilst it is essentially more expensive than most areas to develop in the Broads, it is not preclusive.
38. The SSPLP's four housing allocations have been assessed for deliverability<sup>41</sup>

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<sup>34</sup> Circular ¶123

<sup>35</sup> SD21

<sup>36</sup> SD4a Appendix B(ii) – alternative options & Appendix B(iii) rejected options

<sup>37</sup> See BALP p16

<sup>38</sup> See SD9a,b,c&d and SD10a,b&c

<sup>39</sup> SD15

<sup>40</sup> Framework ¶173

<sup>41</sup> BALP p17 Table 3

and there is nothing to suggest that these sites will not come forward. Indeed, at the time of the examination hearings, the two largest allocations in the Plan, namely Ditchingham Maltings<sup>42</sup> and the Pegasus site<sup>43</sup>, respectively had planning permission and a resolution to grant planning permission<sup>44</sup>.

39. On this basis I am satisfied that the SSPLP's policies are effective.

*Consistent with national policy*

40. The Plan contains a policy<sup>45</sup> reflecting the model policy on the presumption in favour of sustainable development<sup>46</sup>, albeit modified to ensure that it is appropriate for the Broads area, given its designated status. The BA's compliance note<sup>47</sup> also addresses how the SSPLP complies with the Framework.

41. However, to be fully compliant, a number of main modifications are required as identified in this report. Subject to these modifications the Plan is consistent with national policy.

*Conclusion*

42. Therefore, overall, I have good reason to conclude that, with the recommended main modifications, the SSPLP has been positively prepared, is justified and effective, and is consistent with national policy.

**Issue 2 – Whether the housing requirements of the Broads Executive Area are appropriately provided for with respect to market and affordable housing, gypsy and traveller sites, and residential moorings.**

*Market and affordable housing provision*

43. The Framework requires local planning authorities to use their evidence base to ensure that their LP meets the full, objectively assessed needs for market and affordable housing in the housing market area<sup>48</sup>. However, whilst the BA is a planning authority it is neither a housing authority nor a housing provider<sup>49</sup>.

44. In order to best resolve the issue of housing need, there has been a long standing arrangement for the districts to accommodate housing for the Broads' area within their own housing figures<sup>50</sup>. Memorandums of understanding have more recently put this arrangement on a more formal footing<sup>51</sup>, and any housing that is brought forward within the Broads' area is considered as windfall housing within the constituent districts.

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<sup>42</sup> DIT1

<sup>43</sup> OUL3

<sup>44</sup> BALP p18

<sup>45</sup> XNS 8

<sup>46</sup> Framework ¶14, taking account of footnote 9

<sup>47</sup> SD18

<sup>48</sup> Framework ¶47

<sup>49</sup> Circular ¶76

<sup>50</sup> BALP p27

<sup>51</sup> EPS2

45. Nonetheless, whilst furthering the statutory purposes of the Broads, the BA must also give sufficient weight to socio-economic interests in order to fulfil its duty to sustain strong communities<sup>52</sup>. However, the Government recognises that the Broads is not a suitable location for unrestricted housing and does not, therefore, provide it with a general housing target, expecting new housing instead to meet affordable housing requirements, and to support local employment opportunities and key services<sup>53</sup>.
46. The BA also point to the fact that the New Homes Bonus<sup>54</sup> is distributed on a district basis without there being any legal requirement for it to be received by the BA. This, it submits, provides further evidence that the BA is not required to fulfil any housing target.
47. Following the publication of the Framework, the ten national parks authorities including the BA, prepared an articulation<sup>55</sup> of what they understood their housing role to be, namely, concentrating on affordable and intermediate housing for local needs whilst allowing a small element of market housing as a means of achieving this aim. Although this understanding has not been confirmed by the Government, the articulation was sent to the Department of Communities and Local Government and has not been challenged.
48. New house building in the Broads' area is significantly constrained by its boundary being tightly drawn to the floodplain<sup>56</sup>, its ecological designations<sup>57</sup>, water quality issues<sup>58</sup>, and the need to attribute great weight to conserving its landscape and scenic beauty<sup>59</sup>. Therefore, one of the CS's objectives is to ensure that housing is provided within the wider Broads' area, which is generally taken to mean the Broadland catchment that includes the administrative areas of the constituent districts in their entirety<sup>60</sup>.
49. The Broads area continually transects parishes and not one single, whole parish falls entirely within the Broads' area, so that it is essentially made up of part parishes. Limited information is available on the needs of the Broads' parts of the parishes on their own, as opposed to the needs of the parishes as a whole, which extend into the neighbouring districts.
50. Development Management Policy DP22 restricts new residential development to within defined development boundaries, and up until the most recent monitoring period of 2012/2013, I am told that housing permissions in the Broads were in the order of about 12 dwellings per annum. However, the SSPLP positively seeks opportunities for development and identifies four suitable sites for housing development outside the development boundaries<sup>61</sup>, thereby providing for relatively large areas of land for mixed use schemes,

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<sup>52</sup> Circular ¶168

<sup>53</sup> Circular ¶178

<sup>54</sup> Whereby financial reward is given in response to increased rates of house building

<sup>55</sup> BALP Appendix 11

<sup>56</sup> About 80% of the Broads' area is within floodplain – see SD3b

<sup>57</sup> About 25% of the Broads is SAC and SSSI – see BALP p25 and SD3d

<sup>58</sup> See EA responses to consultations in SD10b

<sup>59</sup> Framework ¶115

<sup>60</sup> BALP p27

<sup>61</sup> DIT1, NOR1, OUL3 and WES1

which could deliver more than 180 dwellings.

51. The DIT1, NOR1 and OUL3 sites are all previously developed land and the development of such land is supported by the Framework<sup>62</sup>. DIT1 has been rolled forward from the 1997 Local Plan and now has planning permission<sup>63</sup>, NOR1 is based on the East Norwich pre-application advice note 2010<sup>64</sup>, and OUL3 is subject to a development brief<sup>65</sup> with a resolution to grant planning permission in place. There is nothing to suggest that these sites are not deliverable. Each of these policies addresses affordable housing by triggering the relevant policy of the neighbouring local planning authorities<sup>66</sup>, thereby seeking to contribute to the needs of local residents. For these reasons, I find these three allocations to be sound. However, there are issues with the fourth allocation, WES1.
52. WES1 seeks to allocate up to three houses in West Somerton, which is a parish located partly within the area of Great Yarmouth Borough Council. According to the Borough's emerging local plan, West Somerton is a tertiary village<sup>67</sup> which is not earmarked for housing<sup>68</sup>. Whilst there is a significant need for affordable housing in the area, the allocation would not trigger the Borough's policy for providing affordable housing, and so would not contribute to this need. The allocation is not supported by the SA and the BA has confirmed that it could not support it on land use planning principles.
53. The BA's justification for the policy is that it was requested by Somerton Parish Council and supported by the majority of residents within the village<sup>69</sup>, thereby bringing into play the provisions of the "*plain English guide to the Localism Act*". However, the way the Localism Act 2011<sup>70</sup> and the Framework<sup>71</sup> make provision for "localism" is by allowing for Neighbourhood Plans and Neighbourhood Development Orders to be produced via specific procedures, which are quite separate from the BA's plan making process. Consequently, as it stands, policy WES1 is not appropriate.
54. Nonetheless, at the hearing session on this policy, Somerton Parish Council confirmed that what was wanted was a single self-build house to contribute to the needs of the village. The representative from Great Yarmouth Borough Council indicated that the Borough would support and encourage such a proposal, for which there is significant local need. There is nothing to suggest that such a policy would not be deliverable and nor would it undermine the CS.

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<sup>62</sup> Framework ¶¶17 & 111

<sup>63</sup> See BALP p28

<sup>64</sup> EB6 – prepared by Norwich City Council, the BA, South Norfolk District Council and Norfolk County Council

<sup>65</sup> EB7. See also BALP p28 for details of co-operation with other authorities

<sup>66</sup> See Development Management Policy DP23. DIT1 (South Norfolk); NOR1 (Norwich, Broadland and South Norfolk) and OUL3 (Waveney). See EPS3 for neighbouring authorities affordable housing policies

<sup>67</sup> See emerging policy CS2 shown within BALP pp52 & 53

<sup>68</sup> BALP Appendix 10

<sup>69</sup> SD9b Appendix 2

<sup>70</sup> Chapter 3 and Schedule 9

<sup>71</sup> Framework ¶¶183 to 185

55. Therefore, **MM21**, **MM22**, **MM23**, **MM24** and **MM25** are recommended which have the effect of appropriately allocating the site for one self-build or affordable dwelling subject to criteria. However, unless the submitted policies map is also modified to reflect changes to the site, the policy will remain unjustified. Accordingly, **MM30** is recommended which amends the policies map, thereby ensuring consistency with the policy.
56. With the identified main modifications, I find that the Plan's provision for market and affordable housing is sound.

#### *Gypsy and traveller sites*

57. As with mainstream housing, the neighbouring districts provide for any gypsy and traveller accommodation needs that the Broads may have. Evidence of need in the form of Gypsy and Traveller Accommodation Assessments or Strategic Housing Market Assessments are carried out by the districts for their entire area, including the Broads<sup>72</sup>, and the districts take responsibility for providing pitches for the Broads area, albeit not within it<sup>73</sup>.
58. Neither the CS nor the Development Management Policies make provision for gypsy and traveller needs. However, since the adoption of these plans, Government guidance in the form of *Planning policy for traveller sites*, March 2012, has been published, which requires the accommodation requirements of gypsies and travellers to be considered in local plans. Nonetheless, as the BA is not a housing authority, it has taken the view that there is no requirement for it to provide pitches within the Broads area.
59. There are no gypsy or traveller allocations within the SSPLP and nor are there any existing gypsy or traveller sites within the Broads Executive Area. Despite this, I am told that there have been no issues historically with unauthorised gypsy and traveller incursions<sup>74</sup>, and whilst the Gypsy Council and the National Federations of Gypsy Liaison Groups were consulted on the SSPLP, they made no response.
60. Overall, as the constituent districts provide for any gypsy and traveller needs that may be identified for the Broads, there is no need for the SSPLP to include gypsy and traveller site allocations. Therefore, the Plan is sound without them.

#### *Residential moorings*

61. The Framework requires local planning authorities to plan for a mix of housing based on, amongst other things, the needs of different groups within the community<sup>75</sup>. Within the Broads there is evidence of need for residential moorings<sup>76</sup> and this need is not met by the neighbouring districts<sup>77</sup>. Nonetheless, due to the area's protected landscape and ecological

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<sup>72</sup> See BALP Appendix 7

<sup>73</sup> See EPS2 (memorandums of understanding)

<sup>74</sup> See BALP p37

<sup>75</sup> Framework ¶150

<sup>76</sup> BALP p39

<sup>77</sup> BALP p40

designations, there is a finite capacity for moorings and the provision of residential moorings must be managed to ensure that the special qualities of the Broads and their enjoyment are protected.

62. Therefore, to protect the Broads and also to ensure that occupants of houseboats have access to adequate facilities, Development Management Policy DP25 restricts new residential moorings to mooring basins, marinas or boatyards that are within or adjacent to a defined development boundary<sup>78</sup>. Although the SSPLP removes a number of the development boundaries that are in the 1997 Local Plan<sup>79</sup>, unchallenged evidence from the BA indicates that no boat dwellers are likely to be displaced as a result of this.
63. Nonetheless, the SSPLP has introduced a greater degree of flexibility by permitting new residential moorings subject to criteria in three areas which are not within or adjacent to development boundaries<sup>80</sup>. The evidence suggests that, particularly due to their access to facilities, these areas are suitable for appropriate levels of residential moorings.
64. In addition to these areas, Brundall Parish Council has identified two more areas, which the BA agrees are suitable for residential mooring subject to criteria<sup>81</sup>. I inspected these areas on my site visit and they appear to me to be appropriate for this use.
65. Therefore, to permit appropriate residential moorings in these locations, and to justify the Plan and ensure its compliance with the Framework, **MM3**, **MM4**, **MM5**, **MM6** and **MM7** are recommended relating to BRU2 (Riverside Estate Boatyard) and new policy BRU6 (Brundall Gardens). However, unless the submitted policies map is correspondingly modified, these policies will be unsound. Therefore, **MM28** is recommended to resolve this position.
66. The BA submits that the positive approach of Development Management Policy DP25 plus the additional provision offered by the SSPLP is sufficient to address the area's need for residential moorings and there is nothing before me to suggest otherwise. The special qualities of the Broads will remain protected by all of these policies and an appropriate balance will be maintained between residential needs and the mooring demands of tourists. On this basis I find that the SSPLP as modified is sound with respect to residential moorings.

### *Conclusion*

67. Overall, with the identified main modifications I find that the SSPLP seeks to implement the housing aspects of the CS in the most appropriate way and satisfies the housing requirements of the Circular and the Framework. Therefore, the SSPLP is sound in this regard.

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<sup>78</sup> XNS9 lists the areas with development boundaries as Horning, Wroxham and Hoveton, Oulton Broad and Thorpe St Andrew

<sup>79</sup> See TP1 and HD3/BA Matter 7

<sup>80</sup> BRU4, HOR7 and STA1

<sup>81</sup> EPS 16/BRU4 Statement of Common Ground between Brundall Parish Council and the BA

### **Issue 3 - Whether the development boundaries and open spaces allocations are the most appropriate.**

#### *Development boundaries*

68. The general thrust of CS Policy CS18 has influenced the approach taken in the SSPLP to development boundaries. Therefore, the development boundaries have been drawn to seek to achieve sustainable development that is concentrated in locations (i) with local facilities; (ii) with high levels of accessibility; and (iii) where previously developed land is utilised. Flood risk was also taken into account<sup>82</sup>, as was potential impact on Natura 2000 sites<sup>83</sup>. These considerations have led to a number of development boundaries currently in the 1997 Local Plan being removed<sup>84</sup> so that only four now remain<sup>85</sup>.
69. The development boundary relating to HOR1 (Development Boundary and Drainage) is based on the 1997 Local Plan version but removes extensive garden areas to provide additional protection to the setting of the area<sup>86</sup>. Whilst a representation was made objecting to part of the garden at Ropes Hill not being included<sup>87</sup>, its prominent, highly visible corner location on a road junction justifies its exclusion in the interests of preserving the character and appearance of the area.
70. HOV1 (Development Boundary), OUL1 (Development Boundary) and TS5 (Thorpe St. Andrew Development Boundary) all have their development boundaries appropriately drawn to remove certain garden land from the 1997 version in the interests of landscape protection<sup>88</sup>. Although Norwich Frostbite Sailing Club has sought an extension of the development boundary to TS5 to include land off Girlings Lane<sup>89</sup>, this area forms a semi-natural buffer between the urban and the wider Broads. Consequently, whilst there would be economic and social benefits associated with the site's development, its exclusion is justified in the interests of protecting the character and appearance of the area.
71. Nonetheless, it is important to ensure that the SSPLP policies strike the right balance and are not too restrictive of development. There is a degree of inconsistency between CS18 and the Framework as CS18 requires development to be located in areas with high levels of accessibility, and this shows a lack of flexibility with respect to some rural locations<sup>90</sup>. Therefore, to ensure sufficient flexibility and balance, other SSPLP policies allow for certain development outside development boundaries, drawing on the Development

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<sup>82</sup> See BALP Appendix 3

<sup>83</sup> See BALP Appendix 4

<sup>84</sup> See TP1

<sup>85</sup> Set out in XN9

<sup>86</sup> See BALP Appendix 8

<sup>87</sup> See for example EPS14/HOR1 Statement of Common Ground between Mr Mountford and the BA

<sup>88</sup> See BALP Appendix 8

<sup>89</sup> See for example EPS17/TSA5 Statement of Common Ground between Norwich Frostbite Sailing Club and the BA

<sup>90</sup> See in contrast Framework ¶¶29 & 34



Management Policies DPD to help determine relevant applications<sup>91</sup>. On this basis, I find that the Plan's approach to development boundaries is sound.

### *Open spaces*

72. The SSPLP's approach is to allocate land as areas of open space only within or near to areas of major growth or within development boundaries, thereby providing protection from development. Otherwise, the general presumption is that the CS and Development Management Policies will afford adequate protection, where required. This is a reasonable approach to take and has not been challenged.
73. As the Framework includes areas of water (such as rivers, canals, lakes and reservoirs) in its definition of open space<sup>92</sup>, there is a school of thought that suggests that the entire water area of the Broads may be considered to constitute open space. Therefore, overall, the SSPLP allows for the provision and maintenance of sufficient, suitable open space for public enjoyment both on and off land.
74. In summary, for the reasons given, I find that the Plan's provision for open spaces is sound.

### *Conclusion*

75. In conclusion the evidence suggests that the locations and extent of the development boundaries and open spaces allocations within the SSPLP are the most appropriate. Therefore, I find this part of the Plan to be sound.

### **Issue 4 – Whether the economic interests of those who live and work in the Broads are adequately catered for.**

76. The SSPLP contains a number of varied policies which refer specifically to benefitting the local economy<sup>93</sup>. However, the most significant contributor to the Broads' economy is tourism.
77. The Circular states that sustainable tourism contributes to the Broads' purposes and the pursuit of sustainable tourism is a critical objective for the BA as a key contributor to the local economy and a prerequisite for the successful promotion of the wider enjoyment of the Broads area<sup>94</sup>. It goes on to say that within the Broads area, conserving and enhancing the landscape, biodiversity, cultural heritage, dark skies and natural resources, and promoting public understanding and enjoyment of these should lie at the very heart of developing a strong economy and sustaining thriving communities<sup>95</sup>.
78. The BA should promote new access and recreational opportunities and ways of delivering them<sup>96</sup>. Providing for sustainable forms of boating is an important

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<sup>91</sup> See BALP p43

<sup>92</sup> Framework Annex 2: Glossary

<sup>93</sup> BRU1, BRU3, BRU4, CAN1, HOR2 and OUL3

<sup>94</sup> Circular ¶¶81 & 82

<sup>95</sup> Circular ¶129

<sup>96</sup> Circular ¶126

consideration. The Government expects the BA to continue to encourage a greater range of people to take up sailing, canoeing and fishing and other water related activities and to work with the local tourist industry to promote the area<sup>97</sup>.

79. The CS reflects this advice by incorporating a tourism strategy driven by enjoyment of the wetland area, and the SSPLP promotes its implementation by encouraging tourism and providing visitors with a wide range of opportunities. Relevant policies include Policy XNS5 (Drainage Mills) conserving the area's cultural heritage, Policy XNS6 (Waterside Pubs) protecting a long list of establishments, Policy XNS3 (The Coast) promoting quiet coastal recreation, and WHI1 (Whitlingham Country Park) encouraging recreational opportunities.
80. Other policies for "honeypot" areas popular with visitors and businesses, such as Potter Heigham, and Hoveton and Wroxham, as well as busy water-side villages such as Horning, seek to reflect the local characteristics which are often the reasons why people visit them. The policies relating to moorings<sup>98</sup> and boatyards<sup>99</sup> promote the navigation of the Broads, and walking and cycling routes are also covered by specific policies<sup>100</sup>. In general, the Plan properly provides for a wide range of tourist experiences, thereby promoting the economy.
81. The Plan will be delivered in the context of other projects being undertaken by the BA, which seek to ensure that tourism is sustainable, such as the *Sustainable Tourism in the Estuary* Project which aims to develop sustainable tourism projects and initiatives in three partner areas<sup>101</sup>. This will help ensure that the tourist elements of the SSPLP are effective.
82. Nonetheless, there is one site at Hedera House in Thurne, which has not been properly provided for within the Plan. The site is currently used for tourist accommodation, and contributes significantly to the tourist trade. Consequently, the BA would ideally like to see it retained as a tourist facility.
83. However, the site's buildings are outdated and in need of significant renovation or replacement and, I understand that the business is running at a loss<sup>102</sup>. In order to retain this site as an attractive tourist facility, it will need redeveloping, although I am told that in order to provide new tourist accommodation an element of enabling housing development will be required. Consequently, an element of market housing is justified in these circumstances.
84. As the site is neither within a development boundary, nor the subject of an allocation, such development is not supported by the SSPLP. This is not appropriate in this case. Therefore, to rectify the situation, **MM18** and **MM19**

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<sup>97</sup> Circular ¶133

<sup>98</sup> Eg BRU3

<sup>99</sup> Eg BRU4

<sup>100</sup> NOR2 and XNS7

<sup>101</sup> The Broads in England, the Polders of Kruikebeke in Flanders and the Biesbosch in the Netherlands

<sup>102</sup> See EPS18/XNS9 Statement of Common Ground between Reedling Consultants and the BA

are recommended, which introduce a new Policy THU1 (Tourism development at Hedera House), thereby allocating the site for tourist development whilst also allowing a proportionate amount of general market housing as enabling development. However, unless the submitted policies map is also amended, the policy will be unsound. Therefore, to ensure consistency with the policy, **MM29** is also recommended.

85. Apart from tourism, agriculture and boatbuilding are sectors which significantly contribute to the Broads' economy. The SSPLP seeks the retention of and improvements to the Cantley Sugar Beet works<sup>103</sup>, which is strategically significant to the sugar processing industry and local farmers who grow the sugar beet. Other policies within the Plan seek to reinforce and encourage the continued use of existing boatyards in commercial marine use, whilst pragmatically recognising the need for diversification<sup>104</sup>.
86. On the basis of the above policies, I have good reason to conclude that the Plan, subject to the identified main modification, is sound in its treatment of the economic interests of the Broads.

### **Issue 5 – Whether heritage assets and biodiversity are sufficiently protected.**

#### *Heritage*

87. The Framework requires local planning authorities to have a positive strategy for conserving heritage assets<sup>105</sup>. Accordingly, the Plan should take account of the potential impacts of development on drainage mills, Potter Heigham Bridge and the Grade II listed building near Griffin Lane, which are all heritage assets. As the Plan does not adequately provide for this, **MM17**, **MM20** and **MM27** are recommended to resolve this issue.
88. Also, there is evidence of the potential for archaeological remains in the area, and in such cases archaeological surveys are often needed in advance of planning permissions being granted. The Plan does not adequately address this. Therefore, in accordance with national guidance, **MM15**, **MM16** and **MM20** are recommended.
89. The identified main modifications would ensure that the Plan was sound with respect to heritage assets.

#### *Biodiversity*

90. The Framework requires the planning system to contribute and enhance the natural and local environment<sup>106</sup>. Given that the Broads is an internationally important wetland, water quality is a high priority for this sensitive area. Therefore, it is essential for the Plan to reflect the need to monitor the water quality and to protect and improve the water environment. As the potential impacts of development on water quality are not fully addressed, **MM2** and

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<sup>103</sup> CAN1

<sup>104</sup> Eg BRU4 and OUL3

<sup>105</sup> Framework ¶126

<sup>106</sup> Framework ¶109

**MM27** are recommended to ensure compliance. To further protect biodiversity, in accordance with the evidence, **MM26** and **MM27** are also recommended.

91. Additionally, due to capacity limitations at Anglian Water Services' Water Recycling Centre<sup>107</sup>, to ensure the protection of designated sites, it is essential that development in the Horning catchment area does not take place until available capacity within the foul sewerage network is confirmed. Therefore, to reflect this and to accord with national policy, **MM8**, **MM9**, **MM10**, **MM11**, **MM12**, **MM13** and **MM14** are recommended.
92. With the identified main modifications the Plan would be sound with respect to biodiversity.

### **Issue 6 – Whether the implementation and monitoring arrangements are fit for purpose.**

93. The SSPLP implementation and monitoring provisions complement and feed into the monitoring framework of the CS with each SSPLP policy having a set of monitoring indicators, information sources and notes on implementation partners. Existing available information and knowledge will be drawn upon which, with respect to environmental designations or sensitivities, will include the expert and local knowledge of the BA's ecologists and field staff and partner organisations such as the EA, NE, the Royal Society for the Protection of Birds and Norfolk Wildlife Trust.
94. None of the policies identify an outcome to be achieved within a specified timeframe as there are no development targets. Instead, they mainly identify criteria to be applied to proposals, with allocations simply being permissive. Consequently, there are no milestones or timescales for achieving development. This is appropriate under these circumstances.
95. Provision is made for the identified indicators to be assessed each year and for implementation of the policies to be reported on along with those of the CS and Development Management Policies DPD as part of the Annual Monitoring Report<sup>108</sup>. This will enable checks to be made on whether the policies are achieving their intended results and whether potential adverse impacts associated with any particular site are being avoided.
96. If at a later stage in the plan period the policy aims for a site are assessed as being non-deliverable, or things change so that the policy is no longer justified, it is important that there is provision for the SSPLP to respond flexibly and in accordance with the Framework, which states that plans should be kept up to date<sup>109</sup>. The SSPLP does not provide for reviews and, therefore, to respond flexibly and accord with national policy **MM1** is recommended, which requires reviews at least every five years, whilst also indicating that it is the BA's intention to start to review all adopted policies of the CS DPD, Development Management DPD and SSPLP sooner, as a single LP for the Broads is produced.

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<sup>107</sup> See BALP Appendix 9

<sup>108</sup> See for example EPS15 for latest Annual Planning Monitoring Report 2012-2013

<sup>109</sup> ¶17, 1<sup>st</sup> bullet point

97. In conclusion, the Plan contains sufficient realistic, indicators to monitor the performance of the policies. It provides for proper, regular assessment of how effective the policies are proving to be in meeting their objectives, thereby facilitating the identification of any changes needed. Consequently, with the recommended main modification I find that the implementation and monitoring strategy is fit for purpose and sound.

## **Overall Conclusion and Recommendation**

98. The Plan has a number of deficiencies in relation to soundness for the reasons set out above which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the Act. These deficiencies have been explored in the main issues set out above.

99. The BA has requested that I recommend main modifications to make the Plan sound and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix the BA's SSPLP satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the Framework.

*Elizabeth C Ord*

Inspector

This report is accompanied by the Appendix containing the main modifications