



Intelligent Plans
and examinations

Report on Feniton Neighbourhood Plan 2016-2031

An Examination undertaken for East Devon District Council with the support of the Feniton Parish Council on the October 2017 submission version of the Plan.

Independent Examiner: Jill Kingaby BSc(Econ) MSc MRTPI

Date of Report: Fact Check Version 23 January 2018

Intelligent Plans and Examinations (IPE) Ltd, Regency Offices, 37 Gay Street, Bath BA1 2NT
Registered in England and Wales. Company Reg. No. 10100118. VAT Reg. No. 237 7641 84

Contents

	Page
Main Findings - Executive Summary	3
1. Introduction and Background	3
• Feniton Neighbourhood Plan 2016 – 2031	3
• The Independent Examiner	4
• The Scope of the Examination	4
• The Basic Conditions	5
2. Approach to the Examination	6
• Planning Policy Context	6
• Submitted Documents	6
• Site Visit	6
• Written Representations with or without Public Hearing	7
• Modifications	7
3. Procedural Compliance and Human Rights	7
• Qualifying Body and Neighbourhood Plan Area	7
• Plan Period	8
• Neighbourhood Plan Preparation and Consultation	8
• Development and Use of Land	9
• Excluded Development	9
• Human Rights	9
4. Compliance with the Basic Conditions	9
• EU Obligations	9
• Main Issues	10
• General Issues of Compliance of the Plan	10
• Specific Issues of Compliance of the Plan Policies	15
5. Conclusions	18
• Summary	18
• The Referendum and its Area	19
Appendix: Modifications	20

Main Findings - Executive Summary

From my examination of the Feniton Neighbourhood Plan (FNP /the Plan) and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – the Feniton Parish Council;
- The Plan has been prepared for an area properly designated – the Feniton Neighbourhood Area shown on Page 5 of the Feniton Neighbourhood Plan;
- The Plan specifies the period to which it is to take effect – 2016-31; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to Referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

1. Introduction and Background

Feniton Neighbourhood Plan 2016 - 2031

- 1.1 As explained in section 3 of the FNP, the Parish is located just off the A30 trunk route some 11 miles east of Exeter. The older settlement of Feniton, with its thirteenth century church and thatched cottages, is small and distinctly historic in character. The newer settlement of Feniton is separated from old Feniton by open countryside, and its development is linked to the coming of the railway. The population of Feniton, according to the Census, remained fairly stable throughout the nineteenth and early twentieth century, but grew substantially in the 1960s and 1970s. New development was permitted on land between Station Road and Green Lane on the east side of new Feniton in 2012, and on land adjoining Acland Park in 2014, as described in Appendix 7 of the FNP. This pattern of growth in the late twentieth and early twenty-first centuries is reflected in the suburban character of areas north and south of Station Road in new Feniton. Feniton includes a number of local community facilities, notably a primary school, Spar shop and Sports and Social Club, as illustrated on Page 25 of the FNP. Outside the two settlements, the Parish's countryside is shaped by agriculture and has a distinctive rural character.

- 1.2 The Basic Conditions Statement accompanying the FNP explains that proposals for over 200 new houses in Feniton from three developers in 2013, as well as ongoing concern over flooding in the Parish, served as catalysts for the development of a Neighbourhood Plan. Feniton Parish Council (the Parish Council) resolved in May 2014 to prepare a plan, and the area was designated for this purpose in September 2014. Extensive consultation followed with local and national stakeholders, businesses, landowners and residents, beginning with a public meeting in the Village Hall in October 2014, as described in the Consultation Statement. Throughout the preparation period, the Parish Council maintained contact with East Devon District Council and monitored progress on the new East Devon Local Plan which was adopted in January 2016. The Draft FNP was consulted on in July and August 2017, in accordance with Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations'). Consultation elicited 10 responses. These were taken into account prior to publication of the submission version of the FNP in October 2017.

The Independent Examiner

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the FNP by East Devon District Council, with the agreement of the Parish Council.
- 1.4 I am a chartered town planner and former government Planning Inspector, with prior experience examining neighbourhood plans. I am an independent examiner, and do not have an interest in any of the land that may be affected by the draft plan.

The Scope of the Examination

- 1.5 As the independent examiner I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
 - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
 - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.6 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended)('the 1990 Act'). The examiner must consider:
- Whether the Plan meets the Basic Conditions;

- Whether the Plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended)('the 2004 Act'). These are:
 - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
 - it sets out policies in relation to the development and use of land;
 - it specifies the period during which it has effect;
 - it does not include provisions and policies for 'excluded development';
 - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area;
 - whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to referendum; and
- Such matters as prescribed in the 2012 Regulations.

1.7 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception: that is the requirement that the Plan is compatible with the Human Rights Convention.

The Basic Conditions

- 1.8 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990Act. In order to meet the Basic Conditions, the neighbourhood plan must:
- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
 - Contribute to the achievement of sustainable development;
 - Be in general conformity with the strategic policies of the development plan for the area;
 - Be compatible with and not breach European Union (EU) obligations; and
 - Meet prescribed conditions and comply with prescribed matters.

- 1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the neighbourhood plan should not be likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2017) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats etc.) Regulations 2007), either alone or in combination with other plans or projects.

2. Approach to the Examination

Planning Policy Context

- 2.1 The Development Plan for this part of East Devon District Council, not including documents relating to excluded minerals and waste development, is the East Devon Local Plan 2013-31 (the Local Plan), adopted in January 2016.
- 2.2 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented.
- 2.3 PPG makes clear that whilst a draft neighbourhood plan is not tested against the policies in an emerging Local Plan, the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the Basic Conditions against which a neighbourhood plan is tested. It cites, as an example, that up-to-date housing needs evidence is relevant to the question of whether the housing supply policy in a neighbourhood plan contributes to the achievement of sustainable development¹. Paragraph 184 of the NPPF also states, "*The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider area*". Accordingly, I have had regard for the Proposed Submission Draft of the East Devon Villages Plan 2016-31, ('the Villages Plan') which is currently undergoing examination.

Submitted Documents

- 2.4 I have taken account of all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the draft Feniton Neighbourhood Plan 2016-2031, October 2017;
 - the Map (Page 5) of the Plan which identifies the area to which the proposed neighbourhood development plan relates;
 - the Consultation Statement, October 2017;
 - the Basic Conditions Statement, October 2017;
 - all the representations that have been made in accordance with the Regulation 16 consultation;

¹ PPG Reference ID 41-009-20160211.

- the request for additional clarification sought in my letters of 20 December 2017 and of 8 January 2018, and the subsequent responses on 20 December 2017 and 12 January 2018²; and
- the 'Feniton Neighbourhood Development Plan, Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment (HRA), Final Screening Report January 2017', prepared by Officers of East Devon District Council', and the Draft Screening Report of November 2016.

Site Visit

2.5 I made an unaccompanied site visit to the Neighbourhood Plan Area on Tuesday 19th December 2017 to familiarise myself with it, and visit relevant sites and areas referenced in the Plan and evidential documents.

Written Representations with or without Public Hearing

2.6 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses did not raise objections to the Plan, or present arguments against its suitability to proceed to a referendum, which required discussion and further investigation at hearing sessions.

Modifications

2.7 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

- 3.1 The FNP has been prepared and submitted for examination by Feniton Parish Council which is a qualifying body, for an area that was designated by East Devon District Council on 3 September 2014.
- 3.2 It is the only neighbourhood plan for Feniton, and does not relate to land outside the designated neighbourhood area.

² [Link] – *Correspondence needs to be made available on website.*

Plan Period

- 3.3 The FNP specifies clearly the period to which it is to take effect, which is from 2016 to 2031.

Neighbourhood Plan Preparation and Consultation

- 3.4 The Consultation Statement produced in October 2017 summarises the consultation exercises which have been undertaken during development of the FNP. I note that a meeting initiated by the Parish Council on 16 October 2014 was attended by 26 members of the public, some of whom volunteered to join Parish Councillors and the local District Councillor in forming a steering group. In November 2014, the first FNP steering group meeting was held, and members explained the concept of neighbourhood planning/answered questions and sought views to/from local people at a pre-Christmas fair in the village school. Also at that time, a flyer for all homes in the Parish was sent out to advise how the community could engage with the plan preparation process.
- 3.5 The first public Consultation Day, on 13 January 2015, was held in the village hall with 5 themed stations (i) to give a broad view of the concept of neighbourhood planning; (ii) to give a picture of Feniton life and history; (iii) to enable people to express their vision for Feniton; (iv) to enable them to outline specific concerns and hopes for the area; and (v) to provide an electronic visual display summarising the purposes and prospects for the proposed FNP. Approximately 100 members of the public attended. A second meeting using a similar format took place in Feniton primary school in March 2015, and attracted some 150 people, mostly younger adults and families. Some 60 feedback forms were obtained. A further opportunity for local people to comment occurred on 5 July 2015 at the Feniton Fun Day, held on the sports field adjacent to the village school. Local landowners were also invited to give their views in response to a letter regarding the Draft FNP sent out in May 2015.
- 3.6 Informed by comments received at the above events, a questionnaire was prepared and distributed to all adult residents in November 2015. Some 600 responses were received representing 35% of the 1,730 forms. Special measures were taken to reach potentially disadvantaged groups as described in paragraph 2.21 of the Consultation Statement. Throughout plan preparation, regular contact was kept with East Devon District Council Planning Department, and regular updates on progress were given to the local community through Parish Council minutes which were available online and on village noticeboards and shop windows. Further opportunity to comment was given at Feniton Fun Day in July 2016.
- 3.7 The views of owners of local businesses, officers of local clubs or societies and young people were also gathered. Information and views from the above exercises contributed to the production of a draft FNP which was made available on the Parish Council website, and as a hard copy at the Feniton Fun Day in July 2017. The Draft FNP was subject to public

consultation in accordance with Regulation 14 of the 2012 Regulations, between 8 July and 19 August 2017. I note that statutory consultees and adjoining parishes were consulted as well as local residents, landowners, farmers, businesses and organisations. Ten responses were received with comments on the content of the draft Plan and proposals for amendment. These were taken into consideration in the production of the submitted FNP which is the subject of this examination, and which has been subject to consultation in accordance with Regulation 16 in November and December 2017.

- 3.8 I take account of the 8 responses received at Regulation 16 stage in my report. Overall, I consider that the process of engaging with the local community and consulting throughout the various stages of plan preparation has been extensive and wide-ranging. Due regard has been had to the advice in the PPG on plan preparation and engagement and the legal requirements for consultation procedures have been met.

Development and Use of Land

- 3.9 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

Excluded Development

- 3.10 The Plan does not include provisions and policies for 'excluded development'.

Human Rights

- 3.11 The Consultation Statement confirms, at paragraph 2.21, that all consultation on the FNP was carried out in accordance with the equalities legislation. The Basic Conditions Statement states, in section 7, that the Plan does not breach Human Rights (within the meaning of the Human Rights Act 1998)³. From my independent assessment, I see no reason to disagree.

4. Compliance with the Basic Conditions

EU Obligations

- 4.1 The FNP was screened for SEA by East Devon District Council, which found that it was unnecessary to undertake SEA. Having read the 'Strategic Environmental Assessment and Habitat Regulations Assessment' final

³ Feniton Neighbourhood Plan 2016-31 Basic Conditions Statement October 2017, section 7 – Compatibility with EU obligations and legislation.

screening report and considered the matter independently, I support this conclusion.

- 4.2 The FNP was further screened for HRA, and East Devon District Council concluded that this was not required. The Plan is unlikely to have an adverse effect on a protected European site (Natura 2000), either alone or in combination with other plans and projects. The Plan does not propose a level of development different from that in the adopted Local Plan, which was itself subject to HRA. Having read the letter from Natural England to East Devon District Council (dated 20 December 2016), and considered the matter independently, I agree that HRA is not necessary.

Main Issues

- 4.3 Having considered whether the FNP complies with relevant procedural and legal requirements, I now consider whether it complies with the Basic Conditions, particularly the regard it has had to national policy and guidance, the contribution it makes to sustainable development and whether it is in general conformity with strategic development plan policies. This is done by considering:
- General issues of compliance of the Plan, as a whole; and
 - Specific issues of compliance of the Plan Policies.

General Issues of Compliance of the Plan

- 4.4 The first three sections of the FNP, helpfully in my opinion, summarise the most important aspects of planning law in relation to neighbourhood planning and explain that the East Devon Local Plan, adopted in 2016, is the statutory Local Plan for the area. Paragraph 1.2 highlights the Local Plan strategic policy, Strategy 27 – Development at the Small Towns and Larger Villages, which is applicable to Feniton. Useful geographical data with a map showing the Feniton Neighbourhood Area boundary, a brief summary of the area’s history and growth of settlements, and some socio-economic facts and figures based on Census data, follow on. These provide factual information for readers and potential users of the FNP in a clear and well-structured form.
- 4.5 Section 4 sets out the Key Issues for the FNP, explaining that they have been established from public consultation exercises. I note that they are arranged alphabetically and that all are described in terms of a single paragraph, except for 4.4 Future Development. This is unquestionably the most complex but important key issue for Feniton, and it is no surprise that section 4.4 is the longest one. Section 2 of the Basic Conditions Statement explains that two major issues served as catalysts for the development of the FNP, one of which was: “*proposed mass housing development of a scale disproportionate to the size of the village and its*

community". I am aware that in 2013, developers put forward proposals to construct up to 235 new dwellings on three sites to the west, north and east of new Feniton.

- 4.6 Following refusals by East Devon District Council, all the planning decisions were appealed and a joint inquiry was undertaken (APP/U1105/A/13/2191905; 2197001; 2197002; and 22002204). The Inspector's decision, dated 7 April 2014, is included as Appendix 7 to the FNP. The proposal for *demolition of the existing buildings and redevelopment of the site to provide residential development of 32 houses to the north of Acland Park* was granted permission on appeal, subject to conditions. However, the other three larger proposals for housing development were dismissed. I consider that this appeal decision and the Inspector's reasoning which addresses aspects of national planning policy and guidance, the likely contribution to sustainable development and whether there would have been general conformity with strategic development plan policies, remains highly relevant to the FNP. I support the inclusion of Appendix 7 to the Plan, although I consider that maps should be added in the interests of clarity to confirm the precise location of the appeal sites and assist the achievement of sustainable development in future. **PM10** should be made to achieve this.
- 4.7 The NPPF is clear, in its Ministerial Foreword and in its section headed 'The Presumption in Favour of Sustainable Development', that a positive approach should be taken towards development, providing it is sustainable. Section 6 of the NPPF, 'Delivering a Wide Choice of High Quality Homes', expects local planning authorities to boost significantly the supply of housing. In this context, I am pleased to read the first sentence of paragraph 4.4 in the FNP: "*It is clear from the questionnaire responses that there is acceptance that there will need to be future development within Feniton parish*". The paragraph also goes on to state that residents "*are mindful of the national drive for development and the needs of future generations to live independently*". I consider that these sentences demonstrate appropriate regard for national planning policy.
- 4.8 Strategy 27 of Local Plan – Development at the Small Towns and Larger Villages identifies Feniton as one of 15 small towns and larger villages. The supporting text states that a moderate level of growth will be focused on these settlements especially where it would meet local needs for affordable housing, new jobs or sheltered homes. The suitability of places for growth and the scale and nature of that growth should be determined by a range of social, environmental and economic issues, and should be informed by detailed local needs studies and village or parish plans. Strategy 27 states that the named settlements will have Built-up Area Boundaries to be designated in the Villages Plan, though they will not have land specifically designated for development. Strategy 6 of the Local

Plan sets out criteria for appropriate growth and development within built-up area boundaries. Strategy 7 – Development in the Countryside – applies to land outside built-up area boundaries, and is generally restrictive of new development.

- 4.9 The Draft Villages Plan was submitted for examination in 2017, and consultation on proposed main modifications was scheduled for the period 18 December 2017 to 2 February 2018. Feniton is referenced in section 7 of the emerging plan, where new Feniton is described as having sufficient facilities to warrant a Built-up Area Boundary. This is mapped on Page 24 of the draft Villages Plan, and it coincides with the boundary shown in Appendix 6 of the FNP. The proposed boundary includes the site north of Acland Park where planning permission was granted on appeal for 32 new homes. I am satisfied that the FNP is in general conformity with Local Plan, Strategies 6,7 and 27. I also note that it does not conflict with the draft Villages Plan.
- 4.10 The last paragraph of section 4.4 of the FNP refers to “the 5-year review” of the FNP, and I commend this reference as good quality planning requires monitoring of plans. Shifts in socio-economic factors or Government policy, which cannot easily or accurately be predicted when a new plan is drawn up, often require plans to be amended following a review. Some flexibility should be incorporated into plans which look forward 10-15 years in order to make them fit-for-purpose in the later years. The final paragraph in 4.4 refers to “*the sites put forward under the Villages Development Plan Document*”. However, there is no mention of specific new development sites in Feniton in the draft Villages Plan. Strategy 6 of the Local Plan states that the Villages Plan will define settlement boundaries, and Neighbourhood Plans may allocate specific sites. In my view, the final paragraph of 4.4 could be misleading and should be modified so that it is in general conformity with the adopted Local Plan and more reflective of the emerging Villages Plan. Paragraph 4.4 also states that the people of Feniton should be the drivers for choosing any housing sites. However, in reality, landowners and statutory bodies such as Natural England or Historic England, will also need to have an input. I recommend a modification, **PM1**, to the wording having regard for national policy and development management procedures.
- 4.11 I am mindful of the fact that Government is seeking to introduce a new and standardised approach to calculating local housing need, for use by local planning authorities⁴. The underlying aim is to achieve an overall boost in housing supply. A possible three-stage approach was consulted on last Autumn, requiring planners to look at both projections of

⁴ View at: <https://www.gov.uk/government/consultations/planning-for-the-right-homes-in-the-right-places-consultation-proposals>

household growth and the ratio of house prices to local earnings in order to calculate housing needs. Paragraph 15.10 of the adopted Local Plan reports that house prices across East Devon are high but in many rural areas are particularly high. When finalised, this new national approach could alter the figures for housing requirements for East Devon and, possibly, the expectation for new housing in its smaller towns and larger villages, such as Feniton. It is clear to me that, with the proposed Built-Up Area Boundary to new Feniton and designation of the remainder of the parish as countryside, there would be very limited scope for new development other than on the site north of Acland Park, where construction works are already underway. I have considered whether the boundary is too restrictive, given the desirability of allowing some flexibility and the need to achieve sustainable development.

- 4.12 Feniton is clearly highly desirable as a commuter village for Exeter, Honiton and other large towns. New Feniton is one of very few settlements with access to rail services (see paragraph 16.47 of the Local Plan), offering an option for sustainable travel even if the frequency of trains is currently limited. The primary school, local shops and other community facilities enable a degree of self-containment for local residents. In addition, Feniton lies outside the East Devon and Blackdown Hills Area of Outstanding Natural Beauty and away from the protected coastal areas of East Devon. Some new development at Feniton in future might therefore be considered more sustainable/less harmful than at other villages in East Devon.
- 4.13 The question of sustainable development at Feniton was assessed in detail by the Inspector who determined the four appeals in 2014 (paragraph 81 onwards, Appendix 7). In this context, I have had regard for her observation in paragraph 87 that substantially increasing the number of homes in a settlement without proportionate increases in the provision of local shops, infrastructure, employment opportunities and other local services would risk eroding community cohesion. The Inspector also concluded that development of the proposed sites to the west and east of the built-up area of new Feniton would cause considerable harm to the character and appearance of the area. From my site visit and having considered the landscape character and distinctive rural appearance, I agree with this finding. I also recognise that the developments of 50 houses at Winchester Park and 32 at Acland Park amount to significant growth both recently and currently, and a period of assimilation without ongoing development is needed at Feniton in the near future.
- 4.14 In addition, I note that the Local Plan (Strategy 6) does allow neighbourhood plans to allocate sites beyond their boundaries. Having regard for all these factors, I am satisfied that the defined built-up area boundary for Feniton is not unreasonably restrictive, and I support the planmakers' approach not to allocate any new development sites at this

stage. The approach to “Future Development” is consistent with the achievement of sustainable development and is in general compliance with the Local Plan. It does not conflict with the emerging Villages Local Plan.

- 4.15 The key issues set out in section 4 of the FNP are followed by a Vision for the future and seven objectives. Objective 3 which follows from section 4.4 is to promote small developments within the Built-up Area Boundary which allow for a range of house types. I am satisfied that this is in general conformity with the housing policies of the Local Plan and meets the Basic Conditions for neighbourhood planning. However, the modification to paragraph 4.4 proposed above and as set out in PM1 should be made for general compliance with the Local Plan, and so that some flexibility is achieved having regard for national planning policy.
- 4.16 The Basic Conditions Statement accompanying the FNP refers to “*the constant threat of flooding caused by runoff from the neighbouring fields*” as a second major issue for residents of Feniton. The appeal decision letter (Appendix 7) refers to some of the problems which the Parish has encountered in the past (paragraphs 55 onwards), and describes a proposed new Flood Defence Scheme. Paragraph 4.3 and Objective 2 of the FNP highlight the flooding problems and aim to minimise and manage flood risk in future, including taking account of the impact of any new housing. On Page 14, it is confirmed that the £1.6m flood alleviation/defence scheme is underway. I consider that the emphasis given to the flooding issue is appropriate for the FNP and has regard for the Core planning principles in paragraph 17 of the NPPF.
- 4.17 Policy F1 of the Plan will only support development proposals where they would minimise any risk of flooding. Devon County Council Flood and Coastal Risk Management Team supports Policy F1, and recommends that its guidance on sustainable drainage is followed by developers. I agree that a link to this document and the County website should be added to the FNP, to contribute to the achievement of sustainable development. The Environment Agency also expressed its support for the FNP’s acknowledgement of flooding issues, and for objective 2 and Policy F1. Nevertheless, it recommended the addition of a new policy seeking to address pollution and other water quality issues, noting that watercourses around the parish presently achieve only “*moderate ecological status*”. However, I am aware that the Local Plan deals comprehensively with this issue through Policy EN14 Control of Pollution (covering pollution of surface or underground waters); Policy EN18 Maintenance of Water Quality and Quantity; and Policy EN22 Surface Run-off. There is no need to repeat these policies in full in the FNP, in my view, but I consider that a cross-reference to Policies EN14 and EN18 (as well as EN22 which is already mentioned on Page 14 of the FNP) would ensure general conformity with the Local Plan and contribute to the achievement of

sustainable development. **PM4** would secure these changes to enhance Policy F1 and should be made.

- 4.18 In addition to future development and flood risk, the identified key issues (which are followed by plan objectives and policies) cover transport including access to employment; education, community facilities and leisure; rural character and historic environment; open green space; and local medical facilities. I am satisfied that these are all relevant considerations for Feniton, which reflect local concerns and should be assessed in order to produce a well-rounded neighbourhood plan. The issues and objectives provide a good starting-point for policies which will meet the standards for neighbourhood planning set out in paragraphs 183-185 of the NPPF. I also consider that section 6 of the FNP, with its brief summary of development principles pertinent to national policy, the Local Plan and residents' consultation responses, provides a helpful reminder to readers of the context for the ensuing policies.

Specific Issues of Compliance of the Plan Policies

- 4.19 Objective 1 is to improve the connectivity between Feniton and major centres in East Devon, and only support development when proposed in conjunction with sustainable transport solutions. Policy T1 then sets out criteria for new development to mitigate the negative effects of additional traffic, and improve accessibility and safety on the roads. Having regard for section 4 of the NPPF, 'Promoting sustainable development', I consider that Policy T1 and its supporting text should be strengthened.
- 4.20 Regarding "*opportunities for the use of sustainable transport modes*", I recognise that people in rural settlements like Feniton are nearly always highly dependent on travel by private car. Nevertheless, more positive references to the train services from new Feniton on pages 12 and 13 would be helpful. The National Rail timetable shows that several trains a day are available to and from Exeter, taking 20-25 minutes. Services to and from London (some with a change at Exeter St David) take just over 3 hours and are also reasonably frequent. Compared with other small towns and larger villages in East Devon, Feniton has much potential for more sustainable travel because of the presence of the railway, in my opinion.
- 4.21 Paragraph 32 of the NPPF encourages the use of Transport Statements or Transport Assessments for development that generates significant amounts of movement. Plans should protect and exploit opportunities for the use of sustainable transport modes, and a key tool to facilitate this will be a Travel Plan (NPPF paragraphs 35 & 36). One of the benefits of a good Travel Plan which is properly monitored is that it can encourage people to reconsider their travel behaviour, and reduce their car usage in favour of public transport, walking and cycling, as well as car sharing.

Although major new housing development is not anticipated in Feniton in the near future which would trigger a Transport Statement and Travel Plan, there may be proposals to expand the primary school or modest development schemes which would benefit from such measures. Transport Statements and Travel Plans should be referenced in the FNP, in my view, having regard for national policy.

- 4.22 The FNP states that a genuine appetite for cycling was identified from consultation exercises, and I support the positive attitude to improving accessibility for walking and cycling taken in Policy T1. It is compliant with paragraph 26.9 and Policy TC5 of the Local Plan – Safeguarding Disused Railway Lines, which supports reuse of the Feniton to Budleigh Salterton and Exmouth line for cycling. However, the reference to this scheme in section 7.6 of the FNP and Policy O3, supporting better pedestrian and cycling access, should be moved to section 7.1 to give more comprehensive coverage of the important transport issue. To reinforce its commitment to promoting more sustainable travel patterns, the FNP could also refer to potential reductions in greenhouse gas emissions which can be achieved when car usage is reduced, having regard for paragraph 30 of the NPPF. I recommend **PM2** and **PM3** to ensure that the FNP contributes to achieving more sustainable transport development and meets the Basic Conditions.
- 4.23 Policy H4 states that developments which provide more parking spaces per dwelling than the minimum will be viewed favourably. Whilst this might reduce on-street parking, it could encourage higher levels of car ownership, thereby increasing not reducing traffic congestion. I am unaware of any evidence that Feniton experiences “*unique pressures*” over traffic congestion or parking. The approach in Policy H4 is not in general conformity with Policy TC9 of the Local Plan, and I consider that it is contrary to the achievement of sustainable development. **PM6** should be made so that Policy H4 meets the Basic Conditions.
- 4.24 Policies H1 and H2 provide for affordable housing and small-scale housing, and are largely in general conformity with Strategies 34 and 35 of the Local Plan. A small discrepancy occurs in Policy H2 which refers to person(s) in housing need who are residents of the Parish, or have a local connection with the Parish. I note that paragraph 16.29 of the Local Plan states that regard should also be paid for affordable housing need in surrounding Parishes; Feniton is grouped with Buckerell and Gittisham. To achieve general conformity with this approach, I consider that **PM5** should be made to Policy H2. Policy H3 provides useful guidance for prospective developers as to what is expected from Design and Access and Planning Statements. It should help to secure high quality development and satisfies the Basic Conditions.

- 4.25 Policies C1 to C3 address education, community facilities and leisure, encouraging the provision of new facilities and seeking to safeguard existing ones. At my site visit, I saw a wide range of these services and facilities helpfully listed and mapped in Appendix 3 to the FNP. I recognise the need for a robust approach to protect, manage and where feasible enhance existing provision. The policies are in general conformity with Chapter 15 of the Local Plan, ensuring vibrant rural areas, notably paragraph 15.14 which states that a key aspect of village and rural life is the close community bond that can be established through well-used and maintained facilities. However, I propose a small modification, **PM7**, to i) b) of Policy C3 for clarification, to ensure that it will effectively guide users of the Plan and contribute to the achievement of sustainable development. Otherwise, I conclude that the policies meet the Basic Conditions.
- 4.26 I am also satisfied that Policy M1 supporting the development of local medical facilities in accessible locations and to meet the community's needs satisfies the Basic Conditions. Objective 5 and Policy E1 concern protection of the rural character and historic environment. I have taken account of the consultation responses from Natural England and Historic England, who have proposed no changes to the FNP. I am satisfied that the Basic Conditions for neighbourhood planning are met on this matter.
- 4.27 Regarding Local Green Space, I consider that the last sentence on Page 18 should be moved forward as it relates to section 7.6 of the FNP. This, in the interests of clarity, would assist readers of the Plan and would be secured by **PM8**. The NPPF, paragraph 76, states that local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. Criteria for designation are set out in paragraph 77, which cautions that "*The Local Green Space designation will not be appropriate for most green areas or open space*". Bearing this in mind, and as a designation should be capable of enduring beyond the end of the plan period, I have scrutinised carefully the proposed Local Green Spaces (LGSs) in Appendix 2 of the FNP.
- 4.28 At my site visit, I saw that the village green, old Feniton, is a historic feature at the heart of the village close to St Andrews and its churchyard. As such its historic and local significance and central location make it appropriate to be designated an LGS. I also noted that the playing fields, Station Road behind the school and Fenton Sports and Social Club house, are clearly well-maintained and provide good sports' grounds/pitches for the local community. Their recreational value and proximity to the community, being close to residential properties along Mount View and Acland Park, makes them appropriate for designation as LGS, satisfying the criteria in the NPPF. Similarly, the play area at Ely Close with play equipment for young children, and the play area, The Signals, are small sites in the heart of residential areas which are suitable for designation, in

my view. I agree that the village green at new Feniton, with its triangular form, trees and bench provides an attractive green space along Station Road, close to the railway station and level crossing. It is in close proximity to the community it serves and meets the criteria for LGS designation. I confirm that I do not consider any of these sites to be extensive tracts of land.

- 4.29 Whilst the QE11 recreation ground is a more substantial site, it does not constitute an extensive tract of land in my view, and enables sport and recreation activities; it is centrally located, clearly well-used and looked after. It adjoins the Winchester Park site, where Appendix 2 advises that an informal wildflower meadow has been planted. Again, my view is that it is not an extensive tract of land. Given the recent new housing development at Winchester Park, the recreational value of the sites and their local significance, I am content that both sites should be identified as LGSs. There is some doubt, in my view, as to the status of the Bowling Club, old Feniton, since Appendix 2 states that its inclusion as LGS is subject to discussion with the landowner, and it is not mapped on Page 23. Having regard for the District Council's response to my letter dated 12 January 2018, I consider it should be clarified that this site is a "potential" LGS only at the present time. Its designation will be considered further when the FNP is reviewed in five years time. **PM9** would secure this.
- 4.30 Appendix 2 identifies a significant number of LGSs which could be considered excessive given the size of the two settlements, old and new Feniton. However, in view of the extent and intensity of the residential areas in new Feniton, and the character of each of the proposed LGS sites, I am satisfied that, subject to the proposed modification, Appendix 2 along with Policies O1 and O2 have had regard for national planning policy and should contribute to sustainable development. I note that the Environment Agency expressed its support for Policy O1, and Sport England raised no objection to the FNP. The policies meet the Basic Conditions.

5. Conclusions

Summary

- 5.1 The FNP has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the FNP, and the evidence documents submitted with it.

- 5.2 I have made recommendations to modify a limited number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

The Referendum and its Area

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The FNP as modified has no policy or proposals which I consider significant enough to have an impact beyond the designated neighbourhood plan boundary, requiring the referendum to extend to areas beyond the plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated neighbourhood plan area.
- 5.4 I commend the FNP Steering Group for producing a plan which is highly readable, sets out the issues for Feniton clearly and defines a comprehensive set of development principles and policies. I recognise that the Group has been working very diligently since 2014, to carry out meaningful consultation exercises so as to involve the local community, and to ensure that the necessary technical work was undertaken for a plan to meet all the legal requirements including the Basic Conditions. With the modifications which I have proposed, and subject to it passing through referendum, the FNP should provide a useful and powerful tool to guide future development in the Parish.

Jill Kingaby

Examiner

Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Page 9	<p>4.4 Delete the fourth paragraph and substitute:</p> <p><i>At the 5-year review of Feniton’s Neighbourhood Plan, the effect of any new housing requirement figures for East Devon District Council on Feniton will be assessed. If, at this time, East Devon District Council is looking towards the Strategy 27 communities to take some level of development, the wishes of the people of Feniton will be a major force for the choice of site(s) put forward.</i></p>
PM2	Page 12	<p>Policy T1 Modify criteria iii) and iv) to read</p> <p>...around the villages <i>of old and new Feniton</i></p> <p>Parking problems in the villages <i>of old and new Feniton</i></p> <p>Add a new criterion:</p> <p><i>v)development that would generate significant new traffic should be accompanied by a Transport Statement or Assessment, indicating how the adverse impact on the transport network and infrastructure could be mitigated, and including a Travel Plan designed to encourage more sustainable travel behaviour.</i></p> <p>Modify the second paragraph of the text following Policy T1 as follows:</p> <p>Public transport is considered <i>by local people</i> to be poor, <i>in spite of the fact that new Feniton unlike many other settlements in East Devon has an operational railway station.</i>and for villagers at least one car per household is essential.<i>Car ownership and car usage levels in Feniton are high.</i> The Local Futures</p>

		<p>Paragraph on Page 13 headed Sustainability.</p> <p>Add a final sentence to read:</p> <p>Where feasible and viable, support will be given to measures which would improve the provision of public transport services in Feniton, and encourage local people to use trains and buses (or cycling and walking) in preference to the private car. Reduced car usage reduces greenhouse gas emissions and air pollution which is harmful to health, as well as helping to reduce traffic congestion.</p>
PM3	Page12	<p>Relocate Policy O3 (regarding pedestrian and cycling) to Page 12, and renumber it as Policy T2.</p> <p>Add new supporting text as follows:</p> <p><i>The established footpath network around the Parish is detailed in Appendix 4. The provision of a cycle link utilising the previous railway line to Ottery and beyond to Budleigh Salterton is seen as an important objective to be achieved for the community. It was flagged up by the local population as important during consultation on the neighbourhood plan. It is also referenced in Policy TC5 of the Local Plan.</i></p> <p>Delete the last sentence of the supporting text to section 7.6 on Page 19 beginning: The provision of a cycle link.....</p>
PM4	Page 14	<p>Penultimate paragraph on flood alleviation</p> <p>Insert a new paragraph stating:</p> <p><i>Proposals for new development in Feniton should also comply with Local Plan Policy EN14 Control of Pollution, and Policy EN18 Maintenance of Water Quality and Quantity. Developers should also follow Devon County Council's guidance on Sustainable Drainage Systems on its website:</i></p> <p><i>https://new.devon.gov.uk/floodriskmanagement/sustainable-drainage/</i></p>
PM5	Page 15	<p>Policy H2 Modify the policy wording as follows:</p> <p>Proposals for small-scale housing</p>

		<ul style="list-style-type: none"> The affordable housing elementand is a resident of the Parishes <i>Feniton, Buckerell or Gittisham</i>, or has a local connection with the Parishes because of family ties
PM6	Page 15	<p>Policy H4 Modify the policy wording as follows:</p> <p>The Neighbourhood Plan willunique pressures faced by on road parking ie by proactively providing more parking space per dwelling than the minimum set out in the Local Plan. <i>Regard should be had for the parking spaces per dwelling standards set out in the Local Plan.</i></p>
PM7	Page 17	<p>Policy C3</p> <p>i) b) through an up-to-date assessment of the facility in its current form, or to provide for a use of a similar nature and is, <i>that the facility/use is no longer/cannot be made</i> commercially viable. To be redeveloped</p>
PM8	Pages 18 and 19	Remove the last sentence on Page 18 – A list of Feniton’s important Local Green Spaces Insert the sentence in section 7.6 Local Green Space, after the box for Objective 6 and before Policy O1.
PM9	Page 22	<p>Amend last item of Appendix 2 to read:</p> <p><i>Potential future LGS at the Bowling Club, old Feniton</i></p> <p>The Bowling Club (inclusion is subject to discussion with landowner). <i>The designation of this site will be considered further at the 5-year review of Feniton’s Neighbourhood Plan</i></p>
PM10	End of App 7	<p>Appeal sites in Fenton (Joint inquiry 2014)</p> <p>Append maps to show: Land adjacent to/north of Acland Park; Land west of Ottery Road; Land adjacent to Louvigny Close, Station Road.</p>