

Bigbury Neighbourhood Plan 2019 - 2034

Initial Comments of the Independent Examiner

Prepared by

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10th October 2019

Introductory Remarks

1. As you will be aware, I have been appointed to carry out the examination of the Bigbury Neighbourhood Plan. I have carried out my initial review of the Plan and the accompanying documents that I have been sent. I visited the plan area on 7th October 2019. It was a very wet day and I know that I was not seeing the area at its best, but I was able to drive around the area and get out and walk in a number of locations. The bad weather did not affect the value of the visit, although some of the key views did not exist in the murk! I was grateful for the photographs in the document though which illustrated what I should have been seeing.
2. My preliminary view is that I should be able to deal with the examination of this Plan by the consideration of the written material only. I do still have to reserve the right to call for a public hearing, if I consider that it will assist my examination, but I consider that is very unlikely.
3. However, there are a number of matters that I wish to receive either clarification or further comments from either the Parish Council or in some cases from the District Council. Such requests are quite normal during the examination process and will help me prepare my report and come to my conclusions.

Regulation 16 Comments

4. Firstly, I would like to offer the Parish Council the opportunity to respond to any of the comments made in the representations submitted at the Regulation 16 stage.

The Plan Period

5. We have had an email exchange following the comments from South Hams but it would be useful if the Parish Council would confirm that it wishes me to recommend that the end of the plan period should be amended to 2034 from 2038.

Policy BP1 - Housing Allocations

6. I am generally satisfied with the site allocation process but I will be recommending that a plan be included, on an OS base showing the extent of the allocation site and also that the allocation should be included within the Proposals Map. I would be pleased if the Parish Council could furnish me with a plan, with the allocation site outlined.
7. I have discovered that there is a current undetermined planning application for the site covered by reference 4214/18/ FUL. I would be grateful if South Hams could give me an update on the current position of the application and when it is likely to be determined.

Policy BP2 - Other Housing Development

8. I would be interested in the Parish Council's views as to whether the 2 housing sites in St Ann's Chapel, the allocation site and the appeal site should be included within the settlement boundary, as once built they will form part of the settlement, rather than the surrounding countryside.
9. I am interested in whether there should be a cross referencing between this policy, in particular c) – dealing with the consideration of additional dwellings and Policy BP3. I am working on the assumption that any dwellings within the settlement boundaries will also be expected to comply with the criteria set out in Policy BP3.
10. Is the intention also that the subdivision of plots, outside the settlement areas will also be considered acceptable, if they meet the criteria or is it only within the settlement boundaries, in which case the expectation of the policy should be made clear.

Policy BP3 – Subdivision of existing plots

11. In d) is the Parish Council's expectation that planning decisions should be protecting *private* views across a neighbour's land, which seems to go against the court's interpretation that planning should be protecting public rather than private interests, as confirmed in PPG Para 008 Ref ID 21b-008-20140306.

Policy BP 5 - Housing for the elderly

12. A number of the neighbourhood plan's policies refer to "*previously developed sites*". Is the intention of the plan that it should cover what the NPPF refers to as "*previously developed land*", which is explicitly defined in the Framework's Glossary or is it intended to cover any site which has had a building on, which may include agricultural buildings or land that has been used for another purpose such as car parking?

Policy BP 7 – General Design Principles for new development

13. Whilst the title of the policy refers to "new development", the text refers to only "*new and replacement residential development*". Can the Parish Council confirm that the expectation is that the scope of the policy is intended to cover any new building, not just new housing as the requirements to comply with the policy are included as requirements of other policies?
14. Is the paragraph between criterion xii) and xiii) out of place, as it seems unrelated to the surrounding text?

Policy BP 8 - Existing and Proposed Employment

15. My concern is the clarity as to what premises would be covered by this policy – the text refers to the village stores and leisure facilities and even the surf school that runs from a storage container in the beach car park at Bigbury on Sea. Would an application for a change of use of such a property be

considered against Policy BP 8 or Policy BP 14, which deals with existing retail and leisure facilities. I note that the second part of the policy deals with “new business and industrial development”, which I feel is aimed more at development in Class B of the Use Classes Order.

16. When considering the loss of employment facilities, the policy permits their loss if alternative employment facilities are provided elsewhere in the Parish. Is the intention that the alternative *facilities*, be of the same type of business eg a café is replaced by another cafe or just that there have been other developments that have created employment. Would the test of the marketing be whether the applicant needs to demonstrate that there is no market for the type of business or just a use that provides employment?
17. I sense there is an issue of consistency across the policies. How would the policy work in terms of the presumption in favour of the redevelopment of previous developed sites, such as a sheltered housing scheme provided for by Policy BP5. Would that presumption in favour of allowing an alternative use override the presumption against the loss of employment on that site when that employment is not being replaced or does the building have to stand empty for a year?
18. Should the policy not just cover the erection of new buildings or should it also address the change of use / conversion of buildings in the plan area. Is the intention that agricultural buildings to be classed as *previous developed land* or is the intention that they should be covered by Policy BP 9, as farm diversification projects?

Policy BP9 – Agricultural Development

19. Can the Parish Council clarify whether criterion iii) refers to a significant increase in the use of heavy goods vehicles or should I read it that the significant increase refers to traffic generally and uses should not be expected to not give rise to the use of heavy goods vehicles? I have sensed the possibility that the policy could be interpreted in both senses.

Policy BP 10- Conversion of farm and rural buildings for residential Purposes

20. I invite the Parish Council to review the drafting of this policy. The first sentence clearly implies support for the conversion of farm buildings for residential use. It goes on to set criteria for scenarios where the premises are no longer required for agricultural uses. Is it the intention that the conversion of farm buildings no longer needed for farming will be supported if they meet the requirements of the policy? Is the reference to not being required for “other economic use”, pointing to a need to show that the building is not economically viable to be put to other non-residential uses before being accepted for residential conversion? That seems to go against the intentions of the first sentence, which says there is a presumption in favour of residential conversion.

Policy BP 11 – Tourist Related development

21. I am assuming that reference to not being located outside *the existing villages* goes beyond the settlement boundary, but would include, for example, the car park areas between the beach at Bigbury on Sea and the edge of the village. Is there a value in the plan including a map showing where these tourist facilities would be accepted, which are outside the settlement boundaries, or could greater clarity be given in terms of the wording of where such uses will be allowed or not allowed? I assume that such an area would include land at Challaborough, but should it include for example, Bigbury Golf Club?

Policy BP 12 – Catered holiday accommodation

22. How would a decision maker be able to assess whether a change use can be allowed on the basis that other catered holiday accommodation has been provided in the local area? What would the Parish Council consider should be considered to be the *local area* – is it the parish or including the adjacent parishes as well or South Hams as a whole?
23. Can teh District Council clarify what the South Hams policy is , as to when a planning application is required when a householder offers bed and breakfast – is there a bedroom threshold before it is considered to constitute a material change of use or can small scale establishments operate under the Use Class C3 rather than Use Class C1?

Policy BP 15- Local Green Spaces

24. Can the Parish Council confirm that all the owners of the land that have been covered by the LGS designation, were advised of the proposed designation as LGS prior to the inclusion in the plan.
25. The map included as part of Appendix 14D appears to show 3 residential properties, as included within the LGS. One is called Cockleridge. Were they included in error?

Policy BP 19 – Heritage Coast and Undeveloped Coast

26. This policy appears to duplicate, almost on a word for word basis, Local Plan Policy DEV 25. Is there any value in duplicating a policy that is already protecting the plan area.?

Policy BP 24 - Built heritage

27. I have only a couple of concerns regarding the non - designated heritage assets. Firstly, are they formally recognised by South Hams as heritage assets already or is their designation to be done, as part of the neighbourhood plan, in which case they should be named in the policy?
28. Secondly, Bay View Café already appears to be covered by the reference in Warren Cottage. I assume that part of the reason for reference to its

community value is a desire not to lose the café use, but surely that is covered by Policy BP 14.

29. Similarly, the Warren is already protected as Local Green Space, which offers greater protection and as an open area I am not sure it qualifies as a heritage asset. The reason for its designation as LGS does not refer to its historical importance.

30. I will be minded to remove the two items from the list.

Policy BP 26 – Car Parks

31. Is the intention of the policy to propose just a new car park at Bigbury on Sea or is it a policy that could allow car parking to meet local needs in the other areas or could it allow existing car parking facilities to be extended?

Policy BP 28 – Parking Provision

32. Neighbourhood plan policies are expected to be based on evidence. What evidence did the Parish Council draw upon, to justify the proposed car parking standards and how does this level differ from South Ham's parking expectations.

Concluding Remarks

33. I am sending this note direct to Bigbury Parish Council, as well as South Hams District Council. I would request that both parties' responses should be sent to me by 5 pm on **18th October 2019**.

34. I will be grateful, if a copy of this note and any subsequent response is placed on the appropriate neighbourhood plan websites.

John Slater BA (Hons), DMS, MRTPI

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Independent Examiner to the Bigbury Neighbourhood Plan.

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