

Stedham with Iping Neighbourhood Plan Examination

8 July 2019

Request for Clarification from the Examiner to Stedham with Iping Parish Council and to South Downs National Park Authority

Further to reviewing the Stedham with Iping Neighbourhood Plan and supporting information, I would be grateful for the assistance of both Stedham with Iping Parish Council (re: Questions 2 to 17) and South Downs National Park Authority (in particular re: Question 1) in respect of clarifying a number of matters in writing.

In responding to the matters where I seek clarification, set out in bold/italics below, please do not direct me to any evidence that is not already publicly available.

Please can all responses be provided within the next four weeks and by no later than 1730 on the 5th August 2019. If this is difficult due to holidays and more time would be helpful, please let me know.

Thank you

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1) European Obligations (Sweetman Judgement)
(matter for clarification by South Downs National Park Authority)

National guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

- *“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations”* (Planning Practice Guidance¹).

In April 2018, in the case *People Over Wind & Sweetman v Coillte Teoranta* (“People over Wind”), the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means if a likely significant effect is identified at the screening stage of a habitats assessment, an *Appropriate Assessment* of those effects must be undertaken.

In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

The changes to regulations allow neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an *Appropriate Assessment* to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or planning application.

These changes came into force on 28th December 2018 and this post-dated the submission of the Neighbourhood Plan. As the regulations are now in force, it is important to double-check that, wherever necessary, an *Appropriate Assessment* has been undertaken.

South Downs National Park Authority has not raised any concerns in the above regard. The Stedham with Iping Neighbourhood Plan Screening Report concluded that neither an SEA nor an HRA are required and subject to taking into account Natural England’s comments in respect of Stedham Sawmill, there are no representations contrary to these conclusions.

¹ Planning Practice Guidance Reference ID: 11-031-20150209.

- ***Please can South Downs National Park Authority confirm that it is satisfied (or is not satisfied) that the Neighbourhood Plan is compatible with European obligations.***

2) Comments on Regulation 16 Representations *Optional Response from Parish Council*

Neighbourhood Planning Independent Referral Service (NPIERS) Guidance²
Paragraph 1.11.4 states that:

“The qualifying body will normally be given the opportunity to comment on the representations made by other parties...This may be particularly important where the matters concerned have not been raised at Regulation 14 stage. The opportunity for the qualifying body to comment on representations could be incorporated within an independent examiner’s clarification note...”

- ***Consequently, whilst not a requirement, there is an opportunity for Stedham with Iping Parish Council to comment on any of the representations made during Regulation 16 consultation, should it wish to do so.***

3) Policy SINDP1

The settlement boundary in the adopted South Downs Local Plan differs to that in the Neighbourhood Plan.

- ***Please can you confirm (or otherwise) that the Stedham settlement boundary should mirror that of the adopted Local Plan ?***

4) Policy SINDP2

I am unable to find substantive evidence to demonstrate that all development, including fencing, can be completely hidden from the A272 corridor at all times.

² NPIERS “Guidance to Service Users and Examiners”

- ***Please can you point me to evidence to demonstrate that Policy SINDP2 is deliverable and would contribute to the achievement of sustainable development, and that the information required is relevant, necessary and material, having regard to NPPF (2012) Paragraph 193 ?***

5) Policy SINDP3

No definition is provided of what type of development might “affect” a recreational or community facility.

- ***Is the first part of the Policy meant to apply to development of recreation or community facilities ? Why would the Neighbourhood Plan seek to prevent say the improvement of a community facility for improvement's sake, as opposed to their being a defined “need” ?***
- ***The Policy refers to Assets of Community Value. Please provide a list of the relevant, registered Assets of Community Value.***

6) Policy SINDP4

Representations have been made in respect of the proposed designation of Rectory Field as a Local Green Space failing to meet the relevant tests, as set out in Paragraphs 76-78 of the NPPF (2012). A representation has been made in respect of the boundary of the proposed Allotments Local Green Space failing to include some of the allotments.

- ***Is there evidence you can point me to in addition to Page 27 of the “Review of Open Spaces and Views” document in respect of Rectory Field ?***
- ***Should the Allotments boundary be expanded to include the area referred to in the representation noted above ?***

7) Policy SINDP5

- *It is not clear on what policy basis the Policy is seeking to introduce a layer of protection. Please can you point me to evidence demonstrating that Policy SINDP5 has regard to national policy and advice and is in general conformity with the Local Plan. Please could you also point me to evidence that demonstrates that the Policy contributes to the achievement of sustainable development ?*

8) Policy SINDP6

- *I have been unable to locate evidence demonstrating that the requirements set out are achievable. Please can you point me to evidence in respect of why the Policy is viable and deliverable, having regard to Para 173 of the Framework ?*

9) Policy SINDP7

The Neighbourhood Plan does not allocate any land for development. The South Downs Local Plan allocates Stedham Sawmill for mixed use development. Local Plan Policy SD88 sets out detailed criteria for the delivery of the allocation.

- *Please can you clarify which of the thirteen criteria of Policy SINDP7 are in general conformity with Local Plan Policy SD88 and add an additional level of detail to the requirements of that Policy in a viable and deliverable way, having regard to Paragraph 173 of the Framework ?*
- *Please can you point me to detailed information, with reference to viability and deliverability, in respect of the proportion of market housing to be made available for the needs of the elderly ?*
- *Please can you point me to evidence/information in respect of the agreement between the landowners/developers of the Stedham Sawmill allocation, the local housing enabler and the established Community Land Trust ?*

- ***Please can you point me to information in respect of the agreement between the Community Land Trust and the housing authority in respect of the management of the “Local Connection” criteria. Please can you also point me to evidence to show that the Policy provides for an appropriate and viable cascade mechanism. Please can you also point me to evidence in respect of the criteria leading to the choice of Qualifying Parishes.***

10) Policy SINDP9

In land use planning terms, a school is a non-residential educational use. A pub is a drinking establishment and in this case, with expanded food provision. Also, nurseries and garages tend to comprise sui generis uses, not employment sites. Given this, the wording of Policy SINDP9 does not appear precise, having regard to national planning guidance.

- ***Is the purpose of Policy SINDP9 to support the expansion of and protect against the loss of important local services and facilities ?***
- ***Please can you point me to evidence in respect of why support for employers is a relevant land use planning matter ? Also, does the allocation of Stedham Sawmills mean that it no longer fits into Policy SINDP9, given its mixed use allocation?***

11) Policy SINDP11

- ***Please can you point me to evidence to justify the requirement for communications infrastructure to meet an unmet need, given that such an approach would be in conflict with national policy, set out in Chapter 5 of the NPPF (2012) ?***

12) Policy SINDP13

Generally, external lighting does not require planning permission.

- ***Please can you point me to information to justify the approach set out in respect of external lighting needing to be essential for health and safety or not a “significant threat” to darkness ? Please can you point me to information in respect of who might determine when light is needed and on what basis; and who will determine “excessive glazing” and on what basis ? Please can you also point me to evidence in respect of the viability and deliverability of the requirement for all glazing in the Neighbourhood Area to be “mitigated” by low transmittance glass, louvres, auto black out blinds or smart glass.***

13) Policy SINDP14

- ***Please can you point me to information in respect of what “relative tranquility” comprise, who determines this and on what basis ?***

14) Policy SINDP15

The Policy requires views to be preserved and protected – hence, development cannot change the identified views. Policy SINDP15 covers the majority of the Neighbourhood Area.

- ***Please can you point me to evidence showing the precise nature of each “view” covered by Policy SINDP15. Please can you point me to evidence demonstrating that any change to the views resulting from development would fail to contribute to the achievement of sustainable development.***
- ***Please can you point me to evidence justifying a policy approach whereby essential infrastructure “may” be acceptable, given that essential infrastructure is essential ?***
- ***The Policy requires views to be preserved. However, it goes on to state that views that are harmed may be permissible as long as harm is mitigated. Please can you point me to information in respect of what mitigation would result in an “acceptable” level of harm, who would judge this and on what basis ? Please could you also clarify the apparent conflict between accepting harm to views and preserving views.***

- ***The supporting text to the Policy refers to “respecting” local character. Might this generally provide for a more reasonable approach than preserving views, as set out ?***

15) Policy SINDP16

Historic England has suggested that non-designated heritage assets should be listed in supporting text, to provide for new such assets to be added over time.

- ***Do you agree with Historic England’s suggestion ?***

16) Policy SINDP20

- ***Please can you point me to evidence, with regards to deliverability and viability, in support of the requirements set out (eg, a two bed dwelling must provide three car parking spaces. Also, why is there no reference to dwellings providing more than three beds ?). Please can you point me to information in respect of why the approach set out contributes to the achievement of sustainable development ?***

17) Policy SINDP21

- ***Please can you point me to evidence demonstrating why Policy SINDP21 has regard to Paragraph 28 of the Framework, which seeks to support a prosperous rural economy ?***

Thank you
