

INDEPENDENT EXAMINATION OF THE BOUGHTON AND DUNKIRK

BOUGHTON AND DUNKIRK NEIGHBOURHOOD PLAN

EXAMINER: Derek Stebbing BA (Hons) Dip EP MRTPI

Councillor Jeff Tutt
Chairman Neighbourhood Plan Working Group

Jill Peet
Swale Borough Council

Examination Ref: 01/DAS/B&DNP

23 August 2022

Dear Councillor Tutt and Ms Peet

BOUGHTON AND DUNKIRK NEIGHBOURHOOD DEVELOPMENT PLAN EXAMINATION

Following the submission of the Boughton and Dunkirk Neighbourhood Plan (the Plan) for examination, I would like to clarify several initial procedural matters. I also have a number of questions for Boughton under Blean Parish Council and Dunkirk Parish Council (the Qualifying Body) and Swale Borough Council (the Council), to which I would like to receive a written response(s) by **Friday 9 September 2022**.

1. Examination Documentation

I can confirm that I am satisfied that I have received the draft Plan and accompanying documentation, including the Basic Conditions Statement, the Consultation Statement, the Strategic Environmental Assessment and Habitat Regulations Assessment Screening Report and the Regulation 16 representations, to enable me to undertake the examination.

Subject to my detailed assessment of the Plan, I have not at this initial stage identified any significant and obvious flaws that might lead me to advise that the examination should not proceed.

2. Site Visit

I will aim to carry out a site visit to the neighbourhood plan area during the week beginning 5 September 2022. The site visit will assist in my assessment of the draft Plan, including the issues identified in the representations.

The visit will be undertaken unaccompanied. It is very important that I am not approached to discuss any aspects of the Plan or the neighbourhood area, as this may be perceived to prejudice my independence and risk compromising the fairness of the examination process.

I may have some additional questions, following my site visit, which I will set out in writing should I require any further clarification.

3. Written Representations

At this stage, I consider the examination can be conducted solely by the written representations procedure, without the need for a hearing. However, I will reserve the option to convene a hearing should a matter(s) come to light where I consider that a hearing is necessary to ensure the adequate examination of an issue, or to ensure that a person has a fair chance to put a case.

4. Further Clarification

From my initial assessment of the Plan and supporting documents, I have identified a number of matters where I require some additional information from the Council and the Qualifying Body.

I have eight questions seeking further clarification and information, which I have set out in the Annex to this letter. I would be grateful if you can seek to provide a written response(s) by **Friday 9 September 2022**.

5. Examination Timetable

As you will be aware, the intention is to examine the Plan (including conduct of the site visit) with a view to providing a draft report (for 'fact checking') within 4-6 weeks of submission of the draft Plan. However, as I have raised several questions, I must provide you with sufficient opportunity to reply. Consequentially, the examination timetable will be extended. Please be assured that I will aim to mitigate any delay as far as is practicable. The IPE office team will seek to keep you updated on the anticipated delivery date of the draft report.

If you have any process questions related to the conduct of the examination, which you would like me to address, please do not hesitate to contact the office team in the first instance.

In the interests of transparency, may I prevail upon you to ensure that a copy of this letter is placed on the Qualifying Body and Council websites.

Thank you in advance for your assistance.

Your sincerely

Derek Stebbing

Examiner

ANNEX

From my initial reading of the Boughton and Dunkirk Neighbourhood Plan 2022-2031 and the supporting evidence, I have the following questions for the Qualifying Body and the Council. I have requested the submission of responses **by Friday 9 September 2022**, though an earlier response would be much appreciated. All of the points set out below flow from the requirement to satisfy the Basic Conditions.

Question 1: Re. The Plan Period (Front Cover and Page 8)

As drafted, neither the Plan nor the Basic Conditions Statement state the commencement date for the Plan period to be covered by the Plan.

The Plan is clearly intended to extend until 2031. From my interpretation of the material in the Plan, and particularly as it takes account of the National Planning Policy Framework 2021 and Land Registry data from early-2022, I consider that the commencement date of the Plan period is 2022. The Plan period will need to be identified on the front cover of the Plan and in the Plan's introductory section.

Can the **Qualifying Body** please confirm that the commencement date for the Plan is **2022**?

Question 2: Re: Swale Local Plan Review (Page 17)

Can the **Council** please confirm whether or not the commentary at paragraphs 5.4.2 and 5.5.1 (and Maps III and IV) regarding proposed developments within the Plan area that are being considered as part of the Swale Local Plan Review is accurate and up to date.

Can the **Council** also please confirm that the statement at paragraph 5.5.1 that "*There are currently proposals for 24,000 new houses in our area*" (my emphasis) refers to either the whole of the Borough Council area or possibly a wider area than that. I am also unclear whether this refers to existing commitments (up to 2031) or for proposals that will extend beyond 2031, or for both.

Finally, can the **Council** please provide me with the latest available timetable (of key milestones) for the preparation and examination of the Local Plan Review.

Question 3: Re. Policy H7 (Page 22)

I presently have some concerns about the content and proposed implementation of this draft Policy. Objective 3 (at paragraph 5.13.5) states that the implementation of the Policy will be secured by Section 106 agreements, although this is not made clear in the Policy itself. Clause ii) of the draft Policy requires a justification on health grounds, but there is no explanation or definition as to how this will be considered and assessed. I do not consider that such health grounds are an appropriate matter for inclusion in a Section 106 agreement of this nature. Clause iii) of the Policy infers some degree of vetting by the Parish Councils of the merit and need of potential purchasers and occupants of new dwellings, which I presently interpret as meaning the establishment of "*a proven local connection*".

I consider that, as drafted and notwithstanding the content of document BD5, this Policy exceeds the normal tests for providing new homes to meet local needs, by introducing criteria that could potentially be in conflict with both national policies and the strategic policies of the Council.

I therefore invite both the **Qualifying Body** and the **Council** to provide me with their comments on how this Policy should be redrafted to align with other draft Policies in the Plan, notably Policies H1, H3 and H4, and/or whether the Policy is indeed necessary at all bearing in mind the content of Policies H1, H3 and H4.

Question 4 – Re. Policies T1, T2, T3, T6, T7, T8 and T10 (Pages 26 and 27)

As drafted, these are not land-use planning policies, but are instead statements of intent regarding existing or possible future highways conditions, or to promote improvements etc. which are the responsibility of the Highways Authorities (rather than the Local Planning Authority).

However, I do consider that the Plan could address some of these issues in the form of land-use planning policies by including Policies which seek to promote sustainable modes of transport (walking, cycling and public transport) in the Plan area, such as the establishment of “Walking for Health” routes, related to an Objective that seeks to achieve sustainable development within the Plan area. Where appropriate, it may be possible to secure some of the desired improvements by planning obligations linked to planning permissions.

Alternatively, the content of Policies T1, T2, T3, T6, T7, T8 and T10 can remain in the Plan, not as Policies but as supporting statements to the presently drafted Objectives.

I therefore invite the **Qualifying Body** to provide me with a note on how they wish me to proceed with regard to this matter. If appropriate, you might seek to provide me with revised text for draft Policies (which will need to utilise the existing text as far as is practicable) that address the land-use planning aspects of the issues covered, including, if necessary, an Objective that seeks to promote sustainable modes of transport, that I may consider as potential modifications to the Plan. However, you will appreciate I cannot recommend wholly new, unrelated Policies so this approach must be subject to some constraint.

Question 5 – Re. Policy BE2 (Page 29)

As this Policy is presently drafted, I am unclear what constitutes in land use planning terms “*the treasured character of the Neighbourhood Plan environment*” as it may affect proposals for commercial development. The Policy will be very difficult to implement in the absence of a clearer understanding, both within the Policy and within its supporting material, of the factors that should be taken into consideration by future users of the Plan and those considering new commercial developments, to ensure that they can comply with this Policy.

I therefore invite the **Qualifying Body** to provide me with a clarificatory note indicating the sort of land-use planning criteria that might reflect the treasured character of the Plan area and which would impact specifically upon the consideration of proposals for commercial development, which I may then consider as possible development and design criteria for inclusion in the Policy to meet the Basic Conditions. I consider that this may need to include cross-references to Policies in Section 10 of the Plan.

Question 6 – Re. Policies EP1, EP2, EP3 and EP4 (Pages 33 and 34)

As presently drafted, each of these Policies is technically a statement rather than a valid land-use planning policy. Furthermore, Policy EP2 covers, in part, highways matters, e.g. traffic flow.

In my assessment, the main issue being addressed by this section of the Plan is to ensure that the facilities at the Boughton and Dunkirk Primary School, either at its existing site or at an alternative site, are able to meet the needs of the children of existing and new residents. I consider that draft Policies which seek to address that issue, and linked to material presently within Policies EP1, EP2 and EP3, should be drafted, and linked if appropriate to planning contributions to be secured by Section 106 agreements attached to planning permissions for new developments in the Plan area.

I therefore invite the **Qualifying Body** to provide me with a note, to set out the text of revised Policies (utilising the existing text as far as is practicable) that seek to address/focus on the land-use planning aspects of the issues covered in this section of the Plan, that I may consider as potential modifications to the Plan. Again, as noted under Question 4. above, I cannot recommend wholly new, unrelated Policies so the scope of this proposed approach is constrained.

Question 7 - Re. Policy E8 (Page 38)

This Policy stipulates that a minimum 20% net gain in biodiversity (BNG) for developments against baseline conditions is required. This exceeds the minimum level of at least 10% set out in national policy.

Can the **Council** please confirm that they are content for a minimum level of at least 20% BNG to be required for developments within the Plan area, in the context of policies for the Borough as a whole.

Question 8 – Re. Map X - Landscape Character Areas (Page 38)

This map is crucial to the interpretation of Policies in Section 10 of the Plan. However, as presently produced it is difficult to interpret, being of a very small-scale.

Can the **Qualifying Body** or the **Council** please provide a larger-scale map, probably at A4 size, and if necessary, with further inset maps, that can be inserted into the Plan, as a potential modification.