

The Bentley Neighbourhood Plan

Report of Examination

Report to East Hampshire District Council

by the Independent Examiner:

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Summary

1. From my examination of the submitted Bentley Neighbourhood Plan and its supporting documents, including all the representations made, I have concluded that making of the plan will, subject to the modifications I am recommending, meet the Basic Conditions. In summary they are that it must:
 - Have regard to national policies and advice;
 - Contribute to the achievement of sustainable development;
 - Be in general conformity with the strategic policies of the development plan; and
 - Not breach, and be otherwise compatible with, European Union and European Convention on Human Rights obligations.
2. I have also concluded that:
 - The plan has been prepared and submitted for examination by a qualifying body - the Bentley Parish Council;
 - The plan has been prepared for an area properly designated; and does not cover more than one neighbourhood plan area;
 - The plan does not relate to “excluded development”;
 - The plan specifies the period to which it has effect – to 2028; and
 - The policies would, once some are modified or removed, relate to the development and use of land for a designated neighbourhood area.
3. I recommend that the plan should proceed to a Referendum. This is on the basis that I have concluded that making the plan will meet the Basic Conditions, once modified, and all legal requirements.
4. If the plan were to go forward to Referendum, I recommend that the Referendum Area should be the same as the Neighbourhood Plan area.
5. Given the difficulties I have identified, with the settlement boundary and the housing sites, I am recommending a very early review of this plan.

1. Introduction

- 1.1 I am appointed by East Hampshire District Council (the District Council), with the support of the Bentley Parish Council, the Qualifying Body (the Parish), to undertake an independent examination of the Bentley Neighbourhood Plan, as submitted for examination.
- 1.2 I am a planning and development professional of 40 years standing and a member of NPIERS' Panel of Independent Examiners. I am independent of any local connections and have no conflicts of interests.

The Scope of the Examination

- 1.3 It is the role of the Independent Examiner to consider whether making a neighbourhood plan meets the "Basic Conditions." These are that the making of the Neighbourhood Plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State;
 - contribute to the achievement of sustainable development;
 - be in general conformity with the strategic policies of the development plan (see Development Plan, below) for the area; and
 - not breach, and must be otherwise compatible with, European Union (EU) and European Convention on Human Rights (ECHR) obligations.
- 1.4 Regulations also require that the Neighbourhood Plan should not be 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.
- 1.5 In examining the Plan I am also required to establish whether:
- The Neighbourhood Plan has been prepared and submitted for examination by a qualifying body;
 - The Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the TCPA as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (PCPA).
 - The Neighbourhood Plan meets the requirements of Section 38B of the PCPA (i.e. the Plan must specify the period to which it has effect, must not include provisions about development that is excluded development, and must not relate to more than one Neighbourhood Area); and
 - The policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the PCPA.
- 1.6 Finally, as Independent Examiner, I must make one of the following recommendations:
- a) that the Plan should proceed to Referendum, on the basis that it meets all legal requirements;

- b) that the Plan once modified to meet all relevant legal requirements should proceed to Referendum; or
 - c) that the Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 1.7 If recommending that the Plan should go forward to Referendum, I am also then required to consider whether or not the Referendum Area should extend beyond the Neighbourhood Area to which the Plan relates. I make my recommendation on the Referendum Area at the end of this Report.

The Examination process

- 1.8 I commenced initial preparation for the examination of the plan in September 2015 by reading the plan documents. The default position is that neighbourhood plan examinations are conducted by written representations. However, I considered it necessary to hold a public hearing on certain matters on which I required clarification by the parties in person or to hear oral evidence. This was on a range of topics, which I had set out in an agenda.
- 1.9 A public hearing took place on the 30th November at the Pavilion, a commonly used meeting place within the neighbourhood plan area. I carried out unaccompanied site visits in advance, as well as at the close of the hearing.
- 1.10 Following the hearing the Council and Parish continued to review the content of the plan. A set of agreed modifications, in the form of tracked changes to the plan (which were then publicized on the respective websites), were submitted to me in early January to consider. I found this exercise very helpful indeed and I will be referring to this as the **Tracked Changes** version later in my report.

The Examination documents

- 1.11 In addition to the legal and national policy framework and guidance (principally The Town and Country Planning Acts, Localism Act, Neighbourhood Plans Regulations, the National Planning Policy Framework and the Planning Policy Guidance) together with the development plan (see section 3), the relevant documents that were furnished to me, and were identified on the Forum's and Council's websites as the neighbourhood plan and its supporting documentation for examination, were:
- Bentley Neighbourhood Plan – Submission version
 - Basic Conditions Statement;
 - Consultation Statement and appendices, plus Consultation Letter;
 - Strategic Environmental Assessment Screening Opinion; and
 - Legal checklists.
- 1.12 In addition, I was furnished with some background documents, including: the Bentley Conservation Area Character Appraisal and Management Plan, a description of the proposed Local Green Spaces within the Bentley Settlement Boundary and the Local Plan inset proposals map, showing the current settlement boundary.

The Qualifying Body and the Designated Area

- 1.13 Bentley Parish Council is the designated qualifying body for the geographical area which is the neighbourhood plan area. The Council designated the Neighbourhood Area in October 2014. There is no other neighbourhood plan for this area.

The Neighbourhood Plan Area

- 1.14 The plan area lies to the north of the South Downs National park, in the northern part of the Distract and comprises a rural parish with a main settlement - the village of Bentley. The core of the village, which has as its main axis the old A31, contains 240 houses. The village can be traced back to Roman times and was for most of its history a small rural community based around a number of farms. Into the latter part of the last century hops were an important crop.
- 1.15 The main spine of the village, along the old A31 is a Conservation Area; more recent development has expanded the village north-eastwards. There is a thriving primary school, a recreation ground, allotments, some halls, a local shop, two pubs, two nursing homes, a church (to the north of the village), and local health practice, as well as a small industrial estate.
- 1.16 The village is some 6 miles from the planned Whitehill-Bordon Eco-town, anticipated to accommodate some 4000 new homes. Nearer, is Froyle, some 2 miles to the west, where an additional 70 new homes have recently been permitted.

2. Neighbourhood Plan preparation and public consultation

- 2.1 The Neighbourhood Plan grew out of the work the Parish carried out on preparing the Bentley Plan in 2014. This was to inform the District Council's work on the next stage of the Local Plan (Part 2 – Site Allocations) and the Local Interim Planning Statement for Bentley. This was done to reflect local concerns that there was not an adequate forum in which to formulate a shared vision for the development of the village, whilst preserving its distinctive character and environment.
- 2.2 The Parish held two main consultation events in the summer of 2014, which gave support to the production of the plan, its spatial strategy – of concentrating new housing in smaller scale developments around the edge of the village – and for any development to be connected to the village and of different designs and character. The work on the Plan, which did not allocate sites for development, was completed in August 2014.
- 2.3 The neighbourhood plan's preparation was mooted in April 2014 but did not get going in October 2014 with the formation of a Steering Group and Working party and with help from a consultant. The Area Designation was confirmed and extensive background work was undertaken.
- 2.4 The primary means of establishing local aspirations was through local events, specific consultations (as with landowners) and questionnaires. Regulation 14 consultations involved other parties such as statutory and non-statutory consultees, local businesses, groups and local societies. This involved standard letters, flyers and information on the parish website.
- 2.5 A significant influence on the formulation of the plan was to anticipate the emerging spatial strategy of the District Council. The Draft Site Allocations Plan sought to

distribute the development plan target of 150 houses for “other villages outside the National Park” (which included Bentley). The village was anticipated to provide c. 50 dwellings, leaving the neighbourhood plan to deal with the local distribution.

- 2.6 However, on 30th October 2014, the District Council approved 37 houses on one site, Somerset Field, west of Hole lane) outside the settlement boundary. The main reason was that the Council did not have an identified 5 year housing supply. The decision, though, completely undermined the preparation of the neighbourhood plan, as this scale and location were at odds with the vision, development criteria and key principles in the Bentley Plan. That plan, the precursor to the neighbourhood plan, planned for a few smaller developments, at a scale of 8-12 houses, in separate pockets connected to the village. This happened just as that plan was being converted into a formal neighborhood plan.
- 2.7 The preparation of the neighbourhood plan was now seriously compromised, as it sought to reconcile its original vision and strategy with a major addition of new housing on a single site and in the “wrong” place. Nevertheless, the Parish still sought to plan positively and for sustainable development.

Environmental Assessment and EU Directives

- 2.8 Under Article 3(3) and 3(4) of the Strategic Environmental Assessment (SEA) Directive 2001/42/EC SEA is required of plans and programmes which “determine the use of small areas at a local level”. The Council is the “responsible authority” and must determine whether the plan is likely to have significant environmental effects. They determined that the plan would not have such effects.

European Sites and the Habitats Directive

- 2.9 From the context and submitted material, I have concluded that the plan would not be likely to have a significant effect on a European Site.

Examination version – public consultation

- 2.10 The Draft Plan was submitted to the Council in May 2015. The Council subsequently published the Draft Plan, under Reg 16, with all supporting documents, for a 6-week period of public consultation, which closed on 31st July 2015.
- 2.11 A total of 17 representations were made. A number of the representations raised issues that I considered required clarification or oral evidence. I decided to hold a public hearing on selected topics, which formed the agenda for the session: These ranged around the settlement boundary, the housing and employment allocations and Local Green Spaces designations.

Human Rights

- 2.12 I have no reason to believe that making the plan breaches or is incompatible with the European Convention on Human Rights.

Plan period

- 2.13 The neighbourhood development plan states clearly on the cover and in the introduction that the plan covers the period to 2028, which is co-terminus with the adopted Core Strategy.

3. The Neighbourhood Plan in its planning and local context

National policies and advice

3.1 The neighbourhood plan must have regard to national policies and advice contained in guidance issued by the Secretary of State and contribute to the achievement of sustainable development (the first two basic Conditions). Paragraph 16 of the National Planning Policy Framework (the Framework) is concerned with neighbourhood planning: “The application of the presumption [in favour of sustainable development] will have implications for how communities engage in neighbourhood planning. Critically, it will mean that neighbourhoods should:

- *“develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development; [and]*
- *plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan;”*

3.2 The plan must give sufficient clarity to enable a policy to do the development management job it is intended to do; or to have due regard to Guidance. For example, para 042 of the Guidance explains that:

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

3.3 Also, in relation to allocations, there has to be evidence to support the particular policy, notwithstanding it may express a strong and well-intentioned aspiration or concern of the local community; the relevant policy sections. Paragraph 040 of the Guidance includes:

“While there are prescribed documents that must be submitted with a neighbourhood plan or Order there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan or the proposals in an Order.”

3.4 The Statement of Basic Conditions sets out in section 3 how the Parish considers that the plan meets the relevant Framework policies; and the national Planning Practice Guidance (the Guidance). In particular, it sets out in schedules how the plan meets the Framework (Schedule A) and contributes to achieving sustainable development (Schedule B).

The Development Plan - strategic policies

3.5 The neighbourhood development plan must be in general conformity with the strategic policies of the development plan for the area. The development plan for the plan area comprises the Local Plan Part 1 – the Joint Core Strategy (adopted June 2014) together with some Saved policies from the District Local Plan (Second Review).

- 3.6 The Statement of Basic Conditions sets out, in section 5 and table C, what the Parish considers to be the relevant strategic policies. A key strategic policy is CP2 Spatial Strategy, which identifies Bentley as a Level 4 settlement – one with a settlement policy boundary and which is suitable for further small-scale development. Related to this is CP10 Spatial Strategy for housing, which sets out the minimum number of new dwellings to be developed in each level. Bentley is one of 20 villages outside the National Park that together should provide a minimum of 150 dwellings.

The Neighbourhood Plan and its objectives

- 3.7 The plan is primarily directed at making a local contribution to the distribution of housing numbers in the emerging Site Allocation Plan (Part 2 of the Local Plan), which is at an advanced stage. Para 3.10 of the neighbourhood plan explains that: “Adopted Neighbourhood Plans work as site allocations plans for their specific plan area and hold the same weight as the Local Plan”. The plan effectively plans for a total of some 50 new dwellings, as Bentley’s contribution, taking into account committed developments.
- 3.8 From this “target” and the two identified commitments the plan reviews the settlement boundary and allocates one new housing site to accommodate the balance of provision - for about 10 new homes. In addition, it retains an employment allocation and designates some Local Green Spaces. The remaining policies fit around these key policies. I therefore deal with the main issues first and then turn to the remaining policies.

4. Settlement boundary and Policy 1

- 4.1 The settlement boundary in the development plan is revised in the neighbourhood plan. Some changes are minor but not explained in the text. The main change is to accommodate the one housing allocation – a site in School Lane. Another site, for a recently permitted housing scheme remains excluded, without explanation.
- 4.2 However, the main committed scheme, for 37 units at Somerset Field, is deliberately excluded from the settlement, mainly in the hope that the permission may lapse. This is not planning positively; nor is it credible, given the adjustment made for the preferred allocation. In any event, if the permission does lapse it seems to me that the proposed boundary might be too tightly constrained to accommodate a reasonable contribution to the development plan’s housing target. It will therefore need an early review once the on-going status of the planning permission is known.
- 4.3 I have concluded that the approach to defining the settlement boundary is flawed and does not, in my view, meet the Basic Conditions. I am not in a position, given the lack of evidence, to define a different boundary, or one that meets the plan’s clear objectives. I therefore **recommend** that the reference to the new boundary is deleted from Policy 1 and on the Policies Inset map; and that both be amended to reflect the current local plan boundary. The supporting text will need modifying to match.
- 4.4 To meet the need for clarity, I also **recommend** that the text of the policy be modified as per the Tracked Changes version of the plan.

5. Housing allocation and Policy 2

- 5.1 The decision to permit Somerset Field clearly caused the plan-makers considerable difficulty in how to proceed. The route the plan took was to accept the quantum (37

homes) plus another committed scheme at Crock's Farm (9 additional homes – though not shown on the Polices map) to therefore only plan for a further 10 homes. This would provide a total of 56 dwellings, some 37% of the total Level 4 target of 150 in the development plan for that group of settlements.

- 5.2 The chosen housing site is the School Lane site covered by Policy 2. The process of arriving at this choice was set out in an evaluation of SHLAA sites (at Appendix K of the consultation statement), the latter having been prepared by the District Council. The representations on the plan and the discussion at the public hearing highlighted a number of problems, inaccuracies and inconsistencies with the approach taken. I have concluded that the site selection process was flawed and cannot be relied upon.
- 5.3 The allocation itself (Policy 2) is for approximately 10 market homes, to a defined mix, and delivered in a defined time period. There is no real evidence for these stipulations; nor was there an allowance for affordable housing, as the capacity was below that requirement at the time of plan preparation. But the lack of any affordable housing is contrary to both the Framework and the development plan.
- 5.4 At the hearing the site promoter raised a concern about viability, if the development was to include an element of affordable housing. There is, however, no evidence before me to enable me to rectify this omission.
- 5.5 For all the above reasons I conclude that the School Lane housing allocation does not meet the Basic Conditions and I therefore **recommend** that Policy 2 be deleted and removed from the Polices Inset map.

6. Employment allocation and Policy 7

- 6.1 The neighbourhood plan retains the local plan allocation; this is not a strategic allocation. However, since the former was prepared an objection has been made to the allocation on the basis that it is not viable. The District Council commissioned independent consultants who corroborate that conclusion. At the hearing the Parish had no evidence to counter the conclusion, though pointed out, quite reasonably, that "once the site has gone, its gone".
- 6.2 The employment site actually came out top of the list in the Parish's evaluation of the SHLAA sites, as it had been identified as a potential housing site. And there is a current application for housing, which includes an element of affordable housing.
- 6.3 The conclusion I have reached is that the employment allocation is not viable and cannot be confirmed, as it does not meet the Basic Conditions. I therefore **recommend** that Policy 7 be deleted and removed from the Policies Inset map.

7. Local Green Spaces and Policy 6

- 7.1 The plan proposes three Local Green Space designations, at Policy 6: Open Spaces. These designations must meet the criteria in paras 77 and 78 of the Framework. The evidence for this is contained in a separate document, *Proposed Local Green Spaces within the Bentley Settlement Boundary*, which is mainly descriptive. From this, the discussion at the hearing and from my own observation, I the three main three (i, ii and iii): the Recreation Ground, Carter's Meadow and the allotment site by Somerset Field.

- 7.2 The second part of the policy seeks to protect three further green spaces (iv, v and vi on the Polices Inset map), which are essentially verges. These have no formal designations and their selection is poorly argued, given the evidence submitted to support them and the range of other verges I saw on my visits.
- 7.3 Overall, I conclude that the designation of the latter three Local Green Spaces (iv, v and vi) does not meet the Basic Conditions. I therefore **recommend** that these latter three be deleted from Policy 6 and the Policies Inset map in the manner of the Tracked Changes.

8. Conclusions on the main issues

- 8.1 In the light of the significant modifications I am recommending on the main issues – the settlement boundary and the plan’s housing provision, particularly with regard to the uncertain future position on the Somerset Field site - I urge the Parish to undertake a very early review of the plan.
- 8.2 Accordingly I **recommend** that a suitable statement be inserted, say around paras 4.4/5 under the heading Monitoring and Review, to that effect.

9. Other polices

- 9.1 The plan’s other polices raise less significant issues. Policy 3 - Design and Development Principles – requires greater clarity in its drafting and I am grateful to the Parish and Council for the suggested changes in the Tracked Changes version, which modifications I support and **recommend**.
- 9.2 Both Policy 4 – Recreation Ground - and Policy 5 – Education – only requires minor change to achieve clarity and, again, I **recommend** the Tracked Changes.
- 9.3 Policy 8 – Village Centre – is a relatively poorly evidenced policy to resist alternative uses for shops or commercial uses, notwithstanding this is a good reflection of local consultation opinion. However, it is already covered by development plan policy and cannot be implemented due to the GDPO and so I **recommend** it be deleted.
- 9.4 Policy 9, Broadband, is not a land use policy and I **recommend** it be deleted though it could remain in the plan in the form of an advocacy statement.
- 9.5 Policy 10 – Sustainable Drainage – requires only minor modifications to achieve clarity and I **recommend** the Tracked Changes.
- 9.6 Policy 11 – Rural Exception Site – is poorly evidenced and not well argued, particularly its reliance on market housing. I **recommend** Policy 11 be deleted.
- 9.6 Policy 12 – Traffic Impacts – is unnecessary and I **recommend** that it is absorbed into the supporting text to Policy 3.
- 9.8 Lastly, I found the infrastructure priorities at 5.6 a valuable part of the plan, which I **recommend** be given greater prominence.

10 Conclusions and recommendations

- 10.1 The preparation of the plan has been significantly undermined, in my view, by the District Council’s decision to grant planning permission for 37 units at Somerset

Field, wholly at odds with the agreed emerging spatial strategy for the village at the time. Consequently, what followed was the Parish Council's attempt to make sense of the limited room for maneuver that was left to the local community.

10.2 This was most unfortunate as it disempowered the local community from doing what is at the heart of neighbourhood planning. The Framework (para 183-4) explains that neighbourhood planning gives local communities "... *direct power to develop a shared vision for their neighbourhood ... Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community*".

10.3 Nevertheless, from my examination of the submitted Bentley Neighbourhood Plan and its supporting documents, including all the representations made, I have concluded that making of the plan can meet the Basic Conditions, if modified in the way I have recommended. In summary, the Basic Conditions are that the making of the plan must:

- Have regard to national policies and advice;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan;
- Not breach, and be otherwise compatible with, European Union and the European Convention on Human Rights obligations.

10.4 I have also concluded that:

- The plan has been prepared and submitted for examination by a qualifying body - the Bentley Parish Council;
- The plan has been prepared for an area properly designated; and does not cover more than one neighbourhood plan area;
- The plan does not relate to "excluded development";
- The plan specifies the period to which it has effect – to 2028; and
- The policies relate to the development and use of land for a designated neighbourhood area.

10.5 I recommend that the plan, once modified, should proceed to a Referendum.

10.6 If the plan does proceed to referendum I recommend that the Referendum Area should be the same as the Neighbourhood Plan area.

10.7 Finally, I congratulate the Parish Council and its volunteers for all the hard work that has clearly gone into the drafting of the plan. And my thanks to both Parish and District Council officers for their support in making the examination (and the hearing) so smooth.

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Independent Examiner

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