

INDEPENDENT EXAMINATION OF THE WEST DEAN AND WEST TYTHERLEY

JOINT NEIGHBOURHOOD PLAN

EXAMINER: David Hogger BA MSc MRTPI MCIHT

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cc: Melanie Camilleri
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Examination Ref: 01/DH/WDWTJNP

Via email

4 October 2021

Dear Mr Bannister and Ms Hughes

WEST DEAN AND WEST TYTHERLEY JOINT NEIGHBOURHOOD PLAN EXAMINATION

Following the submission of the West Dean and West Tytherley Joint Neighbourhood Plan (WDWTJNP) for examination, I would like to clarify several initial procedural matters. I also have a number of preliminary questions for West Tytherley, Frenchmoor and Buckholt Parish Council (WTFBPC) as Qualifying Body (lead Parish Council) and a smaller number for Test Valley Borough Council (TVBC) as lead local Council. These are attached as an Annex to this letter, to which I am requesting a response by 25 October 2021.

1. Examination Documentation

I can confirm that I have access to a complete copy of the submission WDWTJNP and accompanying documentation, including the Basic Conditions Statement (30 November 2020), the Consultation Statement (November 2020), the SEA Screening Determination (August 2021), the HRA Appropriate Assessment Report (May 2021) which relates to the land within Test Valley Borough; the Habitats Regulations Assessment (version 2 dated 28 May 2021) which relates to land within Wiltshire; an undated document entitled 'West Dean Village Green'; and the Regulation 16 representations.

Subject to my detailed assessment of the submission WDWTJNP, I have not identified any very significant and obvious flaws that might lead me to advise that the examination should not proceed.

2. Site Visit

I intend to undertake a site visit to the neighbourhood plan area in the week commencing Monday 11 October. This will assist in my assessment of the draft Plan, including the issues identified in the representations.

The site 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

I have a number of initial questions seeking further clarification from both WTFBPC and TVBC (as lead Councils). I have set these questions out in the Annex to this letter. I would be grateful if a written response could be provided by **25 October** (i.e. within **three** weeks of receipt of this letter).

5. Examination Timetable

As you will be aware, the intention is to examine the WTWDJNP (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, bearing in mind I have raised a number of questions to which I must provide the opportunity for an appropriate response to be prepared, the examination timetable will be extended. Please be assured that I will seek 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 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 a copy of this letter and any subsequent response, are placed on the websites of the Parish Councils, the Borough Council and Wiltshire Council.

Thank you in advance for your assistance.

Your sincerely

David Hogger

Examiner

ANNEX

From my initial reading of the submission draft West Dean and West Tytherley Joint Neighbourhood Plan (WDWTJNP) and the supporting evidence, I have one question for which I have requested a joint response, 3 questions for Test Valley Borough Council (TVBC) and 51 questions for West Tytherley, Frenchmoor and Buckholt Parish Council (WTFBPC) – as lead authorities. I have requested the submission of a response by **25 October**. Where appropriate I would expect the views of West Dean Parish Council and Wiltshire Council to be reflected in any responses submitted. This may appear to be a large number of questions for the Parish Council, but I need to be confident that all the Basic Conditions, including the need to have regard to national policies and advice, have been met. I see no reason to doubt that the responses I receive will provide the assurances that I am seeking.

Question for both TVBC and WTFBPC (1)

I would prefer a joint response to this question but if that cannot be successfully achieved then independent responses should be submitted by the two Councils.

1. A revised version of the NPPF was published by the Government on 20th July 2021, alongside a final version of the National Model Design Code. There are a few references in the WDWTJNP to the NPPF. Could the Council's confirm that these are still valid or if necessary, provide amended wording/referencing that reflects the content of the revised NPPF? I would also be grateful if both Councils could advise me whether or not you consider any modifications to the submission version of the Plan are necessary as a result of the publication of the National Model Design Code and, if so, what these are?

Questions for Test Valley Borough Council (3)

(see also question 5 to the Parish Council below regarding the Policies Map)

1. The Application to designate a Neighbourhood Area gives the name of the area as West Dean and West Tytherley. However, I note that on the Borough Council's web site references are made to the area being called 'West Tytherley, West Dean, Frenchmoor and Buckholt'. Whilst I understand that the name of the Parish was changed in 2019 when the boundary was revised, in the interests of consistency, I propose to refer to the Neighbourhood Area as West Dean and West Tytherley (i.e. as designated). Is there any reason for me not to adopt this approach?
2. Can the Council confirm which documents currently make up the Development Plan, as it applies to West Dean and West Tytherley?
3. According to the Councils' Local Development Schemes. the adoption of the Wiltshire Local Plan Review is anticipated in early 2023 (with pre-submission consultation towards the end of 2021); and pre-submission consultation on the Test Valley Borough Local Plan is proposed to be undertaken in the third quarter of 2022.

Paragraph Reference ID: 41-009-20190509 of the Planning Practice Guidance (PPG) on Neighbourhood Planning, advises that 'where a neighbourhood plan is brought forward before an up-to-date local plan (i.e. the Local Plan Reviews) is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in the emerging neighbourhood plan, the emerging local plans and the adopted

development plan'. Could the Borough Council confirm that such discussions have taken place and summarise any conclusions that were drawn?

Questions for West Tytherley, Frenchmoor and Buckholt Parish Council (51)

1. The Habitats Regulations Assessment (Appropriate Assessment) Report dated May 2021 concludes, in section 4 (page 29), that the submitted WDWTJNP 'will have a likely significant effect on European sites in the absence of avoidance and mitigation measures'. In paragraph 4.3 of that Report it is confirmed that if the Plan is revised, as set out in Table 3 of the Report, then 'it can be concluded that the policies contained within the WDWTJNP would not lead to any adverse effects on the integrity of any European sites, either alone or in combination with other plans'. Does the Parish Council accept this advice and if so could it provide modified and/or additional wording (based on that which is set out in the aforementioned Table 3).

2. Wiltshire Council (in its Regulation 16 response under the title of Ecology) suggests:

- the inclusion of a Bat Conservation Policy (together with explanatory text);
- the inclusion of text regarding the New Forest SPA; and
- the inclusion of text and a policy under the heading of 'Solent Region International Sites and Nitrogen'.

Is there any reason not to include the suggested modifications? If there is no justified reason, could the Parish Council provide the appropriate wording and text on these matters?

3. In the section of the Plan entitled 'Context' (page 7), why is there no reference to the need for the Appropriate Assessment stage of the HRA? Could appropriate wording be formulated?

4. Why does the WDWTJNP not include any references to the relationship between the Neighbourhood Plan and the Local Plan Reviews which are currently underway in both Test Valley and Wiltshire? Could appropriate wording be formulated?

5. The WDWTJNP will, if made, become part of the Development Plan and as such its policies and proposals should, where appropriate, be identified on the Policies Map (for example the identified Local Green Spaces in policy EL9). I could find no reference in the Plan to the Policies Map. There are a series of plans in Appendix A but no single map that identifies the land to which the policies apply. Could such a Map be prepared, together with any explanatory text, for insertion into the document? I am sure TVBC will assist if necessary.

6. In the supporting document entitled 'West Dean Village Green', why is the footbridge identified as public greenspace?

7. It is not clear to me, from the aforementioned document, whether or not any information is available regarding the ownership of the land identified as public greenspace – some appears to be common land, some a registered village green and a very small part appears to be riverbank. Is the Parish Council satisfied that the designation of the Village Green greenspace follows the advice on greenspace designation in paragraph 102 of the NPPF (July

2021) and in particular that, if necessary, any owners of the land have been advised of the proposal, as set out in the PPG.¹

8. Although it is largely a matter of presentation, I consider that the use of exactly the same wording for the both the objectives and the subsequent policy is unclear and does not provide clarity to the decision-maker. Could the Parish Council consider abbreviating the title of all the policies. For example, on page 23 the title could read: **Policy EL 1: The character and setting of the villages (see objective EL 1).**

9. Why does objective HD3 (page 20) refer to 'business' use when this section of the Plan relates to housing?

10. TVBC confirms that objective HD6 (page 20) is addressed in TVBC LP Policy E7. Is there any justification for this repetition?²

11. In Objective IC1 (page 21) how would any 'adverse effect' be measured?

12. How would Objective IC2 (access improvements) be implemented?

13. Policy EL1 refers to ancient woodland, historic features (such as field boundaries), medieval features and historic route ways. How would a decision-maker know where these various features are located?

14. How would 'the productivity of fields', as referred to in EL1iii, be measured?

15. It is not clear to me what constitutes a 'Treasured Asset' as referenced in paragraph 5.2.3. The list in Appendix B4 does not make it clear. Could the Parish Council consider how best to provide clarity on this issue.

16. In the response from TVBC regarding policy EL2, there are a number of issues raised, for example with regard to consistency with TVBC LP and the NPPF. Consistency of policies is an important requirement, so could the Parish Council reconsider the wording of this policy on that basis? This will also mean that the wording in paragraph 5.4.7 (for example at the top of page 52) may need to be revised.

17. Policy EL3 concerns Conservation Areas but they are also covered by TVBC LP policy E9. Is there any reason why policy EL3 should not be deleted?

18. Policy EL5i refers to the requirement to 'enhance trees'. How would this be achieved?

19. Policy EL5ii refers to 'specifically identified trees'. Where are these trees identified?

20. Policy EL5ii refers to 'hedgerows of good arboriculture'. What are these and where have they been identified?

21. In policy EL5iv there is a reference to there being no 'financial burden to the Parish Council' (regarding long-term management of trees). What is the justification for this

¹ PPG Reference ID: 37-019-20140306.

² See NPPF: Paragraph 16 f).

statement, bearing in mind the Parish will only be responsible for trees and hedgerows on its own land?

22. Policy EL5v appears to be an introductory sentence and not a requirement. Could the Parish Council confirm that there is no missing text in this policy.

23. Policy EL5viii refers to succession planting 'for the long term'. How will this be achieved?

24. In the TVBC Regulation 16 response it is stated that policy EL7 is adequately addressed by TVBC LP policy E5 and that policy EL8 is also addressed elsewhere. Is there any reason why I should support the inclusion of policies EL7 and EL8?

25. Policy EL8v refers to historic rights of way. Where are these identified and why does the policy not apply to all rights of way? How would a decision maker know the level of 'impediment' to a view that may or may not be acceptable?

26. What are the 'highest standard of light restrictions' referred to in policy EL10? How would a decision-maker know?

27. What is the justification for including all the bullet points in policy EL10, bearing in mind they may be covered by Environmental Health legislation or may be carried out under permitted development?

28. Where does the definition of 'Quiet hours', as set out in footnote 40 on page 32, come from?

29. Wiltshire Council (in its Regulation 16 submission) states that paragraph 5.3.3 should make it clear which requirements for rural exception sites relate to which local planning authority. Could the Parish Council devise a form of wording to address this concern?

30. Policy HD1 refers to housing development 'within or adjoining the settlement boundary or built up area of the villages'. My understanding is that only West Tytherley has an identified settlement boundary. However, West Dean is also described as a village (paragraph 2.1.1) and Frenchmoor is described as an 'outlying settlement' in policy HD2. Therefore, in principle some community supported housing may be acceptable in those locations, adjoining or within the built up area. Firstly, how would a decision maker know what is considered to be the built-up area of West Dean and Frenchmoor? And secondly is policy HD1 in general conformity with the Wiltshire Core Strategy?

31. What is meant by 'community led housing' in the title of policy HD1? Is this different to 'community supported housing' which is the reference within the policy itself?

32. Concerns were expressed in two consultation responses regarding the need to provide affordable housing in the plan area. Is the Parish Council satisfied that policy HD1 is sufficiently robust in that respect?

33. TVBC suggest that policies HD2 and HD3 should be combined because they cover the same issue. What is the justification for including two separate policies?

34. Wiltshire Council consider policy HD3 to be unclear and confused. Should the reference be to 'ancillary residential uses' rather than 'business buildings'? Could clarified wording be provided?
35. The second requirement (v) of policy HD3 refers to legal agreements but Wiltshire Council has confirmed that it uses planning conditions to tie ancillary accommodation to the main dwelling. Could the Parish Council reconsider this wording in that light?
36. Policy HD4 refers to 'features and characteristics included in the WDVDS' (West Dean Village Design Statement). How would a decision maker know what those characteristics are? Why are they not listed in the Plan, if necessary as an Appendix?
37. How is a 'low roof line' defined (as referred to in policy HD4i)?
38. Is it reasonable, in policy HD5, for a landscape scheme to be submitted with all development proposals? The fact that schemes in 'sensitive locations' have been specifically identified could lead the decision maker to conclude that proposals that are not in sensitive locations may not require a landscape scheme.
39. Southern Water's Regulation 16 submission (objection) suggests modified wording to policy HD6 which would, in some circumstances, allow for the provision of essential infrastructure in flood zones 2 and 3. Is there any reason not to accept their proposed wording?
40. TVBC comment that the reference in policy HD6 to no development being accepted in flood zones 2 and 3 is adequately dealt with in the NPPF. What are the reasons for the Parish Council including this reference in the policy?
41. Does the Parish Council accept that the Borough Council/Wiltshire Council cannot require the submission of fully costed management measures as required by policy HD6?
42. In the Test Valley Regulation 16 response it is stated that policies IC1 and IC2 are addressed in both the relevant local plans that cover the neighbourhood. In that light is there any justification for including these two policies?
43. In the Test Valley Regulation 16 response it is stated that the parking standards set out in policy IC3 are higher than those applied by both Test Valley and Wiltshire Councils. What is the justification for these standards?
44. What is meant by 'easy access' in policy IC4 and is it reasonable to apply this requirement to 'any new development'?
45. Does policy IC4 relate to a land use matter or is it a community aspiration?
46. In policy IC6(v) it is not clear to me what the relationship is between a 'renewable project' and the 'impact of power lines, pylons and sub-stations'. How would a decision maker know how to interpret this requirement?

47. Policy IC7 relates to local businesses but in the TVBC Regulation 16 response it is stated that policy IC7 is adequately addressed by TVBC LP policies LE16 and LE17 and WCS policies CP35 and CP48. Is there any reason why I should support the inclusion of policy IC7?

48. In the Test Valley Regulation 16 response it is suggested that policy IC8 is covered by TVBC LP policy COM14 and by policy CP49 of the WCS. In that light is there any justification for policy IC8?

49. Is there any reason not to make reference to Bentley Wood (as an independent site/asset) in the list of Heritage Sites and Treasured Assets set out in Appendix B4?

50. TVBC comment that Map A4 (page 64) is missing data for West Dean. Is that correct and if so, can an up-dated Map be prepared?

51. Are there any brownfield sites within the neighbourhood plan area that might be suitable for development and if so what consideration has been given to the allocation of such sites for housing?