

STOCKLAND NEIGHBOURHOOD PLAN

Stockland Neighbourhood Plan Examination,
A Report to East Devon District Council

by Independent Examiner, Nigel McGurk BSc(Hons) MCD MBA MRTPI

Nigel McGurk

Erimax Land, Planning and Communities

erimaxltd.com

June 2016

Contents:

1. Introduction

2. Basic Conditions and Development Plan Status

3. Background Documents and the Stockland Neighbourhood Area

4. Public Consultation

5. The Neighbourhood Plan: Introductory Section

6. The Neighbourhood Plan: Policies

7. The Neighbourhood Plan: Other Matters

8. Summary

9. Referendum

1. Introduction

The Neighbourhood Plan

Where modifications are recommended, they are presented as bullet points and highlighted in bold print, with any proposed new wording in *italics*.

This Report provides the findings of the examination into the Stockland Neighbourhood Plan (referred to as the Neighbourhood Plan).

Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”

(Paragraph 183, National Planning Policy Framework)

The Neighbourhood Plan was produced by a Steering Group working on behalf of Stockland Parish Council. Stockland Parish Council is the *qualifying body* responsible for the production of this Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).

This Examiner’s Report provides a recommendation as to whether or not the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by East Devon District Council. The Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Stockland Neighbourhood Area.

Role of the Independent Examiner

I was appointed by East Devon District Council, with the consent of the qualifying body, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.

I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.

As the Independent Examiner, I must make one of the following recommendations:

- a) that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
- b) that the Neighbourhood Plan, as modified, should proceed to Referendum;
- c) that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether or not the Referendum Area should extend beyond the Stockland Neighbourhood Area to which the Plan relates.

In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

Subject to the content of this Report, I am satisfied that all of the above points have been met.

Neighbourhood Plan Period

A neighbourhood plan must specify the period during which it is to have effect. The front cover of the Neighbourhood Plan includes a reference to the plan period “2014-2031.”

In addition, page 3 of the Neighbourhood Plan states:

“The Plan covers the period between 2014 and 2031.”

Taking the above into account, the Neighbourhood Plan satisfies the relevant requirement in this regard.

Public Hearing

According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.

However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.

Further to consideration of all of the relevant information, I confirmed to East Devon District Council that I was satisfied that the Stockland Neighbourhood Plan could be examined without the need for a Public Hearing.

2. Basic Conditions and Development Plan Status

Basic Conditions

It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*¹ following the Localism Act 2011 and require that:

- 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, European Union (EU) obligations.

I have examined the Neighbourhood Plan against each of the basic conditions above.

In line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body’s opinion, the Neighbourhood Plan meets the basic conditions.

¹ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

European Convention on Human Rights (ECHR) Obligations

I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.

European Union (EU) Obligations

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal². However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.

With the above in mind, draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.

“Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.” (Planning Practice Guidance³).

This process is often referred to as a screening report, opinion, statement or assessment. If the screening report identifies likely significant effects, then an environmental report must be prepared.

East Devon District Council undertook a screening report and this was published in March 2015. It concluded that

“The Stockland Neighbourhood Plan does not require a Strategic Environmental Assessment...(it) is unlikely to have a significant environmental impact. It does not allocate sites for development and the policies are in accordance with the adopted and emerging local plans (which were themselves subject to SEA).”

The views of the statutory consultees, Natural England, Historic England and the Environment Agency, were sought as part of the screening assessment. In Appendix A to the screening report, East Devon District Council notes that:

“Responses to the consultation agreed with the conclusions of the...screening exercise.”

² Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance

³ Paragraph 027, *ibid*

Further to the above, following consideration of the screening report, Natural England stated:

“...we would concur with the SEA Screening’s conclusion that the NP is unlikely to have a significant environmental impact and that therefore, it does not require SEA.”

A Habitats Regulations Assessment (HRA) is required if the implementation of the Neighbourhood Plan may lead to likely negative significant effects on protected European sites. In considering the need for Habitats Regulations Assessment, the screening statement identifies that:

“(European) Sites which are potentially relevant to the Stockland Neighbourhood Plan are the River Axe which is designated as a Special Area of Conservation (SAC) and the Sidmouth to West Bay SAC.”

It goes on to conclude that:

“The Stockland Neighbourhood Plan is unlikely to have an adverse effect on a European site...alone or in combination with other plans and projects. It does not propose a level of development significantly over and above that in the adopted Local Plan and is in accordance with the emerging Local Plan (which was itself subject to HRA).”

In the above regard, Natural England confirmed, with specific regard to the River Axe SAC, that:

“...development in Stockland Parish has the potential to affect the SAC’s interest (sic) features, mainly through increasing nutrient levels with the SAC. However, Natural England is satisfied that nutrient levels in the SAC will be addressed via an interim Diffuse Water Pollution Plan (DWPP) which has been prepared to take action to reduce phosphorous entering the system from diffuse sources.”

In addition to all of the above, national guidance establishes that ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations is placed on the local planning authority,

“The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations.” (Planning Practice Guidance⁴)

In undertaking the screening report, East Devon District Council has considered the Neighbourhood Plan’s compatibility with EU obligations and, as with the statutory consultees referred to above, it has no concerns in this regard.

Taking everything into account, I am satisfied that the Neighbourhood Plan is compatible with EU obligations.

⁴ Paragraph 031, Reference: 11-031-20150209, Planning Practice Guidance

3. Background Documents and the Stockland Neighbourhood Area

Background Documents

In undertaking this examination I have considered various information in addition to the Stockland Neighbourhood Plan. This has included the following main documents:

- National Planning Policy Framework (the Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Plan Regulations (2012) (as amended)
- East Devon District Local Plan 2013-2031 (Adopted January 2016)
- Basic Conditions Statement
- Consultation Statement
- Sustainability Appraisal

Also:

- Representations received

In addition, I spent an unaccompanied day visiting the Stockland Neighbourhood Area.

Stockland Neighbourhood Area

The Neighbourhood Plan provides a plan showing the boundary of the Stockland Neighbourhood Area on page 4.

The boundary of the Neighbourhood Area coincides with that of Stockland Parish.

Further to an application made by Stockland Parish Council, East Devon District Council approved the designation of Stockland as a Neighbourhood Area on 16 August 2013.

This satisfied a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

4. Public Consultation

Introduction

As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.

Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Stockland Neighbourhood Plan Consultation

A Consultation Statement was submitted to East Devon District Council alongside the Neighbourhood Plan, in line with legislative requirements. As required by the neighbourhood planning *regulations*⁵, this sets out who was consulted and how, together with the outcome of the consultation.

Following the announcement of intent to produce the Neighbourhood Plan at the Annual Parish Meeting in May 2014, the first consultation event was held at Stockland Victory Hall over three days in June 2014. This was advertised via leaflets distributed to every property and was attended by 75 people. The results of the consultation were reported to the Parish Council and informed the creation of a questionnaire.

A questionnaire was delivered to each household (331 in total) in July 2014. By the August 2014 closing date, 123 completed questionnaires had been returned. The results of the survey informed the creation of the draft aims and objectives of the Neighbourhood Plan. The survey was followed up with a separate Housing Needs Survey, undertaken between August and October 2014. Nearly 100 of the 331 Housing Needs Survey forms were completed, returned and taken into account.

A Vision, Aims and Objectives consultation event was held in October 2014 and was attended by 50 people. The draft plan was then produced and following consultation with eight stakeholders, including East Devon District Council, a consultation period was held in January 2015. This consultation period is reported as having had a "low" response rate and was followed up with the Regulation 14 consultation during September and October 2015.

⁵Neighbourhood Planning (General) Regulations 2012.

Prior to Regulation 14 consultation, in August 2014, events were held at Stockland Village Hall, with the aim of launching the ensuing consultation period. Around 150 people attended these.

The Consultation Statement provides a record of comments that were made during the consultation period, along with the responses to them.

Public consultation throughout the plan-making stages was supported by information provided on the Parish Council website, together with regular updates at Parish Council meetings, the publication of articles in the Parish Paper and the use of Parish noticeboards.

Further to the above, consultation was widely publicised, through the distribution of leaflets and through the use of posters, flyers, local free newspapers, the Mid-week Herald and the Stockland Tree email alert.

The Consultation Statement demonstrates that engagement was encouraged, matters raised were considered and that the reporting process was transparent. There is evidence to demonstrate that the Policies of the Neighbourhood Plan emerged through significant public consultation.

Taking everything into account, I am satisfied that the consultation process was not only robust, but that it went well beyond that required by legislation.

5. The Neighbourhood Plan – Introductory Section

The policies of the Neighbourhood Plan are considered against the basic conditions in Chapter 6 of this Examiner’s Report. This Chapter considers the Introductory Section of the Neighbourhood Plan.

On page 8 of the Neighbourhood Plan, the “*Structure of the Plan*” is set out. This refers to “*the other planning policies in national and district-wide planning documents which relate to that policy*” and to “*links to key supporting evidence (most of which are summarised in our Written Evidence Base Report which accompanies the Plan).*”

With regards the reference to “*other planning policies,*” I note that these simply comprise a somewhat subjective and limited list of selected national and District-wide policies. Consequently, I find that they appear cumbersome and add little other than confusion, by detracting attention away from the most important part of the Neighbourhood Plan, the Policies themselves. The inclusion of a subjective list of “*other planning policies,*” over which the Neighbourhood Plan has no control and which may change over time, is an unnecessary distraction, detracting from the clarity of the Neighbourhood Plan.

With regards the “*links to key supporting evidence,*” again I find that the inclusion of the corresponding lists of information detract attention away from the Neighbourhood Plan’s Policies. They lead each Policy section to appear unwieldy and reduce clarity. Furthermore, the Evidence Base is simply that. It does not comprise the Neighbourhood Plan itself. Together with the “*other planning policies*” references, I find that the “*Key supporting evidence*” leads each Policy section to appear unnecessarily confusing.

Taking the above into account, I recommend

- **Page 8, delete the last bullet point**
- **Page 9, delete the first bullet point**
- **Delete all “Key supporting evidence” and “Related national and district policies” boxes from the Policy sections of the Neighbourhood Plan**

I note that the reference to “*...the whole Plan (i.e. all policies) should be considered...*” on page 9 of the Neighbourhood Plan is a useful tool, providing clarity and avoiding the need for cumbersome cross-references in the Policies that follow.

6. The Neighbourhood Plan – Neighbourhood Plan Policies

The Policies of the Neighbourhood Plan are clearly presented and easily distinguishable from the supporting text.

Natural Environment

Policy NE1 – Retaining and Enhancing the Natural Beauty of our Parish

The National Planning Policy Framework (the Framework) requires the planning system to contribute to and enhance the natural and local environment (Paragraph 109). By seeking to retain and enhance the Neighbourhood Area's natural beauty, Policy NE1 has regard to this.

However, as worded, the opening paragraph of Policy NE1 places a significant burden on all types of development. There is no evidence to demonstrate that the approach set out would be relevant, possible, viable or deliverable, for all forms of development – including for example, household extensions, to have to demonstrate *“no adverse impacts on the natural environment...and enhance the natural environment...”*

Consequently, as set out, the Policy does not have regard to Paragraph 173 of the Framework, which requires plans to be deliverable and discourages such a scale of obligations and policy burdens as to threaten the viability of development.

The second and third parts of the Policy, which relate to circumstances where mitigation measures and/or changes to Devon banks are necessary, support the conservation and enhancement of biodiversity, having regard to Chapter 11 of the Framework, *“Conserving and enhancing the natural environment.”*

Policy NE1 iii) includes a reference to Devon County Highways Protocol. This is not something under the control of the Neighbourhood Plan and I make a recommendation in this regard below.

The final part of Policy NE1 requires all proposals for development to demonstrate that there will be no adverse impacts to air quality, or *“excess smell or dust.”* With regards this latter reference, *“excess”* is not defined and does not therefore provide a decision maker with a clear indication of how to react to a development proposal, contrary to Paragraph 154 of the Framework.

Further, taken together, it is not clear why it would be relevant, possible, viable or deliverable, for all forms of development to comply with Policy NE1 iv). I find that the requirement set out does not have regard to Paragraph 173 and there is no evidence to the contrary.

I recommend:

- **Policy NE1 i) change to “Development proposals *that demonstrate that there* are no adverse...and *that* enhance the natural...to do so, *will be supported.*”**
- **Policy NE1 iii) delete “*” and corresponding reference box at the top of page 17**
- **Policy NE1, delete section iv) (“Development...dust.”)**

Policy NE2 – Supporting and Protecting our Turbaries

East Devon Local Plan (Local Plan) Policy EN5 (Wildlife Habitats and Features) seeks to protect important wildlife habitats from development proposals that would result in loss or damage to their nature conservation value. Further, Local Plan Strategy 5 (Environment) promotes the conservation and enhancement of nature conservation and wildlife sites, and areas of biodiversity value.

In addition to the above, Paragraph 109 of the Framework requires the planning system to minimise impacts on biodiversity and provide net gains in biodiversity where possible.

Policy NE2 identifies and protects Turbaries, which have a high wildlife value. The Policy is in general conformity with the Local Plan and has regard to national planning policy. It does not prevent all forms of development, but sets out a flexible approach to protecting biodiversity that contributes to the achievement of sustainable development.

Policy NE2 meets the basic conditions.

The supporting plan to Policy NE2, "*Inset Map 1*" is insufficiently clear. As a statutory planning Policy, it is essential that the land referred to in Policy NE2 can be clearly identified.

I recommend:

- **Replace Inset Map 1 on page 19 with a plan, or plans, showing clearly identifiable boundaries on an Ordnance Survey base for each of the Turbaries. The precise boundaries of the Turbaries must be clearly visible**

Policy NE3 – Preserving Tranquillity and Our Dark Skies

Paragraph 123 of the Framework supports the identification and protection of areas of tranquillity. Further, Paragraph 125 goes on to encourage planning policies to limit the impact of light pollution from artificial light on intrinsically dark landscapes.

Generally, in seeking to preserve tranquillity and dark skies, Policy NE3 has regard to national policy. However, as set out, the Policy places an onerous requirement on all forms of development. It may not be relevant or viable for all development proposals to demonstrate “*no significant adverse affect*” on tranquillity or dark skies and there is no evidence before me to the contrary.

Having regard to Paragraph 173 of the Framework, I recommend:

- **Policy NE3, change to “*Development should maintain the tranquillity and dark skies of the parish.*”**

Built and Historic Environment

Policy BHE1 – Protecting Our Valued Archaeological and Heritage Assets in Stockland Parish

There are two typographical/grammatical errors on page 24. For clarity, I recommend:

- **Page 24, line 5, change “suggest” to “demonstrates”**
- **Page 24, second paragraph, line three, change “of” to “to”**
- **Page 24, lines 4-6, change to “...Listed Buildings, Conservation Areas and Scheduled Monuments.”**

Chapter 12 of the Framework, “*Conserving and enhancing the historic environment,*” establishes that the nation’s heritage assets are irreplaceable and sets out a policy approach to conserving them in a manner appropriate to their significance. The approach set out is further reflected in Local Plan policies EN6-EN10.

Whilst Policy BHE1 seeks to protect heritage assets, it fails to have regard to the balanced approach set out in the Framework and is not in general conformity with the Local Plan. Rather than reflect this balanced approach to conserving assets in a manner appropriate to their significance, as worded, Policy BHE1 simply seeks to impose a blanket requirement for development to demonstrate “*no adverse impact*” on designated and non-designated heritage assets and other, un-named assets and their settings. This results in a cumbersome Policy that fails to meet the basic conditions.

The Policy then goes on to demand that all development proposals should “*take fully into account*” a variety of information, including “*any*” local evidence. Nothing is provided to demonstrate that such an onerous requirement has regard to national policy or is in general conformity with the Local Plan. Taking this and the above into account, I find that the Policy, as set out, could serve to prevent sustainable development from coming forward and there is no evidence before me to the contrary.

I recommend:

- **Replace Policy BHE1 with “Where relevant, proposals affecting heritage assets and/or their settings should take into account Conservation Area Appraisal(s) and are encouraged to have regard to additional local evidence documenting local historic and heritage assets.”**

Policy BHE2 – Protecting Our Hamlets’ Historic Identity

Like Policy BHE1, Policy BHE2 seeks to afford protection to heritage assets, having regard to national policy.

As set out, the Policy is negatively worded, in that it “*only*” supports development, subject to various criteria. This results in a restrictive approach that fails to provide the flexible and balanced approach to conserving heritage assets in a manner appropriate to their significance, as required by the Framework.

However, this can be addressed by a minor change to Policy BHE2, modifying it so as to create a positive planning Policy, as per the recommendations below. The approach recommended also has regard to Planning Practice Guidance, which requires land use planning policies to be precise and concise⁶.

East Devon District Council has provided information with reference to undertaking a Local Listing exercise at some stage in the future. This is relevant to both the first paragraph and the final part of Policy BHE2, which effectively repeats part of Policy BHE1, but in so doing, also attempts to afford material planning weight to something that may or may not be produced in the future.

Taking the above into account, Policy BHE2, as worded, is not precise and nor does it provide a decision maker with a clear indication of how to react to a development proposal. In addition, it is not the role of neighbourhood plans to afford statutory weight to documents that do not exist.

Taking all of the above into account, I recommend:

- **Policy BHE2, change to “...development proposals *affecting heritage assets* will only be supported where they...”**
- **Policy BHE2, delete “Where further local...proposed in the hamlets.”**

⁶ Ref: Planning Practice Guidance 41-041020140306.

Policy BHE3 – Maintaining the Built Character of Our Parish through High Quality Design

Part of the supporting text on page 29 is worded as though it is a Policy, which it is not. I recommend:

- **Page 29, second paragraph, change to “...to this Plan *and the Parish Council is keen for it to be taken into account as part of future development proposals in Stockland.*”**

Good design is recognised by national policy as comprising

“a key aspect of sustainable development...indivisible from good planning”
(Paragraph 56, The Framework)

In addition, national policy requires good design to contribute positively to making places better for people (Chapter 7, The Framework) and Local Plan Policy D1 (Design and Local Distinctiveness) requires new development to meet high standards of design and to be locally distinctive.

Generally, Policy BHE3 promotes good design and in so doing, it has regard to national policy and is in general conformity with Local Plan Policy D1.

However, the final part of the Policy sets out a requirement for development to comply with guidance outside the control of the Neighbourhood Plan. I also note that design guidance is simply that. Notwithstanding this, I recognise that the Blackdown Hills Area of Outstanding Natural Beauty Design Guide for Houses provides helpful and locally distinctive guidance.

Taking this into account, I recommend:

- **Policy BHE3, line 2, change to “...proposals for development will be supported *where they take into account the Blackdown Hills Area of Outstanding Natural Beauty Design Guide for Houses and: i) ensure that the size...***

Subject to the above recommendation, Policy BHE3 contributes to the achievement of sustainable development and meets the basic conditions.

Housing and Population

Policy HP1 – Meeting Demonstrable Local Needs on Local Exceptions Sites

In order to provide opportunities for home ownership and the creation of sustainable, inclusive and mixed communities, Paragraph 50 of the Framework requires plans to provide for:

“...a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.”

Policy HP1 has regard to this and contributes to the achievement of sustainable development.

Policy HP1 ii) is dependent upon another Policy in another planning document, over which the Neighbourhood Plan has no control. Furthermore, I note that it is not the role of neighbourhood plans to repeat or replicate existing planning policy.

I recommend:

- **Delete Policy HP1 ii) (“where they...Local Plan; and,”)**

Community Facilities and Services

The second paragraph of page 37 reads in part as though it is a Policy, which it is not. I recommend:

- **Page 37, second paragraph, on both lines 1 and 2, change “must” to “should”**

Policy CFS1 – New Retail and Commercial Development in Stockland Village

Chapter 3 of the Framework, “*Supporting a prosperous rural economy,*” promotes economic growth in rural areas, including the development of local services and community facilities in villages.

Whilst Policy CFS1 has regard to national policy, its use of the phrase “will be permitted” runs the risk of pre-determining planning applications without taking all relevant factors into account.

Also, the last criteria of Policy CFS1, vii), is undefined and consequently, imprecise. It fails to provide a decision maker with a clear indication of how to react to a development proposal.

Taking the above into account, I recommend:

- **Policy CFS1, line 2, change to “...local community will be *supported* on sites...”**
- **Delete Policy CFS1 vii) (“Each unit...local area.”)**

Policy CFS2 – Improvements to Existing Local Community Facilities, Amenities and Assets

Paragraph 28 of the Framework supports the retention of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.

In seeking to enhance or improve Stockland’s existing community facilities, Policy CFS2 has regard to the Framework and contributes to the achievement of sustainable development.

There is a mistake in Policy CFS2 i) and I recommend:

- **Policy CFS2 i) change to “...there is a demonstrable need for *them*,”**

Policy CFS3 – Loss of Local Community Facilities, Amenities and Locally Valued Assets through Redevelopment

Paragraph 70 of the Framework states that planning policies should:

“...guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs;”

In seeking to protect valued local facilities, Policy CFS3 has regard to national policy.

The wording of criterion i) of the Policy is unclear and I make a recommendation in this regard below, in the interests of clarity.

In Paragraph 188, the Framework recognises that early engagement has significant potential to improve the efficiency and effectiveness of the planning system for all parties and that good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community. However, unless required by law, engagement with the local community is a desirable, rather than compulsory requirement. This in mind, the recommendation below acknowledges the aims of the Neighbourhood Plan, having regard to national policy.

Criterion iii) of Policy CFS3 is confusingly worded. Further, it contradicts part i) of the Policy. If a community use is not viable, then it may not be possible to prevent its loss.

I recommend:

- **Delete Policy CFS3 ii)**
- **Delete Policy CFS3 iii)**
- **Add new sentence to the end of Policy CFS3, *“In all circumstances involving the change of use or possible loss of community facilities, prospective developers are encouraged to engage with the local community at the earliest opportunity.”***

Policy CFS4 – The Kings Arms Inn

Like earlier Community Facilities and Services Policies, Policy CFS4 has regard to national policy's support for the provision of local services.

However, the Policy effectively supports any proposal for any kind of development, so long as it would enable the King's Arms Inn to serve as a community hub. Consequently, as worded, Policy CFS4 could have unforeseen circumstances and lend support to unsustainable development.

For clarity, I recommend:

- **Change Policy CFS4 to *“The development of the King's Arms Inn as a community hub will be supported.”***

Policy CFS5 – Stockland Church of England Primary Academy

Paragraph 72 of the Framework gives:

“...great weight to the need to create, expand or alter schools...”

In supporting provision of new facilities at Stockland Church of England Primary Academy, Policy CFS5 has regard to national policy.

However, as worded, the first part of Policy CFS5 is neither precise nor concise.

I recommend:

- **Policy CFS5 – Replace “Proposals for development that lead to the provision of new...” with “*The provision of new...*”**

Subject to the above, Policy CFS5 contributes to the achievement of sustainable development and meets the basic conditions.

Transport and Access

Policy TRA1 – Off-road Car Parking

Paragraph 58 of the Framework supports the provision of safe environments. Policy TRA1 has regard to this and no changes are recommended.

The second paragraph of supporting text on page 45 reads as though it is a planning policy in the Neighbourhood Plan, which it is not. Furthermore, I note that the text in this paragraph simply repeats part of the content of Local Plan policy TC9 (Parking Provision in New Development).

I recommend:

- **Delete second paragraph on page 45 (“New developments...parking spaces.”)**

Policy TRA2 – Vehicular Access and Egress Arrangements

Paragraph 32 of the Framework promotes the provision of “*safe and suitable access*” and as noted above, Paragraph 58 goes on to support the provision of safe environments.

In promoting safe access, Policy TRA2 has regard to the Framework.

As worded, the opening sentence of the Policy could have unforeseen circumstances, as it suggests that any form or type of development will be supported, so long as it requires new or improved access. I address this in the recommendations below.

Policy TRA2 i) relates only to developments (plural). This is a grammatical error and is addressed below.

The final criterion, TRA2 iii), is unnecessary. I refer earlier (page 14 of this Report) to the Neighbourhood Plan’s reference, on page 9, to all Policies of the Neighbourhood Plan needing to be taken into account. This avoids the need for the cross-referencing of Policies, which can introduce unnecessary confusion.

I recommend:

- **Policy TRA2, change opening sentence to “*The development of new or improved...*”**
- **Change TRA2 i) to “*it takes the safety of pedestrians...*”**
- **Delete TRA2 iii)**

Policy TRA3 – Rights of Way (Public Footpaths, Bridleways, Byways, Unclassified Roads and Other Trails)

There is a typographical error on page 47. I recommend:

Page 47, first paragraph, line 4, replace “out” with “our”

Paragraph 75 of the Framework establishes that:

“Planning policies should protect and enhance public rights of way and access.”

The general intent of Policy TRA3 has regard to this. However, as worded, the Policy is imprecise and could result in unforeseen circumstances. As set out, Policy TRA3 would support any proposal, for any form of development, subject to it meeting the Policy’s requirements.

Further to the above, Policy TRA3 could prevent sustainable development from coming forward. Rather than support the protection and enhancement of public rights of way, in line with the Neighbourhood Plan’s objectives, as worded, the Policy would only support such improvements where they achieve a list of criteria – including, for example, preventing motor vehicles from using them. There is no evidence to demonstrate that all improvements to public rights of way can achieve the requirements of Policy TRA3, or whether such requirements are relevant, viable or necessary land use planning requirements.

I recommend:

- **Change Policy TRA3 to “*The improvement and enhancement of public rights of way will be supported.*”**

Subject to the above recommendation, Policy TRA3 contributes to the achievement of sustainable development and meets the basic conditions.

Economy and Employment

Policy EE1

Chapter 5 of the Framework, “*Supporting high quality communications infrastructure,*” recognises that advanced, high quality communications infrastructure is essential for sustainable economic growth. It establishes that:

“The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services” (Paragraph 42).

Policy EE1 supports the development of super-fast broadband, whilst taking into account the Neighbourhood Area’s location within the Blackdown Hills AONB. It contributes to sustainable development and meets the basic conditions.

No changes recommended.

Policy EE2 – Conversion of Agricultural Buildings

Chapter 3 of the Framework supports the creation of a prosperous rural economy. In this regard, Paragraph 28 of the Framework supports:

“...the sustainable growth and expansion of all types of business and enterprise in rural areas...through conversion of existing buildings...”

Generally, Policy EE2 has regard to this. In addition, the overall intention of Policy EE2 is in general conformity with Local Plan Policy D8 (Re-use of Rural Buildings Outside of Settlements), which supports the re-use or conversion of buildings in the countryside.

However, as worded, the opening sentence of Policy EE2, “...where it is justified in order to support farm diversification in the interests of viability and...” places an onerous requirement on applicants to demonstrate both that conversion will lead to diversification and that it is in the interests of viability. There is nothing to demonstrate why such a departure from national or local policy and resulting failure to meet the basic conditions, is necessary or supported by evidence.

Policy EE2 goes on to refer to “significant harmful impacts,” “unacceptable impacts” and “unacceptable conflicts,” without defining what these might be. In this regard, Policy EE2 fails to provide a decision maker with a clear indication of how to react to a development proposal.

The final part of the Policy refers to “substantial...extension.” Again, this is an imprecise term and I address it in the recommendations below.

Taking the above into account, I recommend:

- **Policy EE2, change to “*The conversion of existing agricultural buildings for business or business-related purposes, where the benefits of such development outweigh any harm to local character, residential amenity or highway safety, will be supported, subject to the conversion not requiring substantial rebuilding, or resulting in disproportionate extension.*”**

Policy EE3 – Farming and other rural businesses

There is a typographical error in the supporting text on page 53. I recommend:

- **Page 53, supporting text, first line, delete “...described and...”**

The Framework affords great weight to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which, together with National Parks, have the highest status of protection in relation to landscape and scenic beauty (Paragraph 115).

In seeking to protect and promote natural beauty, Policy EE3 has regard to national policy. However, as worded, the Policy is unnecessarily repetitive, resulting in confusion and a lack of precision. In protecting and promoting the AONB’s natural beauty and special character, the Policy protects the area’s “*rural characteristics*” worthy of protection.

I recommend:

- **Policy EE3, delete “...how it will protect and/or enhance the rural characteristics of the surrounding area and demonstrate...”**

Subject to the above, Policy EE3 contributes to the achievement of sustainable development and meets the basic conditions.

Energy and Low Carbon

Policy ELC1 – Small Scale Renewable and Low Carbon Energy Schemes

Chapter 10 of the Framework, “*Meeting the challenge of climate change, flooding and coastal change,*” establishes planning’s key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.

Paragraph 97 of the Framework states that policies should be designed to:

“...maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts...”

Policy ELC1 has regard to this and is in general conformity with Local Plan Strategy 39 (Renewable and Low Carbon Energy Projects), which supports the development of low carbon and renewable energy.

As worded, Policy ELC1 i) is confusing, partly due to the use of grammar. It is not clear, for example, how low carbon energy schemes can provide “*...appropriate landscaping used where necessary to protect the quality of...tranquillity and wildlife habitats*” or why this will be relevant or necessary in all cases.

To a large degree, the second criterion, Policy ELC1 ii), repeats the intent of the preceding criterion. Furthermore, it is unclear how a proposal can demonstrate “*how it will not*” have an adverse impact. This is an unreasonable policy requirement and due to the repetition referred to, is unnecessary.

The final part of the Policy seeks to impose a requirement to take non-adopted guidance, not controlled by the Neighbourhood Plan, into account. Guidance is simply that. I acknowledge that the “*Renewable Energy in the Blackdown Hills Report 2010*” provides useful information and take this into account in the recommendations below.

Taking all of the above into account, I recommend:

- **Policy ELC1, change first paragraph to “*...sensitively sited and where necessary, appropriately landscaped, in order to protect the quality of Stockland’s...*”**
- **Delete Policy ELC1 ii) (“Proposals...habitats.”)**

- **Replace ELC iii) with a new sentence (not forming a bullet point) *“Proposals for renewable or low carbon energy schemes are encouraged to take into account the advice given in the *“Renewable Energy in the Blackdown Hills Report (2010).”*”***

Policy ELC2 – Large Scale Renewable and Low Carbon Energy Schemes

Unlike the previous Policy, Policy ELC2 does not promote renewable and low carbon energy. Rather, it comprises a negative Policy and, in conflict with Planning Practice Guidance, is based on vague and imprecise terms.

For example, no indication is provided as to when a scheme might be “*likely to have*” an adverse impact and consequently, this phrase does not provide clarity. Furthermore, no indication is provided with regards how “*the enjoyment of the natural and built environment*” can be measured, who by and on what basis.

The Policy does not provide a decision maker with a clear indication of how to react to a development proposal.

Taken as a whole, the Policy does not have regard to national policy, which requires:

“...a positive strategy to promote energy from renewable and low carbon sources”
(Paragraph 97, the Framework).

Policy ELC2 could prevent sustainable development from coming forward. It does not meet the basic conditions and I recommend:

- **Delete Policy ELC2**

7. The Neighbourhood Plan: Other Matters

The Monitoring and Review section of the Neighbourhood Plan is clear.

However, it is not clear why Appendix 1 is included in the Neighbourhood Plan. This is a long background document. It does not add any clarity to the Neighbourhood Plan but rather detracts from the concise nature of the document. The content of the Appendix simply forms part of the Evidence Base.

I recommend:

- **Remove Appendix 1 from the Neighbourhood Plan**

I note that the recommendations made in this Report will have a subsequent impact on page numbering and Contents. I recommend:

- **Update the Contents and page numbering to reflect recommendations**

8. Summary

I have recommended a number of modifications further to consideration of the Stockland Neighbourhood Plan against the basic conditions.

Subject to these modifications, I confirm that:

- 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, European Union (EU) obligations.

Taking the above into account, I find that the Stockland Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

9. Referendum

I recommend to East Devon District Council that, subject to the modifications proposed, the **Stockland Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

I am required to consider whether the Referendum Area should be extended beyond the Stockland Neighbourhood Area.

I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

Consequently, I recommend that the Plan should proceed to a Referendum based on the Stockland Neighbourhood Area approved by East Devon District Council on 16 August 2013.

Nigel McGurk, June 2016
Erimax – Land, Planning and Communities

www.erimaxltd.com