

Formal response from Bentley Parish Council to the Written Representations made on the submission draft Bentley Neighbourhood Plan 2018 - 2037

Introduction

Guidance published by the Neighbourhood Planning Independent Examiner Referral Service ([NPIERS](#)) in 2018 introduced the opportunity for the Parish Council to review and respond if they wish to do so to any written representations made on their submission draft Plan prior to the independent examination stage. That opportunity was extended to Bentley Parish Council last year. Given the nature of the representations made, and in agreement of the independent examiner, the Parish Council were allowed a sufficient period of time to fully explore the options before them. Given the timing of events, their response now also includes a local assessment of the relationship between the emerging Neighbourhood Plan and the Babergh and Mid Suffolk Joint Local Plan.

The Parish Councils response, which was received on 7 January 2022 and forwarded to the Independent Examiner on 10 January 2022 for her consideration, comprises an e-mail and two documents. These are set out below and on the following pages.

Covering e-mail sent on behalf of Bentley Parish Council

From: Ian Poole (obo Bentley PC and the Neighbourhood Plan Group)
To: Paul Bryant, Neighbourhood Planning Officer, BMSDC
Cc: Bentley Parish Council
Dated: Friday 7 January 2022
Attached: PC Briefing Note; PC Response to NP Reg 16 representations

Dear Paul

I have been asked to inform you that Bentley Parish Council considered the attached Briefing Paper at their meeting last night (6 January). It was prepared by us as a consequence of the letter from the Inspectors examining the Joint Local Plan dated 9 December 2021 and the outcomes of the Exploratory Meeting between the Local Plan Inspectors and the District Councils on 16 December 2021.

As a result of the consideration of the Briefing Paper, and reflecting on the situation with the Joint Local Plan, the Parish Council has agreed to ask the Neighbourhood Plan Examiner to consider deleting reference to the Joint Local Plan housing requirement from the Neighbourhood Plan as well as the housing allocation at the Fruit Farm (Policy BEN 4).

Given that the policy in the emerging Joint Local Plan (Policy SP04), which links to the neighbourhood plan housing requirement set out in Table 04 of the same Plan, is proposed to be deleted, there is now no requirement to make an allocation or to deliver a minimum housing figure in the Neighbourhood Plan.

Should the proposed Part 2 of the Joint Local Plan, which we understand is to address the spatial distribution of housing and site allocations, identify a need to allocate a site or sites in the Neighbourhood Area then there remains an opportunity to review the Neighbourhood Plan at a later date to allocate sites.

I am also pleased to attach the Parish Council's response to the comments you received during the Regulation 16 Submission Consultation.

I would be grateful if you could forward these two documents and this email to the Neighbourhood Plan Examiner.

Kind regards

Ian Poole
Places4People Planning Consultancy Ltd (for and obo Bentley PC)

[Ends]

5 January 2021

Bentley Neighbourhood Plan

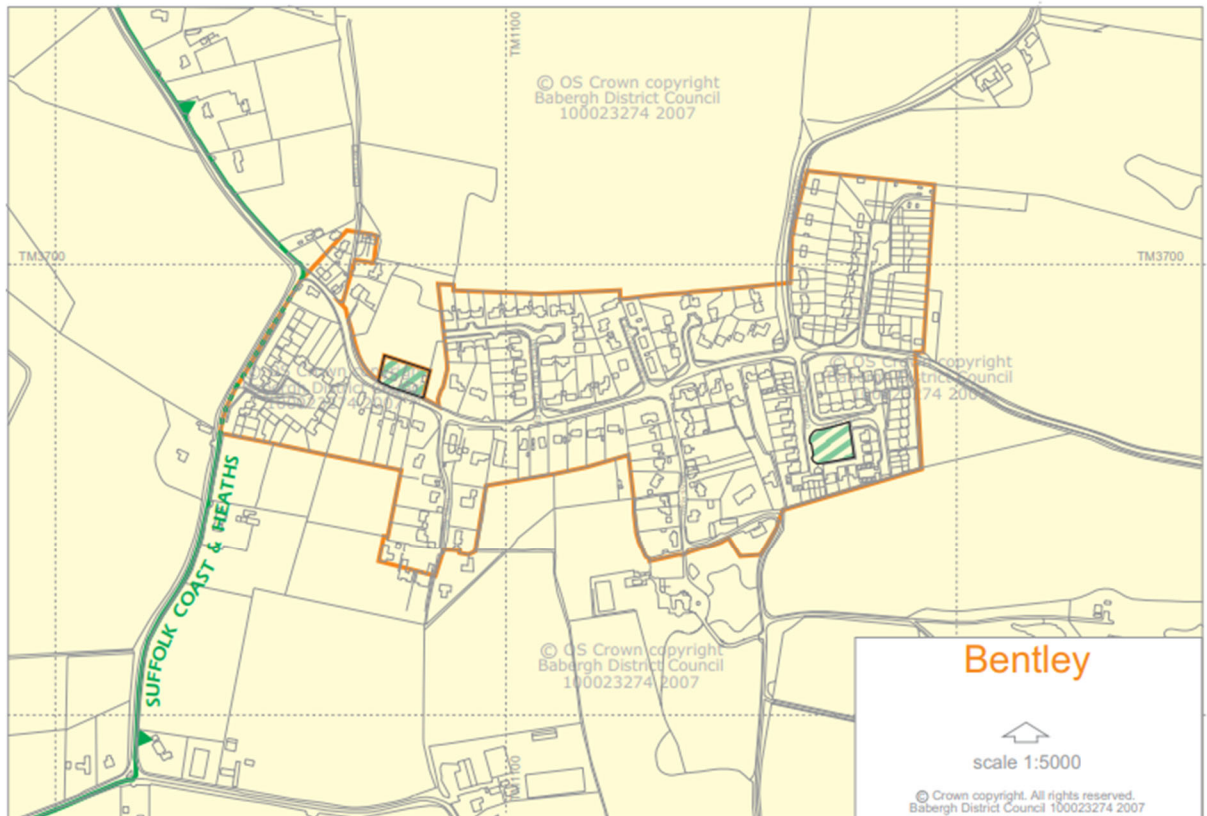
Briefing Note to Bentley Parish Council

1. The Neighbourhood Plan is now with the Independent Examiner to consider how the Plan meets the “Basic Conditions” of the Neighbourhood Planning Regulations. The Plan has been prepared to take account of the status of the emerging Joint Babergh Mid Suffolk Local Plan (JLP). Although it wasn’t anticipated that the Joint Local Plan would not be adopted by the time the Neighbourhood Plan was complete, due regard was given to the content of the Joint Local Plan in terms of the Neighbourhood Plan housing requirement.
2. The independent examination of the Joint Local Plan has been ongoing during 2021 and came to a head recently when the Planning Inspectors issued a note to the District Councils concerning the potential of the Plan, in particular the settlement hierarchy and spatial distribution of new housing sites, to be found “sound”.
3. An “exploratory meeting” was held between the Inspectors and District Councils on 16 December when it was agreed that the way forward for the Joint Local Plan would be, amongst other matters, to:
 - Delete policies SP04, LP09, LP30 and the LS01 and LA housing allocation policies; and
 - Retain the settlement boundaries in the current (as opposed to proposed) policies map.
4. This briefing note sets out the consequences of the Local Plan Inspectors conclusion on the Neighbourhood Plan examination.

The Joint Local Plan

5. It is expected that the Planning Inspectors will ask the District Councils to consult on “main modifications” to the Joint Local Plan early in 2022. As we understand the situation, the consequences of the main modifications for Bentley will, amongst other things, result in:
 - i. the deletion of Policy SP04 – Housing Spatial Distribution. This policy identifies the amount of housing growth that will take place in the various types of settlement across the district. It also noted that “designated Neighbourhood Areas will be expected to deliver the minimum housing requirements set out in Table 4”;
 - ii. the deletion of Policy LS01 and the allocation of land west of Church Road for 20 dwellings;

- iii. reinstating the Settlement Boundary for Bentley to that which is currently defined in the Local Plan adopted in 2006 (as illustrated below).
- iv. the preparation of a "Part 2" Joint Local Plan that will distribute housing growth in accordance with the Joint Local Plan Settlement Hierarchy and identify new allocations to meet the remaining housing requirement to 2037 in accordance with that Hierarchy.



- 6. Put simply, there will now be no minimum housing requirement for the Bentley Neighbourhood Plan to meet and, until the District Council prepares the site specific "Part 2" Joint Local Plan, there are no housing allocations for Bentley. Officers have advised that Table 04 of the Joint Local Plan (the Neighbourhood Plan Housing Requirements) should be treated as an "indicative figure" but this has not been confirmed by the Planning Inspectors given that the housing distribution proposed in Policy SP04 is to be deleted. It is too early to say what the housing requirement will be or whether Part 2 of the Joint Local Plan will allocate sites for housing in Bentley. The preparation of Part 2 will need to follow the same process as the Joint Local Plan has done to date and so could take, in our opinion, around 2-3 years to complete.

Implications for the Neighbourhood Plan

- 7. As noted earlier, the Neighbourhood Plan has been prepared in accordance with the emerging Joint Local Plan, particularly in respect of the housing requirement and the need to meet that minimum figure. The Joint Local Plan carried some weight in the planning application decision making process given that it had gone through

consultation and was with the Secretary of State and being examined. However, any weight previously afforded to the policies to be deleted is now eliminated.

8. The Neighbourhood Plan has allocated a site at The Fruit Farm on Capel Road for around 16 dwellings. The allocation has attracted weighty objections from the promoters of the Church Road site. When the site was allocated, it would have met the requirements of the emerging Joint Local Plan, ensuring that the minimum housing requirement in Table 04 was met without having to rely on the Local Plan Inspectors confirming the Church Road allocation, a site that formed part of a larger site recently refused planning permission due to its impact on the landscape.
9. The Neighbourhood Plan Examiner has asked the Parish Council whether it has any comments on the representations received by Babergh District Council during the Regulation 16 consultation that ended at the end of August. Those comments ran to 177 pages and have taken us a considerable amount of time to consider and respond to, much more than had originally been budgeted for. The completion of the assessment has coincided with the announcement from the Joint Local Plan Planning Inspectors and has prompted us to review the Neighbourhood Plan position in respect of housing allocations, which we set out below for consideration by the Parish Council.

Neighbourhood Plan Position Review

10. As noted above, the Neighbourhood Plan Examiner is required to test the Plan against the Basic Conditions. Paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended) states that a draft neighbourhood development plan meets the basic conditions if:
 - “(a) having regard to national policies and advice contained in guidance by the Secretary of State, it is appropriate to make the neighbourhood development plan, and.....
 - (d) the making of the neighbourhood development plan contributes to the achievement of sustainable development,....”
11. The draft Neighbourhood Plan has attracted a limited number of weighty objections in respect of the allocation of the Fruit Farm site. It is likely that the Examiner, in considering these objections, will assess the allocation of the site against paragraph 68 of the National Planning Policy Framework. The Framework states that sites to be developed within the first five years of identification should be deliverable (ie where there is clear evidence that housing completions will begin on site within five years.) or developable (ie in a suitable location for housing development with a reasonable prospect that they will be available and could be viably developed at the point envisaged.)
12. At this point in time there is no certainty that the Examiner will support the allocation. We do know that the landowner is in agreement with the allocation. However, the Parish Council does not have sufficient information available to contest the objections that a connection to the Public Rights of Way network in Case Lane can be delivered or whether a footway to the site along Capel Road can be delivered.

13. In the light of this, we would suggest that the Parish Council considers asking the Examiner to consider deleting reference to the JLP housing requirement from the Neighbourhood Plan as well as the housing allocation at the Fruit Farm. Given that the Joint Local Plan housing requirement is proposed to be deleted, there is no requirement to make an allocation or to deliver a minimum housing figure and the Neighbourhood Plan would remain in conformity of the strategic policies of the Local Plan.
14. Such a course of action does not preclude the Neighbourhood Plan being reviewed at a later date and the site being given further consideration should the Part 2 of the JLP propose additional housing in Bentley. It would also enable the Neighbourhood Plan examination to be concluded and, subject to the outcome of the examination, a referendum being held that would put locally specific planning policies in place for the future consideration of planning applications.

The Parish Council is asked to agree a way forward.

Ian Poole
Managing Director
Places4People Planning Consultancy

Bentley Neighbourhood Plan

Parish Council's response to comments received at Regulation 16 Consultation stage

January 2022

| Body | Parish Council response |
|--|--|
| 1) Suffolk County Council | <p><u>Education</u> The Joint Local Plan does not allocate a site for a new school playing field and therefore it is not necessary for the Neighbourhood Plan to do likewise.</p> <p><u>Health and Wellbeing</u> Given the reference to the Joint Local Plan Policy LP06 noted in the comment, it is not considered necessary to amend the Plan as suggested.</p> <p><u>Natural Environment</u> It is considered that adequate reference is made to the Landscape Appraisal identified views in the Plan and that it is not necessary to have a photograph of every view in the Plan itself.</p> |
| 2) Babergh District Council | The comments are noted. We see these as minor updating matters that can be addressed post-examination. |
| 3) Natural England | Nothing further to add |
| 4) Historic England | Nothing further to add |
| 5) National Grid | Nothing further to add |
| 6) Water Management Alliance | Nothing further to add. |
| 7) Ipswich and East Suffolk Clinical Commissioning Group | <p>The CCG did not respond to the Regulation 14 consultation despite being consulted.</p> <p>The request for a supporting statement in the Plan is something that can be addressed as a minor, post-examination amendment.</p> |
| 8) Suffolk Wildlife Trust | <p>Suffolk Wildlife Trust did not respond to the Regulation 14 consultation despite being consulted.</p> <p>The comments are noted but the Parish Council leaves it to the Examiner to consider whether amendments are necessary.</p> |
| 9) Hopkins and Moore | It is not necessary to allocate Site 1, as submitted, to meet the Neighbourhood Plan minimum housing requirements as specified in the emerging Joint Local Plan. |
| 10) Baker | <p>Comments were submitted at the Regulation 14 consultation.</p> <p>Policy BEN4 states that "Proposals should also enable traffic calming on Capel Road and an extension of the footway to link the site with the village centre and a connection to the Public Rights of Way network." It does not require such a connection. Case Lane is a public right of way and the extent of ownership has not been evidenced. This will be a matter for the developer to explore.</p> |

| | |
|------------|---|
| 11) Davies | Nothing further to add. |
| 12) Osborn | <p>Representation 1 - There was an opportunity at the Pre-Submission Consultation stage for residents to express opposition to the Fruit Farm Site. As is demonstrated in the Consultation Statement, such opposition did not materialise.</p> <p>Representation 2 – Nothing further to add</p> <p>Representation 3 – Nothing further to add</p> <p>Representation 4 – Nothing further to add</p> <p>Representation 5 – Nothing further to add</p> <p>Representation 6 – Nothing further to add</p> |
| 13) Oakes | <p>Comment 3 – The Regulation 14 consultation has fully complied with the regulations, as demonstrated in the Consultation Statement.</p> <p>Comment 4a – No evidence has been provided in the representation to identify whether the public right of way concerned is confined to the path or whether, as required under sections 53 and 57(5) of the Wildlife and Countryside Act 1981 statement accompanying the definitive map defines the width of the public right of way, such as hedge to hedge. It is also not clear where the public highway ends. Regardless of this information, Policy BEN4 states that “Proposals should also enable traffic calming on Capel Road and an extension of the footway to link the site with the village centre and a connection to the Public Rights of Way network.” It does not require such a connection. Case Lane is a public right of way and the extent of ownership has not be evidenced. This will be a matter for the developer to explore.</p> <p>Comment 4b - Policy BEN4 states that “Proposals should also enable traffic calming on Capel Road and an extension of the footway to link the site with the village centre and a connection to the Public Rights of Way network.” It does not require such a connection. Case Lane is a public right of way and the extent of ownership has not be evidenced. This will be a matter for the developer to explore.</p> <p>Comment 4c – No objections have been received from the County Council Highways Department during the statutory rounds of consultation.</p> <p>Comment 4d – Nothing further to add from above.</p> <p>Comment 4e - No objections have been received from the County Council Highways Department during the statutory rounds of consultation.</p> <p>Comment 5 – No objections have been received from the County Council Highways Department during the statutory rounds of consultation. The Parish Council has nothing further to add in respect of this comment.</p> <p>Comment 6 – The Parish Council has nothing further to add in respect of this comment.</p> |

| | |
|-------------------------------|--|
| | <p>Comment 7 – The Parish Council has nothing further to add</p> <p>Comment 8 – The Parish Council has nothing further to add</p> <p>Comment 9 – The Parish Council has nothing further to add</p> <p>Comment 10 – The Parish Council has nothing further to add</p> |
| 14) Code Development Planners | See separate table below |

| CODE comments | Bentley PC response |
|--|--|
| <p>1 INTRODUCTION</p> <p>1.1 This representation has been prepared by CODE Development Planners Ltd (hereafter referred to as 'CODE'), on behalf of D. E. J. Baker, the landowner of land west of Church Road, Bentley. These representations have been prepared in response to the regulation 16 consultation stage of the Bentley Neighbourhood Plan (BNP), which was submitted to Babergh District Council in June 2021 for consideration by an independent examiner.</p> | No comments |
| <p>1.2 CODE's representations focus upon the compliance of the submitted BNP with the National Planning Policy Framework (NPPF) and the government's Planning Practice Guidance (PPG), in addition to the basic conditions as required by paragraph 8(2) of Schedule 4b of the Town and Country Planning Act 1990 (as amended), which also includes a consideration of the neighbourhood plan's compliance with relevant EU obligations, including the Environmental Assessment of Plans and Programmes Regulations (2004).</p> | No comments |
| <p>1.3 To meet the requirements of the NPPF and the basic conditions, neighbourhood plans should also be prepared to conform to the strategic policy requirements set out in the adopted development framework. The adopted development plan in Babergh district consists of the Babergh Core Strategy (BCS, 2011-2031), which was adopted on 24 February 2014. However, Babergh and Mid Suffolk District Councils are currently preparing a replacement local plan, the Babergh and Mid Suffolk Joint Local Plan (BMSJLP), 2018-2037, which is currently the subject of a local plan examination. CODE notes Bentley Parish Council suggests the BNP has been prepared in accordance with the policies of the BCS, and the emerging strategic policies of the BMSJLP.</p> | No comments |
| <p>1.4 These representations demonstrate that the BNP's disregard of the non-strategic policies in the emerging BMSJLP creates a conflict between the documents with no mechanism within the development plan to resolve this.</p> | The Basic Conditions, against which a Neighbourhood Plan will be tested, are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. |

| | |
|---|---|
| | <p>Basic condition e) states: the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).</p> <p>Nowhere do the Basic Conditions state that a Neighbourhood Plan should be in general conformity with the “non-strategic” policies of a local plan.</p> |
| <p>1.5 D. E. J. Baker is promoting land at land west of Church Road, Bentley through the BNP. The site is included as a draft allocation within the emerging BMSJLP (2018-2037). The site is provisionally allocated for 20 dwellings. A site submission is included with these representations.</p> | <p>The Planning Inspectors examining the BMSJLP held an “exploratory meeting” with the local planning authority on 16 December 2021 advising them that “the most appropriate way forward [with the JLP] would be to:</p> <ul style="list-style-type: none"> • Delete policies SP04, LP09, LP30 and the LS01 and LA housing allocation policies; • Retain the settlement boundaries in the current (as opposed to proposed) policies map;” <p>The local planning authority accepted this approach and it is understood that proposed Main Modifications to this effect will be consulted on in due course.</p> <p>The consequence of this course of action is that the site being promoted west of Church Road will be deleted from the now Part 1 Joint Local Plan and sites will be re-assessed as part of the preparation of a Part 2 Joint Local Plan to be prepared at a future date.</p> |
| <p>1.6 BPC’s preferred allocation site (“the Fruit Farm”) is neither suitable nor achievable as an allocation within the BNP. This representation identifies CODE’s significant concerns regarding the ability for the Fruit Farm site to provide safe and convenient access for pedestrians and cyclists to key services and facilities in the village, the lack of assessment within the submitted SEA regarding the potential impacts on the setting recently extended Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) and the ability of the site to retain key boundary planting. The Fruit Farm site cannot therefore be considered a sustainable development.</p> | <p>These concerns are noted.</p> |
| <p>1.7 CODE’s representations are structured to comment on specific policies of the draft BNP, in the order they appear within the document, for ease of reference.</p> | <p>No comment</p> |
| <p>1.8 Should the independent examiner, once appointed, consider a hearing session is required to discuss the emerging policies of</p> | <p>No comment</p> |

| | |
|---|---|
| <p>the BNP, CODE requests the opportunity to participate in such a session.</p> | |
| <p>1.9 For reference, sections 2 to 9 inclusive of this representation should be considered as one section. The policies of the neighbourhood plan have been assessed for their consistency with the NPPF which is a key requirement of the basic condition</p> | <p>No comment</p> |
| <p>2 POLICY BEN 1 – SPATIAL STRATEGY</p> <p>2.1 CODE notes paragraph 4.4 of the submitted BNP, which discusses the development plan documents against which the neighbourhood plan has been prepared (for accordance with strategic policies). The submitted neighbourhood plan states: “The Joint Local Plan will be subject to independent examination by a Government Planning Inspector in 2021 and it is anticipated that it will be adopted by the District Council in Winter 2021/22. As the Neighbourhood Plan is likely to be completed before this date, it has been prepared to conform with the policies in the adopted Local Plan documents, while ensuring that the strategic policies of the emerging Joint Local Plan (Policies SP01 to SP10) are conformed with.”</p> | <p>No comment</p> |
| <p>2.2 This suggests that BPC acknowledge the requirement set down in paragraph 17 of the NPPF for local plans to contain strategic policies. However, BPC fails to acknowledge that the local plan also has a requirement to identify non-strategic policies. It also fails to acknowledge government guidance¹ that BPC and the local planning authority should work together to avoid conflict. We contend that this is in part due to the failure of the Fruit Farm site to achieve sustainable development.</p> | <p>The Basic Conditions, against which a Neighbourhood Plan will be tested, are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004.</p> <p>Basic condition e) states: “the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).”</p> <p>Nowhere do the Basic Conditions state that a Neighbourhood Plan should be in general conformity with the “non-strategic” policies.</p> |
| <p>2.3 Policy LS01, of the submitted BMSJLP, includes land west of Church Road, Bentley as an allocation for 20 dwellings. This site is not included within the submitted BNP as an allocation; the plan seeks to allocate an alternative site for approximately 16 dwellings (the ‘Fruit Farm’ site). The BMSJLP does not list policy LS01 as a strategic policy and has not had reference to this policy in the preparation of the BNP. However, policy SP03 of the BMSJLP is a strategic policy, which identifies settlement boundaries for designated settlements which are to accommodate new housing allocations. CODE notes the policy states: “Settlement boundaries have been created as defined on</p> | <p>The Planning Inspectors examining the BMSJLP held an “exploratory meeting” with the local planning authority on 16 December 2021 advising them that “the most appropriate way forward [with the JLP] would be to:</p> <ul style="list-style-type: none"> • Delete policies SP04, LP09, LP30 and the LS01 and LA housing allocation policies; • Retain the settlement boundaries in the current (as opposed to proposed) policies map;” |

| | |
|---|---|
| <p>the Policies Map in order to demonstrate the extent of land which is required to meet the development needs of the Plan. New allocations are included within the defined settlement boundaries. The principle of development is established within settlement boundaries, subject to the other policies in the Plan.”</p> | <p>The local planning authority accepted this approach and it is understood that proposed Main Modifications to this effect will be consulted on in due course.</p> <p>The consequence of this course of action is that the site being promoted west of Church Road will be deleted from the now Part 1 Joint Local Plan and sites will be re-assessed as part of the preparation of a Part 2 Joint Local Plan to be prepared at a future date.</p> |
| <p>2.4 The settlement boundary as shown on map 4 of the BNP, referred to in policy BEN 1, should therefore be amended to be in conformity with the settlement boundary of the BMSJLP for Bentley, reflecting the strategic nature of the emerging policy. If the BMSJLP as submitted is found sound, following the examination in public, and policy SP03 is not subject to main modifications, the BNP would not be in conformity with the BMSJLP’s strategic policies.</p> | <p>Given the situation with the examination of the BMSJLP, it is not considered necessary to amend the Settlement Boundary, especially given the proposed deletion of Policy SP04 of the BMSJLP and Table 04 which sets out the housing requirements for Neighbourhood Areas.</p> |
| <p>2.5 The supporting text for policy BEN 1 should be amended at paragraph 5.4 to be in conformity with the text within the policy itself, to ensure that proposals for development outside the settlement boundary can be approved “where they are in accordance with national and district level policies or in compliance with Policy BEN 5.”</p> | <p>The Parish Council acknowledges that paragraph 5.4 does not acknowledge that the NPPF, in particular, goes wider than the limitations specified. This paragraph can be amended in agreement with Babergh District Council outside the examination process without impacting on the Plan meeting the Basic Conditions.</p> |
| | |
| <p>3 POLICY BEN 2 – HOUSING DEVELOPMENT</p> <p>3.1 Policy BEN 2 makes provision for ‘around’ 58 additional dwellings to be developed in the BNP area between 2018 and 2037. The requirement for around 58 dwellings is in broad conformity with the NPPF.</p> | <p>No comment</p> |
| <p>3.2 However, policy BEN 2 requires exceptional circumstances to be demonstrated for proposals for dwellings beyond settlement boundaries. This requirement is inconsistent with the provisions of the NPPF. In the preliminary hearing session for Matter 4 of the BMSJLP examination, the Inspector welcomed BMSDC’s clarification that policy SP04 would be amended to delete reference to exceptional circumstances. BMSDC clarified that their suggested modification would require developments beyond the settlement boundary to be in accordance with the NPPF when read as a whole. In similarity with the suggested amendments to the supporting text to policy BEN 1, CODE suggest amending policy BEN 2, criteria iv, as follows: “This plan provides for around 58 additional dwellings to be developed in the Neighbourhood Plan area between 2018 and 2037. This growth will be met through [inter alia]: iv exceptional circumstances Dwellings outside of the Settlement Boundary where it can be demonstrated the development is in</p> | <p>The Examiner may consider it is necessary, in order for the Plan to meet the Basic Conditions, to make such an amendment.</p> |

| | |
|---|--|
| <p>accordance with national and district level policies or in compliance with policy BEN 5.”</p> | |
| <p>4 POLICY BEN 4 – LAND AT THE FRUIT FARM, CAPEL ROAD (With reference to Bentley Design Guide (AECOM, November 2019) and Illustrative Proposal for ‘Fruit Farm’ (AECOM, September 2020)</p> <p>4.1 Policy BEN 4 allocates the ‘Fruit Farm’ site for around 16 dwellings (including up to 35% affordable housing), pedestrian access to the village facilities and visitor car parking. The policy also requires traffic calming on Capel Road.</p> | <p>No comment</p> |
| <p>4.2 CODE refers BMSDC to the comments regarding BEN 3 (and corresponding policy SP03 within the BMSJLP) and conformity with the strategic policies of the emerging BMSJLP, with regard to the proposed settlement boundary. These comments also apply to policy BEN 4 and it is important to note the proposed settlement boundary, to include the ‘Fruit Farm’ site is inconsistent with the strategic settlement boundaries imposed by the BMSJLP.</p> | <p>It is for the Inspector examining the BMSJLP to do determine whether the policies therein are such that neighbourhood plans cannot allocate sites and amend the Settlement Boundary. This will clearly be subject to the outcomes of any consultation on the proposed Main Modifications of the BMSJLP. Given the conclusions that the Planning Inspectors have reached in relation to the BMSJLP, there is now no need to allocate sites in the Bentley Neighbourhood Plan to meet the housing requirements of the Local Plan. As such, it is not imperative that the site allocated in Policy BEN3 remains in order for the Neighbourhood Plan to meet the Basic Conditions of being in conformity with the strategic policies of the Local Plan.</p> |
| <p>4.3 CODE has a number of concerns regarding the deliverability of the Fruit Farm site, with regard to the evidence base supporting the BNP and the evidence base prepared in support of the BMSJLP. We note the conclusions of the site assessment contained within BMSDC’s Strategic Housing and Employment Land Availability Assessment, October 2020 (SHELAA) for Site SS1138 and note that this was for a much larger site area. The site was also not considered through the JLP-SA. The SHELAA concluded: “Site has poor connectivity to the existing settlement.”</p> | <p>The SHELAA site was a significantly larger site of approximately 6 hectares and development of the northern elements of the site would be around a 550 metres walk along Capel Road to the community shop and pub. It is pointed out that this is still a shorter walk than the 700 metres from the centre of the site allocated in the BMSJLP to the same facilities.</p> |
| <p>4.4 CODE is aware that the submission version of the BNP includes a smaller portion of site SS1138 as a draft allocation for 16 dwellings, which has not been assessed within BMSDCs’ SHELAA or within the BMSJLP-SA. CODE’s representations to the regulation 19 BMSJLP considered the Fruit Farm site as a reasonable alternative. This is explored in more detail in section 10.3 of this representation, and in appendix 4.</p> | <p>There is no requirement for sites in a neighbourhood plan to be assessed against a SHELAA but the BNP SEA has considered reasonable alternatives.</p> |
| <p>4.5 CODE emphasise the following constraints which may preclude development of the Fruit Farm site and would prevent development in a form that accords with the emerging BNP’s</p> | |

design criteria and we contend would prevent it from delivering sustainable development:

- There has been no evidence provided to demonstrate that pedestrian and cycle access to Case Lane can be delivered without third party ownership. Furthermore, even if third party rights could be resolved, the adopted highway would need to be extended north along Case Lane to permit cycles to access the site or Footpath 55 upgraded to bridleway (again, this would require third party agreement).

Indeed, further to CODE's previous representations at the regulation 14 stage and additional research undertaken, it is clear that the link from the Fruit Farm site onto Case Lane cannot be achieved. CODE attaches the most up to date definitive highway boundary for Case Lane at appendix 1. A pedestrian connection onto Case Lane from the Fruit Farm site could only be achieved if the footpath were enforceable up to the boundary of the Fruit Farm site. The section of Case Lane in the location of the proposed connection is 5.5 metres wide, however, the enforceable width of the PRow is only 1.5 metres. In addition, there is existing vegetation on the boundary of the Fruit Farm site which is not within the ownership of the Fruit Farm landowner. This connection is therefore undeliverable. One of the key elements underpinning the selection of the site is therefore unable to be realised.

It should also be noted that a cycle connection cannot be provided onto a PRow footpath. To accommodate a cycle connection, the PRow would need to be upgraded to a bridleway. However, to achieve this would require the express agreement of the landowner, which has not been given for the proposed connection.

- The fourth bullet point under paragraph 6.16 of the submission version of the BNP states, "All existing mature trees along the Capel Road frontage and the site boundary planting shall be retained". However, paragraph 6.17 states, "Gaining vehicular access to the site from Capel Road is likely to necessitate the removal of most of the frontage hedge to provide safe visibility, although there is currently a 30-mph speed limit at this point." This may increase impacts on the surrounding landscape and may also have adverse effects upon biodiversity as a consequence of the removal of the hedgerows. It should also be noted that the removal of the hedgerow at land west of Church Road was a reason the BNP dismissed the site as a reasonable alternative within the SEA. The landowner at Church Road ensured a sensitive approach to gaining vehicular access into the site for vehicles and pedestrians and cyclists. This is discussed in more detail at paragraph 10.6.9.

No objections have been received from the County Highways Department.

The impact of the loss of hedgerow on one site cannot be compared to the impact of the loss on a different site.

| | |
|--|---|
| <ul style="list-style-type: none"> • The Concept Plan (contained at page 23 of the draft BNP) appears to show a continuous pavement east along Capel Road. However, one does not currently exist for a short section along the frontage of the neighbouring property. The enclosed highway boundary and legal titles (refer to appendices 1 and 2) demonstrate the difficulty in achieving this new footpath along Capel Road. It is likely that third party land may be required outside of the highway boundary to deliver this public footpath. Therefore, CODE considers that the conclusions of BMSDCs' previous assessment within the SHELAA (albeit related to a larger site) remain appropriate ("Site has poor connectivity to the existing settlement"). • In addition, the extension to the Suffolk Coast and Heaths AONB (refer to appendix 2) to the west of Bentley, which has increased the significance of the inter-visibility across the Samford Valley with development on the western side of the village, would likely be impacted by the proposed allocation within the BNP. | <p>No objections have been received from the County Highways Department.</p> <p>No comment</p> |
| <p>5 POLICY BEN 7 – DEVELOPMENT DESIGN</p> | |
| <p>5.1 Policy BEN 7, as drafted, is a very onerous policy which presents a complicated set of criteria for planning applications to demonstrate accordant with. The policy outlines four separate sets of criteria which new development must demonstrate accordant with, including the site allocated by the neighbourhood plan. CODE considers the policy should be amended to ensure it is clear and transparent what the policy expects from new development proposals in the village.</p> <p>5.2 Policy BEN 8 should limit its reference to the Development Design Check list and delete references in this regard to the Bentley Design Guide as the Checklist should incorporate the relevant elements of that document. CODE suggests the following amendments:</p> <p>BEN 8 b) - new development can minimise its adverse impact on residential amenities in respect of noise, smell, vibration, overshadowing, loss of light, other pollution (including light pollution), or volume or type of vehicular activity generated but to require development "not to adversely affect" is open to interpretation and could potentially prevent any development.</p> | <p>The role of the planning system is not to let "anything go" but, as paragraph 11 of the Framework states, "all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;" Similar neighbourhood plan policies, based on robust evidence of the nature supporting the BNP, have been found to meet the Basic Conditions and there is no reason to doubt that Policy BEN7 fails in this respect.</p> <p>No comment</p> <p>This element of the Policy is considered sufficiently precise.</p> |

| | |
|--|--|
| <p>This part of the policy should be amended to ensure precise meaning.</p> <p>BEN 8 d) - as currently worded this part of the policy would prevent development of areas north of the current built up area of Bentley which is not in general conformity with the development plan. Therefore the wording should be amended as follows: "do not result in the loss of or damage to a "Vegetated Green Edge" of the village centre as defined in the Landscape Appraisal and on the Policies Map unless appropriate mitigation is proposed and secured through planning conditions"</p> | <p>Development outside the Settlement Boundary is, as noted earlier in the CODE statement, likely to be contrary to the strategic policies of the BMSJLP anyway.</p> |
| <p>6 POLICY BEN 8 – FLOODING AND SUSTAINABLE DRAINAGE</p> <p>6.1 CODE notes the supporting text to Policy BEN 8, at paragraph 7.7, which states "Several areas in Bentley are prone to surface water flooding as shown in the Department of the Environment's flood map below, particularly along Church Road, Station Road, Capel Road, Hazel Shrub, and Bergholt Road." It should be noted the landowner for land west of Church Road, Bentley has recently undertaken maintenance of existing drainage ditches and sumps along Church Road, which has significantly improved the surface water drainage in this location. Since the maintenance work was undertaken by the landowner, Church Road has remained free from surface water flooding, including over the most recent winter, which is acknowledged as being one of the wettest on record.</p> <p>6.2 The criticisms levelled against land west of Church Road, within the SEA supporting the neighbourhood plan are therefore unjustified. CODE maintains that existing surface water drainage issues experienced on Church Road can be appropriately mitigated by normal maintenance and management of the drainage sumps adjacent to the road, which is a requirement of Suffolk County Council.</p> | <p>Regardless of this situation, the course of action accepted by the local planning authority to take the BMSJLP forward would result in the site at Church Road being deleted from the BMSJLP.</p> <p>No comment</p> |
| <p>7 POLICY BEN 10 – DEVELOPMENT AFFECTING THE AREA OF OUTSTANDING NATURAL BEAUTY</p> <p>7.1 The policy should be modified to exclude the repetition within the policy wording. CODE suggests rewording the policy as follows: "The Suffolk Coast and Heaths Area of Outstanding Natural Beauty is identified on the Policies Map. Development will not be permitted where it would have a significant adverse impact on the natural beauty and special qualities of the AONB and its setting, and which cannot be adequately mitigated.</p> <p>Development proposals within the Area of Outstanding Natural Beauty, or within its setting, or within other sensitive landscapes should be informed by landscape and visual impact assessment to assess and identify potential impacts and to identify suitable measures to avoid or mitigate these impacts. Proposals should include measures that enable a scheme to be well integrated into the landscape and enhance connectivity to the surrounding</p> | <p>This is a matter for the Examiner to consider.</p> |

| | |
|---|---|
| <p>green infrastructure and Public Rights of Way network. Development proposals which have the potential to impact upon the Area of Outstanding Natural Beauty or other sensitive landscapes should be informed by landscape appraisal, landscape and visual impact assessment and landscape mitigation."</p> | |
| <p>8 POLICY BEN 11 – PROTECTING BENTLEY’S LANDSCAPE CHARACTER</p> <p>8.1 The policy requires proposals to demonstrate, proportionate to the development, how the landscape characteristics of the site and its vicinity have been considered in preparing the scheme.</p> <p>8.2 The policy is unclear as to whether it is seeking to achieve the designation of the landscape to the north of Bentley as a ‘valued landscape’ as per the terms of NPPF paragraph 174. It is clear from the evidence base supporting the neighbourhood plan (Alison Farmer: Valued Landscape Assessment, March 2020 and Alison Farmer: Bentley Neighbourhood Plan: Landscape Appraisal, December 2019), with regard to landscape, that whilst landscape locally and to the north of Bentley is valued by the community, the landscape is not expressed as valued as per paragraph 174 of the NPPF. The policies map accompanying the neighbourhood plan is therefore correct in not showing the landscape to the north of Bentley as a valued landscape.</p> <p>8.3 The Bentley Neighbourhood Plan Landscape Appraisal Final Report December 2019 states in Local Landscape Areas Sensitivity Tables - Peripheral Area 1: Bentley North and Eastern Fringes on page 39 that, "Overall this area has limited capacity for new housing development. Nevertheless, two areas are noted as having some capacity for new residential development. These include:</p> <p>Housing along Church Road which does not increase the width of the settlement or create a new abrupt, uniform, urban edge or reinforce cul-de-sac housing which is not characteristic. Care will need to be taken to retain the rural character of Church Road.</p> <p>Housing development to the rear of properties on Capel Road. This area may be suitable for community and/or retirement housing due to its close proximity to key village facilities. Care would need to be taken to retain the rural and vegetated character of the settlement edge and public right of way to the east." [It is not clear why development for community and/or retirement housing would have a different impact on the landscape from residential development].</p> <p>8.4 CODE notes the inconsistency of the approach advocated within the landscape appraisal with regard to the character to the north of Bentley. The character of Church Road is such that the site on land west of Church Road is influenced by existing semi-detached residential development on the eastern side of</p> | <p>No comment</p> <p>The policy does not specifically seek to designate the landscape north of the village centre as a “valued landscape” but it does recognise that the Suffolk Coast and Heaths Project Area report “Valued Landscape Assessment: Suffolk Coast & Heaths Additional Project Area” identifies the importance of the landscape in this area.</p> <p>No comment</p> <p>This site is not being considered for allocation in the Neighbourhood Plan and an Outline Planning Application for the Erection of up to 45 dwellings, and shared foot/cycle path and access on land west</p> |

Church Road (which extends further north than the proposed site at land west of Church Road) and existing cul-de-sac development to the north of Bentley (and south of land west of Church Road). Cul-de-sac development is part of the principal character to the north of Bentley. In addition, the proposals for the Fruit Farm site represent new cul-de-sac development, so BPC cannot allege that this is an unfamiliar form of development in the village.

8.5 In support of a previous planning application, for land west of Church Road, Bentley, the landowner instructed a landscape consultant to consider the proposed amendment to the AONB boundary in relation to the context of the site. This is attached to this matter statement at appendix 3. In summary, it concludes that land west of Church Road would not impact upon the setting of the extended AONB boundary, due to the distance from land west of Church Road to the revised boundary, and the lack of intervisibility between Church Road and the new AONB boundary. It should also be noted planning application DC/19/00291 was for a development of up to 45 dwellings, which was significantly larger in scale than the current allocation (the smaller area included as an allocation within the BMSJLP addresses the previous concerns raised by Babergh District Council in their determination of the application).

8.6 The AONB statement (prepared by the landowner's instructed landscape consultant) concluded the development of the site (at that time for 45 dwellings) would not cause any undue harm to the Suffolk Coast and Heaths AONB, and its revised boundary. The statement identified there is no intervisibility between the site and the proposed AONB area, and existing mature tree and hedge planting found along field boundaries, as well as the woodland at Holly Wood, filters views of the site. The site shared some of the special qualities of the AONB, but its character is more representative of the adjacent settlement edge and the retention of key landscape features and additional proposed landscaping will assimilate the development into the surrounding landscape.

8.7 It should also be noted that Place Services, Babergh District Council's instructed consultants for considering planning applications' potential landscape and visual impacts, considered that the previous scheme could satisfactorily reduce the landscape and visual impact of the development, if it was implemented in line with the specific recommendations contained within the landscape and visual impact assessment.

Of, Church Road (Babergh reference DC/19/00291) was refused by Babergh District Council in March 202. Reason 3 of the refusal states: "The proposed development, by virtue of its scale, siting and location, would cause significant harm to the open countryside and the way that it is experienced and would fail to respect the local context and character, and the rural setting, of Bentley and its settlement, contrary to policies CR04, CS11, CS14 and CS15 of the development plan and paragraphs 98, 127, and 170 of the NPPF."

No further comment other than to reiterate the outline planning application was refused for reasons including as set out in the previous paragraph.

This is of no relevance to the content of the neighbourhood plan, particularly given the reasons for refusal for the development noted above.

This does not overcome the fact that the local planning authority refused development on land that includes this site due to the detrimental landscape impact.

| | |
|--|---|
| <p>Similar principles will be followed in the development of the allocated site.</p> <p>8.8 Finally, it should also be noted that the landscape evidence prepared in support of the BNP (Alison Farmer: Valued Landscape Assessment, March 2020 and Alison Farmer: Bentley Neighbourhood Plan: Landscape Appraisal, December 2019) considers whether the site on land west of Church Road (and the Fruit Farm site), fall within a valued landscape. The two reports conclude that the land to the north of Bentley (within which both sites are located) is of value to the local community. However, they do not conclude that the landscapes are valued landscapes in the terms of paragraph 174 of the NPPF.</p> <p>8.9 However, it should be noted that the Fruit Farm site is in close proximity to the revised boundary of the AONB. Paragraph 175 of the NPPF states that plans should distinguish between the hierarchy of international, national and locally designated sites, and paragraph 176 requires great weight to be given to the conservation and enhancement of landscape and scenic beauty of AONBs, which (alongside National Parks and the Broads) "have the highest status of protection in relation to these issues." It is therefore clear that the Fruit Farm site is likely to have a negative impact upon the AONB, which is not true of land west of Church Road.</p> | <p>Nothing further to add.</p> <p>The presence of the AONB at this location does not preclude the development of the site in Policy BEN4. CODE state that the Framework "requires great weight to be given to the conservation and enhancement of landscape and scenic beauty of AONBs" but the site at Policy BEN4 is not in the AONB. The SEA has concluded that development of this site would not have an unacceptable impact on the AONB.</p> |
| <p>9 POLICY BEN 17 – SUSTAINABLE TRANSPORT INFRASTRUCTURE AND SERVICES</p> <p>9.1 CODE is supportive of policy BEN 17 but questions the ability of the 'Fruit Farm' site to comply with the provisions of this policy. The policy requires safe walking and cycling access to key local services and community facilities.</p> <p>9.2 There has been no evidence provided to demonstrate that pedestrian and cycle access to Case Lane can be delivered.</p> | <p>Given that the Community Shop and Public House is within 200 metres from the centre of the site allocated in Policy BEN4, it is hardly essential that a cycle link is provided. It is acknowledged that the primary school is approximately 1.8 km from the centre of the site. However, based on the County Council's multipliers for estimating the average number of school age children generated by new housing developments (0.25 primary age children per dwelling), the development is only likely to generate four primary school age children.</p> <p>The site is within normal expectation for cycling journeys should any parents choose this method of travel. The 700 metres walking distance from the centre of CODEs Church Road site to the day-to-day services at the Community Shop are likely to be a greater deterrent to walking.</p> <p>Policy BEN4 does not specify that pedestrian and cycle access must be</p> |

| | |
|--|--|
| <p>Furthermore, the adopted highway would need to be extended north along Case Lane to permit cycles to access the site or Footpath 55 upgraded to bridleway. Please see section four of this representation.</p> <p>9.3 The Concept Plan (contained at page 23 of the draft BNP) appears to show a continuous pavement east along Capel Road. However, one does not currently exist for a short section along the frontage of the neighbouring property (as discussed in section four of this representation). Therefore, CODE considers that the conclusions of BMSDCs' previous assessment within the SHELAA (albeit related to a larger site) remain appropriate ("Site has poor connectivity to the existing settlement").</p> <p>9.4 In contrast, land west of Church Road, Bentley is capable of delivering safe pedestrian and cycle access to all facilities and services within the village, including Bentley C of E Primary School. Land west of Church Road is the only site in the village which is in close enough proximity to the primary school to encourage travelling to school via sustainable means, such as walking or cycling.</p> | <p>provided to Case Lane, merely to "enable" a connection to the public right of way network.</p> <p>The Plan is a "concept" of what the development would be like, not what is there at the moment.</p> <p>We do not repeat our comments relating to poor connectivity made above.</p> <p>While it is acknowledged that the Church Road site is closer to the primary school, the small numbers of pupils likely to be generated by the development and the proximity is not considered to outweigh the potential impact of the site on the landscape setting of the village.</p> |
| <p>10 STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA) FOR THE BENTLEY NEIGHBOURHOOD PLAN</p> <p>10.1 In December 2020, BDC issued a Strategic Environmental Assessment Screening Determination, in accordance with Regulation 11 of the Environmental Assessment of Plans and Programmes Regulations 2004). In the screening conclusion, the council stated: "...residential development allocated through the Plan could have a range of environmental effects both during construction and afterwards and, that both allocated sites [the 'Fruit Farm site, allocated for 16 dwellings and Oakleigh, which benefits from full planning permission for 16 dwellings] lie within close proximity of sensitive features. It [the screening report prepared by LUC] further concludes that, while policies in the Neighbourhood Plan and in the adopted Babergh Local Plan may provide mitigation, and that mitigation may also be provided by the emerging Babergh and Mid Suffolk Joint Local Plan, the sensitivity of the area in which the allocated site is located means that the Bentley NDP has the potential to have significant environmental effects and that SEA is therefore required."</p> <p>10.2 CODE has fundamental concerns regarding the assessment contained within the SEA for the BNP, including the assessment of reasonable alternatives for allocation over the period to 2037 and the lack of reasonable alternatives explored for overall housing provision to meet identified affordable housing needs (as identified within the Bentley Housing Needs Assessment, prepared by AECOM, January 2020).</p> | <p>No comment</p> <p>See below</p> |

| | |
|--|--|
| <p>10.3 Consideration of reasonable alternatives for allocation (and comparison with assessment undertaken in support of the BMSJLP)</p> <p>10.3.1 As outlined earlier in these representations, BPC has chosen not to allocate land west of Church Road, Bentley in the BNP, in line with the emerging BMSJLP. The BNP includes the 'Fruit Farm' site as an allocation for around 16 dwellings, over the period to 2037. CODE's considered commentary on the deliverability of the 'Fruit Farm' site is included in section 4 of these representations.</p> <p>10.3.2 However, further to the issuing of the SEA Screening Determination by BDC, in December 2020, BPC subsequently prepared the SEA for the BNP, which includes an assessment of the reasonable alternatives for development in the village over the period to 2037. This representation considers the adequacy of the assessment prepared, in light of the basic condition which requires neighbourhood plans not to breach and be compatible with, EU obligations; in this case, this is the Environmental Assessment of Plans and Programmes Regulations 2004.</p> <p>10.3.3 CODE appends its representations to the BMSJLP made at the regulation 19 stage, which outline a full assessment of the alternatives within the village (including the revised boundary for the 'Fruit Farm' site and a potential alternative boundary for land west of Church Road, Bentley). These can be found at appendix 4.</p> <p>10.3.4 CODE's representations to the regulation 19 version of the BMSJLP also rectified scoring discrepancies, which were addressed by the previous planning application for up to 45 dwellings (and its supporting documentation). CODE would recommend close attention is paid to their previous representations to the BMSJLP (appended at appendix 4 and forming part of these representations), which demonstrates the scoring applied to the site west of Church Road site (option B within the BNP SEA) is incorrect for climate change, historic environment, land, soil and water resources and transportation (particularly in relation to walking and cycling distances to existing services and facilities in the village).</p> | <p>No further comment</p> <p>No comment</p> <p>The BMSJLP is not being examined by the Neighbourhood Plan Examiner, who's role is to assess the Plan before her against the Basic Conditions. As explained above, the examination of the BMSJLP has now halted and main modifications are to be consulted on. The site at Church Road and the Settlement Boundary that encloses that site in the draft BMSJLP would be deleted in those main modifications.</p> <p>The representations to the BMSJLP are not of relevance here given the current status of that development plan document. The proposed way forward with the BMSJLP now renders those representations redundant.</p> |
| <p>10.4 The 'Fruit Farm' site allocation and inconsistencies in SEA scoring</p> <p>10.4.1 A review of the submitted SEA, in relation to the 'Fruit Farm' allocation, raises further queries regarding the adequacy of the assessment. In particular, CODE notes a number of inconsistencies within the report which appear to have led BPC to the conclusion the 'Fruit Farm' site should be the preferred</p> | <p>No comment.</p> |

| | |
|--|--|
| <p>allocation within the neighbourhood plan, except these inconsistencies have infected the conclusions of the SEA</p> | |
| <p>10.4.2 CODE notes the following inconsistencies in the scoring within the SEA, in relation to the 'Fruit Farm' allocation and the assessment of land west of Church Road:</p> <ul style="list-style-type: none"> • Landscape – the SEA concludes that “In terms of the site allocations, Land at the Fruit Farm is a greenfield site located on the edge of the settlement to the north west, in the SLA and the setting of the AONB extension. However, the site is relatively self contained, and proposals will be required to retain “mature trees along the Capel Road frontage and the site boundary planting”. <p>However, at paragraph 10.10 of the SEA, it states “Following initial assessment of the Neighbourhood Plan, it was recommended that the site allocations policies (BEN3 and BEN4) be revised to consider the landscape, historic environment, and transport implications of new development. Specifically, it was recommended that the supporting text requirement for “all existing mature trees along the Capel Road frontage and the site boundary planting shall be retained”, should be moved into policy. Given the accessibility issues at Capel Road, the policy requirement could be adjusted to “retain trees where possible and deliver suitable replantation where access provision is made, and retention is not possible” to increase the weight of the requirement and strengthen the policy framework overall.”</p> <p>It is clear that the SEA has not considered, therefore, the potential loss of the mature trees and hedgerow along the frontage of Capel Road, as a direct consequence of the development of the 'Fruit Farm' allocation. The document acknowledges that the 'Fruit Farm' site sits within the setting of the recently extended Suffolk Coast and Heaths AONB. The loss of vegetation along the site's frontage, necessary to gain access and provide a footpath along Capel Road into the village, will increase the intervisibility between the proposed allocation and the AONB, which might significantly impact upon the setting of the AONB. The SEA's scoring regarding landscape harm in relation to this site option is therefore significantly flawed.</p> <ul style="list-style-type: none"> • The extension to the AONB has increased the significance of the inter-visibility across the Samford Valley with development on the western side of Bentley. This is particularly pertinent for sites SS03952 and SS11383. In addition to AONB the NPPF states at paragraph 174 that planning policies should contribute to and enhance the natural and local environment by, inter alia, protecting and enhancing valued landscapes. Paragraph 175 of the NPPF states, inter alia, that plans should allocate land with the least environmental or amenity value. Paragraphs 15.23-15.26 and policy LP19 of the emerging BMSJLP set out criteria to direct how development proposals must protect and enhance landscape character. Allocation of site LS01 (03) (land west of Church Road, Bentley) represents a consistent approach by | <p>No comment</p> <p>No comment</p> <p>It is clear that the SEA has taken a pragmatic approach.</p> <p>We disagree with the comment that the (now former) Church Road allocation represents a consistent approach given the Landscape Appraisal prepared in support of the Neighbourhood Plan.</p> |

BMSDCs within the landscape context of the districts and the landscape context of Bentley. The neighbourhood plan has not adequately assessed the potential landscape and visual impacts of the Fruit Farm site on the setting of the AONB.

- Transportation/accessibility - the SEA, as prepared, does not outline the parameters used to assess whether a site is within a suitable walking distance of existing services and facilities. The SEA concludes options A, C and D perform the best in relation to existing services and facilities, due to their "potential to support sustainable access to services and facilities."

Land west of Church Road, Bentley (option B) is within 750m walking distance of the village pub and the village shop, on Case Lane, which is generally accepted to be a safe, sustainable and suitable walking distance to services and facilities. In addition, land west of Church Road is within 300 metres walking distance of Bentley VC C of E Primary School. The other reasonable alternative sites in the village, including the 'Fruit Farm' site, are in excess of 1100 metres walking distance to the primary school. The primary school itself, at drop off and pick up times, is likely to be the facility within the village which would generate the most vehicular traffic, for sites in excess of sustainable transport options. Land west of Church Road, Bentley would, however, most likely encourage parents to walk with their children to school, rather than encouraging the use of the private car, as would be the case with the alternative sites, including the Fruit Farm.

CODE also notes the inclusion of the Quiet Lanes designation within the SEA assessment. CODE appends the map demonstrating the extent of the Quiet Lane designation in relation to land west of Church Road. Access onto Church Road, from land west of Church Road, Bentley will not conflict with the designated Quiet Lane, nor will it detract from the aims of the Quiet Lanes designation which is to provide safe walking and cycling routes in the countryside.

- Land, soil and water resources – all of the reasonable alternatives within the neighbourhood plan are located on greenfield sites and the scoring in this regard is not contested. However, it is alleged that "all options are wholly covered by Grade 2 (Best and Most Versatile) agricultural land. As such it is considered that the development of all options will lead to permanent loss of BMV agricultural land, and permanent negative effects in relation to this SEA theme."

In support of the previous application for up to 45 dwellings, the landowner commissioned a study of the agricultural land quality of land west of Church Road. The report found that the site was entirely within agricultural land classification subgrade 3b, which does not qualify as BMV land. The scoring within the SEA should be updated to reflect this finding.

No further comments to those previously stated above in relation to the number of primary school aged pupils that a development of 20 dwellings would generate.

No comment given circumstances with BMSJLP

No further comment

The SEA has used the publicly available agricultural land classification which identifies the Church Road site as Grade 2. It may well be that such an investigation of the Fruit Farm site would result in a

| | |
|---|--|
| <p>The SEA prepared in support of the neighbourhood plan has no regard whatsoever to the outcome of consultation in the sense that documents submitted in support of the application for up to 45 dwellings at land west of Church Road have not been taken into account or responded to. The application for up to 45 dwellings was clearly referenced in CODE's regulation 14 representations. BPC were also wholly aware of the documents as a consultee for the application. Regulation 16 of the Environmental Assessment of Plans and Programmes Regulations 2004 requires that results of any consultations entered into under regulation 14(4) have been taken into account. Clearly, this is not the case in the preparation of the SEA in support of the BNP. Whilst the site area considered for allocation within the BMSJLP is smaller than that considered in the application for up to 45 dwellings, the broad conclusions of the majority of those application documents remain applicable for the 20-dwelling site.</p> <ul style="list-style-type: none"> • Reasons for selecting the preferred option – an SEA must 'identify, describe and evaluate' the reasonable alternatives. It is axiomatic that BPC must undertake this process utilising a transparent and evidence based approach, which uses a consistent methodology to assess the environmental impacts of the reasonable alternatives. It would appear, through the lack of clearly defined parameters for undertaking the assessment, that the SEA for the BNP has failed to properly comply with its legal obligation to assess the reasonable alternatives on a comparative basis, having regard to a transparent and objective evidence base, as is required by the relevant SEA regulations. | <p>similar conclusion given its proximity to the Church Road site.</p> <p>There was no requirement to consider documents in support of a planning application, particularly where such an application was refused.</p> <p>This has not been demonstrated and, given the status of the BMSJLP, is of little consequence to the examination of the Neighbourhood Plan.</p> <p>No further comment</p> |
| <p>10.5 Compliance with the Environmental Assessment of Plans and Programmes Regulations 2004</p> <p>10.5.1 The submitted Basic Conditions Statement does not detail how the SEA complies with the relevant legal obligations. The preparation and submission of such a document does not automatically mean those requirements have been fulfilled. CODE has paid particular attention to the assessment of reasonable alternatives, both in the selection of the preferred site for allocation and the reasonable alternatives for delivering affordable housing.</p> <p>10.5.2 If such parameters do exist, these have not been transparently included within the SEA for public review, nor is it clear from the conclusions of the SEA how these absent parameters have consistently been applied in the consideration of the reasonable alternatives.</p> | <p>This is a matter for the Examiner to ascertain.</p> |
| <p>10.6 Consideration of alternative spatial strategies for meeting identified affordable housing needs</p> | |

| | |
|---|---|
| <p>10.6.1 The SEA for the BNP only considers the reasonable alternatives in the context of the identified housing requirement for the Bentley neighbourhood plan area, as outlined within the emerging BMSJLP. Whilst CODE does not disagree with this approach in principle, it is recognised that paragraph 5.9 of the submitted SEA states, with regard to affordable housing needs: “The Bentley Neighbourhood Plan Housing Needs Assessment (AECOM, 2020) identified that a total of 18 affordable homes would be required over the Plan period. It is anticipated that the developments on the Oakleigh and Fruit Farm sites (as allocated within the Regulation 14 draft Bentley NP) would provide approximately 10 affordable homes in line with NPPF (2019) defined requirement of 35%. As a result, there is likely to be a shortfall in provision of affordable housing over the Plan period and the potential for a higher growth scenario to address this need is recognised.”</p> | <p>No comment</p> |
| <p>10.6.2 This potential higher growth scenario is not adequately explored within the neighbourhood plan. Given the identified shortfall in affordable housing provision in the neighbourhood plan area, it would be appropriate for the SEA to undertake further assessment of potential higher growth scenarios to ensure the affordable housing needs are met in full over the neighbourhood plan period.</p> | <p>Policy BEN5 makes provision for the delivery of affordable housing on exception sites, inline with the NPPF.</p> |
| <p>10.6.3 It is noted the SEA, at paragraph 9.45, states policy BEN 5 of the BNP is supportive of affordable housing on rural exception sites outside of defined settlement boundaries. However, whilst the policy is supportive of affordable housing being delivered under these circumstances, there is no guarantee that suitable sites exist around the existing settlement boundary (beyond the identified reasonable alternatives) for the provision of additional affordable homes outside of the defined settlement boundary.</p> | <p>If no suitable exception sites exist then, presumably, there are also no suitable sites for market housing?</p> |
| <p>10.6.4 There is also no guarantee or certainty that rural exception sites will be brought forward in accordance with policy BEN 5.</p> | |
| <p>10.6.5 CODE consider the SEA for the BNP should be further revised to provide a sufficient review of a higher growth scenario to deliver additional homes to meet the identified affordable housing need for the settlement. D. E. J. Baker’s site, on land west of Church Road, Bentley represents a suitable and sustainable location for allocation in the neighbourhood plan, which can deliver 20 homes over the period to 2037 (and could be built out within five years of planning permission) but can also deliver 35% affordable housing on site (equivalent to an additional seven affordable homes for the village).</p> | <p>This is not necessary given the current status of the emerging BMSJLP.</p> |
| <p>10.6.6 The viability of the site is confirmed within the evidence base for the BMSJLP. BMSDC’s viability assessment (evidence base document ER02 of the BMSJLP) demonstrates that greenfield development is viable with all policy costs identified.</p> | <p>No comment</p> |

| | |
|---|-------------------|
| <p>Development can viably support 35% affordable housing and S106 of either £1,500 per dwelling or £10,100 per dwelling (with scope in addition to increase residential CIL charge to £200 psm). For reference, having regard to the submitted Infrastructure Delivery Plan (IDP, prepared in support of the BSMJLP), the cost per dwelling (accounting for necessary education contributions) arising out of the site west of Church Road, Bentley is £4,317, well within the conclusions of the council's viability assessment. The allocation of land west of Church Road, Bentley would therefore be viable.</p> | |
| <p>10.6.7 Given these conclusions, it is clear that the SEA has not adequately considered all reasonable alternatives for delivering the identified affordable housing needs for the neighbourhood plan area. Such an assessment should consider and compare the reasonable alternatives, including the preferred approach, and assess these against the baseline environmental characteristics of the area and the likely situation if the neighbourhood plan were not to be made. The Planning Practice Guidance⁴ (PPG) is clear that, in preparing an assessment of reasonable alternatives, it is important to:</p> <ul style="list-style-type: none"> • “outline the reasons the alternatives were selected, and identify, describe and evaluate their likely significant effects on environmental factors using the evidence base (employing the same level of detail for each alternative option). Criteria for determining the likely significance of effects on the environment are set out in schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004; • as part of this, identify any likely significant adverse effects and measures envisaged to prevent, reduce, and, as fully as possible, offset them; • provide conclusions on the reasons the rejected options are not being taken forward and the reasons for selecting the preferred approach in light of the alternatives. • Any assumptions used in assessing the significance of the effects of the plan will need to be documented. Reasonable alternatives are the different realistic options considered in developing the policies in the plan. They need to be sufficiently distinct to highlight the different environmental implications of each so that meaningful comparisons can be made. However, it may be that the strategic policies for the neighbourhood area limit the alternatives that can realistically be considered.” | <p>No comment</p> |
| <p>10.6.8 In addition, the neighbourhood plan has not adequately considered ways of mitigating adverse effects and maximising beneficial effects (policy-on consideration)⁵, to understand whether the adverse effects identified for the reasonable alternatives could be addressed. The SEA fails to provide any transparent methodology for a post mitigation assessment, nor</p> | <p>No comment</p> |

does it outline whether any such approach has been taken. Given the clear inconsistencies in the BNP identified within this representation and the scoring of the reasonable alternatives, BPC must undertake post mitigation assessment of all of the sites and correct the incorrect scoring included within the SEA.

10.6.9 For example, access into the Fruit Farm site has not been adequately addressed within the SEA. Access into the Fruit Farm site will require the removal of hedgerow, which has not been appropriately scored within the SEA. By contrast, the proposals for land west of Church Road demonstrate a considered approach to providing new vehicular and pedestrian/cycle access in relation to existing hedgerows and trees. CODE append the access arrangements submitted in support of previous application for up to 45 dwellings (DC/19/00291) for land west of Church Road, which demonstrates the retention of as many trees and hedgerows as possible, in addition to utilising no dig construction to ensure limited harm to root protection areas. This is included at appendix 4.

10.6.10 BPC's summary of 'Developing the preferred approach', at section 7 of the SEA, fails to provide sufficient reasons for selecting the preferred option over the reasonable alternatives. This is a breach of the SEA Regulations and is in direct conflict with the principles outlined by the Court in *Heard v Broadland District Council* [2012] EWHC 344 (Admin). Following the conclusion of the SEA that all reasonable alternatives score similarly, it is concerning to note that BPC has included scope for a potential rural exception site at the rear of the 'Fruit Farm' site, which forms no part of the neighbourhood plan or any emerging plans, in their reasoning for selecting the site as their preferred option. This approach is fundamentally flawed and inconsistent with the SEA regulations. This cannot be an appropriate way to justify a preferred option within an SEA; indeed, the assessment of reasonable alternatives does not include any reference to the potential rural exceptions site because proposals simply do not exist, nor do they form any element of the emerging neighbourhood plan.

10.6.11 CODE considers the independent examination of the neighbourhood plan should be paused to enable BPC to instruct AECOM to undertake an appropriate review of the spatial growth options which could be appropriate for the BNP. Without this additional assessment the BNP fails its requirement to comply with the Environmental Assessment of Plans and Programmes (2004) Regulations and the basic conditions.

No further comments to add

No further comments to add

Given the status of the BMSJLP and the uncertainty placed on Table 04 (Minimum Housing Requirements) there is no need for the Neighbourhood Plan to allocate any sites for housing at this time.

11 ILLUSTRATIVE PROPOSAL FOR THE 'FRUIT FARM'

11.1 Illustrative Proposal for the Fruit Farm in relation to land west of Church Road

| | |
|---|---|
| <p>11.1.1 Within section 1.2 of the document, the Parish Council’s key principles (which are noted as important to people in the village), expected to be part of any development proposals, are noted as follows:</p> <ul style="list-style-type: none"> • Incorporation of green space • Retention of mature hedgerows • Footpath access into the village and out into the countryside. <p>11.1.2 In addition, the following more detailed development principles have guided the analysis and recommendation within the illustrative proposal:</p> <ul style="list-style-type: none"> • A mix of houses and bungalows shall be provided • Up to 35% of the dwellings shall be affordable, as defined by the NPPF • Dwelling sizes shall reflect the requirement identified in the Bentley Housing Needs Assessment • All existing mature trees along the Capel Road frontage and the site boundary planting shall be retained • Dwellings should secure energy efficiency and sustainability objectives of the Local Planning Authority and NPPF including the inclusion of renewable energy schemes • Grey water, surface water and storm water harvesting and recycling provision. <p>11.1.3 The document also requires compliance with a number of general principles and guidelines. CODE is confident the aims of the Illustrative Proposal for the Fruit Farm site can be appropriately accommodated into the proposals at Church Road (where directly relevant). However, we do not consider that proposal for the Fruit Farm site can be delivered as per the illustrative proposal. Although illustrative the list above is clearly introduced by a requirement that any development proposal will need to satisfy the key principles.</p> | <p>No comment</p> <p>No comment</p> <p>No further comments to add</p> |
| <p>12 SITE SUBMISSION – LAND WEST OF CHURCH ROAD, BENTLEY</p> <p>12.1 Land west of Church Road, Bentley is a suitable, available and achievable site for allocation in Bentley, as recognised by the emerging BMSJLP and its evidence base. This representation has demonstrated the flawed nature of BPC’s evidence base prepared in support of the neighbourhood plan, and the implications this has for the consideration of the site west of Church Road as a potential allocation.</p> <p>12.2 The emerging BMS-JLP includes an allocation for 20 dwellings on a 0.5 hectare site, to the west of Church Road. The BNP identifies a site for 16 dwellings on 0.75 hectares.</p> <p>12.3 Representations were made by BPC and agents for other sites in Bentley regarding land west of Church Road, referencing deliverability, viability and suitability of the site. Those representations referenced a previous planning application</p> | <p>The status of the BMSJLP has now changed, as noted above.</p> <p>No comment</p> <p>The BMSJLP requires a provision of 35% affordable housing on housing sites of 10 or more dwellings. Rural exception sites are in addition to the provision of</p> |

| | |
|--|---|
| <p>(DC/19/00291) for up to 45 dwellings and inclusion of an option, at that time, to split the affordable housing provision across land west of Church Road, Bentley and a separate rural exception site located in the same settlement and in the same ownership. However, the landowner always confirmed that if such a split arrangement could not be agreed with the local planning authority, the full provision of 35% affordable housing would be made on the application site (which would be viable). The split arrangement is not proposed for the 20 dwelling allocation and 35% affordable housing will be provided on site.</p> | <p>affordable housing on sites and are designed to meet different needs. The 45 dwellings application which was refused planning consent should have delivered 35% affordable housing on site, especially given that there are no viability issues.</p> |
| <p>12.4 BMSDC's own viability assessment (ER02) demonstrates that greenfield development is viable with all policy costs identified. It goes on to state development can viably support 35% affordable housing and S106 contributions of either £1,500 per dwelling or £10,100 per dwelling (with scope in addition to increase residential CIL charge to £200 psm). The submitted IDP (ER01) identifies a cost per dwelling for LS01 (03) at £4,317, well within the conclusions of the councils' viability assessment. The allocation is therefore viable.</p> | <p>This is not relevant to the Neighbourhood Plan as the site as not allocated in it.</p> |
| <p>12.5 Furthermore, the attached letter⁶ dated 24 February 2020 from Whirledge & Nott (W&N), provides viability evidence in relation to a proposed phasing condition that imposed a restriction on the number of dwellings that could be occupied in the first five years following approval to only 20 dwellings.</p> | <p>This is not relevant to the Neighbourhood Plan as the site as not allocated in it.</p> |
| <p>12.6 W&N concluded that if planning permission was granted with a phasing condition the site would be commercially viable and would particularly gain interest from SME's (Small and Medium Enterprise Housebuilders) and local housebuilders. The NPPF, at paragraph 69, recognises the contribution that small and medium sized sites can make towards meeting the housing requirement of an area.</p> | <p>This is not relevant to the Neighbourhood Plan as the site as not allocated in it.</p> |
| <p>12.7 Considering deliverability, the site is available, suitable and achievable. The SHELAA (EH06), states the site is developable within years 6-15 of the local plan. Evidence submitted through the determination of application DC/19/00291, in addition to CODE's representations to the regulation 19 consultation of the BMSJLP, demonstrate land west of Church Road is deliverable, available and achievable within five years. In relation to the constraints identified in the SHELAA (page 63) the following sub sections provide confirmation that these elements have been considered in detail and do not present issues that would delay or compromise the delivery of LS01 (03).</p> | <p>There is no need for the Neighbourhood Plan to allocate this site</p> |
| <p>12.8 In comparison, the Fruit Farm site is in close proximity to the extension to the AONB (as explored in more detail at section 10.4 of this representation). It should also be noted neither land west of Church Road or the Fruit Farm site are part of a valued landscape for the purposes of the NPPF; rather, the landscape evidence submitted in support of the neighbourhood plan</p> | <p>Nothing further to add to previous comments</p> |

| | |
|--|---|
| <p>concludes that the landscape north of Bentley is valued by the local community. The evidence base does not specifically conclude or clarify that the landscape north of Bentley is a valued landscape for the purposes of the NPPF (nor does the neighbourhood plan itself seek to identify the landscape to the north of Bentley as a valued landscape).</p> | |
| <p>13 CONCLUSIONS</p> <p>13.1 The BNP, as submitted, does not meet the basic conditions as established by paragraph 8(2) of Schedule 4b of the Town and Country Planning Act 1990 (as amended). CODE has fundamental concerns regarding the policies of the submitted BNP, their consistency with the NPPF (July 2021) and the evidence base documents which have informed the preparation of the neighbourhood plan. The BNP as submitted is not in accordance with the Environmental Assessment of Plans and Programmes Regulations (2004). In summary, the neighbourhood plan does not accord with the relevant regulations for the following reasons:</p> <ul style="list-style-type: none"> • These representations find fundamental flaws in the methodology used in the preparation of the SEA, including the consideration of reasonable alternatives (both for potential site allocations and the suggested spatial strategy for the neighbourhood plan area); • The SEA has also failed to consider a higher growth scenario which the document identifies as a potential reasonable alternative, given the shortfall in affordable housing provision over the neighbourhood plan period to 2037. The neighbourhood plan should include a consideration of all reasonable alternatives, including a 'do nothing' scenario; • The BNP's SEA includes no assessment of post mitigation measures which could rectify the scoring for the reasonable alternatives. This is directly in conflict with the Regulations; • BPC's summary of 'Developing the preferred approach', at section 7 of the SEA, fails to provide sufficient reasons for selecting the preferred option over the reasonable alternatives. This is a breach of the SEA Regulations and is in direct conflict with the principles outlined by the Court in <i>Heard v Broadland District Council</i> [2012] EWHC 344 (Admin). <p>13.2 If the independent examiner considers that the BNP should continue to be the subject of further scrutiny, CODE consider it is essential that a hearing session is held to enable interested parties the opportunity to discuss the significant failings of the submitted Strategic Environmental Assessment (SEA).</p> <p>13.3 The evidence base supporting the BNP, and the record of decisions taken within those evidence base documents, implies an approach by BPC which has sought to justify the allocation of the 'Fruit Farm' site for around 16 dwellings, rather than the iterative approach which is emphasised both within national planning policy and guidance. The evidence base documents also do not appear to have appropriately considered the</p> | <p>The examination will determine whether changes are required to the Plan in order to meet the Basic Conditions.</p> <p>No further comments</p> <p>No further comments</p> |

| | |
|--|--|
| <p>potential impacts of the 'Fruit Farm' site on the extension to the Suffolk Coast and Heaths AONB.</p> <p>13.4 Land west of Church Road, Bentley was submitted for consideration by BPC for allocation within the BNP. The site is currently included as a draft allocation within the submitted BMSJLP 2018-2037, for 20 dwellings.</p> <p>13.5 In addition, it is considered that policies of the BNP are not in conformity with national planning policy and guidance. The policies are also not in general conformity with the emerging strategic policies of the BMSJLP, including policy SP03 which sets the settlement boundaries, and SP04 which outlines anticipated growth within neighbourhood plan areas, for the period to 2037.</p> <p>13.6 Where there is an emerging Local Plan and an emerging Neighbourhood Plan, Government guidance encourages the LPA and the qualifying body to work together to avoid conflict. In particular, and potentially relevant here, to ensure that housing supply policies are complementary. This requires consideration of the housing requirement figure for the neighbourhood area, if any (see NPPF para.66), or indicative figure if requested (see NPPF para.67), and Government guidance notes that emerging Neighbourhood Plans may need to include reserve sites to ensure emerging evidence of housing need is addressed7 .</p> <p>13.7 D. E. J. Baker's site on land west of Church Road, Bentley represents a suitable, achievable and available site for allocation, in a sustainable location in close proximity to Bentley VC C of E Primary School, and within an acceptable walking and cycling distance of the other key services and facilities within the village. Babergh District Council's reasons for identifying the site for allocation within the emerging BMSJLP are sound and the allocation should be reflected within the BNP and the neighbourhood plan's policy map.</p> <p>13.8 Where policies can be brought into accordance with national planning policy and guidance, CODE has suggested modifications to these policies to assist the independent examiner in their consideration of the neighbourhood plan against the basic conditions. Where they cannot, CODE provide reference and detail to the evidence base prepared in support of the neighbourhood plan to demonstrate why the neighbourhood plan should not proceed to referendum.</p> | <p>As noted above, the situation with the BMSJLP has since changed.</p> <p>No further comments</p> <p>As noted above, the situation with the BMSJLP has since changed.</p> <p>There is now no requirement to allocate any sites in the Neighbourhood Plan in order for it to be in conformity with the adopted and emerging Local Plan.</p> <p>No further comments</p> |
|--|--|