

REPORT TITLE	LOCAL PLAN EXAMINATION: MAIN SOUNDNESS ISSUES & ACTION PLAN
Executive Summary	The purpose of this report is to update Members in line with the Inspector's post hearing letter and seek endorsement of the Action Plan and consultation arrangements moving forward.
Options considered.	An option exists not to accept the Action Plan in full, and to only take forward parts and/or add through additional growth options.
Consultation(s)	Earlier iterations of the local plan
Recommendations	<p>Members of the Planning Policy & Built Heritage Working Party recommend to Cabinet that:</p> <ol style="list-style-type: none"> I. the draft Action Plan is endorsed and taken forward to the timelines outlined; II. the updated evidence and background papers are endorsed; III. the consultation arrangements and communication Plan are endorsed; IV. that delegated authority is given to the Acting Planning Policy Manager in consultation with the Planning Portfolio Holder to finalise the Action Plan and consultation material and continue to respond to the Inspectors questions during the Examination period and hearing(s)
Reasons for recommendations	To address the inspectors' main concerns relating to soundness
Background papers	Further supporting evidence can be found in the examination library www.north-norfolk.gov.uk/localplanexamination

Wards affected	All
Cabinet member(s)	Cllr Andrew Brown, Portfolio Holder for Planning & Enforcement
Contact Officer	Iain Withington, Acting Planning Policy Manager iain.withington@north-norfolk.gov.uk

Links to key documents:	
Corporate Plan:	The report addresses all five themes: Our Greener Future, Developing Our Communities, Meeting Our

	Housing Need, Investing in Our Local Economy and Infrastructure and A strong, Responsible & Accountable Council.
Medium Term Financial Strategy (MTFS)	N/A
Council Policies & Strategies	Adopted and emerging local plan

Corporate Governance:	
Is this a key decision	No
Has the public interest test been applied	No
Details of any previous decision(s) on this matter	<p>None that are specific to this matter of the local plan Examination.</p> <p>Key Dates: Receipt of Inspectors Initial Letter: July 2024 Local Plan Examination Hearings: January to March 2024 Matters and Issues- November 2023 – January 2024 Delegated Authority given to PPM and PO for Planning to respond to the Inspectors questions prior to and during the Examination hearings: July 2023. Local Plan Submission: May 2023</p>

1. Purpose of the report

- 1.1 **The purpose** of this report is to seek Member endorsement on the Action Plan and available additional options and consultation arrangements in order to address the local plan Inspector’s main soundness issues raised in his May 2024 letter (examination library document [EH006\(f\)](#)), which the Council received on 22 July 2024.
- 1.2 It is also the intention to seek authority to consult on the Action Plan in line within the timeline expected by the Inspector and the new “Pragmatic” approach now being adopted by the Planning Inspectorate (PINS) following the change in government as set out by Matthew Pennycook MP Minister of State for Housing, Communities and Local Government (MHCLG), in his letter to Paul Morrison, Chief Executive of PINS on 30th July 2024 and his reply on 1st August 2024 set out in appendix 1d.

2. Introduction & Background

- 2.1 The local plan hearing sessions were undertaken during January to March 2024 across three weeks of public hearings. These were informed by a series of “matters and issues” questions previously raised by the inspector, and officers’ responses along with further third-party responses and debate on the

hearing day(s). These questions and responses along with further actions and information requested from the Inspector can be found in the [Examination Library](#) documents EH001 - EH017(f).

Identification of main soundness issues

- 2.2 Following the examination hearing sessions, in his initial post-hearings letter dated 24 May 2024 (delayed due to the General Election and received by the Council on 22 July 2024), the Inspector raised three main soundness issues which the Council are required to address and re-consult on:
1. A **shortfall in housing provision**
 2. The approach to **Small Growth Villages** as set out in Policy SS1 of the emerging local plan.
 3. Updating the **Gypsy and Traveller evidence base** to reflect the change in definition brought in in December 2023 and to bring forward any necessary changes to the Plan that might arise from this updated evidence.
- 2.3 The Inspector's letter is available as examination document [\[EH006 \(f\)\]](#), along with the Councils response [\[EH006 \(g\)\]](#) and the Inspector's subsequent reply [\[EH006 \(h\)\]](#) and set out in appendices 1a-c of this report.
- 2.4 In addition to this, notice is given that there are a number of other soundness issues, some of which the Council has proposed modifications to address through the matters and issues stage, and others which were agreed through the hearing sessions under delegated authority granted previously (July 2023). Such issues are considered by the Inspector to be corrected relatively simply through modifications and the intention is that these will be subject to a further letter from the Inspector and brought together once the main issues above have been addressed and the examination progresses onto the main modifications stage.

Pragmatism in assessing Local Plans: Ministerial letter to PINS

- 2.5 Following the change in government, Matthew Pennycook MP, MHCLG, wrote to PINS on 30th July setting out the new government's position on how examinations should be conducted in regard to delays and the meaning of "pragmatism". The letter updates the previous government's instructions around taking a pragmatic stance and assisting Councils to achieve a sound plan and replaces this instruction with an expectation that 'pragmatism' should be used only where it is likely that a Plan is capable of being found sound. This is to ensure that Inspectors can focus their time and resource on plans that can be adopted. Deficient plans that cannot be easily fixed at examination should be sent back to allow the local authority, in partnership with their local communities, to bring forward a new plan. The letter goes on to state that:

'Any pauses to undertake additional work should usually take no more than six months overall. Pragmatism should not be used to address fundamental issues with the soundness of a plan, which would be likely to require pausing or delaying the examination process for more than six months overall. Local authorities should provide regular progress updates of their work to the Planning Inspector during any agreed pause.'

The full letter and Response from the Planning Inspectorate is attached as Appendix 1d.

- 2.6 The Council can now expect a fundamental change in approach to the examination of the emerging local plan as pragmatism clearly in this context now has its limits and the expectation of the Inspector is that the issues identified need to be resolved within the six-month time frame envisaged.
- 2.7 To this aim a broad approach and six-month timescale has been agreed with the Inspector as detailed in the correspondence attached -appendix 1b &c. In his response it is confirmed that the mostly positive response by the Council to *“increase the supply and flexibility of housing delivery in the Plan by approximately 1,300 – 1,500 depending on how this is done “should be a good basis for the examination to proceed.....”* but the timeline *should not be allowed to slip significantly”*. However, he adds a note of caution and advises that progression is required to address nutrient neutrality constraints and demonstrate the larger site allocations are moving forward to the projected timelines in order to avoid any further slippage and revisions on the local plan trajectory with the inevitable consequences of further numbers being required to make up any subsequent shortfalls. He confirms that the timeline is acceptable to PINS but should not be allowed to slip in the context of pragmatism set out by the Minister.

3. Action plan to address the main soundness issues

1- Growth Options - additional site allocations and allocation extensions

- 3.1 In order to address the main soundness concerns around the shortfall in dwellings and address the concerns around ensuring there is adequate early provision in the Plan to ensure a Five-Year Housing Land Requirement, officers have reviewed the remaining site options as detailed in the site assessment booklets and further information provided during the earlier hearing sessions. The review of existing site options has categorised sites as Group A and B. Group A consists of sites capable of intensification, extension and those sites previously identified as suitable but not required to meet the housing requirement at the time. Group B consists of sites which were previously discounted but have potential subject to addressing appropriate scale and mitigation of constraints. Each site option has been informed by a further sustainability appraisal, SA and undergoing HRA screening and appropriate assessment where necessary. The sites and their full assessment will be incorporated into a further background paper and form part of the further consultation material along with detailed phasing information.
- 3.2 The details of the additional sites and extensions are contained in the Action Plan set out in Appendix 2 and Appendix 3, which show that a further 785 dwellings could be provided through proposed allocations.
- 3.3 In addition, a modification proposed by the Council [EH013k] increases windfall allowance in the Plan from 2029/30 to 180pa. This modification has been accepted by the Inspector (paragraph 47 appendix1a) and as such provides for a further 495 dwellings against the identified shortfall.
- 3.4 With the subsequent adoption of the Wells Neighbourhood Plan, the Council can also include the neighbourhood plan allocation for affordable housing at Two Furlongs Hill. This provides for a further 45 dwellings and Housing colleagues are actively seeking to work with the town council to bring this forward.

2 - Spatial Strategy - Small Growth Villages

3.5 In order to address the main soundness concerns around identifying more opportunities for villages to grow and thrive, as detailed in Paragraph 83 of the NPPF, (December 2023), it is proposed to consult on the following proposals:

- I. **Increase the number of Small Growth Villages (SGVs).** The Inspector put forward an option around the potential expansion of the list of SGVs to *'include those with a key service and (say) three secondary/desirable services'* as set out in examination document [EX034(a)]. Along with the ten villages identified at this time, a broader review of the districts villages within the Distribution of Growth Background Paper 2, [C2] was undertaken and the two further villages of Erpingham and Felmingham have since been identified as meeting the revised criteria. Consequently, a total of twelve villages have been assessed, with conclusions to remove Neatishead and Swanton Abbott from this list. An addendum to the background paper detailing the full assessment and justification for selection is attached as Appendix 4. In total a further ten villages have been identified along with new settlement boundaries. The boundary review is contained in Appendix 5 and will form part of the additional consultation material.
- II. **Increase the percentage indicative allowance from 6% to 9% across all of the SGVs.** This would result in an indicative housing allowance across all SGVs of 873 dwellings, which is a net gain of 421 into the Plan of which 277 are derived from the additional new villages.

The full list and relevant indicative housing allowance is detailed in the attached Action Plan- Appendix 2.

3.6 Officers originally put forward an 8% increase to the indicative housing allowance, but on further analysis it is considered 9% allowance would build in more flexibility to the Plan and achieve the Councils ambitions helping rural communities to grow and thrive, especially where this will support local services and promote opportunities for affordable housing. (NPPF paras 78-79). This percentage also ensures policy SS1 continues to remain in general conformity with paragraph 70 of the NPPF (2023) which looks for approximately 10% of the overall housing requirement to be from small to medium sized sites, where the total revised housing requirement for the entire local plan period has been calculated as being approximately 8,900 dwellings.

3 - Updated Gypsy and Traveler Evidence

3.7 Updated evidence to support the local plan examination was required due to the change in definition adopted by the government in December 2023. This came about following a judgment handed by the appeal courts in relation to a discrimination challenge and has resulted in the definition reverting back to defining travellers as all those of travelling background, not just those who are currently travelling as detailed below:

"persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently."

In determining whether persons are “gypsies and travellers” for the purposes of planning policy, consideration should be given to the following issues amongst other relevant matters:

- a) whether they previously led a nomadic habit of life*
- b) the reasons for ceasing their nomadic habit of life*
- c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances*

- 3.8 The revision also provides the opportunity to update the base information by utilising the 2021 census data which was not available when the original study was undertaken.
- 3.9 The revised North Norfolk Gypsy, Traveller, and Travelling Showpeople Accommodation Needs Assessment, Sept 2024, GTANA, is attached in Appendix 6 which identifies a need for 11 pitches over the revised Plan period in total of which 7 are estimated to be required in the first 5 yrs.
- 3.10 The study conclusions continue to substantiate that the future need for permanently occupied pitches is likely to be very small and mainly arises from the few Gypsy families already resident in the district and potentially forming new households within the existing family units on existing sites. Transit pitches for seasonal visits to the district are available at Fakenham and Cromer and have proved to be sufficient to address the demand for these types of sites. The study does also recommend that the council at a corporate level set up a negotiated stopping places policy to help manage transit provision. This involves allowing households residing in caravans being able to stop at an agreed location for an agreed and limited period of time. This though is seen as being outside the local plan and it should be noted that the study demonstrates that the existing transit sites are underutilised. It should however be noted that stakeholders feedback identifies concerns about the condition of the transit sites which in itself may affect their level of use, (para 4.6, page 29).
- 3.11 As set out in the council’s response to matter 6 [EH012(a)], it is considered that the policy approach detailed in Policy HOU5 and its use of a criteria, provides the flexibility for families and remains entirely appropriate to address the identified needs in North Norfolk, is positively prepared, justified, effective and consistent with national policy and a proportionate approach to the level and type of need.
- 3.12 It is considered that, other than the incorporation of the revised ethnic need figure into the local plan through a hearing modification, no other changes are required to be put forward for consultation to address the issues contained in paragraphs 54 – 56 of the Inspector’s initial letter detailed in appendix 1a and repeated in paragraph 4 of the letter dated 30th August 2024 and set out in appendix 1c.

4. Options

- 4.1 An option exists not to accept the Action Plan in full, and to only take forward parts and/or add through additional growth options. It is considered that the Action Plan put forward provides a sound basis from which to proceed in line with the inspector’s commentary as detailed in para 2.7 of the report, but residual risks do remain that could result in the Plan being found unsound if not fully implemented.

- 4.2 Site allocations: There remain limited further options in considering the suitability and deliverability.
- I. There is the potential for a further 100 dwelling allocation in Hoveton, HV05 Land at Horning Road & South of Littlewood Lane. However, the site's suitability and deliverability and in particular, access, wider highways and landscaping issues, have not been fully established and the site could not be proposed with any certainty at this time.
 - II. Site C19/2 Land west of Roughton Rd, Cromer, a slight variation of C19, is actively being promoted. However, NCC Highways object to any allocation for estate scale development regardless of access arrangements due to the local road network being unsuitable for anything other than very small-scale development advising that the road network to the south is of insufficient width with no pedestrian provision, and so raises a safety objection. To the north there is not the standard of walking and cycling provision that would be required to meet LTP policy, and they consider that there is no meaningful way of achieving this at this time.
 - III. In Holt, one further site at Beresford Road, site reference HO4 was identified as suitable but since this site has subsequently been granted planning permission it is already included in the supply trajectory and cannot be allocated in the Plan.

4.3 Small Growth Village options:

- I. The SGV Indicative Housing Allowance could be set at a lower or higher percentage. A higher allowance of, for example 10% or more, has the significant potential of placing more growth in the SGVs than the higher order Large Growth Villages and could introduce risks around excessive reliance on unspecified sites adding to a higher degree of uncertainty. A smaller allowance reduces the flexibility in the Plan should there be further slippage in the trajectory and delivery of the allocations and consequently introduces further risk at examination.
- II. There is an option to include the village of Neatishead as a SGV. The assessment carried out in Appendix 4 discounts the settlement as a SGV because the school and church are located in two neighbouring hamlets where there is a lack of safe and sustainable access. However, Neatishead village itself provides one key service and two secondary services and an indicative housing allowance of 9% growth would provide an opportunity of potentially 21 new dwellings.
- III. The Council could go further and identify settlement boundaries and introduce a further tier within Policy SS1 Spatial Strategy, for example, to support infill development within villages that have a lower level of services and facilities but that could provide a low level of sustainability (for example, 1 key service and 2 secondary/ desirable services or no key service and 3 or more secondary/ desirable services). From reviewing the villages within the Distribution of Growth Background Paper 2, approximately 14 such villages can be identified. A number of these villages have significant environmental constraints in relation to flood risk (zones 2 and 3) and are in close proximity to sensitive landscapes and built heritage, as well as infrastructure/ accessibility constraints that would likely prevent or significantly curtail sustainable infill development.

This approach is also considered to introduce a level of dispersed growth that, as an option, was ruled out in the early stages of the Plan’s development, as it does not align with the ethos and objectives of the Plan and wider carbon objectives of the Council in facilitating carbon reduction, not least to help achieve the UK’s legal commitments in relation to climate change. Such an approach may contribute marginally to social sustainability but not sustainable development in its widest form given the concentration of services in higher order centres and the inevitable increased contributions to greenhouse gases and increased and arguably disproportionate costs and reliance on travel by private car. Given the dispersed nature, lack of public transport, especially when North Norfolk’s greenhouse gas emissions are already dominated by CO2 emissions from the transport sector, and the pockets of rural deprivation, such an approach is considered to be at odds with the wider objectives of delivering climate resilient sustainable development and minimising the demand for resources and mitigating the impacts arising from climate change. Such an approach would also require additional time and resources. Such an approach could have a marginal affect in supporting small business and would contribute to windfall opportunities.

5. Timeline to address the main soundness issues

- 5.1 The recent correspondence from the Minister of State (MHCLG) to PINS directs that *‘Pragmatism should be used only where it is likely a plan is capable of being found sound with limited additional work to address soundness issues. Any pauses to undertake additional work should usually take no more than six months overall.’* Where Plans are falling outside the scope of ‘pragmatism’, Inspectors are now taking strong, bold action, as [a recent example at Solihull](#) on 4th September 2024 demonstrates.
- 5.2 The Inspector helpfully concludes in his latest letter (appendix 1c [\[EH006 \(h\)\]](#)) that the Plan is capable of being found sound with limited additional work to address soundness issues, and that the timeline the Council proposes (below) for the various steps to progress the Plan are acceptable. However, he also enforces the expectation *‘that additional work should be progressed at pace’* and *‘should not be allowed to slip significantly’*. Regular progress updates are required.
- 5.3 Consequently, Members are advised that given the direction from Minister of State and PINS, and the time constraints, **this is the one and only opportunity to address the main soundness issues.**
- 5.4 In order to support the Council to achieve its intention of having a new local plan adopted in Spring 2025 it is advised that it remains vital that work progresses in alignment with the following timetable as endorsed by the Inspector:

Task		Date Expected
1.	Initial scoping and background work	August 2024 COMPLETE
2.	Completion of Background Papers and detailed assessments	September 2024 IN PROGRESS
3.	Member endorsement (Planning Policy & Built Heritage Working Party)	October 2024 IN PROGRESS

4.	Member endorsement (Cabinet)	4 th November 2024
5.	Further Regulation 19 Public Consultation (Main Soundness Issues)	6 th November to 18 th December 2024 (TBC)
6.	Further Public Hearing(s)	February 2025 (TBC)
7.	Public Consultation on Proposed Main Modifications Finalisation of proposed main modifications, consolidation of supporting documentation, and undertaking of required consultation.	TBC
8.	Receipt of Inspector's Report and adoption	TBC

6. Further Regulation 19 Public Consultation (Main Soundness Issues)

- 6.1 The main soundness issues identified by the Inspector, and the proposed solutions to address them as outlined in the Action Plan, must be subject to public consultation ahead of further examination hearing sessions which are anticipated early in the New Year.
- 6.2 The timeline above identifies a six-week public consultation commencing Wednesday 6th November 2024 and closing Wednesday 18th December 2024. The team appreciates the seasonal nature of this period, however, there is no suitable alternative available and it is considered that a six-week consultation period provides sufficient opportunity for responses on the limited range of issues which is the subject of this consultation period.
- 6.3 Members are requested to note and endorse the Consultation Arrangements & Communications Plan for this consultation, included as **Appendix 7**.

7. Corporate Priorities

- 7.1 Delivering the local plan remains a key commitment and component part of the Corporate Plan covering all five themes: Our Greener Future, Developing Our Communities, Meeting Our Housing Need, Investing in Our Local Economy and Infrastructure and A strong, Responsible & Accountable Council.

8. Financial and Resource Implications

- 8.1 As a result of the required work there are additional inspector / Pins and consultation costs. No additional staff resource is anticipated to be required at this time to deliver the Action Plan as proposed. The policy teams focus, and priority remains the local plan delivery.

9 Legal Implications

- 9.1 The Council must produce a local plan which complies with various regulatory and legal requirements and in determining its policy approaches must be justified and underpinned by up to date and proportionate evidence, be informed by appropriate sustainability appraisals and take account of and demonstrate how public feedback, national policy & guidance have been used to inform the production through the application of a consistent methodology.

- 9.2 The statutory process requires plan production to accord to the statutory requirements as set out in The Town and Country Planning (Local Planning), (England) Regulations 2012 (as amended). Failure to undertake Plan preparation in accordance with the regulations and NPPF is likely to render the plan 'unsound' at examination and result in the need to return to earlier stages. Substantial additional costs would be incurred
- 9.3 The Inspector has confirmed in his post hearing letter – Appendix 1a, that he is satisfied the council has met the duty to co-operate and other legal requirements relating to Plan preparation to date, Due process, however, must still be followed.
- 9.4 There remains a residual risk of challenge as allowed by the statutory legislation.

10 Risks

- 10.1 Significant soundness risks exist if the issues presented in the Inspectors post hearing letter cannot be addressed in full and within the time constraints set out.
- 10.2 The 1,000 additional dwellings required to address the shortfall is considered by the Inspector as the minimum. There remains residual risk of sites being delayed due to nutrient neutrality and challenge through consultation and further hearing(s) around the Action Plan. This could have a bearing on the number of additional dwellings needed to ensure an adequate housing land supply going forward. The Action Plan therefore needs to build in flexibility and be able to withstand further changes to the Plans trajectory.
- 10.3 A failure to allocate additional sites could result in excessive reliance on unspecified windfall sites and add uncertainty to the Plan. Not allocating sufficient sites to improve delivery in first five years will result in the Plan not being able to provide the required 5-year housing land supply.
- 10.4 There remains a residual risk that the Action Plan will not be sufficient to address the shortfall and soundness issues following consultation and further expected Hearing(s). It should be noted that in the new era of pragmatism it is considered there will not be another opportunity for readdress.
- 10.5 As detailed above, any pauses to undertake additional work should usually take no more than six months overall. Where Plans are falling outside the scope of 'pragmatism', Inspectors are now taking strong, bold action. Failure to undertake the work in the allotted time could result in the Plan being found unsound and the Council required to start again. In such circumstances the Council would be left with significant costs, dated planning policies and the continuation of a limited land supply for a significant period of time, along with reputational damage and a lost opportunity to influence the district in line with its climate change ambitions. Any new local plan would need to conform to the latest version of the NPPF and an expected higher housing requirement.
- 10.6 There remains the risk of slippage in consultation dates due to third party work not being completed to the tight deadlines and ahead of consultation and consultation material not being finalised due to high demands being placed on staff to contribute to other works streams in a timely manner.
- 107 Further staff sickness or loss of resources will affect the ability of the team to deliver.

11 Net Zero Target

- 11.1 No assessment has been made against the council's [Net Zero 2030 Strategy & Climate Action Plan](#). The local plan does not accord with the considerations which are designed for internal projects. The local plan sets a Planning Framework which seeks development to be delivered with the highest regard to sustainable development and climate change principles and promotes a proactive and comprehensive approach to mitigate and adapt to climate change through moving towards a low carbon future.

12 Equality, Diversity & Inclusion

- 12.1 Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 12.2 There are no direct implications on equality within this report. The local plan has been subject to an equalities Impact Assessment and tested at the independent amination.

13 Community Safety issues

N/A

14 Conclusion and Recommendations

Members of the Planning Policy & Built Heritage Working Party recommend to Cabinet that:

- I. the draft Action Plan is endorsed and taken forward to the timelines outlined;**
- II. the updated evidence and background papers are endorsed;**
- III. the consultation arrangements and communication Plan are endorsed;**
- IV. that delegated authority is given to the Acting Planning Policy Manager in consultation with the Planning Portfolio Holder to finalise the Action Plan and consultation material and continue to respond to the Inspectors questions during the Examination period and hearing(s)**

Appendices

Appendix 1a - Inspector's Post-Examination Hearings Letter received, 22.7.24

Appendix 1b - Council's response to Inspector's Post-Examination Hearings Letter 16.8.24

Appendix 1c - Inspector's response, 30.8.24

Appendix 1d- Correspondence between Minister of State and PINS, July/ August 2024

Appendix 2 - Draft Action Plan

Appendix 3 - Draft Additional site mapping

Appendix 4 – Draft SGV Addendum
Appendix 5 – Draft settlement boundary review
Appendix 6 – Draft GTANA Sept 2024
Appendix 7 – Consultation Arrangements

End