

John Slater Planning Ltd

# Ide Neighbourhood Plan 2016-33

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## **Submission Version**

A Report to Teignbridge District Council on the Examination of the Ide Neighbourhood Plan

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## Introduction

Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside Teignbridge's Local Plan 2013 - 2033. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

The neighbourhood plan making process has been led by Ide Parish Council. A Steering Group was appointed to undertake the plan preparation. Ide Parish Council is a "qualifying body" under the Neighbourhood Planning legislation.

This report is the outcome of my examination of the Submission Version of the Ide Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be "made" by Teignbridge District Council, the Local Planning Authority for the neighbourhood plan area.

## The Examiner's Role

I was formally appointed by Teignbridge District Council in April 2018, with the agreement of Ide Parish Council, to conduct this examination. My role is known as an Independent Examiner. My selection has been facilitated by the Neighbourhood Planning Independent Examiner Referral Service which is administered by the Royal Institute of Chartered Surveyors (RICS)

In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 38 years' experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both Teignbridge District Council, and Ide Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

- That the plan should proceed to referendum on the basis that it meets all the legal requirements.
- That the plan should proceed to referendum if modified
- That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.

Furthermore, if I am to conclude that the Plan should proceed to referendum I need to consider whether the area covered by the referendum should extend beyond the boundaries of area covered by the Ide Neighbourhood Plan area.

In examining the Plan, the Independent Examiner is expected to address the following questions

- a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
- b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
- c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body.

I am able to confirm that the Plan, if amended in line with my recommendations, does relate to the development and use of land, covering the area designated by Teignbridge District Council, for the Ide Neighbourhood Plan on 1<sup>st</sup> May 2013.

I can also confirm that it does specify the period over which the plan has effect namely the period from 2016 up to 2033.

I can confirm that the plan does not cover any “excluded development”.

There are no other neighbourhood plans covering the area covered by the Plan designation.

Ide Parish Council as a parish council is a qualifying body under the terms of the legislation.

## **The Examination Process**

The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.

I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

I am satisfied that I am in a position to properly examine the plan without the need for a hearing.

I carried out an unaccompanied visit to Ide and the surrounding countryside on 4<sup>th</sup> May 2018. This enabled me to familiarise myself with the village and the surrounding countryside as well as the A30 and the interchange with the local road network. I made a return visit on the evening of 9<sup>th</sup> May, to reassess my initial impressions of the “Gateway Enhancement” area.

## **The Consultation Process**

Once the neighbourhood area had been designated, the Steering Group was formed. One of its first decisions was to conduct a community survey which took place during June and July 2014. They also held an Open Forum Day, attended by 97 people. The results of this initial consultation were distilled and reported back to residents in the November 2014 edition of the Ide Times.

The survey allowed the Steering Group to prepare the aims and objectives of the neighbourhood plan. In addition, separate consultation on issues took place with local businesses and other stakeholder organisations.

As a prelude to the drafting of the plan, a Call for Sites was made in May 2016 which produced two nominations. It was decided to hold a specific consultation event to discuss the Pynes Farm Yard proposal which was being promoted by the Church Commissioners. This was attended by 65 residents and prompted a further discussion between the Steering Group and the Church Commissioners regarding linking the development with proposals for Weir Meadow.

The Steering Group decided to carry out a public consultation on an initial draft of the

plan before embarking on the Regulation 14 Consultation. This took the form of an exhibition held on 11<sup>th</sup> February 2015 in the Ide Memorial Hall, which was attended by 75 people. A version of the plan was also published on the website.

All this activity culminated with the preparation of the Regulation 14 Pre -Submission Version of the neighbourhood plan and a consultation on it was held over a six-week period between 8<sup>th</sup> September and 23<sup>rd</sup> October 2017. This attracted 10 responses which is set out in Appendix 14 of the Consultation Statement.

I am satisfied that the public and relevant stakeholders have had ample opportunities to contribute to the neighbourhood plan process.

## **Regulation 16 Consultation**

I have had regard, in carrying out this examination, to all the comments made during the period of final consultation, which took place over a 6-week period between 26<sup>th</sup> February 2018 and 13<sup>th</sup> April 2018. This consultation was organised by Teignbridge District Council, prior to it being passed to me for its examination. That stage is known as the Regulation 16 Consultation.

In total only 4 individual responses were received. These came from Deloitte Real Estate on behalf of the Church Commissioners for England, Devon County Council, Exeter City Council and Teignbridge District Council.

I have carefully read all the correspondence and I will refer to the representations where it is relevant to my considerations and conclusions in respect of specific policies or the plan as a whole.

## **The Basic Conditions**

The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.

The six questions which constitute the basic conditions test seek to establish that the Neighbourhood Plan: -

- Has had regard to the national policies and advice contained in the guidance issued by the Secretary of State and it is appropriate to make the Plan?

- Will the making of the Plan contribute to the achievement of sustainable development?
- Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
- The making of the Plan does not breach or is otherwise incompatible with EU obligations or human rights legislation?
- Whether prescribed conditions are met and prescribed matters have been complied with?
- Whether the making of the Plan will have a significant effect upon a European site or a European offshore marine site, either alone or in combination with other plans and projects?

### **Compliance with the Development Plan**

To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Teignbridge Local Plan adopted in 2014.

Ide is one of a number of villages identified in Policy 21 which are signalled to be appropriate locations for limited development, which meets their social and economic needs, protects their rural character and is consistent with the need to minimise travel.

The village is to have a settlement limit within which, as Policy 21A states, development will be permitted consistent with the provisions of the Local Plan. Policy 22 covers the countryside areas outside the settlement limits. The Local Plan also recognises that the plan area is within an Area of Great Landscape Value and Policy EN2A refers to proposals having to maintain landscape quality and minimises adverse visual impacts through high quality building and landscape....design”.

### **Compliance with European and Human Rights Legislation**

Teignbridge District Council initially carried out a Screening Opinion on the Pre - Submission Version of the Plan and produced a report in January 2017 which concluded that it is unlikely that there will be any significant effect arising from the Plan and a full Strategic Environmental Assessment (SEA) as required by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004” would not be required.

As a result of the Regulation 14 consultation, a number of changes to the wording of policies were made and the Submission Version of the Plan was also screened and that came to the same conclusion in February 2018 that an SEA would again not be required.

The District Council, as competent authority, also carried out at the same time, a screening opinion under the Habitat Regulations. The assessment concluded that the Plan will not likely have a significant effect on the Exe Estuary Special Protection Area, Ramsar Site and European Marine Site, South Hams Special Area of Conservation, Dawlish Common SAC, East Devon Pebble Bed Heath SPA and SAC, Dartmoor SAC, South Dartmoor Woods SAC and Lyme Bay to Torbay Candidate Site, when implemented in conjunction with the Teignbridge Local Plan would not have an adverse effect on any European protected sites.

I am satisfied that the basic conditions regarding compliance with European legislation are met. I am also content that the plan has no conflict with the Human Rights Act.

### **The Neighbourhood Plan: An Overview**

The Ide Neighbourhood Plan proposes only 7 planning policies; one allows development of new housing within the built-up area, another allocates a housing site on the southern edge of the village, it protects existing recreational facilities and proposes a new recreational facility at Weir Meadow, and it protects 4 local green spaces and has a policy related to need for additional parking within the village itself. The final policy has been the most significant, in terms of this examination, namely Policy IDE07–Ide Gateway and Enhancement Area. This particular policy has generated strong objections from Teignbridge District Council, Exeter City Council and Devon County Council. All three objections stem from concern that this policy is geared to frustrating the 3 authority’s emerging plans for a park-and-ride site at Alphington junction.

This policy, as written, demonstrates the parish’s desire to retain its rural identity, despite lying as it does, close to the edge of the city of Exeter. Whilst the A30 acts as a significant barrier to development, the parish’s position close to a major junction means that it feels susceptible to development pressure. I can understand the concerns that if “urban” uses spread across this major road, then this could impact on the rural setting of the parish, which is also designated an Area of Great Landscape Value. I consider that an objective that seeks to protect this rural character is an appropriate aspiration for a neighbourhood plan. The policy as written does not rule out development, but it sets out a number of criteria for considering any proposals that come forward.



I do not consider that any of the criteria, either individually or cumulatively, could be described as unreasonable. Indeed, any development that removed, unnecessarily, hedgerows, trees etc., or resulted in air or light pollution and imposed over-engineered entrances that were not appropriate to a countryside setting, or introduced obtrusive advertising or signage, would rightly be discouraged in any similar location within an Area of Great Landscape Value. The policy, as written, does not preclude any specific land use but establishes strict guidelines that any development, including infrastructure, must meet. It will then be a matter for the LPA to judge the extent that any planning proposal that comes forward, meets the criteria set out in the policy.

As examiner, my role and indeed legal duty is to make an assessment of whether this policy meets the basic conditions and other legal requirements. I do not consider that the policy is contrary to Secretary of State advice. As the NPPF states “neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood”. The proposed enhancement area including Roundfield, falls within the neighbourhood plan area and it is entirely appropriate for the plan to be setting clear expectations as to how development, in a vulnerable area, should be considered at planning application stage. This plan is using the neighbourhood planning tools which allow local people to “get the right type of development for their community”.

Turning now to the issue of general conformity with strategic policies of the local plan, the Regulation 16 representations referred me specifically to Policy SWE1 of the Teignbridge Local Plan, which actually refers to the South West Exeter Urban Extension. This policy relates to an allocation of a 92ha site to the south west of Exeter, which is proposed for a mixed development which will include a 1000 space park and ride hub. The supporting text to this policy is set out in paragraph 10.10 of the Local Plan. This states:

“A key part of this public transport network is the provision of a replacement park and ride facility within the new development. Ideally located to the south of the A379 at the intersection of the A30 and the A379, it will serve existing commuters and help change the nature of the A379 and reduce traffic to Chudleigh Road”.

The indicative plan on page 114, and the local plan proposals map shows the urban extension the subject to this policy as lying much further to the south from the Ide neighbourhood area. Had the local plan identified the Alphington interchange as a proposed park-and-ride site, my conclusions on this matter may well have been different. The Infrastructure Delivery Plan is not the adopted local plan and it is to this that my examination must focus. It is clearly open to the District Council to allocate this site in a future review of the Teignbridge Local Plan or for it to be identified through the Greater Exeter Strategic Plan. However, in the meantime it is not a local plan strategic allocation and the provisions of the neighbourhood plan should take precedence.

Indeed, I would comment that I consider Policy IDE07 to be entirely compatible with the countryside policy set out in Policy 22 of the adopted local plan and I do not consider that it is in any way incompatible with Policy 5 which deals with infrastructure.

I also consider that this policy does meet another of the basic conditions as it will help deliver sustainable development, particularly the environmental role of the planning system. It is seeking to protect a fragile area which could be under pressure due to its proximity to a transport route and an intersection in an Area of Great Landscape Value, by setting sound environmental criteria for any development.

I do recognise that my conclusions on this matter will be a disappointment to the three local authorities who have expressed strong objections to this one particular policy. However, neighbourhood plans offer the opportunity to local communities to prepare the planning policies which cover *all* their neighbourhood plan area, not just the areas closest to where most people live. I believe the adopted local plan supports the approach being proposed. Policy 21 of the Local Plan identifies Ide as one of the settlements expected to accommodate only limited development, to meet their social and economic needs, protect their rural character and where neighbourhood plans can include environmental enhancements and small scale development. I believe that this neighbourhood plan is entirely consistent with that strategic policy.

## **The Neighbourhood Development Policy**

### **Policy IDE01 - Residential Development in Ide**

The settlement boundary is set by the adopted local plan. The PPG requires neighbourhood plan policy to provide clarity and “be capable of being used by the decision maker with confidence”. I believe that the policy could be made clearer by making it clear that proposals would be expected to comply with all 4 criteria. This therefore requires the addition of “and” at the end of the criteria (i) and(ii). I consider that with this addition, the policy complies with basic conditions.

#### ***Recommendation***

**Insert “and” at the end of criteria(i) and(ii)**

### **Policy IDE02 – Pynes Farm**

Whilst this site is just outside the settlement boundary, it is adjacent to it and I consider that it is a suitable location for limited residential development, which would not lead to an unacceptable incursion into the countryside. As an allocation, I do not consider that there is conflict with policy IDE 01, which covers “infill and development sites within the built-up area of Ide village”. However, I note that the policy does not include

the requirement for 1:1 provision of smaller units to 3 bed + units required in the Policy IDE01, but the community appears satisfied that it provides for “several small dwellings”. That is a judgement the plan can make and does not affect the basic conditions issue. As former agricultural buildings, this site technically does not fall within the NPPF’s definition of “previously developed land” as claimed in the supporting text, but it is an important conversion/ redevelopment opportunity to build new housing for the village.

### Policy IDE03 - New Car Parking Areas

The only issue with this policy is the requirement that the beneficiaries of the new parking areas to be “intended primarily for residents of Ide or bona fide visitors”. In planning terms, the use of any land as the car park cannot differentiate the ownership of the cars parked on that land. Such restriction could only be imposed through management measures such as issuing residents only permits etc. – not as a matter of planning control. I will propose the deletion of these words as they are not appropriate for a planning policy which must relate solely to “the use or development of land”.

#### *Recommendation*

**Delete “that are intended primarily for residents of Ide or bona fide visitors”**

### Policy IDE04 – Sport and Recreation Facilities

I have no comments to make with regard to the basic conditions, except the matter of the change in *community accessibility*. A neighbourhood plan policy can only be used to determine planning applications. It cannot be taken into consideration when decisions are taken on the question as to whether public access is granted or removed - the issue is whether there is a material change of use. I will recommend removal of reference to a change in community accessibility as that would not ordinarily constitute development requiring planning permission. However, I will retain its inclusion “where possible” for replacement schemes. To give a hypothetical scenario – if the local farmer decided to no longer let the cricket field be used by the village club but sold the land to another rival club team – the land would still be used for the playing of cricket.

#### *Recommendations*

**In the second paragraph delete “and/or community accessibility (available for community use).**

**In ii insert “and” between “quantity” and “quality” and delete “and community accessibility” and after “benefit” insert “where possible”.**

**At the end of the third paragraph, insert “where possible”**

### **Policy IDE05 - Weir Meadow**

I have no comments regarding this policy and its compliance with basic conditions.

### **Policy IDE06 – Local Green Spaces**

I am satisfied that in the context of the village, these four areas meet the criteria set out in Para 76 and 77 of the NPPF for designation as local green space.

### **Policy IDE07 – “Ide Gateway Enhancement Area”**

I have set out fully the reasons why I consider that this policy does meet the basic conditions, in the Plan Overview section of this report.

### **The Referendum Area**

If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Ide Neighbourhood Plan as designated by Teignbridge District Council on 1st May 2013, is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

### **Summary**

The Steering Group are to be congratulated for producing a very focused, locally distinctive neighbourhood plan. Ide is an attractive village set in a beautiful landscape although in the main bounded by a major strategic route – the A30. The policies in the plan address the specific matters which are of importance to the community and respond to the pressures that the plan area faces, being close to a major city in an Area of Great Landscape Value. Notwithstanding the concerns expressed by the three local authorities in respect of Policy IDE 07, the plan does in my view meet its legal requirements and respond to the challenge of neighbourhood planning by allowing a community to prepare the policies against which planning applications will have to be assessed.

I have recommended a small number of changes to the wording of the policies to address technical issues which are necessary to ensure the plan meets the Basic Conditions.

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To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.

**I am therefore delighted to recommend to the Teignbridge District Council that the Ide Neighbourhood Plan, as modified by my recommendations, should now proceed to referendum.**

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14<sup>th</sup> May 2018