

Thorndon Neighbourhood Development Plan

**Decision Statement: Proposed modification to Local Green Space policy
THN 11**

Published: 27 May 2021

Background:

On the 17 February 2021, Mid Suffolk District Council commenced a six-week consultation on a modification to Local Green Space policy THN11 in the Thorndon Neighbourhood Development Plan (NP). This followed a Court of Appeal ruling issued shortly after publication of the Examiners Report.

The proposed amendment sought to remove the last paragraph in the policy which referred to development on the allocated local green spaces only being permitted in exceptional circumstances. Written comments on this matter only, were invited between Wednesday 17 February and Thursday 1 April 2021.

In total, six representations were received. They are listed in the table below and a copy of their written representations are repeated below, stating on page 3.

Ref No.	Consultee
(1)	Suffolk County Council
(2)	Natural England
(3)	Historic England
(4)	Anglian Water
(5)	Water Management Alliance
(6)	Lacy Scott & Knight LLP (obo the Kerrison Trust)

Response from Mid Suffolk District Council:

Five of the six written respondents raise no objection to the proposed modification.

Lacy Scott & Knight LLP (acting for and on behalf of the Kerrison Trust) have raised a number of objections. Addressing their various points, the District Council respond as follows:

- The consultation does not refer incorrectly to Policy THN 11. The Thorndon NP Examiner has recommended, and the District Council have already endorsed a number of modification to the Plan. Taking all of these into consideration, the Local Green Space policy will become policy THN 11.
- The District Council do not consider that removing the last paragraph of the policy creates a more onerous test of the very special circumstances as applied in paragraph 101 of the NPPF. As explained, the removal of the paragraph is consistent with the approach taken in the other evidenced Plans (Laxfield and Wilby). In both those cases, the Examiner clearly explained their reasoning for making that modification.

- The District Council accepts that the ‘property’ [the Kerrison Playing Field] may be private land (with or without restricted access) and has seen first-hand that the land is also fenced. It also notes that the fence Clint Road is not properly maintained and that there is also circumstantial evidence to suggest that local residents have/are accessing the land for recreational purposes. Given what the Examiner may have seen on their unaccompanied site visit, and our own impression, it is not unreasonable to assume that the Examiner came to the conclusion that they did.
- Whilst we acknowledge that we have not directly contacted the Kerrison Trust on matters relating to this Neighbourhood Plan, our records show that Mr Turner at Lacy, Scott & Knight LLP, was included in the list of consultees at the Regulation 16 stage (Mid Suffolk District Council e-mail dated 19 June 2020).
- The Parish Council have also sought to publicise the existence of the plan locally, including through their website, the Village Life magazine and through Drop-in Events held in 2019 and 2020. The District Council have also kept its Thorndon NP webpage regularly updated.
- It is noted that, in a recent Examiner’s Report to a Neighbourhood Plan in Babergh District (Chelmondiston), the Examiner identifies that: *“Private land, with or without public access, can be designated as Local Green Space. [...] This does not preclude future development. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.”* ([Chelpin Plan Examiner’s Report, 19 May 2021, paragraph 103, p.18](#)).
- The Kerrison Playing Field is also an identified open space in the Babergh and Mid Suffolk Joint Local Plan Pre-Submission (Reg 19) Document (November 2020), which was submitted (Reg 22) to the Secretary of State for Housing, Communities and Local Government on 31 March 2021 for independent examination. The Joint Local Plan is supported by an Open Space Assessment (May 2019).

Conclusion:

The District Council see no reason to make any further modifications to Local Green Space policy THN 11 in the Thorndon Neighbourhood Plan other than those already proposed and will proceed to move this plan to a local referendum.

[Ends]

(1) SUFFOLK COUNTY COUNCIL

E from: Suffolk County Council <neighbourhoodplanning@suffolk.gov.uk>
Rec'd: 26 Feb 2021
Subject: RE: Consultation: Thorndon NP Local Green Space policy modification

Dear Mr Bryant & Mr Hobbs,

Thank you for consulting SCC on the modification to the Thorndon neighbourhood plan. We have no objections to the change to Policy THN 11 Local Green Space.

Kind regards,

Georgia Teague
Planning Officer | Suffolk County Council

* * * * *

From: BMSDC Community Planning <communityplanning@baberghmidsuffolk.gov.uk>
Sent: 17 February 2021 11:38
To: [...]
Subject: Consultation: Thorndon NP Local Green Space policy modification

This e-mail has been sent obo Robert Hobbs (Corporate Manager - Strategic Planning)

Dear Sir / Madam

Consultation on proposed modification to Local Green Space policy THN 11 in the 'post-examination' Thorndon Neighbourhood Plan

We are contacting you because you are a statutory consultee or because you have previously submitted a written representation to Mid Suffolk District Council on the [Thorndon Neighbourhood Plan](#)

Please be advised that, today, we commence a focused 6-week consultation on a proposed modification to Local Green Space Policy THN 11. Further details are set out in the [attached letter](#).

As set out in the letter, the consultation period will **close at 4:00pm on Thur 1 April 2021**.

Your faithfully

Paul Bryant
Neighbourhood Planning Officer | Planning for Growth
Babergh & Mid Suffolk District Councils - Working Together

[Ends]

(2) NATURAL ENGLAND

E from: SM-NE-Consultations (NE) <consultations@naturalengland.org.uk>
Rec'd: 8 March 2021
Subject: Re: Local Green Space policy THN 11

Dear Mr Bryant

Consultation on proposed modification to Local Green Space policy THN 11 in the 'post-examination' Thorndon Neighbourhood Plan

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England does not consider that this green space policy THN 11 poses any likely risk or opportunity in relation to our statutory purpose, and so does not wish to comment on this consultation.

The lack of comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment. Other bodies and individuals may wish to make comments that might help the Local Planning Authority (LPA) to fully take account of any environmental risks and opportunities relating to this document.

If you disagree with our assessment of this proposal as low risk, or should the proposal be amended in a way which significantly affects its impact on the natural environment, then in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, please consult Natural England again.

Yours sincerely

Joanne Widgery
Natural England
Consultation Service
Hornbeam House, Crewe Business Park, Electra Way, Crewe, Cheshire, CW1 6GJ
T: 0300 060 3900 | E: consultations@naturalengland.org.uk | W: www.gov.uk/natural-england

During the current coronavirus situation, Natural England staff are primarily working remotely to provide our services and support our customers and stakeholders.

Please continue to send any documents by email or contact us by phone to let us know how we can help you. See the latest news on the coronavirus at <http://www.gov.uk/coronavirus> and Natural England's regularly updated operational update at <https://www.gov.uk/government/news/operational-update-covid-19>.

Stay home. Protect the NHS. Save lives.



[Ends]

(3) HISTORIC ENGLAND

E from: Edward James (Historic England)
Rec'd: 8 March 2021
Subject: Re: Local Green Space policy THN 11

Dear Paul,

Thank you for this consultation.

The consultation relates specifically to the Local Green Space policy Thorndon Neighbourhood Plan, and as such does not relate to any historic environment considerations. We therefore do not have any comments to make at this time.

Please contact me if you have any specific queries or questions.

Kind regards,

Edward James
Historic Places Adviser - East of England
Historic England



Historic England

Brooklands | 24 Brooklands Avenue | Cambridge | CB2 8BU

www.historicengland.org.uk

[Ends]

(4) ANGLIAN WATER

E from: spatialplanning <spatialplanning@anglianwater.co.uk>
Rec'd: 17 Feb 2021
Subject: Re: Consultation: Thorndon NP Local Green Space policy modification

Dear Paul,

Thank you for the opportunity to comment on the consultation on the proposed modification to the Local Green Space Policy as set out in the Examiner's report for the Thorndon Neighbourhood Plan.

The following comments are submitted on behalf of Anglian Water and should be read together with our original response to the plan.

We note that the Council has suggested a modification to Policy THN11 - Local Green Space in relation to a recent Court of Appeal decision. The proposed wording does not appear to raise any issues for Anglian Water as an infrastructure provider.

I would be grateful if you could confirm that you have received this response. [MSDC Note: Done]

For any further Neighbourhood Plan consultations please send them to our shared mailbox: spatialplanning@anglianwater.co.uk

Should you have any further queries relating to this response please let me know.

Regards,

Stewart Patience, MRTPI
Spatial Planning Manager

Anglian Water Services Limited
Anglian Water, Thorpe Wood House, Thorpe Wood, Peterborough, Cambridgeshire. PE3 6WT



[Ends]

(5) WATER MANAGEMENT ALLIANCE

E from: Planning <plannig@wmla.org.uk>
Rec'd: 17 Feb 2021
Subject: RE: Consultation: Thorndon NP Local Green Space policy modification

Good Afternoon,

The Parish of Thorndon is located outside the Boards Internal Drainage District of East Suffolk and Wider Watershed Catchment, therefore we have no comments to make.

Kind Regards,

Jessica Nobbs

Senior Sustainable Development Officer

e: planning@wlma.org.uk



Water Management Alliance, Kettlewell House, Austin Fields Industrial Estate, King's Lynn, Norfolk, [PE30 1PH](http://www.pe301ph.co.uk), UK

t: +44 (0)1553 819600 | f: +44 (0)1553 819639 | e: info@wlma.org.uk | www.wlma.org.uk

Membership: [Broads Drainage Board](#), [East Suffolk Drainage Board](#), [King's Lynn Drainage Board](#), [Norfolk Rivers Drainage Board](#), [South Holland Drainage Board](#) and [Waveney, Lower Yare and Lothingland IDB](#).

In association with [Pevensey and Cuckmere Water Level Management Board](#), [Upper Medway IDB](#) and [Lower Medway IDB](#).

The information in this e-mail, and any attachments, is confidential and intended solely for the use of the individual or entity to whom it is addressed. The views expressed in this e-mail may not represent those of the Board(s). Nothing in this email message amounts to a contractual or legal commitment unless confirmed by a signed communication. All inbound and outbound emails may be monitored and recorded. We may have to make this message and any reply to it public if asked to under the Freedom of Information Act, Data Protection Act or for any litigation. E-mail messages and attachments sent to or from the Water Management Alliance e-mail address may also be accessed by someone other than the sender or recipient, for business purposes.

With our commitment to ISO 14001, please consider the environment before printing this e-mail.

(6) Lacy Scott & Knight LLP (obo The Kerrison Trust)

E from: Mr Alex Turner (Lacy Scott & Knight LLP)
Rec'd: 30 March 2021
Subject: Single Issue Consultation on post-examination Thorndon Neighbourhood Plan - Policy THN 11 - Local Green Spaces

Dear Mr Hobbs,

Further to your email of the 17th of February 2021, my clients The Kerrison Trust have asked me to make written representations regarding the above Single Issue Consultation. The Kerrison Trust own the property referred to in the Neighbourhood Plan as 'Kerrison Playing Field' hereafter referred to as 'the Property'.

For clarity I believe the consultation refers incorrectly to Policy THN 11 when it should refer to Policy THN 13.

My client strongly objects to the modification proposed to THN 13 for the following reasons;

1. The proposed removal of the text has the effect, by omission, of creating a more onerous policy test of very special circumstances as applied in paragraph 101 of the NPPF. The owners do not agree that such an onerous test should be applied to the Property, particularly given that the land should never have been proposed for designation in any event. The owners would point out that the Examiner made a fundamental factual error in paragraph 101 of the report concluding the Property, 'is demonstrably special to the local community, particularly for its recreational value'. The Property is fenced private land and not public open space. It has no recreational value to the local community. It is not clear how the Examiner could have made such an error.
2. The Trust would have pointed out the status of the land had it been given the opportunity to do so. However, it has no record of being consulted in relation to the preparation of the draft plan and it has seen nothing which evidences the steps taken by the Parish Council and Mid Suffolk to ensure that the draft proposals came to the attention of the Trust. In particular, there is no record of any correspondence in relation to the 'Thorndon Neighbourhood Plan Local Green Space Assessment (January 2020)'. Given that the submission draft of the Neighbourhood Plan contained two sites owned by the Trust, as a significant local stakeholder the Trust would have reasonably expected to be directly informed of the consultation or, at the very least to have been made aware that there were policy proposals affecting its land.

For the above reasons, the Trust requests that the proposed modifications are not made, and the Kerrison Playing Field is removed from Policy THN 13 as it should not have been designated and the Trust believes this error arises from the fact it has not been properly consulted.

I would be grateful if you could acknowledge receipt of this email. {MSDC note: Done}

Kind regards,

Alex Turner BSc (Hons) MRICS
Lacy Scott & Knight LLP, 10 Risbygate Street,
Bury St Eds, IP33 3AA

