

INDEPENDENT EXAMINATION OF THE ASH
NEIGHBOURHOOD DEVELOPMENT PLAN 2018-2037
EXAMINER: DEREK STEBBING BA (Hons) DipEP MRTPI

Christine Haggart
Clerk to Ash Parish Council

Stuart Watson
Dover District Council

Examination Ref: 01/DAS/ASHNP

8 February 2021

Dear Ms Haggart and Mr Watson

ASH NEIGHBOURHOOD DEVELOPMENT PLAN EXAMINATION

Following the submission of the Ash Neighbourhood Development Plan for examination, I would like to clarify several initial procedural matters. I also have a number of questions for the Qualifying Body, Ash Parish Council .

1. Examination Documentation

I can confirm that I am satisfied that I have received a complete submission of the draft Plan and accompanying documentation, including the Basic Conditions Statement, the Consultation Statement and Appendices, the Strategic Environmental Assessment report, the Habitats Regulation Assessment report and the Regulation 16 representations, to enable me to undertake the examination.

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

2. Site Visit

I will aim to carry out a site visit to the neighbourhood plan area in the week beginning 1 March 2021, subject to the prevailing Government COVID-19 advice at that time. The site visit will assist in my assessment of the draft Plan, including the issues identified in the representations.

The visit will be undertaken unaccompanied. It is very important that I am not approached to discuss any aspects of the Plan or the neighbourhood area, as this may be perceived to prejudice my independence and risk compromising the fairness of the examination process (and further respecting the current COVID-19 distancing arrangements).

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

3. Written Representations

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

4. Further Clarification

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

I have six questions seeking further clarification, which I have set out in the Annex to this letter. I would be grateful if you can seek to provide a written response **by Monday 8 March 2021**.

5. Examination Timetable

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

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

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

Thank you in advance for your assistance.

Your sincerely

Derek Stebbing

Examiner

ANNEX

From my initial reading of the Ash Neighbourhood Development Plan and the supporting evidence, I have the following questions for the Qualifying Body. I have requested the submission of responses **by Monday 8 March 2021**, though an earlier response would be much appreciated.

Question 1: Policy ANP1 (Development in the Countryside) (Page 25)

As drafted, the Policy, infers (but not does not state explicitly) that clauses 1.1-1.13 of the Policy could apply to all development proposals. As I interpret the Policy, certain clauses (e.g. 1.1, 1.3 and 1.8) will apply to all development proposals, but others (e.g. 1.9 and 1.10) will only apply in specific circumstances.

I invite the **Qualifying Body** to consider re-structuring the Policy text to set out, firstly, the planning requirements for all proposed developments in the countryside and, secondly, the potential additional requirements for developments in certain settings.

Question 2 – Policy ANP4 (Biodiversity) (Page 31)

As drafted, I consider that some of the material included in this Policy could be placed within its supporting justification (e.g. parts of clause 4.1 and clause 4.6). Furthermore, there is some duplication between this Policy and the second part of Policy ANP1 (e.g. clause 4.7) (and see also above).

I invite the **Qualifying Body** to consider re-structuring this Policy to minimise the non-Policy specific material and to reduce the duplication with the content of Policy ANP1.

(Please also see Question 5 below)

Question 3 – Policy ANP2 (Designated Local Green and Open Spaces) (Page 29)

Can the **Qualifying Body** please confirm that the draft Plan is seeking the designation of the 14 sites listed in this Policy as Local Green Spaces (rather than publicly accessible Green Spaces), in accordance with the advice at paragraphs 99-101 of the National Planning Policy Framework, that the reference in the Policy to Map 5 should be to Map 8 and that the reference at the foot of page 27 to “... *the 11 areas above* ...” should be to “15 areas”?

Question 4: Re. Policies ANP7a, ANP7b, ANP7c, ANP7d, and ANP7e (Pages 50-59)

Each of these Policies introduces a requirement for ‘nutrient neutrality’ with regard to the Stodmarsh SAC/SPA/Ramsar site. This results from a specific conclusion in the Habitats Regulations Assessment (at page 35 of that report).

The concept of ‘nutrient neutrality’ is not commonly cited in development plans, being a highly technical calculation as shown by Appendix C to the Habitats Regulations Assessment.

I consider that the Plan does require a simple explanation of the concept of ‘nutrient neutrality’ for the benefit of its future users (in addition to the material at Appendix 1), and I invite the **Qualifying Body** to draft a short sub-section, possibly based upon paragraphs 3.10/3.11 of the Habitats Regulations Assessment document, to be included in the Plan at the most convenient place (which I presently consider to be at or about paragraphs 148-150).

Question 5: Re. Policy Drafting - General

As I have highlighted at Questions 1 and 2 above, there are areas of duplication and/or overlap in the drafting of certain Policies in the Plan.

However, there are several other such areas of duplication and overlap. By way of examples, clause 1.7 of Policy ANP1 duplicates clause 6.12 of Policy ANP6 verbatim, and that is also the case for clause 4.8 of Policy ANP4 and clause 5.5 of Policy ANP5. This is leading, in some cases, to lengthier Policies than are necessary. A key part of my examination will be to test whether the policies in the Plan are sufficiently clear and unambiguous, having regard to advice in the PPG. A policy should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications.¹

To avoid any unnecessary repetition of Policy material, it is common practice to instead insert a statement that “*development proposals should comply with all relevant Policies in this Plan*” (or similar), albeit all development plan policies are read as a whole in any event.

In order to avoid the need for extensive Proposed Modifications to the Plan, I invite the **Qualifying Body** to review each of the Policies in the Plan and identify those clauses that are suitably and adequately addressed by other Policies (which will enable deletion of the duplicated clauses), complemented by the insertion of a replacement statement such as that set out above. I would be grateful to receive a Note on this matter.

Question 6 – Paragraph 380 (Page 71)

Can the **Qualifying Body** please indicate whether there is any text missing at Paragraph 380?

¹ Planning Practice Guidance Reference ID: 41-041-20140306.