

Freshwater Parish Council

Freshwater Neighbourhood Plan

Independent Examiner's Report

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7 December 2017

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Summary

I have been appointed as the independent examiner of the Freshwater Neighbourhood Development Plan.

The Parish of Freshwater is located at the western end of the Isle of Wight and Freshwater village serves the wider area with community, shopping and other facilities. The area has many natural and man made attributes and is popular with visitors and residents alike.

During the course of the examination I asked for further information about a number of matters and also requested that further work and consultation was undertaken in relation to Strategic Environmental Assessment and Habitats Regulation Assessment.

Although the Plan does not make any site allocations for housing, its 16 policies are locally distinctive and reveal an understanding of the issues and challenges facing the area. The Plan is presented simply, but has been well thought through.

Further to consideration of the Plan and its policies I have recommended a number of modifications that are intended to ensure that the basic conditions are met satisfactorily and that the Plan is clear enabling it to provide a practical framework for decision-making as required by national policy and guidance.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend to Isle of Wight Council that the Freshwater Neighbourhood Development Plan can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI
Ann Skippers Planning
7 December 2017



1.0 Introduction

This is the report of the independent examiner into the Freshwater Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by Isle of Wight Council (IWC) with the agreement of Freshwater Parish Council, to undertake this independent examination. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over twenty-five years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

2.0 The role of the independent examiner

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The examiner is required to check¹ whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

¹ Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

The basic conditions² are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to in the paragraph above. Only one is applicable to neighbourhood plans and is:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site³ or a European offshore marine site⁴ either alone or in combination with other plans or projects.

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.⁵

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case Isle of Wight Council. The plan then becomes part of the 'development plan' for the area and

² Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

³ As defined in the Conservation of Habitats and Species Regulations 2012

⁴ As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

⁵ The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

3.0 Neighbourhood plan preparation and the examination process

A Consultation Statement and a document titled “Consultation responses and considerations to draft document” have been submitted and together meet the requirements of Regulation 15(2) of the Neighbourhood Planning (General) Regulations 2012.

A Steering Group was established in 2012 to oversee the preparation of the Plan. A public meeting was held in September 2012 to promote the Plan, to recruit volunteers and develop issues. Approximately 135 people attended with the event overrunning demonstrating both the successful promotion of the event and the level of interest.

The Plan has been developed via working groups looking at specific topics. Beginning with six groups, eventually this was reduced to four. Each group had a mentor. This seems to have worked well.

A second public meeting was held in March 2013 with each working group displaying details of the vision statement and objectives. Whilst 25 people attended, the event was focused and led to the development of the wide-ranging first questionnaire sent to all households in Autumn 2013. The first questionnaire resulted in 447 replies, about 17% of households. In between times, another public event took place to gauge comments which included a suggestion from a young person that each new house should come with a new car, ideally a Ferrari, as part of the package.

A second questionnaire, described in the Consultation Statement as “more specific” was undertaken in May 2014. This tested support for the vision statements and objectives. In addition to the questionnaire, blank postcards were given to young people to encourage participation, resulting in a number of interesting ideas.

Various public consultation was undertaken in the early part of 2015 as part of other Parish Council meetings including the annual Parish meeting and the Parish Day.

The second document, “Consultation responses and considerations to draft document”, explains that two consultations took place. The first consultation took place between 18 January – 29 February 2016. A second consultation took place between 4 May – 14 June 2016. The document explains that the second consultation was undertaken “to give more time for responses from corporate and governmental bodies”.⁶ The draft Plan was available to view at a number of different locations and banners and flyers ‘advertised’ the consultations.

⁶ Consultation responses and considerations to draft document page 3

I consider that the consultation and engagement carried out is satisfactory.

Submission (Regulation 16) consultation was carried out between 13 January – 27 February 2017. The Regulation 16 stage resulted in a number of representations which I have considered and taken into account in preparing my report.

I have set out my remit earlier in this report. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).⁷ PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.⁸ Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further additions or amendments are required. Some of the representations suggest amendments that may lead to improvements and I feel sure the Parish Council will wish to consider these as it revises the Plan in the future.

PPG explains⁹ the general rule of thumb is that the examination will take the form of written representations,¹⁰ but there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. After careful consideration of all the documentation and representations, I decided that neither circumstance applied and therefore it was not necessary to hold a hearing.

I raised a number of questions of clarification with both the Parish Council and IWC. My list of questions is attached as Appendix 2. The questions and the responses to them are a matter of public record and are available from IWC or the Parish Council.

I also requested additional work and further consultation in relation to the Strategic Environmental Assessment and Habitat Regulations Assessment. This is set out in more detail in the section on EU Obligations.

I made an unaccompanied site visit to the Plan area on 10 May 2017.

Where I recommend modifications in this report they appear as bullet points in **bold text**. Where I have suggested specific changes to the wording of the policies they appear in **bold italics**.

⁷ PPG para 055 ref id 41-055-20140306

⁸ *Ibid*

⁹ *Ibid* para 056 ref id 41-056-20140306

¹⁰ Schedule 4B (9) of the Town and Country Planning Act 1990

4.0 Compliance with matters other than the basic conditions

I now check the various matters set out in section 2.0 of this report.

Qualifying body

The Basic Conditions Statement (BCS) confirms that Freshwater Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is met.

Plan area

The Plan area is coterminous with the Parish Council administrative boundary. IWC approved the designation of the area on 30 August 2012. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Plan area is shown on page 4 of the Plan.

Plan period

The BCS indicates that the Plan covers the period to 2027 to align with the Island Plan. However, this is not stated in the Plan itself. It is recommended that a sentence be added to the Plan to indicate the time period is 2017 to 2027 to align with the Island Plan.

- **Add a sentence to the Plan to indicate the time period is 2017 - 2027 to align with the Island Plan**

Excluded development

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also helpfully confirmed in the BCS.

Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the development and use of land. Should I consider a policy or proposal to fall within this category, I will recommend it be clearly differentiated or moved to a separate section or annex of the Plan or contained in a separate document. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should

be clearly identifiable.¹¹ Subject to any such recommendations, this requirement can be satisfactorily met.

5.0 The basic conditions

Regard to national policy and advice

The main document that sets out national planning policy is the National Planning Policy Framework (NPPF) published in 2012. 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, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.¹²

The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.¹³

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at <https://www.gov.uk/government/collections/planning-practice-guidance>. The planning guidance contains a wealth of information relating to neighbourhood planning and I have had regard to it in preparing this report.

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.¹⁴

PPG indicates that a policy should be clear and unambiguous¹⁵ to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.¹⁶

¹¹ PPG para 004 ref id 41-004-20140306

¹² NPPF paras 14, 16

¹³ *Ibid* para 184

¹⁴ *Ibid* para 17

¹⁵ PPG para 041 ref id 41-041-20140306

¹⁶ *Ibid*

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.¹⁷ It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.¹⁸

The BCS at Table 2 maps each Plan policies against section titles in the NPPF and the strategic policies of the development plan. It would have been helpful to include a commentary on how the Plan policies take account of national policy and guidance and are in general conformity with the strategic policies, but this has formed part of my own assessment in any case.

Contribute to the achievement of sustainable development

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole¹⁹ constitutes the Government's view of what sustainable development means in practice for planning. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.²⁰

The BCS confirms that a Sustainability Appraisal has been prepared which helps to show how the Plan seeks to contribute to the achievement of sustainable development.

General conformity with the strategic policies in the development plan

The development plan consists of the Island Plan, Isle of Wight Core Strategy (including Waste and Minerals) and Development Management Development Plan Document (CS) which was adopted on 21 March 2012 and covers the period 2011 – 2027.

The CS has 12 objectives. IWC confirm that the strategic policies of the CS are Policies SP1 to SP9 inclusive. Table 2 in the BCS sets out each Plan policy against the relevant strategic policies.

Freshwater village falls partly within the West Wight Smaller Regeneration Area (SRA) and has a defined settlement boundary. CS Policy SP1 states that development will be supported on appropriate land within or immediately adjacent to the defined settlement boundaries of the SRAs and that previously developed land will be prioritised in suitable cases. The policy does not support development outside these areas unless a specific local need is identified.

The CS explains that Freshwater and Totland (outside the Plan area, but within the West Wight SRA) have experienced economic decline and an approach that facilitates growth is needed. In particular new employment provision is supported including the

¹⁷ PPG para 040 ref id 41-040-20160211

¹⁸ *Ibid*

¹⁹ NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

²⁰ *Ibid* para 7

intensification of existing sites. CS Policy SP2 identifies the need for 240 houses within the SRA which covers the adjoining Parish too. In relation to employment, retail and tourism development this is described as being small scale.

European Union Obligations

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant. A number of EU obligations may be of relevance including Directives 2001/42/EC (Strategic Environmental Assessment), 2011/92/EU (Environmental Impact Assessment), 92/43/EEC (Habitats), 2009/147/EC (Wild Birds), 2008/98/EC (Waste), 2008/50/EC (Air Quality) and 2000/60/EC (Water).

PPG indicates that it is the responsibility of local planning authorities to ensure that the Plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive) when it takes the decision on a) whether the Plan should proceed to referendum and b) whether or not to make the Plan.²¹

Strategic Environmental Assessment

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004 (the Regulations).

There are a number of European sites within or immediately adjacent to the Parish; the Solent and Southampton Water Ramsar and Special Protection Area (SPA), South Wight Maritime Special Area of Conservation (SAC) and the Isle of Wight Downs SAC. Six Sites of Special Scientific Interest (SSSI) fall within or are adjacent to the Plan area. Part of the Plan area falls within the Isle of Wight Area of Outstanding Natural Beauty (AONB). Part falls within the Tennyson Heritage Coast. There are 13 Sites of Interest for Nature Conservation (SINC).

A Sustainability Appraisal Report (SAR) incorporating Strategic Environmental Assessment dated October 2016 has been submitted. With the exception of the inclusion of a non-technical summary, I am satisfied that in itself it meets the relevant regulations. It appears that a draft SAR was consulted upon alongside the draft Plan. Whilst the three statutory consultees responded to the consultation, none expressly mentioned SEA or the SAR. The SAR of October 2016 has been consulted upon alongside the submission version of the Plan, but again none of the statutory consultees specifically refer to SEA or the SAR.

²¹ PPG para 031 ref id 11-031-20150209

It would appear that although the SAR has been submitted, neither a screening or scoping stage was carried out. However, given that the SAR has been submitted this, in my opinion, overcomes the lack of a screening exercise being carried out.

Given the multiple of European sites in, or in close proximity, to the Plan area, I considered that it would be prudent for a non-technical summary to be prepared and that once it had been prepared, the three statutory consultees to be consulted on the environmental report (and its summary) including being specifically asked to consider its scope.

In addition, no reference was made to the Solent and Dorset Coast pSPA in the SAR. The NPPF²² explains that potential SPAs should be given the same protection as European sites. As a result, the SAR and its new non-technical summary needed to be revised to take account of the Solent and Dorset Coast pSPA.

These matters are explained in my letter to IOW of 19 June 2017 which is attached to this report as Appendix 3.

The SAR was duly revised and a non-technical summary prepared. The statutory consultees were consulted from 10 July – 15 August 2017. The Environment Agency was pleased with the general scope and contents and had no other comments to make. Historic England made comments for inclusion of a further document in the evidence base. Natural England made a number of comments and the SAR was revised to reflect some of these and others are addressed through the recommended modifications or through CS policies.

A further period of public consultation was then carried out from 22 September – 6 November 2017 on the revised SAR dated August 2017. Four responses were received.

The revised SAR of August 2017 is a comprehensive document that deals with the issues appropriately for the content and level of detail in the Plan. This in line with PPG advice that confirms the SEA does not have to be done in any more detail or using more resources than is considered to be appropriate for the content and level of detail in the Plan.²³ In my view, it has been prepared in accordance with Regulation 12 of the Regulations. Therefore EU obligations in respect of SEA have been satisfied.

Habitats Regulations Assessment

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.²⁴ The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

²² NPPF para 118

²³ PPG para 030 ref id 11-030-20150209

²⁴ *Ibid* para 047 ref id 11-047-20150209

A HRA Report dated October 2016 has been submitted. As it was not clear to me whether the statutory consultees had been specifically consulted on the HRA Report, the HRA Report was also sent to them for comments at the same time as they were consulted on revisions to the SAR and its new non-technical summary.

In the light of the consultation responses, the HRA Report has also been revised although no new date has been incorporated and it would be useful for this to be done in the interests of clarity. The HRA Report concludes that the Plan will not have any likely significant effects. The revised HRA Report was consulted upon for a period of six weeks alongside the revised SAR. The revised HAR Report will be reviewed following finalisation of the Plan.

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further basic condition in addition to those set out in primary legislation as detailed in section 2.0 of this report. In my view, requirements relating to Habitats Regulations Assessment have been met and the Plan complies with this basic condition.

European Convention on Human Rights (ECHR)

The BCS contains a short statement on human rights. There is nothing in the Plan that leads me to conclude there is any breach of the fundamental rights and freedoms guaranteed under the ECHR or that the Plan is otherwise incompatible with it or does not comply with the Human Rights Act 1998.

6.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. Where modifications are recommended they appear in **bold text**. As a reminder, where I suggest specific changes to the wording of the policies or new wording these appear in ***bold italics***.

The Plan is generally well presented. There is a useful contents page helping users to find their way around the document.

Each of four topic based sections begin with a context paragraph setting the scene for the topic based group of policies and sets out a vision statement in terms of what the Plan seeks to achieve. Each policy is clearly differentiated in an orange coloured box and is underpinned by reference to objectives in green coloured boxes which in turn link back to the vision statement. A justification section presented after each policy refers to the community engagement results and other work carried out by the Steering Group in preparing the Plan as well as other sources of evidence.

It would help with clarity and the user friendliness of the Plan if titles could be added to the policies.

- **Add titles to each of the policies**

Introduction

This section contains interesting and useful information about the Parish. It sets the scene well emphasising the Parish's historic military and cultural influences but recognising the importance of the future. A map of the Plan area is included on page 4.

Why a Neighbourhood Plan for Freshwater Parish?

This section sets out the context for the Plan. It also contains definitions used in the Plan.

Economy and Tourism

This section explains that the Parish has a high percentage of retired and older people and those in the 30 -59 age group. Despite this there is a concern about supporting economic growth and providing employment opportunities. Springing from this the vision statement seeks to support both existing and new businesses, to provide employment opportunities and to reinforce Freshwater's role as the commercial hub for the West Wight.

The vision statement and the five objectives within this topic area are clearly articulated and relate to the development and use of land.

Policy FNP 1

This is a simply worded policy which encourages economic growth, particularly in the retail, tourism, professional, construction and manufacturing sectors. National policy and guidance supports economic growth for all types of businesses and enterprise and promotes the diversification of businesses. CS Policy SP3 supports economic growth focusing upon employment, retail and tourism in the SRA and locally sustainable employment opportunities. Although simply worded, the policy will help to support economic development and to achieve sustainable development provided it includes the word "sustainable" which reflects national policy and also objective FNP 1.

- **Add the word "*sustainable*" after "future" and before "growth" in the policy**

Policy FNP 2

This policy seeks to define two primary frontage areas. Within these areas development for Use Classes A1 to A5 are supported and changes of use to residential resisted. Despite mention of a map in an appendix, I couldn't find this and so to assist me I requested the areas be shown on a plan.

The CS defines town centres and primary retail frontages. Within the primary retail frontages, CS Policy DM9 seeks to retain Class A1 uses and only permits changes of use to other uses where there would be no significant adverse impact on the retail function. Class A2 – A5 uses are supported outside of the primary retail frontages but within the town centres as long as there are no adverse impacts on town centre retail uses.

It was not clear to me what the intention of this policy was. On receipt of the map, it seemed to me that the policy sought to define a town centre rather than primary retail frontages and the words in the policy seemed to align with this. In response to a query, the Parish Council explains that there has been a reduction in the number of retail outlets and the quality of those remaining; the intent was to prioritise the area for retail and business uses to avoid fragmentation. This then is a good example of a locally derived policy that responds to particular local circumstances. The Parish Council has put forward a suggestion for the rewording of the policy together with a map showing a new town centre boundary.

The proposed town centre boundary is designated logically and the primary retail frontage defined in the CS would not change. I have considered whether the definition of the town centre boundary (which was described in the draft Plan but not presented on a map) or the significant change in wording to the policy would prejudice any interests. Only one representation was received in relation to this policy and that was made by IWC who have agreed the revised wording and map suggested by the Parish Council. Therefore I do not consider any interests have been prejudiced.

As the policy now refers to a defined town centre rather than primary frontage areas (that will remain the same as defined in the CS) and the town centre does not include the Moa Place car park, it is no longer relevant for reference to be made to primary frontage areas or the car parks in the supporting text. As a result some changes to the supporting text are needed in the interests of consistency.

In the interests of clarity and providing a practical framework, the following modifications are recommended:

- **Reword Policy FNP 2 to read:**

“A new Town Centre area is defined and shown on Map XX [insert number/title] as:

- + Avenue Road, from Princes Road to Queens Road, including Avenue Road car park.
- + School Green Road, from Queens Road to *Moa Place*.

Applications *that result or contribute to a mix of Use Classes A1 to A5* uses will be encouraged and supported in *this defined Town Centre area*, reflecting changing retail patterns.

There will be a presumption against business uses converting to residential uses when the building *or site* in question is part of a *Primary Retail Frontage (as defined in the Island Plan)*.”

- **Insert a plan showing the newly defined Town Centre**
- **Delete the first sentence from the fifth bullet point on page 7 of the Plan that reads: “In reaching this primary retail frontage (please see map in appendix) the community has been consulted.”**
- **Delete the sixth bullet point on page 7 of the Plan in its entirety**

Policy FNP 3

This policy does a number of things. Firstly, it supports economic development including redevelopment of commercial buildings and previously developed land. Secondly, it seeks to retain existing employment sites across the Parish, but specifically mentions Golden Hill and the Hooke Hill/Afton Road junction. Thirdly, it introduces a presumption in favour of small-scale employment units across the Parish.

National policy and guidance is clear in its support for economic growth. CS Policy SP3 focuses economic development in the Key and SRAs. However, this growth should be sustainable. There is a risk in relation to the introduction of a presumption that small-scale employment units or live work units mentioned in the supporting justification may not be in appropriate locations. Despite the small-scale nature, this relates both to their location within the Parish in terms of transport links or environmental designations and also to their location in relation to other uses such as nearby residential properties from an impact perspective. Therefore to address this concern, I recommend the addition of some words to make it clear that the presumption applies in appropriate locations to enable development that would not be sustainable to be resisted.

Subject to this modification, the policy will meet the basic conditions.

- **Add “*appropriately located*” after “...presumption in favour of...” and before “...small scale employment units...”**

Policy FNP 4

Policy FNP 4 seeks to protect public parking provision. Effectively, this policy relates to the Avenue Road and Moa Place car parks. I saw at my visit that both car parks are well used and conveniently located to important community facilities and the newly defined Town Centre. The nature of the Parish and the range of facilities provided in the village, described in the Plan as the commercial hub for the West of Wight, means that these car parks provide an important function in this rural Parish.

The policy allows parking provision to be removed should there be a surplus elsewhere in a suitable location. However, the wording of the policy does not have the clarity sought by PPG.²⁵ Therefore a modification to address this concern is suggested.

- **Amend Policy FNP 4 to read:**

“The Neighbourhood Plan will not support applications which seek to remove public parking provision in the Town Centre unless it can be demonstrated that there is satisfactory and permanently available surplus or replacement parking spaces within reasonable walking distance of the Town Centre.”

- **Change the reference to the “primary shopping frontage” in the first bullet point under Policy FNP 4 on page 8 of the Plan to “Town Centre”**

Policy FNP 5

Objective 5 explains that the Plan wishes to promote and enhance Freshwater Bay, Colwell Bay and Fort Victoria as high quality tourist destinations. Policy FNP 5 seeks to deliver this by encouraging high quality tourist destinations and accommodation throughout the Parish, but in particular close to the three destinations referred to in the objective. Locationally, this is defined within the policy as a “reasonable 10 minute drive”.

In principle, support for tourism is given by national policy and guidance. The NPPF refers to sustainable rural tourism which benefits businesses, communities and visitors, but which also respects the character of the countryside. CS Policy SP4 supports sustainable growth in high quality tourism including accommodation as long as the Island’s unique environments are not compromised.

Given that the Parish has a number of important nature conservation designations including European sites and an AONB, it is important that this policy does not inadvertently permit inappropriate or unsustainable development.

²⁵ PPG para 041 ref id 41-041-20140306

Whilst a ten-minute drive is a way of defining the areas around the three specific locations, I can envisage the potential for differing views as to where this area might be. It does not have the clarity and unambiguity to enable a decision maker to apply it consistently and with confidence when determining planning applications sought by national guidance.²⁶

In response to my query on this, the Parish Council has helpfully suggested a distance of 1km is defined. Whilst this would be more precise, I do not feel able to support this suggestion without further evidence to demonstrate that distance is appropriate and am also mindful that no consultation would have been carried out on what would be a significant modification. In these circumstances this may be an issue the Parish Council returns to in any future review of the Plan.

Given that the policy supports tourism related development across the Parish, I recommend that the ten minute drive element is removed, reference is particularly made to the three areas and that additional safeguards are included to ensure that the very features and attributes that attract residents, businesses and visitors to this area are not damaged and that sustainable development can be achieved.

I am also unsure as to what a tourist destination may be like or what this might include and so more precise wording is needed in this respect.

In order for the policy to meet the basic conditions, the following modifications, which also take account of the points made in a representation by Bourne Leisure Limited, are recommended:

- **Reword the policy to read:**

“New and enhanced high quality tourism and tourism related development, including a range of accommodation, will be encouraged across the Parish in suitable locations. Such development in the tourist destinations of Freshwater Bay, Colwell Bay and Fort Victoria will be particularly encouraged.”

Built environment

Again the vision statement for this section of the Plan and the three companion objectives are clearly articulated and relate to the development and use of land. Essentially, a high quality of development is sought to enhance local distinctiveness and to ensure that development is accompanied by good amenity and open space provision.

²⁶ PPG para 041 ref id 41-041-20140306

Policy FNP 6

Policy FNP 6 seeks high quality development. It does so by reference to a number of different elements including character and appearance, heritage including reference to Conservation Areas, landscape and biodiversity, views, surface water drainage and infrastructure.

Criterion a) states “Maximise the potential of the site for the type of building proposed.”. I am uncertain to the meaning of this phrase; it could relate to the efficient use of land, but may also, perhaps inadvertently, support inappropriate development in this sensitive location. As a result it should be deleted.

Criterion b) refers to the Village Design Statement (VDS). The way in which the policy is worded may, inadvertently, mean that if a settlement pattern, building style or material is not referred to in the VDS, then no further consideration would be needed.

Therefore a modification is suggested to ensure that these attributes are always taken into account and through reference to the VDS where this applies.

Criterion c) refers to giving priority to the preservation of heritage assets. In order to reflect national policy and legislation and taking account of the representations from Historic England and Bourne Leisure Limited whose comments I agree with, amendments are suggested.

Criterion d) is rather loosely worded. In order to provide a practical framework and to ensure development is appropriate and viable taking account of national policy, some revision is recommended.

Criterion e) refers to views and skylines. A supporting evidence document titled “Most Valued Views” has been produced. As the policy is currently worded it would be difficult to be sure of the views referred to in the policy. The supporting text does not assist me further in this respect. However, it would be reasonable to assume that the “Most Valued Views” are just that. I saw the views on my site visit and they are all logically defined. In order to provide the practical framework sought by the NPPF²⁷ and to enable the policy to be clear and unambiguous as required by PPG,²⁸ I recommend that the policy cross references the evidence document. The Parish Council have helpfully confirmed the Most Valued Views are those which the policy refers to.

Criterion g) refers to infrastructure requirements and seeks to ensure that no “adverse impact” occurs. Whilst I recognise the intent of this policy, its precise wording would in practice be very difficult to achieve. National policy urges positive planning for infrastructure. The NPPF indicates that permission should not be refused for infrastructure that promotes a high level of sustainability because of concerns about incompatibility with an existing townscape where those concerns have been mitigated by good design unless related to a designated heritage asset and the harm is not

²⁷ NPPF para 17

²⁸ PPG para 041 ref id 41-041-20140306

outweighed by benefits.²⁹ Therefore to ensure that development is sustainable, viable and deliverable in line with national policy, revised wording is suggested.

In relation to residential development, a mix of housing is sought and housing for those with physical and mental needs are specifically referred to.

With minor changes, the policy will reflect national policy and guidance, will help to achieve sustainable development and will meet the basic conditions.

- **Delete criterion a) in its entirety [renumber the remaining criteria in the final version of the Plan]**
- **Reword criterion b) to read: “be compatible with the distinctive character of the area, respecting the local settlement pattern and building styles and materials *and with reference to the Freshwater Village Design Statement.*”**
- **Reword criterion c) to read: “*conserve and enhance all heritage assets taking account of their significance.*”**
- **Reword criterion d) to read: “protect, and *take every available opportunity to enhance landscape and biodiversity including through the incorporation of landscaping appropriate to the site’s context and character of the local area.*”**
- **Reword criterion e) to read: “conserve *and, where possible, enhance the views referred to in the evidence document “Most Valued Views”. Any development within these areas must ensure that key features of these views can continue to be enjoyed.*”**
- **Reword criterion g) to read: “allow for *the provision of infrastructure requirements such as utility company structures and seek to minimise any adverse impact on the village amenities and services.*”**

Policy FNP 7

This policy aims to do a number of things. Firstly, footpaths, bridleways and cycleways are promoted. Secondly, parking provision is sought for all new developments. Thirdly, safer routes to school are promoted. Lastly, improved parking for tourism is supported.

Transport policies have an important role in both achieving sustainable development and health objectives. All of the elements in the policy will help to achieve that.

However, one of the criterion, b), refers to the provision of “adequate parking”; whilst the supporting justification refers to 1.5 spaces per residential unit, there is no

²⁹ NPPF para 65

explanation of how this figure has been derived. As a result this requires modification in order for the policy to meet the basic conditions.

- **Change criterion b) to read: “Any development proposals that generate an increased need for parking must provide a satisfactory amount of, and suitable, off-street parking. The specific amount of parking provision will be determined on a case by case basis taking into account the type, mix and use of the development and its location. In the case of residential development, satisfactory off-street parking provision should be provided taking into account the tenure and location of the site unless it can be satisfactorily demonstrated that alternative and appropriately located provision is permanently available.”**

Policy FNP 8

Objective FNP 8 explains that the night sky is important to the Parish. The NPPF seeks to limit the impact of light pollution on intrinsically dark landscapes and nature conservation as well as local amenity.³⁰ PPG states that artificial light can provide many benefits, but is not always necessary. Light pollution can be harmful or a source of annoyance to people and wildlife, undermine enjoyment of the countryside or detract from enjoyment of the night sky.³¹ It continues “the best use of artificial light is getting the right light, in the right place and providing light at the right time”.³²

This policy seeks to ensure that any development that involves lighting will not have an unacceptable impact on the night sky. The policy is simply worded, but IWC raise concern about how the policy will provide a practical framework as required by the NPPF³³ and I agree with their assessment. In order then to take account of national policy and to provide additional clarity, a modification is recommended.

- **Reword the policy so it reads:**

“Applicants must demonstrate that where development involves lighting, that lighting is necessary and the effect on the night sky is acceptable.”

Rural and renewables

The vision statement and accompanying objectives are clearly worded and relate to the development and use of land. Overall, the natural environment is highly valued, but sustainable growth is sought in appropriate locations.

³⁰ NPPF para 125

³¹ PPG para 001 ref id 31-001-20140306

³² *Ibid*

³³ *Ibid* para 17

The first paragraph refers to a map on page 10 of the Plan, but it should be page 4. This is an easily made and remedied typographical error.

There is no objective FNP 10. The Parish Council explains that it was decided to number the next objective 11 to match the policy numbers. Despite this explanation it reads a little oddly and appears as if there is an objective missing. In order to provide a practical framework, the remaining objectives should be renumbered or redefined in some way to avoid this confusion.

- **Change the reference to “(see map page 10)” in the first paragraph on page 14 of the Plan to “(see map page 4)”**
- **Renumber Objective “FNP 11” “FNP 10” and “FNP 12” “FNP 11”**

Policy FNP 9

Reuse of redundant farm buildings are permitted by this policy subject to impacts on agricultural practices, visual impact and local character and tranquility. The NPPF supports the sustainable growth and expansion of all types of business and enterprise in rural areas including through the conversion of existing buildings and farm diversification.³⁴ However, the NPPF does not restrict this support to farm buildings and there is no mention of the need for these buildings to be redundant.

In addition the NPPF refers to well designed new buildings and to take account of the NPPF, reference should be included in the policy to new as well as converted buildings.

The wording of the policy is quite loose and needs more precision to ensure that the necessary safeguards to help achieve sustainable development are in place. Modifications amending the wording of the policy so that it has more precision and is positively worded to take account of national policy and guidance are therefore recommended.

This modification will also take account of the comments from Historic England in relation to heritage considerations and IWC in relation to amenity considerations, both of which are important in the achievement of sustainable development.

- **Amend Policy FNP 9 to read:**

“High quality and sympathetic conversion of rural buildings or well designed new buildings are supported where they would:

- a) be compatible with agricultural practices and***
- b) have an acceptable visual impact and***

³⁴ NPPF para 28

- c) *respect the local character and tranquility of the surrounding landscape and countryside and*
- d) *have an acceptable impact on the living conditions of neighbouring occupiers."*

Policy FNP 10

Policy FNP 10 relates to development that falls outside the settlement boundary. It seeks to ensure that account is taken of the rural landscape and requires applicants to demonstrate "mitigating measures". As the Plan explains much of the Parish outside the settlement boundary lies in an AONB or on land with other designations. The NPPF is clear that the planning system should contribute to and enhance the local and natural environment. Great weight should be given to conserving landscape and scenic beauty in AONBs which have the highest status of protection in relation to landscape and scenic beauty.³⁵

The way the policy reads is that account should be taken of the character of the rural landscape which could mean that an applicant for planning permission could demonstrate account has been taken of the landscape and then ignore it. The policy also relies on mitigation. The policy then differs significantly in its approach from national policy in the NPPF as referred to above.

I am also mindful that CS Policy SP1 does not support development outside or immediately adjacent to the defined settlement unless a specific local need is identified.

As the Plan has identified a need for appropriate development to sustain Freshwater and the wider West Wight subject to suitable safeguards I regard the intent of the policy to be in general conformity with the CS. As a result a modification is made to amend the wording of the policy to ensure that account is taken of national policy in the NPPF and CS Policy SP5 which expects proposals to take account of the environmental capacity of an area and to ensure that sustainable development in the rural area can be achieved. This also takes account of the comments made by Historic England.

- **Amend Policy FNP 10 to read:**

"Applications outside the settlement boundary for employment and tourism must protect or enhance the rural character and tranquility of the area. Applicants will need to demonstrate how the development will impact on the character and tranquility of the area and set out how the design, materials and landscaping will contribute to the protection and enhancement of the area in which the development is located."

³⁵ NPPF para 115

Policy FNP 11

Coastal instability to the north of the A3054 is recognised in the Plan alongside erosion and flooding. This policy seeks to ensure that development in those areas is safe and cross-references the Shoreline Management Plan. IWC suggest that reference is also made to the West Wight Coastal Strategy which outlines how future risks of tidal flooding and coastal erosion will be managed and identifies priority schemes. I agree that this is an important reference to include in the interests of completeness and meeting the basic conditions.

The NPPF seeks to ensure that development is appropriately located. It states that “new development should be planned to avoid increased vulnerability to the range of impacts arising from climate change”.³⁶ It goes on to refer to coastal areas and reducing the risk from coastal change by avoiding inappropriate development in vulnerable areas or adding to the impacts of physical changes to the coast.³⁷ Subject to the inclusion of the West Wight Coastal Strategy, this policy takes account of national policy and guidance and will help to achieve sustainable development.

- **Insert “*West Wight Coastal Strategy and*” before “latest Shoreline Management Plan if applicable.”**
- **Revise justification text to include reference to the West Wight Coastal Strategy**

Policy FNP 12

Objective 12 sitting alongside Policy FNP 12 refers to “land designations” and I was unsure as to what was meant by this. I suggest that an addition is made to the objective so that it is clear.

Wildlife links including hedgerows and water courses and their replacement when affected is the subject of Policy FNP 12. The NPPF minimises impacts on biodiversity and seeks to provide net gains where possible.³⁸ The conservation and enhancement of the natural environment is an important element of national policy which distinguishes between different designated sites and is a key facet of achieving sustainable development. CS Policy SP5 reflects this. In order to meet the basic conditions, the policy needs to be more robustly worded; at present it does not afford strong enough protection to biodiversity and the natural environment.

- **Change “land designation” in Objective FNP 12 to “land designations” and add “*as shown on the map on page 4 of the Plan*” after this phrase**

³⁶ NPPF para 99

³⁷ *Ibid* paras 105 - 108

³⁸ *Ibid* section 11

- **Reword Policy FNP 12 to read:**

“All development throughout the Parish should protect and, where possible, enhance biodiversity and ecological networks including wildlife corridors such as hedgerows and water courses.”

Policy FNP 13

This policy seeks to designate 15 areas of Local Green Space (LGS) and deal with development on these sites. The supporting text explains the rationale for the proposed designations, a table giving more detail about each site is found on page 18 of the Plan and each site is usefully mapped on pages 19 and 20 of the Plan. I requested a more detailed map for the Fort Victoria Country Park which has helpfully been provided and this map should be incorporated into the Plan.

The NPPF explains that LGSs are green areas of particular importance to local communities.³⁹ The designation should only be used where a) the LGS is in reasonably close proximity to the community it serves, b) it is demonstrably special to the local community and holds a particular local significance and where it is local in character and not an extensive tract of land. Interestingly, a checklist has been developed locally for this Plan which includes two additional criteria; not with an extant permission and not allocated for development in the local plan. In addition Natural England’s Accessible Natural Greenspace Standards (ANGSt) have been used. Lastly, areas of 20 acres or more have been excluded. I have based my assessment solely on the criteria in the NPPF.

The effect of such a designation is that new development will be ruled out other than in very special circumstances. Identifying such areas should be consistent with local planning of sustainable development and complement investment.

The NPPF makes it clear that this designation will not be appropriate for most green areas or open space. Further guidance about LGSs is given in PPG.

I saw all 15 areas on my site visit. Taking each in turn:

1. Pound Green consists of two open grassed areas with seating. They fall within the Conservation Area.
2. Middleton Green is a well-defined open area of grass with seating. It is important visually and links to Spinfish.
3. Spinfish is a green link footpath along a stream linking Middleton to Queens Road in Freshwater village.

³⁹ NPPF paras 76, 77 and 78

4. School Green Road and Black Hut Green is an open grassed area at the heart of the village and is important visually with specimen trees and seating as well as a stream along one of the main routes to the village. Supporting information indicates this is also a safe route to school.

5. Stroud Field joins the previous proposed LGS at one end and is a well-defined, open grassed area set out with pitches and with play areas. Supporting information indicates it is used for seasonal events.

6. Jubilee Field adjoins Stroud Field close to the sports and community centre and is an important recreational area.

7. Norton Park area is a half moon shaped grassed area important visually for the setting of the surrounding bungalows and for the character and appearance of the area. Supporting information indicates this is a valued meeting space for residents and popular for dog walking.

8. Fort Victoria Country Park is a former military fort that now houses a number of attractions including a café, model railway and planetarium. The surrounding County Park offers many walks and good vantage points and is an important recreation and wildlife area.

9. Golden Hill Country Park surrounds the former military fort now converted into residential properties and is a wilder area popular with walkers and valued for its wildlife.

10. Parkway Green is an island of grass surrounded by bungalows and is important for the open setting it provides and its various trees. Supporting information indicates this is a valued meeting space for residents.

11. Edinburgh Road Green is an open area of grass contributing to the setting of nearby houses and providing a recreational area.

12. Granny's Mead is a meadow with footpaths and seating. It is a tranquil space valued for recreation, education and nature.

13. Victoria Road/Guyers Road is a wide verge with a footpath that follows the inside of the bend of the road. It is important visually and valued for wildlife.

14. Gate Lane Verge is an area from Dimbloa Lodge, an important museum, to Freshwater Bay. The green area contains a footpath and seating and is hidden from the road by a hedge. It is important visually and as a functional link.

15. Norton Green Verge is an open grass verge important visually but also functionally protecting the ditches.

In my view, all the proposed LGSs meet the criteria in the NPPF satisfactorily.

The policy indicates that development of the LGSs will not be permitted except in special circumstances or required for infrastructure projects that update or provide additional amenities for the community if other sites are not available. The NPPF states that the policy for managing development within LGSs should be consistent with policy for Green Belts. The policy arguably and potentially allows more development than Green Belt policy would, but it is not inconsistent with it and I consider provides a locally justifiable approach to development in this particular Plan area.

IWC makes a useful suggestion on the wording of the policy that I consider will help with clarity and ensure the policy provides a practical framework in line with the NPPF. Subject to this modification, the policy will meet the basic conditions.

- **Add the word “*demonstrated to be*” before “not available” in criterion b)**
- **Replace the Fort Victoria Country Park map on page 20 with a more detailed map that shows the full extent of the LGS**

Policy FNP 14

Objective FNP 14 refers to energy schemes, but Policy FNP 14 does not do so specifically. In order to achieve consistency, I suggest that the objective is modified.

Policy FNP 14 seeks to achieve high standards of sustainable development through design, construction and operation. As the policy encourages rather than requires and is not prescriptive in what it seeks, but rather promotes high quality development, it takes account of national policy and guidance and will help to achieve sustainable development. However, it refers to large-scale development without defining what that might be. Additionally, the policy will catch all types of development whereas some types of development may not be able to, or need to, address the issues.

Furthermore the last criterion e) seeks the submission of an environmental impact statement. Although the policy has some flexibility as it requires this “where appropriate”, the requirements for documents and evidence to be submitted with planning applications is the preserve of the local planning authority. Therefore this criterion should be deleted. I note that IWC considers the requirement to be onerous and this reinforces my own view.

Subject to modifications to address the concerns above, the policy will meet the basic conditions.

- **Change Objective FNP 14 to read: “*Development should achieve high standards of sustainable development through design, construction and operation.*”**
- **Delete “Large scale” from the start of the policy**

- Add the words “*where appropriate*” before “demonstrate how design...”
- Delete criterion e) from the policy

Community provision

The vision statement and objective for this topic section are clearly worded and relate to the development and use of land. Essentially, the needs of the community, including the visiting community, are to be met.

Policy FNP 15

The NPPF promotes the retention of and development of local services and community facilities.⁴⁰ This policy resists the loss of community facilities and open spaces including two of the previously identified proposed LGSs; Golden Hill Country Park and Fort Victoria as well as Afton Marsh and the allotment site. It then supports enhanced community facilities generally and specifically naming ten facilities and generally churches and associated buildings and galleries. The policy meets the basic conditions and no modifications are therefore recommended.

I do however note IWC’s suggestion that the policy could be two sections and this would help with presentation, but this is not a modification needed to meet the basic conditions.

Policy FNP 16

This policy resists the loss of allotments unless suitable and appropriate replacement sites are provided and supports the provision of new allotments. Allotments promote healthy communities in line with the NPPF and, as well as providing a meeting place and shared space and recreation facility, they provide the opportunity to grow food and can promote biodiversity. The clearly worded policy is in line with national policy and guidance and will help to achieve sustainable development. I also note that the CS refers to the need to improve provision in West Wight. It therefore meets the basic conditions and no modifications are suggested.

Next sections

The Plan then includes a table that is blank but looks to be filled in at regular intervals in the future. The columns in the table are titled “review date”, “policies changed” and

⁴⁰ NPPF para 28

“signed by”. It would be useful to add a new heading and an explanatory paragraph that indicates monitoring of the Plan will be carried out regularly. I consider the table should be removed from the Plan. This is because whilst it is commendable that the Plan will be reviewed and monitored regularly over its lifetime, there is a process to be followed firstly by the Parish Council of course, but also a process in updating the Plan or any of its policies.

PPG⁴¹ advises that the neighbourhood plan policies remain in force for the lifetime of the Plan until they are replaced. Whilst there is no requirement to review or update a Plan or any of its policies, it is possible to update the Plan or part of it if desired. At present the process for making a replacement plan is the same as the process for making the existing one and so needs to be consulted upon, examined and is subject to referendum. The impression given is that the Plan will be reviewed and the policies updated; without due process this cannot happen. This section therefore needs more clarity.

- **Add a new section title called “Monitoring and review”**
- **Add a new paragraph explaining the Plan will be monitored and reviewed**
- **Delete the table on page 23 of the Plan**

The Plan then includes an appendix which contains a number of maps. The first is “Valued Community Facilities”. This is a helpful map. The second is designated areas in the Parish and this seems to replicate the map on page 4 of the Plan and so is unnecessary to retain in the interests of clarity. Next is a map showing the geology and this can be retained if desired. There is then a map of SHLAA sites which are not referred to in the Plan and therefore there is no reason to include this information. Finally, there is an Environment Agency flooding map of the Parish. Whilst useful to include it should either be removed or a ‘rider’ added to it as this will become out of date. These modifications are made in the interests of clarity and providing a practical framework for decision-making.

- **Remove the “Freshwater Parish – Designated areas” map on page 25 of the Plan**
- **Remove the “Freshwater Parish – SHLAA sites 2015” map on page 27 of the Plan**
- **Add a note to the “Environment Agency modeled flooding map of Freshwater Parish” on page 28 of the Plan that reads: “*The information in this appendix is correct at the time of writing the Plan. Up to date information should be sought from the Environment Agency or other relevant organisation.*”**

⁴¹ PPG paras 084, 085, 086, 087 ref ids 41-084-20160519, 41-085-20160519, 41-086-20160519, 41-087-20160519

7.0 Conclusions and recommendations

I am satisfied that the Freshwater Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to the Isle of Wight Council that, subject to the modifications proposed in this report, the Freshwater Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Freshwater Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion.

I therefore consider that the Plan should proceed to a referendum based on the Freshwater Neighbourhood Plan area as approved by the Isle of Wight Council on 30 August 2012.

Ann Skippers MRTPI

Ann Skippers Planning
7 December 2017

Appendix 1 List of key documents specific to this examination

Freshwater Neighbourhood Plan – March 2017

Basic Conditions Statement October 2016

Consultation Statement – Making of the Plan

Consultation responses and considerations to draft document

Sustainability Appraisal Report incorporating Strategic Environmental Assessment
October 2016

Habitats Regulations Assessment Report October 2016

Delivery Strategy

Evidence Base [document title]

Minutes of Meetings document

Most Valued Views

Freshwater Parish Web Information

Village Design Statement

Island Plan Isle of Wight Core Strategy (including Waste and Minerals) and Development
Management Development Plan Document March 2012

Various documents on the Parish Council website www.freshwater-parish.org.uk

List ends

Appendix 2 Request for further information and questions from examiner to the Parish Council and IWC

Freshwater Neighbourhood Plan Examination

Request for further information and questions from the Examiner to the Parish Council and IWC

Having completed my initial review of the Neighbourhood Plan (the Plan) and the evidence submitted in support of it, I would be grateful if both Councils could kindly assist me as appropriate in answering the following questions which either relate to matters of fact or are areas in which I seek clarification or request further information.

1. Please would IWC confirm the date the Plan area was designated.
2. Policy FNP 2 refers to primary frontages. A number of queries arise.
 - a. The Island Plan defines two areas of relevance; town centres and primary retail frontages. I have already and separately requested and a plan has kindly been provided to me which shows the primary frontages in the Plan and is labelled "Primary Village Retail Area". I am not clear what the intention of the Plan is; is it to define a new Town Centre, a new primary retail frontage or a different area policy to that in the Island Plan?
 - b. In places the Plan refers to (and the map provided does too) retail frontages or areas. Is this what was intended? Policy FNP 2 does not protect retail uses but supports a wide range of uses.
 - c. Although IWC confirms that Island Plan Policy DM9 is not a strategic policy, depending on the answer given above, please would IWC advise whether Policy FNP 2 would be regarded as being in general conformity with DM9 or at odds with it and if so how this then might impact the strategy of the Island Plan.
3. Would it be useful to provide a definition of "small scale" as referred to in Policy FNP 3 as suggested by IWC and if so, please provide me with a suitable definition.
4. Policy FNP 5 refers to areas within a ten minute drive of Freshwater Bay, Colwell Bay and Fort Victoria. I consider that this may be too imprecise; would it be useful to identify/define the area(s) on a map? If so, please provide me with such a map(s). Alternatively there may be other ways of adding more clarity to the policy? I would find any suggestions helpful. I note that objective FNP 5 only refers to the three identified areas and not the areas surrounding the three named locations.
5. Two queries arise on Policy FNP 6.
 - a. It refers to a Village Design Statement. Please provide me with a link to or an electronic or other copy of this document.

- b. Are the views referred to in Policy FNP 6 the same as those identified in the document entitled “Most Valued Views”? If not please explain the background evidence for the views referred to in the policy and the policy’s relationship with the “Most Valued Views” document.
6. The first paragraph (context) on page 14 of the Plan refers to a map on page 10 of the Plan. However, there is no map on page 10; should this be page 4?
7. There does not appear to be any tenth objective? This appears a little odd presentationally. Is there a solution to this?
8. In relation to Policy FNP 10, the justification for the policy refers to “designated land or associated with the AONB” towards the bottom of page 14. Please explain what the designated land refers to or means.
9. The representation from IWC suggests that objective FNP 12 should refer to “wildlife designations” instead of “land designation”. Does the PC agree?
10. Policy FNP 13 seeks to designate the Fort Victoria Country Park as a Local green Space. Although a map has been provided on page 20 of the Plan, it would be helpful if a new map showing the full extent of this area could please be provided.
11. In relation to Policy FNP 15, please confirm if the areas subject to the proposed Local Green Space designation for Fort Victoria and Golden Hill Country Park are the same.

It may be the case that on receipt of your anticipated assistance on these matters that I may need to ask for further clarification or that further queries will occur as the examination progresses. Please note that this list of questions and request for information is a public document and the answers and any associated documents will also be in the public domain. Both my questions and the responses should be placed on the Councils’ websites as appropriate.

With many thanks.

Ann Skippers
19 June 2017

Appendix 3 Letter from examiner to the Parish Council and IWC



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19 June 2017

Dear Ms. Smith,

Freshwater Neighbourhood Plan Examination

I am making good progress with the examination which I am undertaking via NPIERS. However, two matters have emerged in relation to strategic environmental assessment (SEA) and habitats regulations assessment (HRA).

As you are aware there is no legal requirement for a sustainability appraisal, but a SEA may be needed where a neighbourhood plan is likely to have significant environmental effects. In order to make this assessment neighbourhood plans should be screened in accordance with Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR). This includes consultation with the statutory consultees namely the Environment Agency, Historic England and Natural England. If likely significant effects are identified, an environmental report must be prepared in accordance with Regulation 12 of the EAPPR. As part of that process a scoping stage is carried out which is again subject to consultation with the three statutory consultees.

I am aware that it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of the plan proposal submitted to it have been met in order for the plan to progress and ultimately must decide whether the plan is compatible with EU obligations.

Part of my role is to see whether the making of the plan would be compatible with European Union obligations including under the SEA and Habitats Directives. From 9 February 2015 it is a requirement that either an environmental report that accords with the EAPPR is submitted or a statement of reasons for the determination that a plan is unlikely to have significant environmental effects must be submitted to the examiner.

In this case, a Sustainability Appraisal Report dated October 2016 has been submitted. I am satisfied that it meets the relevant regulations in respect of the environmental report with the exception of the inclusion of a non-technical summary.

It seems that a draft sustainability appraisal report has been consulted upon alongside the pre-submission version of the neighbourhood plan and that whilst the three statutory consultees responded to that consultation, none expressly mentioned SEA or the report that had been submitted.

A revised draft sustainability appraisal report has been consulted upon at submission stage alongside the version of the neighbourhood plan I am examining. Whilst again all three statutory consultees responded at submission stage, none expressly referred to SEA or the report.

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Whilst it seems that neither a screening nor scoping stage was carried out, an environmental report has been submitted. This to my mind overcomes the lack of a screening exercise being undertaken.

However, given the lack of a scoping stage and the lack of the non-technical summary and the multitude of European sites in or in close proximity to this particular neighbourhood plan area, I consider that it would be prudent for me to ask that a) a non-technical summary is prepared and b) once that non-technical summary has been prepared, the three statutory consultees are consulted on the environmental report and its accompanying non-technical summary including being specifically asked to consider its scope. I suggest that a period of five weeks is given although should all three consultees be able to respond in a quicker timescale this would be welcomed.

In addition, a Habitats Regulations Assessment Report has also been submitted. This screens out the need for further work in relation to Habitats. Again it is not clear to me that the statutory consultees have specifically been consulted on this. I therefore suggest that the Habitats Regulations Assessment Report is also sent to them alongside the environmental report to enable them to consider this on the same basis as outlined above.

If you are agreeable to this course of action, I suggest that I suspend the examination to allow this to be carried out.

However there is also another matter relating to SEA and HRA to consider before any action is agreed or taken. That is the HRA refers to the proposed Solent and Dorset Coast pSpecial Protection Area (SPA). The local planning authority point out that the sustainability appraisal report does not refer to this pSPA. If the pSPA has now been confirmed, consideration should be given to whether the SEA and the HRA need to be reviewed in the light of this. If it was determined that further work did need to be carried out, a period of consultation would in any case be required. This then is the first matter to consider.

In addition a number of points of clarification have arisen. These are contained in a separate attachment and can be worked on during this period of suspension.

I appreciate that this and the ensuing delay will come as a disappointment to everyone concerned in the development of this Plan.

I am therefore writing to you to ascertain your further instructions as to whether you and the Parish Council agree with the suggested course of action above or wish to suggest an alternative way forward which I am, of course, happy to discuss.

The comments made in this letter are without prejudice to my conclusions on any other issue.

Yours sincerely

Ann Skippers

Ann Skippers
Director

via email to Dawn Smith, Senior Policy Officer, Isle of Wight Council

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