

Bentley Parish Modified Neighbourhood Plan 2021-2040

Initial Comments of the Independent Examiner

Prepared by

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Introductory Remarks

1. As you will be aware, I have been appointed to carry out the examination of the modifications to the Bentley Neighbourhood Plan. I have carried out my initial review of the Plan and the accompanying documents. I visited the parish on Tuesday 28th January 2025.
2. I spent over an hour and half re -acquainting myself with the village and the surrounding countryside. I visited each of the local green spaces, the community facilities and the proposed non designated heritage assets. I noted the areas where the settlement boundary is proposed to be enlarged, and I saw the allotment site off Hole Lane which was the subject of one of the Regulation 16 representations. I visited the local shop. I also was saddened to see the empty doctors' surgery building. I witnessed conditions around the village school at the end of the school day.
3. I can confirm that I will be able to deal with the examination solely on the basis of the written material and I do not envisage that I will need to hold a public hearing.
4. I am also required to firstly consider whether the proposed modifications would change the nature of the plan which would trigger the need for a referendum. I agree with the conclusions of both the Parish Council and East Hampshire District Council, namely that the modifications do not change the nature of the plan and a referendum will not be required.

National Planning Policy Framework

5. Just before Christmas, the Government issued a new version of the National Planning Policy Framework. Paragraph 239 of this latest version deals with Implementation and confirms that only those neighbourhood plans which are submitted after 12th March 2025, will be assessed, at examination, against the policies in this new version of the NPPF. I can therefore confirm that I will be examining these modifications in the context of the previous version of the Framework, which was issued on 19th December 2023. Any subsequent reference to paragraph numbers in this document relates to the December 2023 version of the Framework.

Regulation 16 Comments

6. I would like to offer the Parish Council the opportunity to comment on the representations that were submitted to the modified plan as part of the Regulation 16 consultation. I do not expect a response to every comment made, just those that the Parish Council feels that it wishes to respond to or comment upon. I would be particularly

interested in the Parish Council response to the District Councils detailed comments regarding Policy BEN3.

Habitat Regulation Screening Determination

7. The Parish Council has produced a screening statement that concluded that a Strategic Environmental Assessment would not be required.
8. However, in paragraph 1.6 of the submitted plan it erroneously states that “The screening determination also confirmed that a Habitat Regulation Assessment (HRA) of the modifications would not be required”. My reading of the screening determination is that it makes no reference to screening under the Conservation of Habitats and Species Regulations and furthermore it is not within the remit of the Parish Council to make that decision. It is the District Council which, under the HRA Regulations, is the “competent authority” and needs to make the determination as to whether the modified plan will have a significant impact on any European protected sites after consulting Natural England on its draft determination.
9. When I initially asked the District Council for a copy of its screening determination, it appears that one has not been prepared at that point. However, I have now been provided with East Hampshire’s screening determination as required by Regulation 105 of the Conservation of Habitats and Species Regulations which concluded, after consultation with Natural England, that the modifications will not significantly adversely impact on any European Protected sites and an Appropriate Assessment will not be required. I would ask that this HRA Screening Determination be published in the relevant neighbourhood plan websites.

Plan Period and Indicative Housing Figures

10. My principal reservation in this examination is that the modifications propose a plan end date of 2040, which aligns with the emerging East Hampshire Local Plan. The original version of the plan was made in the context of the Joint Core Strategy which ran until 2028.
11. That change has implications for the likely housing numbers which will be required to be accommodated in Bentley parish over the extended plan period. Whilst the Local Plan has not reached its Regulation 19 submission stage and much work needs to be done to reflect the implications of the latest version of the NPPF and the revised Standard Methodology, one of the basic conditions which I need to consider is whether the modified plan will deliver sustainable development which includes whether it will meet the

needs of present and future generations through the lifetime of the plan- 15 years ahead.

12. The NPPF does provide a mechanism where neighbourhood plans advance before a local plan. I need to ask the District Council to confirm whether it has provided Bentley Parish Council with an indicative housing requirement figure for the new plan period, under the provisions set out in paras 67 and 68 of the NPPF?
13. If that figure has been provided, can the Parish Council comment on whether it feels its housing proposals, particularly those set out in Policy BEN 1 and BEN 2 will be able to deliver that indicative number and does that have any implications for the proposed end date of the modified plan. Should I be considering a shorter end date for the neighbourhood plan, rather than 2042?

Neighbourhood Plan Policies

Policy BEN4: Local Heritage Assets

14. I will be treating these local heritage assets as non-designated heritage assets in the context of para 209 of the NPPF – does the policy requirement to retain the significance of these assets reflect the more nuanced approach advocated by the Secretary of State set out in that paragraph of the NPPF which requires a balanced judgement relating the scale of any harm or loss and the significance of the asset

Policy BEN5: Recreation Ground

15. It appears there is some additional rogue text has been introduced in criteria v) namely “Bentley Neighbourhood Plan”. Can the Parish Council confirm?

Policy BEN6: Education

16. Is the objective of the policy to ensure that development does not result in the loss of on street parking for the parents dropping off and collecting their children. How would a decision maker be able to objectively assess whether the increase in traffic flows will adversely affect pupil safety.
17. It strikes me that the situation that I saw at the end of the school day reflects conditions at most schools in residential areas and on busy routes during term time, in the morning and mid-afternoon peaks but these do not justify a policy constraint on new development. Is it not covered by normal highway considerations in Policy BEN9? I note that Policy 4 of the made plan refers to proposals not having a

“severely adverse impact on traffic movements and parking” in the vicinity of the school.

Policy BEN7: Community Facilities

18. Could the Parish Council comment on the question of which policy would a decision maker use to determine a planning application that covers the village shop and café, and The Star Pub. They are identified as a community facility but are also referred to in the supporting text of Policy BEN8. I would suggest that apart from the public house, which is a sui generis use, all the uses covered by this policy fall within Use Class F2.
19. I am concerned that in clause B ii, a planning decision maker is expected to make a judgement as to whether “all reasonable efforts have been made to improve the operation and management of the business or facility”. This seems to go beyond the remit of planning policy, for example, if the person running a village shop wished to retire. I can understand a policy requirement for marketing a premise, but it is difficult when faced with a vacant unit, where a business has closed, to then seek to determine whether it could have improved its operation or the management of the business when it was operating.

Policy BEN8: Local Employment

20. Paragraph 4.10 refers to a planning appeal in respect of the employment site in the village. Can I be provided with details of that appeal and if available a copy of any Inspector’s decision.
21. Can the Parish Council comment on whether it is case that the viability of the use is not the key question but rather whether, after marketing, it would not be possible to find a new occupier for the premises then alternative uses should be considered.

Policy BEN9: Traffic Impacts

22. In assessing this policy, I am conscious of the Secretary of State’s policy, as set out in paragraph 115 of the NPPF, which says that “development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road networks would be severe”. Does the Parish Council consider that any proposal that increased the volume of traffic in the village should individually be expected to show how they have mitigated that harm, or should it only be those that have a severe impact?

Policy BEN10: Green Infrastructure

23. Does the District Council have a view as to whether the policy requirements to deliver a minimum 10% biodiversity gain set out in B) are still required now that the biodiversity net gain provisions initiated by the Environment Act are fully in place? My understanding is that Planning Practice Guidance states that such policies are no longer required as the statutory scheme sets out options on how biodiversity net gain can be delivered.
24. Does the Parish Council accept that the requirements in C., namely that “all developments” should contain habitat enhancement measures, should only apply to new buildings. Should the requirements set out for bat boxes, swift bricks and hedgehog routes, be quoted as examples of how wildlife can be supported?

Policy BEN11: Local Green Spaces

25. The policy introduces two new local green spaces. I visited the green space at Somerset Fields, and it seemed to play a similar role to other green amenity spaces I saw in the residential areas of the village. What was the criteria or threshold for inclusion that led to this one being included and other were not?
26. It would help me understand how these new additions meet the criteria set out in para 106 of the Framework if the Parish Council could articulate in what way they are demonstrably special to the local community and hold a particular significance.

Policy BEN12: Sustainable Drainage and Wastewater

27. Is it the Parish Council’s expectation of the policy that all new buildings “should” incorporate grey and rainwater harvesting and that goes beyond the “encouragement” of developments that incorporate these features i.e. that these schemes will be supported?
28. Would incorporating water butts to downpipes meet the expectation of the policy in terms of rainwater harvesting?
29. Has the District Council considered the imposition of policies covering grey water recycling as part of its local plan making across the district? I note that it is referred to in the Sustainable Construction SPD but is it a policy requirement and does it feel it can be, when it is not a Building Regulation stipulation?

Policy BEN 13: Dark Skies

30. I wonder whether it is a proportionate policy to require every planning application in the parish to have to explicitly demonstrate that all opportunities have been taken to reduce light pollution. Would it for example apply to domestic extensions, would it rule out

conservatories? I note that the requirement is there should be no negative impacts on measured and observed sky quality but the language within the hierarchy refers to lighting being *avoided* or *mitigated* which seems to accept there will be some impact.

Concluding Remarks

31. I am sending this note direct to Bentley Parish Council and East Hampshire District Council. I would request that responses to my questions should be sent to me by 5 pm on **21st February 2025** and be copied to the other party.
32. I would also request that copies of this note and the respective responses are placed on the Parish Council's and District Council's websites.

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