



# **EFFINGHAM NEIGHBOURHOOD PLAN**

## **Pre - Submission Draft Version**

**A Health Check report to  
Effingham Parish Council and Guildford Borough Council  
on the Effingham Neighbourhood Plan  
by Independent Examiner, Rosemary Kidd**

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## 1.0 Summary of Recommendations

- 1.1 The draft Neighbourhood Plan (NP) contains much to commend it and it is clear that considerable research and consultation has been undertaken to prepare the plan for this attractive village.
- 1.2 The following recommendations are made to ensure that the Effingham Neighbourhood Plan meets the Basic Conditions:
  - The Consultation Statement should include a list of people and organisations that have been contacted including the statutory consultees, including how they were consulted, a summary of main issues raised and a summary of how these issues and concerns were considered and addressed in the proposed NP.
  - A Habitats Regulations Assessment (HRA) screening should be undertaken and consulted on with the statutory consultees. It should be published in full with the comments from the consultees. An assessment of the impact of the NP on human rights and equalities should also be undertaken and the conclusions should be included in the Basic Conditions statement. The full Strategic Environmental Assessment screening should be published with the responses from the consultees.
  - The statements in the NP on delivering sustainability should be strengthened
  - The Vision should be included with the objectives section. Suggestions are proposed to help refine the housing objectives.
  - Careful consideration should be given to whether the proposed site allocations would have any significant harmful effects on the purposes of the Green Belt as set out in paragraph 80 of the NPPF and whether the proposed developments could be considered to amount to exceptional development under paragraph 89 of the NPPF. The Basic Conditions statement should set out a clear explanation of how any sites proposed satisfy national policies for Green Belts. If it is considered that any sites will not satisfy this NPPF policy, then the site allocation(s) should be deleted from the NP or the NP postponed until after the LP is adopted. The LPA and QB are advised to seek legal advice on the interpretation of these matters.
  - The housing requirement figure set out in Policy H1 should be carefully reviewed to ensure that it is based on evidence of housing needs / requirements. It should be set as a minimum so as not to be considered restrictive. The explanatory text to this policy should be reviewed and made clearer.

- Views and vistas should be reviewed to ensure that they are not considered as a means of blanket restrictions on new development around the village contrary to PPG advice. The plan should recognise that the local list is a proposal and that it is the role of the LPD to adopt it.
- The value of designating the open areas within the Green Belt as Local Green Space should be reviewed and an alternative policy approach developed to safeguarding and enhancing the areas.
- Service providers should be consulted to ensure that they are satisfied with the deliverability of the community policies.

## Part 1 – Process

	Criteria	Source	Response/Comments
1.1	Have the necessary statutory requirements been met in terms of the designation of the neighbourhood area?	Basic Conditions statement	Suggest you include a copy of the Council minute or letter from the Local Authority confirming the designation in an appendix to the Basic Conditions statement
1.2	If the area does not have a parish council, have the necessary statutory requirements been met in terms of the designation of the neighbourhood forum?	N/A	
1.3	Has the plan been the subject of appropriate pre-submission consultation and publicity, as set out in the legislation, or is this underway?	Yes	Consultation Statement sets out details. To comply with Reg 15 it is recommended that a list of people and organisations that have been contacted including the statutory consultees is included in an appendix to the consultation statement, including how they were consulted, a summary of main issues raised and a summary of how these issues and concerns were considered and addressed in the proposed NP.
1.4	Has there been a programme of community engagement proportionate to the scale and complexity of the plan?	Yes	Consultation Statement sets out details.
1.5	Are arrangements in place for an independent examiner to be appointed?		Not known
1.6	Are discussions taking place with the electoral services team on holding the referendum?		Not known

1.7	Is there a clear project plan for bringing the plan into force and does it take account of local authority committee cycles?		Not known
1.8	Has an SEA screening been carried out by the LPA?	Yes	Carried out by JBA Consulting in Oct 2015. It would be advisable to publish this in full and not rely solely on the summary in the Basic Conditions Statement. The QB should check whether this requires updating prior to submission to take account of any revisions to the NP in the submission draft.
1.9	Has an HRA screening been carried out by the LPA?	No	No mention is made to the HRA screening in the Basic Conditions statement. It is essential that this is carried out. The Basic Conditions statement should also include a paragraph assessing the on impact of the plan on Human Rights and equalities.

## Part 2 – Content

	Criteria	Source	Response/Comments
2.1	Are policies appropriately justified with a clear rationale?	Yes on the whole	The policies in the NP are clear and well presented with clear rationale. See comments below on specific policies.
2.2	Is it clear which parts of the draft plan form the 'neighbourhood plan proposal' (i.e. the neighbourhood development plan) under the Localism Act, subject to the independent examination, and which parts do not form part of the 'plan proposal', and would not be tested by the independent examination?		The Summary Guide refers to part of the plan called Actions and Aspirations. However this was not included in the version of the Plan that was sent to me. It is recommended that this section of the Plan should be clearly headed " <b><i>This section of the NP does not form part of the neighbourhood development plan</i></b> ".
2.3	Are there any obvious conflicts with the NPPF?	Yes	Concerns have been raised about whether it is appropriate for the plan to allocate sites for housing development ahead of the adoption of the emerging Guildford Local Plan which revises the boundary of the Green Belt and includes an inset boundary around Effingham village. See comments below.
2.4	Is there a clear explanation of the ways the plan contributes to the achievement of sustainable development?	Should be improved	The Scope of the plan sets out four major areas that underpin the plan, however these are not cross referenced to how they contribute to sustainable development. It would also be helpful if Section 1b on Sustainability was extended to include reference to the three underpinning aims of sustainability (social, environmental and economic) and link these to the themes of the plan as set out in the scope.
2.5	Are there any issues around compatibility with human rights or EU obligations?	No assessment has been undertaken	The Basic Conditions statement should also include a paragraph assessing the impact of the plan on human rights and equalities.

2.6	Does the plan avoid dealing with excluded development including nationally significant infrastructure, waste and minerals?	Yes	
2.7	Is there consensus between the local planning authority and the qualifying body over whether the plan meets the basic conditions including conformity with strategic development plan policy and, if not, what are the areas of disagreement?	No	Concerns are set out in para 2.2 below concerning the Green Belt boundary review and the NP's proposed site allocations. The Basic Conditions Statement should be improved so that each policy or subject area is assessed more thoroughly against relevant national policy and guidance and adopted strategic local policies. Any areas of concern would then be highlighted.
2.8	Are there any obvious errors in the plan?		See comments below
2.9	Are the plan's policies clear and unambiguous and do they reflect the community's aspirations?	Yes	The community has worked hard to prepare this plan in a changing policy framework.

**Notes:**

Parts 1 and 2 of the template should be completed first. The box should be completed in as concise a way as possible. It should state whether the criterion has been met, with a brief explanation (1-3 sentences, preferably). Any recommendations for action should also be included (1-2 sentences preferable). These actions should also be transferred to the 'Summary of Recommendations' section at the beginning of the report, with criteria in brackets after.

The report is meant to help qualifying bodies by identifying any possible problems so that they can address them prior to submission. It should be written in clear, concise and accessible way. Recommendations should be practical and constructive.

## 2.0 Detailed Considerations

### General comments

- 2.1 The following comments are made to assist the qualifying body in preparing a Neighbourhood Plan to ensure that it meets the Basic Conditions and accords with national planning advice in the NPPF and PPG and helps deliver the strategic policy requirements of the Local Plan. The comments are made on the proposed-submission draft Effingham Neighbourhood Plan 2016 – 2030 dated 6 October 2016.
- 2.2 The draft Neighbourhood Plan (NP) contains much to commend it and it is clear that considerable consultation and research has been undertaken to prepare the plan for this attractive village. I have been asked to give particular consideration to the proposals in the plan to allocate sites for housing development within the current Local Plan policies of the village being washed over by the Green Belt in the adopted 2003 Local Plan, and the emerging Local Plan proposing an inset boundary around the village. Other matters of concern include the wishes of a landowner to allocate a larger part of his site and whether the housing target reflects genuine housing need.
- 2.3 Planning Practice Guidance includes advice that:
- The NP should be clear and unambiguous so that the decision maker can apply it consistently;
  - It should be concise, precise and supported by appropriate evidence
  - It should be distinct to reflect to and respond to the unique characteristics and planning context of the specific neighbourhood area.
- 2.4 Locality has prepared a useful guide for Neighbourhood Plans entitled “Writing Planning Policies”. This advises:
- “It is important to set out each planning policy so the intention is clear and it can be shown the evidence base is robust. This will help ensure it meets the basic conditions. It will also be useful to future applicants and the local authority planning officers who have to use the policy to make decisions in future years. These tips will help your presentation:*
- *introduce each policy with a short explanation that provides any necessary context and robust evidence behind its inclusion*
  - *summarise the intent of each policy*
  - *word your policies clearly and concisely.”*
- 2.5 The National Planning Policy Framework sets out national policy and advice on establishing and reviewing Green Belt boundaries. Paragraph 83 states “*Local planning authorities with Green Belts in their area should establish Green Belt boundaries in their Local*



*Plans which set the framework for Green Belt and settlement policy. Once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan. At that time, authorities should consider the Green Belt boundaries having regard to their intended permanence in the long term, so that they should be capable of enduring beyond the plan period.” Paragraph 84 states that “When drawing up or reviewing Green Belt boundaries local planning authorities should take account of the need to promote sustainable patterns of development. They should consider the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary.”*

- 2.6 Paragraphs 89 – 90 of the NPPF set out exceptional forms of development that may not be inappropriate in the Green Belt.
- 2.7 National planning policy therefore clearly established that the review of the Green Belt boundary is a strategic matter that can only be undertaken through a Local Plan review. Until any revisions to the Green Belt have been formally adopted, the existing boundaries remain in place and policies and proposals in neighbourhood plans will be considered against the current Green Belt policy framework.
- 2.8 It is noted that the Government undertook a consultation in December 2015 on proposals to revise national planning policy. This included proposals to amend green belt policy to allow starter homes to be built in the Green Belt when a site has been identified in a neighbourhood plan. The consultation asked the question: “Q19. *Should local communities have the opportunity to allocate sites for small scale Starter Home developments in their Green Belt through neighbourhood plans?*” No proposals have been made at the time of preparing the health check to introduce the change suggested into national planning policy and it should not be given any weight in the preparation of the Neighbourhood Plan.
- 2.9 The Planning Practice Guidance is clear that consultation should be carried out as part of the preparation of the Neighbourhood Plan. Due consideration should be given to the responses received from landowners of any sites proposed for allocation particularly with regard to any factors that may be raised on the deliverability of the sites for the development proposed.

### **Structure of the Neighbourhood Plan**

- 2.10 The NP is clear and well presented with good maps and photographs to illustrate the text. Maps should be checked to ensure that all areas and boundaries are clearly legible both in print and on screen. The first map has no Fig no. Fig 2 –The boundary of the Green Belt is indistinct when viewed on screen. Fig 3 refers to revised Green Belt and Insets – if the NP is published ahead of the adoption of the Local Plan it should be refer to **proposed** revisions to Green Belt. Fig 5 lacks a key. Make sure the Plan boundary is clearer on Fig 7 and include in the key on maps 7-10.
- 2.11 Do not use the term “civil parish” – the plan is for the neighbourhood plan area. The boundary of the civil parish may change in the future, the policies of the plan apply in the plan area.

- 2.12 Data and background evidence** provides a useful introduction to the plan area. However you may wish to consider whether some of the more detailed material could be included in an appendix and that the plan itself includes a concise summary of the data only.
- 2.13 Section 3 Planning Policy.** It would be helpful to include a summary of the key policies of the emerging Local Plan that affect the Plan area (eg the Green Belt Inset boundary, housing, traveller accommodation and the local centre) as these provide the context for the NP.
- 2.14 Section 5 Specific Objectives.** The Vision is set out in the overview on page 1. It would be helpful to include it in section 5 and rename this section as the Vision and Objectives.
- First housing objective – this is very precise and may be better worded in more general terms such as *“to provide sufficient housing to meet the assessed housing need of the local community in terms of numbers, type, tenure and mix of housing.”* The policy itself rather than the objective should set out the details of numbers and type / mix supported by evidence.
  - Point 2 may be considered superfluous.
  - Point 3 may be worded more clearly as *“to ensure that the design and layout of housing reflects the character of the local built environment and helps maintain the rural nature of the village”*. A term such as the “desired style” could be open to question.

## **Section 6 Policies and Proposals.**

- 2.15 Policy G1** sets out a Spatial Plan for Effingham which seeks to steer development to sites within the Settlement Area defined in the 2003 Guildford Local Plan or the Inset Boundary for Effingham in the Guildford Proposed Submission Local Plan 2016. The policy makes reference to sites to be allocated for residential development in policies SA1, SA2, SA3, SA4 and SA5. It is the validity of this group of policies that is of concern to the LPA and QB.
- 2.16** The opening paragraph of Policy G1 includes reference to the submission draft Local Plan. This will become out of date once the Local Plan is adopted; this problem could be avoided by referring to the *“2003 Local Plan or its replacement”*.
- 2.17** The emerging Local Plan is proposing changes to the Green Belt boundary through the introduction of an inset boundary around Effingham village. This change will not come about until the Local Plan is adopted, until that time the village will continue to be washed over by the Green Belt. As the Local Plan proceeds through the process, proposed revisions to the Green Belt in the Local Plan may not be accepted or may be subject to change or the proposed inset boundary may be revised. It is acknowledged that it is difficult for the community to prepare its Neighbourhood Plan in this uncertain stage of the Local Plan making process. However the national guidance is clear, the examination of the NP will consider the plan against the strategic policies of the adopted development plan. These currently show the village washed over by the Green Belt. National policies in the NPPF on the Green Belt will also be relevant.

- 2.18 Planning Practice Guidance advises that “*Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*
- *the emerging neighbourhood plan*
  - *the emerging Local Plan*
  - *the adopted development plan*
- with appropriate regard to national policy and guidance.”*
- 2.19 National policy is clear that the Green Belt boundary review is a strategic matter that has to be dealt with in the Local Plan. The most relevant basic condition is (a) “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order*”. This does not require absolute compliance with national policy. In any event, national policy is about altering Green Belt boundaries.
- 2.20 The allocation of previously developed land would not alter the Green Belt boundary. However, if any of the proposed allocations were to cause major harm in Green Belt terms, e.g. in the form of a significant harmful effect on one of the Green Belt purposes in NPPF paragraph 80, it may not be acceptable to allocate such a site, which seems much more likely if the land is greenfield. Further consideration should also be given to whether the proposed developments on the greenfield sites meet the exceptional circumstances in paragraph 89 of the NPPF, particularly the final two bullet points which make exceptions for limited infilling in villages in the Green Belt. Greenfield sites should therefore be assessed against the 2003 Guildford Local Plan particularly Policies RE2 and RE3. If the proposed housing allocations are considered to meet the exceptional circumstances for development in the Green Belt then there would appear to be no Green Belt reason to suggest that they should not proceed as allocations in the NP ahead of the adoption of the Local Plan. The interpretation of the term “limited development” and “small scale housing developments appropriate to the scale of the locality” may be critical to determining the matter and this is a matter for the LPA and QB to determine, taking into account legal advice if considered necessary. The critical question to ask about the proposed greenfield allocations is whether they are likely to be granted planning permission within the terms of the 2003 Local Plan policies. It may be helpful to take account of the nature and scale of any planning applications and appeals for housing development that have been determined in the village. Sites that have an existing planning permission should be shown as a commitment rather than an allocation.
- 2.21 It is recommended that the allocation of sites in the NP that would be considered to cause a significant harmful effect on one of the Green Belt purposes in para 80 of the NPPF or that does not meet the exceptional circumstances of paragraph 89 of the NPPF should not proceed until the revised Green Belt has been finalised through the adoption of the Local Plan.
- 2.22 The Berinsfield NP was in a similar position awaiting for the Local Plan review of the Green Belt boundary. The plan included site allocations. The examiner found that the plan did not meet the Basic Conditions and recommended that the plan should not proceed to a referendum. (However the plan had a number of weaknesses and the proposals are not entirely comparable to the Effingham NP.)

The examiner's report states: *"The Neighbourhood Development Plan: Given the whole plan area remains in the Oxford Green Belt I can see no basis for allocating land for development on the scale envisaged. It is simply not possible for a neighbourhood development plan to do this; it is for the Local Plan. It is therefore fundamentally contrary to national policy and the strategic policies of the development plan and on that basis alone I conclude that the making of the plan does not meet the Basic Conditions."*

- 2.23 If the NP goes ahead with site allocations before the adoption of the emerging Local Plan, the Basic Conditions Statement should set out careful reasoning to explain how each allocation complies with national Green Belt policy. If the examiner is not satisfied with the justification, one or more of the allocations may be deleted.
- 2.24 To ensure that the NP has a clear approach to considering sites for housing development in the scenario that the NP does not allocate sites or some are deleted or to consider other potential windfall sites that may come forward once the Inset Boundary is agreed, it is suggested that consideration could be given to developing a policy approach in the NP that would set out factors to be taken into account in selecting the most suitable sites for development using the criteria set out in the Site Selection section of section 6g on page 70 of the NP. The adopted Chaddesley Corbett NP which is washed over by Green Belt includes Policy CC1 – criteria for assessing the suitability of potential housing sites. A criteria based site selection policy would help in the selection of sites over the life of the plan. Emerging Local Plan Policy D4: Development in urban areas and inset villages relates primarily to design and layout matters and not the selection or prioritisation of sites.
- 2.25 Another alternative to consider, should it be decided not to proceed with the allocation of sites in the NP, would be to revise the NP so that the sites are put forward as proposals (rather than as a policy) as those preferred by the community and the nature of the development that is sought. Depending on the approach to be taken in the Local Plan to the adoption of smaller sites, the QB could seek the agreement of the LPA to allocate the sites in the new Local Plan.
- 2.26 **Section 6g Site Allocation Policies SA1 – SA5.** The design guidance set out in the proposed policy allocations is helpful. However if the NP plan goes ahead without the site allocation policies or they are deleted by the examiner, the Local Plan and NP policies on housing, design and heritage will provide a framework for considering development proposals on sites within the plan area. It may be helpful to review the NP policies to ensure that they address all the matters to be considered in assessing development proposals on sites within the plan area. It is suggested that consideration be given to developing a policy approach for environmental enhancements to the Effingham Lodge Farm site. Sites that have an existing planning permission should be shown as a commitment rather than an allocation.
- 2.27 **Site Selection Process Summary.** This document provides a valuable summary of the process that has been undertaken to assess and select the sites proposed for allocation. It is clear and understandable and demonstrates the factual criteria that have been used and the comprehensive consultation that has been carried out on its preparation.

- 2.28 Policy H1 New Homes in Effingham** makes provision for the development of 62 homes to meet the requirements of prospective households in the civil parish on sites to be allocated in policies SA1 – SA5. It is suggested that this policy and its justification should be reviewed to refer solely to the housing number to be developed. The explanation in the justification leading to the precise figure of 62 homes is not clear and easy to follow and is likely to be questioned or challenged. The housing requirement survey appears to suggest a figure of 52 homes, however this is subsequently increased to 62 after consideration of potential sites. It is recommended that the plan set out a minimum housing requirement figure so as not to be accused of being restrictive and to make allowance for future windfalls. The figure should be supported by evidence from the local housing needs/ requirements survey with an allowance if necessary for market housing to support the delivery of affordable housing. This figure should be carefully scrutinised to ensure that it is based on evidence of local needs. Once the requirement figure is agreed, the NP can demonstrate how this need is to be met through the list of potential sites to ensure that it is realistic and deliverable. The housing requirement figure should not be restricted by the sites that have been selected in the sites assessment process. It is not expected that every house is accounted for on a site by site basis as windfall sites will come forward. It is suggested that the policy should be developed on the lines of *“A minimum of 52 new homes will be delivered in the plan period to meet the local housing need.”*
- 2.29 It is important that the housing requirement figure and the reasons for the selection of sites are based on factual evidence and not solely on feedback / responses from the community. If there is a landowner / developer who is seeking a larger site allocation, the lack of or inadequacy of evidence may lead to a challenge to the neighbourhood plan. The recent High Court decision on Henfield NP demonstrated the importance of having factual evidence to support the selection of sites.
- 2.30 Policy H3 Traveller Accommodation.** This policy appears to simply repeat the policy in the emerging Local Plan and may be considered superfluous. The proposals could be included in the summary of Local Plan proposals.

### **Policy G2 Landscape Heritage, Character and Design**

- 2.31 Strategic Views and Vistas.** Care is needed with the selection of views and vistas. They should not be used as a means of setting a blanket restriction on housing development around the village which is discouraged in the PPG on Rural Housing.
- 2.32 The Effingham Local List.** It is recommended that the QB refer to Historic England’s guidance on “Local Heritage Listing May 2016” and ensure that procedures are in place for adoption of the local list by the LPA. Inclusion of Local List proposals in a NP does not lead to the list being adopted.
- 2.33 Policy EN1 Local Green Space.** The NP has considered whether any additional benefit would be gained by the designation of the areas as Local Green Spaces on sites within the Green Belt. From a policy perspective, the LGS designation will add nothing more to the safeguarding of these areas and the proposals within the Green Belt may be deleted by the examiner. An alternative suggestion would be to develop a policy approach for each of the areas in the Green Belt to set out how each area is to be protected / enhanced

(on the lines of policy C2). Ensure that the sites are numbered on the map Fig 6 so that they can be identified. For those sites that are proposed for designation, an assessment table should be included (in an appendix) setting out how each site has been assessed against the factors set out in Paragraph 77 of the NPPF.

- 2.34 Policy C1 Sites of Community Importance** Does the LPA have any guidance on safeguarding community assets that should be referred to eg on marketing sites for a minimum period?
- 2.35 Policy C3 Local Health Services.** Has the policy been discussed with local health providers? Is it deliverable?
- 2.36 Policy C4 Community Burial Facilities** It is suggested that this proposal should be an allocation and shown on a map. Separate it from the housing allocation. It is noted that it cannot come forward until the Green Belt boundary is revised.
- 2.37 Policy R1 Car Parking.** Ensure that these requirements are compatible with the local highway authority parking standards.