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# **Stage One Report Buckland Newton Neighbourhood Development Plan 2015-2030**

**A partial, first stage Examination undertaken for West Dorset District Council with the support of Buckland Newton Parish Council on the November 2015 Submission version of the Plan.**

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**Date of Report: 04 May 2017**

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## Contents

	Page
<b>Main Findings - Executive Summary</b>	3
<b>1. Introduction and Background</b>	3
• Buckland Newton Neighbourhood Development Plan 2015 - 2030	3
• The Independent Examiner	4
• The Scope of the Examination	5
<b>2. Approach to the Examination</b>	7
• Planning Policy Context	7
• Submitted Documents	7
• Site Visit	8
• Written Representations or Public Hearing	8
<b>3. Procedural Compliance</b>	9
• The Qualifying Body	9
• The Neighbourhood Plan Area	9
• The Plan Period	9
• Neighbourhood Plan Preparation and Consultation	9
<b>4. Stage One: Conclusion</b>	12

## **Main Findings - Executive Summary**

I agreed with West Dorset District Council to conduct a two stage examination of the Submission Plan for the Buckland Newton Neighbourhood Development Plan 2015 - 2030 and its supporting documents, including the representations made.

This Stage One Report is confined to my assessment of the following, essentially procedural, aspects of the requirements of Paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended). These are that:

- the Plan has been prepared and submitted for examination by a qualifying body – Buckland Newton Parish Council;
- the Plan has been prepared for an area properly designated – the Neighbourhood Plan area, the boundary of which is coterminous with the Parish Council boundary, and is the only neighbourhood plan for that area;
- the Plan specifies the period to which it is to take effect – from 2015 to 2030;
- Matters prescribed have been met (in relation to the preparation and submission of the Plan); and
- Regard has been had to national policies and advice contained in guidance issued by the Secretary of State (in so far as it relates at to procedural issues).

I consider that the above requirements have been complied with, thereby completing stage one of the examination.

The stage two, concluding examination, dealing with the remaining requirements in Paragraph 8 of Schedule 4B, including a full assessment of the Basic Conditions, will not be progressed until such time as I receive instructions from West Dorset District Council as to whether to continue.

## **1. Introduction and Background**

### *Buckland Newton Neighbourhood Development Plan 2015 - 2030*

- 1.1 Buckland Newton is a rural parish situated in West Dorset. The parish is approximately 10 miles north of Dorchester and a similar distance to the south of Sherborne and Sturminster Newton. Much of the parish lies within the Dorset Area of Outstanding Natural Beauty (AONB), with only two areas north of the hamlet of Tiley and an area in the north-east of the parish being outside the designated AONB.
- 1.2 The Neighbourhood Plan covers the whole parish which has an area of approximately 1,700 hectares. At the 2011 Census, the parish had a

population of 622 people living in 260 dwellings, but the total housing stock was 287 dwellings reflecting an additional number of second homes. The population is dispersed across the parish, with the main settlement being Buckland Newton, where the main community facilities are located, but there are a number of smaller hamlets across the parish.

- 1.3 There is a designated Conservation Area within Buckland Newton, focused on the older part of the village around the church. There are 28 listed buildings and structures within the parish, with 10 listed buildings and structures being within the Conservation Area.
- 1.4 The principal road through the parish is the B3143, which runs north-south and provides a link to Dorchester to the south and Sturminster Newton to the north. A limited bus service (4 journeys per day) provides a public transport link along the B3143 between Dorchester and Sturminster Newton.
- 1.5 The main community facilities for the parish are located in Buckland Newton which has a Grade I Listed Parish Church, a primary school, village shop, public house, village hall and a parish meeting room.
- 1.6 Initial work commenced on the preparation of the Neighbourhood Development Plan for the parish in early 2011, when a Working Group was established by the Parish Council for those people who were interested in taking part in the project. The Parish Council also decided to prepare a non-statutory Parish Plan alongside the Neighbourhood Plan. A public consultation exercise for the Parish Plan was held during 2012, including public meetings and a questionnaire and leaflets for every household in the parish. The results of this consultation activity informed the preparation of the Parish Plan (which was subsequently agreed and adopted in October 2013), and also the first stages in the preparation of the Neighbourhood Plan.

#### *The Independent Examiner*

- 1.7 I have been appointed as the examiner of the Buckland Newton Neighbourhood Development Plan by West Dorset District Council, with the agreement of the Buckland Newton Parish Council, who are the qualifying body for the purposes of this examination.
- 1.8 I am a chartered town planner, with over 40 years of experience in planning, and have worked in both the public and private sectors. I have also served on a Government working group considering measures to improve the local plan system, and have undertaken peer reviews on behalf of the Planning Advisory Service.
- 1.9 I am independent of the qualifying body and the local authority and do not have an interest in any of the land that may be affected by the Draft Plan. I therefore have the appropriate qualifications and experience to carry out this independent examination.

1.10 I have had sight of two letters addressed to West Dorset District Council, dated 27 July 2016 and 12 September 2016, written by an independent examiner who was previously appointed to examine this Plan. The examiner raised a number of concerns related to the Plan's preparation, before having to step down due to personal circumstances. As the newly (and sole) appointed examiner of this Plan, I must carry out my own full and independent examination. I am neither relying on, nor bound by any previous work of the formerly appointed examiner. I must, through the consideration of the Plan and relevant evidence, come to my own independent conclusions and recommendations.

### *The Scope of the Examination*

1.11 West Dorset District Council has requested that my examination is undertaken in two stages, in order to avoid any potentially abortive costs should the initial matters I examine prove to be noncompliant with the legal requirements. I consider this a reasonable request, given the costs already incurred by the District Council as a result of the uncompleted previous examination.

1.12 Firstly, I have been asked to consider matters relating to the procedural compliance concerning the preparation and submission of the Plan, and to report thereon. Subject to the District Council's approval, the second (final) stage of the examination will proceed and will consider the Plan's compliance with the remaining legal requirements, including a full assessment of the Basic Conditions in Paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act').

1.13 The scope of this Stage One Report relates to the following aspects of Paragraphs 8(1) and 8(2) of Schedule 4B to the 1990 Act:

- whether the Plan complies with certain provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
  - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the Local Planning Authority;
  - it specifies the period during which it has effect;
  - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area; and
- such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 ('the 2012 Regulations'), subject to my comments in paragraph 1.14 below; and

- That regard has been had to national policies and advice contained in guidance issued by the Secretary of State (in so far as it relates, at this stage one, to procedural issues).

1.14 I note that there appears to be a duplicated requirement in so far as 'matters as prescribed' and 'prescribed matters' are referenced respectively in Paragraph 8(1)(e) and Paragraph 8(2)(g) of Schedule 4B to the 1990 Act, the latter being part of a Basic Condition. The legal opinion submitted with this Plan (see paragraph 2.6 below) also observes the legislation is unclear, but errs toward the relevant requirement being that in Paragraph 8(2)(g). In the absence of any definitive authority, I consider it suffices to say to that an assessment of compliance with the requirements of the 2012 Regulations does appear to be required in relation to the preparation and submission of a neighbourhood plan, and in my experience, is common place in examiners' reports.

1.15 Following my Stage One Report, should I be instructed by the District Council to proceed to undertake stage two of the examination, I will consider in stage two the remaining issues in Paragraph 8 of Schedule 4B to the 1990 Act, which are:

- whether the Plan meets the Basic Conditions as set out in Paragraph (8)(2) of Schedule 4B;
- whether the Plan complies with the further requirements under s.38A and s.38B of the 2004 Act, which are:
  - it sets out policies in relation to the development and use of land;
  - it does not include provisions and policies for 'excluded development';
  - whether the Referendum boundary should be extended beyond the designated area, should the Plan proceed to Referendum; and
- whether the Plan meets the additional requirement that the Plan is compatible with the Human Rights Convention, required by virtue of Paragraph 8(6) of Schedule 4B to the 1990 Act.

1.16 On completion of my stage two assessment, I will prepare a consolidated final report i.e. incorporating my stage one and two findings. This will recommend either:

- a) that the neighbourhood plan is submitted to a referendum without changes; or

- b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
- c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

## **2 Approach to the Examination**

### *Planning Policy Context*

- 2.1 Whilst the planning policy context will be more relevant to the stage two examination, I consider it would be helpful to clarify the position at the outset. The Development Plan for West Dorset District Council, not including documents relating to excluded minerals and waste development, is the adopted West Dorset, Weymouth and Portland Local Plan (2015). I note there is a Draft Local Plan Review in progress, but this is not at an advanced stage, having just undergone consultation on an 'Issues' document.
- 2.2 The planning policy for England is set out principally in the 2012 National Planning Policy Framework (NPPF). In particular, it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in local plans. It also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. As such, neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.
- 2.3 In 2014, the Government published the Planning Practice Guidance (PPG) which offers guidance on how this policy approach should be implemented in neighbourhood plans. PPG states that a policy should be clear and unambiguous to enable a decision maker to apply it consistently and with confidence when determining planning applications. It also states that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and characteristics of the area.
- 2.4 It should be noted in relation to the stage one examination that the PPG offers guidance on the preparation; consulting on and publicising; and submission of a neighbourhood plan.

### *Submitted Documents*

- 2.5 I have considered all policy, guidance and other reference documents I consider relevant to stage one of this examination, including those submitted which comprise:

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- the Buckland Newton Neighbourhood Plan – Submission Draft (2015-2030), dated November 2015;
- the designated Neighbourhood Plan Area and accompanying designation map for Buckland Newton, which was approved by West Dorset District Council on 04 February 2013 and which identifies the whole of the Buckland Newton Parish Council area as the area to which the proposed neighbourhood development plan relates;
- the Consultation Summary document (undated);
- the Basic Conditions Statement, dated January 2016, explaining how the proposed neighbourhood development plan meets the Basic Conditions;
- the Representations that have been made in accordance with the Regulation 14 consultation undertaken between 21 May and 4 July 2015, the Representations that were made during the subsequent Supplementary Consultation between 18 September and 31 October 2015 and the Regulation 16 Representations made during the consultation between 28 January and 10 March 2016; and
- the Strategic Environmental Assessment Screening Report issued by West Dorset District Council, dated July 2015.

2.6 I have also considered all the evidence base documents that have been referenced by Buckland Newton Parish Council to support the preparation of the Plan. This includes a legal opinion that was prepared on behalf of Buckland Newton Parish Council, which provides advice following the issues raised in the previous examiner's letters as referenced in paragraph 1.10 above.

#### *Site Visit*

2.7 I have made an unaccompanied site visit to the Neighbourhood Plan Area on 7 April 2017 to familiarise myself with it and to visit relevant sites and areas affected by the policies and/or the subject of representations.

#### *Written Representations or Public Hearing*

2.8 Following my consideration of the Submission Plan and its accompanying documents, my site visit and consideration of the representations made during the Regulation 16 consultation period, I do not consider that a public Hearing will be necessary for this stage one examination. However, if it proves necessary, I reserve the option to call a public Hearing in relation to the stage two examination, should the Plan proceed.



### **3 Procedural Compliance**

- 3.1 I now consider the Plan's compliance with the procedural requirements for the preparation of neighbourhood plans, which I have set out in paragraph 1.13 above.

#### *The Qualifying Body*

- 3.2 The Draft Plan has been prepared and submitted for examination by Buckland Newton Parish Council which is a qualifying body able to lead the preparation of a neighbourhood plan. Accordingly, this requirement is met.

#### *The Plan Area*

- 3.3 The Plan area is coterminous with the Buckland Newton Parish Council administrative boundary. West Dorset District Council approved the designation of the area in February 2013. The Plan relates to this area and does not relate to more than one neighbourhood area, and it therefore complies with this requirement.

#### *The Plan Period*

- 3.4 A neighbourhood plan must specify the period during which it is to have effect. The Buckland Newton Neighbourhood Plan states on page 4 that the Plan period is from 2015 to 2030. Should this examination proceed to the second stage, I intend to recommend in the interests of clarity that the Plan period should also be stated prominently on the front cover.

#### *Neighbourhood Plan Preparation and Consultation*

- 3.5 Public consultation must take place on the production of neighbourhood plans. Public consultation processes should be open and accessible and any information presented should be easy to understand and to comment upon. It should enable all sections of the local community to have the ability to comment on and hence shape the policies which may affect where they live, work, visit or spend their leisure time. The PPG provides advice in this regard specific to neighbourhood plans in reference ID: 41-047-20140306 to ID: 41-051-20150209.
- 3.6 In accordance with Regulation 15 of the 2012 Regulations, Buckland Newton Parish Council has submitted a Consultation Summary document (undated) to West Dorset District Council. I have considered this statement as part of this examination. It sets out the process by which the Plan has been prepared, including the Regulation 14 statutory consultation, taking into account the comments and views of residents, land owners, key stakeholders and other interested parties. Whilst I am of course aware of the preliminary concerns raised by the previous examiner with regard to public consultation, I have undertaken my own independent scrutiny of the evidence as the appointed examiner.

- 3.7 The preparation of the Plan began in 2011 when a Working Group was set up comprising Parish Councillors and other persons interested in taking part in the project. Initially, work was deferred whilst a non-statutory Parish Plan was prepared. However, the Neighbourhood Plan area was designated by West Dorset District Council in February 2013 and work commenced on a number of key evidence base studies.
- 3.8 A Draft Plan was prepared during late 2014, and, following its approval by the Parish Council, was published for public consultation between 21 May 2015 and 4 July 2015. A total of eight consultation events were held during this period and every household in the parish was notified. The consultation was also advertised on the Parish Council's website and by other publicity around the parish. Comments were received from 37 residents and from a number of statutory consultees and other bodies.
- 3.9 The Consultation Summary, together with the accompanying document entitled 'Statutory Public Consultation on Draft Plan - Comments Received by Policy' provide a comprehensive digest of the comments that were made during this pre-submission stage in the preparation of the Plan, including a record of the comments made by statutory consultees and other bodies.
- 3.10 A further Supplementary Public Consultation on the Draft Plan was undertaken between 18 September and 31 October 2015. This was a non-statutory pre-submission consultation, specifically undertaken to address proposed changes to the Draft Plan that had become necessary following the Local Plan Inspector's Report dated 14 August 2015 on the then emerging West Dorset, Weymouth and Portland Joint Local Plan and the proposed modifications to the Local Plan that were recommended by the Inspector.
- 3.11 Of key importance to the Neighbourhood Plan were modifications concerning affordable housing, and particularly smaller sites of the scale found in rural areas such as Buckland Newton. The supplementary consultation concerned consequential changes to the Neighbourhood Plan to reduce and remove any potential element of uncertainty for prospective planning applications involving, in particular, the provision of affordable housing in the Parish should the Plan have proceeded to submission and examination as previously drafted.
- 3.12 Whilst there is no express statutory provision for a Supplementary Public Consultation following the completion of the statutory Regulation 14 period of consultation, I am clear that the circumstances that were prevailing in August-October 2015 were exceptional, and were of direct importance to this Plan. There was a significant risk that the Plan would fail to meet the Basic Conditions with regard to its general conformity with the strategic policies of the development plan, with the Joint Local Plan being adopted by West Dorset District Council on 22 October 2015. It became clear in August 2015 that the Neighbourhood Plan would require

some amendment to ensure its conformity with the Local Plan by the time the examination stage was reached.

- 3.13 Therefore, in my assessment, the decision to undertake a Supplementary Public Consultation specifically on certain proposed amendments to the Plan was a realistic and pragmatic decision based upon the prevailing circumstances, which could not have been envisaged prior to the commencement of the formal Regulation 14 consultation earlier in 2015.
- 3.14 I do not consider that the interests of any body or person were prejudiced by this additional consultation. Indeed, I take the view that it was carried out in the interests of providing an opportunity for further public engagement on the focused issues, in the absence of legislation or guidance in the PPG covering such circumstances arising. In any event, this supplementary consultation was not the last opportunity to make representations on the Plan, given the statutory requirement for the Regulation 16 consultation.
- 3.15 It is also notable, in the context of the preparation of local plans, that it is not uncommon for a local authority to run a non-statutory supplementary consultation on an addendum of focused changes made after the relevant pre-submission consultation on a draft local plan<sup>1</sup>, prior to submitting the local plan for examination. Whilst this is not covered by the relevant local plan regulations, the additional consultation is not considered to jeopardise regulatory compliance.
- 3.16 The Supplementary Public Consultation did not, in my view, invalidate any aspect of the earlier Regulation 14 consultation simply because the circumstances had changed markedly since the close of that consultation in July 2015. Whilst it would have been possible to formally withdraw the emerging Neighbourhood Plan, and re-commence the broader consultation work on an amended document including a further Regulation 14 consultation, I am clear that this would have significantly delayed the preparation of the Plan and would have had a negative impact upon public confidence in the Neighbourhood Planning process.
- 3.17 For the reasons that I have set out, I conclude that in my view the Supplementary Public Consultation does not prejudice compliance with the 2012 Regulations on the preparation of the Plan, prior to its formal submission to West Dorset District Council. As described above, I have reviewed the scale and full extent of the consultation and engagement work that was undertaken during the preparation of the Plan. I am satisfied that the general approach was extensive and inclusive, and that consultation events were organised and publicised to enable as many people as possible to attend.

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<sup>1</sup> Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). See also paragraph 3.3 of the Planning Inspectorate publication, 'Procedural Practice in the Examination of Local Plans' (June 2016) and PPG ID: 12-020-20140306.

- 3.18 Whilst it is not part of my examination to consider the responses that were made by the Parish Council during the preparatory stages of the Plan, I am satisfied from the documentation that I have received that the Parish Council has taken full account of the comments that were received and has amended the Plan, where necessary, to address those comments. In particular, I reference the document entitled 'Statutory Public Consultation on Draft Plan – Responses to Comments Received' in this regard.
- 3.19 Following submission of the Plan to West Dorset District Council, formal consultation under Regulation 16 was held between 28 January and 10 March 2016. A total of 21 representations were made during that period, and I have considered these representations to the extent that they apply to this first stage of the examination. I have noted that there are allegations of issues relating to a conflict of interest and misconduct arising in relation to the Working Group members preparing the Plan, which are expressed in certain Regulation 16 representations. This was a matter also highlighted by the previous examiner as being of concern. However, it is not in my view within the remit of a neighbourhood plan examination to address these allegations. Such complaints and allegations should be properly addressed through the complaints procedures of the Parish and District Councils.
- 3.20 Overall, I consider that the public consultation and community engagement work that has been undertaken throughout the preparation of the Plan has been open and transparent, and to a very thorough and comprehensive level. I consider that it has enabled all residents, stakeholders, land owners and other interested parties to be able to comment upon the Draft Plan at the key stages in its preparation, and also following its submission to West Dorset District Council. Accordingly, I conclude that the legal requirements for the preparation and consultation on the Plan (including regard to the PPG) have been met satisfactorily.

#### **4 Stage One: Conclusion**

- 4.1 At this first stage, my examination has only investigated whether the Buckland Newton Neighbourhood Plan has met the legal and procedural requirements for the preparation and submission of a neighbourhood plans as set out in paragraph 1.13<sup>2</sup> of this report.
- 4.2 I consider that the Plan has duly met those requirements and therefore recommend to West Dorset District Council that the (final) stage two examination be undertaken in order that a full report on the examination of the Plan can be prepared.

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<sup>2</sup> Subject to my comments in paragraph 1.14 above.

- 4.3 In the interests of completeness, I should mention that the Neighbourhood Planning Act 2017 received Royal Assent on 27 April i.e. during the course of this examination. Only sections 1 to 7 are concerned with neighbourhood planning and these provisions will not come into effect for the time being.

*Derek Stebbing*

Derek Stebbing  
Examiner