

Babergh District Council

Bentley
Neighbourhood Plan
2018-2037

Independent Examiner's Report

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Summary

I have been appointed as the independent examiner of the Bentley Neighbourhood Development Plan.

The village of Bentley lies about 11km south of Ipswich. It has a population of around 776 according to the Census 2011. The village is set within a rural landscape characterised by woodlands in the north to the Stutton Brook in the south and has the A12 to its west. In 2020, the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) was extended into the southern part of the Parish. The Parish also lies within the 13km zone of influence for the Stour and Orwell Special Protection Area and Ramsar site.

The Plan is presented well and contains 23 policies covering a good range of topics. There is an extensive evidence base accompanying the Plan including a Design Guide and a Landscape Appraisal. The policies do not repeat District level policy, but seek to add local detail or address matters of importance to the local community.

It has been necessary to recommend some modifications including the deletion of a number of policies. These include the housing and site allocation policies BEN 1, BEN 2, BEN 3 and BEN 4. Whilst this will come as disappointing news to those involved in the production of the Plan, there are no fatal flaws in the Plan's production which prevent the Plan, as modified, proceeding to referendum.

I considered that the proposed modifications significantly changed the submitted Plan. As a result, I advised that a short period of consultation be undertaken on the significant modifications in accordance with the NPIERS Guidance to Service Users and Examiners.

In the main the significant modifications have been made due to the lack of an appropriate evidence base largely resulting from changes in circumstances since the Plan was first considered. Other modifications are recommended to ensure the Plan meets the basic conditions. My detailed reasoning is set out under individual policies.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend to Babergh District Council that the Bentley Neighbourhood Development Plan can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI
Ann Skippers Planning
12 August 2022



1.0 Introduction

This is the report of the independent examiner into the Bentley Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by Babergh District Council (BDC) with the agreement of the Parish Council, to undertake this independent examination.

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over thirty years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and professional experience to carry out this independent examination.

2.0 The role of the independent examiner

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The basic conditions¹ are:

- 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
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, retained European Union (EU) obligations²
- 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.

¹ Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

² Substituted by the Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018/1232 which came into force on 31 December 2020

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 in the paragraph above. Only one is applicable to neighbourhood plans and was brought into effect on 28 December 2018.³ It states that:

- 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 2017.

The examiner is also required to check⁴ 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
- 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.

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.⁵

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case BDC. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

³ Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

⁴ Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

⁵ The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

3.0 The examination process

I have set out my remit in the previous section. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).⁶

Planning Practice Guidance (PPG) confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.⁷ In addition, PPG is clear that neighbourhood plans are not obliged to include policies on all types of development.⁸ Often representations suggest amendments to policies or additional and new policies or put forward alternative site allocations. Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further amendments or additions are required.

PPG⁹ explains that it is expected that the examination will not include a public hearing. Rather the examiner should reach a view by considering written representations. Where an examiner considers it necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case, then a hearing must be held.¹⁰ I consider that all parties have had satisfactory opportunity to state their case.

I sent a Note of Interim Findings with Questions of Clarification to the Parish Council and BDC on 15 June 2022. This is included as Appendix 2 to this report.

In this Note, I explained that, as the Parish Council had asked me to consider removing references to the housing numbers referred to in the emerging Joint Local Plan and to delete Policy BEN 4 (the Fruit Farm site allocation), I explained that these changes, alongside consequential changes to the Plan, would, in my view, significantly change the Plan.

I therefore gave the Parish Council an opportunity to consider whether they wished me to progress the examination or whether they wished to withdraw the Plan from examination.

The PC asked me to continue with the examination. As a result of this, and because the proposed modifications would then constitute significant changes, I asked that a further period of consultation be carried out. This was carried out between 12 – 27 July 2022 and resulted in ten representations. I have carefully considered the representations made. The Parish Council was also given an opportunity to comment on any representations received, but chose not to do so.

⁶ PPG para 055 ref id 41-055-20180222

⁷ Ibid

⁸ Ibid para 040 ref id 41-040-20160211

⁹ Ibid para 056 ref id 41-056-20180222

¹⁰ Ibid

Some responses also point to a desire to have an opportunity to respond to other modifications I might be proposing to make. The NPIERS guidance is clear that the decision about whether or not a modification is significant lies with the examiner. Unless there are significant modifications, there is usually no consultation about the proposed modifications with any party including the qualifying body and the local planning authority. I also note that in fact the consultation for significant modifications is also only suggested in guidance. Whether or not it might be desirable for all parties to have a chance to comment upon proposed modifications, this is not current practice based on the best available advice and guidance.

In the Note, I also raised some questions of clarification. These were queries that could be dealt with by a simple exchange of written material between BDC, the PC and I. The answers received to these queries (all publicly available) have enabled me to examine the Plan without the need to hold a hearing.

In 2018, the Neighbourhood Planning Independent Examiner Referral Service (NPIERS) published guidance to service users and examiners. Amongst other matters, the guidance indicates that the qualifying body will normally be given an opportunity to comment upon any representations made by other parties at the Regulation 16 consultation stage should they wish to do so. There is no obligation for a qualifying body to make any comments; it is only if they wish to do so. The Parish Council made comments on the original Regulation 16 stage representations and I have taken these into account.

Before completion of the examination, the Government published a new National Planning Policy Framework (NPPF) in July 2021. Given that the NPPF is a key document issued by the Secretary of State against which the Plan is examined, I suggested that a short period of consultation specifically on the newly published NPPF be held.

Therefore, in order to give all interested parties, BDC and the Parish Council an opportunity to consider whether this had any implications for the Plan, a further two week period of consultation was carried out which meant the consultation ended on 27 August 2021.

To summarise then, this Plan underwent consultation at the Regulation 16 stage between 24 June – 11 August 2021, which was then extended to allow a period of consultation in relation to the new NPPF until 27 August 2021 and a further consultation in relation to the proposed significant modifications between 12 – 27 July 2022.

I am very grateful to everyone for ensuring that the examination has run so smoothly and in particular Paul Bryant at BDC.

I made an unaccompanied site visit to familiarise myself with the Plan area on 26 August 2021.

Where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in ***bold italics***.

Given that the Plan refers to the NPPF in places, these references will need to be updated to refer to the 2021 version of the NPPF.

As a result of some modifications consequential amendments may be required. These can include changing section headings, amending the contents page, renumbering paragraphs or pages, ensuring that supporting appendices and other documents align with the final version of the Plan and so on.

I regard these as primarily matters of final presentation and do not specifically refer to such modifications, but have an expectation that a common sense approach will be taken and any such necessary editing will be carried out and the Plan's presentation made consistent.

- **Update any references to the NPPF throughout the Plan including its appendices as necessary**

4.0 Neighbourhood plan preparation

A Consultation Statement has been submitted. It meets the requirements of Regulation 15(2) of the Neighbourhood Planning (General) Regulations 2012.

Work began on the Plan in 2018. A committee was established to take the work forward.

A number of questionnaires were conducted. This included a general household questionnaire and ones specifically aimed at children and businesses. These were hand delivered and collected resulting in a good response rate.

A school assembly was held at the local primary school to explain the Plan to local children and to launch a competition for the front cover. A further meeting was held with High School children.

A presence at Neighbourhood Fun Days in 2018 and 2019 and drop-in events at the Village Hall also engaged local Parishers.

Regular updates have been given in the local magazine, The Bugle which is delivered to all homes in the Parish. Monthly updates have been made at Parish Council meetings.

Pre-submission (Regulation 14) consultation took place between 1 October – 16 November 2020. Details of the consultation were publicised in The Bugle and all documents were available on the dedicated Plan website. Paper copies were available

for anyone without access to the internet. Restrictions caused by the pandemic limited the ability to hold face to face meetings, but two events were held in the pub car park/garden and two online drop-in events were held.

I consider that the consultation and engagement carried out is satisfactory.

Submission (Regulation 16) consultation was carried out between 24 June – 11 August 2021.

As previously explained, this was extended to have a short focused period of additional consultation was held on the NPPF until 27 August 2021.

A further short focused period of consultation was held on the proposed significant modifications between 12 – 27 July 2022.

A total of 14 representations were received at Regulation 16 stage including a late representation accepted by BDC.

A further 10 representations were received on the proposed significant modifications consultation.

Whilst I make reference to some responses and not others, I have considered all of the representations and taken them into account in preparing my report.

5.0 Compliance with matters other than the basic conditions

I now check the various matters set out in section 2.0 of this report.

Qualifying body

Bentley Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is satisfactorily met.

Plan area

The Plan area is coterminous with the administrative boundary for the Parish. BDC approved the designation of the area on 16 July 2018. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Plan area is shown on page 6 of the Plan.

Plan period

The Plan period is 2018 – 2037. This is clearly shown on the Plan's front cover. This requirement is therefore satisfactorily met.

Excluded development

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also helpfully confirmed in the Basic Conditions Statement.

Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the development and use of land. If I consider a policy or proposal to fall within this category, I will recommend it be clearly differentiated. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.¹¹

6.0 The basic conditions

Regard to national policy and advice

The Government revised the National Planning Policy Framework (NPPF) on 20 July 2021. This revised Framework replaces the previous National Planning Policy Framework published in March 2012, revised in July 2018 and updated in February 2019.

The NPPF is the main document that sets out the Government's planning policies for England and how these are expected to be applied.

In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the delivery of strategic policies in local plans or spatial development strategies and should shape and direct development outside of these strategic policies.¹²

Non-strategic policies are more detailed for specific areas, neighbourhoods or types of development.¹³ They can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment as well as set out other development management policies.¹⁴

¹¹ PPG para 004 ref id 41-004-20190509

¹² NPPF para 13

¹³ Ibid para 28

¹⁴ Ibid

The NPPF also makes it clear that neighbourhood plans should not promote less development than that set out in strategic policies or undermine those strategic policies.¹⁵

The NPPF states that all policies should be underpinned by relevant and up to date evidence; evidence should be adequate and proportionate, focused tightly on supporting and justifying policies and take into account relevant market signals.¹⁶

Policies should be clearly written and unambiguous so that it is evident how a decision maker should react to development proposals. They should serve a clear purpose and avoid unnecessary duplication of policies that apply to a particular area including those in the NPPF.¹⁷

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at www.gov.uk/government/collections/planning-practice-guidance which is regularly updated. The planning guidance contains a wealth of information relating to neighbourhood planning. I have also had regard to PPG in preparing this report.

PPG indicates that a policy should be clear and unambiguous¹⁸ to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the planning context and the characteristics of the area.¹⁹

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.²⁰ It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.²¹

Whilst this has formed part of my own assessment, the Basic Conditions Statement sets out how the Plan has responded to national policy and guidance. An appraisal²² briefly sets out how the Plan aligns with the NPPF's key topic principles.

Contribute to the achievement of sustainable development

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development.

The NPPF confirms that the purpose of the planning system is to contribute to the

¹⁵ NPPF para 29

¹⁶ Ibid para 31

¹⁷ Ibid para 16

¹⁸ PPG para 041 ref id 41-041-20140306

¹⁹ Ibid

²⁰ Ibid para 040 ref id 41-040-20160211

²¹ Ibid

²² Basic Conditions Statement page 9

achievement of sustainable development.²³ This means that the planning system has three overarching and interdependent objectives which should be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives.²⁴ The three overarching objectives are:²⁵

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and
- c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

The NPPF confirms that planning policies should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account to reflect the character, needs and opportunities of each area.²⁶

Whilst this has formed part of my own assessment, the Basic Conditions Statement explains how each Plan policy helps to achieve sustainable development as outlined in the NPPF.²⁷

General conformity with the strategic policies in the development plan

The development plan consists of the saved policies of the Babergh Local Plan Alteration No 2 (LP), adopted in June 2006, and the Babergh Core Strategy (CS) 2011 – 2031, adopted in February 2014. In addition the Minerals Core Strategy and the Waste Core Strategy produced by Suffolk County Council also form part of the development plan.

Whilst this has formed part of my own assessment, the Basic Conditions Statement contains an assessment of how each policy generally conforms to relevant LP and CS policies.²⁸ Where I have not specifically referred to a strategic policy, I have considered all strategic policies in my examination of the Plan.

²³ NPPF para 7

²⁴ Ibid para 8

²⁵ Ibid

²⁶ Ibid para 9

²⁷ Basic Conditions Statement page 12

²⁸ Ibid page 14

Emerging Joint Local Plan

BDC and Mid Suffolk District Council are working together to deliver a new Joint Local Plan (JLP) which will cover the period up to 2037. Once adopted, it will replace all other policies across the two Districts. The JLP was formally submitted to the Secretary of State for Housing, Communities and Local Government on 31 March 2021.

Following an exploratory meeting with the inspectors on 16 December 2021, the two Councils propose to progress the current emerging JLP as a 'Part 1' local plan. This will be followed by the preparation and adoption of a 'Part 2' local plan. The Councils are currently working to scope and progress the outstanding matters raised by the inspectors. Further details of this work and timescales are expected to be provided soon.

There is no legal requirement to examine the Plan against emerging policy. However, PPG²⁹ advises that the reasoning and evidence informing the local plan process may be relevant to the consideration of the basic conditions against which the Plan is tested.

Furthermore Parish Councils and local planning authorities should aim to agree the relationship between policies in the emerging neighbourhood plan, the emerging local plan and the adopted development plan with appropriate regard to national policy and guidance.³⁰

Retained European Union Obligations

A neighbourhood plan must be compatible with retained European Union (EU) obligations. A number of retained EU obligations may be of relevance for these purposes including those obligations in respect of Strategic Environmental Assessment, Environmental Impact Assessment, Habitats, Wild Birds, Waste, Air Quality and Water matters.

With reference to Strategic Environmental Assessment (SEA) requirements, PPG³¹ confirms that it is the responsibility of the local planning authority, in this case BDC, to ensure that all the regulations appropriate to the nature and scope of the draft neighbourhood plan have been met. It states that it is BDC who must decide whether the draft plan is compatible with relevant retained EU obligations when it takes the decision on whether the plan should proceed to referendum and when it takes the decision on whether or not to make the plan.

Strategic Environmental Assessment and Habitats Regulations Assessment

The provisions of the Environmental Assessment of Plans and Programmes Regulations 2004 (the 'SEA Regulations') concerning the assessment of the effects of certain plans and programmes on the environment are relevant. The purpose of the SEA Regulations,

²⁹ PPG para 009 ref id 41-009-20190509

³⁰ Ibid

³¹ Ibid para 031 ref id 11-031-20150209

which transposed into domestic law Directive 2001/42/EC ('SEA Directive'), are to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes.

The provisions of the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations'), which transposed into domestic law Directive 92/43/EEC (the 'Habitats Directive'), are also of relevance to this examination.

Regulation 63 of the Habitats Regulations requires a Habitats Regulations Assessment (HRA) to be undertaken to determine whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects. The HRA assessment determines whether the Plan is likely to have significant effects on a European site considering the potential effects both of the Plan itself and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, an appropriate assessment of the implications of the Plan for that European Site, in view of the Site's conservation objectives, must be carried out.

A Screening Determination dated December 2020 has been prepared by BDC. This in turn refers to a SEA Screening Report prepared by Land Use Consultants which screened in the Plan.

Consultation with the three statutory bodies was undertaken. No formal response was received from the Environment Agency (EA). Historic England (HE) concluded that a SEA was not required on heritage grounds, but that the views of the other consultees should be taken into account. Natural England (NE) supported the conclusion that SEA is required.

The Screening Determination therefore concludes that the Plan does require a SEA.

Accordingly, an Environmental Report (ER) has been prepared by AECOM and is dated February 2021. This is a proportionate and comprehensive document that meets the requirements of Regulation 12 of the Environmental Assessment of Plans and Programmes.

Taking account of the characteristics of the Plan, the baseline information and the characteristics of the areas most likely to be affected, I consider that retained EU obligations in respect of SEA have been satisfied.

In reaching this conclusion, I am mindful that PPG is clear that the SEA should only focus on the environmental impacts likely to be significant; it does not need to be done in any more detail, or using more resources, than is appropriate for the content and level of detail in the neighbourhood plan.³²

³² PPG para 030 ref id 11-030-20150209

Furthermore given the modifications recommended in this report, and that it is BDC that ensures all the relevant regulations have been met having received my report, BDC will consider the SEA again before the Plan progresses to the next stages.

Turning now to HRA, a HRA Screening Determination and Appropriate Assessment of January 2021 has been submitted. In turn this refers to a HRA Screening Report and Appropriate Assessment of December 2020 prepared by Place Services.

There are 13 European sites which lie within 20km of the Plan area. After consideration of the potential impact pathways and consultation with NE, it was decided that two sites should be assessed; the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar as the Plan area falls within the 13km Zone of Influence (ZOI) for these sites.

The Screening Report and Determination concluded that there were no pathways expected to result in likely significant effects from the Plan alone, but there would be in combination effects with other plans and projects. An Appropriate Assessment (AA) was therefore carried out.

The AA concluded that the proposal will not result in adverse effects on the integrity of the European sites in question, either alone or in combination with other plans and projects recommending a number of policy wording amendments. NE was consulted and agreed with the conclusions provided that all mitigation measures can be secured via any planning permission granted.

On 28 December 2018, the basic condition prescribed in Regulation 32 and Schedule 2 (Habitats) of the Neighbourhood Planning (General) Regulations 2012 (as amended) was substituted by a new basic condition brought into force by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 which provides that the making of the plan does not breach the requirements of Chapter 8 of Part 6 of the Habitats Regulations.

Given the distance, nature and characteristics of the nearest European sites and the nature and contents of this Plan, I agree with the conclusion of the HRA and AA and accordingly consider that the prescribed basic condition is complied with, namely that the making of the Plan does not breach the requirements of Chapter 8 of Part 6 of the Habitats Regulations.

Whilst the assessments relate to the pre-submission version of the Plan, I am mindful of the advice in PPG.³³ This states that the environmental report will not necessarily have to be amended if the Plan is modified following responses to consultation.

Modifications should be appropriate and proportionate to the level of change being made. A change is likely to be significant if it substantially alters the Plan or is likely to give rise to significant environmental effects. I take the view that the assessments

³³ PPG para 041 ref id 11-041-20140306

carried out at earlier stages of Plan making remain valid given the level of change made to the Plan. It will of course be for BDC to review this following the examination stage.

Conclusion on retained EU obligations

National guidance establishes that the ultimate responsibility for determining whether a plan meets EU obligations lies with the local planning authority.³⁴ In undertaking work on SEA and HRA, BDC has considered the compatibility of the Plan in regard to retained EU obligations and does not raise any concerns in this regard.

European Convention on Human Rights (ECHR)

The Basic Conditions Statement contains a statement in relation to human rights.³⁵ Having regard to the Basic Conditions Statement, there is nothing in the Plan that leads me to conclude there is any breach or incompatibility with Convention rights.

7.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. As a reminder, where modifications are recommended they appear in **bold text** and where I suggest specific changes to the wording of the policies or new wording these appear in ***bold italics***.

The Plan is presented to a very high standard and contains 23 policies. There is an eye catching front cover with pictures. The Plan begins with a helpful contents page, but there is some minor editing to do in the final version to ensure of page numbers correspond with the contents page.

1. Introduction

This is a helpful introduction to the Plan that sets out the background to the Plan and how it has evolved, explaining a Neighbourhood Plan committee was set up to lead its preparation.

Some natural updating may be needed, for example the references to the emerging JLP, and to retained EU obligations as the Plan progresses towards its final version. I regard these as matters of final presentation and do not make a specific modification in this respect.

³⁴ PPG para 031 ref id 11-031-20150209

³⁵ Basic Conditions Statement page 23

A minor modification is put forward to ensure that the titles of the supporting documents are referred to consistently throughout the Plan.

- **Change the reference to the “Landscape Assessment” in paragraph 1.9 on page 5 of the Plan to “*Landscape Appraisal*”**

2. Vision Statement and Plan Objectives

The vision statement for the area is:

“Our vision is to conserve the sense of community within Bentley, to ensure that we have the robustness to meet the challenges ahead – to enhance our rural nature and agricultural surroundings, for a safe and vibrant place to live for generations to come.”

The vision is supported by nine objectives based on the six themes in the Plan namely housing, the built environment, the natural environment, the historic environment, development of infrastructure and services and community facilities. All the objectives are articulated well, relate to the development and use of land and will help to deliver the vision statement.

3. Bentley in Context

This section sets out the interesting history and context of the Parish and contains useful information to set the scene.

4. Planning Policy Context

This section usefully explains the planning policy context for the Plan. Some natural updating to this section will be needed in relation to the NPPF and the emerging JLP. I regard this wording as something that can be agreed between the two Councils as the Plan progresses.

- **Update this section in relation to the 2021 version of the NPPF and the latest position on the JLP**

5. Spatial Strategy and 6. Housing

Policies BEN 1 - Spatial Strategy, BEN 2 - Housing Development, BEN 3 – Land at Oakleigh, Capel Road and BEN 4 – Land at the Fruit Farm, Capel Road

This section of my report discusses Policies BEN 1 to BEN 4 which fall across two different sections of the Plan.

In the CS, Bentley is identified as a 'Hinterland Village' in the Capel St Mary functional cluster.

In Core and Hinterland Villages, the CS states that 1,050 dwellings should be planned for. CS Policy CS2, which defines 43 Hinterland Villages, explains that this means some development to meet the needs within the Hinterland Villages will be accommodated.

All proposals are assessed against CS Policy CS11 which indicates development in Hinterland Villages is acceptable where it can be demonstrated that proposals have a close functional relationship to the existing settlement as well as meeting a number of criteria set out in the policy. The cumulative impact of development should also be taken into account.

In the countryside outside Hinterland Villages, CS Policy CS2 states that development will only be permitted in exceptional circumstances subject to a proven justifiable need.

The Plan explains that development should be focused on the built-up area of the village given the landscape and heritage designations around the village. To help achieve this, a settlement boundary has been defined in Policy BEN 1. This is shown on Map 4 on page 15 of the Plan.

The settlement boundary takes its lead from that defined in the LP 2006, but has been reviewed and updated to reflect changes over time and to recognise sites where planning permission for new housing has been granted.

The Plan explains that the settlement boundary differs to that proposed in the emerging JLP in a number of ways. One of the main differences is that the proposed boundary in the emerging JLP includes an extension west of Church Road. This is a proposed site allocation in the JLP for around 20 dwellings. However, this site is not supported in this Plan which explains that planning permission for up to 45 dwellings on this site was refused in March 2020. Instead, an extension to the settlement boundary north of Capel Road is included; this land is also subject to Policy BEN 4 which is a site allocation policy.

Since the Plan was prepared and submitted, the situation at local planning authority level has changed. As explained earlier, following an exploratory meeting with the inspectors held on 16 December 2021, the two District Councils propose to progress the current emerging JLP as a 'Part 1' local plan. This will be followed by the preparation

and adoption of a 'Part 2' local plan. The District Councils are currently working to scope and progress the outstanding matters raised by the inspectors.

The Part 1 document will contain the strategic policies (but exclude Policy SP04 – Housing Spatial Distribution) and all development management policies (less Policy LP30 – Designated Open Spaces). Current settlement boundaries and open space designations would be saved from existing adopted policy and carried forward into the Part 1 document.

The Part 2 document would contain Policy SP04 – Housing Spatial Distribution and Policy LP30 – Designated Open Spaces and would include residential site allocations, updated settlement boundaries, updated Gypsy and Traveller, and Travelling Showpeople policy and any necessary allocations and open space designations.

A Briefing Note from BDC to neighbourhood planning groups dated 16 December 2021 explained that the move to a Part 2 JLP means that the minimum housing requirement figures set out in the emerging JLP are now indicative and are likely to be updated as the Part 2 document is progressed. The Briefing Note urged qualifying bodies to continue with their work on neighbourhood plans on this basis. Of course, neighbourhood plans could come forward with an alternative number, but this would need to be justified.

There are two main impacts with regard to Policies BEN 1 – BEN 4. The first is that the housing requirements set out in proposed JLP Policy SP04, Housing Spatial Distribution, become indicative figures for Parishes to work with in preparing their neighbourhood plans. Secondly, current settlement boundaries are saved from existing adopted policy and carried forward into the Part 1 document.

As a result of these changes, the Parish Council wrote to me on 10 January (via BDC). The Parish Council asked me to consider deleting reference to the JLP housing requirement and the housing allocation at the Fruit Farm, subject of Policy BEN 4 on the basis that, in their view, there was no requirement to make an allocation or to deliver a minimum housing figure at this time, but that a review of the Plan could be undertaken at a later date to allocate sites as needs be.

I consider that if the Parish Council requests me to delete references to the JLP housing requirement and Policy BEN 4, then I must do this. I can see no basis for not agreeing to this course of action requested by the body submitting the Plan for examination.

PPG is clear that where neighbourhood plans contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.³⁶ It continues that where there is provision for housing in the plan, the housing requirement figure and its origin are expected to be set out in the neighbourhood plan as a basis for housing policies and any allocations proposed.³⁷ There is encouragement

³⁶ PPG para 040 ref id 41-040-20160211

³⁷ Ibid para 103 ref id 41-103-20190509

to plan not only to meet the housing requirement, but also to exceed it.³⁸

If references to the JLP housing requirement, now indicative, are to be deleted alongside Policy BEN 4, the Plan does not effectively deal with housing supply.

With regard to Policy BEN 1, this proposed settlement boundary would need to be changed to reflect the deletion of the site allocation subject of Policy BEN 4. It would therefore be based on the LP 2006 boundaries plus updates to reflect grants of planning permission since that time. This could be viewed as beneficial given the time lapse since the current settlement boundaries were settled. However, the situation at BDC level is that for the time being, until the Part 2 document is produced, the current settlement boundaries are saved from existing adopted policy and carried forward into the Part 1 document.

Therefore there seems little point in updating the settlement boundary to simply include permissioned sites which are a matter of fact and no basis for so doing if, at BDC level, BDC is content to continue to work with the current settlement boundaries for some time yet.

I see the primary purpose of Policy BEN 1 in defining a new settlement boundary and focusing development within the built up confines of the village. This element of the policy no longer serves much purpose. It would be possible to retain the first part of the policy in that development should be commensurate with Bentley's designation in the settlement hierarchy. However, this will happen anyway through District level policies. The third element of the policy does not add to national or District level policies and Policy BEN 5 will apply anyway regardless of a reference in this policy.

Policy BEN 1's supporting text refers to exceptional circumstances and development which is essential or needs to be located in the countryside reflecting CS Policy CS2. However, the NPPF is very clear that development can take place in the countryside. For example, it encourages policies to enable the sustainable growth and expansion of businesses in rural areas and supports rural tourism and leisure development that respects the character of the countryside.³⁹ I therefore regard the supporting text for Policy BEN 1 as too limiting in relation to the NPPF.

Whilst it is possible to move away from national policy, this requires justification. I can find no justified reason to restrict development in this way in this Plan area.

Therefore in relation to Policy BEN 1, I can see no useful purpose for a more narrowly defined settlement boundary or retention of the policy wording and little in the supporting text that would not have to be changed to reflect the current situation.

³⁸ PPG para 103 ref id 41-103-20190509

³⁹ NPPF para 84

Turning now to Policy BEN 2, this would need to be significantly changed and again there would be no basis for it. The indicative housing requirement for this Plan area is 52 dwellings. The Plan accepted this level of growth as the policy refers to “around 58” dwellings, but I have now been requested to delete references to the JLP housing requirement and one of the site allocations referred to in the policy.

In addition, I have already referred to the NPPF’s stance on development in the countryside in my discussion of the previous policy. The same applies to this policy.

Furthermore the reference to agricultural barns is arguably too limited; the NPPF supports the reuse of redundant or disused buildings where the immediate setting would be enhanced.⁴⁰

A second site allocation, Policy BEN 3 would also be without basis (although I note the site has planning permission in any case). Policy BEN 3 allocates land at Oakleigh, Capel Road for around 16 dwellings including up to 35% affordable housing. The site was granted planning permission in 2018 for 16 units. Given that the Plan no longer addresses housing supply, there is no need for the policy to be retained as the principle of development has already been established.

In respect of Policy BEN 4, I have been asked to delete this policy. The policy allocates land at the Fruit Farm, Capel Road for around 16 dwellings including up to 35% affordable housing. I do not need to comment further on this policy except to note that a number of representations raised concern about the deliverability of the proposed allocation and the site assessment process.

Therefore as I have been requested to consider the deletion of housing requirement figures and Policy BEN 4, the consequence of this, as I see it, is that Policies BEN 1, BEN 2, BEN 3 and BEN 4 and the supporting text for these policies also need to be deleted for the reasons given above resulting in a Plan that would not deal with housing supply at all or contain any site allocations.

Whilst this is regrettable, this is an acceptable position for the Plan as national policy and guidance is clear that neighbourhood plans do not have to deal with every issue and this includes housing. I feel sure that the Parish Council will wish to consider the housing figures situation and take a proactive stance on assessing sites and putting forward site allocations to meet the housing figures as these emerge.

I therefore conclude that Policies BEN 1, BEN 2, BEN 3 and BEN 4 should be deleted from the Plan with the relevant passages of supporting text to ensure that the Plan meets the basic conditions. Consequential amendments will be needed.

- **Delete Policies BEN 1, BEN 2, BEN 3 and BEN 4 from the Plan alongside the supporting text for each policy**

⁴⁰ NPPF para 80

- **Consequential amendments will be needed including changes to the Policies Map**

Policy BEN 5 – Affordable Housing on Rural Exception Sites

The NPPF supports the provision of rural exception sites to enable local needs to be provided for.⁴¹

The Plan explains that the average house price in Babergh is around 10 times the average household income.

An AECOM Housing Needs Assessment (HNA) was carried out as part of work on the Plan. This supports a clear need for affordable housing. This is also borne out by evidence collected for the emerging JLP. The HNA identified a need for 18 affordable homes over the Plan period.

This policy supports affordable housing schemes on rural exception sites with an emphasis on a proven local need and local connection criteria for the affordable housing. Some market housing can be included on such sites in line with the stance of national policy.

It refers to entry-level homes and paragraph 71, now paragraph 72, of the NPPF. The NPPF specifically refers to entry-level exception sites indicating they should not be permitted in AONBs.⁴² Therefore a modification is made to recognise that, with the passage of time, some of the Plan area now falls within an AONB.

In addition, as part of the Plan area now falls within the AONB, this means that the land in the AONB is a designated rural area.⁴³ In turn the NPPF explains that this means in such areas, policies may set out a lower threshold of five units or fewer (rather than 10 or more homes) for the provision of affordable housing.⁴⁴ The Parish Council could consider adding a paragraph to explain this situation in the section on affordable housing in the Plan if desired.

The policy refers to paragraph 71 of the NPPF; this reference is recommended to be modified in the light of the 2021 version of the NPPF.

The supporting text refers to paragraph 77 of the NPPF; this reference should be updated to reflect the 2021 version of the NPPF.

The supporting text refers to the emerging JLP and these can be deleted in the interests of clarity and ensuring the Plan remains up to date.

⁴¹ NPPF para 78

⁴² Ibid para 72 and footnote 36

⁴³ Ibid, see glossary

⁴⁴ Ibid para 64

The supporting text also needs updating as a result of previous recommendations.

With these modifications, the policy will have regard to national policy in providing for housing for different groups and its support for rural exception sites. It will contribute towards the achievement of sustainable development, particularly the social objective. It will be in general conformity with the CS and especially CS Policy CS20 which takes a flexible approach to the location of rural exception sites and allows proposals that are adjacent or well related to the settlement boundaries of Hinterland Villages. It will therefore meet the basic conditions.

- **Add a footnote to the policy to be inserted after “...will be supported...” in the first paragraph of the policy that reads: “*In line with national policy, entry-level exception sites will not be permitted in the AONB.*”**
- **Change the reference to paragraph 71 of the NPPF in the first paragraph of the policy to “paragraph 72”**
- **Change the reference to paragraph 77 of the NPPF in paragraph 6.22 on page 24 of the Plan to “paragraph 78”**
- **Delete paragraphs 6.21 on page 24 and 6.25 on page 25 of the Plan**
- **Delete references to the site at Oakleigh and the Fruit Farm in paragraphs 6.19 and 6.20 on page 24 of the Plan**

Policy BEN 6 – Housing Mix

The NPPF states that the needs of groups with specific housing requirements should be addressed to support the Government’s objective of significantly boosting housing supply.⁴⁵

Work carried out during the preparation of the Plan revealed that Bentley has a higher proportion of three or more bedroomed homes than the national average.

The HNA supports the provision of housing units of between 1 – 4 bedrooms, but with little demand for homes larger than 4 bedrooms.

Policy BEN 6 supports the provision of two bedroomed units in housing developments of 10 or more units. This is borne out by the evidence in the HNA which suggests that 53.5% of new homes should be two bed to minimise the misalignment between supply and demand. However, the policy is also flexible recognising that these needs may change over time or that the particular tenure of homes provided on any one site indicates otherwise.

⁴⁵ NPPF para 60

It also supports bungalows as such provision is also supported by the HNA which recognises the aging population in Bentley which has an older age profile in comparison with Babergh and England. Whilst I recognise that housing suitable for older people or for frail or mobility restricted occupants is not limited to bungalows, I saw at my site visit that there are many bungalows in the village and they form an important element of the village's character. In this case then, I consider this to be acceptable.

Finally, the policy does not support dwellings of more than two storeys. This is supported by work on the Design Guide and forms part of the Design Guide.

The policy has regard to national policy, contributes to the achievement of sustainable development and is in general conformity with strategic policy, particularly CS Policy CS18. It therefore meets the basic conditions and no modifications are put forward.

Reference to the JLP on page 27 in the next section titled "Housing Space Standards" should be deleted in the interests of clarity.

- **Delete the last sentence of paragraph 6.28 on page 27 of the Plan**

7. The Built Environment

Policy BEN 7 – Development Design

The NPPF states 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.⁴⁶

It continues that neighbourhood plans can play an important role in identifying the special qualities of an area and explaining how this should be reflected in development.⁴⁷ It refers to design guides and codes to help provide a local framework for creating beautiful and distinctive places with a consistent and high quality standard of design.⁴⁸

It continues that planning policies should ensure developments function well and add to the overall quality of the area, are visually attractive, are sympathetic to local character and history whilst not preventing change or innovation, establish or maintain a strong sense of place, optimise site potential and create places that are safe, inclusive and accessible.⁴⁹

⁴⁶ NPPF para 126

⁴⁷ Ibid para 127

⁴⁸ Ibid para 128

⁴⁹ Ibid para 130

Policy BEN 7 is a long policy with numerous and varied criteria covering a wide range of issues. In essence, the policy seeks to deliver locally distinctive development of a high quality that protects, reflects and enhances local character taking account of the NPPF and leading on from CS Policies CS11 and CS15 in particular.

It refers to Appendix B which contains a Development Design Checklist based on the Design Guide produced by AECOM and the Design Guide itself. I consider this to be appropriate given the relative contents of each element.

The policy refers to the amenities of nearby residents in criterion b), but the wording could be more precise.

Reference is made in the policy to “Vegetated Green Edges”. These have been identified in the Landscape Appraisal as having a special quality in the Parish which, wherever possible, should be retained and enhanced.⁵⁰

They are also referred to in Policy BEN 11 which takes a pragmatic approach to development using an evidence based approach to landscape features. However, in this policy, their loss or damage is not supported. I consider there may be an unintentional internal conflict between Policies BEN 7 and BEN 11 in this respect. I prefer the more pragmatic approach of Policy BEN 11 which deals more widely with landscape matters. Therefore a modification to delete the criterion from this policy is recommended. Reference to the Landscape Appraisal is still retained in the policy in its following criterion.

The policy also refers to a number of important views which are identified on the Policies Map. I have considered each of these views at my site visit. The ten views, identified through work on the Plan, are assessed as part of the Landscape Appraisal.

Given that the views are numbered, photographed and accompanied by a description of their key features, it would be helpful to refer to the Landscape Appraisal in the supporting text and to also number the views on the Policies Maps. This would add clarity. If desired the relevant pages from the Landscape Appraisal could be incorporated into the Plan.

I note the policy makes reference to “quiet lanes” which is a nationally recognised designation. Later in the Plan it is explained that work is being carried out with Suffolk County Council to formally designate such lanes shown on Map 13. The Landscape Appraisal indicates that “...the network of rural lanes make a strong contribution to the character of Bentley village and the wider landscape.”⁵¹ However, it indicates further work should be carried out to determine the designation.

Other modifications are recommended. The first is to ensure there is consistency between the titles of documents referred to in the interests of clarity. The second is to remove a reference within the policy to an emerging Environment Bill simply given the

⁵⁰ Landscape Appraisal Final Report para 6.1.1, page 39

⁵¹ Ibid para 4.3.3, page 24

uncertainty of such a reference. It could be placed in the supporting text as an alternative if desired. Thirdly, increased flexibility is added to criterion k). Lastly, the supporting text in paragraph 7.1 refers to paragraph 124 of the NPPF; this reference should be updated to reflect the 2021 version of the NPPF.

With these modifications, the policy will meet the basic conditions, supporting locally distinctive development of a high quality having regard to the NPPF, leading on from, and being in general conformity with, CS Policies CS11 and CS15 in particular and achieving sustainable development.

- **Change the wording of criterion b) to “do not *materially harm* the amenities of nearby residents by reason of...” [retain as existing to end]**
- **Delete criterion d) of the policy**
- **Change “Landscape Character Appraisal” in criterion e) to “*Landscape Appraisal*”**
- **Delete the words “the emerging Environment Bill, and to consider” from criterion i)**
- **Add the words “*where appropriate*” to the start of criterion k)**
- **Add a new paragraph to the supporting text for this policy which reads: “*Ten important views have also been identified. These are shown on the Policies Maps and numbered to align with the assessment contained in the Landscape Appraisal Final Report December 2019 prepared by Alison Farmer Associates. This assessment also describes the views and includes a photograph of each one.*”**
- **Number the important views on the Policies Maps so that they align with the information in the Landscape Appraisal Final Report December 2019**
- **Update the reference to paragraph 124 of the NPPF in paragraph 7.1 on page 29 of the Plan to “paragraph 126”**

Policy BEN 8 – Flooding and Sustainable Drainage

The Plan explains that surface water drainage is a long standing and problematic issue for the village. This policy sets out a requirement that all new development should submit schemes detailing how on-site drainage and water resources will be managed. It also encourages the appropriate use of sustainable drainage systems (SuDs). This is in

line with the NPPF which encourages new development to incorporate SuDs where appropriate.⁵²

The policy has regard to national policy and guidance, is in general conformity with strategic policies, in particular CS Policy CS15 and will help to achieve sustainable development. It meets the basic conditions and no modifications are therefore recommended.

Reference to the NPPF in the next section titled “Renewable energy in developments” should be updated.

- **Update the reference to paragraph 151 of the NPPF in paragraph 7.9 on page 33 of the Plan to “paragraph 155”**

Policy BEN 9 – Parking Standards

The supporting text explains there is a high level of car ownership in the Parish which is greater than both the District and the County levels. In addition, many narrow, single width roads mean that on-street parking is impracticable. Furthermore any on-street parking inhibits those with a lack of curtilage parking to park close to their homes including when this is needed for access. There is little public transport as an alternative and no public off-street parking.

Given this local context, the policy seeks to set car parking standards within curtilages for new residential development.

The policy also encourages electric charging points to be provided in both residential and non-residential developments. Finally it covers cycle parking.

The NPPF is clear that if local parking standards are to be set, account should be taken of the accessibility of the development, the type, mix and use of it, the availability of public transport including opportunities, car ownership levels and the provision of spaces for charging plug-in and other ultra low emission vehicles.⁵³ Maximum parking standards should only be set if there are clear and compelling reasons.⁵⁴

I consider that this policy can be justified given the rural nature of the Plan area, the nature of the local roads, the availability of public transport and car ownership levels as described above.

The policy therefore meets the basic conditions by having regard to the NPPF, is in general conformity with the CS and will help to achieve sustainable development.

⁵² NPPF paras 167, 169

⁵³ Ibid para 107

⁵⁴ Ibid para 108

The reference to paragraph 105 of the NPPF in paragraph 7.15 of the supporting text should be updated to reflect the 2021 version of the NPPF.

- **Update the reference to paragraph 105 of the NPPF in paragraph 7.15 on page 34 of the Plan to “paragraph 107”**

8. Natural Environment

Policy BEN 10 – Development Affecting the Area of Outstanding Natural Beauty

In July 2020, the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) was extended into the Plan area. This is helpfully shown on Map 9.

This policy sets out how development in, or which might affect, the AONB will be considered. However, I do not consider it robustly reflects the stance of the current NPPF. The NPPF is clear that great weight should be given to the conservation and enhancement of landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues alongside National Parks and the Broads.⁵⁵

In such areas, the NPPF indicates that the scale and extent of development should be limited. Development within the setting of the AONB should be sensitively located and designed to avoid or minimise adverse impacts.⁵⁶

It continues that, when assessing planning applications, permission should be refused for major development other than in exceptional circumstances and where the development would be in the public interest.⁵⁷

In contrast, Policy BEN 10 refers to significant adverse impacts which cannot be adequately mitigated. I consider this to be a lower ‘bar’ than the NPPF sets out.

There is also some repetition in the policy which is subject to a modification in the interests of clarity.

Paragraph 8.2 contains a reference to the NPPF which now needs updating to reflect the 2021 version of the NPPF. In addition, this paragraph has changed and so needs replacing.

Paragraph 8.3 refers to the emerging JLP. Given its stage and the uncertainty this creates in this Plan, I consider it would be preferable to delete this paragraph to ensure this Plan is clear and has longevity.

⁵⁵ NPPF para 176

⁵⁶ Ibid

⁵⁷ Ibid para 177

As a result it is necessary to recommend some modifications to the policy to ensure it has regard to the NPPF. With these modifications, it will take account of national policy, be in general conformity with the CS, especially CS Policies CS11 and CS15 and help to achieve sustainable development.

- **Change the second sentence of the first paragraph of the policy to read: “*The scale and extent of development in the AONB will be limited. Any development should be sensitively designed and located taking into account the need to conserve and enhance the landscape and scenic beauty in the AONB as well as the consideration of wildlife and cultural heritage.*”**
- **Delete the third [last] sentence of the second paragraph of the policy that begins “Development proposals...”**
- **Update the reference to paragraph 172 of the NPPF in paragraph 8.2 on page 37 of the Plan to “paragraph 176” and replace with the new paragraph 176**
- **Delete paragraph 8.3 on page 38 of the Plan**

Policy BEN 11 – Protecting Bentley’s Landscape Character

A Landscape Appraisal has been prepared as part of the work on the Plan. This has informed Policy BEN 11 which seeks to ensure that the landscape characteristics of the Parish are considered as an integral part of any development scheme. It lists a number of criteria to be avoided. It does not prevent development per se, but seeks to ensure any development within this area is appropriate given the qualities of this landscape.

Amongst other matters, the policy refers to Vegetated Built Edges which are shown on the Policies Maps. As explained previously, these have been identified in the Landscape Appraisal as having a special quality in the Parish which, wherever possible, should be retained and enhanced.⁵⁸ The policy does not prevent development per se, but takes a pragmatic approach, specifically indicating that proposals must demonstrate through assessment that the erosion or loss of the Vegetated Built Edges can be mitigated.

A modification is recommended to ensure that the language used for this local designation is consistent and therefore clear between the policy, the Landscape Appraisal and the Policies Maps.

In addition, I saw at my site visit that some of the identified Vegetated Built Edges shown on the Policies Maps were not as verdant as I had anticipated. I raised a question about this and the Parish Council addressed this issue. I consider that, on reflection, the Vegetated Built Edges shown on the Policies Map are appropriate and characteristic of the area if a modification to the policy is made.

⁵⁸ Landscape Appraisal Final Report para 6.1.1, page 39

A minor modification is also made to ensure that the titles of the supporting documents are consistent throughout the Plan.

The NPPF requires the planning system to contribute and enhance the natural and local environment including protecting and enhancing valued landscapes.⁵⁹

The policy has regard to the NPPF's stance on contributing to and enhancing the natural and local environment and recognising the intrinsic character and beauty of the countryside.⁶⁰ It is in general conformity with the CS and in particular Policy CS15 which, amongst other things, sets out how development should respect the local context and character of different parts of the District and helps to achieve sustainable development.

Reference is also made in the supporting text to a document titled "Valued Landscape Assessment: Suffolk Coast and Heaths Additional Project Area", prepared by Alison Farmer Associates. This work is important and goes beyond the Plan area itself. Whilst there are no policy references to it in this Plan, and my understanding is that "valued landscapes" need not be designated, I consider the retention of references to this piece of work are not inappropriate in the context of the basic conditions.

- **Change the key notation on the Policies Maps from "Vegetated Village Edge" to "Vegetated *Built* Edge"**
- **Add a new paragraph to the policy that reads: "*Enhancement of the Vegetated Built Edges through appropriate reinforcement planting is encouraged.*"**
- **Change the reference to the "Landscape Character Appraisal" in the second paragraph of the policy to "*Landscape Appraisal*"**
- **Amend the end of the second paragraph of the policy to read: "...can be *satisfactorily mitigated and appropriately secured:...*"**

Policy BEN 12 – Protecting Habitats and Wildlife Corridors

The NPPF⁶¹ is clear that planning policies should contribute to and enhance the natural and local environment including through minimising impacts on biodiversity and providing net gains. It continues⁶² that "if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused".

⁵⁹ NPPF para 174

⁶⁰ Ibid

⁶¹ Ibid para 174

⁶² Ibid para 180

Policy BEN 12 starts with a reference to protected habitats. I consider it would be preferable to use different language in the interests of clarity and also to ensure sites and habitats proper protection. It then refers to “exceptional circumstances”. I cannot see how this takes account of the NPPF and no explanation has been given for any departure from the NPPF or any such circumstances defined. A modification is therefore made in this respect.

The policy then seeks to ensure development proposals avoid any loss or harm to trees, hedgerows and other features such as ponds. It refers to “important trees”; there is no reference in any supporting document to this phrase or any explanation about what might constitute an important tree and I can envisage the possibility of this phrase being open to interpretation. To address this concern, a modification is made based on the information in the Landscape Appraisal.

It recognises the need for mitigation, but indicates that where loss or harm to such features is unavoidable, the benefits of the development must outweigh any impacts. This is similar to the test outlined in the NPPF for Sites of Scientific Interest.⁶³ There is no explanation in the Plan as to why this test would also be appropriate for these other features in this Parish. This element of the policy therefore does not have regard to national policy and guidance. A modification is made to address this issue.

The policy also refers to mitigation proposals forming an integral part of the design concept and layout of any development scheme. Whilst this approach may well be appropriate, off-site mitigation may well also be acceptable and could, on occasion, be preferred. There is no explanation as to why this particular approach is the only one appropriate for this Parish. A modification is therefore made to address this.

The last part of the policy supports development providing a net gain in biodiversity. This in itself is acceptable, but the wording may inadvertently open the floodgates for all types of development. A modification is therefore made to ensure that development is in itself acceptable. In addition, the NPPF requires net gains for biodiversity to be achieved.⁶⁴ A modification is made to strengthen the policy in this respect.

In addition, there is one correction; paragraph 8.10 on page 42 of the Plan refers to Appendix D and this reference should be corrected taking into account other modifications to the appendices.

Lastly, the supporting text refers to the NPPF; this reference should now be updated to reflect the latest version of the NPPF.

With these modifications, the policy will have regard to national policy and guidance, add a local layer to, and be in general conformity with, the relevant strategic policies, in particular CS Policy CS15 which, amongst other things, seeks to protect and enhance biodiversity, and help to achieve sustainable development.

⁶³ NPPF para 180

⁶⁴ Ibid para 174

- Delete the words “protected habitats” from the first sentence of the policy and paragraph 8.10 and replace with “*designated sites, priority habitats and species and protected species*”
- Delete the words “Except in exceptional circumstances, “ from paragraph two of the policy
- Replace the word “important” in the second paragraph of the policy with “*hedgerow, field boundary, mature or veteran...*”
- Change the third paragraph of the policy to read: “Where such losses or harm are unavoidable, *adequate mitigation measures or, as a last resort, compensation measures will be sought. If suitable mitigation or compensation measures cannot be provided, then planning permission should be refused.*”
- Delete the fourth paragraph of the policy which begins: “It is expected that the mitigation proposals will form...” to end
- Change the last paragraph of the policy to read: “*Otherwise acceptable development proposals will only be supported...*”
- Correct the reference to Appendix D in paragraph 8.10 on page 42 of the Plan taking into account recommendations elsewhere in this report on appendices
- Update the reference to paragraph 170 of the NPPF in paragraph 8.11 on page 42 of the Plan to “paragraph 174”
- Consequential amendments will be needed to Appendix C in relation to the modification above re protected habitats

Policy BEN 13 – Recreational disturbance Avoidance and Mitigation

The Plan explains that the Parish is located within 13km of the Stour and Orwell Estuaries SPA and Ramsar Zone of Influence (ZOI). A Recreational disturbance Avoidance and Mitigation Strategy (RAMS) has been produced by a number of Suffolk local authorities and has been adopted by BDC in November 2019.

The RAMS has been undertaken to address the impact of increased recreational disturbance arising from new housing on Habitats sites and requires mitigation. The mitigation is a combination of a financial contribution to fund a warden and visitor management scheme and green infrastructure on housing sites to encourage people to stay local thereby reducing the pressure on the European site.

Policy BEN 13 refers to the RAMS; it is clearly worded. It meets the basic conditions in that it seeks to address any impact from new housing, is in generally conformity with

the District level strategy and CS Policy CS15 in particular and will help to achieve sustainable development.

Policy BEN 14 – Dark Skies and Street Lighting

The NPPF highlights the impact light pollution can have on health and living conditions as well as the natural environment, both locally and in relation to the wider area.⁶⁵

The Plan explains there is little street lighting in the Parish. This policy seeks to provide a balance between safety that lighting can bring with the harm that light pollution can cause.

The policy is clearly worded with flexibility. It meets the basic conditions particularly having regard to the NPPF and helping to achieve sustainable development. However, two modifications are recommended for the supporting text to ensure that the titles of supporting documents are referred to consistently throughout the Plan and to reflect the 2021 version of the NPPF.

- **Change the reference to the “Landscape Character Appraisal” in paragraph 8.15 on page 43 of the Plan to “*Landscape Appraisal*”**
- **Update the reference to paragraph 180 of the NPPF in paragraph 8.15 to “paragraph 185”**

9. Historic Environment

Policy BEN 15 - Heritage Assets

Policy BEN 15 seeks to ensure that development proposals preserve or enhance the significance of heritage assets through an understanding of the asset’s significance and the provision of clear justification for any works that would lead to harm.

The NPPF is clear that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.⁶⁶ It continues⁶⁷ that great weight should be given to the assets’ conservation when considering the impact of development on the significance of the asset.

⁶⁵ NPPF para 185

⁶⁶ Ibid para 189

⁶⁷ Ibid para 199

However, the NPPF distinguishes between designated heritage assets and non-designated heritage assets outlining different approaches. The policy should be clear that it only relates to designated heritage assets.

The policy also refers to AECOM's Design Guidelines, but I consider this reference should be to the Design Guide for completeness and enhanced sense.

With these modifications, the policy will meet the basic conditions having regard to national policy. It will be in general conformity with strategic policies and particularly CS Policy CS11, which refers to heritage assets, and Policy CS15 which indicates that development proposals must ensure adequate protection or enhancement as appropriate are given to distinctive local features which characterise the heritage assets of Babergh's built and natural environment. The policy will especially help to achieve sustainable development.

- **Add the word “*designated*” before “...heritage assets...” in the first sentence of the policy and in criterion a.**
- **Change the reference to the AECOM Design Guidelines in criterion b. of the policy to “AECOM Design *Guide*”**

Policy BEN 16 – Buildings of Local Significance

The NPPF⁶⁸ explains that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance. In relation to non-designated heritage assets, the NPPF is clear that the effect of any development on its significance should be taken into account and that a balanced judgement will be needed having regard to the scale of any harm or loss and the significance of the heritage asset.⁶⁹

Non-designated heritage assets are buildings, monuments, sites, places, areas or landscapes which have heritage significance, but do not meet the criteria for designated heritage assets. PPG advises there are various ways that such assets can be identified including through neighbourhood planning.⁷⁰

However where assets are identified, PPG advises that it is important decisions to identify them are based on sound evidence.⁷¹ There should be clear and up to date information accessible to the public which includes information on the criteria used to select assets and information about their location.⁷²

⁶⁸ NPPF para 189

⁶⁹ Ibid para 203

⁷⁰ PPG para 040 ref id 18a-040-20190723

⁷¹ Ibid

⁷² Ibid

In this case, Appendix D contains details of all the proposed buildings subject to this policy. It includes two which are not of any particular heritage interest; the Village Hall and Barnfield, a relatively newly built building. As a result, the policy does not refer to non-designated heritage assets per se, but buildings of local significance, presumably so these two buildings can be included. The policy therefore seems to be a hybrid of a policy on non-designated heritage assets and buildings of local significance.

The policy seeks to retain and protect these buildings which are specified in Appendix D and cross-referenced in the policy wording. The policy uses similar wording to that referred to above in relation to the NPPF's stance on non-designated heritage assets.

After careful consideration, I consider that the information contained in Appendix D just meets the bar and is detailed enough to support the designation of these buildings in a policy that refers to buildings of local significance and which recognises this is different to a policy or designation of local heritage assets. This however will require modification to the wording of the policy.

The policy refers to Appendix C, but this will need correcting given other modifications regarding the appendices elsewhere in this report.

With these modifications, the policy will meet the basic conditions by having regard to the NPPF, adding local detail to, and being in general conformity with CS Policies CS11 and CS15 in particular and helping to achieve sustainable development.

- **Delete the words “local heritage assets and” from the first sentence of the policy**
- **Add the words “*or of heritage interest*” after “...of local interest...” in the first sentence of the policy**
- **Delete the word “heritage” from the last sentence of the second paragraph of the policy**
- **Update the reference to “Appendix C” in the policy to taking into account recommendations elsewhere in this report on appendices**

10. Development of Infrastructure and Services

Policy BEN 17 – Sustainable Transport Infrastructure and Services

Safe walking and cycling is promoted by this policy. It seeks to ensure that modes other than the car can be used and that routes into the countryside and to key local amenities are provided.

The NPPF is clear that planning policies should protect and enhance public rights of way and access including taking opportunities to provide better facilities for users.⁷³ Such networks can also help with providing opportunities and options for sustainable transport modes.⁷⁴

The policy meets the basic conditions in that it has regard to the NPPF, is in general conformity with the CS and helps to achieve sustainable development.

In the next section titled “Public Rights of Way” (page 47 of the Plan), reference is made to quiet lanes in paragraphs 10.8, 10.9, 10.10, 10.11 and 10.12. This is an aspiration and therefore should be moved to a separate section, appendix or annex of the Plan. However, if the project has now been completed, this section could be factually updated without any impact on the basic conditions.

- **Move paragraphs 10.8 – 10.12 and any associated visuals from pages 49 and 50 of the Plan and place in a clearly identified separate section, appendix or annex of the Plan**

11. Community Facilities

Policy BEN 18 – Protecting Existing Services and Facilities

To support a prosperous rural economy, the NPPF expects planning policies to enable the retention and development of accessible local services and community facilities.⁷⁵ It also states that policies should guard against the unnecessary loss of valued facilities and services as part of its drive to promote healthy and safe communities.⁷⁶

This policy seeks to protect existing services and facilities. The clearly worded policy has regard to national policy, it is in general conformity with strategic policies particularly CS Policies CS11 which seeks to safeguard the needs of local communities and CS15 which seeks the retention, protection or enhancement of local services and facilities. It will help to achieve sustainable development. As a result it meets the basic conditions and it is not necessary to recommend any modification to it.

⁷³ NPPF para 100

⁷⁴ Ibid paras 105, 106

⁷⁵ Ibid para 84

⁷⁶ Ibid para 93

Policy BEN 19 – Sport and Recreation Facilities

The NPPF cites open space and sports venues as part of the local services and community facilities which planning policies should retain and enable.⁷⁷ In addition, the NPPF recognises that planning policies should help to achieve healthy, inclusive and safe places which enable and support healthy lifestyles.⁷⁸ It also encourages policies to provide recreational facilities and to guard against their unnecessary loss.⁷⁹

This policy supports the provision and improvement of amenity, sport or recreation open space or facilities. The loss of such spaces and facilities is prevented unless they are surplus to requirements or they will be replaced by equivalent or better provision in a suitable location. New development is required to provide such areas as appropriate.

The policy has regard to national policy and guidance, is in general conformity with strategic policies CS Policy CS15 in particular and will help to achieve sustainable development, particularly the social objective referred to in the NPPF which specifically mentions open space. It meets the basic conditions and no modifications are put forward except to future proof the policy.

- **Add the words “*current and future*” before “...needs...” to the paragraph in the policy under criterion b.**

Policy BEN 20 – Local Green Spaces

Seven areas of Local Green Space (LGS) are proposed. All are shown on map 14 and the Policies Map.

The NPPF explains that LGSs are green areas of particular importance to local communities.⁸⁰

The designation of LGSs should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.⁸¹ It is only possible to designate LGSs when a plan is prepared or updated and LGSs should be capable of enduring beyond the end of the plan period.⁸²

The NPPF sets out three criteria for green spaces.⁸³ These are that the green space should be in reasonably close proximity to the community it serves, be demonstrably special to the local community and hold a particular local significance and be local in

⁷⁷ NPPF para 93

⁷⁸ Ibid para 92

⁷⁹ Ibid para 93

⁸⁰ Ibid para 101

⁸¹ Ibid

⁸² Ibid

⁸³ Ibid para 102

character and not be an extensive tract of land. Further guidance about LGSs is given in PPG.

A Local Green Space Assessment has been undertaken. The Landscape Appraisal also refers to some of the proposed spaces. I saw each of the proposed spaces at my site visit.

1. **School Playing Field** adjoins the Village Playing Field, but primarily used by the Primary School as their sports field. There is some permissive public access and it is used with the Village Playing Field for village events. There is a large tree on the site and there is some wildlife.
2. **Play Area** is a well equipped play area popular with local children. It adjoins the School Playing Field and is adjacent to the community owned village pub and shop.
3. **The Copse off Capel Road** is particularly valued for its wildlife and ecology. It is adjacent to the School Playing Field. These three spaces contribute to a village hub around the pub and shop and the primary school in the heart of the village.
4. **Land behind the Village Hall** is approximately 1.3 hectares in size and the largest of the proposed LGSs. It is valued for its historic enclosures, nature conservation and as a tranquil space. Footpaths cross the site. It is also part of the parkland around the listed Bentley Grove and has a veteran tree.
5. **Silver Leys Green** is an open area surrounded by residential properties and forms an integral part of the setting of this street. It is used for informal recreation and also valued for its trees.
6. **War Memorial** is an important asset for the village and one of its key landmarks. The war memorial itself is a listed building. There is an important sense of place and the space provides a setting for the war memorial with a bench for quiet reflection and as a focal point for the village.
7. **Highfields Green** is used for informal recreation and is of amenity value to the residents of this street, contributing to the setting of this residential area.

In my view, all of the proposed LGSs meet the criteria in the NPPF satisfactorily. All are demonstrably important to the local community, all are capable of enduring beyond the Plan period, all meet the criteria in paragraph 102 of the NPPF and their designation is consistent with the local planning of sustainable development and investment in sufficient homes, jobs and other essential services given the other policies in the development plan and this Plan.

Turning now to the wording of the policy, the proposed LGSs are referred to and cross-referenced to the Policies Maps. The next element in setting out what development

might be permitted refers to national policy. The NPPF⁸⁴ explains that policies for managing development within a LGS should be consistent with those for Green Belts.

The policy therefore meets the basic conditions and no modifications to it are recommended. However the supporting text to the Plan on page 53 will need to be updated with references to the more recent NPPF and to reflect the changes to the submission version of the Plan.

- **Update the references to paragraph 100 of the NPPF in paragraphs 11.6 and 11.7 on page 53 of the Plan to “paragraph 102”**
- **Update the references to policies in paragraph 11.7 taking into account the recommendations elsewhere in this report**

Policy BEN 21 – Communications Technology

This policy supports communications infrastructure where it is designed to minimise adverse visual impact. It also prevents masts from being erected in the AONB.

Not all telecommunications development requires full planning permission. Some types of development also fall into ‘permitted development’ category of development where only design and siting can be considered.

Despite the highest status of protection given to AONBs in relation to the conservation and enhancement of landscape and scenic beauty,⁸⁵ the NPPF is clear that advanced, high quality and reliable communications infrastructure is essential for economic growth and social wellbeing.⁸⁶ It expects that development should be sympathetically designed and camouflaged where appropriate and that the number of masts for example, should be kept to the minimum necessary.⁸⁷

However, the NPPF is also clear that local planning authorities should not impose a ban on new development in certain areas.⁸⁸

I therefore consider that the part of the policy that imposes a blanket ban on such development in the AONB would not have regard to the NPPF. As a result, I recommend deletion of this element of the policy.

With this modification, the policy will meet the basic conditions.

- **Delete the last sentence of the policy that begins “New masts...”**

⁸⁴ NPPF para 103

⁸⁵ Ibid para 176

⁸⁶ Ibid para 114

⁸⁷ Ibid para 115

⁸⁸ Ibid para 116

Policy BEN 22 - Broadband

Policy BEN 22 seeks to support the provision of telecommunications infrastructure in new development. This is in line with the NPPF's stance on such infrastructure.⁸⁹

The policy is flexibly written and meets the basic conditions. No modifications to it are recommended.

Policy BEN 23 – Infrastructure Delivery

This policy sets out expectations for new development to be in line with infrastructure needs and provision. It refers to a list of infrastructure priorities which form Appendix E of the Plan and which will be regularly updated by the Parish Council.

Infrastructure is key to making development acceptable. The economic objective of the NPPF specifically refers to the identification and coordination of infrastructure provision.⁹⁰ The presumption in favour of sustainable development explains, that for plan making, growth and infrastructure should be aligned.⁹¹

The policy meets the basic conditions by setting out the expectations regarding infrastructure provision at the local level in line with the NPPF,⁹² adds a local layer to the CS and Policy CS21 in particular and will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended except to update the supporting text given the recommended modifications made elsewhere in this report.

- **Update the reference to Appendix E taking into account the recommendations made elsewhere in this report in relation to appendices**

Policies Maps

The maps are clearly presented. I have made some recommendations regarding modifications to the maps elsewhere in this report.

⁸⁹ NPPF para 114

⁹⁰ Ibid para 8

⁹¹ Ibid para 11

⁹² Ibid para 28

Appendices

There are five appendices.

Appendix A lists sites with planning permission. This was a useful addition at earlier stages of the Plan's preparation, but this now no longer serves much purpose given the modifications recommended in this report.

Appendix B is the Development Design Checklist referred to in Policy BEN 7. One of the headings in AECOM's Design Guide has been lost in the Appendix and in the interests of clarity I suggest it is reinstated.

Appendix C contains details about protected habitats and species.

Appendix D is a list of buildings of local significance and referred to in Policy BEN 16. Two buildings, Bentley Manor and Anchor Cottage, do not seem to be identified on the Policies Maps and in the interests of clarity, should be added.

Appendix E is the Parish Infrastructure Plan referred to in Policy BEN 23.

- **Delete Appendix A**
- **Make "Views and landmarks" in the "Pattern and layout of buildings" box on page 61 of the Plan a separate section heading [points I to iv will be retained and become bullet points]**
- **Add Bentley Manor and Anchor Cottage to the Policies Maps**
- **Consequential revisions will be needed**

Glossary

The Plan includes a helpful glossary. However, the definition for "Affordable housing" should better reflect the definition given in the NPPF for accuracy.

Secondly, the entry for "Significance (for heritage policy) should, I think, be in bold.

- **Change the definition of "Affordable housing" to: "*Housing for sale or rent, for those whose needs are not met by the market including affordable rented and starter homes. Eligibility is determined with regard to local incomes and local house prices.*"**
- **Separate out and use bold heading for the entry for "Significance (for heritage policy) on page 70 of the Plan**

8.0 Conclusions and recommendations

I am satisfied that the Bentley Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to Babergh District Council that, subject to the modifications proposed in this report, the Bentley Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion.

I therefore consider that the Bentley Neighbourhood Development Plan should proceed to a referendum based on the Bentley Neighbourhood Plan area as approved by Babergh District Council on 16 July 2018.

Ann Skippers MRTPI
Ann Skippers Planning
12 August 2022

Appendix 1 List of key documents specific to this examination

Bentley Neighbourhood Plan 2018 – 2037 Submission Draft June 2021

Basic Conditions Statement June 2021

Consultation Statement May 2021

Strategic Environmental Assessment Screening Determination December 2020

Strategic Environmental Assessment Environmental Report February 2021 (AECOM)

Strategic Environmental Assessment Screening Opinion Final Report October 2020 (Land Use Consultants)

Habitats Regulations Assessment Screening Determination and Appropriate Assessment January 2021

Habitats Regulations Assessment Screening Report and Appropriate Assessment December 2020 (Place Services)

Bentley Design Guide November 2019 (AECOM)

Landscape Appraisal Final Report December 2019 (Alison Farmer Associates)

Valued Landscape Assessment Suffolk Coast & Heaths Additional Project Area Final Report March 2020 (Alison Farmer Associates)

Bentley Illustrative Proposal for 'The Fruit Farm Final Report September 2020 (AECOM)

Oakleigh Proposed Site Layout

Local Green Space Assessment August 2020

Housing Needs Assessment January 2020 (AECOM)

Planning Situation Details: From 1 Apr 2018 to 9 Jun 2021

Parish Questionnaire Analysis

Childrens Questionnaire Analysis

Babergh Local Plan 2011 – 2031 Core Strategy & Policies February 2014

Babergh Local Plan Alteration No. 2 adopted June 2006

Rural Development & Core Strategy Policy CS11 Supplementary Planning Document
adopted August 2014

Affordable Housing Supplementary Planning Document adopted February 2014

Babergh and Mid Suffolk Joint Local Plan Pre-Submission (Reg 19) Document November
2020

List ends

Appendix 2 Note of Interim Findings

Bentley Neighbourhood Plan Examination

Note from the Examiner to the Parish Council and Bentley District Council

Having completed my initial assessment of the Neighbourhood Plan (the Plan), I am writing to the Parish Council (PC) and Babergh District Council (BDC) to set out my interim findings.

Background

The examination has unfortunately been subject to considerable delay; a result of circumstances from both the PC and I. I sincerely apologise for the time it has taken me to restart the examination and to reach this point.

BDC and Mid Suffolk District Council are working together to deliver a new Joint Local Plan (JLP) which will cover the period up to 2037. Once adopted, it will replace all other policies across the two Districts. The JLP was formally submitted to the Secretary of State for Housing, Communities and Local Government on 31 March 2021.

On 16 December 2021, following an exploratory meeting with the inspectors, BDC issued a briefing note. This explained that the JLP will be split into two parts. The note explains that the Part 1 document will contain all strategic policies (less Policy SP04 – Housing Spatial Distribution) and all development management policies (less Policy LP30 – Designated Open Spaces). Current settlement boundaries and open space designations would be saved from existing adopted policy and carried forward into the Part 1 document.

The Part 2 document would contain Policy SP04 – Housing Spatial Distribution and Policy LP30 – Designated Open Spaces and would include identifying residential site allocations; updated settlement boundaries; updated Gypsy and Traveller, and Travelling Showpeople policy and any necessary allocations; and open space designations. The timetable for the Part 2 JLP is expected soon.

The briefing note explained that these changes mean that the minimum housing requirements set out in the Joint Local Plan (November 2020) will now be indicative.

Of course neighbourhood plans could come forward with an alternative number, but this would need to be justified.

The PC's position

Following these changes, the PC wrote to me on 10 January 2022 asking me to consider deleting reference to the JLP housing requirement from the Plan as well as the proposed housing allocation at the Fruit Farm (Policy BEN 4). This was on the basis, as I understand it, that given proposed JLP Policy SP04 was to be deleted the PC considered there "...is now no requirement to make an allocation or to deliver a

minimum housing figure".¹ Indeed if the Part 2 JLP identified a need for site allocations, then this could be dealt with through a review or through the Part 2 JLP itself.

Main matters

1. I consider that if the PC request me to delete references to the JLP housing requirement and proposed Policy BEN 4 from the Plan, then I must do this. I can see no basis for not agreeing to this course of action requested by the body submitting the Plan.
2. Planning Practice Guidance (PPG) is clear that where neighbourhood plans contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.² It continues that where there is provision for housing in the plan, the housing requirement figure and its origin are expected to be set out in the neighbourhood plan as a basis for housing policies and any allocations proposed.³ There is encouragement to plan not only to meet the housing requirement, but also to exceed it.⁴

If references to the JLP housing requirement, now indicative, are deleted alongside Policy BEN 4, the Plan would be left with a proposed settlement boundary designation in Policy BEN 1 that would need to be changed to reflect the deletion of Policy BEN 4 and no evidence to support its designation. Policy BEN 2 would need to be significantly changed and again there would be no basis for it. A second site allocation, Policy BEN 3 would also be without basis (although I note the site has planning permission in any case).

Therefore as I have been requested to consider the deletion of housing requirement figures and Policy BEN 4, the consequence of this, as I see it, is that Policies BEN 1, BEN 2, BEN 3 and BEN 4 and the supporting text for these policies would also need to be deleted resulting in a Plan that would not deal with housing supply at all or contain any site allocations.

This is an acceptable position for the Plan as national policy and guidance is clear that neighbourhood plans do not have to deal with every issue and this includes housing.

The Plan would retain the other draft policies subject to my consideration and any modifications recommended.

3. The action of deleting Policies BEN 1, BEN 2, BEN 3 and BEN 4 and their associated text would constitute significant changes to the Plan.

¹ Email from the PC's consultant of 7 January 2022 to BDC

² PPG Paragraph 040 Reference ID 41-040-20160211

³ Ibid Paragraph 103 Reference ID 41-103-20190509

⁴ Ibid

NPIERS Guidance to service users and examiners indicates that “Examiners will not generally refer back to parties on these detailed revisions. But where the modification may necessitate a change which in the opinion of an examiner would be significant, there is a reasonable expectation that a description of the intended modification will be publicised on the local planning authority’s website, seeking comments, prior to recommending the changes. Significant changes may typically require further work to be undertaken, particularly in relation to Strategic Environmental Assessment.”⁵

I am conscious that the NPIERS Guidance indicates that what might constitute a significant change will be for me to determine in the context of the Plan examined, but that such changes can lead to concerns over community ownership of the Plan.

Whilst this Plan is not examined through NPIERS, I consider it helpful to refer to that Guidance.

It is also important to recognise that I must ensure I am not rewriting the Plan (and indeed would not wish to do so) in making modifications.

Conclusion on the main matters

I am therefore writing to seek confirmation (or otherwise) that you wish the examination to continue. The alternative is for the Plan to be withdrawn and no further work would be carried out by me on the examination.

If the examination is continued, then I would seek comments on the proposed significant changes to the Plan as outlined above, namely the deletion of Policies BEN 1, BEN 2, BEN 3 and BEN 4 and any associated supporting text, and the removal of any references to housing numbers or supply requirements in line with the Guidance as stated above. There is no requirement for any further publicity, but I would be happy for both Councils to publicise this matter further if they wish to do so. However, this should not mean a delay in publicity. A period of a minimum of two weeks would be allowed for comments.

I would only accept comments on these significant changes and will accept no other correspondence on any other aspects of the Neighbourhood Plan. During the consultation period, both Councils would be welcome to make comments on these proposed significant changes if they wish to do so.

I have also considered whether to hold an exploratory meeting or hearing to consider the issue. I see no immediate benefit to any party in holding a meeting or hearing at the present time as I have set out the issue as I see it in sufficient detail above and it is clear cut.

⁵ Paragraph 2.12.6 of the NPIERS Guidance

Other issues – questions of clarification

During the course of an examination, it is not unusual for me to have a number of questions of clarification. These are usually queries which can be readily dealt with by an exchange of correspondence. I have two questions:

- A. Policy BEN 11 refers to “Vegetated Built Edges”. I saw at my site visit that some of these Edges no longer seem to exist or are hard boundaries. I therefore consider the Policies Map needs updating. Please provide an up to date map of the Edges.
- B. The supporting text at paragraphs 8.6 and 8.7 refer to a Valued Landscape Assessment and valued landscape. This does not seem to have been incorporated into policy. Given this, and the Area of Outstanding Natural Beauty, is it necessary to retain these two paragraphs in the Plan? if so, why?

In the light of the above, I would like to give the PC the opportunity to consider my comments above and the best way forward. Please let me know how you would like to proceed by **Friday 24 June**. I would also welcome your response earlier if possible.

This note will be a matter of public record and should be placed on the relevant websites.

With many thanks,

Ann Skippers MRTPI
Independent Examiner
15 June 2022