

# BROADSTAIRS & ST PETER'S NEIGHBOURHOOD PLAN – ADDITIONAL PARTIAL EXAMINATION OF POLICY BSP5: DESIGNATION OF LOCAL GREEN SPACES

## Examiner's Questions

To: Thanet District Council

## Relationship to Neighbourhood Plan of policies in emerging Thanet Local Plan to 2031

### Preamble

I seek clarification on a number of points. In brief these relate to the version of the NPPF that is relevant to the examination of Broadstairs & St Peter's Neighbourhood Plan (BSPNP); the weight that should be given to the emerging Thanet Local Plan (eLP), given the text of the NPPF 2012 with its lack of reference to an emerging local plan; the lack of any reference to testing the BSPNP against the 2006 Local Plan; and why there appear to be LGSs in BSPNP that are not in the eLP, but are not objected to by Thanet District Council (TDC) – a lack of consistency?

### Background

Among the documents submitted for my examination is the Report to Cabinet - 25th July 2019. Within this document, the reasons for not accepting the recommendations of the Examiner's report on the Broadstairs & St Peter's Neighbourhood Plan (BSPNP) are set out. The following are extracts from the Cabinet Report (within which I draw attention to elements by underlining):

*1.4 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.*

*2.3 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:*

- *Whether the plan meets the Basic Conditions;*

*2.4 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must: ● have regard to national policies and advice contained in guidance issued by the Secretary of State; ● contribute to the achievement of sustainable development; ● be in general conformity with the strategic policies of the development plan for the area; ● be compatible with and not breach European Union (EU) obligations; and; ● meet prescribed conditions and comply with prescribed matters.*

2.5 *It is at this point in the process (and the first formal point in the process) that 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 authority to propose any necessary modifications to a neighbourhood plan in order that it can meet the Basic Conditions.*

2.7 *However, it is considered that the draft neighbourhood plan does not currently meet the basic conditions because some of the proposed Local Green Spaces do not meet the criteria set out in the National Planning Policy Framework (NPPF) and are not in general conformity with the strategic policies of the development plan for the area (emerging Thanet Local Plan).*

2.8 *The NPPF states that policies for managing development within sites designated as Local Green Spaces should be consistent with those for Green Belts (para 101 [this is from February 2019 version, although 2012 version uses same text]) - the NPPF states that 'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances' (para 143).*

2.9 *The NPPF also sets criteria for the designation of Local Green Spaces (para 100): 'The Local Green Space designation should only be used where the green space is: (a) in reasonably close proximity to the community it serves; (b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and (c) local in character and is not an extensive tract of land.'*

2.10 *Proposed LGS sites were submitted to the Council during the Preferred Options Revisions consultation (20th January - 17th March 2017). Broadstairs Town Council have also assessed proposed LGS sites submitted during their consultation to include in their neighbourhood plan. The assessment criteria set out in the NPPF applies to LGS regardless of whether they are assessed and allocated in a Local Plan or a neighbourhood plan.*

2.11 *The BSNP allocates the following as Local Green Spaces under policy BSP5:*

There follows a list of 18 sites – not all of which I can identify as sites within the Report on Assessment of Local Green Space Proposals, January 2018.

2.12 *Of these sites, four were submitted to the Council during the Local Plan consultation. Culmer's Amenity Land and Kitty's Green were submitted and included for allocation in the Local Plan as Local Green Spaces.*

2.13 *Fairfield Road/Rumfields Road was submitted under a slightly different name of 'Cross-roads of Fairfield Road and Bromstone Road'. 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'.*

2.14 *Reading Street was also submitted and was not included in the Local Plan for the following reason: 'Site is part of the grass verge adjacent to the highway. Site does not meet the NPPF criteria for designation'.*

2.15 *Because these two sites 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.

2.16 It is therefore recommended that Fairfield Road/Rumfields Road and Reading Street are removed from the Local Green Space designations in the Broadstairs & St Peters Neighbourhood Plan.

From the above it can be seen that the reasoning set out in the Cabinet Report for the deletion of 2 LGSs is as follows:

- Basic Conditions – not in general conformity with regard to national policies and advice contained in guidance issued by the Secretary of State; and not in general conformity with the strategic policies of the development plan for the area (referring to the eLP);
- Some of the sites now being proposed in the neighbourhood plan were also submitted at Preferred Options stage, but were not allocated in the eLP as they did not meet the designation criteria. It is considered that their allocation in the neighbourhood plan would therefore conflict with the eLP LGS allocations as they have already been considered unsuitable for designation.
- Fairfield Road/Rumfields Road was not included in the eLP 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’.
- Reading Street was not included in the eLP for the following reason: ‘Site is part of the grass verge adjacent to the highway. Site does not meet the NPPF criteria for designation’

## Questions

The District Council’s reasoning is based upon the content of the eLP. Since this Plan has now reached the stage where the Inspectors’ report has been issued and the Main Modifications have been published, I consider that its policies carry considerable weight. However, the examination of the BSPNP is being carried out under the 2012 NPPF where, unlike the 2019 version, there is no reference to an emerging local plan. The relevant part of NPPF12 states:

### **Neighbourhood plans**

183. *Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Parishes and neighbourhood forums can use neighbourhood planning to:*

- *set planning policies through neighbourhood plans to determine decisions on planning applications; and*
- *grant planning permission through Neighbourhood Development Orders and Community Right to Build Orders for specific development which complies with the order.*

184. *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.*

185. *Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development 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, are in conflict. Local planning authorities should avoid duplicating planning processes for non-strategic policies where a neighbourhood plan is in preparation.*

**Question 1:** What is the relevance of the eLP in this context?

Thanet Local Plan 2006 has no policy for Local Green Space, either strategic or otherwise.

**Question 2:** What is the basis for saying that the LGS allocations in the BSPNP are not in general conformity with the Local Plan 2006?

The NPPF 2012 includes the following:

*77. 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.*

*78. Local policy for managing development within a Local Green Space should be consistent with policy for Green Belts.*

**Question 3:** Since the LGS allocations in the BSPNP must be judged against NPPF 2012, for clarity, please explain fully the reasons for wishing to delete the 2 LGS allocations. For instance, is the fact that Fairfield Road/Rumfields Road space “is possibly highway land on a busy roundabout” a sufficient justification? And, in respect of the Reading Street space, is the fact that it is “part of the grass verge adjacent to the highway” a sufficient justification?

**Question 4:** There are 19 LGS designated under Policy SP30 of the eLP, of which 7 have a ‘Broadstairs’ location. Apart from Kitty’s Green, Culmer Amenity Land, and St Peter’s Recreation Ground (if that is the same as St Peter’s Village Green), I cannot identify which of the LP list of sites are in the NP list of sites. It would be helpful to have these identified for me. It is certainly confusing to have sites identified by different names in different lists, which appears to be the case. I also have difficulty in reconciling the names of the BSPNP areas with some of the sites in the Report on Assessment of Local Green Space Proposals of January 2018. An explanation would be helpful.

**Question 5:** In any event, the submitted BSPNP allocates 18 sites, of which 2 are objected to by TDC, leaving 16 sites that are not subject to objection. Since the LP allocates 19 LGSs, most of which do not appear to be in the NP area, it seems to be the case that there are LGSs in the BSPNP that have not had the endorsement of the eLP. This seems to go against the contention, set out in paragraph 1.4 of the Cabinet Report, that “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.” Surely that means that any LGS designated in the NP, that has not been allocated in the eLP, conflicts with that Plan? Is this a lack of consistency, or for a reason?

**Question 6:** Following from this, the Inspectors' report on the eLP deals with LGSs quite briefly. The essential element of their report as far as the choice of LGSs is concerned is in paragraph 329: *"Examination Documents CD5.11 and CD5.12 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 are reasonable and justified."* (CD5.11 being the Report on Assessment of Local Green Space Proposals, January 2018, and CD5.12 being Addendum to Report on Assessment of Local Green Space Proposals, August 2018, the latter appearing to refer only to sites in Westgate.) Does this mean that there were no omission LGS sites put forward for the Inspectors' consideration; for instance, in relation to the 2 LGS sites that TDC now seeks to delete from the NP?

**Question 7:** As a follow-on from Question 6, the LGS Policy (Policy SP30) in the eLP is a strategic policy. Does this mean that a NP cannot designate additional LGSs, because to do so would be designating strategic sites?

I would be grateful for a reply within 10 working days.

Terrence Kemmann-Lane

Examiner  
9 April 2020

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OF POLICY BSP5: DESIGNATION OF LOCAL GREEN SPACES**

**Examiner's Question**

**To: Broadstairs & St Peter's Town Council**

*Please note that Questions 1-7 have been addressed separately to Thanet District Council*

**Question 8**

I note that there is reference, in responses to the Thanet District Council's consultation, to the Town Council obtaining a legal opinion on the matters dealt with in the Thanet District Council Report to Cabinet in which it was decided that the Broadstairs & St Peter's Neighbourhood Plan be subject to process to alter it by the deletion of 2 allocations of Local Green Spaces. Does the Town Council wish to bring to my attention, either matters of law, policy or guidance, in relation to this matter?

I would be grateful for a reply within 10 working days.

Terrence Kemmann-Lane

Examiner  
9 April 2020