

# INDEPENDENT EXAMINATION OF THE ILMINSTER NEIGHBOURHOOD PLAN

EXAMINER: Mary O'Rourke BS (Hons) DipTP MRTPI

Examination Ref: 01/MOR/INP

Mark Tredwin  
Clerk to Ilminster Town Council

Rachel Noke  
ECA Planning Lead

Jo Wilkins  
South Somerset District Council

Via email

27 September 2022

Dear Mr Tredwin, Ms Noke and Ms Wilkins

## ILMINSTER NEIGHBOURHOOD PLAN EXAMINATION

Following the submission of the Ilminster Neighbourhood Plan (INP) for examination, I would like to clarify several initial procedural matters. I also have some initial questions for Ilminster Town Council (ITC/the Town Council) and South Somerset District Council (SSDC/the District Council), to which I would like to receive written responses by **Tuesday 18 October 2022**, if possible.

### 1. Examination Documentation

I can confirm that I have received a copy of the draft Plan and most of the accompanying documentation, including copies of the original Regulation 16 representations. However, there are a number of what appear to be mistakes in the presentation of the documents, which are unhelpful and therefore need to be clarified/corrected. It also appears that some of the Appendices to the Consultation Statement have not been provided.

More particularly, Appendix D to the Plan is identified as the Consultation Statement. However, that document is entitled Regulation 14 Version and dated 11 December 2020 and there is a separate document, produced by ECA and dated 8 October 2021, entitled Regulation 14 consultation report. I have assumed that together the two documents are intended to comprise the Consultation Statement required to be submitted under Regulation 15 (1)(b) of The Neighbourhood Planning (General) Regulations 2012.

Regulation 15(1)(d) requires the submission of a Basic Conditions Statement. Again, this is included as an appendix to the Plan and is described on the title page and in the footer as the Regulation 14 Version dated 11 December 2020. Table 1 refers to compliance with the National Planning Policy Framework (NPPF) February 2019, however, page 4 refers to the more recent 2021 NPPF. Again, I have had to assume that the Basic Conditions Statement has been updated.

I have noted, and also have been referred to by others, to a number of errors in the Plan itself, for example references to housing allocations that are no longer in the submitted Plan and mistakes on the Proposals Map, which will need correction if the Plan were to proceed to referendum. However, subject to my detailed assessment of the Plan, I have not at this initial stage identified any significant and obvious flaws that might lead me to advise that the examination should not proceed.

## 2. Site Visit

I will be making a site visit to the neighbourhood plan area during the week commencing **3 October 2022**. This will assist in my assessment of the draft Plan, including the issues identified in the representations. In particular, it will allow me to visit the twenty policy ILM1 'protected views', shown on Figure 4 of the Plan and in the photographs at 8.6 of the Plan, and on which I may have further questions.

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

## 3. Written Representations

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

## 4. Further Clarification

Advice in the Government's Planning Policy Guidance (PPG) is that neighbourhood plans should be prepared positively, in a way that is aspirational but deliverable.<sup>1</sup> From my initial assessment, it appears that a number of the Plan's policies do not relate to the development and use of land. Whilst they set out aspirations of the Town Council, the policies fail to identify how these could be delivered through the operation of the planning system. I set out my concerns in my initial questions annexed to this letter.

Concerns have also been raised in representations about the Regulation 14 consultation process on which I have some questions seeking further clarification.

I would be grateful if you can seek to provide written responses by **Tuesday 18 October 2022**. Depending on the responses and what I see on my site visit, I may have further questions to ask of the Town Council and/or District Council.

## 5. Examination Timetable

As you will be aware, the intention is to examine the Plan (including conduct of the site visit) with a view to providing a draft report (for 'fact checking') within 4-6 weeks of submission of the draft Plan.

As I have raised a number of questions, I must provide you with sufficient opportunity to reply. Consequentially, the examination timetable will be extended. Please be assured that I will seek mitigate any delay as far as is practicable. The IPe office team will seek to keep you updated on the anticipated delivery date of the draft report.

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

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

Thank you in advance for your assistance.

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<sup>1</sup> PPG section: Neighbourhood Planning, Reference ID: 41-005-20190509.

Your sincerely

*Mary O'Rourke*

Examiner

## ANNEX

From my initial reading of the Ilminster Neighbourhood Plan (INP) and the supporting evidence, I have the following questions principally for Ilminster Town Council (ITC). South Somerset District Council (SSDC) might seek to provide responses to questions 1, 3 and 4 (and any other questions they consider relevant). I have requested the submission of responses by **Tuesday 18 October 2022**. All of the points set out below flow from the requirement to satisfy the Basic Conditions.

1. Please provide the date of the SSDC's initial Strategic Environmental Assessment (SEA) screening report of the Plan and a link to the report.
2. The front cover of the Basic Conditions Statement is titled Regulation 14 version and is dated 11 December 2020, but page 4 refers to the National Planning Policy Framework (NPPF) 2021. Please advise as to the correct date of the Basic Conditions Statement and confirm that it addresses the Plan submitted under Regulation 15.
3. Is there an updated Local Development Scheme (LDS) to reflect the new Somerset Council (unitary authority) from April 2023?
4. Please provide a map showing the site of the appeal dismissed in 2017. Is this the same area as site 15 in the ECA Site Allocations Assessment report 18 March 2020?
5. On page 40 of the Plan, the Ilminster Green Corridor is incorrectly shown as green when the key shows it as brown. Please confirm that the proposals map will be corrected if the INP is made.
6. I note that the Consultation Statement, appended to the Plan as Appendix D, only lists workshop events held in 2019. Please provide details of any other public meetings held to discuss the draft Plan, with dates, venues and numbers that attended, and information on any other events/exhibitions/displays where engagement took place with the local community as part of the Plan making process.
7. In respect of the Regulation 14 Consultation Report, please provide me with a list of the statutory and non-statutory consultees. The Report at paragraphs 3.1 and 3.3 states that they are attached as Appendix C, but that appendix deals with written representations. Also, whilst paragraph 3.5 refers to Appendices E and G, and paragraph 4.45 refers to Appendix F, these are not listed in the contents and are not included in my copy of the document. Please provide me with these appendices.
8. Please advise me as to where in the Regulation 14 Consultation Report dated 8 October 2021 I find the representations made about the policy ILM12 housing sites. Please confirm whether the Report addresses the representations made by the Save Shudrick Valley Group (SSVG), which were 'lost' and subsequently found. Please direct me to where I can read the ITC/INP Development Group response to those representations.
9. The questionnaire at Regulation 14 consultation was available online and in hard copy. Please confirm whether they had the same text/questions, and if not, why that was, and provide them either as a link or hard copy.
10. Please advise on the most recent population and household data, including any information from the 2021 census.
11. I am concerned that, as drafted, policy ILM1 on Views lacks the necessary clarity for a land use planning policy. The policy identifies 20 views that cross the town, some of which are

short range and some long distance, but the Plan lacks any clear explanation as to why they were selected and what is important about the views shown. Please direct me to the detail of the evidence in support of policy ILM1, including why the views shown are considered to be of particular relevance to the landscape setting of the town and what it is about the views that is deemed to warrant protection. I am also interested to hear how it is envisaged that parts b. and c. would be applied in the determination of planning applications.

12. Government guidance requires that policies in a neighbourhood plan should be clear and unambiguous.<sup>2</sup> In that respect, I find policy ILM2 as drafted lacks the necessary clarity and will require significant revision if it is to meet the Basic Conditions. In particular, it is unclear what is meant by 'areas of high recreational amenity'; 'significant trees' which are not TPO trees; 'facilitate a Green corridor' and whether this is different from the Green Corridor also referred to in policy ILM3 and shown on the Proposals Map. Further, the provision of a 10m buffer adjacent to all existing and new habitats appears an arbitrary and excessive requirement that would appear to preclude any new development, as even a backyard or abandoned plot is a habitat. Unless the ITC can explain otherwise, I am presently minded to recommend deletion of that part of the policy.
13. Please confirm that whilst it is not explicitly stated, the intent of policy ILM3 is to designate the 18 sites, listed in Table 8, as Local Green Spaces (LGS), as provided for in the NPPF at paragraphs 101 and 102. Of the 18, I note from paragraph 8.8.3 that 5 (A, B, M, N, G) are the responsibility of the Town Council, whilst 3 ((P, Q, R) are public rights of way which the PPG advises do not need to be designated as LGSs as they are already protected under other legislation.<sup>3</sup> Please provide more detailed maps showing the extent of the LGSs and direct me to the evidence for their selection, including details of contact with landowners.<sup>4</sup>
14. Please provide further details as to what is meant in policy ILM3 by the term 'Green Corridor' network. If the intention is that the corridor is to be used for walking and cycling, as appears to be suggested in policy ILM9, please explain how this is compatible with the objective set out in policy ILM3 c. to increase biodiversity.
15. Policy ILM4, as drafted, refers to planning applications for 'allocated sites covered in policy ILM12' contributing towards the delivery of a new indoor recreational facility adjacent to Canal Way, as shown on the Proposals Map. In that policy ILM12 no longer allocates sites for development, please advise as to how the recreational facility is proposed to be delivered. Where do I locate the evidence as to the suitability and availability of the site shown on the Proposals Map for the proposed development?
16. I have noted a number of references in the Plan to allocations and allocated sites yet the only specific allocation in the submitted Plan is that in policy ILM5 for an Ilminster Environmental Employment Zone. Please explain why the western part of that allocation is shown as extending outside of the development area boundary shown on the Proposals Map and referenced in policy ILM13.
17. Please confirm whether the ITC supports the rewording of policy ILM6 put forward by SSDC in their comments on the Plan.
18. SSDC in its comments on policy ILM7 refer to an Area of High Archaeological Potential. Please provide a map showing this area.

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<sup>2</sup> PPG section: Neighbourhood Planning, Reference ID: 41-041-20140306.

<sup>3</sup> PPG section: Open space, sports and recreation facilities, public rights of way and local green space, Reference ID: 37-018-20140306.

<sup>4</sup> PPG section: Open space, sports and recreation facilities, public rights of way and local green space, Reference ID: 37-019-20140306.

19. In that the INP, if made, will form part of the development plan, it should contain policies for the development and use of land. Whilst plans should be prepared positively in a way that is aspirational, they must also be deliverable. Policy ILM8 sets out the ITC's aspirations to encourage shoppers and visitors to come into the town centre, whilst paragraph 10.4.4 refers to the need to reduce, if not remove, all car movements from the centre. Please advise as to whether there was any specific consultation with local traders and businesses and the town's Chamber of Trade on these proposals.
20. As drafted, policy ILM8 includes a number of matters such as car parking charges, the location of bus stops, street signage, that are the subject of other legislation and do not fall within the jurisdiction of planning control. Consequently, I am presently minded to recommend deletion of parts a. to d., unless the ITC can explain otherwise.
21. The PPG advises that neighbourhood plans, when made, are part of the statutory development plan and as such should contain policies for the development and use of land; those policies are to be used in the determination of planning applications. As drafted, policy ILM9 lacks the necessary clarity as to how the ITC's aspirations for safe interesting walking and cycling routes would be secured through the grant of planning permission for development. Therefore, I am again presently minded to recommend the deletion of the policy, unless the ITC can explain otherwise.
22. As drafted, policy ILM10 reads as a set of community aspirations or projects that the Town Council wish to pursue and not as a policy to be used to determine applications for the development or use of land. For that reason, I anticipate I shall need to recommend deletion from the Plan, unless the ITC can suggest otherwise (for example, it could instead take the form of separately identified 'Community Aspirations' not forming part of the statutory Plan).
23. Please confirm whether SSDC's suggested amendments to policy ILM11 are acceptable to the ITC.
24. Please direct me to the source of the justification, in terms of the particular characteristics, circumstances and planning context of the Plan area, which underpins the requirements in policy ILM12 for at least 25% of new homes to be built to the optional building regulations standard M4(2), and an additional 10% being built to the optional standard M4(3) (I have taken this to mean wheelchair adaptable M4(3)(2)(a)).
25. Please direct me to the evidence that demonstrates there is a demand in Ilminster for serviced plots for self-build and/or custom build homes.
26. Policy ILM13 is entitled Brownfield Sites, which are identified as previously developed land and defined in the Glossary in Annex 2 to the NPPF. However, the text of the policy refers to 'infilling' within the Development Area which may be on land that is not previously developed, for example a large garden to a house, and the SSDC's comments refers also to the potential for windfall development. Please clarify how the policy is intended to be applied.
27. Policy ILM13 refers to the Development Area shown on the Plan's Proposals Map, which reflects that defined in the adopted South Somerset Local Plan plus the proposed development on land south west of Canal Way. It would be helpful to have a plan showing the respective boundaries of these policy areas as well as the development site.