

John Slater Planning Ltd

Bury Neighbourhood Plan 2017-2032

Submission Version

A Report to the South Downs National Park Authority on the
Examination of the Bury Neighbourhood Plan

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Contents

	Page
Introduction	3
The Examiner's Role	3
The Examination Process	5
The Consultation Process	5
Regulation 16 Consultation	6
The Basic Conditions	7
Compliance with the Development Plan	7
Compatibility with EU Obligations and Human Rights Legislation	8
The Neighbourhood Plan: An Overview	9
The Neighbourhood Plan Policies	10
The Referendum Area	26
Summary	26

Introduction

Neighbourhood planning is a process introduced by the Localism Act 2011 which allows local communities to create the planning policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside, the Chichester District Plan adopted in 1999 which in time will be replaced by the South Downs National Park Local Plan. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

The neighbourhood plan making process has been led by Bury Parish Council. A Neighbourhood Plan Steering Group was appointed to undertake the plan preparation. Bury Parish Council is a “qualifying body” under the Neighbourhood Planning legislation.

This report is the outcome of my examination of the Submission Version of the Bury Neighbourhood Development Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum then the Plan will be “made” by South Downs National Park Authority, which is the Local Planning Authority.

The Examiner’s Role

I was formally appointed by South Downs National Park Authority (SDNPA) in August 2017, with the agreement of the Parish Council, to conduct this examination. My role is known as Independent Examiner.

In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 39 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both South Downs National Park Authority and Bury Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

- That the plan should proceed to referendum on the basis that it meets all the legal requirements.
- That the plan should proceed to referendum if modified
- That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.

Furthermore, if I am to conclude that the Plan should proceed to referendum I need to consider whether the area covered by the referendum should extend beyond the boundaries of area covered by the Bury Neighbourhood Plan area.

In examining the Plan, the Independent Examiner is expected to address the following questions

- a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
- b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
- c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body.

I am able to confirm that the Plan, if amended in line with my recommendations, does relate to the development and use of land covering the area designated by South Downs National Park Authority for the Bury Neighbourhood Plan on 12th December 2015.

I can also confirm that it does specify the period over which the plan has effect namely the period between 2017 and 2032.

I can confirm that the plan does not cover any “excluded development”.

There are no other neighbourhood plans covering the area covered by the Plan designation.

Bury Parish Council as a parish council is a qualifying body under the terms of the legislation.

The Examination Process

The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.

I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

I am satisfied that I am in a position to properly examine the plan without the need for a hearing. No parties have requested a hearing.

Towards the end of writing my report I did share my draft conclusions with the Parish Council regarding the evidence supporting the designation of Parish Heritage Assets and invited their comments. I have had regard to their responses made on 10th October 2017 and I will refer to their additional representations at the relevant sections of this report.

I carried out an unaccompanied visit to the area on 16th August 2017 to familiarise myself with the village of Bury and the hamlet of West Burton and the surrounding countryside. I made a return visit on 6th September following the receipt of the full set of documents. On that visit, I was able to witness for the first time in my life a kingfisher, which was perched upon a rail beside the River Arun at Bury Wharf. I had only previously seen them in flight. It really was a special moment.

The Consultation Process

The Parish Council secured the designation of the parish of Bury as a neighbourhood area in March 2015 and immediately established a steering group to be responsible for the preparation of the plan.

Early engagement with residents commenced with a coffee morning held on 7th November 2015 in the village hall, which was attended by approximately 40 residents. Following the session, attendees were issued with a leaflet and a frequently asked question (FAQ) sheet. This was followed up by the drop-in session held on 14th November 2015, which was attended by 53 people. These two events helped the steering group identify what issues were important to the local community.

The next stage of plan consultation was a series of three surveys, issued to residents, local businesses and visitors. The residents' survey was sent out to all households in early February 2016, and the business survey was distributed by email at the same time. In total 155 resident responses, along with 5 business survey responses and 8 visitor survey forms were returned.

The survey results allowed the steering group to generate the Plan's Vision and Objectives and allowed them to start drafting the plan's policies.

Following the publication of the draft South Downs Local Plan, which identified that Bury's neighbourhood plan needed to allocate a site(s) for six dwellings, a "call for sites" was issued in June 2016, which generated nominations for 8 sites. These are identified in the document "Assessment of Potential Housing Sites" along with a SHLAA site and an additional site identified by the Steering Group.

The Pre-Submission Consultation took place between 12th November 2016 and 24th December 2016, involving both statutory and non-statutory consultees. This stage is known as the Regulation 14 Consultation. The consultation process was launched at a drop-in session held on 12th November 2016, which was attended by 39 people and an exhibition was held every Tuesday and Thursday in the Village Hall, throughout the consultation period. This consultation in total generated 39 responses and these are summarised in the Consultation Statement.

I consider that everyone who wanted to had an opportunity to contribute to the plan and make their views known.

Regulation 16 Consultation

I have had regard, in carrying out this examination, to the comments made during the period of final consultation which took place between 12th July 2017 and 23rd August 2017. This consultation was organised by South Downs National Park Authority who had received the Submitted Plan, prior to it being passed to me for its examination. This stage is known as the Regulation 16 Consultation.

In total 12 responses were received from 10 statutory bodies and one local resident. These were from the South Downs National Park Authority, Historic England, Southern Water, Highways England, Natural England, Sports England, National Grid, Chichester DC, Environment Agency and West Sussex County Council. I will refer to the results of the Regulation 16 consultation where relevant in the specific sections dealing with the Proposed Policies.

The Basic Conditions Test

The neighbourhood planning examination process is different to a Local Plan examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.

The questions which constitute the basic conditions, consider whether the prescribed conditions are met and prescribed matters have been complied with. These tests seek to establish that the Neighbourhood Plan:

- a. Has had regard to the national policies and advice contained in the guidance issued by the Secretary of State and it is appropriate to make the Plan;
- b. Will the making of the Plan contribute to the achievement of sustainable development;
- c. Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area;
- d. The making of the Plan does not breach or is otherwise incompatible with EU obligations or human rights legislation, including the SEA Directive of 2001/42/EC;
- e. Whether prescribed conditions are met and prescribed matters have been complied with
- f. Whether the making of the Plan will have a significant effect upon a European site or a European offshore marine site (as defined in the Conservation of Habitats and Species regulations 2010(d)), either alone or in combination with other plans and projects?

Compliance with the Development Plan

To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Chichester Local Plan. This is now somewhat out of date having been adopted in 1999. However, a number of the policies are saved in 2007. The other adopted plan, but which is not relevant, is the West Sussex Waste Local Plan. This covers matters that cannot be considered by a neighbourhood plan.

In the adopted Chichester Local Plan, Bury is identified as a settlement having a settlement boundary and is therefore covered by Policy H2 which has a presumption in favour of residential development within the settlement boundary.

The neighbourhood plan has been prepared against the backdrop of the National Park Authority preparing its own local plan for the whole park, the South Downs Local Plan. At the time of the preparation of the neighbourhood plan, the latest version was the Preferred Options stage, which was the subject of public consultation in 2015. The National Park Authority has now published its Pre-Submission Version of the Plan which is subject of an eight-week consultation.

The South Downs Local Plan is still an emerging local plan, which has not been subject to its public examination and may change between the current version of the plan and the iteration that is finally adopted, which will be in 2018 at the earliest. The emerging policy does identify Bury as a village that will have a settlement boundary, with a housing allocation for 6 units. Its policies cannot be given full weight in terms of the basic conditions, however I am aware that there has been close working between the NPA and the Parish Council to ensure that the neighbourhood plan is based on up to date information. I have not received any representations that I should be considering a different figure for the Plan.

Compliance with European and Human Rights Legislation

On 29th August 2017, South Downs National Park Authority issued screening letter which addressed the issue as to whether the Bury Neighbourhood Development Plan should be the subject of a Strategic Environmental Assessment (SEA) as required by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”.

The National Park Authority issued its screening opinion to the effect that an SEA was not required.

The National Park Authority also confirmed in the same letter the view that a Habitat Regulation Assessment of the Bury Neighbourhood Plan is not required, under the Habitat Regulations. I have received no representations that there is any incompatibility with the European or Human Rights legislation and I am satisfied that this element of the Basic Conditions test is met.

The Neighbourhood Plan: An Overview

I must congratulate the Parish Council and the Steering Group on producing a well-researched neighbourhood plan, in what was a relatively short period of time. Its speed of production has not affected, in anyway, its quality or indeed, the robustness of its supporting evidence.

There are a couple of themes that I would wish to comment on. It is clear that there are a number of particularly important and valued areas within the plan area that the neighbourhood plan seeks to protect. However, the plan seems to place multiple designations on these sites, which would imply an additional level of protection. That is not the case. Indeed, it could be argued that attempts to protect an amenity without the necessary justification, actually devalues the importance of the other assets. In particular, I have had to recommend a number of parish heritage assets to be removed from the list. That is not to say the areas will be any more vulnerable to development or be any less protected, as a result of my recommendation. Neighbourhood plan policies have to be evidence-based and was generally the supporting evidence on this plan is sound, but there are some areas where insufficient justification for the policies have been given.

The plan has grappled with the task of allocating a housing site and I would applaud the systematic approach to site selection. It is an eminently suitable and sustainable location for new housing in Bury.

I have had to make recommendations for the rewording of some policies to bring them in line with national guidance, so as to ensure the plan as a whole passes the basic conditions tests. One particular policy where I have had to introduce new wording, is in relation to the protection of wildlife sites, which sought to apply the same level of protection to all sites considered to be important for wildlife rather than adopting a hierarchical approach, required by the Secretary of State.

In making my recommendations I have made specific proposals as to how the wording of the policy needs to be changed so as to meet the Basic Conditions. However, as a result of my changes to policies, some aspects of the narrative may require some additional editing where changes to the policy have been recommended. This will be a matter for the Parish Council and the National Park planners to work together on together. This may also be an opportunity to address other issues in the supporting text which is beyond the scope of my examination.

The Neighbourhood Development Plan Policies

BNDP Policy 1 – Settlement Boundaries

Policy SD22 on the emerging South Downs Local Plan identified Bury as one of the settlements within the South Downs that should have a settlement boundary. Furthermore, the National Park Authority is urging all neighbourhood plans with a settlement boundary to review their boundaries, using its published Settlement Boundary Review: Methodology Paper. Bury's existing settlement boundary was drawn by the 1999 Chichester Local Plan. West Burton does not have a settlement boundary and none is proposed.

The review has identified seven changes to the Bury settlement boundary, three of which is to include land within the settlement boundary and four where the extent is reduced.

I am satisfied that the review has been carried out in an objective and methodical manner and do not consider that I need to make any recommendations for changes to comply with basic conditions except to refer to the actual map number, for the sake of clarity. I have noted the comments of the local resident who has objected to the boundary line as it passes through his property and those of his neighbours but I can only recommend changes to the plan to meet the basic conditions and I do not consider that is required in this respect.

The other representation on this policy came from the SDNPA, that the boundary on the north of Church Lane should be drawn more tightly around properties and exclude large gardens and open spaces, because more intensive development of properties and accesses could impact on the character of the village and the conservation area. I noted on site that there is a difference in levels between the road and the land on the north side of Church Lane, and that is logical in my mind for the village envelope to follow the boundaries of the houses. Development which is damaging to the conservation area, can be resisted on that ground of harm to the Conservation Area.

Recommendation

Insert “3” after “MAP”

BNDP Policy 2– Built Character

I applaud the objective of the policy but I do have a number of recommendations, which respond to the Regulation 16 responses made by the SDNPA.

Criteria one requires a scheme to incorporate similar architectural features to buildings in the near vicinity. However, paragraph 4.8 of the plan refers to parts of the plan area that have been developed in modern styles and I am sure that the intention is not to replicate these. I will amend the proposed wording of the policy based on that

suggested by the SDNPA, who referred to “good” examples of traditional buildings in the village. I believe the use of “good” examples could be open to interpretation and lacks the precision required of a neighbourhood plan policy.

The wording of the second criterion refers to “Avoiding building materials that do not *sit well* in the parish.” Whilst I appreciate the sentiment behind the policy again, I do not consider that this is a form of wording that could be used with precision in the development management process. I will propose the drafting to say “that external materials should reflect the traditional palette of building materials found in traditional buildings within the parish.”

The final concern relates to the presumption against backland development, which is properly defined in the Glossary at the end of the plan. As the SDNPA has pointed out, some ancillary residential development is appropriately located in back gardens of properties. This can be reworded as a presumption against backland development “except ancillary residential buildings”.

Recommendations

In criterion 1, insert “traditional” before “buildings” and replace “near vicinity of the site” by “village”.

Replace the first sentence of criterion 2, by Development should use “External materials used should reflect the palette of materials found in traditional buildings within the Parish.”

At the end of criterion 4 insert “except ancillary residential buildings.”

BNDP Policy 3- Allocation for New Housing

Policy SD26 of the emerging South Downs Local Plan proposes a housing allocation of six units to Bury through the Local Plan or relevant Neighbourhood Plan to cover the next 15 years, in addition to committed and windfall development. This requirement is taken forward with this policy. I have had regard to the document “Assessment of potential housing sites.” This was collated from the “Call for Sites” and reconsidering SHLAA sites as well as a site identified by the steering group. In total 10 sites were assessed and I am comfortable with the objectivity of the assessment process.

I consider that the site proposed for residential allocation, currently occupied by the properties Jolyons and Robin Hill, and which involves a net increase of six units, comprising three no 3-bedroom semi-detached/detached dwellings and three no 2-bedroom semi-detached/terrace dwellings plus replacement houses for those demolished on the site of Robin Hill, to be a sustainable location for new housing in the village. The size of the proposed dwellings reflects the desire within the village to provide for smaller family units. The allocation also include requirement to provide a

communal open-space, both to act as a focus for the layout of the new homes and as an amenity space for the village generally. The policy includes a number of other criteria regarding design and layout.

The policy has the general support of the National Park Authority. It supports the principle of a high density at the southern end of the site, reflecting the existing settlement pattern. It does however have serious concerns that the illustrative layout shown in Figure 2 does not reflect the linear character of this part of the village, providing what appears more of a suburban cul-de-sac. I share their concern, the illustrative layout shows large detached houses with extensive gardens, which will not in reality deliver the type of housing the plan requires. I propose to remove reference for the development proposals to be in general conformity with the Illustrative Allocation Layout.

Whilst I propose to generally follow the SDNPA's suggested revisions, which will ensure that the allocation fully meets basic conditions, I do however believe that it would be necessary for a section of the hedgerow fronting The Street to be removed, if the communal open space created is to be visually integrated and be used by the rest of the village. If this open space were to be fully contained behind all existing hedges and could only be accessed from the west, it would not have visibility nor a spatial relationship or connection with the village. I have noted the possibility that the hedgerows could be used by bats but that will be a matter that will need to be fully addressed at planning application stage based on survey information which could include a mitigation strategy.

My final comment relates to the requirement in criterion (iv) for the development to "propose and deliver improvements to the existing island crossing point across the A29 between the site and the village school". I can appreciate the objective set out in the Plan, which is to try to reduce the barrier effect of the A29, which separates the school from most of the houses in the village. However, as this will be delivered as an offsite highway improvement, it would have to be the subject of a planning obligation. Under the terms of the Community Infrastructure Levy Regulations 2010, a planning obligation can only be a reason for granting planning permission if: –

- It is necessary to make the development acceptable in planning terms, and
- Is directly related to the development and
- Is fairly and reasonably related in scale and kind to the development.

My conclusion is that it is unreasonable for a site for only six small dwellings to be expected to fund and deliver unspecified improvements to the existing island crossing point across a major classified road. I do not believe that the marginal increase in the usage of the crossing, arising from the development, justifies that obligation to be placed upon it, bearing in mind that the SEA screening report points to a likely increase in the parish's population arising from this allocation, to be approximately 14 people. I

do not know whether there is a specific approved improvement scheme designed and ready to be implemented, or indeed, what the likely cost of the improvements required would be and importantly, whether it would be viable for the development to stand this level of additional cost. The evidence base document Getting Around, refers to there being only one island, but it appeared to me on my visit that the existing island is in a position that is close to the proposed housing site. I conclude that it is unreasonable for the housing scheme to be required to fund a further crossing point along the stretch of road. Overall I do not consider that this criterion meets the basic conditions, because of the conflict with Secretary of State advice and I will recommend that the criterion (vi) be deleted.

Recommendations

Insert “3” after “MAP.”

Insert at the end of the first paragraph “and publically accessible public open space. The redevelopment of the site will also require the redevelopment and replacement of the existing two dwellings”.

In the second paragraph delete “be in general conformity with Figure 2 – Illustrative Allocation layout and.”

In criterion (ii) add after “village” the following text “that is informal in character, accessible to the wider community; and in accordance with the landscape strategy for the site”.

Replace criterion (iii) with “the two replacements dwellings are to be laid out to the north of the site on the area identified as BDNP 3b; in order to provide a lower density of development that creates a suitable transition in settlement pattern from the existing more concentrated built up residential area out to the dispersed settlement edges”.

Insert at the beginning of criterion(v) “Reinforce local distinctiveness and”.

Delete all of Criterion (vi) and insert “Ensure that the design, layout and scale of development does not cause harm to the setting of the conservation area and the listed Manor House; and is informed by the topography of the site and mature landscaping within and around the boundaries of the site”.

Add a new criterion (viii) “Retain the trees and boundary hedgerows around the site, apart from a section of the hedgerow along the Street, to allow views into and pedestrian access to any communal open space, thereby to seek to preserve the verdant setting of the Conservation Area and to ensure that the development does not result in likely significant effects on the commuting foraging of the barbastelle bats associated with the Mens Special Area of Conservation.”

Delete the illustrative layout.

BNDP Policy 4– Unallocated Residential Development

The plan proposes a presumption against residential development on unallocated sites, known as windfall sites, which are larger than three units.

I consider that the policy needs to be clear and concise, and it should be more explicit to make it clear that schemes for development larger than three units will not normally be allowed. The justification for this restriction on larger developments is that Bury is not regarded as a sustainable location for large-scale development.

In this case, I consider that presumption against backland development is a valid policy aspiration.

Turning now to the policy for development outside the settlement boundary, I consider that the restrictions on the siting of rural exception sites would not be justified if only restricted to brownfield sites and not on agricultural land. Rural exception sites importantly need to be situated adjacent to settlement boundaries and I do not consider that a blanket presumption against agricultural land for rural exception housing is justified if the development is not on the highest grade of land quality and the site is acceptable in landscape terms.

I also consider that a new criterion should be included. Paragraph 55 of the Framework allows new homes in the countryside “where the development would reuse redundant or disused buildings and lead to an enhancement to the immediate setting”. The policy for windfall houses should allow for the conversion of such rural buildings.

Recommendations

Replace all of the first paragraph after “unallocated sites” with “(i.e. of 4 or more dwellings) will not normally be permitted”.

In the final set of criteria for development outside the settlement boundary, after “agricultural land” in Criterion (i) insert “(except for any rural exception sites)”.

In criterion (vi) insert after: “Conservation Area” the following “or its setting”.

Add a new criterion “(viii) Reuses redundant or disused buildings and leads to an enhancement to the immediate setting”.

BNDP Policy 5 – Sunken Lanes

From my site visit to the plan area I consider that this is an entirely appropriate, locally distinctive policy. My only concern surrounds the use of “should” in terms of the presumption against inappropriate development. I consider that it will give more

certainty to decision-makers to state that such development “must” preserve the sunken lanes as recommended by the SDNPA.

Southern Water has proposed an amendment to allow for essential utility infrastructure. In this instance, I do not accept that there will not be engineering solutions that allow the integrity of the sunken lanes to be protected.

Recommendations

In the first paragraph replace “should” with “must”.

In the final paragraph delete everything after “not be” and insert “permitted”.

BNDP Policy 6 – Historic Walls

If the policy covers all historic walls in the parish, then it is not necessary to show some of them on the Map, but if the intention is that historic walls should be identified, then all historic walls should be shown on the Map. At the moment, it implies a two-tier status and this could create uncertainty when proposals are considered and the wall is not identified as being covered by the policy. I propose the route of not showing any historic walls on the Plan and leaving it to the decision maker to assess whether the proposal affects a historic wall.

Rather than saying proposals “will not be supported”, I consider that as the neighbourhood plan will be the document referred to when planning applications are determined, then it would be more precise to refer to there being a presumption against any development which results in loss of a historic wall or part thereof.

Recommendations

At the end of end of the first paragraph replace “supported” by “allowed”.

Delete the final paragraph.

Remove the historic walls from the maps.

BNDP Policy 7 – Historic Orchards

I consider that the first paragraph of the policy is quite appropriate as traditional orchards are a UK Biodiversity Action Plan Priority Habitat. However, the planting of new orchards is not relevant to a policy related to *historic* orchards. Furthermore, the planting of new orchards is not, in itself, development and a neighbourhood plan can only have policies dealing with the “development and use of land”. That part of the policy should be moved either to the supporting text or alternatively marked as a Community Aspirations which is clearly differentiated from policies that will form part of development plan.

Recommendations

Delete the second paragraph.

BNDP Policy 8-Parish Heritage Assets

The neighbourhood plan proposes to designate a number of Parish Heritage Assets “to provide special protection against development for buildings and features with particular importance to local communities”. The important criterion is that to qualify as a “heritage asset” under this policy is that the asset must be a *building or feature*. I have read carefully the supporting document “Character, design and heritage assets” produced as part of the plan’s evidence base. I have had particular regard to the Assessment of the seven sites, set out in Appendix 2 - Detailed Assessment of New Designations. The Glossary to the NPPF describes a *heritage asset* as a: -

“building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage assets include designated heritage assets and assets identified by the local planning authority (including local listings)”.

The Steering Group Chairman has disagreed with my original interpretation, wherein I interpret their reference to “features” as only being “physical features”, which he says was not their intention. He points to the Oxford English Dictionary’s definition of *feature* as “a distinctive attribute or aspect of something”. However, I have searched on the Historic England database and I found no reference to historic footpaths being protected as heritage assets in their own right, although there are many examples of walls, railings, steps, sign posts, associated with a historical route. To follow the logic of argument being promoted, the plan should have designated the historic walls, and the sunken lanes also as Parish Heritage Assets. Equally I do recognise that the NPPF definition does include “places” or “sites” and so long as there is specific evidence of their historical importance to which the community attaches importance then a case can be made for their being recognised as a non-designated heritage asset.

The methodology used a set of locally derived criteria, to establish whether the proposed *building or feature* merits designation as a heritage asset. Notwithstanding the lack of objection from Historic England, I do have some concerns regarding the applicability of some of the criteria, which appears to attach historical importance and hence a need for their protection, when their importance to the Parish are more appropriately covered by other policies of the Plan. I would give the following examples:

– *Demonstrably special to a local community* “if the building plays a special role by providing important community or amenity facilities that are not replicated elsewhere in the village”.

– *Longevity of the assets in the community's interest* “an asset's community value may relate to its actual (e.g. providing amenity space) or perceived (e.g. symbolic significance) value.

I have to assess whether the 7 designated assets meet the definition of being “heritage assets” rather than amenities that are important to the village and which can be protected by other policies/designations. I set out my conclusions in terms of each proposed designation:

Ref 1: The historic black-and-white WSCC finger post. I consider that this meets the criteria by being a physical feature which is important to the village as the only remaining historic signpost in the village which also records the location of the defunct ferry.

Ref 2: The Coffin Trail– This is a public right-of-way, which like many footpaths in the countryside owe its existence to the historic routes used by parishioners, in previous centuries, for moving about the area, prior to the arrival of motorcar. Its particular importance to the Parish is that the route follows the same alignment, from when the coffins of the deceased were carried from West Burton to the Parish Church for burial in the churchyard. I am satisfied that this route does have a historic resonance which the local community wish to protect.

Ref 3: The Serpent Trail- There is a short section of this long-distance path within the plan area. The Serpent Trail was created in 2005 and whilst it may be “a much enjoyed popular trail used regularly by many parishioners” and it may be “a tranquil and beautiful amenity with outstanding views” or passes through an area of particular ecological importance for the “extremely rare species of field cricket”. That in itself or collectively does not justify this section of a long-distance footpath's designation as a heritage asset. The Parish Council have confirmed that it agrees that the designation should be removed.

Ref 4: The Wharf and Common Land at the Wharf - I fully accept that this area does have historic importance to the village, which is already recognised and protected as a location by being part of the conservation area. The further representations point to the absence of a Conservation Area Appraisal or Management Plan. However, I do not consider that should diminish the status of the Conservation Area. Local Planning Authorities have a statutory duty in carrying out their responsibilities, to preserve and enhance the character or appearance of these areas. That legislative requirement equally applies to the consideration of planning applications. That is again a much higher level of protection than designation as a “Parish Heritage Asset” in a neighbourhood plan. This area is also to be protected as a Local Green Space which is more appropriate than a policy that relates to a heritage building or feature. I understand that the parishioners enjoy historic rights to store boats on the land, but

that reinforces the area as a local amenity for residents. I am not persuaded that it should remain as a Parish Heritage asset.

Ref 5: The Pill Pond - The assessment does not explain why the pond is of historical interest. The supporting text refers to its amenity value but I have no basis for understanding its heritage value. Accordingly, without the evidence I cannot recommend its designation as a historic asset. The Parish concedes that it should be removed

Ref 6: Bury Sandpit - Again the assessment does not say why this area is of historical importance except that it is an “ancient quarry”, that is said to be of geological importance and it is “common land” and has tranquillity. I do not have the evidence on which to conclude it is a heritage asset. Again, no further evidence has been submitted and the parish appear to accept that it should be removed.

Ref 7: Bury and West Burton Cricket Club Pavilion and recreation grounds - This facility at least does meet the plan’s criteria for being a building. I note that originally the pavilion was built in the 1950s but now understand it was built in the 1930s and this would not in my mind justify designation as a heritage asset. I note that the club was established in 1745 and I have now been informed that cricket has been played on this site since the 1870s. Again, this asset is better protected by being a protected recreational facility, as well as a Local Green Space but I now accept the cricket club and pitch should be defined as a Parish Heritage Asset.

Ref 8: Bury Church of England Primary School - I am satisfied that the original school buildings do warrant designation as a heritage asset as it dates back to 1844. However, I do not consider that the modern extensions or the school grounds should be protected as a heritage asset notwithstanding that they are an important part of the community.

In terms of the policy itself, these Parish Heritage Assets will be classed, in the terminology of the NPPF, as “non-designated heritage assets” The determination of any application affecting the asset or its setting will have to consider the significance of the asset, requiring the making of a judgement as regards the scale of harm or loss resulting from any development and the significance of the heritage asset.” The requirement to have to submit a heritage statement, cannot be imposed by a neighbourhood plan policy, as previously referred to, but a planning application can be expected to describe the significance of the asset and the effect of the development on that significance.

The Steering Group Chairman has forwarded to me some suggested revisions to the justification of the policy. I would have no objections to the revised wording but they do not form part of my recommendations.

Recommendations

In the second paragraph delete “provide a heritage statement” and insert “describe the impact of the development on the significance of the heritage asset”.

Delete Heritage Assets 3,4,5, and 6 from the policy and the Map.

In 8. (to be renumbered) add at the start “The original school buildings at”.

BNDP Policy 9 - Recreational and Community Facilities

The first element of the policy makes it a requirement that any development must be of benefit to the local community. However, I do not consider that this requirement would be justified in every case. For example, the 7th facility on the list, is a “catchall” for any future designated assets of community value. Clearly these are not known at this stage, but I note from the text that it is possible that an application will be made by the Parish Council, for the Squire and Horse Public House to be registered. Should in the future, a planning application be submitted to improve living accommodation at the pub, then according to this policy as drafted, that would not be “supported”. I believe that the adequate protection to these facilities is given by the second paragraph of the policy.

To avoid confusion, the appropriate terminology is that Assets of Community Value are *registered*, not *designated* by District Council.

Sports England do not consider that the policy complies with paragraph 74 of the NPPF which provides for a presumption against the loss of a building on sports grounds unless 3 criteria are met. I do not consider the plan needs to be changed as the only sports ground in the plan is the Recreation Ground which is protected in any event by being designated as Local Green Space.

Recommendations

Delete the first paragraph.

In 7. Replace “designated” by “registered”.

BNDP Policy 10- Local Green Space

I have no concerns regarding the identification of the five areas of local green space. Their justification is fully set out in document “Open Spaces and Assets of Community Value.”

In terms of the policy, the wording states that local development proposals “should be assessed in a way consistent with national policy from Green Belts”. Whilst this is the wording set out in paragraph 78 of the NPPF, this requires reader of the policy to

reference a range of possible Green Belt appropriate uses, set out in paragraph 87 - 89 of the Framework, which are not really directly relevant to the sites being put forward at Bury. I believe that it will be clearer to all users of the policy to use the wording set out in paragraph 76 of the Framework, that also relates to Local Green Space, which is to “rule out all development other than in very special circumstances”.

Recommendation

Amend first sentence of policy to include reference to map BNDP Map 3.

Replace the final paragraph with “There will be a presumption against all development on Local Green Space except in very special circumstances”.

BNDP Policy 11 – A Strong Local Economy

This policy is based on protecting key employment sites by ensuring that there is no net loss of full-time equivalent jobs as a result of development. This is not a deliverable or workable policy. Development management decisions are made on the acceptability in land use terms, which will be on the basis of floorspace allowed and the use of buildings. Employment levels are not controlled through planning decisions alone and they will vary through the economic cycle, the introduction of new technology or be dependent on the success or otherwise of companies or organisations. It is not possible for planning decisions to be based solely on the fact of whether there will be a net gain or loss of jobs arising from the development, even if the information is known at application stage.

I consider that the only way the objectives of the policy, which aims to protect the key employment sites, is to adopt a policy that maintains their commercial usage by preventing changes of use or development for other uses. However, it will not be in the interests of the local community if sites remain empty, for example, if the company goes out of business. I therefore propose to impose a test that will allow the change of use of such sites if a marketing exercise demonstrates that a new occupier for those premises cannot be found.

The policy regarding *large-scale economic development* is too loose a phrase to be capable of being used in development management decisions. In the absence of a definition of what constitutes “large-scale economic development” the policy does not provide a viable basis for taking decisions. As SDNPA has pointed out there are other policies in the development plan, in both the existing and emerging plans that can prevent the type of large-scale development that the policy seeks to resist. Equally there is protection in paragraph 116 of the NPPF. I will propose the deletion of that part of the policy in my proposed rewording of the policy.

Recommendations

Replace the policy wording with “There will be a presumption against the redevelopment (for a different use) or the change of use of the Key Employment Sites as shown on Maps 1 and 3 for any other non-employment uses unless it can be demonstrated by way of evidence that the site has been actively marketed over a 12-month period and a new occupier of the site cannot be found which retains its employment use”.

BNDP Policy 12 – The Small-Business Economy

The plan suggests that support will be given to a commercial development, if it falls within the cited four categories of business. By implication any application that related to other economic sectors would be opposed. I will be recommending that this part of the policy be removed, as it would, for example, prevent development based on tourism or the occupation of redundant buildings for employment purposes. This would conflict with national policy which seeks to “support the sustainable growth and expansion of all types of business and enterprise in rural areas”, and will also fail the basic condition of assisting the delivery of sustainable development as well as conflicting with Secretary of State advice.

It has been pointed out that many small businesses will operate from outbuildings or annexes which may be in the rear garden of residential properties, which may be prevented as “backland development”. That concern can be resolved by exempting ancillary residential buildings used by the householder for employment purposes.

In terms of the remainder of the policy I have no comments except with regard to the last criterion, relating to “an increase in traffic (particularly HGVs and other commercial traffic) in narrow Parish roads and lanes”. The NPPF in paragraph 32 states that “development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe”. The SDNPA has suggested that the policy be amended to refer to “*harmful*” increase in traffic. I will accept that qualification.

Recommendations

Delete the first paragraph.

In criterion (ii) add after “Back-land” the following “except the use of ancillary residential buildings used by the householder as their workplace”.

In criterion (v) insert “harmful” before “increase”.

BNDP Policy 13 – South Downs National Park

This is a general policy, which is not specific to the plan area and accordingly is not appropriate to a neighbourhood plan, which should be about delivering planning

policies specific to the neighbourhood plan area, rather than to the national park as a whole. I proposed to delete the policy as not being specific to the locality. The Planning Practice Guidance states that “neighbourhood plan policies should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it is being prepared”.

Recommendation

That the policy be deleted.

BNDP Policy 14 – Landscape and Views

I consider that if views are to be protected by this policy, it is important that an applicant or decision maker, should be able to know, with confidence, whether the proposal under consideration, will affect or be affected by any of the identified views. To ensure that there is no ambiguity, I will make a recommendation that the eight viewpoints should be identified on a plan with a cone of visibility indicated. This is a concern shared by the SDNPA, who should be able to provide the Parish Council with advice on how this is to be best illustrated on a map. The policy should not introduce any ambiguity that “other views” are required to be protected and I will be recommending that the word “include” should be deleted.

The final paragraph of the policy requires the submission of a Landscape and Visual Impact Assessment for proposals that are likely to have a negative impact on views and the landscape. This raises two issues. A planning policy cannot require a planning application to be accompanied by specific planning document. Such a requirement can only be made by the document inclusion within the Planning Authority’s Local Validation List that sets out what documents are required to accompany specific types of planning application. The objective of the policy can be achieved by proposals being required to demonstrate they will not have a detrimental impact on the landscape. Secondly that requirement should be imposed on all applications rather than just those that are like to have a negative impact, as it is not appropriate for the applicants to be expected to assess, whether their proposals will have a negative impact on the landscape or views and hence have to produce the assessment.

Recommendations

That the viewpoints and a cone of visibility be shown a map to be included in the Plan.

In the second paragraph after “preserving” insert “the following” and delete “which include”.

Replace the final paragraph with “Development proposals outside the settlement boundary will be expected to demonstrate that they will not have an adverse impact on the above views or the landscape generally.”

BNDP Policy 15 – Tranquillity

The policy as written, implies that all parts of the plan area would qualify as “tranquil”. During my site visits I experienced different levels of “tranquillity” across the area, for example, outside the nursery site along the A29 is a very different experience compared with other parts of the parish, away from this busy road. I would propose to refer to *relative tranquillity*– rather than a policy based on an expectation that the whole plan area is uniformly tranquil.

Recommendation

Insert “relative” before “tranquillity”.

BNDP Policy 16 – Dark Night Skies

Sports England object to the policy as being unnecessarily restrictive. I consider that the policy is in line with the aspiration of paragraph 125 of the Framework and no amendments are required to meet basic conditions.

BNDP Policy 17 – Woodlands and Trees

I consider that the first paragraph of policy is more a justification for the policy which is actually set out in the second paragraph. The first paragraph will therefore be recommended to be deleted. The policy is slightly out of line with the Secretary of State’s policy set out in paragraph 118 of the NPPF which presumes against the loss of important trees and woodland “unless the need for and the benefits of development in that location outweighs the loss”. I will propose an amendment to bring in line with Secretary of State policy.

Recommendations

Delete the first paragraph.

At the end of the second paragraph “unless the need for, and the benefits of, the development at that location clearly outweigh the loss.”

BNDP Policy 18 - Local Habitats

There is an issue with this policy as drafted, as it offers the same level of protection to internationally and nationally designated sites as locally designated sites and other habitats. That is not in accordance with the hierarchy of protection set out in paragraph 113 of the Framework which require that the level of protection “is commensurate with their status” and “given the appropriate weight to their importance and the contribution to wider ecological networks”. The plan area includes Special Areas of Conservation, Special Protection Areas, Ramsar Sites, which are all international designations, as well as two national recognised Sites of Special Scientific Interest (SSSIs).

It is important that the policy should recognise the different levels of protection and I will propose an amendment to reflect the hierarchical approach set out in the NPPF.

Recommendation

Replace the policy with “Development proposals that conserve and enhance biodiversity and geodiversity and comply with other relevant policies and European and National Legislation will be permitted, provided that they are in accordance with the requirements and hierarchy of designation set out below. Development proposals that have an adverse impact on biodiversity, which cannot be adequately avoided, mitigated or compensated for, or which harm the special qualities will be refused.

2. Development proposals should give particular regard to ecological networks and areas with high potential for priority habitat restoration or creation and should:

- a) retain, protect and enhance features of biodiversity and ensure appropriate management of those features; and**
- b) ensure that any adverse impacts (either alone or in-combination) are avoided, or, if unavoidable, minimised through mitigation with any residual impacts being compensated for (having regard to the hierarchy of designation).**

3. The following hierarchy of designation will apply:

(i) International Sites: i.e. Arun Valley Special Area for Conservation and Special Protection Area (SPA), Amberley Wildbrooks Ramsar Site and Bignor Escarpment Special Area of Conservation.

If a development proposal is considered likely to have a significant effect on one or more international sites, an Appropriate Assessment (AA) will be required (the need for AA should be assessed at the Habitat Regulations Assessment (HRA) Screening stage).

Development proposals that will result in any adverse effect on the integrity of any international site which cannot be either avoided or adequately mitigated will be refused unless it can be demonstrated that there are:

- a) no alternatives to the proposal;**
- b) imperative reasons of over-riding public interest why the proposal should nonetheless proceed; and**
- c) adequate compensatory provision secured.**

(ii) National Sites: i.e. Arun Valley and Duncton to Bignor Sites of Special Scientific Interest (SSSI)

Development Proposals considered likely to have an adverse effect on national sites will be required to assess the impact by means of an Ecological Impact Assessment.

Development Proposals that will result in any adverse effect on the integrity of any national site which cannot be either avoided or adequately mitigated will be refused, unless exceptional circumstances are clearly demonstrated.

(iii) Local Sites: Local Wildlife Sites i.e. Arun Valley, Waterfield to Arundel, Coombe Wood, Horncroft Farm Pasture and Lords Piece

Development proposals considered likely to have an adverse effect upon local sites will be required to assess the impact by means of an Ecological Impact Assessment.

Development proposals within locally designated sites will not be permitted unless they are necessary for biodiversity or geodiversity management work or can demonstrate no adverse impact to the biodiversity or geodiversity interest.

(iv) Outside of designated sites: locally important habitats i.e. Grass Verges (including Notable Grass Verges), Sunken Lanes and quarries, Wetland habitat, chalk streams and ponds, heathlands, Woodlands and Orchards and hedgerows:

Development proposals will, where appropriate, be required to contribute to the protection, management and enhancement of the biodiversity of these areas.”

BNDP Policy 19 – Permissive and Public Rights of Way

As previously referred to, a neighbourhood plan policy cannot require the planning application to be accompanied by a specific document, in this case a Rights of Way Impact Statement. The policy can be amended to achieve the same outcome by requiring applications to demonstrate how they have taken account of the right of way. This can be achieved with an amendment to the second and final paragraph of the policy.

Recommendations

Delete the second sentence of the second paragraph

Replace the final paragraph with “Where development affects a permissive or public right of way, the application will be expected to show how the development will impact the right of way and describe any mitigation measures needed to address any adverse impacts on users of that right of way.”

BNDP Policy 20 – Parking

I note that the Chichester Parking Standards are shown on the District Council’s website, under Supplementary Planning Documents and Policy Guidance. I am

unclear whether this is still an adopted SPD document or merely the extant County standard, but the document is somewhat out of date in that it refers to maximum levels of parking which was a reflection of transport thinking at the time. In any event, the text on the website states that the guidance excludes residential development. It is appropriate for the neighbourhood plan to have a residential parking standard. I have seen no supporting evidence but in my experience and judgement, the proposed residential guidance figure is reasonable, for what is a rural area. However, the “Other Uses” section does not actually set a standard but points out that parking will be dependent upon the business requirements and level of use. I will therefore propose the deletion of that part of the policy.

Recommendation

That the section of the policy entitled Other Uses be deleted.

BNDP Policy 21- Creating a safer public realm

I have no comments to make on this policy

The Referendum Area

If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Neighbourhood Plan as designated by South Downs National Park Authority on 12th December 2015 is the appropriate area for the Referendum to be held and the area for the referendum does not need to be extended.

Summary

This is a locally distinctive plan that offers protection to the main village of Bury and the other settlements from inappropriate development. This is a really beautiful area within the South Downs National Park. The plan will provide the sound basis for decision making in the area over the next decade and a half. It strikes the right balance between protecting what is important to the community, at the same time taking the initiative in allocating a site to meet the parish’s future housing needs.

Finally, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test.

John Slater Planning Ltd

I am therefore delighted to recommend to South Downs National Park Authority that the Bury Neighbourhood Development Plan, as modified by my recommendations, should now proceed to referendum

JOHN SLATER BA(Hons), DMS, MRTPI

John Slater Planning Ltd

20th October 2017