

# **Brixton Parish Neighbourhood Plan**

## **Independent Examiner's Report**

June 2019

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## **Summary**

I have been appointed by South Hams District Council to carry out an independent examination of the Brixton Parish Neighbourhood Plan.

The examination was carried out in April/May 2019 and was undertaken by considering all the documents submitted to me, including the written representations. I visited the Neighbourhood Plan area on 24 April 2019.

The plan is based on extensive engagement with the local community and provides a distinct set of policies, relevant to the needs of local people. Brixton Parish is a large parish, centred around the settlement of Brixton and the housing needs identified in the recently adopted Plymouth and West Devon Joint Local Plan can be met by infilling and rounding off within the newly defined settlement boundary and by an allocation to meet affordable housing needs.

Subject to a number of modifications set out in this report, I conclude that the Brixton Parish Neighbourhood Plan meets the Basic Conditions and I am pleased to recommend that it should proceed to referendum.

I recommend that the referendum should be confined to the Neighbourhood Plan area, subject to the exclusion of two small areas of land which were originally included in the designated Neighbourhood Area since they are in locations divorced from the substantive NP area, small in size and in close proximity to the Sherford allocation.

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## **1. Introduction**

1. Neighbourhood planning is a relatively new process, introduced by the Localism Act 2011, which enables local communities to develop planning policies to guide development in their area and help to shape the places where they live and work.

2. Brixton Parish is a rural parish in Devon. The northern half is bisected by the A379 and bordered by the busy and growing city of Plymouth and the developing new town of Sherford. The southern half of the parish lies within the South Devon Area of Outstanding Natural Beauty (AONB) and includes the tranquil estuary of the River Yealm. The environment and landscape of the parish are characterised by productive farm land, both arable and grazing, together with peaceful parkland which is part of the historic country estate of Kitley. The main settlement in the Neighbourhood Plan area is Brixton which is situated to the north of the Parish and straddles the A379.

3. The purpose of this report is to assess whether the Brixton Parish Neighbourhood Plan (NP) complies with the relevant legislation and meets the Basic Conditions, which such plans are required to meet. Where necessary, the report makes recommendations about changes or modifications to the plan to ensure that it meets the legislative requirements.

4. The report also makes a recommendation about whether the NP should proceed to the referendum stage. If there is a positive recommendation at referendum, the NP can be “made” by South Hams District Council and so become part of the wider development plan and then used by South Hams District Council to determine planning applications in the plan area.

## **2. Appointment of the independent examiner**

5. I have been appointed by South Hams District Council with the agreement of Brixton Parish Council to carry out this independent examination. The Neighbourhood Planning Independent Referral Service (NPIERS) has facilitated my appointment. I am a chartered town planner with extensive planning experience in local government and therefore have the appropriate qualifications and experience to carry out this examination. I am independent of the qualifying body and have no land interest in the area that might be affected by the plan.

## **3. The role of the independent examiner**

6. The role of the independent examiner is to ensure that the submitted NP meets the Basic

Conditions together with a number of legal requirements.

7. In examining the NP I am required, under Paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990, to check <sup>1</sup> that:

- the policies in the plan related to the development and use of land for a designated neighbourhood area; and
- the policies in the plan meets the requirements of Section 38 of the Planning and Compulsory Purchase Act (that is, it specifies the period to which it has effect, does not include provision about excluded development and does not relate to more than one neighbourhood area); and
- the plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body.

8. I must also consider whether the NP meets the Basic Conditions set out in Schedule 4B of the Town and Country Planning Act 1990 (as amended). A plan meets the basic conditions<sup>2</sup> if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- the making of the plan contributes to the achievement of sustainable development
- the making of the neighbourhood plan is in general conformity with the strategic policies of the development plan for the area
- the making of the neighbourhood plan does not breach, and is otherwise compatible with European Union (EU) obligations.

9. Regulations 32 and 33 of the Neighbourhood Planning Regulations 2012 (as amended) set out two additional basic conditions. These are:

- the making of the neighbourhood plan is not likely to have significant effects on a European site <sup>3</sup> or a European offshore marine site <sup>4</sup> either alone or in combination with other plans or projects and
- having regard to all material considerations, it is appropriate that the neighbourhood development order is made where the development described in an order proposal is

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<sup>1</sup> Set out in paragraph 8(1) of Schedule 4B of the Town and Country Planning Act (as amended)

<sup>2</sup> Set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act (as amended)

<sup>3</sup> As defined in the Conservation of Habitats and Species Regulations 2012

<sup>4</sup> As defined in the Offshore Marine Conservation (Natural Habitats &c) Regulations 2007

Environmental Impact Assessment development (this does not apply to this examination as it is not about a neighbourhood development order).

10. Regulation 32 and Schedule 2 to the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017<sup>5</sup>.

11. As independent examiner, having examined the plan, I am required to make one of the following recommendations:

- that the plan as submitted can proceed to a referendum; or
- that the plan with recommended modifications can proceed to referendum; or
- that the plan does not meet the necessary legal requirements and cannot proceed to referendum.

12. The independent examiner can only recommend modifications to ensure that the NP meets the Basic Conditions and other legislative requirements, or for the purpose of correcting errors.

13. If the plan can proceed to referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

13. South Hams District Council will consider the examiner's report and decide whether it is satisfied with the examiner's recommendations and will publicise its decision on whether the plan will be subject to referendum, with or without modifications. If a referendum is held and results in more than half of those voting in favour of the plan, the Council must "make" the neighbourhood plan a part of its development plan. The plan then becomes part of the development plan for the area and is a statutory consideration in guiding future development and determining planning applications in the area.

#### **4. Compliance with matters other than the basic conditions**

14. Brixton Parish Council initiated the preparation of a neighbourhood plan in March 2015 when

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<sup>5</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

the Brixton Parish Neighbourhood Plan Group (NPG) was formed and made up from members of the local community and the Chairman of the Parish Council. A formal submission was made to South Hams District Council to designate part of the parish as a Neighbourhood Area on 8 May 2015. On 26 June 2015, South Hams District Council designated Brixton Parish, excluding the area in the northern part of the parish designated as Sherford New Town, as a Neighbourhood Area in accordance with the Neighbourhood Planning (General) Regulations 2012. There are also two small areas of land to the north of the Parish which are included in the designated Neighbourhood Area but excluded from the Sherford boundary. The designated area does not cover any other Neighbourhood Area and the qualifying body is Brixton Parish Council.

15. I am satisfied that the NP includes policies that relate to the development and use of land and does not include provision for any excluded development. The Plan period is specified as 2014-2034, which aligns with the plan period of the recently adopted Plymouth and West Devon Joint Local Plan.

16. The Brixton Parish NP therefore meets the requirements set out in para 7 above.

## **5. The examination process**

17. The documents which I considered during the course of the examination are listed in Appendix 1.

18. The general rule<sup>6</sup> is that an examination is undertaken by the consideration of written representations only. Having considered all the information before me, including the representations made to the submitted plan (the Regulation 16 responses), I was satisfied that the Brixton Parish NP could be examined without the need for a public hearing.

19. During the course of the examination it was necessary to clarify several matters with South Hams District Council and the Parish Council. The questions I asked and the responses to them are set out in Appendix 2 to this report. I am therefore satisfied that I had all the information I required to carry out the examination.

20. As part of the Neighbourhood Plan examination process, it is important for the examiner to understand the context of the neighbourhood plan in the wider area and its overall character, as these shape the issues and policies set out in the plan. I therefore made an unaccompanied site visit

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<sup>6</sup> PPG para 004 ref id 41-004-20140306

to the area on 24 April 2019.

21. On 5 March 2018 an updated version of the National Planning Policy Framework (NPPF) was published for consultation and on 24 July 2018 the final version of the NPPF was subsequently published. Paragraph 214 of the Framework confirms the transitional arrangements for plans which were already under examination:

*The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.<sup>7</sup>*

22. A further updated version of the National Planning Policy Framework (NPPF) was published on 19 February 2019.

23. As the Brixton NP was submitted to South Hams District Council for examination on 31 January, after the 24 January 2019 deadline, the NP has been assessed against the guidance in the updated NPPF dated February 2019.

## **6. Consultation**

### *Consultation process*

24. Effective consultation and engagement with the local community is an essential component of a successful neighbourhood plan, bringing a sense of public ownership to its proposals and helping to achieve consensus. The policies set out in the NP will be used as the basis for planning decisions – both on local planning and on planning applications – and, as such, legislation requires neighbourhood plans to be supported by public consultation.

25. In line with the Neighbourhood Planning (General) Regulations 2012<sup>8</sup>, the Neighbourhood Plan Group has prepared a Statement of Consultation for the NP, included as Appendix 3 to the NP document, which sets out how the group approached public consultation, who was consulted and the outcomes.

26. Throughout the plan preparation process, the NPG has carried out a very wide range of activities and events in order to consult and engage as wide a range of people as possible. This has included community questionnaires, public open days and updates at the annual fetes and consultations with

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<sup>7</sup> National Planning Policy Framework: 24 July 2018

<sup>8</sup> Regulation 15 of the Neighbourhood Planning (General) Regulations 2012



major landowners and local employers. The plan has been publicised through the Brixton Magazine, social media, the Parish Council website and posters and flyers. The plan is also supported by an impressive research and evidence base, including a Housing Need Survey and Neighbourhood Plan questionnaire.

27. It is clear from the Statement of Consultation that the Neighbourhood Plan Group has engaged widely with the local community and kept people informed as the plan progressed. This consultation process has helped to develop the vision for the plan and ensure that the Vision for Brixton Parish has been clearly shaped by the views and priorities of the community. The Vision for the Parish is:

- *“to conserve and enhance the rural and historic environment of Broxton Parish, with its beautiful landscape of wood, farmland and estuary:*
- *to retain the identity and independent character of Brixton village and its surrounding hamlets*
- *to nurture thriving communities across the parish by providing facilities and taking opportunities to meet the needs and wishes of the community”*

#### *Representations received*

28. Preparing the NP has involved two statutory six-week periods of public consultation. The first, on the First Draft Brixton Parish Neighbourhood Plan (the Regulation 14 consultation ), took place between 1 December 2017 and 12 January 2018. This generated 20 responses - twelve from members of the public and planning consultants, five from statutory bodies, two from Parish Councils and a composite response from South Hams District Council.

29. The second consultation on the Submission Draft NP was managed by South Hams District Council and took place between 1 February to Friday 15 March 2019. In all, seven representations were received – five from statutory bodies, one from a planning consultant and a composite response from South Hams District Council.

30. Occasionally in this report I refer to representations and identify the organisation making that particular comment. However, I have not referred to every representation in my report. Nonetheless, I can assure everyone that each comment made has been looked at and carefully considered.

31. From the evidence in front of me, it is apparent that Brixton Parish NP has been subject to appropriate and extensive community engagement involving much time and effort by the

Neighbourhood Plan Group. I am therefore satisfied that the consultation process which has been followed complies with the requirements of the Regulations.

## **7. Compliance with the basic conditions**

32. In my role as independent examiner I must assess whether the Plan meets the Basic Conditions<sup>9</sup> set out in the Regulations as described in paras 7-10 above.

33. I have considered the Basic Conditions Statement produced by the Neighbourhood Planning Group, which is included as Appendix 2 to the NP and other supporting documentation, to assist my assessment which is set out below.

### *National Policy*

34. National planning policy is set out in the National Planning Policy Framework (NPPF) and in the supporting Planning Practice Guidance (PPG). At the heart of the planning system is a presumption in favour of sustainable development, which applies to all levels of plan making. For neighbourhood plans, this means that neighbourhood plans should support the strategic development needs set out in Local Plans and plan positively to shape local development. The NPPF<sup>10</sup> states that all plans should be prepared positively, be shaped by effective engagement with the local community and contain policies which are clearly written and unambiguous. Plans should serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area.

35. Annex 1 of the Basic Conditions Statement sets out a comprehensive assessment of how each of the policies in the NP conformed with the NPPF (2018) and the emerging strategic policies in the JLP. The assessment in the Basic Conditions Statement is therefore, inevitably, a snapshot in time. Since many of the core principles in both the NPPF and the JLP are also carried through to the successor documents, I conclude that, in general terms, the NP therefore satisfies the basic condition that it has regard to national policies and advice. Where there are differences in guidance which is relevant to the Brixton NP in either the updated NPPF or the adopted JLP, I have addressed these in my detailed assessment of the Policies in the NP in Section 8.

### *Sustainable development*

36. The qualifying body has to demonstrate how a neighbourhood plan contributes to the

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<sup>9</sup> Para 8(2) of Schedule 4B of the Town and Country Planning Act (as amended)

<sup>10</sup> NPPF 2019 Para16

achievement of sustainable development as set out in the NPPF<sup>11</sup>.

37. Section 9 of the Basic Conditions Statement explains briefly which of the NP policies will be particularly important in contributing to sustainable development. Combined with the assessment in Annex 1, which considers how the NP complies with the guidance in the NPPF and the strategic policies in the development plan, I am satisfied that the NP has had sufficient regard to the principles of sustainable development.

38. I therefore conclude that this Basic Condition is met.

#### *Development Plan*

39. At the time that the NP was being prepared, the development plan for the South Hams District Council area was the South Hams Core Strategy which was adopted in 2006, the Affordable Housing DPD (2008), the Development Policies DPD (2010) and a number of Site Allocations DPD's, including one for the Rural Areas. A number of policies were also saved from the South Hams Local Plan which was adopted in 1996.

41. During the course of preparing the NP, work has advanced on the Plymouth and South West Devon Joint Local Plan (JLP), prepared jointly by South Hams District Council, Plymouth City Council and West Devon Borough Council. It was submitted to the Secretary of State in July 2017 and examination hearing sessions were held during January to March 2018. The final plan was adopted by South Hams District Council on 21 March 2019, Plymouth City Council on 26 March 2019 and West Devon Borough Council on 26 March 2019. For the purposes of this examination of the Brixton NP, therefore the recently adopted JLP is the current development plan and the plan against which I have to assess the NP to check that it meets the basic conditions. I note that at the time that the NP was subject to the Reg 16 consultation, the JLP had not yet been adopted so some updating to the NP will be required.

42. The challenge facing any group preparing a neighbourhood plan in this sort of situation is considering the extent to which it should rely on outdated adopted policies or the policies in an emerging plan. To minimise these risks, the Brixton NPG has worked very closely with South Hams District Council to ensure that the NP policies are aligned as far as possible with the emerging JLP policies. In particular, the updated Basic Conditions Statement provides a useful, succinct assessment in Annex 1, which demonstrates how the NP conforms with the strategic policies of the

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<sup>11</sup> NPPF 2019 Paras 7-14

adopted South Hams Core Strategy and with the Submission version of the Plymouth and South West Devon Joint Local Plan (2017).

43. In the Submission Draft JLP, Brixton was identified as a Sustainable Village which could accommodate sites for around 10 dwellings. In the adopted JLP this status was removed; the indicative housing allocations for AONB settlements were also removed, along with the Special Landscape Area designations. This has consequences for the NP.

44. In my assessment of the policies in the NP in Section 8 below, I have made my assessment in relation to the policies in the adopted Joint Local Plan and, where necessary, made recommendations to ensure compliance with the strategic policies.

45. It is evident that the policies in the strategic Joint Local Plan have generally been carried through to the Neighbourhood Plan. Therefore, subject to the recommended changes set out in Section 8 below, I conclude that the NP is in general conformity with the strategic policies of the development plan and therefore this basic condition is met.

#### *Basic Conditions – conclusions*

46. I have considered the Basic Conditions Statement, the supporting evidence and representations made to the Brixton Parish NP and I am satisfied that the Plan as submitted follows the general principles set out in national planning policy and contributes to the achievement of sustainable development. It sets out a positive vision for the parish and policies to protect its distinctive character while accommodating development needs.

47. At a practical level, however, a number of the policies in the Submission NP need some adjustment to ensure that they comply with the NPPF and the strategic guidance in the JLP. I have therefore suggested a number of modifications in Section 8 below to help ensure that the plan accords with national and strategic guidance and therefore meets the basic conditions.

#### *European obligations and Human Rights Requirements*

##### *1. Strategic Environmental Assessment (SEA)*

48. The SEA Directive aims to provide a high level of protection to the environment by ensuring that environmental considerations are included in the process of preparing plans and programmes.

49. A Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment (HRA) Screening Assessment of the Parish NP was carried out by South Hams District Council in January 2019 to assess whether it required SEA or HRA.

50. The Screening Report concluded that a full SEA did not need to be undertaken, due to the limited nature of development proposed in the plan and the continuity of land use. Consultation bodies were invited to comment and no concerns were raised.

51. The HRA screening report stated that, as the NP area falls within the Zone of Influence of the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and the Tamar Estuaries SAC, it was therefore necessary to carry out an Appropriate Assessment to take account of the effect of residential development proposed by the Brixton NP in combination with other residential development proposed within the Zone of Influence. This focussed on the site allocated at Steer Point Road and concluded that the development of the site would not have an adverse effect on the integrity of the Tamar European Marine site (EMS) subject to the measures listed in the Appropriate Assessment being secured by a condition being placed on any planning consent. On a point of detail, the Basic Conditions Statement needs to be updated to make reference to the conclusions regarding the SEA/HRA Screening and Appropriate Assessment which was carried out in January 2019.

- **Recommendation : Update the Basic Conditions Statement to refer to the SEA/HRA Screening assessment and the findings of the Appropriate Assessment**

52. I have considered all the relevant background material and I am therefore satisfied that the submitted Brixton Parish NP meets the requirements set out in the SEA Directive so this basic condition is met.

## *2. Human rights requirements*

53. A short statement in the Basic Conditions Statement explains that the NP has had regard to the rights and freedoms guaranteed under the European convention on Human Rights and complies with the Human Rights Act 1998. I have also seen from the Consultation Statement that a wide range of bodies, representing a number of different interest groups including hard-to-reach and under-represented groups, has been consulted and engaged with during the preparation of the plan.

54. I am satisfied that the NP is compatible with the requirements of EU obligations in relation to human rights and no evidence has been submitted to me to suggest otherwise. I am satisfied, then, that the Plan does not breach the European Convention on Human Rights obligations and therefore

meets the Basic Conditions.

### *3. Other Directives*

55. I am not aware of any other European Directives that would apply to this NP, and in the absence of any evidence to the contrary, I am satisfied that the plan is compatible with EU obligations.

### **8. Neighbourhood Plan policies**

56. This section of my report considers each of the NP policies against the basic conditions.

57. The Plan is very clearly written and is illustrated by many photographs and beautifully presented and annotated plans. The plan has a clear structure distinguished by separate sections. The Basic Conditions Statement, Consultation Statement and supporting material are all bound into the NP document which is a very helpful approach as it ensures that all the relevant information relating to the NP is readily to hand.

58. For each policy there is a Policy Intent section, then the policy is distinguished by a separate coloured text box and then a short section on Policy Evidence. However, the NP would be improved by adding policy titles to each policy so that these can be more easily located in the document. In Section 8 below, which deals with each of the policies in turn, I have added suitable policy titles. In addition, it would be helpful if paragraph numbers could be added to the text of the document. Together with the excellent mapping, this will ensure that the plan is clear to follow for future decision-makers and users of the plan .

- **Recommendation : Add policy titles to each of the NP Plan policies and paragraph numbers to the text of the NP**

59. All of the policies relate to the development and use of land and none cover excluded development, such as minerals and waste, so the basic condition is met.

60. As a general comment, throughout the NP document, all references to the updated NPPF (February 2019) and the adopted JLP ( March 2019) need to be updated .

- **Recommendation : Update all relevant references in the NP to the 2019 version of the NPPF and the adopted JLP**

61. As part of this examination, my report includes a series of recommended modifications to ensure that the policies are expressed concisely and precisely in order to comply with the basic conditions.

Where I have suggested modifications, these are identified in **bold text**. The recommended modifications relate mainly to issues of clarity and precision and are designed to ensure that the plan fully accords with national and strategic policies. I have considered the policies in the order they appear in the Plan, by section and comment on all of the policies, whether I have suggested modifications or not. Where I consider that the supporting paragraphs need amendment to help explain and justify the plan policy, I have made comments to that effect.

### Introduction

62. This section explains the role of the NP and how it was developed. I have no comments to make.

### Brief History of the Parish

63. This section provides a useful brief history of the parish. I have no comments to make.

### Vision

64. This section outlines the Vision for the NP and the six themes of the NP. I have no comments to make.

### Objectives

65. The plan's objectives are linked to the Vision and themes of the plan and provide the context for the NP policies which follow. I have no comments to make.

### Brixton Parish NP Policies

66. My comments and recommendations on the each of the NP policies, grouped by policy theme, is set out below.

### *Environment and landscape*

#### *Policy Env1- Development in the AONB*

67. Almost half of the Neighbourhood Plan area lies within the South Devon Area of Outstanding Natural Beauty (AONB) and this policy seeks to protect the AONB from inappropriate development and to preserve its landscape and scenic beauty. The policy complies with guidance in the NPPF and the JLP so meets the basic conditions. My only comment is that the reference to para 115 of the NPPF should be to para 172 of the 2019 NPPF. This is covered in my general recommendation regarding updating of the NP in paragraph 58 above.

### *Policy Env2 – Protecting locally important views*

68. Given its proximity to Plymouth, the community has expressed concerns about pressure to accommodate further growth, particularly at the eastern and western end of the village. Policy En2 therefore seeks to protect two fields from development ; these are both denoted with vertical light green hatching on the Policies Map. On my site visit, I could see that both sites are attractive open green fields which mark the eastern and western entrances to the village on the southern side of the A379, which is a busy traffic route which runs through the centre of the settlement.

69. However, the eastern field is within the AONB so is already afforded significant protection under national and strategic policy and further policy guidance in the Neighbourhood Plan would duplicate this guidance and is therefore unnecessary.

70. Although the western field is not within the AONB, it is clearly outside the defined settlement boundary so the general policies in the NPPF and JLP regarding development in the open countryside would apply, in particular adopted JLP policy TTV26 which aims to protect the special characteristics and role of the countryside. In addition, I have not seen any evidence to explain why it is described as a special natural rural environment in the supporting text. I therefore conclude that the reference to the protection of specific fields be deleted from Policy Env2 and its supporting text should be amended accordingly .

71. The policy also refers to the protection of locally important views which are mapped on Env Map 2 and I saw from my site visit that these views are distinctive and contribute to the particular setting of Brixton village. I therefore recommend that Policy Env2 makes a more direct reference to the protection of the views at the eastern and western end of the village.

- **Recommendation : Reword Policy Env2 to read “Development proposals should protect the important public open views across the South Devon AONB that define the setting and character of Brixton village and its eastern and western approaches, identified as views 1 and 8 on Env Map 2.” Delete Env2 designation from Policies Map 2. Reword last sentence on page 18 to read “ The open views identified as views 1 and 8 on Env Map 2 provide significant views over the AONB and protected woodland and should be protected.” Delete first two sentences on page 19.**

### *Policy Env3 – Protecting the natural environment*



72. Policy Env3(a) seeks to protect priority habitats throughout the NP area; these are mapped in Env Map 1. In response to my query, the NPG confirmed that the sites referred to in the policy are examples and not a definitive list as there are too many habitats to include within the policy. In order to ensure that all the sites are covered, a generic reference to the sites shown in Env Map 1 would be a better approach and provide clarity for future users of the plan.

- **Recommendation : Reword Env3(a) to read “Priority habitat throughout the parish, as shown on Environment Habitat Map Env Map 1, will be protected and enhanced”**

73. Policy Env3(b) seeks to protect important woodlands in the NP area and these are mapped on Env Map 5. However, this map does not cover the whole parish and means that the policy will be difficult to interpret and apply. An updated plan is therefore required .

- **Recommendation: Update Env Map 5 so that it covers the whole NP area**

#### *Policy Env4 - Green corridors*

74. This policy seeks to protect the rural character of the Parish, by identifying a green corridor along the A379 which would be the focus of measures to improve the appearance of the route, through initiatives such as tree planting and green landscaping. Env Map 3 shows two areas of land to the east of Brixton which are designated as Env4. However, these are distinct sites, rather than the linear feature which is implied by the policy which refers to “a green corridor”. There is therefore a mismatch between the policy and the mapping. The areas identified as Env4 on Env Map 3 are already protected under national guidance in the NPPF and strategic guidance in the JLP regarding development in the open countryside and, in particular, adopted JLP policy TTV26 which aims to protect the special characteristics and role of the countryside. An additional layer of policy protection is not required. Also, I have not seen any evidence in terms of their attributes and character that would justify separate planning policy guidance.

- **Recommendation : Delete “as defined on Env Map 3: Policy Area Env 4” from Env4(a) and Delete Env 4 notation from Env Map 3**

75. Env Map 3 identifies a series of three different coloured green corridor “Stepping Stones” all of which could contribute to “greening” of the village. However, these are not referred to in the Policy Env4(b) which deals with measures to improve the appearance of the A379 route. I saw from my site visit that the A379 is a particularly busy road and well used by through traffic and measures to improve its appearance would be beneficial. I therefore suggest that a more direct reference to the

Green Corridor Stepping Stones is made in the policy.

- **Recommendation : Add “including Green Corridor Stepping Stones” after “green landscaping” in Policy Env4(b)**

*Policy Env5 - Local Green Spaces*

76. This policy designates thirteen areas of Local Green Space and the details and the justification for the designation of each site is set out in Appendix 7.

77. The NPPF, at paragraph 100, states that the Local Green Space designation should only be used where the Local Green Space is:

*a) in reasonably close proximity to the community it serves;*

*b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*

*c) local in character and is not an extensive tract of land.*

78. I saw from my site visit that the Local Green Spaces identified in the NP ranged from areas of equipped children’s space to more informal woodland areas which are valued by the community. All are close to the community which they serve, demonstrably special to the community and local in character and none are extensive tracts of land so they therefore meet the criteria set out in the NPPF.

79. In terms of the wording of the policy, I agree with the District Council’s comment that it would be helpful to list each site in the policy itself. The reference to the selection criteria should be moved from the policy to the supporting text.

- **Recommendation : Add list of designated LGS sites to Policy Env5. Move last sentence of Policy to supporting text.**

*Policy Env6 - Brixton Strategic Countryside*

80. In the northern third of the parish of Brixton, the new town of Sherford will provide around 5,500 homes and the Neighbourhood Plan explains that there is concern amongst the community about the possibility of development pressures extending southwards towards the settlement of Brixton. For this reason, an area of Brixton Strategic Countryside is proposed between Brixton and the new town of Sherford which would be safeguarded during the plan period, unless a need for

essential affordable local housing was identified.

82. At the same time as the Neighbourhood Plan was being prepared, the area between the Brixton and Plymouth was designated in the emerging draft of the Plymouth and West Devon Joint Local Plan as Strategic Countryside to provide a protected landscape zone to the north and west of Brixton village (Policy Dev26). The principle of this policy approach was carried through to the Neighbourhood Plan at each stage of preparing the NP and is included in the submission version of the NP, with policy guidance provided in Policy Env6.

83. In the JLP, which was adopted as recently as March 2019, the Strategic Countryside designation and the associated policy was deleted from the JLP. It was replaced with a new policy PLY61 which provides guidance about development in Plymouth's urban fringe. The policy recognises that the countryside within Plymouth's urban fringe contributes to the setting and character of the city and adjacent nationally protected landscapes and provides a valuable environmental resource. The focus of the policy is on managing development pressure in the urban fringe in order to prevent harm to the urban/rural interface and associated negative impacts on the natural environment. In particular, it states that development should not result in significant intrusion into the open countryside or contribute to the coalescence of separate settlements and that the setting, individual character and identity of adjoining settlements should not be significantly harmed.

84. My role is to consider whether the policy in the NP meets the basic conditions and, in particular whether it complies with the updated guidance in the JLP. There are two issues to consider. Firstly, the area which is covered by the policy and shown in Env Map3. This is more extensive than the area covered by the JLP policy, in that it extends southwards as far as the settlement boundary of Brixton and extends east of the road at Stamps Hill.

85. From my site visit, I saw that the generally rolling topography to the north of the village means that the area close to the settlement boundary was equally as important as the area to the south of Sherford New Town in defining the setting and character of Brixton. It therefore merits some local protection, which complements the guidance in the JLP.

86. Secondly, I have to consider the policy approach and its compliance with the relevant guidance in the JLP. NP policy Env6 focusses on safeguarding the open gap between Brixton and Sherford new town and only exceptionally would affordable housing to meet local needs be permitted, provided the need for such housing had been established through a future Housing Needs Survey. Para 28 of the NPPF states that :

*“Non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods and types of development”*

87. I conclude that Policy Env 6 draws on and amplifies the guidance in the JLP regarding development in the countryside (TTV26), meeting local housing needs in rural areas (TTV27) and development in Plymouth’s urban fringe (PLY61) and therefore the basic conditions are met.

88. Given the history of differing terminology being used to describe the countryside to the north of Brixton, and the removal of the term “Strategic Countryside “ from the JLP, I suggest that the reference to an area of “Brixton Strategic Countryside” in policy Env6 of the NP should be changed to the “Brixton Open Gap”.

- **Recommendation : In Policy Env 6 and the Policy Intent for Env6 section on page 21, change all references to “Brixton Strategic Countryside” to “ Brixton Open Gap”. Make associated changes to the Policies Map and Env Map3**

*Policy Env7- Designated and non-designated heritage assets*

89. This policy complies with national and strategic guidance and so meets the basic conditions.

*Policy Env8 – Renewable energy generation*

90. The wording of this policy requires some fine tuning to ensure that it complies with Policy Dev 24 in the JLP which states that renewable energy schemes should be community led.

- **Recommendation : Replace “ Private or community” in Policy Env 8 with “ Community led”**

*Policy Env9 – South Devon Repairs and Sales Garage site*

91. From my site visit I saw that the Repairs and Sales Garage site is in a very prominent location in the centre of the village and that any redevelopment proposals would need to be sensitive to its location in the AONB.

92. This policy provides appropriate guidance and complies with national and strategic guidance and so meets the basic conditions.

*Policy Env10 – Former Steer Point Brickworks site*

93. On my site visit, I saw that the former brickworks site is a very extensive rundown area of former hardstanding. It is currently unused and fenced off, with no public access. As such, is out of character

with the rest of landscape of the parish; in addition, it is located in the AONB and very close to the designated Heritage Coast and adjoining SSSIs. Although the latter designations are referred to in the policy, they are not mapped and I therefore suggest that these are added to the Policies Map for the NP and a cross reference to the detailed mapping on the SW Devon website is added to the supporting text to Policy Env 10.

- **Recommendation : Add mapping of SSSIs and designated Heritage Coast within the NP boundary to NP Policies Map. Add a cross reference to the detailed mapping on the SW Devon website to the supporting text to Policy Env 10.**

94. Given its location, any redevelopment of the site would need to be very sensitively handled, taking account of the valuable national landscape within which, it is set. I therefore suggest that Policy Env10 is reworded to strengthen the guidance it provides.

- **Recommendation : Reword Policy Env10 to read. “Any development of the hard standing of the former Steer Point Brickworks, identified in Env Map 5, should be tightly controlled. Only sustainable development proposals to enhance the site will be considered and should take full account of the following factors: (a) the site’s location in the South Devon AONB, the designated Heritage Coast and the adjoining SSSIs, (b) the site’s isolated nature and location in relation to Brixton settlement, (c) the unsatisfactory system of roads that serve the site and (d) the potential of the site’s redevelopment to bring substantial, sustainable benefit to the Brixton community”.**

### *Community Facilities*

#### *Policy Cof1 – Assets of Community Value*

95. This policy list a number of community facilities which are valued by the community and are being proposed as Assets of Community Value. The NPG confirmed that no formal application has been made to define them as Assets of Community Value. Given that this is an aspiration rather than actual designation, the policy needs to be redrafted so that it deals with land use planning matters. The supporting text also needs to be amended to make clear the community’s desire to have these assets formally listed as Assets of Community Value.

- **Recommendation : Reword first sentence of Policy Cof1 to read “The following local facilities should be protected and retained:” Add at the end of the first paragraph on page 28 “To provide further protection to the facilities listed in Policy Cof1, the Parish Council**

**intends to apply to South Hams District Council to designate these as Assets of Community Value – See Appendix 5- Parish Project Action Plans”.**

*Policy Cof2- Community facilities*

96. This policy provides guidance on the provision or improvement of community facilities and refers to the Brixton Community Facilities Plan. I understand from the NPG that work is underway on this plan, as well as the longer list of Parish Project Action Plans described in more detail in Appendix 5. In order to ensure that all the items listed in the bullet points in the policy are potentially covered, I suggest that the reference to the Community Facilities Plan is amended to refer to the Parish Project Action Plans. The last sentence at the foot of page 27 seems to be part of the policy, but is not shown in yellow shading and this needs to be corrected.

- **Recommendation : In Policy Cof2, replace “Brixton Parish Community Facilities Plan” with “Brixton Parish Project Action Plans”. Include sentence which reads “Contributions can be either as a part of the development proposal or in the form of a financial contribution” at the end of Policy Cof2 as part of the policy and denote with yellow policy shading**

*Policy Cof3 – Open space provision in new development*

97. I have no comments on this policy.

*Sport and recreation*

*Policy Sar1 – Sport and recreation facilities*

98. This policy seeks to protect existing sport and recreation facilities. It accords with national and local strategic guidance and I have no comments to make.

*Policy Sar2 – Public Rights of Way and Bridleways*

99. This policy seeks to enhance and extend the footpath, bridleway and cycle network within the NP area and includes two site specific proposals to improve connectivity with Sherford and in Chittleburn. I have no comments to make.

*Policy Sar3 –River Yealm and Cofflete Creek*

99. I have no comments on this policy.

*Policy Sar4 – New Sport and Recreation facilities*

100. I have no comments on this policy.

*Transport*

*Policy Tpt1 – Sustainable modes of travel*

101. South Hams District Council has suggested some rewording of this policy and I agree this would help to strengthen the policy and ensure it complies with national and strategic guidance.

- **Recommendation : Change “shall” to “should” in Policy Tpt1**

*Employment*

*Policy Emp1 - Existing employment land*

102. This policy seeks to protect existing employment uses and only permit changes of use where a community benefit has been demonstrated.

103. This policy could be overly restrictive and does not comply with guidance in JLP policy Dev14 which says:

*“Change of use of existing employment sites (including vacant sites whose lawful use is for employment purposes) will only be allowed where the following applies:*

*i. The proposal is specifically provided for by the local plan to deliver wider strategic objectives, or*

*ii. There are overriding and demonstrable economic, regeneration and sustainable neighbourhood/communities benefits from doing so, or*

*iii. There is no reasonable prospect of a site being used for employment use in the future.*

104. The policy therefore needs to be reworded to ensure it meets the basic conditions.

- **Recommendation : Reword Policy Emp1 to read “The change of use of existing employment land will not be permitted unless there are overriding demonstrable community benefits from doing so or there is no reasonable prospect of the site being used for employment use in the future”**

*Policy Emp2 – Chittleburn and Dodovens Farm Employment Areas*

105. This policy refers to existing employment land and preferred sites for new B1 employment , shown with a solid blue notation and a hatched vertical blue line, respectively, on Emp Map 1. The reference to EMP1 is confusing and should be deleted to ensure clarity for future users of the plan.

- **Recommendation : Delete “Employment Area 1 (refer to Inset Map Emp1 Inset 2)” from Policy Emp2. In Emp 2(a) delete “ Employment Area1”. In second paragraph, add “as shown in Inset Map Emp1 Inset 2” after “Emp 2a and 2b”**

*Policy Emp3 – Staddiscombe Service Station/Supermarket Employment Area 3*

106. I have no comments on this policy.

*Policy Emp4 – Existing recreational and tourism facilities*

107. This policy complies with national and strategic guidance in the JLP and I have no comments to make.

#### *Development*

108. The Background to the Development Section of the NP requires some updating as the adopted JLP removes the indicative housing allocations from AONB settlements and their status as Sustainable Villages.

- **Recommendation: Delete “particularly as The Plymouth and South West Devon JLP guide of 10 new dwellings for Brixton as a Sustainable Village TTV30 Figure 5.8) has already been grossly exceeded” from third paragraph on page 41. In paragraph on Page 41 above the BPNP proposed Settlement Boundary Plan, delete “to reflect that proposed in the JLP and”**

*Policy Dev1- Development within settlement boundary*

110. This policy provides overall guidance about development within the defined settlement boundary. The first sentence of the policy reads like a policy title and should be removed . Some minor rewording to improve the clarity of the policy is also required.

- **Recommendation : Delete “Location, scale and character of development.” from Policy Dev1. In second sentence, change “with its site and surroundings” to “in keeping with the site and its surroundings”**



*Policy Dev2 – Design*

111. I have no comments on this policy.

*Policy Dev3 – Conversion and restoration of non-designated heritage assets*

112. I have no comments on this policy.

*Policy Dev4 – Design and renewable energy*

113. I have no comments on this policy.

*Policy Dev5 - Car parking*

114. South Hams District Council has suggested some rewording of this policy to align with strategic guidance and, in response to my query, the NPG has suggested that the policy should also provide guidance on car parking provision for homes of 6 bedrooms or more.

- **Recommendation : In first sentence of Policy Dev5, change “must” to “should where appropriate” . Reword second sentence to read “In residential developments at least two parking spaces should be provided for two bed properties, with a further additional parking space for properties with more than 3 bedrooms. For properties of 6 bedrooms or more, at least 4 parking spaces should be provided. Garages will not normally be counted as parking spaces”.**

*Policy Dev6 – Development in Brixton village*

115. This policy seeks to protect the village of Brixton from the cumulative impact of development, but is not sufficiently precise about what the “adverse affects(*sic*)” of such development might be. In order to ensure the policy meets the basic conditions, I suggest some rewording so that it aligns more closely with the guidance in the NPPF and the JLP.

- **Recommendation : Reword Policy Dev6 to read “Development in Brixton village will be limited in line with its status as a sustainable village in the AONB. Any development should respect its character and local distinctiveness, ensure adequate supporting infrastructure is provided and support and/or enhance exiting community facilities”**

### *Policy Dev8 – Infill development*

116. I note that there is no Policy Dev 7, so Policy Dev 8 needs to be renumbered, as do all other subsequent policies.

- **Recommendation : Renumber Dev 8 as Dev 7 and renumber all subsequent policies accordingly**

117. I have no comments on Policy Dev 8.

### *Policy Dev9 – Affordable Housing*

118. This policy allocates a site within the settlement boundary of Brixton for affordable housing. This accords with guidance in the JLP (Policy TTV25) which says that in sustainable villages in the AONB, neighbourhood plans may wish to bring forward positive allocations to meet local housing need where justified by an appropriate evidence base.

119. The Housing Need Survey carried out in April 2016, identified a need at the time for eleven affordable homes over the next five years. The Site Assessments for Development document, which assessed the sites identified for potential development in the NP, concluded that the site has the potential to deliver between 8 and 10 dwellings. In response to my query, the NPG confirmed that the site is owned by SHDC and that a scheme comprising 3 market and 5 affordable rent homes is being worked up.

120. The policy accords generally with the guidance in the NPPF and the JLP, but to ensure clarity for future users of the plan, it should state that any affordable housing provision should be based on the latest available evidence of housing need.

- **Recommendation : Add as new second sentence to Dev9 “The affordable housing provision should be based on the latest available survey of housing needs”. In last sentence change “ layout in respect” to “ layout and respect”**

### *Delivering the Plan*

121. This is a very helpful section which outlines how the Neighbourhood Plan will be delivered and I have no comments to make.

### *Parish Project Action Plans*

122. This section outlines the various Action Plans which the community intends to prepare. These complement many of the policies in the Neighbourhood Plan and the community are to be congratulated for all the thought and foresight which has gone into drawing up this list.

## **9. Conclusions and Recommendations**

123. I have examined the Brixton Parish Neighbourhood Plan and I have concluded that, subject to the modifications set out in my report, it meets the basic conditions and other statutory requirements.

124. I am therefore pleased to recommend to South Hams District Council that, subject to the modifications set out in my report, the Brixton Neighbourhood Plan should proceed to referendum.

125. I am also required to consider whether the referendum area should be extended beyond the Brixton Neighbourhood Plan area. I see no reason why it would be necessary to extend the plan area for the purposes of holding a referendum, nor have I received any representations to that effect. However, there are two small areas of land included in the designated Neighbourhood Area but excluded from the Sherford boundary. Given their small size, divorced location from the substantive NP area and proximity to the Sherford allocation, I recommend that these small areas are excluded from the referendum area.

## **APPENDIX 1: Background Documents**

In undertaking this examination, I have considered the following documents:

- Brixton Parish Neighbourhood Plan 2014-34 January 2019, which includes the Basic Conditions Statement and Statement of Consultation
- Brixton Draft Neighbourhood Plan : Strategic Environmental Assessment and Habitat Regulations Assessment Screening Report : January 2019
- Plymouth and West Devon Joint Local Plan - adopted March 2019
- National Planning Policy Framework (NPPF) 2012
- National Planning Policy Framework (NPPF) February 2019
- Planning Practice Guidance March 2014 and subsequent updates

## APPENDIX 2

### Brixton Parish Neighbourhood Plan Examination

#### Request for further information and questions from the Examiner to South Hams District Council and Brixton Parish Council

I have carried out a preliminary review of the Neighbourhood Plan and the evidence submitted in support of it and there are a few points where I need some clarification or further information. I would therefore be grateful if both Councils could assist me, as appropriate, in answering the following questions.

*1.NP designated area* In the map which shows the NP Designated area (Appendix 1-page A.04) why are two slivers of land at the north end of the parish and one very small area of land not included in the designated area of Sherford New Town, which is excluded from the designated area for the Neighbourhood Plan? Has the boundary of the Sherford Town Council area resolved this? Please can I have the Parish and District Council's views?

*2. Policies Map* On a related issue, the Brixton Parish Neighbourhood Plan Policies Map does not seem to extend far enough north as it excludes narrow areas of land to the north east and north west. Please can I have the Parish and District Council's views?

*3.Reg 14 consultation* What were the exact dates of the Reg 14 consultation – there seems to be a general reference to this being carried out in November 2018, but no exact dates are given.

*4.HRA Screening* In para 11.2 of the Basic Conditions Statement, it is stated that Assessment under the HRA was not required. However, the SEA and HRA Screening Report dated January 2019, which is on the Council's website, concludes that an Appropriate Assessment is required, and this is included as Appendix 4 to that document. Please can these different conclusions be explained?

*5.Policy Env3* Is it intended that policy Env3 will protect all the Priority Habitat mapped in Map Env1? The policy says it "includes" a number of locations but it is not clear whether this is a definitive list. Policy Env3 (b) provides guidance about important woodlands but the mapping in Map Env5 in Appendix 8 does not cover the whole parish and some woodlands are on the edge of the map so their exact extent is not defined. I would be grateful for the Parish Council's comments, in particular whether these might be better mapped on the Policies Map instead. Also, whether there is any potential overlap between the "important woodlands" mapped in Env5 in Appendix 8 and the "Woodland" category which is marked on Env Map1?

6. *Env Map3* The map shows a light green vertical hatched line on two areas of land to the east of Brixton with an Env4 notation, but these are not referred to in the wording of Policy Env4. The same applies to the red, dark green and light green dots which are identified as green corridor “Stepping Stones” in the key. I would be grateful if the Parish Council could explain the link between the mapping and the policy, so that I am clear about the intention behind the drafting of Policy Env4.

7. *Policy Env10* In this policy which deals with the former Steer Point Brickworks site, reference is made to the designated Heritage Coast and adjoining SSSI designations. Are these included in any of the maps which accompany the Neighbourhood Plan?

8. *Policy Cof1* This policy lists a number of facilities which are being proposed as Assets of Community Value. Has a formal application been made to South Hams District Council to designate these assets? If so, what stage has this reached in the process?

9. *Policy Cof2* This policy refers to the Brixton Parish Community Facilities Plan, but looking at Appendix 5, this seems to be a plan that is proposed rather than one that has already been prepared. Given that Cof2 covers a range of different facilities, one option would be to simply refer in the policy to the longer list of Parish Project Action Plans listed in Appendix 5. I would be grateful for the Parish Council’s views on this.

10. *Policy Emp2* Sub clause Emp2a refers to an Employment Area 1 at Chittleburn. Could you confirm where this is mapped? I can see mapping for EMP2 and EMP3 but not EMP1 on Emp Map1 on page 36

11. *Policy Dev5* I understand that the intention of policy Dev5 is to reduce on street parking by securing adequate off-street car parking provision in new development. The Parish Council has commented on the response from SHDC regarding Dev5, saying that it does not support the SHDC suggested rewording. However, the SHDC version seems to be more generous in terms of parking provision for two bed dwellings, in that it says “at least two parking spaces”. Looking at the wording of the Newton and Noss NDP policy, which the Parish Council has suggested as an alternative, this also seems to be less generous, especially with regards to car parking provision for 3 bed homes. I would be grateful for the Parish Council’s views.

12. *Affordable housing allocation* On page 45 of the plan, it states “In March 2018, South Hams District Council brought land within Brixton village settlement boundary for affordable/community housing”. It would be helpful to have a little more information about this, and, in particular, whether a planning application has been submitted for the site.

Thank you for your assistance with these questions. Once I have received your responses, I may need to ask for further clarification or further queries may arise as the examination progresses.

Please note that these questions and requests for information is a public document and the answers and any associated documents will also be in the public domain. Both my questions and the responses should be placed on the Councils' websites as appropriate.

Barbara Maksymiw

23 April 2019