

INDEPENDENT EXAMINATION OF THE PLUCKLEY NEIGHBOURHOOD DEVELOPMENT PLAN REVIEW

EXAMINER: Derek Stebbing BA (Hons) DipEP MRTPI

Mark Taylor
Pluckley Parish Council

Timothy Bailey
Ashford Borough Council

Examination Ref: 01/DAS/PNPR

Via email

15 November 2023

Dear Mr Taylor and Mr Bailey

EXAMINATION OF THE PLUCKLEY NEIGHBOURHOOD DEVELOPMENT PLAN REVIEW

Following the submission for examination of the modification proposal to the Pluckley Neighbourhood Development Plan (the draft Plan Review), I would like to clarify some procedural matters. I also have a number of questions for Ashford Borough Council (the Borough Council) and Pluckley Parish Council (the Parish Council/Qualifying Body). These are attached as an Annex to this letter to which, subject to the confirmation I have requested in Section 2. below, it would be helpful to receive written responses by **Friday 8 December 2023**.

1. Examination Documentation

I can confirm that I am satisfied that I have received the draft Plan and accompanying documentation, including the Basic Conditions Statement (dated March 2023); the Consultation Statement (dated June 2022); the Strategic Environmental Assessment and Habitats Regulations Assessment Screening and Determination Report (dated January 2023); and the Regulation 16 representations. I have also received the Modification Statements prepared by the Parish Council and Borough Council in relation to whether the modifications contained in the draft Plan are so significant or substantial as to change the nature of the neighbourhood development plan which the draft Plan would replace.

This has provided sufficient information to undertake my initial determination under paragraph 10(1) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (as amended).

2. Determination under Paragraph 10(1) of Schedule A2

I am required first to determine whether the modifications contained in the draft Plan are so significant or substantial as to change the nature of the neighbourhood development plan which the draft Plan would replace. The purpose of this determination is to establish the appropriate examination process for the draft Plan Review which will, amongst other things, affect whether or not the draft Plan Review will need to be the subject of a referendum if it is to be made.

The Parish Council has sought in their Modification Statement (document 'List of Modifications') to set out a view as to whether they believe that the modifications are so significant or substantial as to change the nature of the made Plan. Each modification has been individually assessed as being either '*minor*' or '*Material but not changing the nature of the Plan*', albeit neither the reasons underpinning the assessments have been detailed nor is an overall conclusion provided.¹

¹ It is assumed that paragraph '7.8 (sic) new text describing the outcome of the Consultation and explaining why no further sites are allocated. Material but changing the nature of the Plan' is a typographical error on the part of the Parish Council i.e. the omission of 'not'.

I have also received the Modification Statement prepared by the Borough Council which, amongst other things, considers that those changes in relation to treatment of windfall sites are considered as having the potential to change the nature of the Plan, requiring both an examination and referendum. Specifically, the Borough Council considers Policies R6, H1A and H2C are *'Material, and considered to change the nature of the Neighbourhood Plan'*.

Taking these Modification Statements into consideration, together with my own preliminary assessment of the draft Plan Review, my determination is that notably revised Policy H1A (and associated Maps 7-9) mean that the Plan Review will be required to be examined under the 'standard' examination procedure set out in Schedule 4B to the Town and Country Planning Act 1990 (as amended). As such, it should be noted that a referendum will be part of the neighbourhood plan process should the draft Plan Review proceed successfully following an examination.

The relevant legislation requires me to now confirm with the Parish Council whether it is content for me to proceed in these circumstances on the basis of the standard examination procedure (as opposed to that for a modification proposal set out in Schedule A2).

Accordingly, I would appreciate formal confirmation as soon as practicable from the Parish Council whether it wishes me to proceed with the examination under Schedule 4B, in order to avoid any undesired delay.

I am pleased to confirm that, subject to my further detailed assessment of the draft Plan, I have not at this initial stage identified any significant and obvious flaws that might lead me to advise that an examination should not proceed.

3. Site Visit

Subject to receiving the Parish Council's confirmation to proceed, my intention is to undertake a site visit to the neighbourhood plan area during the week commencing 4 December 2023. This will assist in my assessment of the draft Plan, including the issues identified in the representations.

The visit will be undertaken unaccompanied. It is very important that I am not approached to discuss any aspects of the draft Plan or the neighbourhood area, as this may be perceived to prejudice my independence and risk compromising the fairness of the examination process.

I may have some additional questions, following my site visit, which I will set out in writing should I require any further clarification.

4. Written Representations

At this stage, I consider the examination can be conducted solely by the written representations procedure, without the need for a hearing. However, I will reserve the option to convene a hearing should a matter(s) come to light where I consider that a hearing is necessary to ensure the adequate examination of an issue, or to ensure that a person has a fair chance to put a case.

5. Further Clarification

From my initial assessment of the Plan and supporting documents, I have identified a number of matters where I require some additional information and clarification which are set out in the Annex to this letter. Subject to the confirmation to proceed, I would be grateful if you can seek to provide written responses by **Friday 8 December 2023**.

6. Examination Timetable

As you will be aware, the intention is to examine the draft Plan Review (including conduct of the site visit) with a view to providing a draft report (for 'fact checking') within around 6 weeks of submission of the draft Plan Review. As I have raised some questions, and pending your decision whether to proceed to examination under Schedule 4B, I must provide you with sufficient opportunity to reply. Consequentially, the examination timetable will be extended. Please be assured that, assuming the examination is to progress, I will endeavour to mitigate any delay as far as is practicable. The IPE office team will seek to keep you updated on the anticipated delivery date of the draft report.

If you have any process questions related to the conduct of the examination, which you would like me to address, please do not hesitate to contact the office team in the first instance.

In the interests of transparency, may I prevail upon you to ensure a copy of this letter, and any respective responses, are placed on the Parish Council and Borough Council websites.

Thank you in advance for your assistance.

Your sincerely

Derek Stebbing

Examiner

Annex

From my initial reading of the Pluckley Neighbourhood Development Plan Review and the supporting documents, I have some questions for the Borough Council and the Qualifying Body/Parish Council. Subject to the Parish Council's confirmation to proceed with the examination, I would be grateful for the submission of responses by **Friday 8 December 2023**, although earlier responses would be much appreciated. All of the points set out below flow from the requirement to satisfy the Basic Conditions.

Question 1: Re. Policy H1A and Map 7 (Pages 29-32)

I have noted the Council's representations (dated 17 October 2023) concerning the proposed modifications to this Policy and the inclusion of new Map 7, and that the Council considers that the Policy is not in general conformity with the adopted Ashford Local Plan 2030.

From my initial assessment of the draft Plan Review, my principal concern is with the material proposed for inclusion after paragraph 7.18 and its spatial definition on Map 7. Clearly, this places restrictions on the potential ability to identify opportunities for 'windfall' development within the areas demarcated by the blue lines. At present, I am not satisfied that there is sufficient justification, either in the draft Plan Review or in supporting documents, to justify the proposed definition of the land and sites within the blue lines. The Policy, as drafted for modification, may therefore be defective. I further consider that the proposed modifications to this Policy and the inclusion of new Map 7 are material and do change the nature of the Plan, contrary to the Modification Statement issued by the Parish Council.

I would therefore be grateful if the **Qualifying Body** can provide me with a note setting out in fuller detail the justification for the proposed modifications to Policy H1A, taking into account the Council's representations and specifically the points that are made regarding the potential duplication or non-conformity with Local Plan policies SP7, HOU3a, HOU5, ENV3a and ENV14.

I confirm that I intend to visit the areas specifically referenced in Policy H1A during the course of my site visit.

Question 2: Re. Policy H1A and Map 9 (Pluckley Station) (Pages 29-33)

I have noted the Council's representations (dated 17 October 2023) concerning the proposed modifications to this Policy and the inclusion of new Map 9, and that the Council considers that the Policy is not in general conformity with the adopted Ashford Local Plan 2030. Specifically, I note that the Council considers that the 'Estuary Cars' site and adjacent residential properties should be included in the proposed Pluckley Station village confines.

Can the **Qualifying Body** please provide me with a note setting out why it is considered that these properties should not be within the designated village confines, taking into account the Council's detailed comments on this matter within its representations?

I confirm that I shall visit the Pluckley Station area during the course of my site visit.

Question 3: Re. Policy H2C - Lighting (Page 37)

I have noted the Council's detailed representations concerning this Policy, and I invite the **Qualifying Body** to provide me with a note that addresses the points raised by the Council including, if appropriate, any suggested revisions to the Policy text and/or to paragraph 7.18. (For clarification, this refers to the paragraph that is numbered 7.18 on page 37, and not to the paragraph also numbered 7.18 that is on page 31. I further note that there are no paragraphs numbered 7.8-7.17 in

the copy of the draft Plan that I have assessed, and I query whether there is material missing from the copy that I have received?).

Question 4: Re: Thorne Estate Garages Site (Map 6) (Page 29)

Can the **Borough Council** please provide me with a note setting out the latest position regarding its proposals for residential development at the Thorne Estate Garages site, as shown on Map 6, and referenced in the preceding text, and specifically whether any amendments to that text are necessary.
