

EFFINGHAM NEIGHBOURHOOD PLAN

Pre - Submission Draft Version

**A Health Check report (Stage 2) to
Effingham Parish Council and Guildford Borough Council
on the Effingham Neighbourhood Plan
by Independent Examiner, Rosemary Kidd**

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Effingham Neighbourhood Plan Health Check Stage 2 Final
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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. ***The revised Consultation Statement has not been provided.***
 - The examiner will be looking for separate screening opinions of the SEA and HRA. These have been carried out satisfactorily, however, the introduction to the NP only report the findings of the SEA screening. The summary conclusions of the Habitats Regulations Assessment (HRA) screening should also be included in the Introduction. The full SEA and HRA should be included within the Basic Conditions Statement or published alongside it with copies of the written responses from the statutory consultees. You may wish to consider whether the SEA and HRA screening reports need to be reviewed to take account of revisions in the submission draft of the NP. The Basic Conditions Statement has been revised to include reference to an assessment of the impact of the NP on human rights and equalities
 - The Basic Conditions Statement has included an assessment of 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. Revisions have been made to the justification to Policy ENP-G1 and to section 6g to explain how it is considered that the housing allocations constitute exceptional forms of development in the Green Belt. However, I have reservations as to whether an examiner would accept that sites 1 and 2 amount to small scale infill development and whether all of site 3 should be allocated as it is unclear which parts of the site are previously developed land. Furthermore, the site area of 1.21 ha is considered to be excessive for a development of only 6 dwellings.
 - The background document “Selection of Allocated Sites for Housing” demonstrates that a robust assessment of potential sites has been undertaken and consulted upon with the community. The examiner is likely to seek confirmation that the Highway Authority is satisfied that a suitable access is feasible for each site for the numbers proposed to ensure that the sites are deliverable.

- The revisions to Policy ENP-G2 points 1 and 2 have improved the policy and provide a clear approach to conserving landscape character and views and vistas without placing additional blanket restrictions on development around the village.
- The new policy ENP-G5 sets out matters to be considered in assessing the suitability of windfall sites for housing development. It is suggested that you check this policy against the wording of emerging Local Plan Policy P2. Recommendations are made to improve the clarity of the wording of the policy:
- The revisions to the justification explaining the housing requirement figure set out in Policy ENP-H1 are clear with robust evidence.
- Policy ENP-H2 sets a very high target for 1 and 2 bedroomed dwellings, however this is supported by robust evidence. An examiner may be concerned as to whether the housing market will deliver sites with this mix of housing types and sizes. It may be worthwhile to have a dialogue with local developers and estate agents to ascertain whether they consider the policy would be deliverable. You may also wish to consider adding a sentence to say that the Housing Needs Survey will be updated every 5 years or so to provide up to date evidence to review the policy if necessary.
- The assessment of the green space sites has been carried out in a clear and robust manner. An examiner may question whether it is necessary to identify the sites within the Green Belt as Local Green Space and whether sites 1, 2 and 7 are extensive tracts of land. To avoid the risk of the sites being deleted by the examiner and hence not having the sites safeguarded, you could designate the sites as Green Spaces of Importance to Effingham instead of Local Green Space so that they do not have to be assessed against the Local Green Space criteria.
- Policy ENP-C7 could be rephrased to seek S106 or CIL contributions towards the improvement of community facilities and services.

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 and the aspirations of the community.
- 2.2 I undertook a Health Check of the proposed submission draft of the Effingham Neighbourhood Plan dated 6 October 2016. The Qualifying Body has made changes to the document in the light of the recommendations in the Health Check and I have been asked to consider the revised draft Effingham Neighbourhood Plan dated 10 January 2017. This Stage 2 Health Check Report sets out my recommendations on the main changes that have been included in the January 2017 draft of the Plan. I have also considered the evidence and justification for the proposed housing allocations and Local Green Space designations and commented on how an examiner might consider them in the light of the revisions to the Plan.

Introduction

- 2.3 The final paragraph of Section 1a confirms that section 6 comprises the Neighbourhood Development Plan. It would be helpful for the sake of completeness to add that Section 9 sets out the Parish Council's aspiration for projects and does not form part of the NDP.
- 2.4 The additional text in Section 1b gives a clear explanation of how the plan will contribute to the three dimensions of sustainability.
- 2.5 The examiner will be looking for the conclusions from the two screening reports for the SEA and HRA and confirmation that the plan has considered Human Rights in order to confirm that the NP has satisfied the Basic Conditions regarding the European Directives. It is noted that the section on the findings of the SEA / HRA in the introductory section of the NP and the Basic Conditions report is unchanged and I would again recommend that the summary conclusions of the HRA screening be set out with written confirmation that Natural England agree that an appropriate assessment under the HRA is not required. You may wish to consider whether the SEA and HRA screening reports need to be reviewed to take account of revisions in the submission draft of the NP.
- 2.6 The JBA report concludes that:

“The HRA concludes that the Effingham Neighbourhood Plan will not have an adverse impact on the integrity of any European sites, given the scale and nature of the objectives and policies within the Neighbourhood Plan, many of which are consistent with the conservation objectives of the SAC and SPA. Housing development is only proposed on the allocated sites set out in policies SA1, SA2, SA3, SA4 and SA5 and all the sites allocated for housing are compliant with Guildford Borough Council’s Thames Basin Heaths Special Protection Area Avoidance Strategy 2009 – 2016.”

- 2.7 The full screening report should be included in the Appendix to the Basic Conditions report (or be available alongside it) along with copies of correspondence from the statutory consultation bodies following consultation confirming the acceptability of the findings of the screening reports. **(Note this is a statutory requirement)**
- 2.8 The new paragraphs in section 3a summarising the strategic policies are clear and helpful.

Policy ENP – G1 and site allocations Section 6g and Policies ENP-SA1 – SA4

- 2.9 The justification to the policy has been improved to explain where development will be acceptable. It would be helpful to include a reference in the justification to the current Settlement Area from the 2003 Local Plan being shown on Figure 3.
- 2.10 This is the first place in the Plan where you explain how development in the Green Belt is being justified. This is more fully explained in section 6g of the NP. It is recommended that in the third paragraph of the justification to Policy G1 you quote verbatim from the NPPF paragraph 89. If you wish to include the interpretation “as it appears as a matter of fact on the ground”, you should include the source of the interpretation (ie case law). Care is needed to ensure that your explanation in this first policy justification accords with the national planning advice in NPPF and the up to date local interpretation set out in the justification of emerging Policy P2. It would be helpful to include a cross reference in the justification to Policy G1 to the more detailed explanation in section 6g.
- 2.11 The justification to emerging Local Plan Policy P2 states the following:

“Limited infilling

4.3.24 Development within villages in the Green Belt is limited to small scale infilling. This reflects the need to protect the openness of the Green Belt. Case law has now established that this exception is applicable to all villages and not restricted to sites that fall within

identified settlement boundaries in local plans. Instead, the decision-maker is required to consider whether the site is, as a matter of fact on the ground, within the village.

4.3.25 In order to provide some certainty, settlement boundaries have nevertheless been identified for those villages that are of a scale and form that enable a boundary to be established with a degree of certainty. Proposals within these areas are considered to be in the village and limited infilling here would be appropriate. However, the built form of many of the villages extends wider than the boundary and, in some instances, proposals here may also be considered to be in the village. These will need to be assessed on a case-by-case basis and, if considered to be in the village, then limited infilling here would also be appropriate. Those villages for which no boundary has been identified are listed in the policy and would also need to be assessed on a case-by-case basis.

4.3.26 For the purposes of this policy, limited infilling is considered to be the development of a small gap in an otherwise continuous built-up frontage, or the small-scale redevelopment of existing properties within such a frontage. It also includes infilling of small gaps within built development. It should be appropriate to the scale of the locality and not have an adverse impact on the character of the countryside or the local environment.”

- 2.12 Paragraphs 4.3.24 -26 under Policy P2 explains how the term “limited infilling” is to be interpreted in the local context and is explicit that it should be development of small gaps within an otherwise continuous frontage or infilling of small gaps in the built development. An examiner is likely to question whether sites of 16 and 20 dwellings (sites SA1 and SA2) can be considered as small scale. Some local authorities have defined small scale as being 1 or 2 houses, others accept less than 10 dwellings depending on the local context. It would help your case if you have advice from the LPA about how they interpret this term in making decisions on planning applications and details of any relevant appeal cases.
- 2.13 It is noted that the second bullet point in section 6g also adds in “where development already exists in three or four sides”. Can you add the source of this interpretation of infilling. An examiner is likely to question whether site SA2 is surrounded by development on three sides as the land to the south is open allotment land and the north-west side adjoins agricultural land. The case for allocating the whole of this site as infilling may not be accepted. You may wish to consider whether to reduce the area to be allocated to only the eastern part of the site.
- 2.14 Irrespective of the benefits of the proposal to remove the derelict glasshouses and improve the remainder of the farm, the allocation of site 3 depends on the site being considered as previously developed land. From the online aerial photograph it appears that most of the site is open mown lawns or grass. The proposed allocation is for 1.21 hectares although it is not clear from the justification how much of the site is previously developed land or whether it is intended that all the site is to be developed. At a density of 35 dwellings per hectare

this could produce 42 dwellings. The examiner is likely to seek confirmation of which parts of the site are previously developed land and whether it is necessary to allocate all the site if only 6 houses are to be developed.

- 2.15 The allocation of site SA4 is a redevelopment of a large dwelling with up to 6 smaller homes and is considered to comply with Green Belt policy.
- 2.16 I have considered the background document “Selection of Allocated Sites for Housing”. This demonstrates that a robust assessment of potential sites has been undertaken and consulted upon with the community. This assessment considers the impact of the development on “access and impact on traffic and congestion hotspots”. It is not clear whether the views of the Highways Authority have been sought on this matter. The examiner is likely to seek confirmation that the Highway Authority is satisfied that a suitable access is feasible for each site for the numbers proposed to ensure that the sites are deliverable.
- 2.17 The final sentence of the second paragraph of the justification to Policy ENP-G1 should confirm that the policy is in general conformity with the adopted strategic Policy RE3 and **more recent national policy** on Green Belts in NPPF 89 and recent case law.

Policy ENP-G2 Landscape, Heritage, Character and Design

- 2.18 The revisions to points 1 and 2 have improved the policy and provide a clear approach to conserving landscape character and views and vistas without placing additional blanket restrictions on development around the village.

Policy ENP-G5 Assessing Suitability of Sites for Residential Development

- 2.19 This new policy sets out matters to be considered in assessing the suitability of windfall sites for housing development. It is suggested that you check this policy against the wording of emerging Local Plan Policy P2. To improve the clarity of the wording of the policy, it is suggested that the first paragraph could be worded as follows:

“New residential development will only be acceptable on sites that meet at least one of the following criteria: (first three bullet points)” It is suggested that you also consider whether there should be reference to replacement buildings.

2.21 Then move the final sentence ahead of the second list of bullet points:

“Proposals for residential development on acceptable sites within the Green Belt should demonstrate that they satisfy other policies of the Development Plan, in particular they should not: (second set of bullet points)”

2.22 Note that planning applications will consider the policies of the development plan (which is the Local Plan and the Neighbourhood Development Plan taking account of the most recently approved policies in the case of any conflict) as well as other material considerations (including NPPF).

Policy ENP-H1 New Homes in Effingham

2.23 The justification to Policy H1 is clear and it is supported by robust evidence. The policy sets a minimum figure and there is recognition of the scope for additional windfall sites to be provided under Policy H1.

Policy ENP-H2 Mix of Housing

2.24 The policy sets a very high target for 1 and 2 bedroomed dwellings, however this is supported by robust evidence. An examiner may be concerned as to whether the housing market will deliver sites with this mix of housing types and sizes. Although it is noted that there have been no objections from developers or landowners it may be worthwhile to have a dialogue with local developers and estate agents to ascertain whether they consider the policy would be deliverable. You may also wish to consider adding a sentence to say that the Housing Needs Survey will be updated every 5 years or so to provide up to date evidence to review the policy if necessary.

Policy ENP-ENV1 Green Spaces of Importance to Effingham Community

2.25 The assessment of the sites has been carried out in a clear and robust manner.

2.26 NPPF 78 states that the policy for Local Green Space should be consistent with the policy for Green Belts ie development in the areas should not be approved other than in very special circumstances. Depending on whether the sites are to be designated as Local Green Spaces or Green Spaces of Importance to Effingham It is suggested that the policy be reframed as follows:

- Suggested policy wording if the sites are to be designated as Local Green Spaces:

“The following areas are designated as Local Green Space. Development affecting their openness will not be permitted unless the developer demonstrates that there are very special circumstances and there are no suitable alternative sites. Proposals that protect, enhance and sustain the areas will be supported.”

- Suggested policy wording if the sites are to be designated as Green Spaces of Importance to Effingham:

“The following areas are designated as Green Space of Importance to Effingham. Development affecting their openness will not be permitted unless the developer demonstrates that there are no suitable alternative sites. Proposals that protect, enhance and sustain the areas will be supported.”

2.27 An examiner may question whether it is necessary to identify the sites within the Green Belt as Local Green Space and whether sites 1, 2 and 7 are extensive tracts of land. To avoid the risk of the sites not being agreed to by the examiner and hence not having the sites safeguarded, you could instead designate the sites as Green Spaces of Importance to Effingham so that they do not have to be assessed against the Local Green Space criteria. Revise the justification if you decide not to designate them as LGS.

2.28 There is some concern amongst examiners that the Local Green Space designation is being abused with some Neighbourhood Plans seeking to designate a large number of sites, including agricultural land, in an effort to restrict new housing development. There is no reason to prevent you from choosing your own name for the green spaces to be safeguarded, in which case they will not have to be assessed against the NPPF criteria on Local Green Space.

Policy ENP-C7 Community Learning and Wellbeing

2.29 It may be more appropriate for the bulleted list of services to be included in the community aspirations unless it is intended to seek S106 or CIL contributions towards their provision, in which case you could rephrase the third paragraph of the policy along the lines of:

“S106 agreements and/or CIL contributions will be sought towards the improvement of community facilities and services including:...”.

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- 2.30 The Neighbourhood Plan can serve a useful role in prioritising the improvements to sports, community and other facilities and services that are required during the life of the plan.

Timing the Submission of the Neighbourhood Plan

- 2.31 The Qualifying Body will have to decide whether to submit the Neighbourhood Plan as soon as you have obtained the necessary approvals from the Parish and Borough Councils or to delay it until the Guildford Local Plan has been through its examination and adopted.
- 2.32 If you go ahead before the Local Plan is adopted, you run the risk of sites 1 and 2 being deleted if the examiner does not consider them to be small scale infill. Site 3 may also be deleted unless the policy wording is clarified to demonstrate that only previously developed land is to be developed and the number of dwellings is reconciled to the site area. If sites 1 and 2 are deleted from the Neighbourhood Plan they could come forward after the Local Plan is adopted as windfall sites being considered under Policy ENP-G5.
- 2.33 If you delay the submission you will have the certainty of the revisions to the Green Belt being approved. It will then no longer be necessary to demonstrate that sites 1 and 2 are infill development as they will be within the Inset Boundary. As site 3 will be outside the Inset Boundary, it will still be necessary to demonstrate that only previously developed land is to be developed and the number of dwellings is reconciled to the site area. Be prepared for any delays to be a year or more.

Rosemary Kidd

30 January 2017