

WENHASTON WITH MELLS NEIGHBOURHOOD PLAN 2015-2030

Wenhaston with Mells Neighbourhood Plan Examination,
A Report to Suffolk Coastal District Council

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Introduction

The Neighbourhood Plan

- 1 This Report provides the findings of the examination into the Wenhaston with Mells Neighbourhood Plan prepared by Wenhaston with Mells Hamlet Parish Council (referred to as the Neighbourhood Plan).
- 2 It provides a recommendation in respect of whether the Neighbourhood Plan should go forward to a Referendum. Were this to be the case and were more than 50% of votes to be in favour the Neighbourhood Plan, then the Plan would be formally *made* by Suffolk Coastal District Council. The Neighbourhood Plan would then form part of the development plan and as such, it would be used to determine planning applications and guide planning decisions in the Wenhaston with Mells Neighbourhood Area.
- 3 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.” (Paragraph 183, National Planning Policy Framework)

- 4 As set out on in Section 3 on page 10 of the Basic Conditions Statement, which was submitted alongside the Neighbourhood Plan, Wenhaston with Mells Hamlet Parish Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan. The Neighbourhood Plan relates only to the designated Wenhaston with Mells Neighbourhood Area and there is no other neighbourhood plan in place in the Wenhaston with Mells Neighbourhood Area.
- 5 All of the above meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).

Role of the Independent Examiner

- 6 I was appointed by Suffolk Coastal District Council, with the consent of the Qualifying Body, to conduct the examination of the Wenhaston with Mells Neighbourhood Plan and to provide this Report.
- 7 As an Independent Neighbourhood Plan Examiner, I am independent of the qualifying body and the local authorities. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 8 I am a chartered town planner and have more than five years' direct experience as an Independent Examiner of Neighbourhood Plans. I also have more than twenty five years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 9 As the Independent Examiner, I must make one of the following recommendations:
 - that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
 - that the Neighbourhood Plan, as modified, should proceed to Referendum;
 - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 10 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Wenhaston with Mells Neighbourhood Area to which the Plan relates.
- 11 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

Neighbourhood Plan Period

- 12 A neighbourhood plan must specify the period during which it is to have effect.
- 13 The first paragraph of the Abstract on page 3 of the Neighbourhood Plan states that:

“The plan is to create a vision for the development and use of land within Wenhaston with Mells from 2015 to 2030....”
- 14 Section 3 on page 10 of the Basic Conditions Statement also refers to the plan period.
- 15 The front cover of the Neighbourhood Plan simply refers to the publication date. It would be helpful and provide for clarity and precision, if the front cover of the Neighbourhood Plan included reference to the plan period. In this regard, I recommend:
 - **Front cover, replace publication date with “2015 to 2030.”**
- 16 Taking the above into account, the Neighbourhood Plan meets requirements in respect of specifying the period during which it is to have effect.

Public Hearing

- 17 According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 18 However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 19 Further to consideration of the information submitted, I confirmed to Suffolk Coastal District Council that I was satisfied that the Wenhaston with Mells Neighbourhood Plan could be examined without the need for a Public Hearing.
- 20 In making the above decision I was mindful that the Neighbourhood Plan has emerged through robust consultation (see *Public Consultation*, later in this Report) and that people have been provided with significant and appropriate opportunities to have their say.

2. Basic Conditions and Development Plan Status

Basic Conditions

- 21 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*¹ following the Localism Act 2011. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood 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);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.²
 - An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.³
- 22 In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:
- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;

¹ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

² Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007.

³ The Convention rights has the same meaning as in the Human Rights Act 1998.

- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

- 23 Subject to the content of this Report, I am satisfied that these three points have been met.
- 24 In line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

European Convention on Human Rights (ECHR) Obligations

- 25 I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.
- 26 In the above regard, I note that Information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. Representations have been made to the Plan, some of which have resulted in changes and the Consultation Statement submitted alongside the Neighbourhood Plan provides a summary of responses and shows the outcome of comments.

European Union (EU) Obligations

- 27 There is no legal requirement for a neighbourhood plan to have a sustainability appraisal⁴. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.
- 28 In this regard, national advice states:
- “Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”*
(Planning Practice Guidance⁵)
- 29 National advice then goes on to state⁶ that the draft plan:
- “...must be assessed (screened) at an early stage of the plan’s preparation...”*
- 30 This process is often referred to as a screening opinion, report determination or statement. If the screening opinion identifies likely significant effects, then an environmental report must be prepared.

⁴ Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance.

⁵ Paragraph 027, *ibid*.

⁶ Planning Practice Guidance Reference ID: 11-028-20150209.

- 31 Suffolk Coastal District Council published its Screening Opinion in respect of the Neighbourhood Plan in June 2017, which, in conclusion, stated that:

“It is considered by Suffolk Coastal District Council that it is not necessary for a Strategic Environmental Assessment to be undertaken to ensure compliance with EU obligations.”

- 32 In reaching the above conclusion, Suffolk Coastal District Council noted that the Neighbourhood Plan does not allocate land for built development and that it applies to a localised area. It also noted that the Policies of the Neighbourhood Plan implement strategic policies in the Suffolk Coastal District Local Plan Core Strategy and Development Management Policies (2013) and that this document was itself subject to Environmental Assessment and Appropriate Assessment under the Habitats Regulations Assessment.

- 33 The statutory bodies, the Environment Agency, Natural England and Historic England, have been consulted and none have raised any significant concerns in respect of the above conclusion.

- 34 Further to the above, national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations” (Planning Practice Guidance⁷).

- 35 In undertaking the work that it has, Suffolk Coastal District Council has considered the Neighbourhood Plan's compatibility with EU regulations and it has not raised any concerns in this regard.

- 36 Given all of the above, I am satisfied that the Neighbourhood Plan meets the basic conditions in respect of European obligations.

⁷ Planning Practice Guidance Reference ID: 11-031-20150209.

3. Background Documents and the Wenhaston with Mells Neighbourhood Area

Background Documents

37 In undertaking this examination, I have considered various information in addition to the Wenhaston with Mells Neighbourhood Plan. This has included (but is not limited to) the following main documents and information:

- National Planning Policy Framework (the Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Plan Regulations (2012) (as amended)
- Suffolk Coastal District Local Plan Core Strategy and Development Management Policies (2013)
- Suffolk Coastal Local Plan remaining “saved” policies (as of 23 March 2017)
- Basic Conditions Statement
- Consultation Statement
- Environmental Assessment Screening Opinion
- Whole Parish Character Assessment (Parts 1, 2 and Green Spaces)

Also:

- Representations received

38 In addition, I spent an unaccompanied day visiting the Wenhaston with Mells Neighbourhood Area.

Wenhaston with Mells Neighbourhood Area

- 39 The boundary of the Wenhaston with Mells Neighbourhood Area corresponds with that of the Hamlet Parish of Wenhaston with Mells.
- 40 The Neighbourhood Plan does not include any plans or Maps, although a number of plans are appended to the document. One of these comprises a plan showing the Neighbourhood Area. This is an important reference plan and as such, it should be contained within the Neighbourhood Plan itself.
- 41 I recommend:
- **Move “Map 1” from the Appendices into the Neighbourhood Plan, to follow the Abstract**
- 42 Suffolk Coastal District Council formally designated the Wenhaston with Mells Neighbourhood Area on 2nd April 2015. This satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

4. Public Consultation

Introduction

- 43 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 44 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Wenhaston with Mells Neighbourhood Plan Consultation

- 45 A Consultation Statement was submitted to Suffolk Coastal District Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*⁸.
- 46 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Wenhaston with Mells Neighbourhood Area, having regard to Paragraph 183 of the National Planning Policy Framework.
- 47 Wenhaston with Mells Hamlet Parish Council established a Steering Group, comprising Parish Councillors and village representatives and commenced consultation in 2015.
- 48 A questionnaire was created and delivered to residents and letters distributed to interested parties, businesses and large community groups, during April and May 2015. Completed questionnaires and letters were then returned and analysed during August 2015. Of the 496 questionnaires and letters distributed, 220 were completed and returned.

⁸Neighbourhood Planning (General) Regulations 2012.

- 49 A public exhibition followed, in October 2015. Feedback from the results of the questionnaire was provided and the aims and objectives of the emerging plan were considered. More than 100 people attended the exhibition.
- 50 A Young Persons Survey was carried out in May 2016. This resulted in 23 responses and helped to inform the emerging plan.
- 51 Pre-submission consultation was supported by the delivery of a further questionnaire to every household in the parish and additional letters to interested parties, businesses and large community groups. A public exhibition was held at the village hall over the six week consultation period during October and November 2016 and a formal consultation day was also held during this time.
- 52 Consultation was well-publicised. As well as making use of posters around the parish and the distribution of letters and questionnaires, consultation was publicised via regular reporting in the village newsletter and via the village website. Copies of all Steering Group agendas and minutes were published on the village web site and members of the public were welcome to attend. Neighbourhood Planning was also a monthly standing item on the Wenhaston with Mells Hamlet Parish Council agenda.
- 53 The Consultation Report provides evidence to show that public consultation formed an important part of the plan-making process. Matters raised were considered and the reporting process was transparent. Taking this and all of the above into account, I find that the consultation process was effective and robust.

5. The Neighbourhood Plan – Introductory Section

- 54 The Neighbourhood Plan commences with a useful “*Abstract.*” However, this is followed by a long and somewhat unwieldy list of “*Contents,*” covering several pages. Whilst this is not something that leads the Neighbourhood Plan to fail to meet the basic conditions, I note that the user-friendliness of the document would be improved if the Contents page was reduced to just that.
- 55 The “*Document Revision History*” page might have been a useful tool during the plan-making process, but it forms an unnecessary part of the Neighbourhood Plan and its inclusion could lead to confusion and detract from the clarity of the document. I recommend:
- **Page 13, delete “Document Revision History”**
- 56 Paragraph 1.6 on page 15 and Para 3.1 on page 25 refer to the Basic Conditions. These are legal requirements and it is important that they are not misinterpreted. In this regard, I recommend:
- **Page 15, Para 1.6, change to “...that it *has regard to national policy and advice; it is in general conformity with the strategic policies of the development plan; that it contributes to the achievement of sustainable development; and that it is compatible...*”**
 - **Page 25, Para 3.1, change to “...*Plan all policies must meet the basic conditions. These are referred to on page 15 and include the requirement for policies to have regard to national policy and advice, and to be in general conformity with the strategic policies of the development plan, which in this case is the Suffolk Coastal District Council Local Plan.*”**
 - **Page 25, Para 3.4, change to “...general conformity with the *strategic policies of the Local Plan. The Wenhaston...*”**

6. The Neighbourhood Plan – Neighbourhood Plan Policies

57 Whilst the Policies of the Neighbourhood Plan are clearly distinguished, within a blue box, they include references to various other policies and objectives. This is not only unnecessary but detracts significantly from the presentation of the Policies – drawing attention away from their content and purpose. Further to this, I note that the policies of the development plan must, in any case, be considered as a whole and this avoids the need for cumbersome cross-references.

58 I recommend:

- **Delete all references to Local Plan policies and Neighbourhood Plan Objectives from all Policies**

Residential Development Management

Policy WwM P1

- 59 The introduction to Policy WwM P1 establishes that the Neighbourhood Area has provided for in excess of its objectively assessed housing need over the plan period and that the Policy is intended to control new residential development within this context. However, whilst the Policy intends to provide for sustainable development, its detailed wording raises a number of concerns.
- 60 The use of the word “*will*” in the first sentence of the Policy appears confusing, as the Neighbourhood Plan cannot predict what a proposal will comprise. This is addressed in the recommendations below.
- 61 The Policy goes on to refer to “*the defined physical limits.*” There is no plan in the Neighbourhood Plan showing what these comprise. In this respect, it is important that “*Map 3,*” which is appended to the Neighbourhood Plan and which identifies the “*physical limits*” boundary, is included within the document itself.
- 62 The reference in the third bullet point of Policy WwM P1 to “*which of necessity requires being located there*” appears entirely reliant upon other policies in other plans that are not under the control of the Neighbourhood Plan. These adopted policies already exist. It is not the purpose of a Neighbourhood Plan to repeat existing policies and as noted earlier in this Report, the policies of the development plan must be considered as a whole.
- 63 The fourth bullet point of Policy WwM P1 conflicts directly with national and local planning policy. National and local planning policy does not limit all development in the countryside to that which meets “*exceptional circumstances.*” Such an approach would run the risk of preventing the achievement of sustainable development, as it might prevent development that is sustainable from coming forward.
- 64 Oddly, this part of the Policy then goes on to conflict with itself, by providing for harmful development in these sensitive locations, so long as there is “*adequate mitigation.*” No definition is provided of what “*adequate mitigation*” might comprise and consequently, the Policy fails to have regard to Paragraph 154 of the National Planning Policy Framework (the Framework), which states that:

“Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan.”

- 65 Further to the above, this part of the Policy is also very confusing. It requires applicants to provide evidence to demonstrate that development that detracts from a sensitive location would not adversely affect it.
- 66 Taking the above into account, Policy WwM P1 conflicts with national advice set out in Planning Practice Guidance⁹, which requires policies to be clear:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

- 67 Part of the fifth bullet point of the Policy relies upon another policy in another plan and furthermore, it is not clear what *“attention will be given,”* who by, or on what basis, or what the impact of *“giving attention”* might be from a land use planning policy perspective. This is a matter addressed in the recommendations below.
- 68 The last bullet point on page 30 refers to *“Areas to be Protected from Development (countryside).”* The Neighbourhood Plan does not define any areas to be protected from development. Furthermore, there is no evidence to demonstrate that such an approach, which would represent a departure from national and local policy, would meet the basic conditions. I note that this part of the Policy also relies on other policies in other plans.
- 69 The term *“estate development”* is undefined. No indication of what might constitute an *“estate”* as opposed to, say, a group of houses, is provided. This part of the Policy is imprecise and fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.
- 70 The Neighbourhood Plan has no *“power of approval,”* as referred to in the Policy. Suffolk Coastal District Council is the local planning authority for the Neighbourhood Area and is responsible for determining planning applications. Also, development in the Area of Outstanding Natural Beauty should result in enhancement – not simply avoid demonstrable harm.

⁹ Paragraph: 042 Reference ID: 41-042-20140306.

- 71 The final bullet point of the Policy refers to "*preference.*" No indication is provided of who will provide preference, on what basis, what the preference will be over and how this will be measured. This final part of the Policy is vague and ambiguous. It goes on to state that housing for first time buyers or the ageing population "*could be addressed*" by one or two bedroomed properties but there is no substantive evidence to demonstrate why this could be the case.
- 72 Taking all of the above into account, I recommend:
- **Policy WwM P1, change first sentence to "*...within the Plan area should take account of the following:*"**
 - **Move Map 3 from the Appendices to immediately before or after the Policy and change the first bullet point to "*...physical limits boundary, as shown on Map 3.*"**
 - **Delete third and fourth bullet points**
 - **Change fifth bullet point to "*Proposals must demonstrate how they respect the low density that is characteristic of housing in the village.*"**
 - **Delete sixth and seventh bullet points**
 - **Change last bullet point to "*Appropriate windfall housing that meets the needs of the ageing population, or provides for first time buyers, will be supported.*"**

Tourism, Business and Employment

Policy WwM P2

- 73 Chapter 3 of the Framework, *“Supporting a prosperous rural economy,”* states that:

“To support a strong rural economy, local and neighbourhood plans should: support the sustainable growth and expansion of all types of business and enterprise in rural areas...promote the development and diversification of agricultural and other land-based rural businesses...support rural tourism...”

- 74 Policy WwM P2 considers the rural economy alongside sports and leisure facilities.

- 75 The opening sentence of Policy WwM P2 is not a land use planning policy, but a general statement. Also, no indication of how opportunities will be promoted, or who by, is provided.

- 76 The Policy goes on to state that *“S105 and CIL”* monies will be spent on updating and improving unspecified current facilities. Whilst the reference to *“S105”* should refer, instead, to *“Section 106 Agreement”* monies, there is no information or evidence to demonstrate that the approach set out has regard to Paragraph 204 of the Framework, which establishes that:

“Planning obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.”

- 77 The Policy makes vague reference to *“community facilities”* but does not specify precisely what these are. The lack of precision in this regard means that it is not possible to know precisely what will and will not *“be permitted”* by the Policy. Policy WwM P2 is imprecise and does not meet the basic conditions.

- 78 The second bullet point is reliant on other policies in other plans. Furthermore, it is not apparent who will “*encourage*” farm diversification and how. The Policy is unclear in this regard.
- 79 The last paragraph of the Policy would prevent all development “*other than small scale farm diversification accommodation.*” Such an approach conflicts with national and local planning policy, as well as with other Policies in the Neighbourhood Plan itself, which provide for various appropriate forms of development. In the absence of evidence to the contrary, it appears that the Policy runs the risk of preventing sustainable forms of development that could support a prosperous rural economy and sustainable rural tourism, as required by Paragraph 28 of the Framework.
- 80 The final line of the Policy seeks to ban the construction of housing for second homes. This is not an approach supported by national or local planning policy and whilst it is noted that, for example, the St Ives Neighbourhood Plan has a policy preventing the construction of second homes, that is a policy that emerged through an associated, comprehensive evidence base, and included a well-reasoned and supported case for a departure from national policy within that specific Neighbourhood Area. No such evidence base supports Policy WwM P2 and consequently, the Policy runs the risk of preventing the achievement of sustainable development.
- 81 Paragraph 3.27 of the supporting text repeats earlier text.
- 82 I recommend:
- **Policy WwM P2, change first bullet point to “*The improvement of existing community sports and leisure facilities will be supported and their loss will be resisted.*”**
 - **Change second bullet point to “*Farm diversification, including small scale visitor accommodation, will be supported.*”**
 - **Delete third bullet point**

Sewerage

Policy WwM P3

- 83 Wenhaston with Mells Hamlet Parish Council is not the local planning authority and it cannot impose planning conditions. Also, a commitment to “*working with stakeholders*” is not a land use planning policy matter.
- 84 Taking the above into account, Policy WwM P3 does not comprise an appropriate land use planning policy. It does, however, highlight local concerns.
- 85 Strategy WwM S13, contained at the end of the Neighbourhood Plan, addresses matters in relation to drainage and I recommend:
- **Delete Policy WwM P3**
 - **Delete Paras 3.36 and 3.37, and associated headings**
 - **Add a new second bullet point to WwM S13, “*The Parish Council will seek the imposition of conditions on residential applications to the effect of ensuring that sewerage infrastructure is in place before development is occupied.*”**
 - **Add a new third bullet point to WwM S13, “*The Parish Council will actively pursue the updating of the present sewerage facilities by working with stakeholders.*”**

Energy and Sustainability

Policy WwM P4

- 86 Chapter 10 of the Framework, *“Meeting the challenge of climate change, flooding and coastal change,”* recognises that:

“Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions...and supporting the delivery of renewable and low carbon energy and associated infrastructure.”

(Paragraph 93, the Framework)

- 87 The Neighbourhood Plan states that Wenhaston with Mells is:

“...energy conscious, environmentally aware...and supportive of enterprise with green credentials...”

- 88 Policy WwM P4 seeks to impose a requirement for planning proposals for energy efficiency measures affecting heritage assets to provide an assessment. However, according to the Policy, an assessment will be required when a heritage asset *“may”* be affected. No indication of when a heritage asset may, or may not, be affected is provided and consequently, the Policy fails to provide a decision maker with a clear indication of how to react to a development proposal.

- 89 In making the recommendations below, I am mindful that national planning policy, as set out in Chapter 12 of the Framework, *“Conserving and enhancing the historic environment,”* affords significant planning weight to the conservation of heritage assets in a manner appropriate to their significance and that the vague nature of Policy WwM P4, as drafted, results in a Policy that fails to have regard to this. I am also mindful of Historic England's representation in respect of this Policy.

- 90 I also note that Paragraph 3.38 of the supporting text repeats earlier text.

91 Taking the above into account, I recommend:

- **Replace wording of Policy WwM P4 with *“Projects to increase energy efficiency and low carbon emissions that impact on heritage assets should be accompanied by an assessment that demonstrates any harm to heritage significance is clearly and convincingly justified.”***
- **Delete Para 3.38 and associated heading**

Lighting

Policy WwM P5

- 92 Street lighting is the responsibility of the County Highways Authority. The Neighbourhood Plan does not control its maintenance, replacement or type.
- 93 Similarly, the Policies of the Neighbourhood Plan cannot control various forms of lighting that do not require planning permission, such as security lighting.
- 94 However, as in many areas, particularly where there are dark skies, lighting is of concern to the local community, not least given the increased luminescence and harshness of many forms of modern lighting.
- 95 Taking the above into account, I recommend:
- **Change Policy WwM P5 to “Development should respect local character and in particular, the dark skies that are characteristic of the Neighbourhood Area.”**
 - **Add a new second bullet point to WwM S5 (the Strategy, set out later in the Neighbourhood Plan), “The Parish Council will seek to work with stakeholders to prevent increased street lighting or to ensure that any additional or replacement lighting is of low energy consumption and appropriate in respect of maintaining the aesthetic character and qualities of the Parish.”**
 - **Add a new third bullet point to WwM S5, “The Parish Council will pay particular attention to challenging proposals for new lighting that may adversely affect local heritage assets and areas of special village character.”**
 - **Delete Para 3.44 and associated heading**

Environment and Landscape

Policy WwM P6

- 96 The first part of Policy WwM P6 seeks to introduce a Policy that would, by preventing any form of development, be significantly more stringent than any national or local planning policy for sensitive environments. No substantive evidence has been presented to justify such a departure from national and local planning policy. In this way, the first part of Policy WwM P6 would fail to contribute to the achievement of sustainable development and would not meet the basic conditions.
- 97 The second part of Policy WwM P6 is ambiguous. It states that any development adjoining or “close to” the Commons will be subject to a survey of impact on biodiversity and landscape of the Common. The term “close to” is not defined and consequently, the Policy fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.
- 98 No indication is provided of who will conduct the survey, or precisely what the survey will measure, on what basis, or of how the survey will be judged and who by. Similarly, no indication of what a “significant impact” might be, or how it might be measured and who by, is provided.
- 99 Taking the above into account, I recommend:
- **Change Policy WwM P6 to “Development should respect and maintain the special character and undeveloped nature of the Commons.”**

Biodiversity

Policy WwM P7

- 100 Suffolk Coastal District Local Plan (Local Plan) Policy DM27 ("*Biodiversity and Geodiversity*") requires all development to protect biodiversity and to maximise opportunities for the restoration, enhancement and connection of natural habitats.
- 101 In addition, Paragraph 109 of the Framework requires the planning system to contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible.
- 102 Policy WwM P7 seeks to protect and enhance biodiversity and in this respect, the first part of the Policy has regard to national policy and is in general conformity with the Local Plan.
- 103 However, the second part of the Policy fails to allow for a balanced consideration of a proposal for development, whereby the positive benefits of development might outweigh any possible harm arising. As a consequence, this part of the Policy places a potentially significant barrier in the way of the achievement of sustainable development and does not meet the basic conditions.
- 104 Further to the above, as set out, the Policy would seek to refuse development where a proposal might have a negative impact on the absence of wildlife on land adjacent to the site the subject of the proposal. In the absence of any information, it is not clear why land not part of an application site is relevant to a planning application and furthermore, who might judge that a proposal could harm the absence of wildlife on such a site, and on what basis.
- 105 In a similarly confusing way, Policy WwM P7 would seek to refuse a proposal that would prejudice or have a negative effect on "*the destruction of sites that link or enhance adjacent or nearby sites of wildlife significance.*" This approach appears to run counter to the protection or enhancement of biodiversity.

106 I recommend:

- **Policy WwM P7, retain first sentence and delete the rest of the Policy**
- **Para 3.51, delete second sentence.**
- **Para 3.51 change third sentence to “*The Parish Council aspires to...*”**

Areas of Local Landscape Value

Policy WwM P8

- 107 The supporting text to Policy WwM P8 refers to a proposals map. There is no proposals map. It would be helpful, however, if "*Map 2,*" which shows the AONB, were to be moved from the Appendices to the Neighbourhood Plan itself. Consequently, this comprises one of the recommendations below.
- 108 Other parts of the supporting text read as though they are Policies, which they are not and again, this is addressed in the recommendations below.
- 109 The wording of Policy WwM P8 is imprecise and confusing. The term "*significant impact*" is undefined and it no indication of how it might be measured, or who by, is provided, so it is not possible to know what such an impact might be. It might be that a development proposal has a significant positive impact on important views, in which case, the Policy would still, confusingly, refuse planning permission.
- 110 The Policy goes on to state that designated village green spaces will be retained and enhanced. However, the Policy does not designate any such spaces. This is unfortunate, as work has been undertaken to identify a number of important green spaces and published as the "*Whole Parish Character Assessment Green Spaces Report.*" Also, a plan ("*Map 4*") has been appended to the Neighbourhood Plan, showing several un-labelled green spaces.
- 111 In this regard, I am mindful that national planning policy provides neighbourhood plan-makers with the opportunity to designate areas of "*Local Green Space,*" whereby communities can identify areas of green space of particular importance to them for special protection.

In this respect, Paragraph 76 of the Framework states that:

"By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances."

112 Consequently, Local Green Space is a restrictive and significant policy designation, as the Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts, providing protection comparable to that for Green Belt land.

113 In respect of the designation of Local Green Space, national policy establishes that:

"The Local Green Space designation will not be appropriate for most green areas or open space." (Paragraph 77)

114 Thus, when identifying Local Green Space, plan-makers must demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

115 However, there is no evidence that, in the case of the Neighbourhood Plan, plan-makers have sought to designate any green spaces as Local Green Space, having regard to national policy. There is no use of the term "*Local Green Space*" and no reference is provided to national planning policy as it applies to Local Green Space, in either the Neighbourhood Plan or the "*Whole Parish Character Assessment Green Spaces Report*."

116 I also note that no indication is provided of how the Neighbourhood Plan might "*enhance*" green spaces, as referred to by Policy WwM P8.

117 Taking all of the above into account, I recommend:

- **Change Policy WwM P8 to "*Development proposals should respect and not detract from important views, particularly of St Peter's Church Tower and the village skyline. The green spaces identified on Map 4 comprise an important resource and their protection and enhancement will be supported.*"**

- **Move Map 4 from the Appendices to directly before or after Policy WwM P8. Whilst not essential, it would be helpful if each green space was labelled and named in a Key or Table**
- **Para 3.58, delete last sentence (“The...them.”)**
- **Para 3.59, delete “...and which must be retained and enhanced.”**

118 Further to the above, I note that, having done the initial work that it has, the Parish Council is well placed to seek to promote the community's green spaces as areas of Local Green Space, in line with the requirements of national policy, either through the Local Plan process, or in a future Neighbourhood Plan.

Woodlands, Trees and Hedgerows

Policy WwM P9

- 119 As identified earlier, national and local planning policy supports the protection and enhancement of biodiversity. Policy WwM P9 seeks to protect and enhance trees and hedgerows and has regard to national policy, and is in general conformity with the Local Plan.
- 120 Part of the supporting text to Policy WwM P9 reads as though it comprises a Policy, which it does not.
- 121 As set out, Policy WwM P9 is imprecise. The term “*landscape priority*” is not defined and it is not clear who will afford priority or on what basis. Also, simply adopting a blanket approach to requiring the retention of all native trees, regardless of circumstance or condition, fails to provide for appropriate flexibility and could, in the absence of evidence to the contrary, prevent the achievement of sustainable development.
- 122 I recommend:
- **Change Policy WwM P9 to “*The retention of native trees and the planting of native tree species and native hedgerows will be supported.*”**
 - **Para 3.60, change to “...takes place, *the Parish Council will support the protection of native trees, if necessary by the imposition of TPOs, but...planting. The Parish Council will also encourage tree planting on private and public land, as well as the planting of...own land, the Parish Council will encourage best practice to support...will be encouraged by the Parish Council.*”**

Conservation and Heritage

Policy WwM P10

123 Paragraph 61 of the Framework states that:

"...planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."

124 In addition, Chapter 7 of the Framework, "*Requiring good design*," expects development to:

"...respond to local character and history, and reflect the identity of local surroundings and materials..."

125 Further to the above, Local Plan Development Management Policy DM21 ("*Design: Aesthetics*") recognises the importance of a strong sense of place.

126 Policy WwM P10 has emerged from a comprehensive evidence base, whereby the local community has analysed the Neighbourhood Area and determined those elements that contribute towards the creation of a distinctive and positive local character. This has led to the determination of specific, special areas, which Policy WwM P10 seeks to recognise, protect and enhance.

127 The Policy refers to a "*Proposals Map*" which does not exist, but "*Map 6*" in the Appendices does show each of the "*Areas of Special Character*."

128 Taken together, Policy WwM P10 and its supporting information provide an exemplary land use planning policy that meets the basic conditions.

129 I recommend:

- **Move "*Map 6*" from the Appendices to the Areas of Special Character section of the Neighbourhood Plan**

Improvement Opportunity Areas

Policy WwM P11

130 Policy WwM P11 is not a land use planning policy. It identifies locations where those with an interest in land, and relevant authorities, might be encouraged to make improvements.

131 I recommend

- **Delete Policy WwM P11 and associated headings**
- **Delete Paras 3.77 and 3.78**
- **Create a new Strategy, WwM S14 "*Improvement Opportunity Areas*"**
- **Move deleted supporting text from Paras 3.77 and 3.78 to introduce the Strategy**
- **Move the text from deleted Policy WwM P11, to create the new WwM S14. Change the text to "*...as defined on Map 7 in the Appendices (NB, Map numbering will change as a result of the Recommendations in this Report), the Parish Council will encourage relevant authorities and those with an interest in the land to give consideration to their visual improvement. This will include...scheme.*"**

Non-Designated Heritage Assets

Policy WwM P12

132 Policy WwM P12 defines a number of non-designated heritage assets.

133 In respect of the protection of non-designated heritage assets, Paragraph 135 of the Framework states:

“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

134 To some degree, Policy WwM P12 has regard to this. However, as worded, the Policy simply seeks to prevent loss or significant harm, rather than provide for a balanced judgement. No substantive evidence is provided to justify this departure from national policy and this is a matter addressed in the recommendations below.

135 Historic England has made a representation in respect of Policy WwM P12 and I have regard to this in making the recommendations below.

136 I recommend:

- **Policy WwM P12, change to *“The buildings, monuments and sites listed in Table X (NB, the numbering of the Table should take into account any preceding Table in the Neighbourhood Plan, having regard to other comments in this Report) above and shown on the accompanying Map comprise non-designated heritage assets which will be conserved in a manner appropriate to their significance. Planning applications affecting these assets should provide a heritage statement demonstrating that potential harmful impacts to the asset’s significance have been clearly identified, avoided or minimised where possible. Where harm remains, applications should provide clear and convincing justification for any harmful impacts on significance.”***

- **Add title, “*Table 1*” to the table on page 45**
- **Provide a new plan in the “*Non-designated heritage asset*” section of the Neighbourhood Plan. This should identify the location of each of the assets shown in the table on page 45**

Drainage, Flood Risk and Energy

Policy WwM P13

137 National planning policy in respect of flooding and flood risk is set out in Chapter 10 of the Framework, *“Meeting the challenge of climate change, flooding and coastal change.”*

138 National policy states that:

“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.” (Paragraph 100, the Framework)

139 Contrary to this approach, Policy WwM P13 simply seeks to prevent any form of development in areas at high risk of flooding. Such an approach runs the risk of preventing the achievement of sustainable development. It would, for example, prevent development that addresses flood risk.

140 I recommend:

- **Policy WwM P13, change to *“Development should, where possible, avoid areas at highest risk of flooding and should not increase the risk of flooding elsewhere.”***
- **Para 3.87, change to *“...risk elsewhere, but where development is necessary, it should make the area safe without increasing flood risk elsewhere.***

7. The Neighbourhood Plan: Other Matters

141 The recommendations made in this Report will have a subsequent impact on Contents, Policy and page numbering and the Appendices.

142 I recommend:

- **Update the Contents, Policy and page numbering and the Appendices, taking into account the recommendations contained in this Report.**

8. Summary

143 Having regard to all of the above, a number of modifications are recommended in order to enable the Neighbourhood Plan to meet the basic conditions.

144 Subject to these modifications, I confirm that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood 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);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

145 Taking the above into account, I find that the Wenhaston with Mells Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

9. Referendum

146 I recommend to Suffolk Coastal District Council that, subject to the modifications proposed, **the Wenhaston with Mells Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

147 I am required to consider whether the Referendum Area should be extended beyond the Wenhaston with Mells Neighbourhood Area.

148 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

149 Consequently, I recommend that the Plan should proceed to a Referendum based on the Wenhaston with Mells Neighbourhood Area approved by Suffolk Coastal District Council and confirmed by public notice on 2nd April 2015.

Nigel McGurk, February 2018
Erimax – Land, Planning and Communities



EST. 2011