

**OULTON NEIGHBOURHOOD PLAN
2021-2036**

Submission Version

Report

By

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SUMMARY

I was appointed in July 2022 to undertake the examination of the submission version of the Oulton Neighbourhood Plan 2021-2036 (the NP).

In December 2018 the former Waveney District Council (superseded by East Suffolk Council) and the Broads Authority designated a neighbourhood area for the whole of the parish. Broadly, one third of the neighbourhood area falls within the Broads Authority Executive Area.

A Consultation Statement February 2022 sets out the consultation carried out, showing a level of consultation at least meeting statutory requirements.

I decided that the statutory conditions for the holding of a hearing did not exist, and the examination proceeded on the basis of the documents only.

My Report reviews the NP. I find that it is well-researched, well-evidenced and clearly presented. I have found the NP to be of exceptionally high quality, a model for neighbourhood planning.

I have recommended a very limited number of modifications, to ensure compliance with the basic conditions.

I **Recommend** that, subject to those modifications being made, the NP can proceed to Referendum, and that the area of the Referendum should coincide with the neighbourhood area (the area of the parish).

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Introduction

1. I was appointed by East Suffolk Council (ESC) and the Broads Authority (BA) with the support of Oulton Parish Council (OPC), the qualifying body, to undertake the examination of the submission draft of the Oulton Neighbourhood Plan 2021-2036 (the NP).
2. I am a King's Counsel with over 40 years' experience of planning law and practice. I am a member of the NPIERS Panel of Independent Examiners. I am independent of any local connections or interests, and have no conflicts of interest.

Oulton in Context

3. In December 2018 the former Waveney District Council (superseded by ESC on 1 April 2019) and The Broads Authority (BA) designated a neighbourhood area for the whole of the parish. The designated neighbourhood area is shown on Figure 1 of the NP. That Figure makes it clear that broadly one third of the neighbourhood area falls within the Broads Authority Executive Area.
4. Figure 1 also shows that Oulton is part of the built-up area of Lowestoft. That is, indeed, how it is seen in the East Suffolk/Waveney Local Plan (WLP) adopted in 2019. The Broads Local Plan was also adopted in 2019.
5. Paragraph 2 of the NP describes the location as follows:

“Oulton Parish and village, which neighbours Oulton Broad and its separate parish, is around two miles northwest of the town of Lowestoft. It is one of the larger villages in East Suffolk, with a resident population of over 4,000. Together with Lowestoft, Carlton Colville, Corton, and Oulton Broad it is the largest built-up area in the district with a combined population of nearly 70,000 people. Indeed, the adopted East Suffolk Waveney Local Plan treats Oulton as part of the built-up area of Lowestoft and part of the small parish effectively forms the settlement edge of Lowestoft.”

6. The strategic planning context is described in paragraph 13 of the NP as follows:

“The East Suffolk Waveney Local Plan has allocated land for the planned housing growth in the parish. The total planned growth in the adopted East Suffolk Waveney Local Plan between 2014 to 2036 in the Lowestoft urban area (including Oulton) is 5,206. This growth requires the physical expansion of the urban area of Lowestoft. This includes into Oulton parish and two allocations are expected to deliver 340 dwellings (Land between Hall Lane and Union Lane, and land north of Union Lane). Both of these allocations are scheduled for delivery early in the plan, between 2020-2025. The “Woods Meadow” development is a mixed-use allocation from a previous Waveney Local Plan comprising approximately 800 dwellings and supporting facilities including primary school, medical centre, shops and country park. The Broads Local Plan has no proposals for housing within the parish.”

Figure 3 of the NP shows Local Plan Allocations and the Woods Meadow development. The NP proposes no housing allocations.

The Structure of the NP

7. I would like to say at the outset that the NP is very clearly and logically presented. As I will say in other contexts, the quality of this NP is exceptional. In my view, it is a model of how neighbourhood planning should be done.
8. The Table of Contents gives a clear guide as to the NP; the policies are clearly distinguished from the text by coloured backgrounds; the Figures are very clear and helpful; the Appendices are clearly presented. (I note that Figures 2, 8 and 9 are missing from the numbering sequence of the Figures, and re-numbering should be carried out. The Figure numbering should run sequentially, and cross-references should be updated as required).

The Evolution of the NP

9. A full account is given in the Consultation Statement February 2022 (CS). Consultation commenced in July 2017. A neighbourhood planning page was added to the OPC website in 2019. A neighbourhood plan Working Group was

established in July 2020. Consultation on Issues and Options was carried out between December 2020 and February 2021. Important changes were made to the NP during 2021. Regulation 14 consultation was undertaken between 1 October and 26 November 2021. Paragraph 15 of the CS sets out the extensive list of consultees, and measures taken to engage the community. Paragraph 28 sets out how local responses were taken into account, and a Schedule sets out how the views of other stakeholders and statutory consultees were taken into account.

10. Overall, the CS is very clear and comprehensive, enabling a good understanding of the final policies in the submitted NP. I find that the consultation carried out met, and exceeded, the relevant standards.
11. Regulation 16 consultation was carried out between 17 May and 24 June 2022. Seven responses were received. I have also been supplied with the helpful comments of ESC (“Comments”. Where these Comments are referred to below, I am referring to the “Responses to Oulton Neighbourhood Plan” document). I have carefully considered all these representations/ comments. I respond (and respond only) in this report to those which (a) are directed to the statutory test (see below) and (b) cause me to make a Recommendation.

SEA and HRA

12. A screening exercise for SEA purposes was carried out by ESC. As there is no residential (or any other) allocation in the NP, it was concluded that there would be no significant effects on the environment and no cumulative effects.
13. Both the WLP and the Broads Local Plan were subject to Habitats Regulations Assessment. There being no additional allocations in the NP, ESC concluded that the NP would not lead to likely significant effects on relevant habitat sites, and therefore no appropriate assessment was required.
14. I conclude that the NP complies with relevant SEA and HRA requirements.

The Examination Process

15. I was appointed in July 2022. I commenced the examination in the last week of July (ahead of the agreed timetable). I was supplied electronically with all relevant documents (and sent hard copies of key documents). I have carefully reviewed all the documents supplied.
16. On 9 August I informed ESC that the statutory conditions for holding a hearing did not exist. Hence the examination proceeded on the basis of the documents only, and my visit to the area. I carried this out on 23 August 2022.

Basic Conditions - General

17. Schedule 4B paragraph 8 to the Town and Country Planning Act 1990 provides that a neighbourhood plan meets the Basic Conditions if it meets those specified in paragraphs (a), (d), (e), and (f). One further basic condition has been prescribed under paragraph 8(2)(g), as follows:

“The making of the Neighbourhood Development Plan is not likely to have a significant effect on a European Site...or a European Off-shore marine site...either alone or in combination with other plans or projects”.

18. As the courts have frequently emphasised, and as I do now, the role of a Neighbourhood Plan Examiner is tightly constrained. It is (apart from dealing with other statutory requirements referred to at paragraphs 20-24 below) confined to considering compliance with the basic conditions. The Examiner cannot consider anything else: paragraph 8(6). Therefore the Examiner is not able to consider whether – as would be the case for a local plan – the NP is “sound” (in accordance with paragraph 35 of the NPPF). Accordingly, the Examiner can only consider the content of the NP (the planning judgments made, the choices made, the views regarded as important etc.) insofar as those matters impact on the basic conditions. This inevitably limits, significantly, the extent to which it is proper to respond to what I might call wider “planning merits” points made by representors.

19. I have had regard to the criteria in the basic conditions where relevant as I assess, below, the contents of the NP. The submission documents included, as required by the Regulations, a Basic Conditions Statement. The Statement complies with the requirements of the Regulations, and makes reasonable judgments on the compliance of the NP with the basic conditions.

Other statutory requirements

20. These are set out in the Town and Country Planning Act 1990 (as amended) and sections 38A-38C of the Planning and Compulsory Purchase Act 2004.
21. The NP was prepared and submitted for examination by a qualifying body: section 38A.
22. It has been prepared for an area designated under section 61G of the 1990 Act.
23. The NP meets section 38A(2) in that it sets out policies in relation to the development and use of land in the neighbourhood area.
24. The NP meets the requirements of section 38B – it specifies the period for which it is to have effect (2021-2036), it does not include provisions about development which is excluded development, and does not relate to more than one neighbourhood area.

Assessment of NP

25. As I said above, I regard the quality of the NP as exceptionally high. One of the consequences is that the task of the examiner is greatly more straightforward than is usually the case, and therefore this report is commensurately brief. Its brevity does not imply that the content of the NP has been given scant scrutiny, rather that there are very few instances where, in my opinion, change is called for by a modification to meet statutory requirements.

26. I can only recommend modifications where such are required to ensure compliance with the basic conditions (as referred to at paragraph 18 above).
27. National policy and guidance (see basic condition (a)) advises that plans should be clear and consistent. Plans should also be up-to-date. I **Recommend** some modifications, mainly as suggested in the Comments of ESC, to this end. Also, there are some minor corrections required (typos etc.) and I regard the making of such corrections to be within the implied powers of the parties.
28. To ensure that the NP is up-to-date, paragraphs 50 and 53 should be modified, to reflect the fact that the referenced Sustainable Construction SPD was adopted by ESC on 5 April 2022, and I so **Recommend**.
29. The last sentence of paragraph 66 states that Green Corridors will be “a target for BNG [biodiversity net gain] where developers need to deliver improvements off-site”. To reflect the fact that delivery of this objective cannot be certain, I **Recommend** that the word “potential” be inserted before “target”.
30. In relation to Policy 4, I agree with the comments of ESC (pages 3-4 of the Comments). The objectives here are laudable, but the Green Corridors are, necessarily, indicative only, with deliberately blurred boundaries. For these reasons, the terms of Policy 4 (criteria a), b) and d)) are too precise. I therefore **Recommend**:
- In line of criterion a), between “within” and “a Green Corridor”, insert “the indicative extent of”.
 - In the last line of criterion a), flora do not generally move. I therefore **Recommend** the deletion of “flora”.
 - In line 1 of criterion b), between “adjacent” and “Green Corridors” insert “to the indicative extent of”.
 - In criterion d), the requirement to deliver off-site biodiversity net gain “in the identified green corridors” is too rigid, and may be impractical. I therefore **Recommend** that the last phrase (commencing with “then the

requirement...”) be deleted and replaced with “then the first preference will be to deliver this net gain in or adjacent to the indicative extent of the green corridors, working with local landowners”.

31. I commend the authors of the NP particularly on the section related to Local Green Spaces (LGS). Eleven LGS are designated, as shown on Figure 8 and the Policies Map. I accept the detailed justification for each LGS in the Oulton Neighbourhood Plan Local Green Space Assessment. My visit to the area confirmed its robustness.
32. I also agree with the terms of proposed Policy 5. In almost all neighbourhood plans, the simple reproduction of Green Belt policy as indicated in the NPPF is quite at odds with the objectives and policies of the plan in question. Policy 5 is a model of local adaptation of Green Belt policy.
33. I commend the two comments of ESC (page 4 of the Comments) in relation to LGS, and assume that they will be attended to. These comments are (1) Site 5-Burial Grounds, near Union Lane-is on a site allocated for residential development in the WLP. A Design Brief has been adopted by ESC to guide the development of the site. It appears that the development and the LGS can go together, but the exact area of the LGS allocation should be checked to ensure that the allocated development can go ahead without being harmed by the LGS; (2) generally, the maps in the NP are at a high level. More detailed maps of each LGS should be included to make it easy to determine precisely what area each one covers.
34. In the chapter on Access and Transport, I commend reference to the updating at page 4 of ESC’s Comments.

Conclusion

35. I have made it clear in this short report that I regard the NP as of exceptionally high quality in all its aspects.

36. I have made an unusually small number of Recommendations, to ensure that the NP is precise and that its policies are deliverable.
37. If the NP is made, it will form a valuable and positive element of the statutory development plan for the area.
38. I accept that the NP has had regard to the fundamental rights and freedoms guaranteed by the European Convention on Human Rights, and complies with the Human Rights Act.
39. In my judgment the NP, with the recommendations made in this Report, will comply with the basic conditions and other statutory requirements.
40. I therefore **Recommend** that, subject to such modifications, it should proceed to Referendum.
41. I have considered whether the referendum area should be any different to the neighbourhood area and see no reason to so recommend.

Christopher Lockhart-Mummery KC

Examiner

September 2022