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# Report on Askerswell Neighbourhood Plan 2018 - 2028

An Examination undertaken for West Dorset District Council with the support of the Askerswell Neighbourhood Forum on the February 2018 submission version of the Plan.

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## Main Findings - Executive Summary

From my examination of the Askerswell Neighbourhood Plan (the Plan/NP) and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – the Askerswell Neighbourhood Forum;
- The Plan has been prepared for an area properly designated – the Parish of Askerswell as shown in Figure 1 of the NP;
- The Plan specifies the period to which it is to take effect – 2018 to 2028; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to Referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

## 1. Introduction and Background

### *Askerswell Neighbourhood Plan 2018 - 2028*

- 1.1 Askerswell is an attractive small village within the Dorset Area of Outstanding Natural Beauty (AONB) and it sits very comfortably within its rural setting. In 2011 the population of the village was 184. On my visit, I saw the Village Hall, Parish Church and the Spyway Inn but noted that there is no shop or school. There are areas of public space, including the attractive Washingpool playing field and wildlife area. The NP covers the whole of the Parish, being the designated Neighbourhood Area (Figure 1 of the NP). Askerswell lies within the District of West Dorset.
- 1.2 The decision to progress a NP was agreed at a Parish Meeting in April 2014. As there is no Parish Council a Neighbourhood Forum (NF) was established (with 29 founder members), the constitution and membership of which was agreed by the West Dorset District Council (WDDC). An appropriate process of consultation and publicity regarding the NP has been undertaken and is summarised in the NP Consultation Report (February 2018).

- 1.3 The NP provides an overview of the setting and history of the village and summarises the key social and economic characteristics of the settlement. A Vision Statement is set out and a number of Objectives are established, together with the policies that are intended to secure the achievement of those Objectives.

#### *The Independent Examiner*

- 1.4 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Askerswell NP by WDDC, with the agreement of the Askerswell NF.
- 1.5 I am a chartered town planner and former government Planning Inspector, with considerable experience in the preparation and examination of development plans. I am an independent examiner, and do not have an interest in any of the land that may be affected by the draft plan.

#### *The Scope of the Examination*

- 1.6 As the independent examiner I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
  - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
  - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.7 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
- Whether the Plan meets the Basic Conditions;
  - Whether the Plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
    - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
    - it sets out policies in relation to the development and use of land;
    - it specifies the period during which it has effect;

- it does not include provisions and policies for 'excluded development';
- it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area;
- whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to referendum; and
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').

1.8 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

#### *The Basic Conditions*

1.9 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area;
- Be compatible with and not breach European Union (EU) obligations; and
- Meet prescribed conditions and comply with prescribed matters.

1.10 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the neighbourhood plan should not be likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2017) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats etc.) Regulations 2007), either alone or in combination with other plans or projects.

## 2. Approach to the Examination

### *Planning Policy Context*

- 2.1 The Development Plan for this part of West Dorset, not including documents relating to excluded minerals and waste development, is the West Dorset, Weymouth and Portland Local Plan – 2015 (LP).
- 2.2 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented. Paragraph 184 of the NPPF confirms that the ambitions of a neighbourhood should be aligned with the strategic needs and priorities of the wider area<sup>1</sup>.
- 2.3 A revised NPPF<sup>2</sup> was published during this examination on 24 July 2018, replacing the previous 2012 NPPF. The transitional arrangements for local plans and neighbourhood plans are set out in paragraph 214 of the 2018 NPPF, which provides ‘The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019’. A footnote clarifies that for neighbourhood plans, ‘submission’ in this context means where a qualifying body submits a plan to the local planning authority under Regulation 15 of the 2012 Regulations. The Askerswell Neighbourhood Plan was submitted to WDDC in March 2018. Thus, it is the policies in the previous NPPF that are applied to this examination and all references in this report are to the March 2012 NPPF and its accompanying PPG.

### *Submitted Documents*

- 2.4 I have considered all policy, guidance and other reference documents that I consider relevant to the examination, including those submitted which comprise:
- the draft Askerswell Neighbourhood Plan 2018 -2028 (February 2018) that includes Figure 1, which identifies the area to which the proposed NP relates;
  - the Consultation Report, (February 2018);
  - the Basic Conditions Statement, (February 2018);
  - all the representations that have been made in accordance with the Regulation 16 consultation;
  - the Strategic Environmental Assessment Screening Report (September 2016) and
  - the response from West Dorset District Council and the Neighbourhood Forum to the questions set out in my letter of 28 June 2018<sup>3</sup>.

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<sup>1</sup> See also PPG Ref ID 41-044-20160519.

<sup>2</sup> <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

<sup>3</sup> View at: <https://www.dorsetforyou.gov.uk/planning-buildings-land/planning-policy/west-dorset-and-weymouth-portland-planning-policy/neighbourhood-planning/neighbourhood-plans/askerswell-neighbourhood-plan.aspx>

### *Site Visit*

- 2.5 I made an unaccompanied site visit to the Neighbourhood Plan Area on 3 July 2018 to familiarise myself with the locality, and visit relevant sites and areas referenced in the Plan and evidential documents.

### *Written Representations with or without Public Hearing*

- 2.6 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulate the objections to the Plan and present arguments for and against the Plan's suitability to proceed to a referendum. There were no formal requests for a hearing to be held.

### *Modifications*

- 2.7 Where necessary, I have recommended modifications to the Plan (PMs) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

## 3. Procedural Compliance and Human Rights

### *Qualifying Body and Neighbourhood Plan Area*

- 3.1 The Askerswell NP has been prepared and submitted for examination by Askerswell NF, which is a qualifying body.
- 3.2 It is the only Neighbourhood Plan for Askerswell and does not relate to land outside the designated Neighbourhood Plan Area.

### *Plan Period*

- 3.3 Whilst the period to which it is to take effect is clear from the Plan itself, the Plan should specify that time period, in the interests of clarity, on the front cover. I therefore recommend that the NP be modified by stating the period (2018-2028) clearly on the front cover. (PM7)

### *Neighbourhood Plan Preparation and Consultation*

- 3.4 The NP Consultation Report (February 2018) sets out the main consultations undertaken and summarises the announcements and progress reports that have been published. For example, meetings of the NF have been held; drop-in events and surveys have been arranged; meetings with appropriate independent advisers have been held (for

example regarding landscape issues); and regular updates have been published in the 'Eggardon and Colmers View', which is the local newsletter distributed throughout the neighbourhood. The processes undertaken have been properly documented and the information gathered appears to have been appropriately assessed and considered. The opportunity for the local community and external stakeholders to comment was available at both the Regulation 14 stage and the Regulation 16 stage.

- 3.5 I am satisfied that all the relevant statutory requirements in the 2012 Regulations have been met, and that in all respects the approach taken towards the preparation of the NP and the involvement of interested parties has had due regard to the advice on plan preparation and engagement in the PPG.

#### *Development and Use of Land*

- 3.6 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

#### *Excluded Development*

- 3.7 The Plan does not include provisions and policies for 'excluded development'.

#### *Human Rights*

- 3.8 None of the parties suggest that the NP breaches Human Rights (within the meaning of the Human Rights Act 1998), and from my independent assessment I consider there is no reason to disagree.

### 4. Compliance with the Basic Conditions

#### *EU Obligations*

- 4.1 The Neighbourhood Plan was screened for Strategic Environmental Assessment (SEA) by WDDC, which found that it was unnecessary to undertake SEA. I have read the SEA Screening Report (September 2016) which in Table 4.2 assesses the likely significance of effects of the NP. Noting that there were no objections from Natural England, Historic England and the Environment Agency in this regard, I see no reason to disagree with its conclusions.

#### *Main Issues*

- 4.2 I have approached the assessment of whether or not the NP complies with the Basic Conditions under two main headings:

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- general issues of compliance of the NP, as a whole; and
- specific issues of compliance of the NP policies.

4.3 In this section I consider particularly whether or not the NP complies with the Basic Conditions, in terms of its relationship to national policy and guidance, the achievement of sustainable development and general conformity with the adopted Development Plan policies in the LP.

#### General Issues of Compliance of the NP

##### *National Policy, Sustainable Development and the Development Plan*

- 4.4 The policies in the NP are set out under four main headings: Environment; Community; Business; and Housing. The accompanying Basic Conditions Statement (February 2018) adequately sets out how the NP policies are aligned to national policy and advice.
- 4.5 The Vision and Objectives for Askerswell are clearly set out and I am satisfied that they appropriately reflect the aspirations of the local community. Emphasis is placed on protecting the setting of the Parish whilst also seeking to retain and improve community facilities. Support is given, in principle, to the provision of a limited number of new dwellings and encouragement is given to the movement of young families into the village. Support is also given to the locally based businesses and workforce.
- 4.6 The need to secure sustainable development is implicit throughout the NP and I am satisfied that all three dimensions to such development (economic, social and environmental)<sup>4</sup> have been taken into account. Subject to the detailed comments on individual policies that I set out below, I conclude that the NP has had regard to national policy and guidance.
- 4.7 In terms of the Development Plan, the Basic Conditions Statement satisfactorily establishes the relationship between the NP and the West Dorset, Weymouth and Portland LP (2015).
- 4.8 Overall the NP provides a satisfactory framework in order to achieve the stated objectives, as set out at the start of each policy section and, subject to the modifications that I recommend below, I conclude that the NP meets the Basic Conditions. I also consider that the policies (as amended) are supported by suitable evidence, are sufficiently clear and unambiguous and that they can be applied consistently and with confidence.

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<sup>4</sup> NPPF paragraph 7.

## Specific Issues of Compliance of the NP's Policies

### *The Environment Policies*

- 4.9 It is clear that the natural environment around Askerswell, which is designated AONB, is of great importance to local residents. The emphasis in the NP is therefore correctly placed on protecting and enhancing the landscape qualities of the area. To that end policy E1.1 builds on the policy advice in the NPPF and the LP and in particular seeks to ensure that development in elevated locations is avoided.
- 4.10 However, paragraph 5.3 refers to the 'main views' in the area and suggests that a distance of at least 1km between new structures and the identified viewpoints is retained. I consider that the identification of such views to be too inflexible and lacking in clarity and thus contrary to paragraph 154 of the NPPF. For example, policy E1.2 refers to the 'enjoyment' of key views but it is not clear how that should be interpreted by the decision-maker and the views shown on the plan in Figure 5 are represented by single arrows, so again it would be up to the decision-maker to decide on the 'width' of any such view. There is insufficient precision in this approach and therefore I recommend in PM1:
- the deletion of the references to 'views' and 'viewpoints' in paragraphs 5.3 and 5.4,
  - the deletion of Figure 5 (which attempts to show the views and viewpoints),
  - the deletion of paragraph 5.5 (which provides a more detailed description of the views), and
  - the deletion of policy E1.2 (which seeks to prevent development that would be harmful to the enjoyment of the key views).
- 4.11 My conclusions on this matter are strengthened by two factors. Firstly, the NPPF confirms that great weight should be attached to conserving landscape and scenic beauty in AONBs, which have the highest status of protection in relation to landscape and scenic beauty (paragraph 115). The qualities of the locality are therefore already afforded significant protection. And secondly, I am aware that policy ENV1 of the LP provides protection for the character, special qualities and natural beauty of the Dorset AONB. There is also reference in the LP to avoiding harm to uninterrupted panoramic views. I am therefore confident that there is an adequate policy framework available which will afford appropriate protection to the landscape setting of Askerswell.
- 4.12 In policy E1.1 it is a requirement that development should 'maintain' the qualities of the AONB. A decision maker could have difficulty in assessing whether or not that requirement would be met and I consider that the use of the word 'maintain' lacks sufficient clarity. I therefore recommend that

'maintain' is replaced by 'conserve' as this would more accurately reflect the advice in NPPF paragraph 115 (PM2).

- 4.13 Policy E2.1 provides support for the protection of specific features, for example the course of the river, dry stone walls and native hedgerows. The policy also confirms that the removal of existing unsightly features will be taken into account in the consideration of any development proposals. This approach will ensure that the environment will be protected and if possible improved and as such accords with advice in chapter 11 of the NPPF with regard to conserving and enhancing the natural environment. However, WDDC correctly observes that the location of the features referred to is not always clear. To that end the NF, in response to my question of 28 June 2018, confirmed that, in conjunction with the WDDC, it will provide clearer plans identifying the features to be protected and on that basis, I recommend PM3.
- 4.14 Policy E2.2 confirms that account will be taken of any benefits attained from removing or screening existing visually detrimental features. This approach accords with the requirement to conserve the qualities of the AONB.
- 4.15 The protection of habitats is a national objective (for example see paragraph 117 of the NPPF) and policy E3.1 seeks to enhance local biodiversity and policy E3.2 requires evidence on biodiversity to be submitted for proposals on some sites which fall below the standard threshold for a biodiversity appraisal (for example, sites which include large mature gardens or roadside hedgerows). Provided any evidence requested is proportionate to the proposal, I do not consider that such a requirement would be unduly onerous or time-consuming and it would enable local biodiversity to be protected and if possible enhanced. The approach in the NP towards the protection of wildlife habitats is justified.
- 4.16 The emphasis in Policy E4.1 is directed more to the protection and enhancement of the built environment. Whilst this is a valid objective, the requirements could be viewed as unduly onerous for all development. I also consider that it is not necessary to include sub-sections (a) to (e). I consider these to be descriptions of what can already be found in the village, for example in terms of materials and building details, and they add little to the more detailed characteristics which are set out in Table 1 (which is specifically referred to in the policy). As such I recommend in PM4 that the application of policy E4.1 should be 'where feasible and practicable' and the deletion of points (a) to (e).
- 4.17 NPPF paragraph 58 confirms that appropriate innovation in building design should not be prevented or discouraged and I agree with WDDC that a reference to that effect should be included in policy E4.1 and recommend accordingly in PM4.

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### *The Community Policy*

- 4.18 The maintenance of a thriving local community is an important objective and in order to achieve it, policy C1 seeks to safeguard community assets. I saw all these facilities and fully accept that their retention, and if possible improvement, is key to ensuring that Askerswell remains a vibrant Parish.

### *The Business Policy*

- 4.19 Although agriculture is a key economic activity, there are a small number of other businesses in the area and policy B1.1 supports the sustainable growth of existing and new businesses, provided there would be no significant harm, for example in terms of the living conditions of residents. NPPF chapter 3 supports a prosperous rural economy and this is also reflected, for example, in policy ECON8 of the LP. The NP appropriately reflects the established policy approach to the matter.
- 4.20 In the interests of clarity and precision it is recommended that the word 'to' is deleted from the end of the third line of policy B1.1; and that the word 'and' replaces the word 'or' towards the end of the first line (PM5).

### *The Housing Policies*

- 4.21 Before considering the individual housing policies it is important to ensure that there is consistency throughout the NP with regard to the level of growth that may be supported. To that end I consider the phrase 'around 4 to 5 dwellings' is more appropriate. This provides sufficient flexibility to enable an appropriate small-scale residential scheme to be supported. I therefore recommend (PM6) that the references in paragraphs 1.5, 8.2, 8.3 and 8.6 all be amended accordingly.
- 4.22 Policy H1.1 provides support for appropriate development to be accommodated within the defined development boundary. At this stage I consider the perimeter of the proposed defined development boundary to be justified because it would 'allow' for some development, without risking harm to the character of the village. However, this is a matter which I suggest should be monitored to ensure that the level of growth anticipated does in fact materialise.
- 4.23 Policy H1.2 supports the re-use of rural buildings for open market housing subject to a number of criteria and policy H2.1 supports the provision of 2 to 3 bedroom semi-detached dwellings (to reflect the demographic profile of the community). Both policies are justified by the evidence.

## *Other Matters*

- 4.24 WDDC has made a number of suggestions regarding the presentation of the NP, for example the use of more sub-headings and the quality of some of the maps. In the main these are not matters for me to make recommendations, in so far as they are not fatal to the clarity of the Plan, albeit the Neighbourhood Forum may nonetheless wish to consider such improvements.
- 4.25 A small number of representors consider that specific building plots should have been identified, particularly to meet the needs of young local people. I fully understand the need to facilitate the provision of suitable affordable housing but WDDC (in response to my initial questions dated 28 June 2018) confirmed that in principle a rural exceptions site adjoining Askerswell would be supported, subject to a number of criteria and local need being confirmed. There may therefore be an opportunity for such provision to be made.
- 4.26 Finally, I note a few comments were made regarding the NP preparation process. However, WDDC confirmed (in response to my initial questions) that in its view the NF followed the correct procedures and I have no reason to conclude otherwise.

## 5. Conclusions

### *Summary*

- 5.1 The Askerswell Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the Neighbourhood Plan, and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

### *The Referendum and its Area*

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. However, the Askerswell NP, as modified, has no policies that I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future

referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

#### *Overview*

- 5.4 Since 2014, when consideration was first given to the production of a NP for Askerswell, it is evident that significant work has been undertaken and in particular, the NF has invested significant effort in the process. The result is a document that is clear and appropriately concise. It is commendable that there is a commitment to an annual review in order to assess whether or not the objectives of the NP are being achieved and to consider the implications of any changes to planning policy at both national and local level.

***David Hogger***

Examiner

## Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Pages 12, 13 and 14	<p>Paragraph 5.3: Delete from second sentence: <del>taking into account the main views across the valley from key public vantage points.</del></p> <p>Delete all the third sentence: <del>As a guide, new buildings or similar structures should not be visible from a distance of more than 1km from the viewpoints on public roads or paths in order to avoid harm.</del></p> <p>Paragraph 5.4: Delete second sentence: <del>The policy wording and selection of important views were developed in conjunction with the landscape advisor of the Dorset AONB partnership and supported by them. The views are provided in Fig 5.</del></p> <p>Delete all paragraph 5.5.</p> <p>Delete Figure 5 on page 13.</p> <p>Delete policy E1.2 in its entirety.</p>
PM2	Page 14	Amend the start of Policy E1.1 to read: Development should conserve <del>maintain</del> the intrinsic qualities and landscape features of the Dorset AONB and ...
PM3	Page 15	Policy E2.1 – in conjunction with WDDC, prepare and insert a clear plan(s) identifying the landscape and historic features to be protected.
PM4	Page 19	<p>Policy E4.1:</p> <p>Amend second sentence to read: Particular regard, where feasible and practicable,....</p> <p>Delete sub-sections (a) to (e) of the policy in their entirety.</p>

		Add a new third sentence to read: However, exceptionally high quality and innovative design will not be discouraged, for example where it would add interest and enhance the character of the area.
PM5	Page 21	Amend the start of policy B1 to read: The sustainable growth and expansion of existing local businesses and <del>or</del> the establishment of new businesses is supported providing such development would not harm <del>to</del> :
PM6	Pages 3, 22 and 23	In penultimate sentence of paragraph 1.5: replace <del>up to 4-5</del> with around 4-5.  In third sentence of paragraph 8.2: replace <del>about 4-5</del> with around 4-5.  In second sentence of paragraph 8.3: replace <del>as many as 5</del> with around 4-5.  In third sentence of paragraph 8.6: replace <u>about 4 or 5</u> with around 4-5.
PM7	Front Cover	Add Plan period: 2018-2028 to the front cover.