

Mr James Derounian  
via email

**Bill Murphy, Head of Planning &  
Regulatory Services**

Isle of Wight Council, Council Offices,  
Seaclose, Fairlee Road, Newport, Isle of  
Wight, PO30 2QS

**Tel** (01983) 823552  
**Fax** (01983) 529386  
**Email** [planning.policy@iow.gov.uk](mailto:planning.policy@iow.gov.uk)  
**Web** [iwight.com/planning](http://iwight.com/planning)

**IWC Ref** BemBNPsub  
**Your Ref**

**Contact** Ollie Boulter  
**Date** 4<sup>th</sup> April 2014

Dear Mr Derounian,

### **Submission of the Bembridge Neighbourhood Development Plan proposal to examination**

Following the Isle of Wight Council (the council) publicising the Bembridge Neighbourhood Development Plan (BNDP) and closure of the six week period for representation (as required under Regulation 16 of The Neighbourhood Planning (General) Regulations 2012), I am writing to formally submit to you the required documentation (under Regulation 17) to allow the BNDP to proceed to examination. A complete list of the documentation is appended to this letter, and this letter along with the documentation will be made available on the [council's website](#).

I can also confirm that under Regulation 16(b) the council notified any consultation body referred to in the consultation statement that the plan proposal had been received. Copies of the notification can be provided if required.

The council has not made formal representation on the proposed BNDP, but considers that it may be of benefit to provide some information in this covering letter that sets out the council's position on a number of issues relating to the examination of the BNDP.

The council is supportive of Bembridge Parish Council (the parish council) bringing forward a Neighbourhood Development Plan for the parish. The council has provided advice and assistance to the parish council on the considerable work that they have undertaken to date on the proposed BNDP and accompanying information.

Although it is not formally required to do so at this stage of the process, the council believes it would be of benefit to set out whether it considers that the proposed BNDP, when taking into account of the changes proposed by the parish council to the plan, meets the Basic Conditions as required by paragraph 8(1)(a)(2) of Schedule 4B of the Town and Country Planning Act 1990 (as inserted by the Localism Act 2011).

In considering its position and preparing this note, the council has had regard to national policy and guidance and Examiners' Reports that have been published on other neighbourhood plans to date.

It is noted by the council that 23 representations were submitted following the publicising of the proposed BNDP for the Regulation 16 representation period. The council was responsible for organising and overseeing the representation period and therefore is aware of the content of every representation received. Once received the representations were forwarded onto the parish council

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for their consideration, with the council giving its opinion as to whether the issues raised in the representations were significant (i.e. a Basic Condition issue) or not.

It is important at this stage to make a clear distinction between the Basic Conditions and the Tests of Soundness (for development plan documents) that perhaps those involved with planning policy may be more familiar with. To accord with the Government's stated intentions of neighbourhood planning, Basic Conditions are deliberately less demanding (than the Tests of Soundness) and this is to facilitate quicker and easier delivery of neighbourhood plans and, perhaps most importantly, to ensure that they reflect the community's views as much as possible.

I will now provide some commentary on each of the Basic Conditions and the issues that have been raised against them.

### **Having regard to national policies and advice contained in guidance issued by the Secretary of State**

The National Planning Policy Framework is the main document for national planning policy, which is supported by a Planning Practice Guidance (which was finalised whilst the BNDP was out for consultation in the Regulation 16 representation period).

The Basic Condition requires that *regard* is paid. The council therefore considers that this does not require an absolute following by the qualifying body of national policies and advice, and that it follows there is scope for flexibility. Whilst the council agrees that not all national policies and advice may not have been followed to the letter, it considers that the degree that this has happened does not fall outside of the qualifying body's duty of having 'regard'.

The council is also particularly mindful of the fact that the majority of national policies and advice is directed towards Local Planning Authorities and the preparation of development plan documents. Therefore, the council is very much of the opinion that not all national policies and advice will be relevant to qualifying bodies preparing a neighbourhood plan.

*The council considers that the proposed BNDP, along with the proposed amendments, has regard to national policies and advice contained in guidance issued by the Secretary of State.*

### **Contributing to sustainable development**

The parish council, following extensive consultation, has arrived at the conclusion that for their parish a sustainable level of development is one that contributes to achieving the strategic requirements of the Core Strategy by addressing their local need. The council is aware of the concerns raised by certain representors, but is comfortable with this locally-derived approach and considers that it contributes to achieving sustainable development by balancing the three dimensions of sustainable growth as set out on page 2 of the National Planning Policy Framework.

The council considers that the proposed amendments to H.3 would contribute to Bembridge sustainably growing in the way the community wants it to.

The council notes that the definition of local need in relation to housing used in the proposed BNDP is narrower than that given through policy SP1 of the Core Strategy. The council has raised a concern over this, which is expanded further under the next Basic Condition issue.

*The council acknowledges that the basic condition applies to whole document and not each individual policy but considers that, for the reasons given later the proposed BNDP may fail to meet this Basic Condition (see section titled General conformity with the strategic policies contained in the development plan for the area of the authority).*

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### **General conformity with the strategic policies contained in the development plan for the area of the authority**

The council is mindful of the fact that by their nature all neighbourhood plans are different, as indeed are the local planning policy contexts within which they are formulated. The Island Plan Core Strategy (2012) and the proposed BNDP are an example of this. Through policy SP1 the Core Strategy identifies Bembridge as a Rural Service Centre and policy SP2 establishes the spatial distribution that the overall housing requirement of the plan will need to be delivered in broad accordance with.

It is important to note that whilst there is an overarching figure of 980 dwellings that will be delivered through 'smaller-scale development at the Rural Service Centres and wider rural area', there is no specified housing figure for Bembridge, or indeed any other Rural Service Centre to deliver.

However, paragraph 5.38 of the Core Strategy sets out that in the context of policy SP2 'the council does not want to be prescriptive and identify either an Island-wide threshold or settlement-specific threshold'. It also states that smaller-scale development should:

- Meet an identified local need;
- Demonstrate that deliverable previously developed land is not available within the settlement boundary;
- Be commensurate to the size, scale, design and character of the settlement;
- Not significantly adversely change the size, scale, design and character of the settlement; and
- Be sustainably situated close to local services and facilities.

The council considers that it is important to remember that the examination into the proposed BNDP is only required to consider the plan against the Basic Conditions, not the implications of its adoption for the LPA. Paragraph 184 of the National Planning Policy Framework states that neighbourhood plans should not promote less development than set out in the Local Plan. There is no housing figure or target specifically for Bembridge within the Core Strategy (within a strategic policy or otherwise) and the proposed BNDP allows for development to come forward in a managed way that is acceptable to the community, thereby contributing to the Island-wide housing target for Rural Service Centres and the wider rural area.

The council would also like to confirm that it considers the strategic policies in the Core Strategy, with which the BNDP must be in general conformity are policies **SP1-SP9** (with the SP standing for strategic policy). The council does not consider that the development management (DM) policies are strategic.

However, the council has raised concerns with the parish council over its approach towards identifying local need in relation to proposed policy H.1. The parish council has taken, in the view of the council, a narrower definition of local need than that taken in the [Core Strategy](#) and as explained in the supporting text (paragraph 5.31) of Strategic Policy 1.

The paragraph states that:

*In the context of this policy [SP1], local need includes identified local requirements for housing, a demonstrable contribution to maintaining local facilities (such as schools, shops and community facilities) and to maintain or enhance the wider viability of local communities.*

The approach in SP1 therefore acknowledges that local need for housing is made up of a number of component parts. The council accepts that the main component part of this is housing need as evidenced through a housing needs survey. However, in the proposed policy local need (for

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housing) is exclusively linked to the Bembridge Housing Need Survey, thereby ruling out the other instances.

The council is therefore concerned that such a departure from the strategic policy, in the absence of detailed justification for doing so, would not comply with this particular Basic Condition and therefore may also fail when considered against the Basic Condition of contributing to sustainable development.

To address this concern the council proposes the following wording change to proposed policy H.1

### **BNDP.H.1 – New Housing Development**

**New housing development within the Bembridge settlement boundary or immediately adjacent will be supported in principle provided it meets the criteria as set out in policy BNDP.OL.1 and is able to demonstrate it meets a local need, particularly as identified in the current Bembridge Housing Needs Survey.**

The council believes such a change would bring the proposed policy into alignment with SP1 and therefore compliant with the Basic Conditions, by allowing other elements of local need (for housing) to be considered. But at the same time this would also give the needs identified in the Bembridge Housing Needs Survey a primacy.

In raising this issue and suggesting such a change, the council is aware it is ultimately responsible for determining whether any modifications proposed by the Examiner should be taken forward, and that it can propose (and justify) modifications to ensure that the Basic Conditions are met within a decision statement.

*The council considers that on the one issue outlined above the proposed BNDP would not meet this Basic Condition, and potentially another. However, the change proposed would address the Council's concerns.*

### **Does not breach, and is otherwise compatible with, EU obligations**

The parish council has proposed amendments to policy H.3, which are based on the council's local lettings approach. The council is not aware of any issues in relation to their approach, or that proposed by the parish council, that would mean it breaches or would be incompatible with EU obligations.

*The council considers that the proposed BNDP, along with the proposed amendments, does not breach, and is otherwise compatible with, EU obligations.*

It is fair to say that if the council had been the lead authority in the preparation of the BNDP, the document and the policies within it would be different. But that misses the point of neighbourhood planning. It is not for the council to tell the parish council what should be in their plan, but rather assist them through the process using the Basic Conditions as the benchmark against which the neighbourhood plan will be judged at the examination stage. How the neighbourhood plan achieves this is down to the parish council as the qualifying body with input from their community.

In light of this, the council has not taken lightly its decision to raise concerns over the definition of local need, but strongly believes that without the suggested amendment the proposed BNDP would not meet the identified Basic Conditions.

It is clear from the submitted information that the parish council has undertaken substantial public engagement in drafting the BNDP. Whilst it is understood that a certain representor feels aggrieved by the parish council's approach towards consultation, the council considers that the parish council and the council have met, and in the case of the early engagement and consultation work by the

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parish council exceeded, their statutory duties in preparing the plan. Therefore it is considered that reasonable opportunity has been presented to any interested party to make comments and therefore be involved with and inform the preparation of the proposed BNDP.

Whilst the council notes that a request has been made by one representor for a public hearing to be held, it remains to be convinced that a sufficient case has been made to justify one.

I trust the above and enclosed information provides all that you require to undertake the examination into the proposed BNDP. If you require any further information, or the information in a different format please do not hesitate to contact me.

Yours sincerely,

*Ollie*

**Ollie Boulter**  
**Team Leader, Planning Policy, Conservation & Design**

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## **Schedule of BNDP Regulation 17 Submission Documents**

### **BNDP documents**

- SubDoc1\* Proposed Bembridge Neighbourhood Plan Document  
 SubDoc2 Proposed Revised Policies – Resulting from formal consultation draft responses

### **Consultation/Representation documents**

- SubDoc3\* BNDP Consultation Statement  
 SubDoc4\* BNDP Consultation Statement Appendix 1  
 SubDoc5\* BNDP Consultation Statement Annex A  
 SubDoc6\* BNDP Consultation Statement Appendix 2  
 SubDoc7\* BNDP Consultation Statement Appendix 3  
 SubDoc8 Representations received during the Regulation 16 consultation period  
 SubDoc9 Response to the official public consultation  
 SubDoc10 BNDP Reg 16 Representations and comments

### **Basic Condition documents**

- SubDoc11\* BNDP Basic Condition Statement

### **Sustainability Assessment documents**

- SubDoc12 BNDP Sustainability Appraisal Full Report 01.04.14  
 SubDoc13 Bembridge Sustainability re-run for proposed schedule of changes  
 SubDoc14\* BNDP Sustainability Appraisal Full Report  
 SubDoc15\* BNDP Sustainability Appraisal Appendix 1  
 SubDoc16\* BNDP Sustainability Appraisal Appendix 2  
 SubDoc17\* BNDP Sustainability Appraisal Appendix 3  
 SubDoc18\* BNDP Sustainability Appraisal Non-Technical Summary

### **Habitats Regulations Assessment documents**

- SubDoc19 Bembridge HRA Screening Report 31.03.14  
 SubDoc20\* BNDP Habitat Regulations Assessment Screening Report

### **Equality Impact Assessment documents**

- SubDoc21\* BNDP Equality Impact Assessment

### **Other evidence/background documents**

- SubDoc22 PPG Analysis

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SubDoc23*	BNDP Parking Assessment
SubDoc24*	BNDP Parking Assessment Annex 1
SubDoc25*	BNDP Parking Assessment Annex 2
SubDoc26*	BNDP Parking Assessment Annex 3
SubDoc27*	BNDP Local Green Space Audit
SubDoc28*	BNDP Local Green Space Map
SubDoc29*	BNDP Shops & Business Premises Audit
SubDoc30*	BNDP Community Assets Audit
SubDoc31*	BNDP Evidence Base Document
SubDoc32*	BNDP Design Character Appraisal
SubDoc33*	BNDP Delivery Strategy

*Those marked with a \* were previously submitted to the council under Regulation 15(1), and have been publicly available on the council's website.*

*Those underlined are documents submitted to the council following the Regulation 16 consultation.*