

EFFINGHAM NEIGHBOURHOOD PLAN HEALTH CHECK

A Neighbourhood Plan Health Check Report
to Guildford Borough Council

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1. Introduction

(Recommendations are made in bold bullet points below. Recommended new text is in *italics*).

The Neighbourhood Plan Health Check, Background and Examination

Effingham Parish Council is seeking to bring forward a Neighbourhood Plan to help determine the future of the Parish. Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”
(Paragraph 183, National Planning Policy Framework)

This Health Check Report assesses the Effingham Neighbourhood Plan, with the aim of raising any matters that might prevent it from being successfully examined and progressing to Referendum. In so doing, the Health Check Report also raises general comments, with the aim of ensuring that the Neighbourhood Plan is as robust and effective as possible.

My assessment is based on my knowledge of neighbourhood planning. I am an experienced Independent Examiner of Neighbourhood Plans, having completed more than 25 examinations across the country since the end of 2012. I undertook the country’s first neighbourhood plan public hearing, at Thame in 2013, and a number of my Examiner’s Reports have successfully undergone the utmost scrutiny in the High Court, further to developer-led challenges.

I note that I am independent of both the qualifying body and the local authority and whilst a legislative requirement, for a Health Check, I confirm that I do not have any interest in any land that may be affected by the Neighbourhood Plan.

I possess relevant qualifications and experience. I am a chartered town planner and an experienced planning inspector. I have a background in land, planning and development and have worked in the public, private, partnership and community sectors. I am a Director of Erimax – Land, Planning and Communities.

Effingham Parish Council is the *qualifying body*¹ responsible for the production of this Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).

¹The qualifying body is responsible for the production of the Plan.

At examination stage, the Independent Examiner will make one of the following recommendations:

- a) that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
- b) that the Neighbourhood Plan, as modified, should proceed to Referendum;
- c) that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

Were it to progress to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by Guildford Borough Council. The Neighbourhood Plan would then form part of the development plan and as such, would, together with Borough-wide policies, be used to determine planning applications and guide planning decisions in the Effingham Neighbourhood Area.

If recommending that the Neighbourhood Plan should go forward to Referendum, the Independent Examiner will consider whether or not the Referendum Area should extend beyond the Effingham Neighbourhood Area to which the Plan relates.

I have considered the Neighbourhood Area, which is shown on an Ordnance Survey base on page 5 of the Neighbourhood Plan. It coincides with the Parish boundary and I see no reason why this is not appropriate.

In examining the Plan, the Independent Examiner is required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

Having considered the draft Neighbourhood Plan and supporting documents - and subject to my comments below - it appears to me that all of the above points have been met.

Neighbourhood Plan Period

A neighbourhood plan must specify the period during which it is to have effect. The cover of the Neighbourhood Plan states that it covers the period up 2016-2030 and further reference and detail is provided on page 6.

The Neighbourhood Plan will satisfy the relevant requirement in this regard.

Public Hearing

According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.

However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only – and from overall consideration of the Neighbourhood Plan.

Consequently, the decision as to call a public hearing or not is entirely up to the Independent Examiner, further to consideration of all of the representations received.

2. Basic Conditions and Development Plan Status

Basic Conditions

The Independent Examiner will consider whether the Neighbourhood Plan meets the “basic conditions.” This is the test at examination. The basic conditions were *set out in law*² following the Localism Act 2011. In order to meet the basic conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan for the area;
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

At the Submission Stage, the Parish Council will, in line with legislation, submit a Basic Conditions Statement to Guildford Borough Council. The Basic Conditions Statement must demonstrate that the Neighbourhood Plan meets the basic conditions.

In undertaking this Health Check Report, I confirm that I focus on the basic conditions and test the policies of the Neighbourhood Plan against the basic conditions.

The basic conditions are fundamental to neighbourhood planning. I consider that it would be helpful if Page 12 of the Neighbourhood Plan provided some clarity in this regard – in addition to the reference to the need to be in general conformity with (adopted) strategic policies.

Furthermore, in paraphrasing legislation, the Neighbourhood Plan introduces an entirely different basic condition to that which applies. There is no requirement for the Neighbourhood Plan “to be consistent” with the Guildford Local Plan.

I recommend:

Page 12, replace first sentence with “*The Neighbourhood Plan must have regard to national policy and advice. It must also be in general conformity with the strategic policies of the development plan, which in this case comprises the saved policies of the Guildford Local Plan (2003).*”

² Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

European Convention on Human Rights (ECHR) Obligations

There is no indication that the Neighbourhood Plan does not have regard to fundamental rights and freedoms guaranteed under the ECHR, or that it does not comply with the Human Rights Act 1998.

European Union (EU) Obligations

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal³. However, it is good practice to assess neighbourhood plan proposals to determine whether or not the plan is likely to have significant environmental effects. This process is referred to as a “screening assessment.” If the screening assessment identifies likely significant effects, then an environmental report must be prepared.

Guildford Borough Council has undertaken a screening assessment, as is good practice. It is important that the Basic Conditions Statement refers to the conclusions of the screening assessment and the fact that it has been consulted upon by the statutory bodies, English Nature, the Environment Agency and Historic England. This is particularly important, given the SANG requirements referred to later in this Health Check.

It would also be helpful to make specific reference to the Neighbourhood Area’s location in relation to the nearest Special Protection Area, alongside conclusions in relation to Habitats Regulations Assessment. As set out later in this Report, I am concerned at the absence of specific reference in the Neighbourhood Plan to supporting and meeting the Thames Basin Heaths SPA Avoidance Strategy (2009) and consider it important to ensure that this does not become an oversight.

Page 6 of the Neighbourhood Plan refers to the Council’s screening assessment. Again, this is an important inclusion. It is noted that there is reference to the Natural England response and this enhances the Neighbourhood Plan.

The Strategic Environmental Assessment screening report concludes that the Neighbourhood Plan will not result in any likely significant effects on the environment and that consequently, a full Strategic Environmental Assessment is not required.

With regards to European obligations, it is relevant to point out that national guidance establishes that the ultimate responsibility of determining whether a draft neighbourhood plan meets EU obligations is placed on the local authority,

“the local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations.” (Planning Practice Guidance 11-031)

³ Paragraph 026, Planning Practice Guidance 2014.

Given this, it would be helpful, during the Submission stage, if Guildford Borough Council were to submit a representation to confirm that, in its view, further to assessment, the Council is satisfied that the Neighbourhood Plan is compatible with EU obligations.

Taking all of the above into account – and subject, also, to taking into account my comments in relation to the SANG, below - there is nothing else to lead me to conclude that, at this stage, the Neighbourhood Plan is not compatible with EU obligations.

3. The Neighbourhood Plan – Introductory Section

Whilst it will be the Policies of the Neighbourhood Plan that will be considered against the basic conditions by the Independent Examiner, it is useful to assess the Introductory Section of the Neighbourhood Plan, with comments aimed at making it a clearer and more user-friendly document.

The Neighbourhood Plan would benefit from further thought with regards presentation. The use of photographs and plans, or figures, can help to break up text and result in an interesting document that encourages people to read it. Currently, the majority of the plan appears monotonous and to a lay person, a somewhat daunting document. There are hundreds of good examples of draft and adopted neighbourhood plans in this regard.

It takes two and a half pages to set out the Contents of the Neighbourhood Plan. This appears excessive and there is no reason why Contents should not be set out on one page. Also, there is no need to list every Policy. Policies are split into topic areas and it is sufficient to simply list these. Also, the Appendices and Supplementary Documents do not form part of the Neighbourhood Plan and reference to these can be deleted. I recommend:

- **Reduce Contents to a single, easy to read, page, as set out above**
- **Delete reference to Appendix A8 on page 6.**

The final part of the first paragraph on page 8 refers to something that has not taken place as though it is about to happen and goes on to set out an opinion on Green Belt as being factual. I also note that this is within general background about the area, rather than within the Policy section. It appears potentially misleading and confusing. I recommend:

- **Page 8, delete last two sentences of the first paragraph at the top of the page, “Whilst yet...to be met.”**

Much of section 3a, on page 12, provides a commentary on matters that will not be especially relevant to a made (adopted) Neighbourhood Plan and that are already somewhat dated. The basic conditions are clear. There is no need for the Neighbourhood Plan to set out what has, or may, happen with regards another emerging document. This only serves to add unnecessary confusion. I recommend:

- **End section 3a after the second paragraph and delete all of the text that follows**

Section 3b effectively states that congestion and education are *planning matters* that the Neighbourhood Plan will deal with. Whilst I acknowledge that these are local issues, they are not land use planning matters that the Neighbourhood Plan will introduce relevant, appropriate Policies to deal with. The final sentence of section ii) provides I consider this in further detail below, but recommend:

- **Delete 3b sections ii) and iii)**

It may be that plan-makers will wish to add the reference in section ii) to supporting sustainable patterns of movement (which Policies can address), to the retained section i).

Page 14 refers to the Thames Basin Heaths Special Protection Area (SPA). This is an important European site. There is a Suitable Alternative Natural Greenspace (SANG) in the Neighbourhood Area. With apologies for the use of acronyms, SANG provision is fundamental to the integrity of the SPA.

The Thames Basin Heaths SPA Avoidance Strategy (2009) supplements strategic policy NRM6 of the South East Plan – a relevant, strategic policy – and seeks provision a parking area to be provided for the common. This relates to extending the range of mitigation from 400m to 5km.

Currently, there is nothing in the Neighbourhood Plan to demonstrate that it supports the above Strategy. This is a significant omission. The introduction of a new land use plan provides the opportunity to address the requirements of the Strategy and should be taken. If such an approach is not taken, then it is important to ensure that statutory bodies are fully aware of – and have commented upon - this specific matter. In particular, Natural England should be asked to provide specific comments and be asked to confirm that they are satisfied with the Neighbourhood Plan in this specific regard.

Failure to either address the Strategy, or receive confirmation from the relevant statutory bodies that this is not an issue (which I suspect will not be the case), may lead the Neighbourhood Plan to fail to meet the basic conditions and thus fail to proceed to Referendum in its current form. I recommend:

- **Address the requirements of the Thames Basin Heaths SPA Avoidance Strategy (2009) and/or consult with Natural England on this specific matter**

Page 14 of the Neighbourhood Plan goes on to refer to Landscape Character Assessment as a “land designation.” This is not the case and is misleading. The Landscape Character Assessment provides advice and guidance with regards different types of landscape character across the Borough. It is not a land use designation, for example in the same way that the Green Belt, Conservation Area and AONB are.

Also, Sustainability Ranking relates to settlement hierarchies. It is not a land designation. Further to consideration of this, I find that the overall title of Section 3 (Planning Policy Framework) is confusing. It is very close to and suggestive of the National Planning Policy Framework, but covers a wide range of matters. I recommend:

- **Page 14, change the title of Section c to “*Other Relevant Matters*” or similar**
- **Page 12, change title of Section 3 to “*Planning Policy*”**

Section 6 provides a long, detailed definition of affordable housing. This is a dynamic topic and definitions may change. Affordable housing is generally understood and I recommend:

- **Page 17, delete definition of affordable housing**
- **Page 17, delete references to Supplementary Documents and Maps.** These are either detailed matters to be considered in Policies (and not general objectives) or refer to documents that do not form part of the Neighbourhood Plan.
- **Pages 17 and 18, delete the two references to consistency with selected Chapters of the Framework.** This is unnecessary and is not, in any case, comprehensive.

4. The Neighbourhood Plan – Neighbourhood Plan Policies

The Neighbourhood Plan provides many Policies. Often, when a Neighbourhood Plan tries to cover too many issues, Policies become confusing, difficult to understand and impossible to implement. Unfortunately, this is the case with many of the draft Policies in the Effingham Neighbourhood Plan.

The following is not a criticism of the hard work, time and effort of all involved to date. I understand and fully acknowledge the dedication required to produce a Neighbourhood Plan.

However, this Health Check simply considers the Policies against the basic conditions.

As an overview, I would strongly recommend the inclusion of fewer, higher quality Policies.

The nature of a Health Check is such that it is not my role to re-write Policies. Consequently, I note the issues to be addressed and where possible, make suggestions, but I do not go as far as to provide re-written or new Policies, even though I acknowledge and understand some of the matters that plan-makers are seeking to address.

General Policies

Policy G1 includes the undefined phrases “*appropriate proportionate...organic and measured approach.*” There is no information to provide prospective applicants or decision makers with the necessary detail of how to address Policy G1 in this regard.

The first sentence is a statement not a Policy. It is hard to understand how “*any development*” – for example a household extension – can balance the needs of the community with that of the environment and landscape.

How will the Parish Council work with all applicants ? What professional advice will it provide and what are the defined resources ? Simply, the Policy should not refer to something that won’t, in the majority of cases, happen.

The Framework and the Local Plan are separate documents that already exist. It is not the role of Neighbourhood Plan Policies to refer to other documents or the Policies within them.

I recommend:

- **Delete G1**

The first paragraph of Policy G2 is superfluous. If this wasn’t the case, there would not be a Neighbourhood Plan.

The second paragraph of Policy G2 is entirely at odds with national and local planning policy. It is not the role of a planning policy document to state that planning proposals will not be considered.

The third paragraph usurps the roles of other bodies – for example the local education authority, the local planning authority, the local health authority and seeks to establish entirely new criteria for essential development. This is highly inappropriate and there is no evidence to demonstrate why such an approach is being introduced, or how it has regard to national policy (it doesn’t). I recommend:

- **Delete Policy G2**

Policy G3 recognises that Effingham Lodge Farm is of strategic importance, yet seeks to constrain its development. It goes on to state that the site “*provides essential greenfield space to separate Effingham from Little Bookham.*” However, I note that even if the whole of this site was to be developed, there would still be a gap between Effingham and Little Bookham. This creates some tension within the Policy and needs more substantive evidence to support its approach if carried forward.

The Policy refers to many other Policies in the Neighbourhood Plan. This is poor practice. The Policies of the Neighbourhood Plan are read as a whole. There is no need to cross-reference. Multiple cross-referencing simply leads to confusion. It also indicates that a Policy is inappropriate, as it cannot achieve its aims without reference to other things.

Policy G3 then refers to development being dependent upon the removal of buildings and a “*return to suitable Green Belt uses.*” This introduces confusion and no evidence is provided to demonstrate that such an approach relates to national Green Belt policy.

Altogether, Policy G3 is an unclear, somewhat confusing and potentially contradictory Policy. Overall, it does not have regard to national policy and appears to put in place significant barriers, rather than contribute to the achievement of sustainable development.

The site already includes previously developed land in the Green Belt. National policy provides clarity in how such land can be developed. Consequently, there may not be a requirement to designate this land. Alternatively, there may be scope for a Policy to support the provision of at least 30 dwellings on the site.

Currently, Policy G3 provides insufficient clarity and justification. I recommend:

- **Delete or completely re-word Policy G3, in line with the basic conditions**

Policy G4 effectively attempts to turn supplementary information into an adopted planning document. Supplementary information does not form part of the Neighbourhood Plan. It is the Policies of the Neighbourhood Plan that will be adopted. I note that a later Policy considers design matters. I recommend:

- **Delete Policy G4**

The first sentence of **Policy G5** is a statement not a Policy.

The Policy seeks to impose requirements on all planning applications, whether relevant or not. For example, how would a household extension, or the changing of windows in a Listed Building, demonstrate that it contributes towards the reduction of emissions ?

Further to the above, there is no clarity as to what “*Greener Construction Standards*” actually are. Consequently, it is difficult to understand how the Policy could be implemented or monitored.

I recommend:

- **Delete Policy G5**

Policy G6 is potentially a supportive Policy that has regard to the Framework and contributes to the achievement of sustainable development.

However, there is no indication as to how Policy G6, or the Neighbourhood Plan, will “*encourage*” any of the things set out. This is a recurring phrase throughout the Policies of the Neighbourhood Plan. Without clear reference as to what will happen to “*encourage*” things, it is meaningless.

Policy G6 refers to “proportionate development of the site and avoid overdevelopment.” There is no indication as to what, or where, the site is and no clarity is provided with regards to what “*proportionate*” means, or when, or why, a site would be “*overdeveloped*.”

No indication is provided as to what the “*village settlement areas*” are. Presumably this meant to refer to the defined village settlement boundary. If so, then this is what needs to be stated.

No indication is provided as to what the “*integrity*” of boundaries and approaches actually means.

It is difficult to understand how built development can enhance rural character. This could be seen to be a contradictory statement, so clarity is required as to how this can be achieved, if this phrase is to be included in a Policy.

Further to all of the above, it is important to remember that, if seeking to re-word this Policy, care needs to be taken with positive Policies. For example, would a development proposal need to meet all of the requirements, or just one of the requirements of the Policy (there is no clarity in Policy G6 in this regard). Also, could any scheme at all be developed, so long as it met the requirements of the Policy? This might lead to unlimited development being supported, subject to meeting the criteria set out in a Policy. I recommend:

- **Delete or re-word Policy G6**
- **Also, remove word “encourage” from any Policy, unless clarity is provided as to how this will occur**

Housing Policies

Policy RE3 of the Guildford Borough Local Plan designates Effingham as an “*Identified Settlement in the Green Belt.*” Within Effingham, Policy RE3 allows for infilling on land substantially surrounded by development; infilling of a small gap; and small scale housing developments.

The supporting information to Policy RE3 makes it clear that Effingham is washed over by the Green Belt. Specifically, the supporting information goes on to state that “*The Policy does not envisage extension of the built up area of the settlement beyond the defined boundaries or other than very limited development taking place within settlements.*”

Nowhere does the Neighbourhood Plan state that land will be removed from the Green Belt. Consequently, all development in the Neighbourhood Area is subject to the requirements of Green Belt policy. Green Belt policy is clearly set out in the Framework.

Taking the above into account, it is not clear under what basis the Neighbourhood Plan is allocating land for residential development. **Policy H3** simply allocates housing sites. These comprise land in the Green Belt. Inappropriate Green Belt development on these sites would need to demonstrate very special circumstances if it was to comply with national policy. Policy H3 adds to the confusion by requiring land “*to be returned to open Green Belt land.*”

Furthermore, Policy RE3 is unambiguous about not extending the settlement boundary, or allowing for anything other than very limited development within the boundary. Rather than be in general conformity with Policy RE3, the Neighbourhood Plan seeks to extend the settlement boundary and allow for, arguably, significantly more than *very limited development*.

Given all of the above, the Neighbourhood Plan has not been properly thought out with regards to Green Belt and the allocation of land. In undertaking this Health Check, it is not for me to recommend how the Parish Council should plan the Neighbourhood Area. I can only recommend:

- **Either introduce a Policy that removes land from the Green Belt, with supporting evidence and justification; or do not allocate development sites in the Green Belt, that would clearly be constrained by Green Belt policy**

The above comprises a fundamental matter for consideration. Notwithstanding this, for clarity, I consider the individual housing Policies below.

I note that **Policy H1** refers to **Policy H4**. This immediately raises more Green Belt related matters. In addition, were the Neighbourhood Plan to seek to allocate residential sites, then it would be clearer and simpler to refer to these, rather than

to sites that have not been allocated. In this way, the Neighbourhood Plan could demonstrate that it contributes to the achievement of sustainable development by providing for a minimum of X new homes within the Neighbourhood Area.

The second paragraph of Policy H1 is long-winded and could simply refer to a relevant Plan.

Policy H2 goes beyond national policy requirements to such an extent that I am concerned that it fails to have regard to them. National policy requires plan-makers to provide for the delivery of a wide choice of homes, in a flexible manner, capable of taking account of changing market conditions over time (Framework, Chapter 6).

The requirements of Policy H2 are highly prescriptive. It would require sites of just 5 houses to provide one three-bedroom affordable house, one one-bedroom dwelling and three two-bedroom dwellings, of which only one could be a flat. There is no evidence to demonstrate that every site capable of providing for five dwellings could provide such a highly prescriptive form of development in a sustainable form. In addition, there is no evidence to demonstrate that such an approach would be viable.

Whilst, having regard to the Framework, there is scope to introduce a Policy that steers housing mix, Policy H2 fails to meet the basic conditions.

Policy H4 conflicts with Green Belt policy. It does not have regard to the detailed approach to development in the Green Belt, set out in Chapter 9 of the Framework. Furthermore, the requirements of Policy H4 are not in general conformity with those of Guildford Local Plan Policy RE3. The Policy does not meet the basic conditions.

As worded, **Policy H5** is positively worded and is indicative of a collaborative approach with Guildford Borough Council. It contributes to the achievement of sustainable development and appears to meet the basic conditions.

Similarly, **Policy H6** is a positively worded Policy. It has regard to Paragraph 50 of the Framework, which supports the provision of housing to meet the needs of different groups, including the elderly and people with disabilities.

Environmental Policies

Policy EN1 seeks to designate Local Green Space. In seeking to designate eleven sites, it is clear that the designation of Local Green Space forms a significant part of the Neighbourhood Plan's strategy.

The Framework enables local communities to identify, for special protection, green areas of particular importance to them. Paragraph 76 states that

“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”

Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. Effectively, Local Green Spaces, once designated, provide protection that is comparable to that for Green Belt land. Notably, the Framework is explicit in stating that

“The Local Green Space designation will not be appropriate for most green areas or open space.” (Para 77)

Consequently, when designating Local Green Space, plan-makers must clearly demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land.

Plan-makers are to be congratulated on part of the approach to Local Green Space designation. In particular, the clear reference, within the Policy itself, to why each Local Green Space has been designated, is an excellent way in which to demonstrate why the designations have regard to national policy.

It is important that the precise boundaries of each individual Local Green Space are clearly shown on plans within the Neighbourhood Plan. Map EN1 is insufficient in this regard.

Unfortunately, the Policy does not provide any clarity as to what Local Green Space designation actually means. This is quite a fundamental omission and is addressed below. I recommend:

- **Policy EN1, provide a new paragraph at the end “*Within the areas designated as Local Green Space, development will not be permitted other than in very special circumstances.*”**

- **Provide new plans (and reference in the Policy) showing the precise boundaries of each Local Green Space**
- **Policy EN1, line 2, change to “...Space...”**

The supporting text is a little misleading. It suggests that every site meets everything set out in bullet points 1) to 6). This is not the case.

- **Re-word the supporting information, to be precise/accurate**
- **Delete the reference to Appendix A5**

Policy EN2 seeks to introduce a completely new kind of policy designation, “*Green Gateways to the Village*.” There is no detailed justification for introducing a new policy approach that does not have regard to national policy or advice.

Furthermore, the areas referred to are already within the Green Belt. Policy EN2 would be in direct conflict with Green Belt policy. No justification or substantive evidence has been provided to demonstrate why one of the foundations of the national planning system should be overridden. I recommend:

- **Delete Policy EN2**

The Green Belt is the Green Belt. It protects openness and serves the five purposes of Green Belt, which include preventing coalescence. Consequently, there is no need for **Policy EN3**.

Further to the above, the second part of Policy EN3 seems to be some kind of re-wording of Green Belt policy, with reference to the “*purposes of the Gap*.” These purposes are not exhaustive, but simply “*include*” – suggesting that there are also some non-defined purposes of the Gap. Confusingly, the supporting information sets out some of the purposes of the Green Belt, but fails to explain the purposes of the Gap – how these have been defined, on what basis, with what evidence etc.

Also, Policy EN3 also seeks to prevent development in the “*vicinity*” of Green Belt Strategic Gaps. No definition of vicinity is provided.

Policy EN3 is an unusual policy that lacks substantive evidence to support it. It does not have regard to national policy and there is nothing to demonstrate that it contributes to the achievement of sustainable development. I recommend:

- **Delete Policy EN3**

The first sentence of **Policy EN4** places an onerous requirement on all development. It applies to development that would not necessarily be relevant. It does not have regard to national policy and there is no evidence to demonstrate that it is implementable.

Whilst designated nature conservation sites are already protected, the second sentence seeks to introduce a new requirement for all development proposals within 50 metres of any such site to demonstrate that the site will be protected. No explanation, evidence or justification for this is provided. Consequently, the 50 metres figure appears arbitrary and there is nothing to demonstrate that within 50 metres of a nature conservation site cannot be sustainable / or why any such proposal should need to demonstrate no harm to something 50 metres away.

There is no indication of how, or why, all development should improve hedgerows and grass verges – or even if this would be possible. It is also unclear as to why a development should use a “*locally sourced*” native species rather than simply a native species. I note that there is no evidence to demonstrate that native species for landscaping schemes can be locally sourced (or why this is desirable).

Policy EN4 is poorly worded and I recommend:

- **Delete Policy EN4**

Policy EN5 appears to designate 100 metre wide (minimum) corridors where harmful development that creates a barrier – defined in the Policy as buildings, roads, hard landscaping, lighting and the re-routing of water sources and courses – will result in the 100 metre wide corridors not being conserved. The inference, although not actually stated, is that unless it demonstrates no significant harm – which itself is undefined – development will not be permitted.

This is a negative Policy that seeks to prevent development on large swathes of land. The reference to 100 metres lacks detailed justification and consequently, appears arbitrary. If the Neighbourhood Plan seeks to impose such a restrictive Policy, then it requires substantive evidence. I would suggest that this needs to include detailed mapping and a clear demonstration of the precise wildlife corridors, justifying their exact size and location.

Otherwise, there is insufficient evidence to demonstrate that Policy EN5 would not prevent sustainable development. I recommend:

- **If re-wording Policy EN5, ensure that the Policy is supported by a precise and substantive evidence base.**

The first part of **Policy EN6** is reliant on a Supplementary Document that does not form part of the Neighbourhood Plan. It is possible to change the opening sentence to relate better to the design criteria that follow. Effectively, the Policy can contribute to the achievement of sustainable development by supporting development that considers/complies with design principles.

I note that it would be difficult, and potentially impossible, for a fence design to demonstrate that it would not *“interfere with the movement of wildlife”* and there is no information to demonstrate that development can enhance important views.

It is unduly onerous to require all access and movement related development to enhance the landscape and character of the village. Such an approach fails to have regard to the Framework, which simply requires safe access and is clear that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

It is neither possible nor desirable for all development proposals *“to be permeable to pedestrians and cyclists.”* I recommend:

- **Re-word Policy EN6**

Supporting the provision of community orchards, natural play spaces and open gardens has regard to the Framework and contributes to sustainable development. However, as worded, Policy EN7 would allow any kind of development that made such a contribution. It is more appropriate to support the specific uses referred to, as above, rather than simply support development that provides the uses. I recommend:

- **Re-word Policy EN7**

It is not clear how all development can respect Effingham’s dark skies status. The Policy can be re-worked to promote the incorporation of appropriate lighting that does not result in significant harm. I recommend:

- **Re-word Policy EN8**

National Policy recognises that heritage assets are irreplaceable and sets out a detailed approach to their preservation. Policy EN9 seeks to introduce a completely different approach to that set out in the Framework.

There is no substantive evidence to support the introduction of a 400 metre zone around both national and locally designated heritage assets. In this regard, I note that the Supplementary Document referred to has not undergone any rigorous examination. Furthermore, it is unduly onerous to require all development to

enhance character. There is no precedent for this in national or local policy and no detailed information justifying its inclusion in the Neighbourhood Plan. I recommend:

- **Delete Policy EN9**

Policy EN10 is a supportive Policy. Subject to removal of “*encourage*,” it contributes to the achievement of sustainable development and meets the basic conditions.

Community Asset Policies

The use of the phrase Community Asset in the title of this section and in Policy C1 is misleading. Community Assets are subject to specific legislation and the Neighbourhood Plan does not designate Community Assets. I recommend:

- **Change title to “Community Policie”s and C1 to “Sites of Community Value”**

Policy C1 seeks to protect community buildings and facilities. This has regard to Chapter 8 of the Framework, which promotes healthy communities. Consequently, the Policy contributes to the achievement of sustainable development and meets the basic conditions. I recommend:

- **Delete “Only” below bullet point 15, which is unnecessary and potentially confusing**
- **Move the last paragraph of Policy C1 to the end of the supporting text. This simply sets out information and does not form a land use planning policy.**

The first part of **Policy C2** is positive and has regard to the Framework. However, it is unclear why improvement of local facilities needs to be specific to Effingham residents. It is unduly onerous (as it is potentially impossible) to expect a development proposal to demonstrate that it will increase residents’ well-being, as this would require the demonstration of something that hasn’t happened. There is no indication of what a “*significant increase in traffic in the village*” would actually be. I recommend:

- **Re-word Policy C2**

Policy C3 supports the development or change of use of *a* building. No indication is given of which building, or where. As it currently stands, this Policy does not provide clarity and fails to meet the basic conditions. The Policy needs re-wording to either be specific, or should be deleted.

Policy C4 largely meets the basic conditions. The second bullet point is vague and “*the development of spiritual facilities*” is undefined and potentially undefinable. I recommend:

- **Delete the second bullet point**

There is no indication of how the Neighbourhood Plan will give support to the proposals set out. **Policy C5** would be clearer if it simply referred to supporting the development of the various technologies outlined.

The final bullet point should be deleted as it refers to something that has no policy basis. I note that the design of telecommunications infrastructure is already controlled by national policy.

Policy C6 goes beyond the remit of the Neighbourhood Plan. It raises matters that are controlled by the Local Education Authority, the Local Planning Authority and the Highway Authority. I recommend:

- **Delete Policy C6**

Policy C7 is a positive policy that promotes healthy communities and meets the basic conditions.

Policy C8 seeks to apportion Section 106 contributions. This is not a matter under the control of the Neighbourhood Plan. The Policy then refers to various other Policies in the Neighbourhood Plan.

It would be more appropriate for the Neighbourhood Plan to set out, in a Community Action or Priority, rather than a Policy, the type of things that the Parish Council would seek to prioritise, with regards that part of the Community Infrastructure Levy that would effectively be placed under its control. I recommend:

- **Delete Policy C7 and create a Community Action or Priority**

Infrastructure Policies

Policy R1 is reliant on an unadopted document. It also impinges on matters that are the responsibility of, and controlled by, the Highway Authority. I recommend:

- **Delete Policy R1**

It is hard to understand how **Policy R2** will work in practice. No indication is provided as to how or where car parking will be improved. No indication is provided as to which schemes will improve car parking. As worded, the Policy simply supports any development that improves car parking. This conflicts with other Policies of the Neighbourhood Plan.

No indication is given to demonstrate what “*ample car parking*” means. Consequently, the final part of the Policy is meaningless. I recommend:

- **Delete Policy R2**

Policy R3 concerns matters that are the responsibility of another body and are beyond the control of the Neighbourhood Plan. It also relies on an unadopted document. I recommend:

- **Delete Policy R3**

Policy R4 concerns non-land use planning matters. It is also extremely general with regards supporting any development that improves connectivity. I recommend:

- **Delete Policy R4**

Influencing the usage of cycle routes, as set out in **Policy R5**, is not a land use planning matter. I recommend:

- **Delete Policy R5**

Policy R6 concerns matters not controlled by the Neighbourhood Plan. There is some scope for a revised Policy that supports improvements to existing footpaths and the creation of new ones.

- **Replace Policy R5 with a Policy that supports sustainable movement**

The Disability Discrimination Act (DDA) is already in existence. Together with the Framework, everything in Policy R7 and more is already covered by policy and legislation. Furthermore, the design of new roads and footways and access at railways stations are the responsibility of other bodies. I recommend:

- **Delete Policy R7**

Local Economy Policies

Policy LE1 is a very long Policy. It would be far better for the Policy to be more concise, as this would result in a clearer, better thought-through Policy that can achieve specific aims in a deliverable, implementable manner.

Thought needs to be given to the first bullet point, which as worded, would support the development of any retail development, of any size, in any location.

The second bullet point conflicts with Permitted Development Rights and seeks to prevent development that does not require planning permission. There is no indication of what *adequate* access and parking is in bullet point three.

A development of ten thousand homes would inevitably improve the viability of shops on the Street Retail Parade – this bullet point requires more thought.

The Policy includes a sweeping generalisation with regards to various development causing harm. This is not substantiated. It goes on to refer to a unadopted document.

The final paragraph of Policy LE1 provides a balanced approach to protecting community facilities. It has regard to the Framework and meets the basic conditions.

I recommend:

- **Re-word Policy LE1 and create a more concise, deliverable Policy**

The Neighbourhood Plan does not define what *facilities of an agricultural or equestrian nature* are. It is not clear what this part of the Policy is seeking to achieve.

Rather than support schemes (any scheme ?) to ensure bridleways are maintained, the Policy should be more specific.

The Framework is clear with regards development affecting the best and most versatile agricultural. All agricultural land is not protected simply for the sake of it being agricultural land. Policy LE2 conflicts with the Framework in this regard and provides no justification for doing so. Similarly, there is no national or local policy protection for the retention of equestrian facilities. The approach set out in Policy LE2 fails to meet the basic conditions in this respect. I recommend:

- **Delete or Re-word Policy LE1**

The Neighbourhood Plan does not have the powers to control or implement **Policy LE3** which also seeks to introduce non-land use planning matters. I recommend:

- **Delete Policy LE3**

Policy LE4 is an unusual Policy. It suggests a supportive approach, yet only supports industrial development that *“barely impact the residential community”* (sic). No indication of *barely impact* is provided, but the words used suggest that this goes well beyond the requirements of national policy, which supports a prosperous rural economy.

There is no indication of what kind of business *“agricultural use of fallow land areas”* might be and it is not explained why only rural enterprises *“that serve the local resident population”* would be supported. Such an approach would likely infringe on human rights, amongst other things. Neither approach has regard to national policy.

Most home businesses do not require planning permission and are outside the control of Policy LE4. The Neighbourhood Plan already seeks to address retail matters in other Policies. I recommend:

- **Delete Policy LE4**

7. Summary

There are some basic errors in the policies of the draft Neighbourhood Plan.

It is strongly recommended that, in revisiting Policies, more attention is paid to the basic conditions. The basic conditions, along with National Planning Practice Guidance, help set out what neighbourhood planning policies can and cannot do.

It is also strongly recommended that plan-makers consider the policies of neighbourhood plans that have already been made, following Referendum. There are plenty of examples of land use planning policies that cover matters that the Neighbourhood Plan is concerned with.

Also, it would help the Neighbourhood Plan as a whole if it focused on specific, achievable matters. Neighbourhood planning policies cannot cover everything and important planning policies are already in place at the national and local level. The Neighbourhood Plan's policies should be distinctive to Effingham, whilst meeting the basic conditions.

I recognise that the contents of this Health Check will come as a disappointment.

As set out at the start, the Health Check is not a criticism of the authors of the Neighbourhood Plan. I have simply considered the Policies of the Neighbourhood Plan against the basic conditions. The majority of policies fail to meet the basic conditions on many grounds. Meeting the basic conditions is the single most important requirement for neighbourhood planning policies.

In revising the Neighbourhood Plan to meet the basic conditions, it may be helpful for the Parish Council to work closely with Guildford Borough Council, which proactively supports neighbourhood planning, in line with its statutory duty. There is scope to make the most of the time and effort spent to date, in order to revitalise the Effingham Neighbourhood Plan in the most effective manner possible.

Nigel McGurk
October 2015