

Bramley Neighbourhood Development Plan

'Health Check' Review Report for Bramley Parish Council

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16 March 2016

Context

NPIERS offers a service whereby suitably qualified and experienced reviewers will undertake 'health checks' on emerging Neighbourhood Development Plans or Orders. The 'health check' is an independent desk based review designed to help both the qualifying body and the local planning authority to identify issues that may cause delay or rejection of Plans or Orders at the submission or independent examination stages.

The 'health check' considers whether there are any obvious problems in meeting the basic conditions and other legal requirements. A 'health check' imitates a formal examination but is less comprehensive and only deals with the Plan or Order, and where requested, the Basic Conditions and Consultation Statements, but not including background documentation or processes. A 'health check' does not involve re-writing the Plan or Order but provides general advice on what changes need to be made. The 'health check' is advisory only and has no legal status.

Findings

Work is underway to achieve a Neighbourhood Development Plan (NDP) for Bramley. Pre-Submission consultation on the NDP was undertaken between 29 June and 19 August 2015. Progress has been made to the point where a Submission Draft Neighbourhood Plan document has been prepared dated January 2016. I was engaged to prepare this 'health check' report during March 2016.

From my review of the Submission Draft Plan it is evident that considerable effort has been put into working on the Bramley Neighbourhood Development Plan over the past three years. The Bramley NDP has been advanced by a Steering Group that includes parish councillors and volunteers from the local community. The Plan has been developed through wide consultation. The inclusive approach to engaging key stakeholders has clearly been most successful.

This 'health check' review has found the NDP to be of a high quality standard and demonstrably grounded in local opinion. With some adjustment, the Plan has the potential to offer a sound basis for future decision making in respect of planning proposals emerging in the plan area over the next 13 years. It is a particular strength of the Plan that it focuses on those issues that are central to local community aspirations.

The findings of this review have led to the making of a small number of recommendations on matters to be addressed and these are set out below. Paragraph references relate to the Submission Draft Plan document dated January 2016 unless otherwise indicated. The recommendations I make are in the spirit of a 'critical friend' and intended to help Bramley Parish Council reach a successful outcome with a 'made' plan that will assist in strengthening the community.

Summary of Recommendations

Recommendation 1:

A Consultation Statement should be prepared which contains details of persons and bodies consulted; explains how they were consulted; summarises the main issues and concerns raised; and describes how these issues and concerns have been considered, and where relevant addressed in the Neighbourhood Plan. The Steering Group should check that

consultation has been undertaken in respect of Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 (the Regulations) including consultation with the bodies referred to in paragraph 1 of schedule 1 of the Regulations.

Recommendation 2:

The project plan should be updated to assist co-ordination of the remaining stages of plan making.

Recommendation 3:

A statement should be included in the Basic Conditions Statement, when it is prepared, whether the NDP will have any likely significant effects on a European site or a European offshore marine site and whether a Habitats Regulations Assessment (HRA) is required.

Recommendation 4:

Policies should use the term "be supported" or "not be supported" instead of "be permitted" or "not be permitted".

Recommendation 5:

The wording of the plan policies should be reviewed in the light of issues identified.

Recommendation 6:

The Basic Conditions Statement, when it is prepared, should include a clear summary of how the NDP contributes to the achievement of sustainable development.

Recommendation 7:

A statement could helpfully be included in the Basic Conditions Statement, when it is prepared, to confirm that the European Convention on Human Rights has been considered and state the conclusions reached.

Recommendation 8:

The small number of presentational issues, minor typographical errors and inconsistencies identified should be corrected.

Part 1: Process

	Criteria	Comment
1.1	Have the necessary statutory requirements been met in terms of the designation of the neighbourhood area?	Yes – An application for designation of Bramley Parish as a Neighbourhood Area was received by Basingstoke and Deane Borough Council dated 12 December 2012. Appropriate consultation was undertaken between 17 December 2012 and 28 January 2013. The application was approved by Basingstoke and Deane Borough Council on 22 March 2013. The Parish of Bramley was designated as a Neighbourhood Area on that date.
		The map of the Neighbourhood Plan Area presented in section 1 of the Submission Plan confirms the plan area has been defined by the Parish boundary. Paragraph 1.02 of the Pre-submission plan states that "The Borough Council's decision empowers Bramley Parish Council to produce a Neighbourhood Plan for the Parish of Bramley." This statement and the map annotation satisfy the requirement of Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (the Regulations) that the area to which the Neighbourhood Plan applies must be defined. No other neighbourhood plan has been made for the neighbourhood area and the Neighbourhood Plan does not relate to more than one neighbourhood area and therefore complies with those restrictions.
1.2	Have the requirements been met in terms of the designation of a neighbourhood forum?	Not applicable as Bramley Parish Council are a Qualifying Body able to prepare a Neighbourhood Development Plan.
1.3	Has the NDP been the subject of appropriate pre-submission	,

	consultation and publicity?	provided with details of the particular consultation undertaken. The Parish Council should check that consultation has been undertaken in respect of Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 (the Regulations) including consultation with the bodies referred to in paragraph 1 of schedule 1 of the Regulations. A Consultation Statement, when completed, will need to set out the main issues and concerns made in submissions and include a response, including NDP changes resulting. Recommendation 1: A Consultation Statement should be prepared which contains details of persons and bodies consulted; explains how they were consulted; summarises the main issues and concerns raised; and describes how these issues and concerns have been considered, and where relevant addressed in the Neighbourhood Plan. The Steering Group should check that consultation has been undertaken in respect of Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 (the Regulations) including consultation with the bodies referred to in paragraph 1 of schedule 1 of the Regulations.
1.4	Has there been a programme of community engagement proportionate to the scale and complexity of the NDP and has a consultation statement been prepared?	Yes – A program of community consultation has occurred over a period of more than 18 months. Paragraphs 2.20 to 2.24 of the Submission Plan outline in brief the community engagement undertaken and states that the Parish Council has sought to communicate, inform and actively engage the community throughout the process of producing the Neighbourhood Plan. Table 2a provides a neat summary of the community engagement activities undertaken and is an example of good practice. On this basis it would appear that the Consultation Statement when finalised will demonstrate appropriate community involvement in plan preparation.

1.5	Are arrangements in place for an independent examiner to be appointed?	Not at present – Basingstoke and Deane Borough Council is empowered to appoint an independent examiner, but only with the agreement of Bramley Parish Council. The person appointed as independent examiner must be appropriately qualified and experienced and must not have an interest in any of the land affected by the NDP. It is good practice to be able to demonstrate a proper selection process has occurred. NPIERS is able to put forward independent persons with appropriate availability that do not have interests in the land affected or other conflicts such as prior engagement with relevant parties, and who are suitably qualified and experienced.
1.6	Is there a clear project plan for bringing the NDP into force and does it take account of local authority committee cycles?	A project plan is included in the list of supporting documents on the Bramley Neighbourhood Development Plan website. The project plan which appears to have been prepared in October 2013 is comprehensive and represents a practical guide to the stages of plan making being taken. However, the plan is out of date and therefore misleading (the project plan indicates that the independent examination of the neighbourhood plan would take place in July 2014). It is now appropriate to review the future timetable in the context of progress to date and actions outstanding including issues arising from this 'health check' review and update the project plan against which progress can be monitored as the Neighbourhood Plan is taken to a successful outcome of being 'made'. Recommendation 2: The project plan should be updated to assist co-ordination of the remaining stages of plan making.
1.7	Has an SEA screening been carried out by the LPA?	A Neighbourhood Planning Screening Report; Strategic Environmental Impact Assessment (SEA) and Habitats Regulations Assessment has been prepared dated February 2015. Paragraph 7.7 of the Screening Report states "In light of the

assessment set out in this report it is considered that an SEA is required in relation to the Bramley Neighbourhood Plan." Paragraph 7.4 of the Screening Report states that the conclusion set out in the report has been endorsed by the three statutory bodies, namely Environment Agency, English Heritage and Natural England and their responses have been included as an appendix.

A Strategic Environmental Assessment (SEA) of the Bramley Neighbourhood Plan has subsequently been prepared dated May 2015. The SEA Report includes a description of the process and the information set out in Schedule 2 of the SEA Regulations. The SEA report demonstrates a thorough process; identifying and assessing reasonable alternatives in respect to broad approaches to accommodating housing growth; and clearly setting out the reasons for selecting the preferred approach. The report at paragraph 4.2.2 confirms that the three statutory bodies were consulted on the SEA scope between 12 March and 17 April 2015.

1.8 Has an assessment been made regarding likely significant effect on a European site

A Neighbourhood Planning Screening Report; Strategic Environmental Impact Assessment and Habitats Regulations Assessment (HRA) has been prepared dated February 2015. The Screening Report concludes that the Neighbourhood Plan would not need to be subject to a HRA. Paragraph 7.8 of the report provides a clear rationale for the finding, stating that whilst there is one European Site within a 10km buffer zone of the neighbourhood area, it is over 5km away. The potential impacts of development proposed by the neighbourhood plan ("predominantly housing sites, the size of which is capped at 50 units") are considered "likely to be fairly localised" and thus not impact on the European site.

Recommendation 3:

A statement should be included in the Basic Conditions Statement, when it is prepared, whether the NDP will have any likely significant effects on a European site or a European offshore marine site and whether a Habitats Regulations Assessment (HRA) is required.

Part 2 - Content

	Criteria	Comment
2.0	Are there any general points relating to content?	It is a requirement of the Planning and Compulsory Purchase Act 2004 that the Neighbourhood Plan should state the period in which the plan will have effect. The plan document on the front cover clearly states the period for which the NDP will have effect which is 2016 to 2029.
		The construction and presentation of the Submission Draft Neighbourhood Plan is logical and generally clear. The introduction, profile of Bramley Parish and the main issues identified by the community link neatly and flow logically to the Vision and Aims and Objectives of the Plan.
		The Vision presented at paragraph 3.03 is appropriate for a Neighbourhood Development Plan.
		There is a degree of ambiguity to Objective 1C which flows from Strategic Aim BSA1 with regards contribution of an "appropriate amount". It is stated in paragraph 3.05 that the objectives "provide more specific and measurable actions to achieve the aims." However, terms such as "appropriate" do not provide sufficient detail with which to make decisions or measure actions.
		Similarly, Strategic Aim BSA2 includes "proportionate in size". This phrase offers little guidance to decision makers. The elements to which the development size is to be proportionate, should be clearly stated.
		Other than these points of clarity, the Vision Statement and seven Strategic Aims are appropriate for a NDP and sit comfortably with, and have regard to, the National Planning Policy Framework (the Framework).
		Although the Consultation Statement has not been made available to me it is evident

		from statements in the plan document that the publicity and consultation undertaken both during plan preparation and previously has been extensive, thorough, and most importantly effective in ensuring that the NDP is shaped by local opinion. The plan document provides a coherent explanation of the policies, including the context and rationale, strategic basis, and the purpose of the policy and how it will be applied. The linking of policies to objectives represents good practice.
2.1	Are the policies clear, unambiguous and appropriately justified?	Some policies include the phrase "will be permitted" or "will not be permitted". With regard to the issue of decision making the Framework states "the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise". This basis for decision making should be made clear through use of the term "will be supported" or "not be supported" in recognition that the basis of decision making is the development plan unless material considerations indicate otherwise. The material considerations at the time of determination of a future planning application are unknown and therefore cannot be dismissed through a policy that states development will be permitted or not permitted. I recommend the basis of decision making on planning applications should be clarified.
		Recommendation 4: Policies should use the term "be supported" or "not be supported" instead of "be permitted" or "not be permitted".
		For policies to fulfil their function of being used in the determination of planning applications and appeals they must relate to land use decision making and be clear and unambiguous. If to any extent a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is made they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn.

<u>Policy H1</u> – Elements of the policy are unclear. The policy states that developments must make a 'proportionate' contribution to the provision or improvement of local services and facilities. It is unclear what constitutes proportionate and does not offer a practical framework to make planning decisions. The term 'proportionate' is used again in paragraph 6.15 as part of the strategic basis and similarly fails to offer a clear direction.

Secondly in referencing 'levels of provision' to be maintained or improved, it is not adequately explained whether this is in respect to the proposal area or the Plan area. Other than these points, the policy is clear and unambiguous.

The statement in the supporting context and rationale for the policy (para. 6.12) that the maximum 50 dwellings per site does not represent a cap on total supply is an important element that demonstrates a regard to the National Planning Policy Framework (the Framework). I recommend the basis for restriction of the number of dwellings on an individual development site summarised in paragraph 5.28 should be re-visited in order to more clearly align the justification to the policy.

The reference to 'public or non-private' amenity green space at para. 6.16 is confusing in that it may be interpreted that they are alternatives.

<u>Policy H2</u> – It is not clear what is meant by 'relevant' new housing developments. Secondly, the reference in the final line to 'other relevant factors' is imprecise. This is inconsistent with paragraph 17 of the Framework that states plans should provide a practical framework within which decisions can be made with a high degree of predictability and efficiency.

<u>Policy CVA1</u> – The policy is unclear in a number of respects. The reference to opportunities that arise 'as part of the development concerned' is ambiguous and requires further clarity. Secondly, contributions will not always be viable and this is not

clear. Consideration should be given in the policy for community valued assets that are no longer required or viable.

Paragraph 6.34 – In the interests of clarity use of the term "local green spaces" should be reserved for those areas defined in the Framework.

<u>Policy CVA2</u> – Provision of amenities of community value, should be subject to viability in accordance with paragraph 173 of the Framework. Reference to priorities in paragraph 6.39 should be amended to 6.41. The final paragraph is a statement of intent concerned with method rather than land use policy and would arguably fit better as part of the 'application of policy'.

<u>Policy D1</u> – The policy is headed 'Protecting *and* Enhancing', whilst the policy itself states development must 'protect, complement *or* enhance'

If it is intended Appendix D will not be included as part of the submission plan reference to it should be avoided.

Illustration 6c is extremely small and thus difficult to interpret. Given there are two distinct areas in which the important views are applicable, it might be possible to create two separate larger maps.

<u>Policy D2</u> - There is a degree of ambiguity and overlap with regards car parking, and storage space for vehicles, in criteria i and I which requires refining.

Deletion of 'achieve' and replacement with 'provide for' would ensure a more practical approach to Criteria M.

The final sentence beginning 'prospective developers' is concerned with the application of the policy and is therefore better placed in paragraph 6.63. The requirement of the policy for explanation in respect of every principle may prove to be onerous in respect

of a minor proposal for example for one dwelling. The policy is otherwise clear and unambiguous.

<u>Policy RE1</u> – Reference to the need for 'prospective developers' to "explain" does not provide a practical framework within which to make decisions with a high degree of predictability and efficiency. If it is that development proposals must include mitigation measures, sustainable drainage system or other appropriate flood risk mitigation, to ensure... this should be clearly and simply stated.

<u>Policy RE2</u> – The policy is clear, unambiguous and appropriately justified. In the interests of clarity, the key to Illustration 6d should differentiate between the spatial definition of the "Area of Separation" referred to in Policy RE2 of the Neighbourhood Plan, and other defined areas that do not relate to the policies of the Neighbourhood Plan.

<u>Policy RE3</u> – The wording of the second paragraph of the policy regarding Local Green Space is inconsistent with the definition and approach set out in the Framework.

The adopted approach that "opportunities will be taken to enhance and increase areas of Local Green Spaces where they arise" is not consistent with the Framework and the requirement for designation to take place at the time a plan is prepared or reviewed.

Illustration 6e – The map is not sufficiently precise to identify the precise boundaries of each local green space. This is necessary for a statutory designation. A separate map should be provided for each of the local green spaces.

I have not been provided with Appendix E and it is not clear whether that Appendix will form part of the Plan document. It must be clearly demonstrated that the requirements for designation have been fully met with respect to each proposed local green space. The list of local green spaces referred to in paragraph 6.92 must provide a full justification for designation, in accordance with paragraph 77 of the Framework.

<u>Policy RE4</u> – The final paragraph of the policy is unclear with regards what it is trying to achieve and in terms of which circumstances these measures would be appropriate. This part of the policy does not provide adequate guidance to be effectively used in planning decisions. The third paragraph of the policy could be clarified further by replacing 'will be selected to' with 'must'.

Illustration 6f is cluttered and difficult to read at the scale used. Clarity would also be improved if the whole plan area was included and only trees, woodlands and hedgerows within the plan area were identified.

<u>Policy T1</u> – The phrase 'Opportunities will be taken', and the final sentence which references illustration 6g and a proposed network, do not provide a practical framework for decision making on planning proposals as required by paragraph 17 of the Framework.

<u>Policy T2</u> – It is unclear whether Appendix G will be included in the Neighbourhood Plan document. The policy includes the phrase 'contribute to improved road safety'. The policy should more clearly relate to mitigation of the effects of a proposal. The phrase 'contributions to relevant physical works' does not offer sufficient guidance to parties preparing schemes nor does it offer a practical framework for decision making in respect of planning applications.

<u>Policy E1</u> – The policy is unclear with regards criteria b) which states the need for 'no adverse impact on the natural or built environment.' There is not sufficient explanation of what might constitute 'adverse impact', in particular with regards to the built environment. Replace 'help achieve' with 'provide for' a fibre optic connection would assist clarity through being more precise.

Recommendation 5:

The wording of the plan policies should be reviewed in the light of issues

		identified.
2.2	Is it clear which parts of the draft plan form the 'neighbourhood development plan proposal' subject to the independent examination, and which parts do not form part of the NDO proposal, and would not be tested by the independent examination?	The Foreword of the Submission plan document establishes the nature of the NDP as part of the Development Plan for the area. The Introduction further states that matters other than the development and use of land such as social and community activities cannot be dealt with in the Neighbourhood Plan. The apparent intention is that the entire draft plan should form the NDP proposal. With the exception of aspects noted in this 'health check' review the draft plan, and in particular the proposed policies, are formulated in nature and extent appropriate for inclusion in a development plan document.
2.3	Are there any obvious conflicts with the NPPF and guidance?	No — Subject to the comments I have already made the vision, aims and objectives (presented in Chapter 3) and policies (presented in Chapter 6) of the NDP have regard to national policies and advice contained in guidance issued by the Secretary of State. The submission plan demonstrates a creative approach to not only shaping development but finding ways to enhance and improve the parish. The policies are supported by strong justification and explanation of how they will be applied, providing a practical framework within which to make decisions on planning applications. The approach to the making of provision for housing development and influencing the nature of that provision; new employment development; protection and enhancement of the natural environment; and the protection and enhancement of the historic environment are all consistent with national planning policy. The protection of local green space, the positive approach to protection and support for additional community assets and the approach to improving the footpath and cycle network is consistent with national policy in terms of promoting health communities. Whilst the general approach to these matters does not raise concern, issues of detail identified in section 2.1 of this report require attention.

2.4	Is there a clear explanation of the ways the NDP contributes to the achievement of sustainable development?	Yes —the Submission plan document offers an explanation of how a number of the policies contribute to the achievement of sustainable development. The context and rationale to policies for example makes reference to supporting sustainable development by allowing a proportionate amount of new housing; and the presence of a good range of community facilities is essential for a sustainable settlement. The preparation of the Basic Conditions Statement provides an opportunity to fully demonstrate in an integrated manner, the contribution the NDP makes to the achievement of sustainable development. Recommendation 6: The Basic Conditions Statement, when it is prepared, should include a clear summary of how the NDP contributes to the achievement of sustainable development.
2.5	Are there any issues around compatibility with human rights?	No –The Independent Examiner will consider whether the NDP is compatible with the Convention rights. 'The Convention rights' has the same meaning as the Human Rights Act 1998. I have seen nothing that indicates any breach of the Convention rights. Whilst not a requirement it would be helpful to the Independent Examiner for there to be some evidence of consideration of Human Rights issues through inclusion of a brief statement in the Basic Conditions Statement when it is prepared in particular relating to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property) of the European Convention on Human Rights. Recommendation 7: A statement could helpfully be included in the Basic Conditions Statement, when it is prepared, to confirm that the European Convention on Human Rights has been considered and state the conclusions reached.

2.6	Does the NDP avoid dealing with excluded development including nationally significant infrastructure/waste/minerals?	Yes – The NDP does not deal with any excluded development. My review of the submission plan document confirms that this requirement is met.
2.7	Is there consensus between the local planning authority and the qualifying body over whether the NDP meets the basic conditions including conformity with strategic development plan policy and, if not, what are the areas of disagreement? In particular, are there issues relating to the relationship of the Neighbourhood Plan and the Development Plan.?	Plan meeting the Basic Conditions regarding the relationship of the Neighbourhood Plan and the Development Plan. The Health Check has been undertaken on the agreed premise that the independent examination of the NDP is likely to take place after the adoption of the Basingstoke and Deane Local Plan 2011 – 2029. I have therefore reviewed general conformity of the NDP with the strategic policies contained within the Local Plan 'Submission Version showing all changes up to December 2015

2.9 Are there any obvious errors or other matters that require further consideration in the NDP?

There are a small number of typographical errors and inconsistencies in the presubmission consultation draft plan that should be corrected. These include:

- Paragraph 1.02 misspelling of 'to' after Bramley Parish Council
- Paragraph 1.13 and 1.15 confusing use of tense
- Paragraph 2.14 insert gap between 'area' and 'in'
- Paragraph 2.25 refers to paragraph 2.38 which does not exist
- Paragraph 2.26 appears incomplete.
- Paragraph 2.28 'in consultation' requires rephrasing
- Consideration should be given to relocation of Paragraph 3.08 and 3.13. It seems slightly out of context given the introduction of terms in paragraph 3.05 and distracts from the objectives.
- Paragraph 3.19 add 's' to objective
- Paragraph 4.08 to avoid potentially misleading statements, the actual requirements of the basic conditions could more usefully be included i.e. 'general conformity with the strategic policies...'
- Paragraph 4.12 misspelling of 'addition'
- Chart 5b missing labels from the x axis.
- Paragraph 5.08 reference to Chart 5c on 'next page' requires amendment
- Paragraph 6.13 misspelling of 'homes'
- Policy CVA1, Community-Value Assets should read 'valued'
- There is some inconsistency with reference to the document as both the 'Bramley Neighbourhood Development Plan' and 'Bramley Neighbourhood Plan.'
- Address the inconsistent references to 'emerging' Basingstoke and Deane Local Plan and the Basingstoke and Deane Local Plan 'currently in force', including in the objectives and policies.
- It might be useful to number the pages of the submission plan. References can be made to items using specific page numbers rather than referring to something 'above'.

 The NDP referred to a number of appendices which were not provided with the document and thus have not been reviewed. 	Э
Recommendation 8: The small number of presentational issues, minor typographical errors an inconsistencies identified should be corrected	d

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Report Ends.