

THE TIVETSHALLS NEIGHBOURHOOD PLAN

The Tivetshalls Neighbourhood Plan Examination
A Report to South Norfolk Council

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August 2022

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1. Summary

- 1 Subject to the recommendations within this Report, made in respect of enabling the Tivetshalls Neighbourhood Plan to meet the basic conditions, 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.

- 2 Taking the above into account, I find that the Tivetshalls Neighbourhood Plan meets the basic conditions¹ and I recommend to South Norfolk Council that, subject to modifications, it should proceed to Referendum.

¹ It is confirmed in Chapter 3 of this Report that the Tivetshalls Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

2. Introduction

The Neighbourhood Plan

- 3 This Report provides the findings of the examination into the Tivetshalls Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by Tivetshall Parish Council.
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. At Referendum, should more than 50% of votes be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by South Norfolk Council.
- 5 The Neighbourhood Plan would then form part of the relevant development plan and as such, it would be used to determine planning applications and guide planning decisions in the Tivetshalls Neighbourhood Area.
- 6 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 the power to develop a shared vision for their area. Neighbourhood Plans can shape, direct and help to deliver sustainable development.”

(Paragraph 29, National Planning Policy Framework)

- 7 As confirmed under “*Legal and Regulatory Compliance*” in Section 2 on page 3 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Tivetshall Parish Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan.
- 8 Section 2 of the Basic Conditions Statement also confirms that the Neighbourhood Plan relates to the development and use of land in the designated Tivetshalls Neighbourhood Area and that there is no other neighbourhood plan in place in the Tivetshalls Neighbourhood Area.

- 9 In this regard, the Tivetshalls Neighbourhood Plan meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2021) and Planning Practice Guidance (2014).

Role of the Independent Examiner

- 10 I was appointed by South Norfolk Council to conduct the examination of the Tivetshalls Neighbourhood Plan and to provide this Report.
- 11 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the relevant 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.
- 12 I am a chartered town planner and have ten years' direct experience as an Independent Examiner of Neighbourhood Plans and Orders. I also have over thirty years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 13 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,
- 14 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Tivetshalls Neighbourhood Area to which the Plan relates.
- 15 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

- 16 A neighbourhood plan must specify the period during which it is to have effect.
- 17 The title page of the Neighbourhood Plan refers to the plan period as "2022 – 2042."
- 18 Taking this into account, the Neighbourhood Plan meets the requirement in respect of specifying the period during which it is to have effect.

Public Hearing

- 19 According to the legislation, it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 20 However, it is also the case that *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.
- 21 Further to consideration of the information submitted, I determined not to hold a public hearing as part of the examination of the Tivetshalls Neighbourhood Plan.
- 22 However, further to consideration of the submission documents, I wrote to the Qualifying Body in respect of matters where further information was sought. At the same time, in line with good practice, the Qualifying Body was provided with an opportunity to respond to representations received during the Submission consultation process.

3. Basic Conditions and Development Plan Status

Basic Conditions

- 23 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “*basic conditions.*” These were *set out in law*² following the Localism Act 2011.
- 24 Effectively, the basic conditions provide the rock or foundation upon which neighbourhood plans are created. 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
 - prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
- 25 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to above. Of these, the following basic condition, brought into effect on 28th December 2018, applies to neighbourhood plans:
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations.³

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

³ *ibid* (same as above).

- 26 In examining the Plan, I am also required, as set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act), to check whether the neighbourhood plan:
- has been prepared and submitted for examination by a qualifying body;
 - has been prepared for an area that has been properly designated for such plan preparation (under Section 61G of the Town and Country Planning Act 1990 (as amended));
 - meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one Neighbourhood Area and that:
 - its 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.
- 27 An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.⁴
- 28 I note that, in line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan and this sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

⁴ The Convention rights has the same meaning as in the Human Rights Act 1998.

European Convention on Human Rights (ECHR) Obligations

- 29 I am satisfied, in the absence of any substantive evidence to the contrary, that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998.
- 30 In the above regard, 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. A Consultation Statement was submitted alongside the Neighbourhood Plan and the role of public consultation in the plan-making process is considered later in this Report.

European Union (EU) Obligations

- 31 In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment. 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)
- 32 This process is often referred to as “screening”⁶. If likely environmental effects are identified, an environmental report must be prepared.
- 33 The Strategic Environmental Assessment Screening Report submitted alongside the Neighbourhood Plan concluded that:
- “...the Tivetshalls Neighbourhood Plan is not likely to have significant environmental effects and full SEA is not required. There are no site allocations within the Neighbourhood Plan.”*
- 34 The statutory bodies, Historic England, Natural England and the Environment Agency were all consulted and all agreed with the conclusion above.

⁵ Planning Guidance, Paragraph 027, Ref: 11-027-20150209.

⁶ The requirements for a screening assessment are set out in in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.

- 35 In addition to SEA, a Habitats Regulations Assessment identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans and projects. This Assessment must determine whether significant effects on a European site can be ruled out on the basis of objective information⁷. If it is concluded that there is likely to be a significant effect on a European site, then an appropriate assessment of the implications of the plan for the site must be undertaken.
- 36 In the case *People Over Wind & Sweetman v Coillte Teoranta* ("*People over Wind*" April 2018), the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means that if a likely significant effect is identified at the screening stage of a habitats assessment, an Appropriate Assessment of those effects must be undertaken.
- 37 In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018, allowing neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an Appropriate Assessment to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or a planning application.
- 38 A Habitat Regulations Screening Report was produced by South Norfolk Council and submitted alongside the Neighbourhood Plan. The Report assessed whether the policies of the Neighbourhood Plan would give rise to the potential for a likely significant effect on Natura 2000 European sites either within or in relative proximity to the Neighbourhood Area.
- 39 Whilst there are no designated European sites in the Neighbourhood Area, the Report recognised that Norfolk Valley Fen Special Area of Conservation (SAC) and Waveney and Little Ouse Fens SAC are within 15km of the Neighbourhood Area.

⁷ Planning Guidance Paragraph 047 Reference ID: 11-047-20150209.

- 40 The Screening Report concluded that:

“The screening assessment suggests that there will be no likely significant effect of the proposed Tivetshall St Mary and St Margaret Neighbourhood Plan on European designated sites, and therefore that a full Appropriate Assessment is not required.”

- 41 In response to consultation on the outcome of the process, the statutory consultee Natural England stated that:

“Based on the documents provided, it is Natural England’s understanding that there are no housing allocations included within the Tivetshall St Mary & St Margaret Neighbourhood Plan and that it is in general conformity with the Broadland and South Norfolk Local Plan. On this basis we agree with the conclusions of the SEA and HRA.”

- 42 Further to all of the above, I am mindful that 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 (including obligations under the Strategic Environmental Assessment Directive)” (Planning Practice Guidance⁸).

- 43 In undertaking the work that it has and in reaching the conclusions that it has, South Norfolk Council has no outstanding concerns in respect of the Neighbourhood Plan’s compatibility with EU obligations.

- 44 Taking this and the recommendations contained in this Report into account, I am satisfied that the Neighbourhood Plan is compatible with European obligations.

⁸ ibid, Paragraph 031 Reference ID: 11-031-20150209.

4. Background Documents and the Tivetshalls Neighbourhood Area

Background Documents

- 45 In completing this examination, I have considered various information in addition to the Tivetshalls Neighbourhood Plan. I also spent an unaccompanied day visiting the Tivetshalls Neighbourhood Area.
- 46 Information considered as part of this examination has included the following main documents and information:
- National Planning Policy Framework (referred to in this Report as “*the Framework*”) (2021)
 - Planning Practice Guidance (2014, as updated)
 - Town and Country Planning Act 1990 (as amended)
 - The Localism Act (2011)
 - The Neighbourhood Plan Regulations (2012) (as amended)
 - Joint Core Strategy for Broadland, Norwich and South Norfolk (2011, amendments 2014) (referred to in this Report as the “*JCS*”)
 - South Norfolk Local Plan Site Specific Allocations and Policies Document (2015)
 - South Norfolk Local Plan Development Management Policies Document (2015)
 - Basic Conditions Statement
 - Consultation Statement
 - Representations received
 - SEA/HRA Screening Reports
 - Supporting Evidence

Tivetshalls Neighbourhood Area

- 47 The boundary of the Tivetshalls Neighbourhood Area is identified on Figure 2 on page 6 of the Neighbourhood Plan.
- 48 The Tivetshalls Neighbourhood Area was designated by South Norfolk Council in July 2020.

- 49 The designation of the Neighbourhood Area 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).

5. Public Consultation

Introduction

- 50 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.
- 51 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.

Tivetshalls Neighbourhood Plan Consultation

- 52 A Consultation Statement was submitted to South Norfolk 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*⁹.
- 53 During the Autumn of 2020 and further to the first Neighbourhood Plan Steering Group Workshop, which took place in September 2020, a series of display panels introducing the concept of neighbourhood planning, were moved around the Neighbourhood Area for residents to consider.
- 54 Between October 2020 and March 2021, Placecheck, an online application, invited the community to place pins on a map of the Neighbourhood Area, identifying views on various matters and over a hundred comments were received.

⁹ Neighbourhood Planning (General) Regulations 2012.

- 55 Over the same time period, Zoom meetings were held with various stakeholders and a business survey was carried out. A housing needs assessment was completed in March 2021; and a household survey was distributed to all households. The survey had a high, 43%, response rate.
- 56 Policy ideas were tested with the local community at a Fayre in May 2021 and the draft Local Plan was produced for consultation between September and November that year. Draft consultation was supported by a two-day launch exhibition held in the Village Hall.
- 57 In addition to the above, public consultation was supported by, amongst other things, use of the Parish Council website, the local "*Cock Crow*" magazine, Facebook, flyers and posters. The household survey was publicised on the local South Norfolk radio station, Park Radio.
- 58 Taking the Consultation Statement and the above into account, I find that there is evidence to demonstrate that public consultation was central to the plan-making process, that there were opportunities for people to have a say and that matters raised were duly considered.
- 59 Taking this and the submitted information into account, I am satisfied that the consultation process for the Tivetshalls Neighbourhood Plan complied with the neighbourhood planning regulations referred to above.

6. The Neighbourhood Plan – Introductory Section

60 In the interests of clarity and precision, I recommend the following changes (in *italics*) to the introductory section of the Neighbourhood Plan:

- Page 3, Para 1.1, change line 5 to: “...’made,’ *it will form part of the development plan and South Norfolk...*”
- Page 4, Para 1.5, line 4, change to: “...document, *as part of the development plan for the Neighbourhood Area (which will also include adopted Local Plan documents)*. The Neighbourhood Plan provides...”
- Page 4, delete Para 1.6, which has been overtaken by events
- Page 5, delete Paras 1.8 and 1.9, which have been overtaken by events
- Page 6, change annotation under Figure 2 to: “...annotations). *The black line denotes the Neighbourhood Area, which is the same as the Parish boundary.*”
- Page 9, Para 2.10, delete last sentence (“The Local...”)
- Page 9, Para 2.11, delete last sentence (“The Tivetshalls...”)
- Page 10, Para 2.12, delete last sentence (“The Tivetshalls...”)
- Page 10, Para 2.14, line 1, change to: “...JCS *and is anticipated to be adopted in 2022.*”

7. The Neighbourhood Plan – Neighbourhood Plan Policies

Housing and Design

Policy TIV1: Pattern and quantity of development

- 61 The Neighbourhood Plan does not allocate land for development. As a consequence, housing land allocations will be determined at the District-wide level by the Local Planning Authority.
- 62 Notwithstanding this, Policy TIV1 seeks to exert significant controls over the interrelated pattern and quantity of future residential development.
- 63 As presented, the first paragraph of the Policy appears as a statement to the effect that, in respect of the pattern and quantity of residential development, the Neighbourhood Plan is reliant upon the yet-to-be determined policies of the emerging Local Plan.
- 64 Such an approach fails to have regard to national guidance, which states that a planning policy should be¹⁰:
- “...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.”*
- 65 Part of Policy TIV1 comprises a general statement setting out the Qualifying Body's preferences, rather than land use planning policy requirements.
- 66 Statements and aspirations are generally more suited to the supporting text of a policy albeit that, in this circumstance, the Neighbourhood Plan is not allocating housing land and there is no substantive evidence to demonstrate that the Qualifying Body's preferences in respect of the form of development and size of development sites, can be delivered.

¹⁰ Planning Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

- 67 Given the above, I am unable to conclude that Policy TIV1 is deliverable, having regard to Paragraph 16 of the Framework, which requires plans to be deliverable.
- 68 I also note that the Qualifying Body is not the Local Planning Authority and that consequently, it does not determine planning applications. Neighbourhood plans cannot dictate how a Local Planning Authority should determine planning applications and consequently, it is inappropriate for Policy TIV1 to state what the “*primary consideration*” in determining a planning application will be.
- 69 Further to the above, the Policy includes a reference to “*a limited amount*” of windfall development, but provides no clarity in respect of what this actually means. Consequently, this part of the Policy appears vague, contrary to national guidance, which requires planning policies to be unambiguous¹¹:
- “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.”*
- 70 In addition to this, it is not clear what is meant by “*where there is a current cluster of housing, in or outside of the settlement boundary,*” – no definition of what will be considered to be a “*cluster of housing*” is provided and the Neighbourhood Plan does not provide a plan of any settlement boundary.
- 71 Notwithstanding all of the above, I note that part of the Policy reflects detailed work undertaken to ensure that development reflects local character.
- 72 This element of the Policy has regard to Chapter 12 of the Framework, “*Achieving well-designed places,*” which recognises that the creation of high quality, beautiful and sustainable places is fundamental to what the planning and development process should achieve.

¹¹ Planning Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

73 Taking everything into account, I recommend:

- **Policy TIV1 delete all of the Policy wording and replace with:**
“New residential development should respect the form, character and setting of the Neighbourhood Area’s established pattern of development, including the open nature and aspects, linear arrangements and style of adjacent housing (see Character Appraisal in the Design Guidance and Codes, for guidance).”
- **5.1.14 delete last sentence which reads as though it is a Policy, which it is not**

Policy TIV2: Housing size, type and tenure

- 74 Policy TIV2 seeks to steer the housing mix for new development. In general terms, this has regard to Paragraph 62 of the Framework, which states that:

“...the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies...”

- 75 However, as presented, the Policy appears to be founded upon the assumption that all new residential development in the Neighbourhood Area will be provided on sites large enough to provide for a housing mix, including affordable housing.
- 76 There is no substantive evidence to demonstrate that this is the case and rather, given the context of the Tivetshalls, it appears likely that at least a proportion of new residential development over the plan period will come forward on sites for one or for small numbers of housing – sites which cannot provide for the mixes envisaged in Policy TIV2.
- 77 In this regard, as the trigger for affordable housing is for ten or more dwellings, in the interests of clarity, it is appropriate for Policy TIV2 to specify that it applies to major development proposals and this is a matter addressed in the recommendations below.
- 78 The Policy includes the phrase *“particularly supported”* but it is not clear, in the absence of any definitions, how this differs from *“supported.”* Notwithstanding this, the use of the word *“supported”* in a Policy implies that non-compliance will not be supported. In the absence of any substantive viability information, there is nothing to demonstrate that the housing mix provided in the five bullet points is deliverable and consequently, I am unable to conclude that this part of the Policy has regard to Paragraph 16 of the Framework.
- 79 There is no substantive evidence to demonstrate that it is deliverable for Policy TIV2 to enable a mix of incomes.
- 80 However, taking the supporting text into account, it is clear that the Policy aims to steer development proposals towards an ideal mix and this is a factor taken into account in the recommendations below.

81 I recommend:

- **Policy TIV2, change first sentence to: “Major residential development proposals should provide for a housing mix (size, type and tenure) that meets housing needs, with a view to enabling a mixed community.”**
- **Policy TIV2, change second sentence to: “...Assessment, major residential development proposals should provide a well-balanced mix of housing sizes, with a similar...”**
- **Policy TIV2, change third sentence to: “In determining the housing mix, major residential development proposals should demonstrate how regard has been had to the provision of the following: (FIVE BULLET POINTS HERE)**
- **Policy TIV2, change last sentence to: “...above, the following types of housing...”**

Policy TIV3: Design guideline and codes

82 National planning policy recognises that:

“Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

(Paragraph 126, the Framework)

83 JCS Policy 2 (*“Promoting good design”*) seeks to ensure that all development is designed to the highest possible standards, creating a strong sense of place.

84 Policy TIV3 is focused on ensuring that high quality development reinforces the Neighbourhood Area's positive qualities. In this way, the Policy has regard to national policy and is in general conformity with the JCS.

85 However, as presented, the wording of the first paragraph of the Policy is unclear. No indication is provided in respect of how the Policy can *“encourage”* actions. Further, there is nothing to demonstrate that it is possible and realistic for development to *“enhance each of the settlement's aesthetic qualities.”*

86 In the absence of substantive evidence to the contrary, the first part of the Policy does not have regard to the national policy requirement for plans to be deliverable.

87 Design guidance is precisely that. It provides guidance rather than requirements. Whilst it is clearly in the interests of developers to take advantage of the Tivetshall Design Guidance and Codes, the guidance is there to inform and use of it cannot be enforced.

88 The Policy goes on to state that the *“best”* environmental standards are encouraged. No indication is provided of what these might be and this part of the Policy appears ambiguous.

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

- **Policy TIV3, delete the first sentence and change the second paragraph to create a new opening sentence, presented as a paragraph: *“All new development in the Neighbourhood Area must demonstrate high quality design, reinforce local character and respect the pattern of development, the rural character and the appearance of the Tivetshalls.”***
- **Delete the last two sentences and change the rest of the Policy to create the following two new sentences, separated into two paragraphs: *“To achieve this, development should demonstrate how it has taken account of the Tivetshalls Design Guidance and Codes.***

Development which does not have regard to local context, or which does not respond positively to the character and aesthetic qualities of the Tivetshalls will not be supported.”

Policy TIV4: Non-designated Heritage Assets

90 Chapter 16 of the Framework, “*Conserving and enhancing the historic environment,*” recognises that the nation’s heritage assets comprise an irreplaceable resource. Paragraph 189 of the Framework requires all heritage assets to:

“...be conserved in a manner appropriate to their significance...”

91 The Framework goes on to require plans to set out a positive strategy for the conservation and enjoyment of the historic environment and take opportunities to draw on the contribution made by the historic environment to the character of a place.

92 Policy TIV4 identifies a number of non-designated heritage assets and in so doing, it raises awareness of locally important historic assets in the Tivetshalls, in addition to existing designated assets, and affords an additional layer of protection to the identified buildings and features. In this way, the Policy has regard to the Framework.

93 Chapter 16 of the Framework sets out a detailed and carefully worded approach to the conservation of heritage assets. The approach provides for the balanced consideration of development proposals affecting historic assets.

94 Whether or not other neighbourhood planning policies in other plans fail to have regard to national policy and effectively introduce new and different approaches to the protection of heritage assets which fail to have regard to the requirements set out in national policy, does not provide any basis for over-riding the basic conditions. If other such policies exist, they would simply comprise policies that could themselves, at any stage, be over-ridden because they do not meet the basic conditions.

95 As noted above, national heritage policy, as set out in the Framework is carefully worded. It is not so sweeping as to state, for example, that harm to heritage assets must simply be avoided. Rather, national policy has been designed in recognition of the fact that where development impacts upon heritage assets, some degree of harm to the significance of the asset may be unavoidable.

- 96 Taking this into account alongside the aim, amongst other things, of conserving and encouraging the enjoyment of the historic environment, national policy purposefully requires the balanced consideration of development proposals whereby the significance of the heritage asset, the level of harm (if any), the justification for the harm and the benefits arising from development can all be relevant factors.
- 97 With specific regard to planning applications involving non-designated heritage assets, national policy explicitly requires decision-makers to make a balanced judgement, having regard to the scale of any harm or loss and the significance of the heritage asset.
- 98 Consequently, Policy TIV4's requirement for development proposals to simply avoid harm to non-designated heritage assets does not have regard to national policy and this is addressed in the recommendations below.
- 99 As pointed out by South Norfolk Council, Boudicca Way is a public right of way. It traverses a variety of footpaths, bridleways, lanes and roads and is not a non-designated heritage asset.

100 I recommend:

- **Policy TIV4, delete Boudicca Way from the list of non-designated assets**
- **Policy TIV4, change the second part of the Policy to:**
“Development proposals should conserve these heritage assets in a manner appropriate to their significance. Proposals affecting a non-designated heritage asset should give consideration to:
 - *the character, distinctiveness and important features of the heritage asset;*
 - *the setting of the heritage asset and its relationship to its immediate surroundings;*
 - *the contribution that the heritage asset makes to the character of the area.”*

Business and Employment

Policy TIV5: Employment

- 101 Chapter 6 of the Framework, "*Building a strong, competitive economy,*" supports the expansion and growth of all types of business in rural areas, both through the conversion of existing buildings and the provision of well-designed new buildings.
- 102 Further, JCS Policy 5 ("*The economy*") provides a supportive policy framework for economic growth and the diversification of the rural economy.
- 103 Policy TIV5 supports sensitively designed business and employment development in the Neighbourhood Area and in this way, it is in general conformity with the JCS and has regard to the Framework.
- 104 The wording of the Policy includes a vague reference to opportunities rather than development and as worded, it is not clear how "*the potential*" for home-working might be designed into homes. These are matters addressed by the recommendations below.
- 105 I recommend:

- **Policy TIV5, change to: "*New or expanded business and employment uses will be supported where development proposals have taken account of the Tivetshall Design Guidance and Codes and demonstrated respect for the character of the rural area, residential amenity and highway safety.*"**

New dwellings should provide for high-speed digital connectivity. Development providing space for home-working, including home offices, will be supported where it has been demonstrated to respect residential amenity and local character."

Policy TIV6: Potential employment sites

- 106 Policy TIV5 supports appropriate economic growth in the Neighbourhood Area, having regard to national policy and in general conformity with adopted strategic District-wide policy.
- 107 To some extent, Policy TIV6 reiterates TIV5 – it supports well-designed business development – and there is no need for the Neighbourhood Plan to repeat Policies.
- 108 However, the Qualifying Body has pointed out that it is keen to highlight the potential for improvements to the old waste site, off the A140, referred to in Policy TIV6 and identified on Figure 19. In this respect, I note that the Neighbourhood Plan does not allocate the site for development.
- 109 Having regard to the above, I recommend:
- **Policy TIV6, delete wording and replace with: “*The re-development of the old waste site off the A140 (identified in Figure 19) for business or employment use will be supported.*”**

Access

Policy TIV7: Walking, cycling and horse riding

110 Paragraph 100 of the Framework states that:

“Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users...”

111 In general terms, Policy TIV7 supports the protection and enhancement of the Tivetshalls Neighbourhood Area's public rights of way network and in this way, it has regard to the Framework.

112 However, as set out, the Policy includes a vague reference for all development to contribute to footpath enhancement *“where appropriate.”* No indication is provided of when it might be appropriate for contributions to be made, who will determine this and on what basis.

113 Further, this part of the Policy does not have regard to Paragraph 57 of the Framework, which requires planning obligations to be necessary, directly related to development and fairly and reasonably related in scale and kind to development. In the absence of any detail in this regard, I cannot conclude that the requirements relating to this part of the Policy are deliverable.

114 In a similar vein, the Policy goes on to require all new development to enhance public rights of way and sets out requirements without any evidence of deliverability. No mechanism is identified in respect of how the Policy requirements might be delivered – or even whether they *can* be delivered - and consequently, the requirements simply appear as a *“wish-list.”*

115 Taking this into account, I recommend below that improvements to the Tivetshalls public right of way network form a Community Action project. In this way, the Parish Council can seek to progress the aspirations outlined in the Policy.

116 In respect of the final sentence of the Policy, I note that public rights of way are protected by law. Statute exists (and is not controlled by the Neighbourhood Plan) to provide for diversions where necessary.

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

- **Policy TIV7, delete wording and replace with: “*The provision of new and/or the enhancement of existing footpaths, cycle-ways and bridleways will be supported.*”**
- **Page 72, table of Community action projects, add: “*Enhance the parish’s public rights of way network*”**

Policy TIV8: Traffic and road safety

118 National policy states that:

“Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

(Paragraph 111, the Framework)

119 The Framework goes on to require development to create places that are safe, secure and attractive.

120 Policy TIV8 seeks to address road safety matters, albeit it suggests an approach that moves away from preventing any unacceptable impact on highway safety and towards the imposition of measures aimed solely at identifying and reducing the impacts of increased traffic generation. As worded, Policy TIV8 could potentially allow development to come forward that resulted in increased harm to highway safety.

121 I recommend:

- **Policy TIV8, delete text and replace with: “All development proposals must ensure that they do not result in any unacceptable impact on highway safety.”**

Policy TIV9: Parking

122 Subject to recommendations re: drafting and being mindful that not all planning applications involve parking, I note that Policy TIV9 seeks to improve the quality of parking, having regard to Paragraph 108 of the Framework and in this way, it meets the basic conditions. I note that Norfolk County Council's Parking Standards do not form part of the Neighbourhood Plan, but that development must in any case, take these into account.

123 I recommend:

- ***Policy TIV9, change to: "Development proposals for on-street parking will not be supported. New development should provide off-road parking through parking bays, drives or garages (large enough for modern cars), and incorporate electric car charging points.***

Spaces for visitors and parking or manoeuvring space for service vehicles should be designed into new developments.

Development proposals should have regard to the Tivetshall Design Guidance and Codes."

Policy TIV10: Landscape setting and views of community importance

124 Policy TIV10 seeks to ensure that development respects the Neighbourhood Area's important landscapes and views and in this way, it has regard to Paragraph 130 of the Framework, which requires planning policies to ensure that development is:

"...sympathetic to local character...including...landscape setting."

125 However, as worded, the Policy's first sentence is unclear. A requirement to position development appropriately, having regard to the visual impact of character is a vague and confusing requirement, open to wide interpretation.

126 The Policy and its supporting text provide clear and detailed information relating to important views. However, the phrase "*unacceptable adverse impact*" is open to wide and subjective interpretation.

127 Further to this, planning for sustainable development requires a balanced approach to decision-making, allowing for any harm arising to be considered against any benefits. As worded, Policy TIV10 adopts a binary approach in relation to harm and this places an obstacle in the way of the Neighbourhood Plan contributing to the achievement of sustainable development.

128 In the interest of clarity and taking all of the above into account, I recommend:

- **Policy TIV10, delete the first sentence and replace with:**
"Development proposals must respect their landscape setting including any identified important public views within which they are located, or which they affect."
- **Policy TIV10, change the final paragraph to: "*Development proposals within or affecting an important view must demonstrate how they have taken account of the view concerned.*"**

Policy TIV11: Natural Assets

129 The Framework requires planning policies to contribute to and enhance the natural environment by

"...minimising impacts on and providing net gains for biodiversity..."
(Paragraph 174, the Framework)

130 JCS Policy 1 (*"Addressing climate change and protecting environmental assets"*) states that:

"The environmental assets of the area will be protected, maintained, restored and enhanced..."

131 Policy TIV11 identifies important environmental assets and promotes biodiversity gains. It has regard to national policy and is in general conformity with the JCS.

132 However, the phrases *"All avenues"* and *"where possible"* are vague and imprecise and this is a matter addressed in the recommendations below. The Policy also includes a vague reference to the Environment Bill, which appears confusing without further detailed information.

133 I recommend:

- **Policy TIV11, change second sentence to: *"The conservation and/or enhancement of the landscape and biodiversity value of these assets will be supported."***
- **Policy TIV11, delete: *"(in line with the Environment Bill)"***
- **Policy TIV11, change last sentence to: *"Development proposals should have regard to the Tivetshall Design Guidance and Codes"***

Policy TIV12: Local Green Space

134 Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 101 of the Framework states that:

“The designation of land as a Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them.”

135 Paragraph 103, of the Framework requires policies for the managing of development within a Local Green Space to be consistent with those for Green Belts. A Local Green Space designation therefore provides protection that is comparable to that for Green Belt land. Consequently, Local Green Space comprises a restrictive and significant policy designation.

136 Given the importance of the designation, Local Green Space boundaries should be clearly identifiable. Whilst Figure 26 indicates the general location of areas of Local Green Space, it is not possible to clearly determine the precise boundaries of each area. This is a matter addressed in the recommendations below.

137 The Local Green Space tests set out in the Framework are that the green space is in reasonably close proximity to the community it serves; that it is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and that it is local in character and is not an extensive tract of land.

138 With one exception, the Neighbourhood Plan provides clear and detailed evidence to demonstrate why the areas of Local Green Space identified are demonstrably special and meet the national policy tests set out in the Framework.

139 Both Norfolk County Council and South Norfolk Council expressed concerns in respect of the proposed designation of the School playing field and adjacent land as Local Green Space. In response, the Qualifying Body has confirmed that it wishes to remove the School playing field designation but has also suggested that the adjacent land could still be designated.

- 140 However, the School playing field and adjacent land emerged through the plan-making and consultation process as a single site. Consequently, the adjacent land would comprise a new and different site to that considered by the community. Given this, it would be inappropriate to simply designate the adjacent land as a new area of Local Green Space that has not been fully consulted upon.
- 141 Consequently, I recommend the deletion of Site 9, in full, in the recommendations below.
- 142 National policy is explicit in respect of requiring policies for managing development within a Local Green Space to be consistent with those for Green Belts.
- 143 The wording of Policy TIV12 is inconsistent with national Green Belt policy, as set out in Chapter 13 of the Framework, "*Protecting Green Belt land*," which does not require development that is not inappropriate to the Green Belt to demonstrate exceptional circumstances, and this is a matter addressed in the recommendations below.
- 144 I recommend:
- **Policy TIV12, add to first sentence: "*...(Figure 26 and related plans)*"**
 - **Policy TIV12, change last sentence to: "*The management of development within areas of Local Green Space will be consistent with that for development within Green Belts as set out in national policy.*"**
 - **Delete Site 9 "School playing field and adjacent land" from the list of Local Green Space designations and from Figure 26 and from Appendix C**
 - **Add plans below Figure 26 showing the precise boundaries of each designated area of Local Green Space. These can be taken from the plans provided in Appendix C**

Policy TIV13: Dark Skies

145 Policy TIV13 seeks to protect the Neighbourhood Area's dark skies, having regard to Paragraph 174 of the Framework, which requires planning policies to recognise:

"...the intrinsic character and beauty of the countryside..."

146 As set out, much of the Policy is focused on controlling lighting. I note that most forms of lighting do not require planning permission.

147 Taking the above into account, I recommend:

- **Policy TIV13, change to: *"Development proposals must take account of the area's dark skies. New street lighting should not be located at the edge of the settlement. In new developments, lighting necessary for security or safety should be designed to minimise the impact on dark skies by, for example, minimal light spillage, use of downlighting and restricting hours of lighting.***

Proposals including prominent lighting visible from the surrounding landscape will not be supported, unless it can be demonstrated that such lighting is required in the interests of safety and security. Proposals including lighting likely to cause disturbance or risk to wildlife should seek to mitigate such disturbance or risk."

Policy TIV14 Surface water drainage

148 Policy TIV14 seeks to address matters relating to the management of flood risk and drainage.

149 In this respect, the Policy has regard to Chapter 14 of the Framework, *“Meeting the challenge of climate change, flooding and coastal change,”* which, amongst other things, seeks to ensure that development addresses flooding and flood risk.

150 Whilst I note that, to some considerable degree, the Policy overlaps with existing South Norfolk Development Management Policies relating to flood risk and drainage, it is clear that flooding is a major local issue and the Policy identifies specific locations in the Neighbourhood Area. In this way, I am satisfied that Policy TIV14 does not simply comprise unnecessary duplication.

151 South Norfolk Council has recommended the addition of a sentence in the interest of providing clarity and I recommend its inclusion below.

152 Water pollution controls lie outside the scope of the Neighbourhood Plan and the recommendations below take account of this.

153 As set out, the Policy includes a confusing reference to surface water drainage *“areas.”* The Qualifying Body has provided further clarification in this regard and I have taken account of this in the recommendations below.

154 I recommend:

- **Policy TIV14, add new sentence at the beginning of the Policy and change Policy to: *“Development proposals within the immediate locality of the areas identified below as having surface water drainage issues, should take account of all relevant evidence of flooding. Development must not cause or contribute to new flooding or drainage issues and should mitigate its own flooding and drainage impacts.***

There are...Station Road.”

Policy TIV15: Community infrastructure

155 Paragraph 84 of the Framework states that:

“Planning policies and decisions should enable the... development of accessible local services and community facilities, such as local shops, meeting places...cultural buildings, public houses and places of worship.”

156 Further, Paragraph 93 of the Framework goes on to require planning policies and decisions to:

“...plan positively for the provision and use of...community facilities (such as local shops, meeting places...(and) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community...”

157 Policy TIV15 supports improvements to existing community infrastructure and supports the development of a new village shop. The Policy also seeks to prevent the loss of community facilities.

158 The Policy has regard to the Framework and no changes are recommended.

8. The Neighbourhood Plan: Other Matters

159 It is beyond the powers of the Neighbourhood Plan or the Qualifying Body to place a requirement on the Local Planning Authority to monitor the use of the Neighbourhood Plan.

160 I recommend:

- **Page 73, Para 7.5, change to: “...stand. *Tivetshalls Parish Council will promote and monitor the use of the Neighbourhood Plan for planning applications.*”**

161 The recommendations made in this Report will have a subsequent impact on Contents, including page and paragraph numbering; and the addition of Local Green Space plans.

162 I recommend:

- **Update the Contents page and paragraph numbering; and add the Local Green Space plans, taking into account the recommendations contained in this Report**

9. Referendum

163 I recommend to South Norfolk Council that, subject to the recommended modifications, **the Tivetshalls Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

164 I am required to consider whether the Referendum Area should be extended beyond the Tivetshalls Neighbourhood Area.

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

166 Consequently, I recommend that the Plan should proceed to a Referendum based on the Tivetshalls Neighbourhood Area approved in July 2020.

Nigel McGurk, August 2022
Erimax – Land, Planning and Communities