

Bentley Neighbourhood Development Plan 2018 – 2037

Independent Examination Correspondence document

First published: 8 September 2021

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Introduction

This document will provide a record of all ‘general’ correspondence between the Examiner (Ann Skippers), the Parish Council (the Qualifying Body or ‘QB’), and Babergh District Council during the examination of the Bentley Neighbourhood Plan.

As required, specific documents will continue to be published on the district councils Bentley NP webpage: www.babergh.gov.uk/BentleyNP

Copies of e-mails / letters etc. appearing on the following pages:

- 1. E from Examiner dated 28 July 2021: Notice of early start to Examination and Examination Procedures.**
- 2. E from Examiner dated 15 June 2022: Note of interim findings on the Bentley NDP**
- 3. E from Bentley PC dated 28 June 2022 (Fwd to Examiner): Response to ‘Interim Findings on the Bentley NDP’**

1. E from Examiner dated 28 July 2021: Notice of early start to Examination and Examination Procedures.

From: Ann Skippers
To: Paul Bryant (BMSDC)
Dated: 28 July 2021
Subject: Commencement of the Bentley NDP examination
Attach: Examination Note 1 [BDC note: See next page]

Dear Paul,

I am writing to confirm that the examination of the Bentley NDP has now started.

I attach the examination note which sets out what I trust is useful information about the procedures for examinations. [BDC note: See below]

If you or the Parish Council have any queries please do not hesitate to get in touch.

I hope to be able to update you about progress very soon.

Kind regards

Ann Skippers

BDC Note:

It was understood that it was convenient for the examination of this Plan to commence when it did, i.e., the Examiner wished to make a head-start prior to receiving all the representations made and, if / when forthcoming, any response to these from the QB.

The news was shared confidentially with the QB at the time but the decision was taken by the District Council not to make this news public until after the Reg 16 submission consultation stage had reached its conclusion.

Bentley Neighbourhood Plan Independent Examination

Information Note from the Independent Examiner to the Local Planning Authority and Qualifying Body

Further to my appointment to undertake the independent examination of the above Neighbourhood Plan, this note aims to set out how I intend to conduct the examination. My role is to determine whether the Plan meets the basic conditions and other legal requirements.

1. Communications

It is important that the examination process is open and transparent to all interested parties. I hope to ensure that the Parish Council feels part of the process. My main point of contact will be the designated local planning authority contact, Paul Bryant.

Any correspondence (other than that relating to contractual matters) should be published on the local planning authority's website and the Parish Council's website in a timely manner. If anyone else who is not the designated point of contact gets in touch with me direct, for example a local resident or planning consultant, I will refer them to the local planning authority contact in the first instance.

2. Examination documents

I will access most documents electronically either from the local planning authority's website or on the Parish Council website or any dedicated Neighbourhood Plan website. If I have any trouble finding or accessing any documents, I will let you know so that these can be provided to me.

It would be also helpful, if not already done, if the local planning authority could confirm the adopted development plan and any saved policies. In addition if there are any emerging development plans, details of the stages reached and future programmes would be appreciated. In both cases, please direct me to relevant parts of your website or let me know how I can access the documents that you identify.

3. Late representations

As a general rule of thumb I will not accept late or additional representations. The only time when I will consider accepting a representation submitted after the consultation period has ended is in those cases where there has been a material change in circumstances since the six week consultation period has ended. For example national planning policy changes or a judgement may be handed down from the Courts. In these circumstances anyone wishing to introduce new evidence should fully justify why and in the case of substantial documents, indicate which parts of the document are relevant and why.

However, if a meeting or hearing is held, there may be further opportunities for comments to be made at my request to assist me in ensuring adequate examination of an issue.

4. Clarification procedures

Once I have read all the papers, I may at any time during the examination seek written clarification of any matters that I consider necessary. The usual time for response to any clarification queries is one to two weeks.

I must emphasise that this does not mean I will accept new evidence. In the interests of fairness to other parties, I cannot accept any new evidence other than in exceptional circumstances. If the Parish Council is unsure as to whether information it is submitting may constitute new evidence, may I suggest it is sent to the local planning authority in the first instance for their advice on this point.

Any request for clarification and any response should be published on the relevant Council websites.

If I find that there are significant issues which may prevent the Plan meeting the basic conditions I will let you know during the course of the examination as soon as I can so that options on how to proceed can be considered. Whilst this situation can usually be dealt with through an exchange of correspondence, if it would be helpful to hold a meeting between the local planning authority, the Parish Council and I together with any other relevant organisations or individuals, I will suggest this and be in touch to make suitable arrangements. Any such meeting will be held in public.

5. Visit to the Plan area

I will be visiting the Plan area during the examination. The visit will help me to understand the nature of the Plan and the representations. It will also help me decide if there are any issues to be clarified. I will not need to be accompanied on my visit. If however, I feel it is essential to gain access onto private land then I will be in touch to seek permission to do that and at that point an accompanied site visit may need to be arranged.

If I am 'spotted' during my visit, I would appreciate it if I am not approached, but allowed to continue my visit unheeded.

6. Examination timetable

The main determinants of how long the examination will take are firstly the number and complexity of the policies in the Neighbourhood Plan, the clarity of supporting documentation and evidence and the number and nature of any representations.

It may be there is very little correspondence from me during the examination. I will however endeavour to keep you updated on the progress of the examination. Please do not hesitate to contact me if you wish to know progress and have not heard from me.

7. The need for a hearing

I am proceeding on the basis that this examination can be conducted without the need for a hearing as this is the 'default' position. At any time before I issue my final report I may call a hearing if I consider this is necessary to ensure adequate examination of any issue or to allow a person a fair chance to put a case.

If I feel a hearing is necessary, I will let you know as early as possible. If I do intend to hold a hearing, I will let you know about procedure and will be in touch to make suitable arrangements at that time.

The period of notice for hearings is not prescribed, but typically 21 days notice is given. In present circumstances it is likely that any meetings or hearings would be carried out remotely.

8. The 'Fact Check' stage

A confidential draft of my report will be sent to the local planning authority and Parish Council to allow an opportunity for both parties to check whether there are any factual errors such as dates, sequence of events, names and so on. This is not an opportunity for further representations to be made to me. A period of a week or so is usually set aside for this purpose.

I usually find it helpful if the local planning authority collates its own comments with those of the Parish Council into a single response or both separate responses are sent to me at the same time. I will endeavour to issue my final report shortly after the fact check stage.

9. Procedural questions

I hope this information is helpful. If the local planning authority or Parish Council have any questions relating to the examination process, please do not hesitate to get in touch and I will do my best to answer any such queries.

Ann Skippers MRTPI
Independent Examiner
Director, Ann Skippers Planning

[Ends]

2. E from Examiner dated 15 June 2022: Note of interim findings on the Bentley NDP

From: Ann Skippers
To: Paul Bryant (BMSDC)
Dated: 15 June 2022
Attach: Interim findings note [BDC note: See next page]

Fwd to: *Bentley Parish Council*

Dear Paul

Thank you and the Parish Council for your patience with me in relation to the examination of the Bentley NDP.

Following on from the Parish Council's request to remove references to the housing number requirement and to delete Policy BEN 4 (the Fruit Farm) [BDC note: See: [Bentley-NP-R16-Reps-Response.pdf](#)], I attach a note that sets out the consequences with regard to further consultation as these would be regarded as significant changes to the Plan.

I would like to give the Parish Council an opportunity to consider this and to confirm they would like the examination to continue on this basis. I am hopeful the PC can come back to me quickly.

In addition, there are two questions of clarification.

Apparently there is likely to be a revised NPPF next month; if this is the case this would necessitate further consultation (just like we carried out last August). I am conscious of the significant and unfortunate delay with the examination and am keen to avoid this. Therefore if we can proceed quickly, I would like to offer reassurance that, as far as I am concerned, these are now the only outstanding matters and I can move to issue a draft fact check report without more delay.

I look forward to hearing from you in due course, but of course if any questions arise please do not hesitate to get in touch.

My assumption is you will forward this onto to the Parish Council without delay and it will of course be a matter of public record.

Best wishes

Ann Skippers

BDC Note: It was subsequently agreed with the Examiner that a formal response from the parish council could follow after their meeting on Monday 27 June.

[Ends]

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

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

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.

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.

² PPG Paragraph 040 Reference ID 41-040-20160211

³ Ibid Paragraph 103 Reference ID 41-103-20190509

⁴ Ibid

⁵ Paragraph 2.12.6 of the NPIERS Guidance

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.

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

3. E from Bentley PC dated 28 June 2022 (Fwd to Examiner): Response to 'Interim Findings on the Bentley NDP'

From: Bentley Parish Council (Fwd by BMSDC)
To: Ann Skippers
Dated: 28 June 2022
Attach: Interim findings note

Dear Ann

Your e-mail dated 15 June refers. Please see below the Parish Council's formal response to your 'Note on Interim Findings on Bentley NDP'.

We note that this supports the proposal deletion of all the policies relating to housing requirements and provision, but that the Parish Council also ask if you would reconsider the appropriateness of deleting Policy BEN1. A response is also provided to your two other questions for clarification.

I will update our Examination Correspondence document accordingly and we await your further instruction.

Kind regards

BMSDC

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Bentley Parish Council

Examination of Bentley Neighbourhood Plan

Response to Examiner's Note of Interim Findings – June 2022

This note forms Bentley Parish Council's formal response to the proposed way forward with the examination of the Bentley Neighbourhood Plan and the questions for clarification asked of the Parish Council in the Note of Interim Findings dated 15 June 2022.

The Parish Council acknowledges that the examination has been disrupted by the ongoing uncertainties and thanks the Examiner for suggesting an appropriate way forward. Having considered the content of the Note the Parish Council responds as follows:

i. Deletion of Policies BEN1, BEN2, BEN3 and BEN4

In respect to the suggested deletion of Policies BEN1, BEN2, BEN3 and BEN4, while the deletion of all policies relating to housing requirements and provision is supported, the Parish Council questions the appropriateness of deleting Policy BEN1. That policy sets out the spatial strategy for the location of all development in the Neighbourhood Area and not just housing. It has the effect of bringing the Settlement Boundary up-to-date and sets out an approach to the consideration of new development which more accurately reflects that of recently made neighbourhood plans across the Babergh District (such as Assington and Little Waldingfield) and of Policy SP03 of the emerging Joint Local Plan (which we understand has not raised significant concerns from the Local Plan Inspectors).

In the light of this, we would ask that further consideration is given as to whether there is a need to delete Policy BEN1 in the light of the Joint Local Plan situation.

ii. Question A – Vegetated Built Edges

We note the request for an amended map, and this is [shown below]. In doing so we would comment that the findings of the Landscape Appraisal, which provides the evidence to support this designation, did not state that these edges are continuous vegetated edges. It describes the edges as, for example, “well vegetated and built form is not prominent in views from the wider landscape” that, we believe results in the built form of the village not being generally visible from the wider countryside. This is referred to in the conclusions of the Valued Landscape Assessment carried out for the Suffolk Coast and Heaths Additional Project Area, which conclude “This study has demonstrated the inextricable link between settlements and their landscape settings.”

As such, it may be that the Policies Map does not require amendment but that the wording in Policy BEN11 perhaps needs revising to:

- The loss or erosion of the Predominantly Vegetated Built Edge, recorded in the Landscape Appraisal and identified on the Policies Map;



iii. Question B – Paragraphs 8.6 and 8.7 – Valued Landscape Assessment

It is considered necessary to retain these paragraphs and their reference to the Valued Landscape Assessment as that Assessment provides the context for the content of Policy BEN11 but did not specifically cover the AONB or its (at the time) proposed extension. We do not believe that retention of these paragraphs will have an impact on the ability of the Neighbourhood Plan to meet the Basic Conditions.

[Ends]