



Broadstairs & St. Peter's Neighbourhood Plan 2018 – 2031

A report to Thanet District Council on the Examination of proposed Modifications to the Broadstairs & St. Peters Neighbourhood Plan

By:
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Independent Examiner
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Unaccompanied site visit carried out on 10 June 2020

Abbreviations

BSPNP	Broadstairs & St. Peter's Neighbourhood Plan
BSPTC	Broadstairs & St. Peter's Town Council
DC	District Council
Framework	National Planning Policy Framework
NP	Neighbourhood Plan
PPG	Planning Practice Guidance
SA	Sustainability Appraisal
TDC	Thanet District Council
QB	Qualifying Body

Non Technical Summary

This report concludes that the Broadstairs & St Peter’s Neighbourhood Plan, as recommended to be modified by the previous Examiner, Mr Derek Stebbing, does not fully meet the Basic Conditions as required by statute, but with the appropriate modification it can be recommended to be taken forward to Referendum.

The modification needed to meet the statutory requirements is as proposed by Thanet District Council. It can be summarised as omitting 2 of the Local Green Spaces proposed in the neighbourhood plan: those at Fairfield Road/ Rumfields Road and Reading Street.

The specified modification recommended in this report is based on matters raised in the public consultation responses and in responses from the Qualifying Body and Thanet District Council to questions that I raised. It does not alter the basis of the overall approach and policies of the submitted Neighbourhood Plan.

1 Introduction

- 1.1 I have been appointed by Thanet District Council (TDC), having consulted the Qualifying Body (QB), Broadstairs & St Peter’s Town Council (BSPTC), to carry out the independent examination of proposed Modifications to certain aspects of the Broadstairs & St Peters Neighbourhood Plan 2018-2031 (BSPNP), in accordance with the relevant legislation¹. My appointment has been facilitated by the Independent Examination Service provided by Trevor Roberts Associates.
- 1.2 The specific aspects that I am required to examine relate to Policy BSP5 in BSPNP that deals with the Designation of Local Green Spaces (LGS).
- 1.3 As required by the legislation, I am independent of the QB and DC, I do not have an interest in any land that may be affected by the draft plan, and I have appropriate qualifications and experience. I am a Chartered Town Planner (Fellow of the Royal Town Planning Institute) with wide experience in local and central government and private consultancy over a period of more than 40 years.
- 1.4 This report and my reasoning and conclusions are based on the submitted written material and representations. I made an unaccompanied site visit to the area on 10 June 2020. Whilst I have not mentioned all matters raised in the representations, I have taken all of them into account. Since the issues that I am required to consider are reasonably straightforward, and I consider that I have all the necessary information provided in the written representations, as is usual in neighbourhood plan examination, I have not considered it necessary to hold a hearing.

¹ Localism Act 2011, Town and Country Planning Act 1990 as amended, Planning and Compulsory Purchase Act 2004 as amended, The Neighbourhood Planning (General) Regulations 2012 as amended, Neighbourhood Planning Act 2017.

2 Location and characteristics

- 2.1 Broadstairs and St. Peter’s lies between the towns of Margate and Ramsgate on the Isle of Thanet. The town had a population of 24,903 at the time of the 2011 Census, with some 35% being over 65. As a coastal town, it also has a high number of seasonal visitors. Tourism remains the most important part of the local economy. It has delightful beaches and some fine architecture. The rich built-heritage has approximately 125 listed buildings and 4 designated conservation areas, including the Reading Street Conservation Area.

3 A brief history of the Plan

- 3.1 The Regulation 16 submission version of the BSPNP was published in November 2018. It was subject to a Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report prepared by TDC, and had been fully consulted on. It was submitted for independent examination in November 2018, and the examination report was dated 14 June 2019. The Examiner, Derek Stebbing BA (Hons), DipED, MRTPI, concluded that, subject to modifications that he recommended, the Plan met the Basic Conditions and that, once modified, it should proceed to referendum. The modifications that he recommended do not concern the matters that I have been commissioned to deal with, and therefore do not need to be mentioned further.
- 3.2 Upon receipt of Mr Stebbing’s report, Thanet District Council, the local planning authority whose development plan would include the BSPNP once approved, had to satisfy itself that the NP meets the statutory requirements so that it can be put to referendum of the local people of the Neighbourhood Plan area. Upon giving this consideration to the BSPNP, it decided that 2 elements of Policy BSP5, dealing with LGS, did not meet the Basic Conditions. These 2 elements are the Fairfield Road/Rumfields Road LGS and the Reading Street LGS. Hence its decision to appoint me to examine the matter further.
- 3.3 With regard to the matter of LGS, Mr Stebbing, at his paragraph 4.17, noted the background document to the NP ‘Local Green Spaces in Broadstairs & St. Peter’s’ dated July 2018. This sets out the methodology used by the QB to select the LGS. He was satisfied with the approach taken, describing it as ‘rigorous’, and in accordance with the principles set out in the Framework and PPG. He stated that he was satisfied that each of the proposed sites meets the specific criteria set out in Framework paragraph 77. He then goes on to consider the map that shows the location of the LGS and the need for it to be an integral part of the plan. I am informed that no objection was put before Mr Stebbing in respect of the 2 LGS subject of the proposed modification.
- 3.4 I have been supplied with a copy of Local Green Spaces in Broadstairs & St. Peter’s and have noted its contents. In Appendix 1 to this document, all the sites then under consideration are listed, in table form. There are two columns that deal with the selection criteria. Column C is headed “Is the Green Space in reasonably close proximity to the people it serves”, and column D “Is the Green Space special and does it hold a particular local significance”. It is worth recording here the comments under each heading for the 2 modification sites. For Fairfield Road/Rumfields Road under C it is noted “Yes. In residential area next to a roundabout opposite a primary school”, and under D “A semi-natural green space edged with trees”. For Reading Street, column C records “Yes. Located in the heart of the historic village of Reading Street”, and D “Open Space. This is a small corner grassed area opposite Kitty’s Green. With

two small raised flower beds and two benches”.

- 3.5 There is no issue of precedent being set for me to follow in respect of Mr Stebbing’s judgements, although obviously I should make clear the basis for the judgements that I make.
- 3.6 At this point I should turn to mention the adopted Local Plan, the emerging Local Plan, and the National Planning Policy Framework (the Framework). The adopted plan is the Thanet Local Plan of June 2006 (LP06), which superseded the 1998 Local Plan. The emerging plan is the Thanet District Council Local Plan that covers the period to 2031(LP31). LP31 was submitted for examination on 30 October 2018 and the Inspectors’ report is dated 22 March 2020.
- 3.7 A revised Framework was published by the government in July 2018 and further revised in February 2019. This version includes a transitional arrangement in paragraph 214 which states that the policies in the previous Framework, published in March 2012, will apply for the purpose of examining plans, where those plans were submitted on or before 24 January 2019. Similarly, where the Planning Practice Guidance (‘PPG’) has been updated to reflect the revised Framework, the previous versions of the PPG apply under this transitional arrangement. Since the LP31 and BSPNP were submitted for examination prior to 24 January 2019, it is the 2012 version of the Framework, and the PPG that was based on it, that is applicable. Therefore, any subsequent reference to the Framework in this report should be taken as referring to the 2012 version, unless otherwise stated.
- 3.8 I make this point because the documentation submitted to me on my appointment makes extensive reference to the emerging LP31 and to the 2019 Framework, including references to meeting the Basic Conditions. This is important having regard to national policies and guidance issued by the Secretary of State and to general conformity with the strategic policies of the development plan for the area. The development plan for the area is the currently adopted Local Plan. This is not to say that the 2019 Framework, its PPG and the emerging LP31 are of no significance, but they are not the starting point.
- 3.9 However, I should add that the current development plan for Thanet District is somewhat dated, and indeed the Ministry for Housing, Communities and Local Government had intervened in the progress of preparing a new local plan on the basis of a continuing failure to put a local plan in place. It is therefore natural that locally, at both District and Town Council level, much emphasis was being put on the emerging plan². But that does not mean that the examination should not take as its starting point the requirements of the legislation as far as Basic Conditions are concerned.

4 The basis for this partial examination

The objections of the District Council

² PPG paragraph 41-009-20160211 recommends that LPAs should work proactively with QBs to produce complementary plans. It is clear from the text of BSPNP that BSPTC and TDC did in fact work together as recommended.

- 4.1 A report was submitted to the District Council’s Cabinet on 25 July 2019, preparatory to the issue of a Decision Statement as to whether or not to accept the recommendations in the Examiner’s report, and if not, what actions would be necessary. It points out that the Council has to consider whether the draft Plan meets the “Basic Conditions” for a Neighbourhood Plan.
- 4.2 The report expressed the view that the draft Neighbourhood Plan and the Examiner’s recommendations are generally acceptable. However, there is concern about two of the allocations proposed in the draft Plan for Local Green Spaces. This concern is expressed (paragraph 1.4) in the following terms: *“One of the ‘basic conditions’ is that a draft neighbourhood plan should be in general conformity, and not conflict with, national planning policy or local plan policies. It is considered that some of the Local Green Spaces (LGS) proposed do not meet the criteria for designation as set out in the National Planning Policy Framework (NPPF). As part of the council’s consultation on the Proposed Revisions to the draft Local Plan (Preferred Options) in 2017, the council invited proposals for sites to be considered as Local Green Spaces for inclusion in the Local Plan. Some of the sites now being proposed in the neighbourhood plan were also submitted at this stage, but were not allocated in the Local Plan as they did not meet the designation criteria. It is considered that their allocation in the neighbourhood plan would therefore conflict with the Local Plan LGS allocations as they have already been considered unsuitable for designation.”*
- 4.3 The Report goes on to note that, at this point in the process, the Council must come to a formal view about whether the draft Neighbourhood Plan meets the Basic Conditions. Regulation 18 of the Neighbourhood Planning Regulations 2012 (as amended), and Schedule 4B of the Town and Country Planning Act 1990 require the local planning authority to propose any necessary modifications to a neighbourhood plan in order that it can meet the Basic Conditions. The report further explains that the draft plan does not currently meet the Basic Conditions because some of the proposed LGS do not meet the criteria set out in the Framework and are not in general conformity with the strategic policies of the development plan for the area – the emerging Thanet Local Plan. It is clear that the Framework referred to here is the 2019 version³ and that it is not the “development plan for the area” that is being named.
- 4.4 Having then given some detail about the Framework criteria for the designation of LGS, and that the policies for managing development within them should be consistent with those for Green Belts, the following 2 sites are identified as not meeting the Framework criteria. These are Fairfield Road/Rumfields Road and Reading Street. The reason given for objecting to the former is *“The Council did not include this site for allocation in the Local Plan as a Local Green Space for the following reason: Possibly highway land on a busy roundabout. Site does not meet the NPPF criteria for designation.”*; and for the latter *“Site is part of the grass verge adjacent to the highway. Site does not meet the NPPF criteria for designation.”*
- 4.5 The Cabinet were recommended to propose a modification that these 2 LGS be removed from the policy in the BSPNP as they *“have been considered inappropriate for designation in the Local Plan, their designation in the neighbourhood plan would also not be considered appropriate, would not be in general conformity with the emerging Local Plan, so would fail the Basic Conditions.”* The Council would then carry out public consultation on the

³ Although the policy in the 2012 version is effectively the same as in the 2019 version.

proposed modification. This recommendation was agreed by Cabinet.

4.6 For clarity, I set out below the Modifications to the BSPNP proposed by TDC:

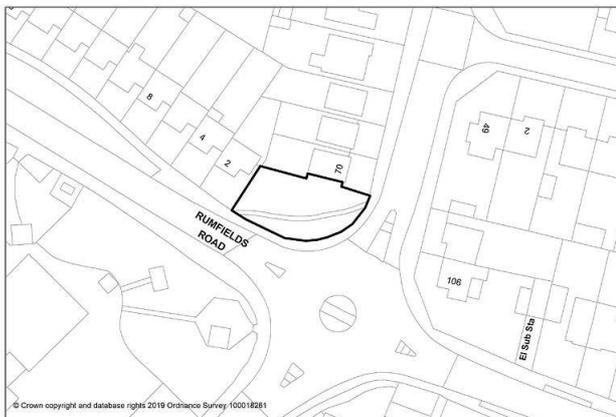
The Council proposes the following modifications to the Broadstairs & St Peters Neighbourhood Plan.

Delete the following from Appendix 2 - Addresses and grid references of Local Green Spaces:

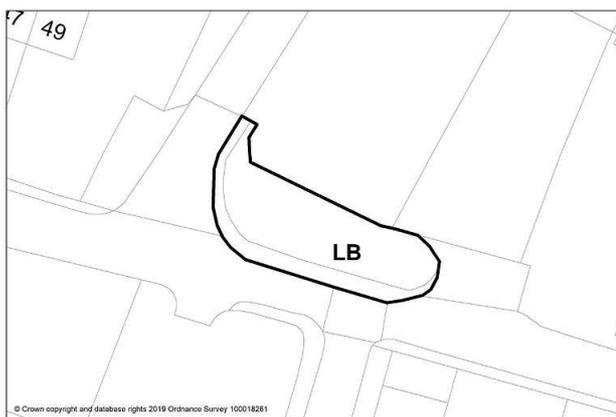
Fairfield Road- /Rumfields Road- (Bromstone Roundabout)-	CT10 2PH TR38026751	A semi-natural green space edged with trees
Reading Street	CT10 3AZ TR39026949	This is a small corner-grassed area opposite Kitty’s Green, with two raised flower beds and two benches.

Remove the following sites from the map showing the locations of Local Green Spaces:

Fairfield Road/Rumfields Road



Reading Street



5 Assessing the Plan against the Basic Conditions

- 5.1 A Neighbourhood Plan must meet the Basic Conditions as prescribed in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act, 1990⁴. In brief, the Basic Conditions which must be met by BSPNP, as applicable here, are:
- (a) it must have regard to national policy and advice issued by the Secretary of State;
 - (e) it must be in general conformity with the strategic policies in the development plan for the local area;
 - (f) it must not breach, and must be otherwise compatible with, EU obligations, including human rights requirements;
- 5.2 It is only (a) and (e) set out above that concern me, and only in relation to the issue that has been referred to me for further examination. This is because all other matters were dealt with in Mr Stebbing’s examination report and have been accepted by TDC.

Have regard to national policy and advice issued by the Secretary of State

- 5.3 In the context of this examination, the most relevant policies of the Framework are set out in the following paragraphs: I set these out at length because they form the primary basis on which to consider Local Green Spaces.
- 5.4 Within the Plan Making section of the Framework, paragraph 184 emphasises that *"Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies"*.
- 5.5 Paragraph 185 goes on to say *"Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development*

⁴ "The power in paragraph 12(6)(a) (of the 1990 Act) allows the authority a broad discretion in considering whether a particular modification is necessary for the purposes of satisfying the "basic conditions" in paragraph 8(2): whether the modification "[needs] to be made to secure that the draft order meets the basic conditions ...". The question of whether such a modification is necessary, and, if so, what form it should take, requires the exercise of planning judgment. And so does the ultimate question of the "basic conditions" being met or not, regardless of whether it has been necessary to make modifications to the plan to ensure that they are. To the extent that these are matters of planning judgment, they are for the local planning authority to resolve, subject to review by the court in accordance with the principles of public law. But the broad ambit of a legitimate planning judgment on the question inherent in paragraph 12(6)(a) suggests a generous view of the local planning authority's statutory power, and that the court should be cautious before accepting an argument that the power has been exceeded." Court of Appeal in the case of *Kebell Developments Ltd v Leeds City Council* [2018] EWCA Civ 450 (paragraph 34).

in their area. Once a neighbourhood plan has demonstrated its general conformity with the strategic policies of the Local Plan and is brought into force, the policies it contains take precedence over existing non-strategic policies in the Local Plan for that neighbourhood, where they are in conflict. Local planning authorities should avoid duplicating planning processes for non-strategic policies where a neighbourhood plan is in preparation.”

- 5.6 Within section 8 ‘Promoting healthy communities’, paragraph 76 states *“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period”.*
- 5.7 Paragraph 77 continues *“The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*
- *where the green space is in reasonably close proximity to the community it serves;*
 - *where the green area is 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*
 - *where the green area concerned is local in character and is not an extensive tract of land”.*
- 5.8 Paragraph 78 states that *“Local policy for managing development within a Local Green Space should be consistent with policy for Green Belts”.*
- 5.9 The above reference to Green Belts means that the following paragraphs of the Framework are critical to understanding. Within section 9 ‘Protecting Green Belt land’, paragraph 79 states *“the essential characteristics of Green Belts are their openness and their permanence”.*
- 5.10 Paragraph 83 is also pertinent as it includes *“Once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan. At that time, authorities should consider the Green Belt boundaries having regard to their intended permanence in the long term, so that they should be capable of enduring beyond the plan period”.*
- 5.11 At this stage I will comment on a few elements of the Framework’s policies that I have quoted above, as being central to my consideration of the matters brought before me. Framework paragraph 184 clearly sets out the government’s intention, by way of Neighbourhood Plans, to give local people a ‘powerful set of tools’ and, in paragraph 185, that, outside the strategic elements of the local plan, and enable them to ‘shape and direct sustainable development in their area’. This points to the need for the local planning authority or others to be restrained in intervening once a QB has formulated its plan.

5.12 Framework paragraph 76, in setting out the ability to identify and designate areas of LGS as areas of particular importance to them, enables them to rule out new development other than in very special circumstances, but adds: Local Green Spaces should only be designated when ... capable of enduring beyond the end of the plan period. In addition, paragraph 78 makes development management within a LGS consistent with policy for Green Belts. That means that land within a LGS has one of the most powerful protections against new development that the planning system has to offer. In turn this means that such designation requires careful consideration and justification. However, a notable difference between Green Belt policy and that for LGS is that, as Framework paragraphs 79 and 83 make clear, an essential characteristic of Green Belts is their permanence, not just enduring beyond the plan period.

5.13 Paragraph 216 of the Framework makes reference to emerging local plans, referring to decision-takers who may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

There is no reason why this indication of weight should not be assumed in the current context.

5.14 Turning to PPG, the following seems to me to provide guidance that is useful in the current context. *"Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making".*⁵ *"Local Green Space designation will rarely be appropriate where the land has planning permission for development. Exceptions could be where the development would be compatible with the reasons for designation or where planning permission is no longer capable of being implemented"*⁶. *"There is no lower size limit for a Local Green Space".*⁷

5.15 I draw conclusions on this Basic Condition in section 6 of this report.

Be in general conformity with the strategic policies in the development plan for the local area

5.16 As I point out in paragraph 3.6 above, the development plan for the area is currently the adopted LP06. Since this was adopted in 2006 and since LGS designation was introduced in the (2012) Framework, there is no LGS policy, strategic or otherwise, within that Plan. I see no lack of conformity of BSPNP

⁵ Paragraph: 007 Reference ID: 37-007-20140306, Revision date: 06 03 2014

⁶ Paragraph: 008 Reference ID: 37-008-20140306, Revision date: 06 03 2014

⁷ Paragraph: 016 Reference ID: 37-016-20140306, Revision date: 06 03 2014

with LP06, and nor has any lack of conformity been drawn to my attention.

- 5.17 As I stated in my questions to TDC, since the emerging LP31 has now reached the stage where the Inspectors’ report has been issued and Main Modifications have been published, its policies must carry considerable weight. Having followed the correct process of the Basic Conditions, it is therefore appropriate to consider the relevant policies of LP31.
- 5.18 Section 4 of LP31 sets out the strategic policies for the Environment. Among these is Policy SP30 – Local Green Space. The supporting text and the policy are expressed as follows:

“4.65 Local Green Spaces can be designated by communities through the local or neighbourhood planning processes. As set out in the NPPF, once designated, a Local Green Space will be afforded the same protection as Green Belts and new development will not be permitted other than in very special circumstances. The NPPF sets out the circumstances under which Local Green Spaces can only be designated:

- The green space is in reasonably close proximity to the community it serves.*
- The green area is demonstrably special to a local community and holds a particular local significance.*
- The green area concerned is local in character and is not an extensive tract of land.*

4.66 The Local Plan designates 19 Local Green Spaces which are protected under policy SP30. This follows an assessment of 49 proposals submitted by local groups, individuals, town and parish councils during the Revisions to Preferred Option consultation in 2017, and only those listed [below] were found to satisfy the criteria. Details of the assessment can be found in the report on Local Green Space. The Local Green Spaces designated in the Local Plan are: (there follows a list of sites which does not include the 2 sites the subject of this examination)

Policy SP30 - Local Green Space

The sites identified on the Policies Map will be protected as Local Green Space. Development proposals that protect or enhance these spaces will be permitted. Proposals for built development on a Local Green Space will only be permitted in the following circumstances:- 1) the built form is minimal and essential to the operation of the Local Green Space; 2) the development represents a suitable extension to an existing structure 3) the development is an acceptable reuse of an existing building on the site 4) the development is essential for public safety.”⁸

- 5.19 From this it is clear that Policy SP30 is a strategic policy. As such, and as TDC agree, it does not preclude a neighbourhood plan from proposing and designating additional LGS, so long as any such space conforms with policy on those areas that may be so designated. Thus, the mere fact that the 2 LGS to which objection is raised are not within the list does not of itself bar them from inclusion in BSPNP. As TDC put it in response to my question 7:
“1) The LGS Policy (SP30) is within the Strategic Policy section of the Local Plan because of the level of protection it gives to sites designated as LGS, as

⁸ But see the Local Plan Inspectors’ Main Modification 60, referred to later in section 7 of this report.

set out in para 78 of the NPPF: 78. Local policy for managing development within a Local Green Space should be consistent with policy for Green Belts 2) This is clearly a very high level of protection for sites that fall within the remit of Policy SP30, however it does not make those sites Strategic Sites themselves. Policy SP30 sits alongside policy SP29 - Protection of Open Space, which also affords protection to open spaces which are not considered to be Strategic Sites. (The only open spaces that are considered to be Strategic Sites are the Green Wedges which are protected under Policy SP22 - Safeguarding the Identity of Thanet's Settlements)”.

- 5.20 I am also told that no omission sites, including the 2 sites that are the subject of this examination, were put forward for the examining Inspectors’ consideration. Since a local plan cannot be adopted until it is found sound, and since these 2 sites were not considered by the Inspectors, it cannot be said that, just because TDC chose not to include them within the list of sites under Policy SP30, that the plan would have been found unsound with their inclusion. They just were not tested in the local plan examination. Therefore, the absence of the 2 sites in the emerging local plan is of no consequence in itself.

6 Conclusions on Basic Conditions (a) and (e)

- 6.1 I begin by considering Basic Condition (e), because it is entirely straightforward. There is no policy in the development plan for the area. There is nothing in that plan (LP06) that rules out the designation of an LGS. Since the protection of such spaces had not yet come within the general acceptance of planning policies, that is hardly surprising. Therefore, it cannot be said that their inclusion makes BSPNP not ‘in general conformity with the strategic policies in the development plan for the local area’.
- 6.2 As for the emerging LP31, it has a policy for LGS, and TDC accepts that a neighbourhood plan may include additional LGS, subject to following the policies that promoted them in the Framework. Of course, the examination of LP31 included consideration of the Policy SP30 and the sites that are designated as LGS. At paragraph 329 of their report, the Inspectors concluded thus: *“Examination Documents CD5.11 and CD5.12⁹ provide the justification for designating areas of Local Green Space. All sites have been assessed against the requirements of the Framework, which requires an element of professional planning judgement. In our view the Council’s conclusions **on the sites put forward** (my emphasis) are reasonable and justified”.*
- 6.3 I understand this to mean that the Inspectors have considered the LGS sites designated in LP31 and found the justification for them in document CD5.11 to be satisfactory. As the Inspectors point out, such assessments require an element of planning judgement – this judgement was also exercised by the Examiner of BSPNP. In any event, on the basis of my understanding of the meaning of the LP31 Inspectors, quoted above, I conclude that, in respect of the 2 LGS under examination, it cannot be said that their inclusion in BSPNP Policy BSP5 is not in general conformity with the adopted Local Plan or the emerging Local Plan. I note that TDC states that they (the Inspectors) did not consider the omission sites (in document CD5.11)¹⁰. Also, the 2 sites the subject of the proposed Modification were not put before the Inspectors for

⁹ Document CD5.12 referred to in the Inspectors’ Local Plan Examination report refers to sites in Westgate and therefore is of no relevance here.

¹⁰ TDC response to my Question 3, page 3, final sentence of paragraph 2.

consideration¹¹.

- 6.4 I therefore turn to Basic Condition (a). I have set out the policies in the Framework that deal with LGS (that are essentially unaltered in Framework 19) at paragraphs 5.6 to 5.10 above, and the context in which they relate to Green Belt policy. The essence of that is:
- By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.
 - Designation must be consistent with the local planning of sustainable development and complement investment in sufficient homes....
 - Designation must be capable of enduring beyond the end of the plan period.
 - The designation should only be used:
 - i) where the green space is in reasonably close proximity to the community it serves;
 - ii) where the green area is 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
 - iii) where the green area concerned is local in character and is not an extensive tract of land”.
 - Managing development within a Local Green Space should be consistent with policy for Green Belts.
- 6.5 However, I do not think that an analogy with Green Belts can be taken too far, since *“the essential characteristics of Green Belts are their openness and **their permanence**”, and “Once established, Green Belt boundaries should **only be altered in exceptional circumstances** ... having regard to their intended **permanence in the long term**, so that they should be capable of enduring beyond the plan period”*. This is in contrast to LGS that *“Must be capable of enduring beyond the end of the plan period’ which implies that they should not be short-lived, but does not imply the same permanence as Green Belts. (my emphasis above)*
- 6.6 Beginning with Fairfield Road/Rumfields Road, I take each of the bullet points set out in paragraph 6.4 above in turn, based on the representations that have been put to me and what I saw at my site visit.
- 6.7 This site is a small area set around the curved kerb-line of a roundabout at the junction of Rumfields Road, Fairfield Road and Pysons Road. Its western edge abuts the front garden of the house at number 2 Rumfields Road, whilst the northern, ill-defined boundary adjoins the flank boundary of number 79 Fairfield Road. It has an area of approximately 0.03ha. At the time of my visit it was overgrown with flowering shrubby plants, with trees on the boundary with number 79. There was a barely discernible track running from close to the south-eastern corner of number 79 that petered out a little distance from the footway on Rumfields Road, more or less on the alignment shown on the plan at paragraph 4.6 above.
- 6.8 In terms of possible future development, I am told that it is owned by the Riverside Housing Association, forming part of the estate. I am also told that there has been a history of residents fighting to have it ‘tidied up’. I consider it is unlikely to form part of any future development proposal. Nor is it likely to have any effect on the provision of sustainable development, such as

¹¹ TDC response to my Question 6.

additional housing development. It is, without any LGS protection, capable of enduring beyond the plan period.

- 6.9 It is in close proximity to the local community it would serve, but aside from being put forward as a LGS and that residents would like to see it tidied up, it has not been demonstrated to me that it is special to the community. When TDC consulted on the modifications that it proposes, there were few representations in support of this site, and none made any reference to the explicit reasons that LGS should be designated.
- 6.10 It has no sufficient feature of beauty, historic significance, recreational value, tranquillity or richness of its wildlife. In terms of the last of these, it is likely to have a very local value for insects and pollinators. In my judgement it does not reach the level of value that the LGS designation is intended to meet.
- 6.11 Looking at the Reading Street site in a similar fashion, the site is at a point where a private entrance to land at the rear joins Reading Street. Reading Street is narrow and has frontage and side drive development, such as Elmwood Close, much of which is attractive in character. I understand it is just outside the Reading Street Conservation Area mentioned in representations (no conservation area map was provided, but as set out in the Council’s LGS assessment of the site). It is a grassed area of about 0.01ha, backed by a brick wall, and has the appearance of being looked after. There are 2 bench seats, a couple of ‘planters’, a post box and a dog-waste bin. However, I am told that it is in unknown ownership as it is unregistered land.
- 6.12 Quite clearly this space is in close proximity to the community it serves; but in terms of its particular local significance, it has no special beauty, I am not told of any historical significance, it has little recreational value other than as a resting place, with some tranquillity, but no richness of wildlife that I could discern. It is local in character, and does complement the attractive character of the street and its buildings. From the number of responses to TDC’s public consultation on its proposed modifications, referring to this site, it is clear that there is considerable public support for its designation. It is a small site, but there is no minimum size for a LGS given in policy or guidance. I also need to bear in mind Framework paragraph 77 which begins *“The Local Green Space designation will not be appropriate for most green areas or open space”*.
- 6.13 The difficulty with this site is in terms of ruling out new development, other than in very special circumstances. Designation of LGS needs to be consistent with the local planning of sustainable development, complementing investment in sufficient homes and capable of enduring beyond the plan period, as established in Framework paragraph 76. The reason for this difficulty is that the emerging LP31 – to which considerable weight should be given since it has now passed the Main Modifications stage – includes a housing allocation which the examining Inspectors refer to in paragraph 145 of their report.
- 6.14 Paragraph 145 states *“In Broadstairs, land at Reading Street is allocated for 24 dwellings. Although planning applications have been refused for residential development, and subsequent appeals dismissed, in each case the main issues related to matters of design, not the principle of development or the site’s accessibility to shops, services and public transport. Located within the Urban Area, the allocation of the site for residential development is justified, as supported by the SA. There is nothing to indicate that a suitable design cannot be achieved over the course of the plan period”*.

- 6.15 As I understand it, this residential allocation relies on an access across the proposed LGS. I am told that BSPTC has no objection to this allocation in principle; its position being that a scheme could be re-drawn in such a way that does not include the proposed LGS on the frontage. It also makes the point that neither the highway authority (Kent County Council) nor TDC own the land, and nor does the promoter of the scheme.
- 6.16 From what I have read and what I saw at my site visit, it seems clear to me that, leaving aside ownership issues, it should be possible to develop the allocation site whilst perhaps avoiding the LGS land or else making suitable replacement provision in the vicinity of the existing private access. Be that as it may, there is a conflict with this proposed LGS and the Framework policy that brings with it development management policies consistent with Green Belt policy. This directs the designation of LGS to avoid land that is intended to assist the provision of sustainable development, and housing in particular. Indeed, it would be very unfortunate in the eyes of the public if 2 development plan documents were adopted at almost the same time, containing a serious conflict of this nature.
- 6.17 This Basic Condition, that the NP must have regard to national policy and advice issued by the Secretary of State, clearly is intended to ensure that a NP does not include policies and designations that conflict with government’s policies. In the case of the Reading Road LGS, I have to conclude, for the reasons given above, that its designation would not have regard to the Framework’s policy, or the advice in PPG about implementing those policies referred to in paragraph 5.14 above.
- 6.18 In respect of the sentence in that advice “*Local Green Space designation will rarely be appropriate where the land has planning permission for development*”, at present the development site at the rear of Reading Street does not have planning permission. However, I am told that applications so far have been refused only on grounds of design¹². With the designation for residential development, I accept that there is likely to be a planning permission in the near future, but in any event, it would not be right to make a designation with a stringent green belt-like policy that at the very least could make the consideration of an application for permission unnecessarily difficult and protracted.

7 Other remarks

- 7.1 In my study of the documents that have been drawn to my attention, I could not help noticing a Main Modification that the LP13 Inspectors recommended to that plan. This is Main Modification MM60, and is set out as follows: *Policy SP30 - Local Green Space. The sites identified on the Policies Map will be protected as Local Green Space, and identified in paragraph 4.66, will be protected from development in accordance with the requirements of the National Planning Policy Framework as Local Green Space.*

~~Development proposals that protect or enhance these spaces will be permitted. Proposals for built development on a Local Green Space will only be permitted in the following circumstances:—1) the built form is minimal and~~

¹² The most recent application was recommended for approval but refused at planning committee and is currently subject of an appeal – TDC response to my Question 3, final sentence under item 9).

~~essential to the operation of the Local Green Space; 2) the development represents a suitable extension to an existing structure 3) the development is an acceptable or reuse of an existing building on the site 4) the development is essential for public safety.~~

- 7.2 This is explained in paragraph 331 of their report: “Where land is designated as Local Green Space, paragraph 78 of the Framework states that local policies for managing development should be consistent with planning policy for Green Belts. MM60 is therefore required to ensure consistency with the Framework”.
- 7.3 I would simply observe that the LGS policy in BSPNP is equally inconsistent with the Framework, where it states: “**Policy BSP5: Designation of Local Green Spaces (LGS). All sites listed in Appendix 2 to be designated as Local Green Space to the end of the Neighbourhood Development Plan period, 2031: Proposals for development in a designated Local Green Space will not be supported, unless they are ancillary to the use of the land for a public recreational purpose or are required for a statutory utility infrastructure purpose**” (my emphasis).

8 Overall Conclusions and Formal Recommendation

- 8.1 I have concluded, in respect of the proposed Fairfield Road/Rumfields Road LGS (paragraph 6.10 above), that it has no sufficient feature of beauty, historic significance, recreational value, tranquillity or richness of its wildlife. In terms of the last of these, it is likely to have a very local value for insects and pollinators. In my judgement it does not reach the level of value that the LGS designation is intended to meet.
- 8.2 In respect of the proposed Reading Street LGS I have concluded (within paragraph 6.17 above) that there is a conflict with this proposed LGS and the Framework policy that brings with it development management policies consistent with Green Belt policy and which directs the designation of LGS to avoid land that is intended to assist the provision of sustainable development, and housing in particular.
- 8.3 My overall conclusion is thus that the 2 proposed LGS sites that I have dealt with above should be omitted from BSPNP, as proposed in the modifications put forward by TDC, as set out in the attached Appendix A.
- 8.4 I therefore recommend that the BSPNP should proceed to a referendum, modified as I recommend. There is no additional evidence that has been brought before me to suggest that the area of the referendum should be anything other than the Neighbourhood Plan Area, as recommended by the previous Examiner, Mr Stebbing, in his report.

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July 2020

Appendix A

The Examiner’s recommended Modification

Delete the following from Appendix 2 - Addresses and grid references of Local Green Spaces:

Fairfield Road /Rumfields Road (Bromstone Roundabout)	CT10 2PH TR38026751	A semi-natural green space edged with trees
Reading Street	CT10 3AZ TR39026949	This is a small corner grassed- area opposite Kitty’s Green, with two raised flower beds and two benches.

Remove the following sites from the map showing the locations of Local Green Spaces:

Fairfield Road/Rumfields Road

Reading Street

