

Wetheringsett cum Brockford N'hood Plan 2022 - 2037

Independent Examination correspondence document

First published: 12 April 2023

Last updated: 15 May 2023

Introduction

This document provides a record of all general correspondence, important matters and the responses to these that take place between the Examiner (Janet Cheesley), the Parish Council (the Qualifying Body or 'QB'), and Mid Suffolk District Council during the examination of the Wetheringsett cum Brockford Neighbourhood Plan.

As required, specific documents will also continue to be published on our Wetheringsett cum Brockford NP webpage: www.midsuffolk.gov.uk/WetheringsettNP

Copies of e-mails / letters etc. appearing on the following pages:

- 1. E from Examiner dated 29 March 2023: Examination start and procedures.**
- 2. E from Examiner dated 12 April 2023: Open letter to Parish Council re fatal flaw ... and note re request from PC for time extension to respond.**
- 3. E to Examiner dated 5 May 2023: Update on planning appeals in Wetheringsett (Hockey Hill)**
- 4. E to Examiner dated 12 May 2023: Parish Council response to Open Letter – and reply confirming suspension of examination**

1. E from Examiner dated 29 March 2023: Examination start and procedures.

From: Janet Cheesley
To: Paul Bryant (BMSDC), Robert Townshend (Chair WcB NP Steering Group),
Lynne Cockerton (Parish Clerk), *and* Andrea Long (NP Group Consultant)
Dated: 29 March 2023
Subject: Commencement of the Examination
Attached: [Npiers Planning Guidance To Service Users And Examiners Rics.pdf](#)

Dear All,

I am writing to set out how I intend to undertake the examination of the Wetheringsett cum Brockford Neighbourhood Plan. My role is to determine whether the Plan meets the Basic Conditions and other legal requirements. I intend to ensure that the Parish Council feels part of the process. As such, I will copy the Parish Council into all correspondence, apart from contractual matters that are dealt with directly with the local planning authority. Likewise, please can you ensure that any correspondence from you is copied to the other party. This will ensure fairness and transparency throughout the process.

Paul will be my main point of contact. Once I have read all the papers, I may ask for any missing documents or seek clarification on some matters. It may be appropriate for me to seek clarification on matters from the Parish Council. I must emphasise very strongly that this does not mean that I will accept new evidence. In the interest of fairness to other parties, I cannot accept new evidence other than in exceptional circumstances. If the Parish Council is unsure as to whether information it is submitting may constitute new evidence, may I suggest that you send it to Paul in the first instance for an opinion.

It may be that there is very little correspondence from me during the examination. I will endeavour to keep you all up to date on the progress of the examination. The default is for an examination to be conducted without a hearing. If I feel one is necessary, I will inform you both as early as possible, but this is likely to be near the end of the examination process. If I do intend to hold a hearing, I will inform you of the procedure at that time.

I will issue a draft report for fact checking by both parties. I will ask you both to check my report for factual errors such as dates, sequence of events, names and so on that might need to be corrected. The report will be confidential and must not be presented to a public meeting. I must emphasise that this is not an opportunity to make comments on the report other than those that relate to factual errors. In particular, I will not be inviting, and will not accept, comment on any suggested modifications. The draft report will only be published as the final version if there are no factual errors found and if there is no other reason, such as a sudden change in national policy, that could be significant to my recommendations. I will endeavour to issue my final report shortly after the fact checking stage.

I enclose the NPIERS Guidance to Service Users and Examiners, which may be of interest regarding the examination process.

I confirm that I have received the documents from Mid Suffolk District Council.

Regards

Janet Cheesley

[Ends]

2 E from Examiner dated 12 April 2023: Open letter to Parish Council re fatal flaw ... and note re request from PC for time extension to respond.

Dated: 12 April 2023
From: Paul Bryant (BMSDC), Robert Townshend (Chair WcB NP Steering Group), Lynne Cockerton (Parish Clerk), *and* Andrea Long (NP Group Consultant)
Subject: Open Letter to Parish Council

Please find enclosed an open letter to the Parish Council. Please can the letter be published on the District Council's website.

Regards
Janet Cheesley

Copy of the Open Letter reproduced below:

Wetheringsett cum Brockford Neighbourhood Plan

Letter to Wetheringsett cum Brockford Parish Council 12 April 2023

Paragraph 1.10.5. in Part 2 of the *Neighbourhood Planning Independent Examiner Referral Service Guidance to service users and Examiners* advises that: *the independent examiner will initially undertake a high-level assessment of the plan documents. If there is an obvious and potentially fatal flaw, the independent examiner will write to alert the local planning authority and qualifying body.*

I have undertaken an initial high-level assessment and unfortunately, I have identified a fatal flaw.

Neighbourhood Plan

The Plan allows for infill within the settlement boundary. Part of Policy WCB1 in Plan states: *The Plan also supports, in principle, the development of a small scheme of up to 10 dwellings on the site known as 'Land East of the A140 (shown on the Brockford Street Policy Inset Map) where this is compliant with other policies in this Plan.*

Inset Map 1 identifies the site as a site allocation.

Supporting text to the policy states that the Plan: *is not proposing to allocate additional sites for housing above those already committed or identified in the BMSJLP. Although one of the proposed housing allocations previously identified in the emerging BMSJLP (land east of the A140), does not yet have any permissions, the site is considered to be suitable in that it has no known legal or physical constraints that would prevent it from coming forward* (extract from paragraph 5.14).

Emerging Babergh and Mid Suffolk Joint Local Plan

The emerging BMSJLP referred to above is the emerging Babergh and Mid Suffolk Joint Local Plan. Mid Suffolk District Council with Babergh District Council published the new Joint Local Plan Pre-Submission (Regulation 19) Consultation Document for public consultation in November 2020. This covers the period to 2037. It was submitted for examination in March 2021. In December 2021 Inspectors in the process of examining the BMSJLP requested that the BMSJLP to be split into two parts with Part 2 requiring further assessment to addressing matters including housing numbers for Neighbourhood Plan Areas, the spatial distribution and settlement boundaries. A Consolidated Modifications Part 1 Document was published for consultation in March 2023. The Consolidated Modifications Document deletes the proposed settlement hierarchy and reverts to settlement boundaries in the adopted development plan. It states that these boundaries will be reviewed, and if necessary revised, as part of the preparation of the Part 2 Plan. It is unclear at this stage which, if any, proposed housing allocations in the November 2020 version of the BMSJLP will be included in a forthcoming Part 2.

Neighbourhood Plan Strategic Environmental Assessment (SEA)

The final *Wetheringsett cum Brockford Neighbourhood Development Plan SEA Screening Report* was published by Land Use Consultants in August 2022. In table 2.2 under point 6 it states: *The Neighbourhood Plan does not allocate sites for housing or other forms of development, although it does in principle support higher housing numbers at one of the sites proposed for allocation in the emerging Babergh and Mid Suffolk Joint Local Plan. The Neighbourhood Plan covers the period up to 2037. Effects of the Wetheringsett cum Brockford Neighbourhood Plan are expected to be indirect (due to not allocating sites) but long-term and permanent.*

Paragraphs 2.33 and 2.34 state: *The Neighbourhood Plan sets out sets out 14 planning policies to shape development in the parish up to 2037 and decision makers will need to consider the criteria of these policies when determining future applications in the parish. It does not directly impact on land use through the allocation of sites for housing or other forms of development. While it supports in principle higher housing numbers at one site, the site is proposed for allocation in the emerging Joint Local Plan rather than through the Neighbourhood Plan.*

On this basis, it is considered that the Wetheringsett cum Brockford Neighbourhood Plan is unlikely to have significant environmental effects and that full SEA is therefore not required.

Neighbourhood Plan Habitats Regulations Assessment (HRA)

The final *Wetheringsett cum Brockford Neighbourhood Plan 2022-2037 HRA Report* was published by Land Use Consultants in August 2022.

This report states at paragraphs 4.2 and 4.3: *The Wetheringsett cum Brockford Neighbourhood Plan does not allocate any sites for residential development. Instead, a number of the policies within it sets out criteria that any new residential/or employment developments that comes forward must meet. Should schemes which are supported by the Wetheringsett cum Brockford Neighbourhood Plan move forward, individual project-level HRAs should be carried out to determine any likely significant effects.*

Since none of the policies of the Wetheringsett cum Brockford Neighbourhood Plan are expected to directly result in development, they will not result in significant effects on European sites. Therefore, no likely significant effects are predicted as a result of the plan.

It concludes at paragraph 5.1: *At the Screening stage of HRA, no likely significant effects are predicted on European sites, either alone or in combination with other policies and proposals. However, it is expected that any development which the Wetheringsett cum Brockford Neighbourhood Plan supports and is within the plan boundary will be required to undertake an individual project-level HRA to determine impacts.*

Issues

The housing site identified as 'Land East of the A140' is not allocated in any adopted development plan document. By supporting the development of this site in Policy WCB1 in the neighbourhood plan and by identifying the site on Inset Map 1 as an allocated site, if the neighbourhood plan were to become part of the development plan as a 'made' document, it would be allocating the site for housing development. I realise that this is unintentional. Nevertheless, as Policy WCB1 in the neighbourhood plan would allocate the site for housing development, both the SEA Screening Report and HRA Report should have acknowledged this in reaching their conclusions.

Both the SEA Screening Report and HRA Report conclusions were partially based on false premises that the site is *proposed for allocation in the emerging Joint Local Plan rather than through the Neighbourhood Plan* and would not *directly result in development*.

Cont./

A SEA needs to legally comply with Directive 2001/42/EC and the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended). These set out various legal requirements and stages of the SEA. The first area of concern is whether or not the Screening Report has been satisfactorily carried out. Unfortunately, for the reasons stated above, I have come to the conclusion that this has not been satisfactorily carried out. Given that the SEA does not comply with legal requirements there are no modifications I can recommend to remedy this circumstance.

A HRA needs to legally comply with the Habitats Directive and the Conservation of Habitats and Species Regulations 2017(7). For the reasons stated above, I have come to the conclusion that the HRA Report has not been satisfactorily carried out. Given that the HRA does not comply with legal requirements there are no modifications I can recommend to remedy this circumstance.

For a neighbourhood plan to allocate housing sites National Planning Policy Guidance states: *A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.* (Paragraph: 042 Reference ID: 41-042-20170728).

PPG provides guidance on assessing sites including: *If the process to identify land is to be transparent and identify as many potential opportunities as possible, it is important to issue a call for sites and broad locations for development.* (Extract part of Paragraph: 012 Reference ID: 3-012-20190722).

The neighbourhood plan supports in principle the development of 'Land East of the A140'. This site may or may not be included as an allocation in a future Part 2 of the emerging BMSJLP. In accordance with national guidance, I would have expected the neighbourhood plan background evidence in support of this site to include a call for sites and an appraisal of options. I have not been provided with such evidence.

In the light of the above, I would like to give the Parish Council the opportunity to consider whether it wishes to withdraw the Plan from examination or whether I continue with the examination with the understanding that I will recommend the Plan does not proceed to referendum. I have yet to examine the Plan in detail and there may be other modifications required to meet the Basic Conditions. I am not seeking, and will not accept, any representations from other parties regarding this matter at this stage.

I realise that this is an important consideration for the local community. I would like to give the Parish Council 14 days from receipt of this letter to respond. If further time is required, for example to coincide with a Parish meeting, please let me know.

Please can this open letter be placed on the Mid Suffolk District Council's webpage for the Plan.

Kind Regards
Janet Cheesley

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MSDC note:

In response to the above, the Parish Council advised Janet that their next meeting will not take place until Thursday 11 May 2023 so asked if they could respond after that date, i.e. Monday 15 May 2023.

In reply, the Examiner said that this was fine.

3. E to Examiner dated 5 May 2023: Update on planning appeals in Wetheringsett (Hockey Hill)

From: Paul Bryant (BMSDC),
To: Janet Cheesley
Dated: 5 May 2023
cc to: Robert Townshend, Andrea Long, Lynne Cockerton

Dear Janet

cc: Robin Townshend, Andrea Long, et.al

The purpose of this e-mail is to briefly update you on two recent appeal decisions. These relate to the two applications mentioned in para' 5.7 of the submitted Wetheringsett cum Brockford N'hood Plan.

DC/20/04692 [11 dwellings on Land to the East of Hockey Hill]

- This appeal has been dismissed. The decision notice is dated 27 April 2023 and a copy can be found at: [Reference: APP/W3520/W/22/3291190 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/reference/APP/W3520/W/22/3291190)
- Other than a need to update para' 5.7 and amend the figures presented in para' 5.8, there do not appear to be any other direct implications of the decision for the WcB NP



DC/20/04921 [14 dwellings on Land to the East of Hockey Hill]

- This appeal has been allowed. The decision notice is dated 27 April 2023 and a copy can be found at: [Reference: APP/W3520/W/22/3292871 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/reference/APP/W3520/W/22/3292871)
- As mentioned above, the outcome now means that para' 5.7 and para' 5.8 of the WcB NP will need to be updated accordingly.
- This particular site has also been put forward in Policy WCB11 as a proposed Local Green Space (# 6: Former football field at Hockey Hill). Our Reg 14 response (repeated on page 103, line 90 of the [Consultation Statement](#)) records that we (Mid Suffolk DC) felt the allocation to be unsafe but also that the decision had been taken by the NP Steering Group to retain the LGS allocation for now. While the appeal decision only refers to the grant of outline planning permission, it once again cast doubt on the local green space allocation.



We trust that the above information is helpful.

Kind regards

Paul Bryant
N'hood Planning Officer | BMSDC

[Ends]

4. E to Examiner dated 12 May 2023: Parish Council response to Open Letter – and reply confirming suspension of examination

From: Lynne Cockerton (Clerk to Wetheringsett cum Brockford Parish Council)
To: Janet Cheesley
Dated: 12 May 2023
cc to: Robert Townshend, Andrea Long, Paul Bryant (BMSDC),

Dear Ms Cheesley,

Wetheringsett-cum-Brockford Neighbourhood Plan Examination

In response to your open letter to the Parish Council, dated 12th April 2023, I can advise that the contents of the letter were discussed at the Parish Council meeting on 11th May 2023.

The Parish Council therefore formally wishes to withdraw the Submission Version of the Wetheringsett-cum-Brockford Neighbourhood Plan dated December 2022 and requests that you suspend the Neighbourhood Plan Examination. This will allow the Parish Council to undertake further consultation with the local community as appropriate and for procedural matters to be addressed.

If you require anything further from the Parish Council please do not hesitate to contact me.

Yours sincerely

Lynne Cockerton
Clerk to Wetheringsett cum Brockford Parish Council

... and the reply from the Examiner

From: Janet Cheesley
To: Lynne Cockerton (Clerk to Wetheringsett cum Brockford Parish Council)
Dated: 12 May 2023
cc to: Robert Townshend, Andrea Long, Paul Bryant (BMSDC),

Thank you for your email. I am happy to suspend the examination on this basis. I would appreciate updates on progress.

Regards

Janet Cheesley

[Ends]