

Bigbury Neighbourhood Plan 2018-2034

Submission Version

A Report to South Hams District Council on the Examination of the Bigbury Neighbourhood Development Plan

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Executive Summary

My examination has concluded that the Bigbury Neighbourhood Plan should proceed to referendum, subject to the Plan being amended in line with my recommended modifications, which are required to ensure the plan meets the basic conditions. The more noteworthy include –

- Changing the plan end date to 2034.
- Inserting the housing allocation site and viewpoints onto the Proposals Maps
- Removing the design criteria relating to protecting neighbours' outlook and views.
- Include in the plan a definition of "previously developed sites".
- Removing design criteria regrading zero emission buildings.
- Clarifying protection of employment uses to those within Use Class B.
- Clarifying where tourist related development can be sited to include the hard-surfaced areas between the beach and Marine Drive at Bigbury on Sea.
- Removing 2 proposed open spaces from the list of Local Green Space.
- Deleting the policy on the Undeveloped Coast and Heritage Coast, as it merely duplicates a local plan policy.
- Introducing text to cross reference to contributions required under Joint Local Plan Policy SPT13 relating to mitigating the impact of residential or tourist development on European protected sites.

The referendum area does not need to be extended beyond the plan area.

Introduction

1. Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the adopted Plymouth and South West Devon Joint Local Plan 2014-2034. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.
2. The neighbourhood plan making process has been led by Bigbury Parish Council. A Steering Group was appointed to undertake the plan preparation made up of both parish councillors and local volunteers. Bigbury Parish Council is a “qualifying body” under the Neighbourhood Planning legislation. This report is the outcome of my examination of the Submission Version of the Bigbury Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be “made” by South Hams District Council.

The Examiner’s Role

3. I was initially appointed by South Hams District Council in September 2019, with the agreement of Bigbury Parish Council, to conduct this examination. My role is known as an Independent Examiner. My selection has been facilitated by the Neighbourhood Planning Independent Examiner Referral Service (NPIERS) which is administered by the Royal Institute of Chartered Surveyors (RICS).
4. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 41 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant and director of John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both South Hams District Council and Bigbury Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.
5. Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:
 - That the plan should proceed to referendum on the basis that it meets all the legal requirements.
 - That the plan should proceed to referendum if modified.

- That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.
6. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Bigbury Neighbourhood Plan area.
 7. In examining the Plan, the Independent Examiner is expected to address the following questions
 - Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
 - Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 - namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
 - Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body?
 8. I am able to confirm that the Plan does relate only to the development and use of land, covering the area designated by South Hams District Council, for the Bigbury Neighbourhood Plan, on 21st January 2016, if it is modified in accordance with my recommendations.
 9. The submission version of the plan indicated that the plan would have a 20-year time span, which would have run until 2038, which would be out of alignment with the Local Plan which runs until 2034. This discrepancy was highlighted by the LPA at the start of the examination and the Parish Council subsequently confirmed that the intention is now that the time frame should indeed run until 2034. I will recommend that the plan be changed so as to refer to an end date of 2034, in the light of the Parish Council’s agreement.
 10. I can confirm that the plan does not cover any “excluded development”.
 11. There are no other neighbourhood plans covering the area covered by the neighbourhood area designation.
 12. Bigbury Parish Council, as a parish council, is a qualifying body under the terms of the legislation.

Recommendation

That the timeframe in the title of the plan be changed to 2018 - 2034

The Examination Process

13. The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.
14. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.
15. I am satisfied that I am in a position to properly examine the plan without the need for a hearing.
16. I carried out an unaccompanied visit to Bigbury and the surrounding countryside on a Monday 6th October 2019. That was a very wet day and so some of the views were not visible. I was not seeing the area at its best. I therefore made a return visit to the plan area on 17th October 2019, where I was able to walk across the sands onto Burgh Island and was able to drive to Challaborough and also negotiate the Tidal Road. The weather was much kinder on my second visit and I was able to get a more positive impression of the wider landscape.
17. Following my initial site visit and my preliminary assessment of the plan, I had a number of matters on which I wished to receive further information, both from the Parish Council and the District Council. That request was set out in a document entitled *Initial Comments of the Independent Examiner* dated 10th October 2019. I received a combined response, on 18th October 2019.
18. All documents have been placed on the respective websites.

The Consultation Process

19. The precursor to the neighbourhood plan was the 2008 Bigbury Parish Plan. That was a non - statutory plan which carried little weight in planning decision-making, despite it being a reflection of the wishes of the community.
20. The original idea of a neighbourhood plan came during a meeting held in 2015 attended by 20 residents. The idea was taken forward and was again supported by meeting held on 5th December 2015, attended by about 40 residents. Following that, the Parish Council submitted a request to South Hams District Council to be designated as a neighbourhood area, a request that was approved on 21st January 2016. A Steering Group was established to lead the plan making.
21. The first community meeting was held on 12th March 2016 to explain the neighbourhood plan process to the parish and invite local views as to the issues that the plan should be addressing.
22. The Steering Group used the Queen's Jubilee celebrations in June 2016 to further explore parish views. This generated 280 comments. These responses formed

the basis of a neighbourhood plan questionnaire, which was circulated, in November 2016, to all residential and commercial properties in the parish, and was also supplemented by a drop-in session, held at the Memorial Hall. These questionnaires generated a commendable 41% response and the results were reported to the Parish Council on 8th March 2017.

23. The questionnaire was accompanied by a housing survey, which have been independently prepared by South Hams District Council, and this received a 35% response rate. These housing responses were compiled into a Housing Needs Report which was presented to the Parish Council on 10th May 2017.
24. The results of the housing needs surveys were discussed at a public meeting held on the 17th June 2017, which over 50 people attended. They were told that the recommendation from the study, was that a 10 -12 dwelling scheme be promoted, to provide primarily affordable housing. The earlier questionnaire responses showed that most people supported such a scheme being provided in St Ann's Chapel. The residents attending the meeting were asked to vote on which of the six possible sites around the village, for this housing scheme, they supported. As the plans for that scheme were being refined, various meetings took place including a community event held on 10th November 2017, which was attended by 38 residents.
25. Separately, working groups prepared studies for the four villages of St Ann's Chapel, Bigbury, Bigbury on Sea and Challaborough. These were consulted upon between 12th July and 25th October 2017. Similarly, there was a separate public consultation on the plan's vision and objectives, the local heritage assets, views and vistas and possible local green spaces. These consultations took place throughout 2018.
26. All this activity culminated in the preparation of the Pre-Submission version of the neighbourhood plan, which was the subject of the six-week public consultation, known as the Regulation 14 consultation, which ran from 21st January to 8th March 2019. That consultation included 2 drop-in sessions held on 30th January and 2nd February 2109, which were attended by 38 residents.
27. The consultation responses and the changes proposed to the plan by the Steering Group are fully documented in Appendix 18 of the Consultation Statement.
28. I have been very impressed with the openness of the process which has allowed the residents and interested parties, to shape their neighbourhood plan and fully contribute to identifying the assets of the parish that they wished to protect.

Regulation 16 Consultation

29. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation which took place over a 6-week period, between 29th July 2019 to 9th September 2019. This consultation was organised by South Hams District Council, prior to the plan being passed to me for its examination. That stage is known as the Regulation 16 Consultation.

30. In total, 10 responses were received from Natural England, South West Water, Historic Environment Team at Devon County Council, South Hams District Council, Highways England, Historic England, National Grid, Devon Countryside Access Forum, South West Coastal Footpath Association and a resident who was an ex BT employee.
31. I have carefully read all the correspondence and I will refer to the representations where it is relevant to my considerations and conclusions in respect of specific policies or the plan as a whole.

The Basic Conditions

32. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.
33. The five questions, which seek to establish that the Neighbourhood Plan meets the basic conditions test, are: -
 - Is it appropriate to make the Plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State?
 - Will the making of the Plan contribute to the achievement of sustainable development?
 - Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
 - Will the making of the Plan breach or be otherwise incompatible with EU obligations or human rights legislation?
 - Will the making of the Plan breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?
34. As the plan was submitted on 22nd July 2019 it will be examined against the latest version of the National Planning Policy Framework (NPPF) which was last updated on 19th February 2019.

Compliance with the Development Plan

35. To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the now adopted Plymouth and South West Devon Joint Local Plan 2014 -2034, prepared by Plymouth City Council, West Devon Borough Council and South Hams District Council. The plan’s overarching spatial strategy are set out in Policies SPT1 and SPT2. The plan proposes a minimum of 26,700 new

- homes to be built in the period 2014 – 34, with at least 7,700 required to be provided within the Thriving Towns and Villages policy area of South Devon.
36. The Parish does not contain any of the designated Thriving Towns and Villages in South Hams. The Plan recognises the role that neighbourhood plans can play as “a means of identifying local development needs in sustainable villages to meet the essential local needs of local communities” (Policy TTV25). None of the villages in the AONB have been identified as “Sustainable Villages” and no housing numbers were attributed to the parish in the finally adopted version of the plan. However, that does not prevent neighbourhood plans, within the AONB, putting forward specific allocations to meet their identified housing needs and choosing, what the community considers to be the most sustainable location for that development.
37. Policy TTV26, dealing with Development in the Countryside, states “housing and employment development adjoining or very near to an existing settlement will be supported where it meets the essential small scale local development needs of the community.” It also seeks to avoid isolated development in the countryside. Policy TTV 29 covers replacement housing and residential extensions.
38. Policy DEV 8 deals with local housing needs and sets out the policies to deliver affordable housing and Policy DEV 10 deals with “Delivering high-quality housing” including how it integrates with existing development. Policy DEV 20 sets a number of criteria for delivering high quality development and Policy DEV 23 addresses “preserving and enhancing the landscape, townscape and seascape character”. Particularly relevant to the Bigbury Neighbourhood Plan is Policy DEV 24 which sets out policy for the Undeveloped Coast and Heritage Coast. Policy DEV 25 relates to the high degree of protection given to the South Devon AONB as a nationally protected landscape.
39. I am satisfied that the policies in the neighbourhood plan are in general conformity with the strategic policies in the adopted Local Plan.

Compliance with European and Human Rights Legislation

40. South Hams District Council issued a Screening Opinion, in December 2017 which concluded, having consulted with the three statutory consultees, that a full assessment, as required by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”, would be required, “primarily due to the proposed allocation of a site for housing development at St Ann’s Chapel within the South Devon Area of Outstanding Natural Beauty”.
41. A Strategic Environmental Assessment report, based on the Submission Version of the plan, has been prepared by AECOM, on behalf of the Steering Group and this has been submitted with the examination documentation. I am satisfied that it is an objective assessment, including considering reasonable alternatives and meets the requirements of the Regulations.

42. The District Council, as competent authority, issued a screening under the Habitat Regulations, in a report dated January 2019. This screening assessed the submitted plan and concluded that the housing allocation at St Ann's Chapel in combination with other allocations within the Zone of Influence for Plymouth Sound and Estuaries SAC and the Tamar Estuaries Complex SPA, could have an effect on these European protected sites.
43. In the same report, it included the Appropriate Assessment which recognised that the impacts resulting from increased recreational pressures from new housing and tourist development could be mitigated by a payment from developers toward off site mitigation and management, under the provisions of Policy SPT 13 of the Joint Local Plan. The assessment also concluded that the plan would not have any adverse effects upon the other European protected sites, namely Dartmoor SAC, South Dartmoor Woods SAC and Tamar Estuaries Complex SPA, Blackstone Point SAC and South Devon Dock SAC as well as the Start Point to Plymouth South and Eddystone SAC, which is also a Marine Conservation Zone.
44. I am satisfied that the basic conditions regarding compliance with European legislation, including the newly introduced basic condition regarding compliance with the Habitat Regulations, are met. I am also content that the plan has no conflict with the Human Rights Act.

The Neighbourhood Plan: An Overview

45. I must congratulate the Steering Group on the superb quality of this neighbourhood plan. It is a comprehensive, thoroughly researched, well written and presented plan, that builds upon a clear vision for Bigbury Parish and through a set of objectives, it proposes a total of 30 individual planning policies which are, in the main, backed up by proportionate evidence and which enjoys clear public support.
46. The neighbourhood plan will sit comfortably alongside the recently adopted Joint Local Plan, providing locally distinctive policies which reflects the unique characteristics of the parish.
47. The plan has tackled the difficult task of making a residential site allocation, basing its proposals on a clear understanding of the scale and nature of local housing need and the site selection is underlain by a strong set of selection criteria. The community has been able to exercise its preference as to the location of new housing, in a way that is consistent with good planning practice. I am satisfied that the allocation site and indeed the Bigbury neighbourhood plan, read as a whole, will deliver sustainable development which is one of the basic conditions tests.
48. I have had to make a number of recommendations for changes to the wording of policies, principally in terms of ensuring that the document can be used in confidence by decision makers. A number of the more significant proposals for change are required to bring the plan into line with national policy. Most noteworthy

- is the removal of two proposed open space areas from the designation as local green space. I do not believe any of my changes go to the heart of the plan.
49. I have been particularly impressed by the extent of public involvement in the preparation of the plan. I am, for example, very satisfied that the local heritage assets put forward are the buildings particularly valued by the local community. This is a particularly constrained part of the world, where planning policies are quite rightly, seeking to protect the beautiful countryside, heritage buildings and coastline, yet the plan recognises economic value of a healthy tourist industry, as well as the desire to be addressing the social needs of the local residents. I believe that the plan is a good example of positive planning, which seeks to integrate the three strands of sustainable development.
50. My recommendations have concentrated on the wording of the actual policies against which planning applications will be considered. It is beyond my remit as examiner, to comprehensively recommend all editorial changes to the supporting text. These changes are likely as a result of my recommendations, so that the plan will still read as a coherent planning document.
51. Following the publication of this report, I would urge the Parish Council and South Hams planners to work closely together to incorporate the appropriate changes which will ensure that the text of the Referendum Version of the neighbourhood plan matches the policy, once amended in line with my recommendations.

The Neighbourhood Development Plan Policies

Policy BP1 – Housing Allocation

52. The scale of this predominantly affordable scheme is based upon meeting the established housing needs of the plan area. This is in line with policies in the adopted Local Plan, which is only to allow new housing that is required to meet locally identified housing need. St Ann's Chapel meets the criteria for being the most sustainable settlement for new housing in the Parish.
53. I have noted that this allocation site is already the subject of the planning application under reference 4214/18/FUL. The Parish Council has confirmed that the planning application has been considered by South Ham's Development Management Committee and a resolution to approve subject to a section 106 agreement has been passed. South Hams DC advise me that the planning approval is due to be issued in the next few weeks.
54. I am satisfied that the neighbourhood plan's approach to its site selection has been carried out on an objective basis, and that the allocated site enjoys community support. The policy itself also establishes the requirements for the site to deliver open space, housing tenure, house types, access requirements and pedestrian and cycle routes to village amenities. All of these are in my opinion justified.
55. I requested and received a plan showing the extent of the allocation site and in line with national requirements, this needs to be included in the plan, and the site

should be included on the Proposals Map. The policy wording should cross reference the policy wording, with the actual site shown on the Proposals Map, by referring to the area “as shown on the Proposals Map”.

Recommendations

Insert the site allocation boundary plan in the Housing Section of the document and include the allocation site on Proposals Map 2.

At the end of the first sentence of the policy, insert “as shown on Proposal Map 2”.

Policy BP2 – Other Housing Developments

56. I consider that this housing policy is consistent with the strategic planning policies set out in the adopted local plan. The policy which presumes against the replacement of heritage assets is in line with national policy (para 184 of the NPPF), which is that they are “an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations”.
57. I asked the Parish Council whether the St Ann’s Chapel Settlement Boundary should incorporate the allocation site, as well as the Site 1, which had planning permission granted on appeal. Its response was that there is no guarantee that the planning permissions granted will be implemented, and therefore its preference would be for the boundary to remain as proposed, but it has made a commitment to review the settlement boundaries in the future review of the plan, if either of the developments are implemented. I would suggest that this commitment be included within the supporting text, although it is not a formal recommendation.
58. I consider the policy meets the basic conditions.

Policy BP3 - Subdivision of Existing Plots

59. This policy sets the criteria for considering proposals for the subdivision of existing plots. One of the policy tests for considering housing proposals is whether “proper respect is given to the amenity of adjoining properties *including outlook and views*”. It is an established facet of planning practice, that the planning system cannot protect private views across adjacent land. This is confirmed by the following statement in the PPG, (para 008 – ref ID- 221B – 008–20140306) which states that the courts “have taken the view that planning is concerned with *land use in the public interest* so that the protection of purely private interests could not be material considerations”. It is entirely appropriate that a plan can identify public view points, which it seeks to identify and protect in the public interest and indeed the plan has such a policy in Policy BP23. It is my view and experience, that the protection of private views enjoyed by residents, is not in itself a legitimate planning objective.

60. I raised my reservations with the Parish Council, who in response made a compelling argument that there is a strong desire of the local community that regard be paid to important views from residential properties. It suggests developments that result in “a significant or complete loss of an important views would be regarded as an unneighbourly type of development and should be avoided”. It pointed to recent examples where new development has severely harmed or resulted in the loss of neighbours views as a result of new development.
61. Following the issuing of the fact check version of my report, which had included a recommendation to remove reference to “outlook and views”, I was sent an email from the Chairman of Bigbury Parish Council which sets out further the justification for retaining the policy as submitted. I set down below an extract from the email, which she had previously sent to Duncan Smith at the District Council:
- “I believe Burgh Island is the only island in England where there is a natural (i.e. not man-made) tombolo linking the mainland and the island. I believe it is unique in hosting an iconic, striking Art Deco hotel, so the island does not provide a standard outlook for the residents. It is different to having a beautiful green valley view or a view over hills however scenic because there are many of these across the country. The view over the island is unique in the land and as you rightly suggested should be protected. It may or may not be relevant that houses on the slope of the hill overlooking the island cost hundreds of thousands of pounds more than the same dwelling in a different location without an island view. This outlook is the sole reason the householders purchase houses on the slope of the land. Without the ability to see the island in its glory, houses would not sell for such high figures and private individuals may make very considerable effort to save to purchase such a property. Once established here, they want to stay – most residents die here as opposed to move away. As a community, we are beleaguered by developers wishing to build ever bigger houses which sell for top prices because of the view. Without protection, these developments steal the very reason everyone paid extra to live here and remove the reason we are all in love with our village.”
62. These comments reinforce my view that planning policy cannot be a tool to protect the land values of those current occupiers and would not comply with basic conditions as being compatible with national policy. Secretary of State advice as set out in the PPG, refers to what can and cannot be held to be a material consideration, namely:
- “The scope of what can constitute a material consideration is very wide and so the courts often do not indicate what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.”

63. I acknowledge Policy DEV 20 of the Joint Local Plan, which deals with “place shaping and quality of the built environment”, includes protection to the quality of the built environment through schemes “having regard to the pattern of local development and wider development context and surroundings in terms of views amongst others” I saw for myself that the pattern of development at Bigbury on Sea, has been planned in such a way as to provide each property with a view of the sea.
64. However, my conclusion is still to recommend the removal of reference to “*and views*” from criterion d) as this would be a policy protecting private interests, albeit that current occupier’s ability to enjoy views across other people’s land, is of a very special landscape. This is different from the protection of views from publically accessible land.
65. I will retain reference to resident’s “outlook”, which is related much more to the amenity of residents from development which takes place close to the site, such as the degree of enclosure experienced or the over dominance of a neighbouring building.
66. The supporting text could cross reference to the need to reflect the pattern of development as set out in Policy DEV 20 in the Joint Local Plan.

Recommendations

In d) omit “and views”

Insert into the supporting text that these criteria are to be read in conjunction with the relevant criteria set out in Policy DEV20 of the Joint Local Plan.

Policy BP4 – Principal Residence

67. I believe this policy has been appropriately justified by evidence as to the existing harm being caused by second homes / holiday lets in the local area. I consider that it has a clear planning objective of ensuring homes built are retained for permanent residential occupation.
68. The drafting of the first part of the policy, sets out the justification for, rather than being a statement of policy and should be moved to the supporting text. I consider that with that amendment, this policy meets basic conditions.

Recommendation

Omit all text in the policy before “New open market housing”

Policy BP 5 - Housing for the Elderly

69. This policy is justified, having regard to the age profile of the parish and is in line with national policy to have particular regard for planning for an increasingly elderly population.

70. The policy refers to the acceptability of the redevelopment of previously developed sites for such development, as well as land with settlement boundaries.
71. I sought clarification from the Parish Council as to what was considered to be a “previously developed site” and I received the response that it was “any land on which there is a permanent building but not land that is or was last used for agriculture”. I have compared this description to the definition in the Glossary of the NPPF, and the only area of possible divergence is that the NPPF refers to “the land that is or was occupied by a permanent structure *including the curtilage of the developed land*” (subject to some limitations). I consider that as the policy refers to a previously developed *site*, that by implication would include its curtilage rather than just the footprint of the building. As the document does not include a glossary, I believe that the supporting text could usefully offer a definition as to what is considered a previously developed site.
72. Beyond that need for clarity, I am satisfied that the policy, dealing with specialist housing for the elderly, does meet basic conditions.

Recommendation

Add into the supporting text the definition of previously developed site as “any land on which there is a permanent building but not land or building that is or was last used for agriculture”

Policy BP6 – Residential Care Nursing Homes for the Elderly

73. This policy is differentiated from Policy BP5 in that it is dealing with care and nursing homes. I have no comments to make in respect of this policy which both seeks to protect existing facilities as well as to encourage new care facilities.

Policy BP7 – General Design Principles for New Development

74. I generally found this to be a clear design policy which seeks to reflect the distinctiveness of the plan area. I would however highlight a number of minor drafting points which, if addressed, would provide greater clarity. Reference to “innovative contemporary design solutions *may* be acceptable on *some* locations” in criterion i) is too vague a statement of policy, as an applicant or decision maker would not know whether a site is one of those locations where an innovative design would be acceptable. I propose to replace this ambiguity by stating that they *will* be acceptable, subject to meeting the stated caveats in the policy.
75. The scope of the policy is somewhat confusing, in that the title refers to *new development* but the first sentence refers to *new and replacement dwellings* and therefore it is unclear whether the policy only covers new residential schemes or all development. The Parish Council has clarified that it covers *all development* and suggested that I delete “and replacement housing”.
76. The criterion set out in xii) says that the design and construction should be aiming for “zero levels of carbon emissions by utilizing high levels of sustainability.” The

Written Statement of the Secretary of State to the House of Commons dated 25th March 2015, stated that neighbourhood plans should not set “additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”. I understand the aspirations of the community to address this issue but there is already in place an adopted Local Plan Policy, namely Policy DEV33 which deals with delivery of low carbon development. A local plan is the right place for such a policy and it is already covering Bigbury Parish. I will be proposing that the criteria be deleted.

77. The Parish Council has pointed out an error in the insertion of an unrelated paragraph between criterion xii) and xiii). Criterion xiii) can be also deleted as it repeats criterion xi).

Recommendations

In the first sentence of the policy, delete “and replacement housing”

In the third sentence of i) replace “may” with “will” and delete “in some locations”

Delete all text in the policy after criterion xi)

Policy BP8- Existing and Proposed Employment

78. This policy raises questions as to how the scope of the policy would be interpreted by a decision maker. The supporting text refers to jobs in agriculture, tourism, the public house and local store, amongst many others, as providing employment which deserve protection. The issue is that a number of these businesses will be covered by other more relevant policies, such as Community Facilities. I sought clarification from the Parish Council as to what type of employment business should be covered by this particular policy and it confirmed that it would accept that the policy should relate only to buildings in Use Class B e.g. workshops and offices. I will propose an amendment to the policy wording to make that clear.
79. The next issue is how the exceptional circumstances criteria, relating to when alternative employment facilities is provided, will be applied. This raises the question, whether it refers to *businesses of a similar nature within the parish*, that have been provided, rather than developments that may have provided other types of jobs in different sectors, and over what period would it be assessed. The policy does accept that, after the premises have been marketed for an appropriate period and it is shown that a business use in terms of Use Class B cannot be found, then alternative uses such as sheltered housing, leisure, tourism or retail uses could be considered acceptable. I consider that it is important that the policy should be clear how the cascade approach being advocated, would be operated and I will propose in an amendment to make that clear.
80. The part of the policy that deals with encouraging new building and industrial development refers only to any *new* buildings. I sought clarification from the Parish Council as to whether the policy should be amended also to refer to floorspace created by the conversion of buildings and it has confirmed that the definition of

“previously developed land” would suffice and therefore would exclude the conversion of agricultural buildings which would be covered by Policy BP9 as a farm diversification project.

Recommendations

After ‘facilities’ insert “within buildings falling within Use Classes B1, B2 or B8 of the Town and Country Planning Use Classes Order 1987”

In i) after “facilities” add “of a similar nature”

Add at the end of ii) “in which case alternative uses for sheltered housing, leisure, tourism or retail uses will be considered acceptable alternative uses”

In b) after “new” insert “or converted”

Policy BP9 – Agricultural development

81. The policy as written is unclear as whether criterion iii) refers to a significant increase in traffic or would lead to the use of heavy goods vehicles. The Parish Council has confirmed that the reference should be any proposal that would lead to a “significant increase in any type of traffic”. In view of the nature of the Devon lanes in the Parish, I consider such criteria is justified.

Recommendation

In iii) replace all text after “increase in” with “any type of traffic”

Policy BP 10 – Conversion of Farm and Rural Buildings for Residential Purposes

82. As drafted, there is an issue with the coherence of the policy, which on the face of it, is supporting the conversion of farm buildings to residential uses. It then goes on in the second sentence to refer to other matters upon which the policy is conditional. The Parish Council has clarified that there is a typographical error in the drafting, with the insertion of the full stop and that the purpose of the policy is to support residential uses in cases where it can be demonstrated that the premises are “no longer required for agricultural or other economic use” as well as meeting the remainder of the criteria.

Recommendations

Remove the full stop at the end of the first sentence.

Policy BP 11 – Tourism Related Development

83. This policy is focused on supporting the tourism sector, but seeks to restrict it in areas outside the villages or on the beach or undeveloped parts of the coastline and the Avon Estuary. I did raise the question as to whether areas outside the villages, merely referred to outside the settlement boundary and the Parish Council has confirmed that it is intended to cover the areas within settlement boundaries but

also to allow tourist development in the area between the beach and the settlement of Bigbury on Sea and the existing built up part of Burgh Island. In order to allow the policy to be used with confidence, I will amend the wording to make that explicit.

Recommendation

In the second sentence of the policy after “villages” insert “except upon the hard-surfaced areas between the beach and Marine Drive at Bigbury on Sea”

Policy BP 12 – Catered Holiday Accommodation

84. I sought clarification as to how the decision-maker can be satisfied that replacement catered holiday accommodation has been provided in the local area. The Parish Council confirmed its intentions for the policy is that losses or changes of use that require planning permission, can be accepted so long as alternative facilities can be provided within the parish. Some bed and breakfast uses do not necessarily need planning permission depending upon whether it constitutes a material change of use of the residential premises. Therefore, where small bed and breakfast establishments exist, they may not need planning permission for the residential use to resume.

Recommendations

After “bed and breakfast establishments” insert” “where planning permission is required for a change of use”

In i) replace “local area” with “the parish”

Policy BP 13 – Camping and Caravan Sites

85. I am satisfied that there is a need for this policy. However, the drafting of the policy includes reference to the reasons for having a policy, which are matters which should form the justification for the policy and I will recommend moving these preliminary comments into the supporting text.

Recommendations

Remove all text in the policy up to and including” beauty”

Policy BP 14 – Community Facilities

86. I have no comments to make on this policy

Policy BP 15 – Local Green Space

87. A neighbourhood plan policy will be quoted in other documentation, such as on planning decision notices, in committee reports and appeal decisions and therefore where it states “the designated local green space as *listed above*” will

be meaningless in that context. It is the policy that designates land as a local green space and the spaces need to be listed in the policy.

88. I have major concerns regarding to the *proposed* areas of open space/allotments being granted LGS status. These open spaces do not currently exist and will only be provided in the future, if and when the associated residential development is developed. I cannot agree that these areas *currently* meet the national criteria of being “demonstrably special to a local community and hold particular significance”. These areas may well, in the future, hold such significance, but that will have to be proven in the future, perhaps when the neighbourhood plan is reviewed.
89. In terms of the implications of the policy, whilst I note the wording reflects the drafting of paragraph 100 of the NPPF, I am not convinced that it in itself offers clarity to the decision maker and I will recommend that it be replaced with a policy to rule out all development except in exceptional circumstances.
90. Upon closer examination of the accompanying maps, it appears that land as part of Cockleridge Ham, includes three residential properties. The Parish Council has confirmed that this was an error in the drafting of the plan and I will recommend their exclusion. It is not appropriate for local green space to incorporate residential properties.

Recommendations

Replace the policy with:

“The following open spaces, as shown on the Proposal Map 2 are designated as Local Green Space

Burgh Island

The Warren and Warren Point and land south west of coastal footpath, Challaborough

Clematon Hill

Cockleridge Ham

Bigbury Village Green

Open Space north of Bigbury Court Barns

Open Space around Bigbury Court Dovecote

Playing Fields and recreation Ground, adjacent to Memorial Hall, St Ann’s Chapel

There will be a presumption against all development except in exceptional circumstances”

Amend the extent of the designation as LGS on Proposal Map 2 and the map in Appendix 14 D to remove from the designation the 3 residential properties at Cockleridge Ham.

Policy BP 16 – Open Space and Recreation

91. As the recreation ground at St Ann’s Chapel, adjacent to the Memorial Hall and the open space at Bigbury Court are already protected by the highest level of open space protection, there is no benefit in duplicating any protection under this policy. I am satisfied that the policy can offer protection to the open space at Bigbury Golf Club.

Recommendation

Delete from the policy “recreational ground and playing fields adjacent to The Memorial Hall at St Ann’s Chapel, the open space to the north of Bigbury Court and the”

Policy BP 17 – Footpaths and Cycle Tracks

92. I have no comments to make on this policy

Policy BP 18 – Area of Outstanding Natural Beauty

93. Whilst this to some extent repeats national and local plan policy, the policy does reflect the important locally important features which contribute to the attractiveness of the area. Accordingly, I believe that provides a locally distinctive set of criteria to judge planning applications within the AONB.

Policy BP19 – Heritage Coast and Undeveloped Coast

94. The policy essentially duplicates the requirements of Local Plan Policy DEV 24, almost on a word for word basis. This policy already covers the plan area and national policy, as set out by paragraph 16 f) of the NPPF– is that plans should “serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area”. As this duplication is contrary to Secretary of State policy, I will therefore be recommending that the policy be deleted.

Recommendation

That the policy be deleted.

Policy BP 20 – Woodlands, Trees, Hedgerows and Devon banks

95. I have no comments to make on this locally distinctive policy.

Policy BP 21 – Wildlife Sites and Biodiversity

96. This policy proposes that proposals that *affect* wildlife sites should be avoided. I will clarify that it is proposals that will have an *adverse* effect that should be covered by this policy as some effects can be positive. In the light of the recommendations in the Appropriate Assessment, I will recommend that the supporting text should include reference to the requirement that new housing development in the parish should make a financial contribution to the off- site management of the two SACs identified in the Appropriate Assessment, under the provisions of Policy SPT 13 of the local plan.

Recommendations

Before “affect” insert “adversely”

Insert the following sentence in the supporting text: “As the parish falls within the Zone of Influence of Plymouth Sound and Estuaries SAC and the Tamar Estuaries Complex SPA, Policy SPT13 of the Joint Local Plan requires any residential development or tourist accommodation to make an appropriate financial contribution to off - site mitigation and management”

Policy BP 22 – Coastline, Beaches and the Avon Estuary

97. The final section “promotes ways of reducing pollution, litter and harm to marine life”. These are clearly important matters but fall outside the criteria of being a policy for the use and development of land which can be used to determine a planning application. They can be included in the supporting text but should be removed from the policy.

Recommendations

Delete the final sentence of the policy

Policy BP 23 – Views and Vistas

98. The policy merely refers to “important views and vistas”. It is important that the policy is specific to the views identified in figure 15, but in addition it will be helpful for these views to be incorporated on the proposals map. The policy should be amended to refer to the viewpoints “as shown on the proposals map”.

99. I am satisfied that viewpoints are all worthy of protection.

Recommendations

***Insert the Viewpoints onto the Proposal Map
After “vistas” insert “as shown on the Proposal Map”***

Policy BP 24 – Built Heritage

100. Designated heritage assets are already covered by their own statutory framework. It is the neighbourhood plan that designates the various local heritage assets as non-designated heritage assets. As such I consider that they should be referred to in the policy by reference to their inclusion within Appendix 13 which is part of the neighbourhood plan.

101. I am satisfied that all the assets identified are important to the local community and their significance has been justified.

Recommendation

After “as identified within” insert “Appendix 13 of”

Policy BP 25 – Transport and Highways

102. I have no comments to make on this policy in terms of the basic conditions. In some respects, it does duplicate controls over the Devon Banks and footpaths but

does it in a way that is directly related to highway design.

Policy BP 26 – Car Parks

103. I consider that it is appropriate for the neighbourhood plan to address what is a major issue in the parish, especially the provision of adequate visitor car parking in high season.

Policy BP 27 – Ambulance Night Landing

104. In as much as the works constitute development requiring permission, I have no concerns regarding this policy and basic conditions.

Policy BP 28 – Parking Provision

105. I have sought information from the Parish Council as to what evidence they used to base their parking standards. I consider that in its response to my Initial Comments that the Parish Council has provided appropriate evidence to support the parking standards and I note that South Hams District Council have stated that its application of parking requirements is close to reflect those set out in the policy.

Policy BP 29 – Connectivity

106. I have no comments to make on this policy.

Policy BP 30 – Renewable Energy

107. I have no comments to make on this policy.

The Referendum Area

108. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Bigbury Neighbourhood Plan as designated by South Hams District Council on 21st January 2016, is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

Summary

109. I congratulate Bigbury Parish Council on seizing the opportunities presented by neighbourhood planning to allow the community to shape its planning policies. Bigbury is a parish in a stunning coastal location, whose protection will be enhanced by the policies in this plan. New housing is proposed in the most sustainable location to meet the community's own housing needs and provides controls to ensure that the new homes that are built will only be used as "principal residences".
110. This is a locally distinct neighbourhood plan, which seeks to deliver on the expressed priorities of the residents of Bigbury and will deliver on its vision. This plan will provide a sound basis for dealing with planning applications in the Parish in the coming years.
111. To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.
112. I am therefore delighted to recommend to South Hams District Council that the Bigbury Neighbourhood Plan, as modified by my recommendations, should now proceed to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI
John Slater Planning Ltd
6th November 2019