

**EFFINGHAM  
NEIGHBOURHOOD PLAN  
2016-2030**

**SUBMISSION PLAN**

**A Report to Guildford Borough Council of the  
Examination into the Effingham Neighbourhood Plan**

by Independent Examiner, Peter Biggers BSc Hons MRTPI

Argyle Planning Consultancy LTD  
September 2017

<b>Contents:</b>	<b>Page</b>
<b>Summary and Overall recommendation</b>	<b>4</b>
<b>1. Introduction</b>	<b>6</b>
• 1.1 Background context	6
• 1.2 Appointment of Independent Examiner	6
• 1.3 Role of the Independent Examiner	6
<b>2. The Examination Process</b>	<b>8</b>
<b>3. Public Consultation</b>	<b>9</b>
• 3.1 Background	9
• 3.2 Effingham Neighbourhood Plan Consultation	10
<b>4. Preparation of Plan and Legislative Requirements</b>	<b>11</b>
• 4.1 Qualifying Body	11
• 4.2 Plan Area	11
• 4.3 Plan Period	12
• 4.4 Excluded Development	12
• 4.5 Development and Use of Land	12
• 4.6 Plan Publication Following Submission	12
<b>5. The Basic Conditions</b>	<b>12</b>
• 5.1 National Policy and Advice	12
• 5.2 Sustainable Development	13
• 5.3 Conformity with the Development Plan	13
• 5.4 European Union Obligations	14
<b>6. The Neighbourhood Plan Assessment</b>	<b>16</b>
• 6.0 The General Form of the Plan	16
• 6.1 Introduction	18
• 6.2 A Profile of the Neighbourhood Plan Area	18
• 6.3 Planning Policy	18
• 6.4 Community Engagement	19
• 6.5 Vision and Objectives	19
• 6.6 A Spatial Plan for Effingham	20
• 6.7 Landscape, Heritage, Character and Design	20
• 6.8 Archaeology and the Historic Environment	22
• 6.9 Flooding	22
• 6.10 Assessment of Sites for Residential Development	22
• 6.11 New Homes in Effingham	24
• 6.12 Mix of Housing	25
• 6.13 Specialist Housing	26
• 6.14 Home Farm Estate Western Area	26
• 6.15 Local Green Spaces	27
• 6.16 Wildlife Corridors and Stepping Stone Sites	28
• 6.17 Shared Green Space	30
• 6.18 Dark Skies	30
• 6.19 Air Quality	31
• 6.20 Sites of Community Importance	31
• 6.21 King George V Hall and Playing Fields	32
• 6.22 Local Health Services	32
• 6.23 Community Burial Facilities	32
• 6.24 Broadband and IT Services	33
• 6.25 Schools	33
• 6.26 Community Learning and Wellbeing	34

• 6.27 Car Parking	34
• 6.28 Sustainable Movement	35
• 6.29 Safeguarding Village Shops and Retail Facilities	35
• 6.30 Effingham's Rural Economy	37
• 6.31 Site Allocation Policies	38
• 6.32 Delivery Principles	43
<b>7. Other Matters</b>	<b>43</b>
<b>8. Referendum</b>	<b>44</b>
<b>Appendix 1 - Letter Inviting the Parish Council to Respond to the Reg 16 Site Allocation Responses</b>	<b>45</b>
<b>Appendix 2 - Effingham Neighbourhood Plan Statement Regarding Regulation 16 Representations on Allocated Sites.</b>	<b>47</b>
<b>Appendix 3 – Responses received to the Post Reg 16 invitation for final comments from Effingham Parish Council and third parties</b>	<b>49</b>

## Summary and Overall Recommendation

0.1 Following my examination of the Effingham Neighbourhood Plan (ENP), including a site visit to the Neighbourhood Area on 12 July 2017, it is my view that the ENP reflects the views of the community and sets out a clear vision and suite of policies and proposals for the Neighbourhood Area.

0.2 However my report highlights a number of areas where I consider the wording of the plan as submitted is not wholly in accordance with one or more of the Basic Conditions.

0.3 I have therefore recommended a number of modifications to the Plan which should be made before the plan can proceed to Referendum. These are intended to ensure that, first and foremost, the Plan can meet the Basic Conditions.

0.4 In proposing the modifications I have tried to ensure that the integrity of the ENP and its vision is retained and that the intention of neighbourhood planning, where the community's wishes should be central to the plan, is honoured. However, this has not been possible in all cases and the Parish Council will no doubt be disappointed about the recommended deletions of ENP-SA1 and ENP-SA2 or in the case of SA1 its significant modification.

0.5 By its nature the examination has to be rigorous. Any criticism is not at all to undermine the significant community effort that has gone into the plan. Rather the purpose of the examination is to ensure that the Neighbourhood Plan meets the basic conditions and is as robust as possible and that it can play its part in planning decisions and managing change in Effingham Parish in the future in an effective way.

0.6 In addition to the recommended modifications it should also be noted that there may be a number of consequential changes for example to referencing that will be needed as a result of making the modifications. It will also be necessary to ensure all document referencing is up to date. I have not highlighted all such changes because of the ongoing situation particularly in respect of the emerging Guildford Borough Local Plan.

0.7 Subject to the recommended modifications in the report being completed, I am satisfied that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority.
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.
- prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the plan.

0.8 The ENP also complies with the legal requirements set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

0.9 With the modifications in place the Effingham Neighbourhood Plan will meet the Basic Conditions and can proceed to a Referendum.

0.10 When that takes place I also recommend that the Effingham Neighbourhood Area which is synonymous with the Parish's administrative boundary is taken as the area for the Referendum.

**Peter Biggers**  
**15 September 2017**  
**Argyle Planning Consultancy Ltd**

## 1. Introduction

### 1.1 Background Context

1.1.1 This Report provides the findings of the examination into the Effingham Neighbourhood Plan (referred to as the ENP throughout this report).

1.1.2 The ENP was produced by the Effingham Parish Council (EPC) and in consultation with interested parties and local stakeholders.

1.1.3 The Effingham Neighbourhood Area equates to the administrative area of the parish.

1.1.4 Effingham Parish lies to the east of Guildford on the eastern boundary of Guildford Borough and is a rural parish in an attractive landscape setting. The parish has an area of around 1198 hectares and a population of around 2711 living in 1054 households. The parish extends from Effingham Common near Effingham Junction in the north to the Surrey Hills AONB in the south and sits between East Horsley and Bookham. Effingham village sits broadly in the centre of the parish and is one of a string of spring-line villages laid out along the edge of the chalk on the dip slope of the North Downs. The village is in two parts divided by the A246. The older northern part of the village dates from Saxon times and has been designated as a conservation area whilst the southern section of the village south of the A246 is predominantly post war.

1.1.5 This Examiner's Report provides a recommendation as to whether or not the ENP should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes cast in favour of it, then the ENP would be '**made**' by Guildford Borough Council. In the event of a successful referendum result the ENP would immediately carry full weight in the determination of planning applications in the Neighbourhood Area.

### 1.2 Appointment of the Independent Examiner

1.2.1 I was appointed by Guildford Borough Council, with the consent of EPC, to conduct the examination and provide this report as an Independent Examiner. I am independent of the qualifying body and the Local Authority. I do not have any interest in any land that may be affected by the ENP nor do I have any professional commissions in the area currently and I possess appropriate qualifications and experience. I have planning and development experience, gained over 35 years across the public and private planning sectors and am a Member of the Royal Town Planning Institute and a member of the Neighbourhood Planning Independent Examiners Referral Service run by the Royal Institute of Chartered Surveyors.

### 1.3 Role of the Independent Examiner

1.3.1 It is the role of the Independent Examiner to consider whether a neighbourhood plan

meets the “Basic Conditions.” The Basic Conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (TCPA) as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (PCPA). They are that \* :

1. Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
2. The making of the neighbourhood plan contributes to the achievement of sustainable development;
3. The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority.
4. The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.
5. Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the plan.

1.3.2 Pursuant to Basic Condition 5 above, Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) prescribes the following basic condition for the purpose of paragraph 8(2)(g) of Schedule 4B to the TCPA:

The making of the Neighbourhood Plan is not likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) either alone or in combination with other plans or projects.

1.3.3 In examining the Plan, I have also considered whether the legislative requirements are met namely:

- The Neighbourhood Plan has been prepared and submitted for examination by a qualifying body as defined in Section 61F of the TCPA as applied to neighbourhood plans by section 38A of the PCPA.
- The Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the TCPA as applied to neighbourhood plans by section 38A of the PCPA.
- The Neighbourhood Plan meets the requirements of Section 38B of the PCPA (the Plan must specify the period to which it has effect, must not include provisions relating to ‘excluded development’, and must not relate to more than one Neighbourhood Area) and
- The policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of the PCPA Section 38A.

*\* NB Two other matters relating to the desirability of preserving or enhancing listed buildings and conservation areas are also included in the basic conditions but as these only concern neighbourhood development orders and not neighbourhood plans they are not included in this report.*

1.3.4 I have examined the ENP against the Basic Conditions and legislative requirements above and, as Independent Examiner, I must make one of the following recommendations:

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

1.3.5 If recommending that the Plan should go forward to Referendum, I am also then required to consider whether or not the Referendum Area should extend beyond the Effingham Neighbourhood Area to which the Plan relates. I make my recommendation on the Referendum Area at the end of this Report.

1.3.6 The role of the independent examiner is not expressly to comment on whether the plan is sound or how the plan could be improved but rather to focus on the compliance with the Basic Conditions.

## **2. The Examination Process**

2.1 It is a general rule that neighbourhood plan examinations should be held without a public hearing ie by written representations only. However, according to the legislation, when the Examiner considers it necessary to ensure adequate examination of an issue, or to ensure a person has a fair chance to put a case, a public hearing may be held.

2.2 With regard to the above and on consideration of all the evidence before me, I am satisfied that there is no need for a hearing in respect of the ENP and I confirm that *all* representations on the Neighbourhood Plan received at the Regulation 16 stage have been taken into account in undertaking this examination. Where appropriate I have made specific reference to the person or organisation's comments at the Regulation 16 stage in section 6 of this report.

2.3 I held a briefing meeting on matters of fact only with the Guildford Borough Council Planning Officer responsible for neighbourhood plans and with Parish Council representatives and undertook an unaccompanied site visit around the Neighbourhood Area on 12 July 2017 during which I looked at its overall character and appearance and at those areas affected by policies in the Plan in particular. I am grateful to the Borough and Parish Councils for responding to my factual queries.

2.4 As a result of that meeting and in the light of representations made at the Regulation 16 stage regarding the site allocations I invited the Parish Council to respond to a set of questions based on points made in the representations. The Parish Council provided me with a written response on the 25th of July which was distributed to all respondents at the regulation 16 stage who commented on site allocations. They were given the opportunity

to make final comments in response. I have considered all the points raised by the parties in reaching my conclusions on the matter of the site allocations.

2.4 In undertaking this examination, I have considered each of the following documents in addition to the Submission Version of the Effingham Neighbourhood Plan 2016-2030:

1. National Planning Policy Framework (NPPF)
2. The National Planning Practice Guidance
3. Town and Country Planning Act 1990 (as amended)
4. The Planning and Compulsory Purchase Act 2004 (as amended)
5. The Localism Act 2011
6. The Neighbourhood Planning Act 2017
7. The Neighbourhood Planning (General) Regulations (2012) (as amended)
8. The Guildford Local Plan 2003.
9. The Guildford Borough Proposed Submission Local Plan – Strategy and Sites 2017
10. Effingham Neighbourhood Plan Basic Conditions Statement Submitted 3 March 2017
11. Effingham Neighbourhood Plan Consultation Statement - Submitted 3 March 2017
12. Effingham Neighbourhood Plan 2016-2030 Strategic Environmental Assessment Screening Report – JBA Consulting April 2016
13. Effingham Neighbourhood Plan Responses to SEA and HRA Screening Report from Statutory Consultees
14. Effingham Neighbourhood Plan Strategic Environmental Assessment and Habitats Regulations Assessment Determination May 2017
15. Effingham Neighbourhood Plan Equality and Human Rights Screening Assessment Jan 2017
16. Effingham Parish Neighbourhood Area Designation Report April 2013
17. Effingham Neighbourhood Plan Evidence Base Documents

Also:

18. Representations received during the Regulation 16 publicity period post submission ending 30 Apr 2017.

### **3. Public Consultation**

#### **3.1 Background**

3.1.1 An accessible and comprehensive approach to public consultation is the best way to ensure that a neighbourhood plan reflects the needs, views and priorities of the local community.

3.1.2 EPC submitted a Consultation Statement, as required by regulation 15 of the Neighbourhood Planning (General) Regulations, to Guildford Borough Council in March 2017.

3.1.3 Public consultation on the ENP commenced with initial consultations in between February and December 2013 including a household survey in autumn 2013. This was

followed by various consultation stages, including:

- The pre submission consultation from 23 May 2016 to 18 July 2016
- The formal, publicity stage, as required by Reg 16, (the consultation period post submission of the plan) from 20 Mar 2017 to 30 Apr 2017.

This last stage resulted in 21 consultation responses. These are considered as necessary within my assessment of the plan in section 6 below.

### 3.2 Effingham Neighbourhood Plan Consultation

3.2.1 The ENP Steering Group has carried out consultation with the community and stakeholders throughout the process of plan preparation. The communication methods used involved household leafleting, questionnaire surveys, public notices and press releases, public meetings and drop-ins, ENP website and direct email drops. Copies of the Pre Submission Draft and Submission Plan were uploaded to the ENP website as well as being available locally.

3.2.2 The initial consultation stage of the plan sounding out the community on issues started in February 2013 and ran through to December. A public meeting was held in April 2013 and over 100 attended. The group also targeted specific groups and participated at the Effingham Village Day. The household questionnaire was distributed in October and November to 1003 households and 605 were returned. The results were posted to the website and shared at the Effingham Village day in 2014.

3.2.3 The opportunity of consultation on the emerging GBLPSS was taken to build the vision and objectives for the ENP between July and December 2014. In early 2015 working groups were established to work on developing the policies for the emerging ENP. In March a full day consultation event was held with 200 attending. Policies continued to be developed and tested and shared again with residents at the Effingham Village Day 2015. In September a series of public meetings were held to review with residents a first cohesive version of the plan. 169 attended.

3.2.4 Following a first health check of the plan it was reviewed and developed further in a series of housing workshops and drop in surgeries in spring 2016 and the pre-submission draft prepared and approved.

3.2.5 The Consultation Statement sets out the detail of these early consultations and the comments and survey results. It is clear that very full opportunities were available to the community to be involved and that the consultations gave a strong basis for the preparation of the plan.

3.2.6 The pre-submission consultation as required by Regulation 14 involved an 8 week period from 23 May 2016 to 18 July 2016. The ENP was made available online on the parish and ENP websites and locally in hard copy and the consultation was advertised by the methods set out in 3.2.1 including a very detailed summary leaflet and questionnaire to each household. 739 forms were returned from 1054 households raising 3795 individual comments and 13 sets of detailed comments. Statutory

consultees and other key community stakeholders were consulted by email with a link to the plan website and 5 submissions were made in writing from statutory consultees.

3.2.7 Following the pre-submission stage and the analysis of results a second health check was carried out as it was felt that there had been significant change in the plan since the first. This was used to finalise the plan for submission.

3.2.8 The Neighbourhood Planning Regulations are part and parcel of the 1st Basic Condition and regulation 15 (2) sets out clearly what the Consultation Statement should include. Having reviewed the Consultation Statement and its appendices I am satisfied that it is compliant with Reg 15 in demonstrating who was consulted, how they were consulted, what the main issues and concerns were and what action has been taken in response to these to arrive at the Submission Draft Plan. The extent of interest and participation by residents in the plan at the various stages is impressive and I am satisfied from the evidence that the communication and consultation which took place provided full opportunity for the community's participation.

#### **4. Preparation of the Plan and Legislative Requirements**

In terms of the procedural tests set out in paragraph 1.3.3 of this report my findings are as follows:

##### 4.1 Qualifying body

4.1.1 Effingham Parish Council, as the duly elected lower tier council, is the qualifying body for preparation of the Plan.

4.1.2 I am satisfied that the requirements set out in the Localism Act (2011) and in Section 61F(1) and (2) of the TCPA (as applied to neighbourhood plans by section 38A of the PCPA) have been met.

##### 4.2 Plan area

4.2.1 The Effingham Neighbourhood Area as designated coincides with the boundaries of the Parish.

4.2.2 An application was made by the EPC on 20 December 2012 to designate the Effingham Neighbourhood Area. This was approved by Guildford Borough Council on 4 April 2013 following consultation.

4.2.3 This satisfied the requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) (2) and (3) of the TCPA (as applied to neighbourhood plans by section 38A of the PCPA) and regulations 5, 6 and 7 of the Neighbourhood Planning (General) Regulations 2012.

### 4.3 Plan period

4.3.1 A neighbourhood plan must specify the period during which it is to have effect. The ENP clearly states on its title page and in the introductory sections that it covers the period from 2016 – 2030. The plan period extends beyond that of the Guildford Local Plan 2003 because it draws on the evidence base for the new local plan. There is no requirement to align the timescale of the neighbourhood plan with other elements of the Development Plan and the intended time period to 2030 still satisfies the requirements of Section 38B of the PCPA as amended.

### 4.4 Excluded development

4.4.1 The Plan does not include policies or proposals that relate to any of the categories of excluded development – county matters (mineral extraction and waste development), nationally significant infrastructure or any matters set out in Section 61K of the TCPA 1990. The ENP, as proposed to be modified in section 6 below, relates solely to the neighbourhood area and no other neighbourhood and there are no other neighbourhood development plans in place within the neighbourhood area. This satisfies requirements of Section 38B of the PCPA as amended.

### 4.5 Development and use of land

4.5.1 The Neighbourhood Plan should only contain policies relating to development and use of land. Subject to the modifications proposed below in section 6, the ENP policies would be compliant with this requirement of Section 38B of the PCPA as amended and all relate to development and the use of land. Some community projects are set out at Section 9 of the plan to deal with matters the community has raised which cannot be addressed through the formal neighbourhood plan. This section is not examined in this report.

### 4.6 Plan Publication Following Submission

4.6.1 Guildford Borough Council undertook a final validation check of the ENP on submission in March 2017 and was satisfied that the Plan could proceed to be publicised under Regulation 16 and proceed to this independent examination.

## **5. The Basic Conditions**

### 5.1 National policy and advice

5.1.1 The main document that sets out national policy is the *National Planning Policy Framework* (the NPPF) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans and plan positively to support local development, shaping and directing development that is

outside the strategic elements of the Local Plan.

5.1.2 The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Development Plan. They cannot promote less development than that set out in the Development Plan or undermine its strategic policies.

5.1.3 The NPPF indicates that plans should provide a framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.

5.1.4 National advice on planning is set out in the *Planning Practice Guidance* (PPG) which includes specific advice regarding neighbourhood plans.

5.1.5 I consider the extent to which the plan meets this Basic Condition No 1 in section 6 below.

## 5.2 Sustainable development

5.2.1 A qualifying body must demonstrate how a neighbourhood plan contributes to the achievement of sustainable development. The NPPF as a whole constitutes the Government's view of what sustainable development means in practice for planning. The NPPF explains that there are three dimensions to sustainable development:- economic, social and environmental.

5.2.2 There is no legal requirement for a formal Sustainability Appraisal (SA) to be carried out in respect of neighbourhood plans. However good practice suggests that where neighbourhood plans are allocating land for development an appraisal should be carried out.

5.2.3 In this case EPC has only carried out a brief appraisal of its policies against NPPF and GLP sustainability references. This has not been done against a suite of sustainability objectives (reflecting the environmental, social and economic dimensions of sustainability) to test the ENP policies and proposals which would have been the more usual procedure. However the tabulation assessment in the Basic Conditions Statement does indicate that the policies will comply with sustainability principles in the NPPF and GLP but I will consider detailed points regarding the plan's ability to meet Basic Condition No 2 in section 6 below.

## 5.3 Conformity with the Development Plan

5.3.1 The adopted development plan in force for Guildford Borough is the Guildford Local Plan 2003 (GLP).

5.3.2 Guildford Borough Council has begun work to prepare a new Local Plan to replace

the GLP and has recently completed consultation on the Guildford Borough Proposed Submission Local Plan – Strategy and Sites June 2017 (GBLPSS) which it is intended to submit for examination around the end of 2017. Whilst there may be some of the evidence base for this plan which has a bearing on my consideration of the basic conditions it is the GLP that currently sets out the adopted strategic policies and which must be used in assessing the plan against Basic Condition No 3.

5.3.3 For the purposes of the ENP, and other neighbourhood planning in the Borough, GBC prepared a document listing what it considered to be the saved policies of the GLP that were strategic in shaping development and change and this was made available to qualifying bodies preparing neighbourhood plans including EPC.

5.3.4 Guildford Borough Council has confirmed that the Submission version ENP and other submission documents meet the requirements set out in regulation 15(1), and that the consultation statement meets the requirements set out in regulation 15(2). The Council raised no concern over general conformity with the strategic policies of the development plan. I consider in further detail in Section 6 below the matter of general conformity with the strategic policies of the plan.

#### 5.4 European Union (EU) Obligations

5.4.1 A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into UK law, in order to be legally compliant.

##### *Strategic Environment Assessment and Habitat Regulations Assessment*

5.4.2 Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment has a bearing on neighbourhood plans. This Directive is often referred to as the Strategic Environment Assessment (SEA) Directive. Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (often referred to as the Habitats and Wild Birds Directives respectively) aim to protect and improve Europe's most important habitats and species and can have a bearing on neighbourhood plans.

5.4.3 Regulation 15 of the Neighbourhood Planning Regulations as amended in 2015 requires either that a Strategic Environmental Assessment is submitted with a Neighbourhood Plan proposal or a determination from the responsible authority (GBC) that the plan is not likely to have 'significant effects.'

5.4.4 A screening opinion both in respect of the need for Strategic Environmental Assessment (SEA) and Habitat Regulation Assessment (HRA) was prepared by JBA Consulting for GBC in consultation with the statutory bodies. This determined that there would be no likely significant adverse effects and no significant environmental impacts and therefore no need to carry out either assessment.

5.4.6 Regarding Habitats Regulations Assessment the test in the additional Basic Condition is that the making of the neighbourhood development plan is “*not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) either alone or in combination with other plans or projects.*”

5.4.7 No European sites are located within the Neighbourhood Area with the closest being the Thames Basin Heaths Special Protection Area (SPA) at 2.7 kms to the North West at the closest point to the parish boundary and the Mole Gap to Reigate Escarpment Special Area for Conservation (SAC) at 2.7 kms to the east at the closest point. The HRA screening considered the impact of development in the ENP on these areas but concluded that there would be no in combination effects of development in the ENP due to the small scale and nature of development over the plan period. The screening also concluded that all the sites were compliant with the GBC Thames Basin Heaths SPA Avoidance Strategy 2009-16 and that the nature, scale and location of proposals were not likely to impact on sensitive environmental receptors within or around the parish. Furthermore the screening took the view that the ENP contains a number of policies to create and protect new green spaces and recreational assets potentially reducing recreational pressures on SACs and SPAs from new development.

5.4.8 Neither the statutory environmental consultees nor anyone else has taken a different view and I have no reason to reach a different view regarding direct significant effects.

## 5.5 Other EU obligations

### European Convention on Human Rights (ECHR)

5.5.1 The Human Rights Act 1998 encapsulates the Convention and its articles into UK Law.

5.5.2 In respect of Article 1 of the first protocol - the right of everyone to the peaceful enjoyment of possessions; although the ENP includes policies that would restrict development rights, this does not have a greater impact than the general restrictions on development rights provided for in national law. The restriction of development rights inherent in the UK's statutory planning system is demonstrably in the public interest by ensuring that land is used in the most sustainable way, avoiding or mitigating adverse impacts on the environment, community and economy.

5.5.3 In respect of Article 6 of the Convention's Rights and Freedoms - the right to a fair and public hearing in determination of an individual's rights and obligations - the process for preparing the ENP is fully compatible with this Article, allowing for consultation on its proposals at various stages, and incorporating this independent examination process.

5.5.4 In respect of Article 14 of the Conventions Rights and Freedoms - the enjoyment of rights and freedoms without discrimination on any ground, the policies and proposals of the ENP have been developed in consultation with the community and wider stakeholders to produce as inclusive a document as possible.

5.5.5 An Equalities and Human Rights Impact Screening Assessment has been carried out for the ENP by the Effingham Neighbourhood Plan Action Group. This confirms that there would be no detrimental impact on any of the categories set out in Section 75 of the Human Rights Act and that no concerns or objections on the grounds of human rights or equalities have been raised during the consultation stages of the plan. I am satisfied therefore that, across the plan as a whole, no sectors of the community are likely to be discriminated against. The policies together would generally have public benefits and encourage the social sustainability of the neighbourhood.

5.5.6 I am satisfied therefore that the Plan does not breach, and is otherwise compatible with, the ECHR.

5.5.7 I am not aware of any other European Directives which apply to this particular Neighbourhood Plan and no representations at pre or post-submission stage have drawn any others to my attention. Taking all of the above into account, I am satisfied that the ENP is compatible with EU obligations and therefore with Basic Conditions Nos 4 and 5.

## **6. The Neighbourhood Plan – Assessment**

The Neighbourhood Plan is considered against the Basic Conditions in this section of the Report following the structure and headings in the Plan. Given the findings in section 5 above that the plan as a whole is compliant with Basic Conditions Nos 4 (EU obligations) and 5 (Other prescribed conditions), this section largely focusses on Basic Conditions No 1 (Having regard to National Policy), No 2 (Contributing to the achievement of Sustainable Development) and No 3 (General conformity with strategic policies of the Development Plan).

Where modifications are recommended, they are presented and clearly marked as such and highlighted in bold print, with any proposed new wording in italics.

### 6.0 The General Form of the Plan

6.0.1 The structure of the ENP is generally logical and clear with early sections setting the context, strategic policy, vision and objectives and then policy sections. Each policy is accompanied by supporting text and the plan distinguishes between the policies themselves, and their justification. The plan makes it clear that the Community Actions included at section 9 helping to implement the plan are not part of the formal neighbourhood plan.

6.0.2 The plan commences with an 'Overview' section which usefully serves the purpose of setting out the sustainability intentions of the ENP at the start.

6.0.3 The Planning Practice Guidance (PPG) requires the plan to provide a clear and unambiguous guide to developers and in that respect I have three concerns with the general structure and content of the plan that raise issues in respect of Basic Condition

No 1.

6.0.4 First, there is a need for more of the policies to be defined spatially on the Policies Map than is currently the case in section 8. For example in order for developers to understand where the policies will operate without having to consult other policy documents it is necessary for the settlement area and conservation area as defined in the GLP to be identified because they are directly referred to in ENP policies. Also policy ENP-H4 relating to the Home Farm Estate western area is clearly spatially specific and developers need to be clear about the extent of this area. I accept that the ENP provides a plan of the area at fig 5A. Nevertheless it would be much clearer if the area was shown in the context of all policy proposals of the plan and not in isolation. This will require an extension westwards of the map currently shown in section 8. Other policies similarly have a spatial component and rather than be shown on separate maps they should be shown as part of the policies map. These will be referred to in the relevant policy sections below. Moreover the Policies Map at section 8 currently shows part of the plan area boundary without referencing this is on the plan's key. Modifications are necessary to resolve these issues.

**Recommendation 1 – Amend the Policies Map for the Plan in section 8 identifying the plan area boundary in the key and extending the area of the plan to include the full Effingham settlement area as defined in the GLP, the conservation area and other policies where there is a spatial component including policy ENP-H4 as set out in the rest of section 6 below.**

6.0.5 Secondly, another general point that occurs in a number of policies is that they state that development will be supported if it achieves one specific objective, for example ENP-ENV5 seeking to provide cleaner air and minimise pollution. Whilst it is generally recognised that plan policies are considered in the round these absolute statements of support are unclear. The plan needs to contain a general statement in its preamble sections that development will be assessed against policies as a whole to avoid policy statements which are misleading.

**Recommendation 2 - Insert the following text at the start of section 6 setting out the policies for the plan to clarify the intention:**

***“6a General Policies***

***The policies of the Effingham Neighbourhood plan set out in this section will be applied together when considering proposals for development and use of land in the parish although it is accepted that the geographic location of a proposal may mean that not all policies will be relevant.”***

6.0.6 Thirdly, although section 9 - Effingham Actions and Aspirations' begins by stating that it is not part of the Neighbourhood Development Plan, the fact that it is a numbered part of the plan is confusing and unclear.

**Recommendation 3 - Remove title references to Sections 9, 10 and 11 and retitle**

**them as Appendices to the plan and amend the contents page accordingly.**

### 6.1 Introduction

6.1.1 This section of the ENP is largely factual describing the plan's geographic application, preparation and scope, in particular the way in which it seeks to deliver sustainability. The section sets out how the ENP will deliver the 3 dimensions of sustainability set out in the NPPF and to that end the section is compliant with Basic Conditions Nos 1 and 2.

I have no comments to make on this section.

### 6.2 A Profile of the Neighbourhood Plan Area

6.2.1 This section again is largely factual setting out the context for the parish and the village.

I have no comments to make on this section.

### 6.3 Planning Policy

6.3.1 The third section of the plan sets out the planning context, planning issues and constraints in particular Green Belt, heritage assets, nature conservation and landscape character.

6.3.2 The section starts by correctly identifying that the GLP 2003 sets the strategic context for the ENP. However it does not set out the main policies of the GLP that provide the strategic context for the neighbourhood plan instead choosing to set out some of the strategic policies of the emerging GBLPSS (Proposed Submission Draft 2016).

6.3.3 The problem in doing this before a local plan is adopted is that the policies are highly likely to change and result in the plan being highly misleading. For example the most recent version of the Guildford Borough Proposed Submission Local Plan Strategy and Sites 2017 now has no table of housing provision attached to policy S2. Policy H1 no longer deals with density. Policy D4 no longer relates merely to urban areas and inset villages it now refers to all development. This means that the policy references in the plan are wrong and misleading. Also it is not clear why other policies which might be seen to be relevant to the ENP, for example policy P1 on the AONB, policy E5 on the rural economy and policy D3 on the historic environment, have not been mentioned. Even if these policy references were to be modified now it is highly likely that the policies and even numbering will change again as the GBLPSS goes through its examination stage. To include the policy references in the ENP will therefore lead to confusion and lack of clarity; nor is the GBLPSS the local plan that the ENP needs to be in general conformity with.

6.3.4 It is understood that EPC wishes to ensure that the ENP is capable of being compliant with the GBLPSS as the new Local Plan emerges however it is the saved strategic policies of the GLP that should be referred to if any.

## **Recommendation 4**

**4A** – Revise paragraph 3 of section 3 to read:

***“The saved policies of the Guildford Local Plan 2003 sets the current strategic planning context for Effingham’s Neighbourhood Plan. The policies most relevant to Effingham include:”***

Then set out the most relevant policies with a brief descriptor as per the Borough Council’s list of strategic policies provided for Neighbourhood Planning purposes.

**4B** – Revise paragraph 4 to read :

***“However Guildford Borough Council is working on a replacement Local Plan. The Guildford Borough Proposed Submission Local Plan - Strategy and Sites 2017 was published for regulation 19 consultation in Summer 2017 and is expected to be submitted for examination later in 2017. It is therefore at an advanced stage and this Neighbourhood Plan has taken into account the evidence base used in the preparation of the new Local Plan to ensure as far as possible that the ENP will reflect the new Local Plan once it is adopted. The principal strategic difference in the new Local Plan is that the main part of Effingham village is proposed to be inset from the Green Belt with the rest of the Neighbourhood Area (apart from a small area within the East Horsley inset boundary) remaining in the Green Belt.***

**4C** - Delete all policy references in paragraphs 5-12 on Page 17.

## 6.4 Community Engagement

6.4.1 Section 4 gives a summary of community engagement carried out and serves to reassure the user of the plan that the ENP has been prepared in full consultation with the local community.

I have no comments to make on this section.

## 6.5 Vision and Objectives

6.5.1 Section 5 of the ENP sets out the vision of the plan, and the objectives to deliver the vision and provides the basis for the policies.

6.5.2 The vision and objectives do appear to draw on the issues and matters of concern within the community that have emerged through the consultation stages of the plan and set out the wish to meet the local needs of the community without losing the rural character of the parish and the qualities of the natural and built environment.

6.5.3 These issues facing the neighbourhood plan are only set out in section 3 at a very strategic level. Whilst there could have been a more useful summary of these issues reinforcing the basis of the plan I am satisfied that there is a sufficiently clear thread linking the strategic issues at 3b to the vision and objectives and to the policies of the plan.

6.5.4 The plan therefore has regard to the PPG advice in respect of neighbourhood plans that they *“provide the opportunity for communities to set out a positive vision for how they*

want their community to develop... in ways that meet identified local need and make sense for local people”.

6.5.5 The vision and objectives also encapsulate and reflect the aims set out in section 3 of the GLP 2003 and are set out in a way in which it is clear that they are likely to contribute to the achievement of sustainable development.

6.5.6 Accordingly, the Vision and Objectives meet Basic Conditions Nos 1, 2 and 3.

## **Policies of the Neighbourhood Development Plan**

### 6.6 - A Spatial Plan for Effingham

6.6.1 The first policy of the plan ENP-G1 sets out the general approach to development in the plan area. The supporting statement sets out the Green Belt context and claims that the policy reflects both the GLP and national planning policy. However the policy itself makes no reference to the Green Belt and therefore it does not have regard to the NPPF and does not meet the basic condition. Both in respect of the first and second paragraphs ie within and outside the settlement area there needs to be recognition that the principal constraint remains the Green Belt and at present only landscape character is referred to.

6.6.2 In addition, the NPPF and PPG require policies to be clear and unambiguous. At present the first paragraph is not expressed in that way The words “*the neighbourhood plan steers development to*” is not an accurate and definitive statement reading more as a statement of intent. For the purposes of clarity and precision I recommend policy ENP-G1 is modified as follows:

#### **Recommendation 5**

**Reword paragraphs 1 and 2 of policy ENP-G1 as follows:**

**Para 1- “ *Subject to the constraints of national Green Belt policy, housing, economic and community related development within the plan area will take place within the formal settlement area.....*”**

**Para 2 Line 2- “ *....will be required to demonstrate that they are not inappropriate within the Green Belt and how they conserve the rural landscape.....*”**

### 6.7 - Landscape Heritage Character and Design

6.7.1 Policy ENP-G2 sets out the design principles to sustain the open character of the village, protect scenic landscapes and preserve the heritage. Policy ENP-G2 has regard to the high level of importance which the NPPF places on high quality design, particularly the importance of development reflecting and enhancing local character and local distinctiveness.

6.7.2 In addition the policy is in general conformity with policy G5 setting out a Design Code in the GLP and adds local detail to the higher order principles set out in that policy.

The *principle* of the policy therefore meets Basic conditions Nos 1 and 3. However whilst the GBLPSS is referred to and policy criteria quoted the adopted GLP is not. As stated above the wording of policy D4 of the GBLPSS may change in the plan's final stages and therefore rather than refer to emerging policy the plan should confirm its conformity with the GLP.

6.7.3 Again the NPPF indicates that plans should provide a practical basis within which decisions on planning applications can be made with a high degree of predictability and efficiency and the PPG that policies in a neighbourhood plan should be clear and unambiguous. They should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. Against these tests the central section of Policy 2 has a number of shortcomings.

6.7.3 First, as set out above, in order for users of the plan to understand how development will be assessed it is necessary to be clear where the Conservation Area is relative to other policies and for this reason it should be defined on the Policies Map at section 8.

6.7.4 Secondly, it is not clear from the policy in clause 2 exactly what is meant by "*village settlement hierarchy*" in line 1 nor the reference to "*(and proposed)*" in line 3. Schedule B includes both the Guildford Local List and the proposed Effingham Local List and therefore the policy only needs to refer to Schedule B.

6.7.5 Thirdly, clause 2 appears to set out in its last sentence a stiffer test than that in the NPPF by stating development must not harm the significance of the assets. This is not the test set out in the NPPF. Moreover the purpose of the sentence is confusing and unclear given policy ENP-G3 following which is much more accurate in the way it presents the tests.

6.7.6 In addition there are a number of editorial errors with respect to the Schedule of Views at Schedule A which need to be corrected. The schedule should avoid the use of superlatives such as "wonderful" (N1); "magnificent" (W1) – these are highly subjective and therefore inappropriate in the neighbourhood plan. All these matters need to be addressed to ensure Basic Condition No 1 is met and I recommend the policy is modified as follows:

### **Recommendation 6**

**6A Define the Conservation Area Boundary on the Policies Map at section 8**

**6B Reword Part 2 line 1 to read:**

**"Reflect the layout and character of the *historic settlement form* (which is based...as the focal point) and *that of* the nationally and ....."**

**6C Part 2 Line 3 – Delete "(and proposed)"**

**6D Part 2 Line 5 and 6 – Delete.**

## 6.8 Archaeology and the Historic Environment

6.8.1 Although policy ENP-G3 does deal with archaeology it is first and foremost a policy about the historic environment as a whole. The way it is set out does have regard to the NPPF and it is also in general conformity with GLP policies HE1 and HE7 setting out how new development affecting listed buildings and conservation area will be assessed.

6.8.2 The policy will also promote a sustainable approach to development in protecting the historic environment and in that respect Basic Conditions Nos 1, 2 and 3 are met and I have no comments to make on the policy.

## 6.9 Flooding

6.9.1 Policy ENP-G4 seeks to minimize potential flooding and in particular groundwater and surface water flooding which are a risk within the plan area. The terms of the policy in principle have regard to section 10 of the NPPF and to policy G1 of the GLP which sets out the General Standards of Development and its supporting text at 4.16 with respect to ground and surface water flooding which seeks sustainable approaches to surface water drainage.

6.9.2 However again, in terms of certainty and precision in planning required by the NPPF and PPG the policy as currently worded is inappropriate in that it states development will be supported if it applies the sequential test in respect of flooding. The policy would be much clearer if this is stated as a requirement rather than the basis of support. Accordingly to comply with basic condition No 1 I recommend the following modification:

### **Recommendation 7**

**Reword Lines 1 and 2 of policy ENP-G4 to read :**

***“Proposals for development should avoid areas at highest risk of flooding in favour of lower risk areas.”***

## 6.10 Assessing Suitability of Sites for Residential Development

6.10.1 Policy ENP-G5 of the plan is intended to provide the basis on which to assess proposals principally for windfall development in the plan area. The policy in including circumstances where the site is inset from the Green Belt reflects the direction of travel in the emerging GBLPSS. Whilst the policy intention to inset Effingham from the Green Belt clearly is not yet adopted, I am not concerned about the reference in the policy, in terms of the Basic Conditions, as this criteria could not be applied until such time as the new Local Plan is adopted. It makes sense that the policy does reflect the direction of travel particularly as there is no relevant strategic policy in the GLP.

6.10.2 Whilst the principle of the policy is appropriate I have two concerns again regarding its ability to provide clear and unambiguous advice. First, in view of the confusion that has occurred in the preparation of this plan as to what is meant by 'limited infilling' the plan should take the opportunity to define what is meant. Secondly, as previously developed land is included as one of the circumstances in which windfall development might arise it is appropriate that the criteria in the second part of the policy should also refer to there being no harm to the openness of the Green Belt which is a requirement in the NPPF in respect of development on previously developed sites. Thirdly, it is far from clear in the last criterion of the policy what is meant by the "architectural hierarchy of buildings" within the conservation area. These 3 points if not modified mean that the policy would not be clear, would not have sufficient regard to national policy and would fail to meet Basic Condition No 1.

6.10.3 Harry Clarke in his Reg 16 representation raises concerns about ENP-G5 stating that what is meant by 'within the village as it appears as a matter of fact on the ground' is not clear and open to inconsistent interpretation. This clause is justifiably included because for the time being, until Effingham is inset from the Green Belt, there would conceivably be sites that are not within the settlement boundary from the GLP 2003 but which are demonstrably within the overall structure of the village. Whilst I acknowledge that inclusion of this test requires the decision maker to reach a view on whether a site is within the village I do not think this is an unreasonable requirement of a development management professional and the alternative put forward by Harry Clarke would be impossible at this stage because it would require defining a completely new settlement boundary. This in turn would be such a significant modification that the ENP could not proceed without carrying out further consultation with the community. In any event, the modifications I am proposing below go some way to avoiding the abuse of this policy which Harry Clarke fears in particular by defining 'limited infilling'. Also the policy requires that, even if a site is identified through the tests in the first part of the policy, all the criteria in the second part of the policy must be passed. These are a robust set of tests and I am therefore confident the policy would not result in inappropriate sites 'slipping through the net'.

6.10.4 Finally with regard to the supporting text to this policy it is not appropriate to refer to another neighbourhood plan unrelated to the neighbourhood area as justifying a specific approach. Any approach adopted for Effingham has to be appropriate to that area. Thus the reference in the final paragraph of this section to the Chaddesley Corbett Neighbourhood Plan should be deleted.

### **Recommendation 8**

**8A** Add a footnote to policy ENP-G5 that defines "limited infilling" as follows:

***" For the purposes of this policy limited infilling means development of a small gap in an otherwise built up frontage of appropriate scale and design; or small scale development and redevelopment within an otherwise developed area appropriate to the scale of the locality."***

**8B** Add to the second bullet in the second part of the policy :

**“Cause harm to the purposes of including land within the Green Belt *or to its openness*”**

**8C** Reword the last bullet of the second part of the policy as follows:

**“...or cause material harm to *the character or appearance* of buildings within the Effingham Conservation area”**

**8D** – Reword the final paragraph of the supporting text to ENP-G5 to read:

**“ *The principle of this policy is consistent with the National Planning Practice Guidance in that.....*”**

## 6.11 New Homes in Effingham

6.11.1 Policy ENP-H1 makes provision for a minimum of 52 new dwellings in the plan period to 2030 and the supporting text sets out how this will be achieved.

6.11.2 Harry Clarke in his Reg 16 representations expresses concern that there is not a need for this level of housing provision and that the figure is purely arbitrary. If it is not met on allocated sites, for example if the density proposed is not achieved, it will be a basis for developers to propose alternative, possibly inappropriate, sites to meet the figure. In part I accept this point, particularly as my recommended modifications to the site allocation policies now mean that, at least for the time being until Effingham is inset from the Green Belt, the capacity from these sites is only likely to be around 20 and not 47 as planned. However if this revised figure from site allocations is added to the existing commitments (16) it only means approximately 16 dwellings to be achieved on small infill windfall sites which, based on the evidence of previous development, is not unreasonable over the plan period. I am not concerned that these windfall sites would be inappropriate. They would, after all, still have to comply with the terms of policy ENP-G5 as revised and I am confident that this affords sufficient control to ensure windfall sites are appropriate.

6.11.3 Whilst as a Green Belt settlement currently there is no expectation in terms of a housing requirement, Effingham is a sustainable settlement in terms of its location and availability of services and, particularly once it is inset from the Green Belt, it is reasonable to expect that it should accommodate some new housing. It is appropriate therefore for the Neighbourhood Plan to seek to control and influence the level of housing and where it is provided through a policy.

6.11.4 Based on the evidence from the Housing Requirements Survey a figure of around 50 new dwellings envisaged in the plan (an average of 4 a year) is not inappropriate and is likely to be able to be achieved sustainably. Given the NPPF advice that plans should provide a framework within which decisions on planning applications can be made with a high degree of predictability and efficiency it is appropriate that policy ENP-H1 is retained but that modifications are made to clarify the amount and how the provision will be made.

**Recommendation 9 -Reword policy ENP-H1 to read:**

***“During the plan period (January 2016 – December 2030) the provision of around 50 new homes will be made to help meet local housing need within the neighbourhood area. The provision will be made through the implementation of existing housing commitments, site allocations in this neighbourhood plan and through small windfall sites acceptable under the terms of policy ENP-G5.”***

6.11.5 Subject to this and consequential modifications being made to the supporting text arising from the modifications recommended to the site allocation policies at section 6.31 this policy has regard to national policy and the policies of the GLP in particular policies RE2 and 3 on Green Belt and identified settlements within the Green Belt. It also promotes a sustainable level of housing development.

Accordingly, the policy meets Basic Conditions Nos 1, 2 and 3.

## 6.12 Mix of Housing

6.12.1 Policy ENP-H2 seeks to secure a mix of housing within the parish where the housing stock is currently dominated by larger dwellings. The policy draws on evidence from the Housing Requirements Survey carried out as part of the preparation of the plan which included an assessment of the size of houses sought by those in housing need and from consultation throughout the preparation of the ENP. It seeks to respond to concerns that housing in the community is dominated by larger detached dwellings and that a mix with considerably more small units is required to support a sustainable community.

6.12.1 The NPPF at paragraph 50 encourages planning for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community and goes on to say that the size, type, tenure and range of housing that is required in particular locations reflecting local demand should be identified. To that end the principle of the policy is not inappropriate.

6.12.3 However the thrust of the NPPF is towards a choice of quality housing and a flexible approach. Policy ENP-H2, although still fundamentally seeking a housing mix, sets a very high requirement particularly on larger sites for one and two bed houses. One bed housing is particularly restrictive on the occupants and although the supporting text hints that financial viability may be taken into account in assessing the housing mix there is no such flexibility in the policy and it is overly prescriptive and restrictive. In some cases there will also be a need for flexibility where the development is to meet a particular type of housing need. The flexibility to allow this is not included either. I am not satisfied that the policy as it is currently worded is sufficiently flexible. However with a modification to allow recognition that either in respect of viability or specific need there can be an exception to the policy it would be sufficiently flexible to meet the national policy objectives.

6.12.4 There is a further concern with this policy and Basic Condition No 1 and that is the last clause that seeks to design small properties in such a way that they will not be

extended. This clause of the policy is both unenforceable given Permitted Development rights and arguably not in the spirit of the NPPF core principles which include amongst other things that planning should find ways to enhance and improve the places in which people live their lives. Again some flexibility needs to be introduced to this clause.

6.12.5 Finally, there is a typographical error in the supporting text of this section in the 6<sup>th</sup> paragraph after the table on Page 45. The policy quoted in line 1 is ENP-G2 and whilst this does give guidance about design it is not specifically about a design approach to restrict the opportunity for extensions which instead is in the last clause of policy ENP-H2.

### **Recommendation 10**

**10A** – Add a paragraph before the final paragraph of the policy to read:

*“An exception to these requirements will only be permitted where the intention is to meet a specific housing need which requires a particular size or type of housing or, for reasons of financial viability, an alternative mix is required. Such exceptions must be supported by clear and recent evidence.”*

**10B** – Reword the last paragraph of the policy to read:

*“ New residential development should be designed to limit the opportunity for the future extension of small homes to ensure .....”*

**10C** – Correct the policy reference in paragraph 6 after the table on page 45 to read:

*“Policy ENP-H2” .*

6.12.6 There is no longer a GLP policy seeking a mix of housing but policy ENP-H2 as revised is in keeping with the policy objectives of the housing section of the plan. Given that the outcome of the policy is to provide smaller housing for younger people and older people within the community it is likely to contribute to achieving a more sustainable community. As proposed to be modified therefore Basic Condition Nos 1, 2 and 3 are met.

### 6.13 Specialist Housing

6.13.1 The intention of the plan in policy ENP-H3 to provide housing for older people and the disabled has regard to paragraph 50 of the NPPF which requires authorities to plan for a mix of housing catering for the needs of different groups in the community including older people and the disabled. It also is in general conformity with the intentions of Policy H10 of the GLP. Inasmuch as the policy will also contribute to social sustainability objectives without impacting on environmental objectives it is likely to help achieve sustainable development.

The policy therefore meets Basic Conditions 1, 2 and 3 and I have no comments to make.

### 6.14 Home Farm Estate Western Area.

6.14.1 Policy ENP-H4 seeks to formalise the status of mainly residential development

within the Home Farm Estate much of it of an insubstantial or temporary nature which has occurred over a number of years and to allow the construction of replacement dwellings.

6.14.2 Although this area is within the Green Belt the replacement of buildings in the Green Belt is not inappropriate and the policy in making reference to the requirements of national Green Belt policy has regard to national policy. ENP-G4 is intended to replace a similar policy in the GLP – policy H15 and therefore is in general conformity with the plan. The Home Farm Estate is reasonably close to the facilities and services of Effingham and therefore supporting its ongoing permanent use as a residential location is not necessarily inappropriate in terms of sustainability objectives.

6.14.3 The policy therefore meets Basic Conditions Nos 1, 2 and 3 other than in respect of the point made at Recommendation 1 that rather than set the area out in the freestanding Plan 5A the boundary of the policy area should be set out in the Policies Map at Section 8 **(See Recommendation 1)**

## 6.15 Local Green Spaces

6.15.1 Policy ENP-ENV1 seeks to take up the power established in the NPPF at paragraphs 76 and 77 to establish and protect Local Green Spaces (LGS). The NPPF sets out clear criteria for such spaces and both in summary on Pages 54-56 and in the Appendix the ENP seeks to explain the rationale for the sites that have been identified.

6.15.2 For the most part in terms of the criteria set out in paragraph 77 of the NPPF the sites selected to be designated for LGS are justified. However I have concerns about two sites in respect of one of the criteria.

6.15.3 The proposed LGS for Effingham Common and Banks Common are extensive areas at some distance from the village. The NPPF states that LGS is not an appropriate designation for extensive tracts of land or land that is not reasonably close to the community it serves. Effingham Common is the largest proposed site at c 34 hectares. It is at least 1.5 miles from the main part of Effingham ie outside easy walking distance. Banks Common although smaller at 17 hectares is even further from the village at about 2 miles from the nearest part of the village.

6.15.4 It has been put to me by the Parish that the areas are single entities, and self contained and not tracts of open countryside. Nevertheless I am not persuaded that they warrant designation as LGS. Whilst I accept they are of some importance to the local community for the reasons set out in the Annex to the plan it is far from clear what additional protection their designation would bring. They are already protected as Green Belt and LGS would only replicate that degree of protection. Whilst the Parish make the point that changes to the Green Belt are proposed as part of the emerging GBLPSS this is not proposed to affect the general extent of the Green Belt in respect of the two commons. Moreover in respect of both these sites Effingham and Banks Commons – they are already

registered common land with its own degree of protection. I am concerned that designating these areas as LGS, when they already have a high level of protection and where they do not entirely meet the criteria, is contrary to the 1<sup>st</sup> basic condition to have regard to national policy. I accept that Great Ridings Wood is also a large area at 23.5 hectares and actually more extensive than Banks Common but crucially it is much closer to Effingham and therefore more accessible as a green space local to the community it serves.

6.15.5 In conclusion therefore the need for the community to protect the 2 commons from development by designating them as Local Green Space is not justified.

The case for designation as Local Green Space in the context of the NPPF and PPG and therefore Basic Condition No 1 has not been sufficiently made and the proposed designation should be removed.

### **Recommendation 11 –**

**11A - Remove Effingham Common and Banks Common from the list of Local Green Spaces that the ENP designates in policy ENP-ENV1 and from the mapping at Fig 6.**

**11B Amend the analysis on Pages 53, 54 and 56 of the plan to remove references to to Effingham and Banks Commons**

**11C Amend the appendix to the plan in respect of Effingham and Banks Commons to indicate that whilst these areas were considered they were not designated as it was not felt that their designation would meet the criteria for LGS set out in the NPPF.**

6.15.6 With these modifications the policy will meet Basic Condition No 1, would be generally in conformity with the development plan at section 13 which seeks to protect open space and helps to achieve sustainable development.

## 6.16 Wildlife Corridors and Stepping Stones

6.16.1 Policy ENP-ENV2 seeks to define and protect a series of wildlife corridors and stepping stones through the plan area which link key wildlife sites and allow wildlife to move across the plan area.

6.16.2 The plan and policy in identifying components of the local ecological network and planning positively for the creation, protection, enhancement and management of networks of biodiversity has regard to national policy in paragraphs 114 and 117 of the NPPF.

6.16.3 The policy does seek to closely control development in these areas but it does not preclude development and rather sets out what development needs to do in these areas. The corridors and stepping stones including the justification for the corridor width of 100 metres is appropriately evidenced.

6.16.4 The policy sets out where it will apply by describing the corridors and stepping stones but not all of these are within the neighbourhood area and only some of these are shown on the Policies Map or at a larger scale in Figures 8, 9 and 9A; the rest being shown at a small scale in Figure 7.

6.16.5 As with other policies of this plan the requirement of the PPG that policies in a neighbourhood plan should be clear and unambiguous and be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications is not entirely met by Policy ENP-ENV2 . The corridors and stepping stones within the neighbourhood area should, for clarity, be set out on the Policies Map at section 8 along with the other policies with a spatial component. Extending the area of the Policies Map as recommended in Recommendation 1 to include the Home Farm Estate area will enable more of the corridors and stepping stones to be shown but this is in effect an inset area and does not show the whole Neighbourhood Area. A Policies Map at A3 of the whole plan area could show the rest of the wildlife corridors and stepping stones at a sufficient scale to lend certainty and clarity to the policy. In addition for the avoidance of doubt and to clarify that the policy only applies to corridors and stepping stones in the Neighbourhood Area additional text is required in the policy. Finally, the first paragraph of the policy is descriptive of the intent and reads more as part of the justification and could be moved to the start of the supporting text following the policy.

6.16.6 In addition Natural England at the Reg 16 stage expressed concern that the policy should clarify how net gain in biodiversity referred to in the policy will be calculated. It also proposed that further detail be set out regarding designing boundary treatments to avoid becoming barriers to wildlife. In respect of the first point it is accepted that Defra's Biodiversity Offsetting Metric and the Environment Bank Biodiversity Impact Calculator could be referred to in the supporting text to the policy. In respect of the second point the policy already requires developers to set out how they will mitigate harm for example from impermeable boundary treatments only one example of which would be to design permeable barriers. It is not considered appropriate to give only one example of mitigation in the policy.

### **Recommendation 12**

**12A – Move the first paragraph of policy ENP-ENV2 to the supporting text following the policy and start the revised policy at the second paragraph reworded as follows:**  
“New development proposals should recognise the identified woodland wildlife corridors and stepping stones as shown on *the Policies Maps in section 8.*” .

**12B - Reword current paragraph 3 of the policy to read:**

“Proposals for new development within a wildlife corridor or stepping stone site *within the neighbourhood area* will be resisted.....”

**12C - Reword current paragraph 4 to read:**

“New developments bordering a wildlife corridor or stepping stone site *within the neighbourhood area* must demonstrate.....”

**12D - For the avoidance of doubt and ambiguity in the ENP retain only Figure 7 and delete Figures 8, 9 and 9A. (With the proposal at 10A showing the detail of the wildlife corridors and stepping stone sites Figure 7 is sufficient to show the wider context of nature conservation sites).**

**12E – Include reference in the supporting text to how net gain in biodiversity will be calculated referring to the two tools referenced by Natural England.**

6.16.6 With this modification in place the policy would meet Basic Condition No 1. The intent of the policy is in general conformity with the aims of GLP section 12 on the natural environment although there are no policies directly relating to wildlife corridors or stepping stones. The effect of the policy in protecting and enhancing biodiversity will help to achieve sustainability objectives and to that extent the policy also meets Basic Conditions Nos 2 and 3.

## 6.17 Shared Green Spaces

6.17.1 Policy ENP-ENV3 supports the provision and retention of shared green spaces through development. Although the opportunities to achieve this through development in the plan area are likely to be limited the policy has regard to paragraphs 70 and 73 of the NPPF and policy R3 of the GLP. Inasmuch as the provision of green space in communities is an important part of sustainable living I am satisfied that the policy will also contribute to sustainability. Accordingly the policy meets Basic Conditions Nos 1, 2 and 3 and I have no comments to make.

## 6.18 Dark Skies

6.18.1 Policy ENP-ENV4 seeks to preserve 'dark skies' from the impact of lighting associated with development. I have no concern about the principle of the policy which has regard to the NPPF policy statements in respect of light pollution at paragraph 125. Moreover the policy is in accordance with policy G1(8) of the GLP which looks to avoid light pollution.

6.18.2 However the PPG requires evidence to support the choices made in Neighbourhood plans and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the ENP. The policy implies that Effingham is identified as a 'Dark Skies Area' but the preamble to the policy does not provide any evidence in this respect. Without this there is a tension between the plan and Basic Condition No 1 and I recommend to avoid this that the origin and extent of the Dark Skies Area for Effingham is made clear in the justifying text following policy ENP-ENV4.

**Recommendation 13 - Add to the supporting text to policy ENP-ENV4 to clarify the origins and extent of the 'Dark Skies Area' in Effingham referred to in lines 1 / 2 of the policy.**

6.18.3 With these modifications in place the policy would meet Basic Conditions Nos 1, 2 and 3.

## 6.19 Air Quality

6.19.1 Policy ENP-ENV5 of the plan looks to facilitate the provision of cleaner air and to avoid impacts of development on air quality. I have no concern that the principle of the policy has regard to national policy in the NPPF and PPG and the general requirements of policy G1 of the GLP. However, as stated above at section 6.0 on the General Form of the Plan, I am concerned that the intent behind the aspirational policies that state ‘the plan will support development proposals that....’ is unclear. It therefore is in conflict with the advice in the PPG about policies being clear and unambiguous. There is no reason why the policy could not use alternative wording removing the support and I recommend it is modified as follows:

**Recommendation 14 – Revise the first 2 lines of policy ENP-ENV5 to read:**

***“Development proposals should contribute to the provision of cleaner air and reduce pollution by: .....*”**

6.19.2 With this modification in place the policy will meet Basic Conditions Nos 1, 2 and 3.

## 6.20 Sites of Community Importance

6.20.1 The plan through policy ENP-C1 seeks to identify and protect sites of community importance. The policy has regard to paragraph 70 of the NPPF which seeks positive planning for the provision and use of community facilities and to guard against their unnecessary loss. It is also in general conformity with GLP Policies CF1 and CF2 covering similar ground. The intention to secure and retain these facilities in a rural community like Effingham will also contribute to the overall sustainability of the settlement. To that extent the principle of the policy meets Basic Conditions Nos 1, 2 and 3.

6.20.1 However again the PPG requires evidence to support the choices made in the ENP and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the ENP. The justifying text to this policy is exceedingly short and the evidence that is referred to does not bear out the importance of the assets to the local community. The principal evidence document referred to is the Housing Requirements Survey and whilst there are questions within that relating to the use made of community facilities, for the most part the results do not demonstrate high levels of use and therefore importance to the community. I do not dispute that maintaining a range of community facilities in the village is important for the purposes of maintaining a sustainable community but there needs to be a stronger justification in support of this policy. Without this there is a tension between the plan and Basic Condition No 1.

I recommend to avoid this that the plan is modified as follows:

**Recommendation 15**– Add to the supporting text to policy ENP-C1 setting out :

- **Why it is important in the context of retaining a sustainable community in Effingham to protect community facilities.**
- **How the NPPF and development plan support the policy**
- **Why those facilities that are included in the policy are considered to be important**
- **Confirm that the policy includes a caveat allowing development when the facility is no longer needed or no longer financially viable or that the community facility will continue to be provided on an alternative site.**

## 6.21 King George V Hall and Playing Fields

6.21.1 The plan at policy ENP-ENV C2 has regard to the provisions of section 8 of the NPPF and the recreation policies of the GLP. The only comment I have in respect of this policy again relates to the PPG's requirement for neighbourhood plans to be clear and unambiguous and in this respect as a policy that relates to a specific spatial area the policy reference and boundary should be shown on the Policies Map at Section 8 :

**Recommendation 16** – Add the policy reference and boundary to the Policies Map at Section 8 of the Plan

## 6.22 Local Health Services

6.22.1 The plan at policy ENP-ENV C3 seeks to encourage the development of local health services and has regard to the provisions of section 8 of the NPPF and the community facilities policies of the GLP. It will contribute to the delivery of sustainable development in reducing the need for residents to travel for health care. As such the policy meets Basic Conditions Nos 1, 2 and 3.

6.22.2 Mole Valley District Council at Regulation 16 stage requested confirmation that the Guildford and Woking and Surrey Downs Clinical Commissioning Groups were consulted regarding the aspirations of the ENP in respect of local health services. I can confirm that the Groups have been directly consulted but made no comment in response.

## 6.23 Community Burial Facilities

6.23.1 Policy ENP-C4 supports proposals to provide additional burial ground space in particular as part of site SA1. The supporting text to this policy and indeed a Regulation 16 objector states that such a proposal would be contrary to Green Belt policy and therefore may have to await the proposed inseting of the village from the Green Belt in the emerging GBLPSS.

6.23.2 Whilst national policy on Green Belts in the NPPF states that “*provision of appropriate facilities....for cemeteries as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it ...*” would not be inappropriate, the Court of Appeal ruled in 2015 that the use of land itself as a cemetery was inappropriate in the Green Belt. (Ref ***R (Timmins and Lynn Family Funeral Service) v Gedling Borough Council and Westerleigh Group Limited [2015 EWCA Civ 110]***).

6.23.3 Consequently until such time as Effingham is inset from the Green Belt the proposal would be inappropriate in the Green Belt. I acknowledge that the policy ends by saying “*if consistent with the Guildford Local Plan*” but as the inseting of the village is not yet part of an adopted local plan there is uncertainty as to whether and when it might happen.

6.23.4 However as with all inappropriate uses in the Green Belt if there are other considerations that would clearly outweigh the harm by reason of inappropriateness then the very special circumstances to allow the development may exist. This is the situation with regard to this proposal. St Lawrence Church sits surrounded by its churchyard and graveyard which itself has been extended into the adjacent plot and which in turn is now nearing capacity. The opportunity exists on adjacent land to the north (part of the SA1 site) to allow a further extension. The proposed use is an open use, no buildings are required and the only structures involved would be headstones to the graves. The use would not therefore have any impact on the openness of the Green belt nor on the purposes of the Green Belt. It would respect the setting of the listed St Lawrence’s Church and the Conservation Area and indeed provide an extended buffer between the church and the proposed development site at SA1. The use would therefore be entirely appropriate to the character and appearance its surroundings. These other considerations do clearly outweigh any harm to the Green Belt by reason of inappropriateness and the proposed extension can be seen to have regard to National Green Belt policy. The proposal would not conflict with either GLP policy or sustainability principles and as such meets Basic conditions Nos 1, 2 and 3.

## 6.24 Broadband and IT services

6.24.1 The ENP through policy ENP-C5 seeks to support the development of telecoms in the parish given the partial reception and poor connectivity that currently exists. The policy has regard to the NPPF at section 5 and policy G10 of the GLP. Inasmuch as policy G10 provides effective control over design, siting and landscaping the absence of this control in policy ENP-C5 is not a concern. The policy is likely to contribute to sustainable living in the Parish. As such the policy meets Basic Conditions Nos 1, 2 and 3.

## 6.25 Schools

6.25.1 Policy ENP-C6 supports development of educational facilities. All the schools are currently in the Green Belt and although one may be within the proposed inset boundary in

the emerging GBLPSS the use of the words 'where applicable' in line 3 is superfluous and will lead to an unclear and imprecise policy as at present Green Belt control is applicable to all the schools. Without modifying the policy therefore it does not have appropriate regard to National Policy and Basic Condition No 1 is not met. Apart from this matter, which can be simply corrected, the policy is in general conformity with GLP policy CF4 and in promoting the provision of education facilities within the village the policy is contributing to the development of a sustainable community. As modified, Basic Conditions Nos 1, 2 & 3 are met.

**Recommendation 17 - Line 3 – delete the words 'where applicable'**

## 6.26 Community Learning and Wellbeing

6.26.1 The plan seeks to promote community learning and wellbeing through policy ENP-C7. The policy is an aspirational one and in as much as the main thrust of the policy is about provision of services and improving access to existing services it is only in part about the development and use of land. However there is enough of a relationship to development to avoid the policy falling foul of the requirements set out in section 4 of this report above.

6.26.2 In any event the policy has regard to section 8 of the NPPF regarding the promotion of 'healthy' communities and to GLP policy CF1. In addition the policy will again contribute towards the development and maintenance of a sustainable community. Accordingly the policy would meet Basic Conditions Nos 1, 2 and 3.

## 6.27 Car Parking

6.27.1 The ENP seeks to secure a level of parking provision in new developments and in particular residential developments sufficient to avoid the use of public roads for on street parking. The policy sets a higher standard than that required by Appendix 1 of the GLP. However the supporting text to the plan makes clear the local circumstances justifying a higher provision, notably the high level of car ownership within the parish and the fact that, as a rural area with poor public transport connections, dependence on the private car for travel is high. The policy has regard to national policy in respect of car parking and I am satisfied that the evidence provided justifies the variance over the GLP parking standards. I have, however, two concerns with the policy and its text both of which result in the policy being imprecise and ambiguous and therefore in conflict with the PPG.

6.27.2 Firstly the supporting text says that the policy states that on-site parking provision for '*non-residential institutions including schools*' should be sufficient to avoid the need for parking on the public highway by visitors or users of those institutions. The policy does not focus on institutions as suggested but rather covers all non-residential and commercial developments. The supporting text should be clarified. However inasmuch as the intention

of paragraph 4 of the policy is covered by paragraph 1 – paragraph 4 is not required and could be deleted.

6.27.3 Secondly, it is not clear from the policy what the intention is of the last clause. This was one of the matters of fact raised at the meeting I held with the Parish and the Council and it was explained that the last clause was intended to refer to publically available parking as suggested by the supporting text. That being the case and to comply with the PPG's requirement that policies are clear and unambiguous a modification is required.

### **Recommendation 18**

**18A - As a minimum reword lines 3-5 of paragraph 4 of the supporting text to policy ENP-R1 on page 74 to read:**

**“This policy states that on-site parking provision for *non – residential and commercial developments* should be sufficient to avoid the need for parking on the public highway by visitors or users of those *developments*”.**

**Inasmuch as paragraph 4 of the policy is covered entirely by paragraph 1 the policy itself would be clearer if paragraph 4 were simply removed.**

**18B – reword the last clause of policy ENP-R1 to read:**

**“Proposals for public parking provision will be supported which : .....”**

### 6.28 Sustainable Movement

6.28.1 Policy ENP-R2 supports proposals that improve sustainable movement around the neighbourhood area. The policy has regard to national policy, to GLP policy M6, which seeks to provide for movement by foot and on cycles, and is likely to contribute to sustainable living within the neighbourhood area. There is however one problem with the policy and that is the reference to improving access to Bookham Station. The station is not within the neighbourhood area and whilst I acknowledge that some walking or cycling routes to the station may originate within the ENP neighbourhood area the plan cannot make or deliver proposals that are not within the neighbourhood area (See section 4 above). Accordingly the policy needs to be modified as follows to comply with the legal requirements for Neighbourhood Plans:

**Recommendation 19 - Reword the 4<sup>th</sup> bullet in policy ENP-R2 to read:**

**“Access to Effingham Junction Station.”**

### 6.29 Safeguarding Village Shops and Retail Facilities

6.29.1 The Plan at policy ENP-LE1 seeks to protect and promote the economic resilience of the Effingham Local Centre (The Street). In this respect the principle of the policy has regard to paragraphs 28 and 70 of the NPPF and also to the GLP policy S9 on local shopping centres.

6.29.2 However there are a number of issues with the policy and the supporting text which again conflict with the requirement of the PPG for clear and unambiguous policies.

6.29.3 First the extent of the ELC should be shown on the Policies Map making it clear where the main part of the policy applies and avoiding the need to refer to other documents (**See also Recommendation 1**). This would avoid the need in paragraph 1 of the policy to refer to the existing and emerging local plans.

6.29.4 Secondly, there is a tension between paragraph 4 of the policy and the supporting text. Paragraph 4 appears to suggest that alternative use of the Vineries Garden Centre could be considered provided there was a retail impact assessment whereas the text at paragraph 4 on page 77 clearly states that the site is not suitable for more general retail use.

6.29.5 Thirdly paragraph 7 of the policy relating to loss of shops outside the Effingham Local Centre is unclear as to the policy intent or where it is intended to apply. Moreover no evidence is provided for the requirement that the shop unit should be marketed for 12 months. I accept that the text supporting GLP policy S10 on neighbourhood shops suggests 12 months but in that case it is not a policy requirement and in any event the policy predates by some years the more flexible approach of the NPPF. The matter of what this part of the policy was intended to achieve was one of the matters of fact raised at the meeting I held with the Parish and the Council and it was explained that the clause was intended to refer to neighbourhood shops within the village of Effingham but outside the local centre. Accordingly this needs to be clarified.

6.29.6 Modifications are necessary to the policy if it is to meet the PPG requirement for clear and unambiguous policies.

### **Recommendation 20**

**20A** – Reword Lines 2-4 of the 1<sup>st</sup> paragraph of Policy ENP-LE1 to read:

**“...support the role of the Effingham Local Centre (*defined on the policies Map at Section 8*) as the focus for .....**”

**20B** – End paragraph 4 of the policy at “assessment” in line 3. Delete the rest of the paragraph.

**20C** – Reword line 2 onwards of paragraph 7 of the policy to read :

**“...*the loss of rural shops and service units within the village but outside the Effingham Local Centre will be resisted where they provide for everyday needs (within use Class A).*”**

Delete the remainder of the paragraph. If evidence can be presented to support a marketing restriction this could be inserted in the supporting text.

**20D** – Correct the grammatical error in the last clause of the policy as follows:

**“Environmental improvements are encouraged *that :...enhance / improve...*”**

## 6.30 Effingham's Rural Economy

6.30.1 The principle of policy ENP-LE2 in encouraging sustainable growth of the rural economy has regard to paragraph 28 of the NPPF however I have several concerns with the policy and supporting text in terms of Basic condition No 1.

6.30.2 First the PPG requires policies to be clear and unambiguous and yet ENP-LE2 is not clear in where it is intended to apply. The first bullet point is unclear whether this is intended to be in the village or the parish as a whole. In terms of its content I assume it is intended to be within the village.

6.30.3 Secondly, as the whole parish is within the Green Belt, including for the time being the village, the caveat regarding Green Belt policy needs to apply to all bullet points and not solely bullet point 1.

6.30.4 Thirdly, the wording of the final paragraph is confused and unclear as to what is meant by the reference to 'other local styles' and environmental improvements having to respect residential amenity and indeed why these points are important in the context of the policy.

6.30.5 In part this confusion is not helped by the extremely limited supporting text and lack of evidence. If there is an issue with employment sites creating problems for the local environment then this should be evidenced as required in the PPG. If the policy is to present clear instruction to developers it needs to be modified.

### **Recommendation 21**

**21A –** Reword the introduction to policy ENP-LE2 to read:

***“Development schemes which support the growth of Effingham’s rural economy and are in accordance with national Green Belt policy will be supported. In particular:.....”***

**21B –** Reword Bullet point 1 to read:

***“The sustainable growth and expansion of all types of business and enterprise in Effingham village will be supported.....appropriate scale.”***

**21C –** Reword the last clause to read:

***“...All proposals should respect the character and appearance of the settlement, its landscape setting and the Effingham Conservation Area as set out in policy ENP-G2 and be respectful of residential amenity.”***

**21D-** Expand the supporting text following the policy to provide the justification and any evidence to support the policy.

6.30.6 Once modified the policy will meet the Basic Condition No 1. The policy in its amended form will contribute to sustainable development by promoting local economic

growth without impacting on the local environment or local community. The policy conforms to the GLP policies in respect of the rural environment and therefore as modified the policy also meets Basic Conditions Nos 2 and 3.

### 6.31 Site Allocation Policies

6.31.1 The site allocation policies of the plan have raised the most concern at the Regulation 16 stage. Although it is true to say that representations have only been received from a small number of respondents the points made raise significant issues for the plan.

6.31.2 Because of the points that have been raised at the final consultation stage I decided to afford the Qualifying Body the opportunity to respond to the representations made and attached at Appendix 1 of this report is the letter inviting EPC to respond and at Appendix 2 the briefing paper and questions to which I requested responses. The EPC responded on 25<sup>th</sup> July at which point third parties were given the chance to view the EPC's response and make any final comments on the matters raised. Four responses from third parties were received by the deadline of 14<sup>th</sup> August. The responses from EPC and the third parties are included at Appendix 3.

6.31.3 The matters of fact and therefore the Common Ground in respect of the site allocation policies are as follows:

- At present proposed allocated sites SA1, SA2, SA3 and SA4 fall within the Green Belt.
- Paragraph 89 of the NPPF setting out national Green Belt policy makes it clear that limited infilling in villages and limited infilling or the partial or complete redevelopment of previously developed sites would not be inappropriate development in the Green Belt. The list in paragraph 89 is a closed list and those are the only categories of development relevant to the site allocation policies of the ENP.
- SA4 is within the settlement area defined in the Guildford Local Plan 2003 and is of a scale that could be considered to form limited infilling in the village and therefore could be developed without conflict with Green Belt policy.
- Whilst there is the intention to review the Green Belt and inset Effingham in the emerging Guildford Local Plan and sites SA1 and SA2 would be within the inset area, the emerging plan has not yet reached the stage where the proposed inset boundaries are adopted policy.
- As such the proposals SA1, SA2 and SA3 must be assessed against Green Belt policy set out in the NPPF as to whether their development would or would not be inappropriate.

6.31.4 The outcome of this assessment determines whether SA1, 2 and 3 meet basic condition No 1.

6.31.5 I have been referred by the neighbouring Local Planning Authority to an independent examination report prepared for Capel Neighbourhood Plan which raised similar issues regarding development in the Green Belt in which the examiner took the

view that allocation of sites for development in the Green Belt was not appropriate and conflicted with Basic Condition No 1. He concluded at paragraph 7.20 of his report that “based on all the evidence it is clear that neighbourhood plans cannot make policy that affects green belts in general and that neighbourhood plans cannot alter strategic policy through the allocation of housing sites in the Green Belt in particular. To do so would not meet the basic condition for a neighbourhood plan to have regard to national policy.” It appeared that in that case settlement boundaries were proposed to be changed to accommodate in some cases quite large allocations of around 50 dwellings. I fully accept that such proposals would have the effect of altering strategic policy but that is not what is proposed at Effingham. Providing an allocation met the terms of section 9 of the NPPF and paragraph 89 in particular it could in principle be seen to have regard to national policy and to be in general conformity with the strategic policies of the GLP notably RE2 and RE3. To have regard to national policy and the development plan any allocation would have to be both ‘in the village’ and be capable of being considered to be ‘limited infilling’.

6.31.6 As stated above most of the allocated sites are not in the settlement area as defined in the GLP. However the EPC, supported by the Borough Council, have had regard to case law established in the case of *Julian Wood v Secretary of State for Communities and Local Government and Gravesham Borough Council* in which the Court of Appeal established that it was necessary to consider as a matter of fact on the ground whether the site appeared to be in the village. I have no reason to take an alternative approach to that established by case law and the basis of my assessment on my site visit followed this principle.

6.31.7 Regarding the definition of ‘limited infilling’ – the NPPF does not provide a definition. However policy RE3 of the GLP does. It identifies infilling as taking place on land substantially surrounded by existing development and to be, inter alia, small scale housing developments appropriate to the scale of the locality and which do not harm the character or appearance of the area. The emerging GBLPSS in policy P2 makes a similar definition which includes the infilling of small gaps within built development appropriate to the scale of the locality and having no adverse impact on the character of the countryside and local environment.

#### *Policy ENP-SA4*

6.31.8 Against these tests in the case of ENP-SA4 where the site is within the built up part of the settlement, substantially surrounded by existing development and of a small scale where housing would be appropriate to the scale of the locality it could be considered to constitute ‘limited infilling’. Allocation of the site has regard to Green Belt policy, is in conformity with GLP policy RE3 and will contribute to sustainable development. No concerns have been raised in respect of policy ENP SA4 and the allocation would meet Basic Conditions Nos 1, 2 and 3.

#### *Policy ENP-SA1*

6.31.9 The site on Church Street sits between the church and the properties on Lower Road. From my examination on site I considered it to be within the structure of the village

as a matter of fact on the ground. I accept the point made by Harry Clarke that it is more open to the south east but nevertheless it is substantially surrounded by development albeit more open in form. The site passes the locational test of being 'in the village' and its development would not have an adverse impact on the purposes of the Green Belt.

6.31.10 However, whilst the site would be technically capable of accommodating 20 dwellings such a development could not be considered to be small scale development appropriate to the scale of the locality. Although EPC state that the capacity is 'up to 20 dwellings', which it considers may not occur and the LPA could apply its discretion to accept a smaller development, the fact is that the policy would allow this scale and if developed to this degree it would be liable to impact on the character and appearance of the area contrary to GLP policy RE3 and the NPPF. The EPC refer to the Chilworth cases as indicating that larger developments can be considered as limited infilling provided they do not have an impact on the openness of the Green Belt and indeed that there is no defined upper limit to infilling. However neither of the Chilworth cases were for 20 units and I am not persuaded by the Parish Council's reasoning that had the 2 sites of 9 dwellings been adjacent they would have been of a scale comparable to that proposed in SA 1. The concept that there is no upper limit to infilling is not consistent with the concept of 'limited infilling' in the first place. I note the point from the agents for the site that as there is no definition of 'limited infilling' the capacity should be determined by the site context but for that reason – the proximity of listed buildings, the conservation area, the fact that not all of the site is proposed for housing to allow a burial ground extension – the constraints mean that proposing this scale of housing on the site would be inappropriate in the site context.

6.31.11 To be considered as meeting the definition of infilling in GLP policy RE3 I would not expect the scale of the allocation to exceed the definition of minor development set out in the General Development Procedures Order of 9 dwellings or less and the policy should be modified accordingly. The alternative, if the EPC wish to see a larger scale of development, is to delete the policy in its entirety and leave the site to be brought forward under policy ENP-G5 as and when Effingham is finally inset from the Green Belt.

#### *Policy ENP-SA2*

6.31.12 The site at The Barn – R/O The Street is occupied by a large house considered to be of local heritage significance standing in extensive grounds. Although the house itself could be considered to be partially surrounded by development the majority of the plot where the development would take place is open garden ground which projects out into open countryside with open fields to north and west and allotment gardens to the south. The site does not meet the definition for infilling within GLP policy RE3 nor that of policy P2 in the emerging GBLPSS. Whilst I accept the site comprises the garden curtilage to the Barn it cannot be considered to be 'in the village' or part of a continuous built up frontage.

6.31.13 I do not dispute that the site has been through considerable assessment in the context of the emerging GBLPSS and it is part of the area proposed to be inset from the

Green Belt in due course. However at the time of writing, Effingham remains within the Green Belt and my consideration must reflect that position.

6.31.14 Even if I were to agree with the EPC and the agents for the site owners that the site is 'in the village' the scale of development proposed in the allocation of up to 16 dwellings cannot be considered to be 'limited infilling' in this location for similar reasons to those relating to ENP-SA1 above. This density of development on garden ground to a local heritage asset and surrounded by open countryside or allotments on 3 sides would be out of keeping with the character of the surroundings and therefore with policy advice in the NPPF and GLP.

6.31.15 Unlike site SA1, in view of the location, it is not a simple matter of reducing the scale of the development. The site allocation would conflict with paragraph 89 of the NPPF and would be inappropriate development in the Green Belt. It would not meet the definitions in GLP policy RE3 and therefore would not meet Basic Conditions Nos 1 and 3. Until Effingham is inset from the Green Belt and the site is within the inset boundary it cannot be considered further for the scale of development proposed. I note the owners concerns that the loss of this allocation removes the opportunity for new housing in a location well served by community facilities however as with ENP-SA1 it could in due course, on the adoption of the emerging GBLPSS, be brought forward under policy ENP-G5 if it is within the final inset boundary.

#### *Policy ENP-SA3*

6.31.16 The site at Effingham Lodge Farm although outside the settlement area and not 'in the village' adjoins the area proposed to be inset from the Green Belt. It is allocated for a small development of 6 dwellings on the basis that it is in part previously developed land.

6.31.17 Figure 14B in the ENP sets out what elements of the site are previously developed land and it was clear from my visit that portions of the allocated site could not be classed as previously developed. However land beyond the site to the north includes portions that are previously developed land with permanent buildings. The total area covered by permanent buildings has been estimated by the EPC in their pre-application enquiry to the Borough Council as being 1 hectare.

6.31.18 The intention with the allocated site is to concentrate development closer to Lower Road taking the rear boundary line established by the church of our Lady of Sorrows and the British Legion Club. The allocation proposes that in exchange for the inclusion of some land that is not previously developed within the site that the land to the north will be cleared of both permanent development and temporary glasshouses.

6.31.19 The allocation would result in some loss of openness within the allocated site compared to the current level of development. However, I acknowledge that the demolition of the permanent buildings and temporary structures to the north would constitute a material increase in openness of the Green Belt overall and contribute to achieving the objectives of paragraph 81 of the NPPF seeking overall enhancement to the Green Belt.

Providing the allocated area equalled the area of previously developed land (ie not to exceed 1 hectare) these benefits to the Green Belt would outweigh any harm to the Green Belt by the construction of 6 dwellings closer to Lower Road and as such the principle of the proposal would have regard to national policy and would not undermine the strategic policies of the development plan.

6.31.20 Some concern has been expressed that accommodating only 6 new dwellings in addition to the 2 currently on site does not represent an efficient use of land. However to increase beyond 6 additional new dwellings would conflict with the requirement in the NPPF not to have a greater impact on the openness of the Green Belt. In any event if the allocated area is reduced to 1 hectare in extent to equal the area of permanently previously developed land the efficiency would be slightly improved.

6.31.21 The principal concern with this proposal is whether it can be delivered. The policy although stating that development must be accompanied by demolition of all permanent and temporary buildings to the north does not clearly set out how this would be achieved. The planning permission would have to be subject to a planning obligation under S106 of the Town and Country Planning Act 1990 otherwise there would not be any means to control the situation and development could easily occur on the allocated site with no clearance of surrounding land to the north. Without this control the policy does not meet Basic Condition No 1.

6.31.22 The Howard of Effingham Trust submitted a representation at Reg 16 stage that referred to the current planning application for the redevelopment of the Effingham Lodge Farm site for replacement school and enabling residential development on both the current school site and Brown's Field in the village. This is not a proposal of the ENP nor is it a proposal that is supported by the local community as the extent of housing proposed is not required in the parish. The matter is not therefore before me to consider. In any event the refused application is now at appeal and it is for the appointed Inspector to determine whether such a proposal would be inappropriate development and whether other considerations would clearly outweigh any Green Belt harm such that very special circumstances exist to allow the development in the Green Belt.

6.31.23 Finally in respect of all the site allocation policies they include significant sections that are not policy but are supporting text, namely the sections 'Ownership' through to 'Policy Support'. These are in bold text within the policy box and their inclusion makes it unclear what is policy and what is not, conflicting with advice in the PPG. For those site allocation policies that will remain after the recommended modifications below are applied these sections of text should be removed from the policy box and relocated at the start of the supporting text. To avoid repetition it may be that some parts of the supporting text can be removed once this relocation takes place.

## **Recommendation 22**

**22A – In all remaining site allocation policies remove the text sections from**

**‘Ownership’ to ‘Policy Support’ and relocate this to the start of the supporting text following the policies.**

**22B** – In respect of ENP-SA1 - Either reduce the scale of development from ‘up to 20 dwellings’ to ‘*up to 9 dwellings*’ in order that the allocation can be retained Or delete the allocation and the policy and leave development to be brought forward under policy ENP-G5 when the settlement has been inset from the Green Belt.

**22C** – In respect of ENP-SA2 - Delete the allocation at The Barn, RO The Street from the Policies Map and other mapping in the plan and delete policy ENP-SA2 in its entirety and leave development to be brought forward under policy ENP-G5 when the settlement has been inset from the Green Belt.

**22D** – In respect of ENP-SA3 –Delete the first line of No 2 in the policy requirements and reword to read:

*“The signing of a planning obligation under Section 106 of the Town and Country Planning Act 1990 requiring that development of this site is accompanied by :*

- **The demolition of all permanent buildings.....etc.”**

**22E** – Rework the supporting text on Allocated Sites under policy ENP-H1 to reflect the above recommended modifications.

6.31.24 The modifications proposed above will reduce the ability of the plan to deliver the new housing it proposes in the short term. However being a Green Belt settlement currently there is no specific housing supply expectation of Effingham and in any event in due course if Effingham is inset from the Green Belt, as proposed, developments could come forward under policy ENP-G5 on both the Church Street and The Barn sites. These could then be considered at that stage on their merits against the policies of the ENP and the GBLPSS once adopted.

6.31.25 With the modifications recommended above the site allocation policies ENP-SA1, ENP-SA3 and ENP-SA4 would meet Basic conditions Nos 1, 2 and 3.

## 6.32. Delivery Principles

6.32.1 Section 7 of the ENP sets out how the plan is to be implemented and in particular spells out how the Parish Council will evaluate site proposals. The primary and subsidiary criteria EPC propose to apply in considering its responses to proposals will help to ensure that development taking place in Effingham does contribute to sustainability.

I have no concerns about the plan meeting the Basic Conditions in respect of this section.

## 7. Other Matters

7.1 The representation at the Regulation 16 stage from Natural England includes a request that new policies are included in the plan around creation of connected green space, the provision of green space in new development, wildlife corridors, climate change adaptation and the protection of best and most versatile agricultural land.

7.2 Policies in connection with wildlife corridors and shared green space are already included in the plan at ENP-ENV2 and 3. Procedurally at this stage it is not possible to recommend entirely new policies which have not previously been considered by the community as there is no further consultation opportunity. If Natural England had wished this policy content to be included it should have made the request before the Reg 16 stage.

## **8. Referendum**

8.1 Subject to the recommended modifications set out above being completed, it is appropriate that the Effingham Neighbourhood Plan should proceed to a Referendum.

8.2 I am required to consider whether the Referendum Area should be synonymous with the Effingham Neighbourhood Area or extended beyond it.

8.3 The Neighbourhood Area mirrors the boundaries of the parish. Given the scale and nature of the plan and the fact that the allocations proposed would not affect residents in adjoining parishes I do not consider that extension of the area would be warranted.

8.4 Accordingly, I consider that it is unnecessary to recommend any other referendum area than the Neighbourhood Area and no evidence has been submitted to suggest any alternative approach.

**Recommendation 23** - I recommend to Guildford Borough Council that the Effingham Neighbourhood Plan, modified as specified above, should proceed to a Referendum based on the Effingham Neighbourhood Area as approved by Guildford Borough Council on 4 April 2013.

**Peter D Biggers**  
**15 September 2017**  
**Independent Examiner**  
**Argyle Planning Consultancy Ltd**

## Appendix 1 – Letter Inviting the Parish Council to respond to the Reg 16 Site Allocation Responses



**Tracey Coleman**  
Director of Planning and Regeneration

Arnold Pindar  
Chair, Effingham Parish Council  
3 Home Barn Court  
The Street  
Effingham  
Surrey  
KT24 5LG

14 July 2017

Dear Mr Pindar

### **Effingham Neighbourhood Plan – Independent Examination**

I refer to our recent meeting on Wednesday 12<sup>th</sup> July 2017. As you know the Effingham Neighbourhood Plan has recently been submitted for Independent Examination and Mr Peter Biggers BSc Hons MRTPI who is a member of the Neighbourhood Planning Independent Examiners Referral Service has been appointed to examine the plan.

Having reviewed the responses received to the recent publicity stage under Regulation 16 of the Neighbourhood Planning Regulations the examiner is aware that a number of representations have been made in respect of the sites proposed to be allocated for housing and in particular sites SA1, SA2 and SA3. The representations are in respect of whether they meet the basic conditions especially the national policy in respect of the Green Belt set out in the National Planning Policy Framework (NPPF).

Concern has been expressed regarding sites SA1 and SA2 as to whether these sites if developed could be considered to constitute 'limited infilling in villages' as set out in the NPPF and whether the scale of development proposed would be appropriate in other respects notably the relationship of development to heritage assets, in this case the Effingham Conservation Area and listed buildings.

Concern has also been expressed regarding SA3 and the extent to which it can be considered to be previously developed land for the purposes of Green Belt policy in the NPPF and whether the level of development proposed would be appropriate.

As you will be aware it is open to the examiner to arrange a public hearing as part of the examination to consider the matters before him if he considers this to be necessary. However in this case at this stage he is of the opinion that he can gather the necessary information to allow him to complete the examination by a further round of written representations.



**Guildford Borough Council**  
Millmead House, Millmead, Guildford, Surrey GU2 4BB

---

Accordingly and in order to allow the Parish Council as the qualifying body the opportunity to respond to the representations received at the Regulation 16 stage and to assist in the examination of this particular issue the examiner wishes to ask the Parish Council to respond to the short statement and questions attached and proposes to allow them 2 weeks to do so.

Once the Parish Council has submitted its response there will be the opportunity for other third parties who made representations on the site allocations at the Regulation 16 stage to review the Parish Council's response and, purely on the matters set out in the questions, make any final comments in response. The examiner will allow a further fortnight for that after which he will review all responses and complete his examination.

The examiner must complete his examination with a recommendation to the Borough Council as to whether:

- the plan as submitted to the Borough Council meets the Basic Conditions and can proceed to the local referendum stage.
- the plan can proceed to the local referendum stage subject to certain modifications being made in order that it meets the Basic Conditions or
- the plan does not meet the Basic Conditions and should not proceed to the local referendum stage.

I hope this proposal for submission of final written representations is clear and I would ask that you submit your responses to me by noon on 28<sup>th</sup> July 2017 in order that I can forward them to the examiner and to the other parties.

Yours sincerely

*D Knowles*

Dan Knowles  
Senior Planning Policy Officer  
Planning Services  
Guildford Borough Council

## Appendix 2 - Effingham Neighbourhood Plan Reg 16 Examiner's Statement Regarding Regulation 16 Representations on Allocated Sites.

Examiners findings of fact:

- At present proposed allocated sites SA1, SA2, SA3 and SA4 fall within the Green Belt.
- SA4 is within the settlement area defined in the Guildford Local Plan 2003 and is of a scale that could be considered to form limited infilling in the village. I do propose to ask for any further representations in regard to this site.
- Whilst there is the intention to review the Green Belt and inset Effingham in the emerging Guildford Local Plan and sites SA1 and SA2 would be within the inset area the emerging plan has not yet reached the stage where the proposed inset boundaries are adopted policy.
- As such the proposals SA1, SA2 and SA3 still fall within the Green Belt and must be considered against Green Belt policy set out in the NPPF as to whether their development would or would not be inappropriate.

Regulation 16 responses:

- Concerns have been expressed in respect of site allocation SA1 that it is not within the settlement area and the proposed development of up to 20 houses would not constitute limited infilling. I therefore wish the Parish Council to address the following matters:
  - a) Can the site, although outside the GLP defined settlement area, otherwise be considered to be 'in the village' for the purposes of the Green Belt policy in the NPPF.
  - b) Can up to 20 units be considered to be 'limited infilling under policies set out in the local plan' to comply with the NPPF in particular the terms of policy RE3 of the GLP.
- Concerns have been expressed in respect of site allocation SA2 that it is not within the settlement area, does not constitute an infilling site and that the proposed capacity of up to 16 dwellings would not constitute limited infilling. I therefore wish the Parish Council to address the following matters:
  - c) Can the site, although outside the GLP defined settlement area, otherwise be considered to be 'in the village' for the purposes of the Green Belt policy in the NPPF and the justification for this.
  - d) Can up to 16 units be considered to be 'limited infilling under policies set out in the local plan' to comply with the NPPF in particular the terms of policy RE3 of the GLP.
- Concerns have been expressed in respect of site allocation SA3 that it includes land which is not previously developed, that it is only justified if other land outside the allocated site is cleared of previous now redundant development and that an additional 6 units is an inefficient use of land. I therefore wish the Parish Council to address the following matters:
  - e) Can the site, as allocated be considered to be previously developed land for the purposes of the Green Belt policy in the NPPF and the justification for this.
  - f) Is the proposal to clear the site to the north sufficient justification for including some non previously developed land in the allocation area.
  - g) Is 6 additional units optimal use of the land

Procedure

Once the Parish council has responded to these questions third parties will be allowed to submit any final comments purely on these matters only before I conclude the examination in respect of

the allocated sites.

Peter Biggers MRTPI  
12 July 2017  
Independent Examiner  
Effingham Neighbourhood Plan

## Appendix 3 Responses Received to the Post Reg 16 Invitation for Final Comments

### Replies from Effingham Parish Council to questions from the Examiner concerning Regulation 16 responses.

**EPC = Effingham Parish Council**  
**GBC = Guildford Borough Council**

#### Regulation 16 responses:

##### ENP-SA1

• Concerns have been expressed in respect of site allocation SA1 that it is not within the settlement area and therefore not 'in the village' for the purposes of the NPPF and the proposed development of up to 20 houses would not constitute 'limited infilling'. I therefore wish the Parish Council to address the following matters:

- a) Can the site, although outside the GLP defined settlement area, otherwise be considered to be 'in the village' for the purposes of the Green Belt policy in the NPPF.
- b) Can up to 20 units be considered to be 'limited infilling under policies set out in the local plan' in accordance with the NPPF and in particular the terms of policy RE3 of the GLP.

##### Effingham Parish Council (EPC) reply:

a) EPC believes that the Church Street Field site allocated in SA1 is within the village for the purposes of Paragraph 89 of the NPPF for the following reasons. Since the term 'village' is not defined in the NPPF, EPC took advice from GBC and relied on case law (Julian Wood v. The Secretary of State for Communities and Local Government and Gravesham Borough Council [2015]) to decide whether or not a site is within the village. We refer to this case as 'Gravesham' on page 80 of the Neighbourhood Plan. The Court of Appeal found in that case that it was necessary to consider whether, as a matter of fact on the ground, the site appeared to be in the village; further, that the Inspector in the planning appeal had misdirected himself by accepting the Local Plan as being conclusive as to whether or not the site appeared to be in the village. In our circumstances, that means the settlement boundary for Effingham set out in policy RE3 of the Local Plan is not the only consideration in deciding whether a site is within the village.

The site in SA1 is immediately adjacent to the settlement boundary of Effingham village defined in RE3 and is also surrounded by development on all four sides (houses on Church Street, Lower Road and Effingham Place, with St Lawrence Church and burial grounds to the south). It therefore appears, as a matter of fact on the ground, to be part of the built village. In recent months GBC has used this case law when considering planning applications for development in the Green Belt. The GBC officer report for planning application 16/P/02180 (Land north-east of Old Tallows, Orestan Lane, Effingham) is attached as Appendix 1. When considering 'what is a village?' the report relies on the same 'Gravesham' case law and considers criteria including whether the site has the same character as the village settlement area, whether it is physically separated by green space from the settlement, and how close it is to community facilities such as schools and public houses. For this planning application, the officer concluded the site was not within the village. Applying these criteria to the Church Street Field demonstrates that the site is within the village according to these criteria:

Site Allocation SA1 (page 84 of the NP) requires that residential proposals for this site should be small-scale, in keeping with the cottages on the western side of Church Street and should demonstrate that the character and appearance of Effingham Conservation Area is preserved or enhanced by the development. Therefore this site will inevitably have the same character as the village settlement.

There is no green physical separation between the site and the settlement area; the

site is immediately adjacent to the settlement area and clearly within the built envelope of the village.

The site is adjacent to the Sir Douglas Haig Public House, within 100 metres of the St Lawrence Primary School, within a two-minute walk of the Howard of Effingham School and within a three minute walk of the village shops.

b) Limited infilling is not defined in the NPPF, and policy RE3 of the Local Plan provides no guidance as to how many units would be acceptable as infilling in a Green Belt village. Therefore when considering how many units might be acceptable, the Neighbourhood Plan has regard to the wording of policy RE3, which permits infilling on *'land substantially surrounded by existing development'* for purposes including *'small scale housing developments appropriate to the scale of the locality.'* The supporting text of RE3, paragraph 10.18, adds *'A proposal will only be regarded as "suitable infill" when it relates to the character of the surrounding area both in terms of scale and design, and when the development of the site would not have a detrimental effect on the quality of the environment.'* EPC considers that development of the Church Street Field site in accordance with SA1 would be *'small scale and appropriate to the scale of the locality'* and so meets the criteria for infilling set out in RE3.

In addition, a recent planning approval within Guildford borough suggests that each site will be considered on its own merits, and that the presumption in favour of sustainable development the NPPF also carries weight. The officer's report on this planning application (16/P/01409, land at 98-100 and rear of 102-114 New Road, Chilworth) is attached as Appendix 2. The application was for ten new dwellings (9 units net) within the Green Belt. The report states: *"Policy RE3 is not entirely consistent with the NPPF in that it references "washed over" settlements and seeks to include restrictions on developments in Green Belt villages that are not included in the NPPF. The NPPF supports "limited infilling" in Green Belt villages but it does not require this infilling to be "substantially surrounded by development". Accordingly, the weight to be afforded to Policy RE3 should be reduced and greater weight should be given to the NPPF and the presumption in favour of sustainable development."* In recommending approval, the officer report concludes: *'There is no objection to the principle of the development and the proposal would deliver a net increase of nine new homes in a sustainable location. The development would not harmfully affect the character or the appearance of the surrounding area.'*

The approval of this planning application in Chilworth shows that GBC accepts that RE3 is to some extent outweighed by the NPPF presumption in favour of sustainable development and that at least 9 units can be treated as *'limited infilling'*.

A very similar application in Chilworth (15/P/00839), for nine new dwellings on a nearby site, was given permission at appeal and the Inspector's report is attached as Appendix 3. Paragraph 10 of the Inspector's report says: *"Whilst the planning officer's report erred on the side of caution in terms of whether Policy RE3 should prevail as a material consideration, ..., he is correct to describe the site as providing a suitable infill opportunity particularly as development on this site would not and could not increase the extent to which the village of Chilworth impacts on the openness of the Green Belt."*

Since the Church Street Field is surrounded by development within the village, EPC considers that development as in SA1 would not increase the extent to which the village of Effingham impacts on the openness of the Green Belt.

The two Chilworth cases suggest that at least nine units can be acceptable to GBC as *'limited infilling'*. It seems clear that in these cases the overall number of new dwellings was limited only by the size of the site, and that potentially more dwellings could have been acceptable on a larger site provided the density and design was in character with the locality. Indeed had the two sites happened to be contiguous, presumably around 18 new dwellings would have been acceptable.

Another factor to be considered is that policy ENP-H2 requires developments of ten or more homes to have a large percentage of smaller homes, with one or two bedrooms, so that 20 homes would mean a smaller volume of built development than for the usual housing size mix. EPC therefore considers it to be reasonable for the number of smaller units which count as 'limited infilling' to be greater than for a normal housing size mix.

In conclusion, EPC considers that the SA1 site can be regarded as 'limited infilling' based on the wording of RE3 and because development there would not increase the extent to which the village of Effingham impacts on the openness of the Green Belt. The Chilworth cases show that there is no fixed upper limit to the number of units which are regarded as 'limited infilling' within Guildford borough and therefore 20 units may be acceptable. The Church Street Field site is allocated for 'up to' 20 units so that planning officers can consider any application for this site on its merits, and may decide that a smaller number of units is appropriate here, which would still be consistent with site allocation SA1. In addition, officers may consider 20 units acceptable as 'limited infilling' when taking into account the large proportion of smaller homes, each with a smaller built volume, in accordance with ENP-H2.

#### **ENP-SA2**

**• Concerns have been expressed in respect of site allocation SA2 that it is not within the settlement area and therefore not 'in the village' for the purposes of the NPPF, does not constitute an infilling site and that the proposed capacity of up to 16 dwellings would not constitute 'limited infilling'. I therefore wish the Parish Council to address the following matters:**

**c) Can the site, although outside the GLP defined settlement area, otherwise be considered to be 'in the village' for the purposes of the Green Belt policy in the NPPF and the justification for this.**

**d) Can up to 16 units be considered to be 'limited infilling under policies set out in the local plan' in accordance with the NPPF and in particular the terms of policy RE3 of the GLP.**

#### **Effingham Parish Council (EPC) reply:**

c) EPC believes that the site allocated in SA2 (Land at The Barn) is within the village for the purposes of Paragraph 89 of the NPPF for the following reasons, based on the 'Gravesham' case law and the report on the planning application 16/P/02180 (Appendix 1) described in our reply to a) above:

The site in SA2 is immediately adjacent to the settlement boundary of Effingham village defined in RE3, and has development to three sides, including built development and allotment land. The site is entirely within the residential curtilage of The Barn. It therefore appears, as matter of fact on the ground, to be part of the built village.

Applying the criteria used in the report on application 16/P/02180, to decide whether a site is in a village, demonstrates that the site is within the village according to those criteria: Site Allocation policy SA2 (page 87 of the NP) requires that the development of homes on this site should be designed to be in keeping with Effingham Conservation Area character and should respect the setting of The Barn. The Barn itself, a characterful property included in the Effingham Local List on page 35 of the Neighbourhood Plan, would be retained and converted so preserving the current character of this part of the village. Therefore this site will inevitably have the same character as the village settlement.

There is no green physical separation between the site and the settlement area; it is immediately adjacent to the settlement area and is on residential and garden land clearly within the built envelope of the village. The site is adjacent to the village shops, within a few minutes' walk of both the St Lawrence Primary School and the Howard of Effingham School and within two minutes' walk of the Sir Douglas Haig Public House.

d) EPC considers that development of land at The Barn as in SA2 meets the criteria for infilling

stated in RE3 as discussed in b), since it provides a small scale housing development appropriate to the scale of the locality which relates well to the character of the surrounding area.

In relation to the appeal Inspector's report (Appendix 3), since the land at The Barn is already residential and garden land on the edge of the village settlement, and has at least partial development to three sides, EPC considers that development as in SA2 would not increase the extent to which the village of Effingham impacts on the openness of the Green Belt.

The Chilworth cases described in b) above ( Appendix 2 and 3) show that there is no fixed upper limit to the number of units which are regarded as 'limited infilling' within Guildford borough and therefore 16 units as proposed in SA2 may be acceptable. The site is allocated for 'up to' 16 units so that planning officers can consider any application on its merits, and may decide that a smaller number of units is appropriate here, which would still be consistent with site allocation SA2. In addition, as for SA1, officers may consider 16 units acceptable as 'limited infilling' when taking into account the large proportion of smaller homes, each with a smaller built volume, in accordance with ENP-H2.

### ENP-SA3

**• Concerns have been expressed in respect of site allocation SA3 that it includes land which is not previously developed, that it is only justified if other land outside the allocated site is cleared of previous, now redundant, development at the same time and that an additional 6 units will not ensure that this is delivered . I therefore wish the Parish Council to address the following matters:**

**e) Can the site, as allocated, be considered to be previously developed land for the purposes of the Green Belt policy in the NPPF and the justification for this.**

**f) Is the proposal to clear the site to the north sufficient justification for including some non-previously developed land in the allocation area.**

**g) Is 6 additional units optimal use of the land and sufficient to deliver the clearance of redundant structures to the north.**

### Effingham Parish Council (EPC) reply:

e) Addressing the issue of previously developed land at SA3:

Guildford Borough Council, in their review of Planning Application 14/P/02109 noted that the majority of the Effingham Lodge Farm site was Green Belt that served the core purposes of the Green Belt, however they also highlighted the presence of Previously developed Land (PDL) on the site:

*"However it (Effingham Lodge Farm) also contains a number of derelict, large glasshouse buildings, a single story brick building which is currently in use as a children's nursery, various single story, industrial and commercial buildings which are currently vacant and areas of grassed amenity land and hard standing. While it is acknowledged **that a portion of the site could be classed as being previously developed**, this is mainly limited to the commercial buildings, day nursery and a portion of existing hard standing."*

(John Busher Senior Planning Officer GBC)

It is estimated, from a detailed review of planning applications, that the total area of PDL referred to in bold above is 1.41ha. However, the site proposed under SA3 of Effingham's Neighbourhood Plan comprises a consolidated area of 1.2 ha. This represents a net 14% REDUCTION in built area overall. Whilst EPC acknowledge that in making the site practical for development, we have included garden curtilage and derelict areas from the commercial area of the farm buildings, the net impact is an increase in openness. This is acknowledged by the planning teams in their response (Appendix 4) to a Pre Application Advice Enquiry submitted by Effingham Parish Council as part of the process for identifying the extent of the potential site area for SA3:

*"I would note that the proposal would result in other benefits to the Green Belt. The*

*existing children's nursery and hard standing to the rear of your site represent a significant incursion into Green Belt. Their demolition and the consolidation of the built form onto one site adjacent to the highway and close to other existing buildings along Lower Road could be said to represent an overall improvement to the Green belt and its openness."*

Further details and a plan showing the PDL is given on pages 92 and 93 of the Neighbourhood Plan.

The proposed site whilst beyond the settlement boundary, is consistent with GBC interpretation of the NPPF paragraph 89, recycling of previously developed land. Paragraph 89 of the NPPF suggest that the key to determining appropriateness ultimately rests upon the impact of the development on openness:

- *limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*

EPC considers that development of the allocated site as proposed in SA3 would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. In fact development in accordance with SA3 results in an improvement in openness with the additional benefit of delivering much needed sustainable housing to the community, in line with the presumption in favour of sustainable development in the NPPF.

f) As stated above, consolidation of the site linked to clearance of temporary greenhouses and other elements of Previously Developed Land to the north of the site is justified on the basis of the net beneficial impact on openness of the Green Belt. Clearing the derelict greenhouses in particular opens up clear vistas from within the Effingham Conservation Area across to Thornet Wood, and improves public access to and enjoyment of the Green Belt.

The development proposed would not increase the impact of the village on the Green Belt overall, and in fact will result in a net beneficial impact of the village on the openness of the Green Belt.

g) The 6 additional units referred to under policy SA3 is based upon the pre-application advice that included a design based upon the highly successful redevelopment of the Red House Yard at Lutyens Place, nearby to the west along Lower Road. This allocation represents an optimal use of Previously Developed Land within the Green Belt since paragraph 89 restricts the amount of development to be such that it has no greater impact on openness than the existing development. EPC judges that up to six units is that maximum number of units that could be accommodated to meet this openness constraint.

The final utilisation of site SA3 is subject to landowner proposals and could justifiably include redevelopment of the two detached 4 bedroom properties (and their gardens) adjacent to the 6 units outlined in SA3. Ultimately, delivery of the housing target in the Neighbourhood Plan is not dependent upon the numbers allocated to this site being delivered. EPC does however believe that commercial redevelopment of the site represents a viable commercial opportunity for the landowner and could make a significant contribution to much needed sustainable housing close to local facilities within the village.

#### **APPENDICES:**

Appendix 1: GBC officer report on planning application 16/P/02180 Land north-east of Old Tallows, Orestan Lane, Effingham

Appendix 2: GBC officer report on planning application 16/P/01409, land at 98-100 and rear of 102-114 New Road, Chilworth

Appendix 3: Inspector's Appeal Report on planning application 15/P/00839, Land rear of 142-154 New Road, Chilworth

Appendix 4: GBC response to Pre-application Enquiry: PDL at Effingham Lodge Farm

**COMMENTS FROM EFFINGHAM RESIDENTS ASSOCIATION (EFFRA) ON THE RESPONSE OF EFFINGHAM PARISH COUNCIL (EPC) TO THE QUESTIONS FROM THE EXAMINER ON THE REGULATION 16 REPRESENTATIONS ON ALLOCATED SITES IN THE DRAFT EFFINGHAM NEIGHBOURHOOD PLAN**

**Site Allocation SA1 Regulation 16 responses:**

**• Concerns have been expressed in respect of site allocation SA1 that it is not within the settlement area and therefore not ‘in the village’ for the purposes of the NPPF and the proposed development of up to 20 houses would not constitute ‘limited infilling’. I therefore wish the Parish Council to address the following matters:**

**a) Can the site, although outside the GLP defined settlement area, otherwise be considered to be ‘in the village’ for the purposes of the Green Belt policy in the NPPF.**

**b) Can up to 20 units be considered to be ‘limited infilling under policies set out in the local plan’ in accordance with the NPPF and in particular the terms of policy RE3 of the GLP.**

a) EFFRA does not accept EPC’s argument that the Church Street Field allocated as SA1 is “in the village” for the purposes of the Green Belt policy in the NPPF.

Contrary to EPC, we think that applying case law (the “Gravesham” case and the recent planning application 16/P/02180) make it clear this site is not “in the village.”

As seen on the ground, the site is not surrounded on four sides by development. To the north is an unmade lane or track lined with trees and beyond that lies one detached house with a large garden; to the south is the Parish graveyard beyond which is St Lawrence Church, a Grade II\* listed building, surrounded by its graveyard; to the west is the old village street containing a number of listed building, mainly cottages, which are screened from the site by a line of trees that has been there at least since the 1880s; and to the east is a large, Grade II listed building, called The Lodge in Effingham Place (currently divided into two properties, not four as shown on the map) and standing within large grounds. At the north east corner of the site lies the corner of the garden of one of four detached properties with large gardens built on part of the grounds of The Lodge in 1993 (GBC planning ref. 93/P/00216). Their development, although considered as inappropriate development in the Green Belt, was agreed to facilitate the renovation of The Lodge which was then on the “At Risk Register” having been empty for five years.

The Lodge is a Grade II listed building. Its main entrance is on its west side, which is close to and overlooks the Church Street field site which falls away below it. The field is an important part of the setting of The Lodge and would damage that setting if its open and green outlook was lost. Similarly, any large development on the site would damage the setting of the Grade II\* listed church almost adjacent to it. The NPPF clearly states that “planning should: conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life for this and future generations.” It goes on to state that the significance of a heritage asset “derives not only from a heritage asset’s physical presence, but also from its setting”; paragraph 013 of the Planning Practice Guidance (PPG) of March 2014 which was produced to assist the interpretation and implementation of the NPPF gives further guidance on the importance of setting of heritage assets and states: “The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting.” The four detached houses built on The Lodge site in 1993 had large gardens so as not to damage the setting of The Lodge.

The developments adjacent to the site to the north, south and east do not therefore share the typical characteristics of the village as required under the Gravesham criteria. Effingham is a rural village, where the historic village was compact and surrounded by fields. Site SA1 is one of those fields, so it is considered outside the village, rather than inside. This was re-enforced when the Settlement Area was defined in the Local Plan. There have not been any significant developments in the area of Site SA1 which would change these circumstances.

b) If the site is not “in the village” then limited infilling is not applicable. If it were accepted that the site was “in the village” limited infilling would apply. However, the site would be subject to constraints on the number of houses that could constitute limited infilling. The development would need to demonstrate that it

does not damage (i) the setting of the Grade II listed The Lodge which overlooks it, (ii) the Conservation Area particularly to its west which include listed buildings and (iii) the Grade II\* listed church to the south. EFFRA believes that EPC, as the most local tier of local government where its members have local knowledge of the village, should not have allocated such a large number of dwellings on this site (up to 20) as would necessarily damage the setting of The Lodge and St Lawrence Church. Indeed, EPC's own policy ENP-G2.2. seeks to protect the setting of heritage assets and so is in conflict with this allocation. EPC is aware that, in order to try to meet the numbers of dwellings allocated by it on this site, the preliminary plans of the company hoping to develop this site contain densely planned dwellings including a two storey apartment block with apartments in the roof and little green space. These would necessarily damage the setting of The Lodge and St Lawrence Church. A previous proposed development of a nursing home on the site was refused by Guildford Borough Council in 2013 and refused at Appeal later that year (GBC ref 13/P/00019 and Appeal ref. APP/Y3615/A/13/2199732). The main reasons were inappropriate development in the Green Belt with the harm to "the openness of the Green Belt would arise .. from the principle of having a new building" and "the harm from the proposal to the character and appearance of the Conservation Area and on residential amenity."

EFFRA believes that even if it were accepted the site was "in the village", the number of dwellings proposed by EPC is excessive and cannot constitute limited infilling. EPC's statement that it would be "small scale and appropriate to the scale of the locality" is clearly inaccurate. The proposed density of 33 dwellings per hectare has been predicated on a small modern area of the village some distance from the site, which has the highest density of any of the Conservation Area. This density is totally out of scale to the ratio of dwellings surrounding the site. Any reasonable person would take the facts as seen on the ground and consider limited infilling to mean that the density of houses should reflect the surrounding area and would not significantly alter the character of the place or the setting of the adjacent listed buildings. EPC argue that if the two Chilworth sites had been contiguous they would still have been approved, the eighteen dwellings would have been acceptable as infilling and thus the "Chilworth cases ....show that there is no fixed upper limit to the number of units which are regarded as "limited infilling" within Guildford Borough". EFFRA considers this is clearly erroneous as no such presumption can be made. Taken to its logical conclusion this would mean that there was no upper limit for the number of buildings constituting limited infilling, which is surely contrary to the intentions of a policy for "limited" infilling. In any case, the Chilworth sites were in a very different type of development which is denser than Effingham's Conservation Area and the approved development was only 23 per Ha.

#### **Site Allocation SA2 Regulation 16 responses:**

**• Concerns have been expressed in respect of site allocation SA2 that it is not within the settlement area and therefore not 'in the village' for the purposes of the NPPF, does not constitute an infilling site and that the proposed capacity of up to 16 dwellings would not constitute 'limited infilling'. I therefore wish the Parish Council to address the following matters:**

**c) Can the site, although outside the GLP defined settlement area, otherwise be considered to be 'in the village' for the purposes of the Green Belt policy in the NPPF and the justification for this.**

**d) Can up to 16 units be considered to be 'limited infilling under policies set out in the local plan' in accordance with the NPPF and in particular the terms of policy RE3 of the GLP.**

c) EFFRA does not accept EPC's argument that the site SA2 is "in the village" for the purposes of the Green Belt policy in the NPPF. As stated for SA1, contrary to EPC, EFFRA thinks that applying case law (the "Gravesham" case and the recent planning application 16/P/02180) make it clear this site is not "in the village."

The site does not have development on three sides and any reasonable person would see the main part of the site as outside the village boundary. To its north it has a commercially cultivated field adjoining the large back garden of the property with a small development of houses adjoining the house and small front garden; to the south are allotments; to the west is another commercially cultivated field; and to the east is the back of a small row of village shops. The site is adjacent to the settlement area, but that is not a justification for its development. If it was allowed and the site taken into the settlement area, then the owners of the field next to it could claim to be adjacent to the settlement area for development purposes. Where would such development stop?

d) As set out for site SA1, if the site is not “in the village” which it clearly is not, then limited infilling is not applicable. If it were accepted that the site was “in the village” limited infilling would apply; the density of this would surely be determined by the development that surrounded the site and not the density of an arbitrary site in a different area of the village. As there is little development around the site, any development on the site should be low density.

**Site Allocation SA3 Regulation 16 responses:**

• **Concerns have been expressed in respect of site allocation SA3 that it includes land which is not previously developed, that it is only justified if other land outside the allocated site is cleared of previous, now redundant, development at the same time and that an additional 6 units will not ensure that this is delivered . I therefore wish the Parish Council to address the following matters:**

**e) Can the site, as allocated, be considered to be previously developed land for the purposes of the Green Belt policy in the NPPF and the justification for this.**

**f) Is the proposal to clear the site to the north sufficient justification for including some non-previously developed land in the allocation area.**

**g) Is 6 additional units optimal use of the land and sufficient to deliver the clearance of a redundant structures to the north.**

e) According to GBC in their review of Planning Application 14/P/02109 there is some previously developed land on this site, but the amount of such previously developed land has not been determined. EPC’s calculation of it as 1.41ha can only be considered a guesstimate as the portion of existing hard standing that was previously developed land was not defined in the review. EFFRA believes that the amount of previously developed land is less because much of the supposed hard standing included in the application (which appears to include grassed areas) would not qualify. The identification of the previously developed land on the site could therefore only be defined by a further detailed planning application. EFFRA believes that the openness of the Green Belt will be significantly negatively impacted by this development. At present the site contains two houses, with a third building to the north of the site. This is to be replaced by six additional houses on the site, with the building to the north of the site removed. Consequently, the site will appear much more developed than it currently is and its character will be significantly changed from that of rural open countryside, to that of a settlement area.

f) We do not believe that the NPPF allows for non-previously developed land to be included in return for the removal of redundant structures which do not qualify as previously developed land ie. the greenhouses. Whilst removal of the redundant greenhouses would be beneficial to the appearance of the land, being glass they detract less from the openness than a solid structure and they are part of the rural character of the land which contributes to Effingham’s character as a rural village.

g) EFFRA does not believe this is an optimal use of the land and believes, because of the lack of certainty on the amount of previously developed land, that it should not have been included as an allocated site.

**Conclusion**

In conclusion EFFRA believes that these three sites should not have been included as allocated sites as they do not meet the requirements of the NPPF.

## Effingham Neighbourhood Plan Reg. 16. Response by Harry Clarke to EPC's comments on questions raised

### Site SA1 – Church Street

#### a) In the village?

I do not agree with EPC's statement that the site is surrounded by development on all four sides. As seen on the ground, the site is not surrounded on four sides by buildings. To the south is a graveyard, to the east the vast majority is dominated by one large, Grade 2 listed building, Effingham Place (currently divided into two residents, and not four as shown on the map), with a large open space on the south side. Effingham is a rural village, where the church is typically placed on the edge of the village, surrounded by open fields on three sides. Site SA1 is one of those fields, so it is considered outside the village, rather than inside. This was re-enforced when the Settlement Area was defined in the Local Plan. There have not been any significant developments in the area of Site SA1 which would change the circumstances.

#### b) Limited infilling?

I do not agree with EPC's arguments. I consider the site to be outside of the village, and therefore limited infilling is not permitted under NPPF policy. However, if the site is considered inside the village, then I don't consider the number of proposed dwellings as limited infilling.

The implications from EPC's arguments about limited infilling, are the development can be limitless on a site, only constrained by its size. They have argued that two sites from different locations can be combined together and still considered limited infilling. Their argument is that 9 units from one site and 9 units from another site justifies 20 dwellings on site SA1. Clearly this is nonsense, as if 20 dwellings is then considered limited infilling, and the same arguments applied again, then any number of arbitrary sites can be combined together to justify any number of dwellings on a site. Development is therefore limitless. This is not limited infilling, but a significant development of the site, and clearly in contradiction of NPPF Policy.

When considering limited infilling, consideration must be given to the buildings that surround the site, and the character of the setting. In this case:

- North side – one house
- East side – four houses
- South side – graveyard, which is an extension graveyard to the graveyard in the walled churchyard boundary.
- West side – seven buildings

Any reasonable person would take the facts as seen on the ground, and consider limited infilling to mean that the density of houses would not be increased, and the character of the place would not be significantly altered. In this case the maximum density on the north/south axis is one house, and on the east/west axis, seven buildings. Therefore one times seven buildings could be considered limited infilling, whereas 20 buildings is considered a significant development of the site.

Site SA1 is at a higher elevation to Effingham Place. Consequently the development of 20 houses overlooking Effingham Place, which is a Grade 2 Listed Building, would have a significant impact on the property, and would in no way be considered limited development. Views all-round the site would be negatively impacted. The character of place would be changed for ever, with the current openness of the Green Belt lost.

### Site SA2 – The Barn

#### c) In the village?

I do not agree with EPC's statement that the site is surrounded by development on three sides. As seen on the ground, the gardens of the property is surrounded on three sides by agricultural fields and the allotments. Consequently, any reasonable person would consider that part of the site to be outside the current boundary of the village.

d) Limited infilling?

I do not agree with EPC's arguments. I consider the site to be outside of the village, and therefore limited infilling is not permitted under NPPF policy. However, if the site is considered inside the village, then I don't consider the number of proposed houses as limited infilling.

When considering limited infilling, consideration must be given to the buildings that surround the site. In this case:

- North side – two houses and 2 garage blocks
- East side – seven
- South side – zero buildings
- West side – zero buildings

The facts as seen on the ground do not show buildings on three sides of the site. Therefore, any reasonable person would not consider this site to be infilling (limited or otherwise), but rather expansion of the village. The number of houses that the site could accommodate if development is permitted, such if the site was inset from the Green Belt, is irrelevant.

**Site SA3 – Effingham Lodge Farm**

e) Previously Developed Land?

The site, as allocated, contains some previously developed land, and some land that is not previously developed. Consequently the site as a whole cannot be considered Previously Developed Land.

The size of the Previously Developed Land has not been formally determined. All that has been determined is that there is some Previously Developed Land, but not its exact size.

The openness of the Green Belt will be significantly negatively impacted by this development. As present the site contains two houses, with a third house to the north of the site. This is to be replaced by eight houses on the site, with the house to the north of the site removed. Consequently the site will appear a lot more developed than it currently is. The character of the site will be significantly changed from that of rural open countryside, to that of a settlement area.

f) Inclusion on non-previously developed land?

Non-previously developed land cannot be included in the site. The clearance of the greenhouses is welcome, but these temporary structures do not constitute previously developed land.

g) Optimal use of land?

I do agree that this is optimal use of the land. The area allocated for eight dwellings is far too large.

**SUBMITTED ELECTRONICALLY**

9 August 2017

Our Ref: PD/KH/16028

Ms Tracey Coleman  
Director of Planning and Regeneration  
Guildford Borough Council  
Millmead House  
Millmead  
Guildford  
Surrey  
GU2 4BB

For attn of Dan Knowles, Senior Planning Policy Officer



Town Planning &  
Development Consultants  
Highway House  
Lower Froyle  
Hants GU34 4NB

Tel 01420 520000  
Fax 01420 521111  
Email pda@ic24.net

Dear Ms Coleman

**EFFINGHAM NEIGHBOURHOOD PLAN – INDEPENDENT EXAMINATION  
SA1 - LAND AT CHURCH STREET, EFFINGHAM**

I am writing on behalf of Millgate Developments Ltd, the contracted purchaser of the land referred to as 'SA1 Site at Church Street, Effingham' in the Effingham Neighbourhood Plan ('NP').

I am responding to your letter of 14 July 2017 inviting comments on the questions raised by the independent examiner in relation to some Regulation 16 responses.

We fully **SUPPORT** the additional comments submitted by Effingham Parish Council ('EPC') justifying the proposed site allocation SA1.

The independent examiner raises two main questions in relation to the allocation.

Can the site, although outside the GLP defined settlement area, otherwise be considered to be 'in the village' for the purposes of the Green Belt policy in the NPPF?

NPPF, paragraphs 79 to 92, deal with "Protecting Green Belt land". Paragraphs 87 and 88 state that inappropriate development in the Green Belt should not be approved except in "very special circumstances" which will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Paragraph 89 lists the exceptions to the presumption against new buildings in the Green Belt. "Limited infilling in villages" is one of the stated exceptions.

The Court of Appeal decision in Wood v Secretary of State for Communities and Local Government and Gravesham Borough Council [2015] EWCA Civ 195 considered the interpretation of the policy relating to "limited infilling in villages" in NPPF paragraph 89.

The Court determined that whether or not a proposed development constituted limited infilling in a village for the purpose of paragraph 89 was a question of planning judgement and would depend on an assessment of the position on the ground. The fact that a site lay outside the village boundary as defined in the local plan was not necessarily determinative of the point, particularly in circumstances where the boundary as defined did not accord with the decision maker's assessment of the extent of the village on the ground. The policy requires the decision-maker to consider whether, as a matter of fact on the ground, the site appears to be in the village.

The EPC draws attention to factors which they consider make the site appear to be in the village. These include:

- The site immediately abuts the settlement area boundary.
- It is surrounded on all four sides by built development (houses in Church Street, Lower Road, Effingham Place and Howard of Effingham School, with St Lawrence Church and Vicarage and Barnes Wallis Close to the south). There are no extensive views of open countryside from the site. Its development would not have any actual harm on the character of the open and wider Green Belt countryside further to the east.
- It has direct physical links to the built-up settlement area and is not physically separated by green space from the settlement.
- It is close to community facilities such as schools and public houses (we propose a pedestrian link direct to Church Street to provide a convenient walking link between the development and village services).

We also note the roads around the site have the same character as other roads within the village, with a raised kerb, tarmac footway, street lights, 30 mph and other traffic signs all typically found within the village.

We concur with the EPC's conclusion that the site is within the village. We consider that their appraisal should be given significant weight as it has been undertaken by elected representatives of the local community and thus with the benefit and understanding of how the village works and is perceived.

Can up to 20 units be considered to be 'limited infilling under policies set out in the local plan' in accordance with the NPPF and in particular the terms of policy RE3 of the GLP?

EPC points out that there is no guidance within the Framework or NPPG on what constitutes 'limited infilling'. We concur that each site must be considered on its own merits and having regard to the specific circumstances of the case.

We consider that 'limited infilling' should in part correlate to the size of the village. In principle a larger village should be more likely to accommodate a larger development without harm to the Green Belt or the village character.

Effingham has a population of 2,771 persons (2011 Census), the 5th most populated of the 24 parishes in Guildford District. Effingham is identified as a 'Large Village' in the Borough Council's 'Settlement Hierarchy' report (May 2014), part of the evidence base to the emerging Local Plan, behind only Guildford and Ash (urban centres) and East Horsley (rural service centre). As EPC highlight, it is well served with a good

range of community and related services and facilities. It has the 7th best sustainability ranking (access to community facilities and public transport) according to the Settlement Hierarchy report.

We consider a development of up to 20 dwellings would not be incongruous or out of keeping with the character of the village as a whole, noting this will comprise a mix of dwelling types and sizes reflecting the policy ENP-H2 requirement for more smaller dwellings in developments of 10 or more units. This scale of development would not be disproportionate to the size of the village. There are other examples of single developments in the village such as Barnes Wallis Close off Church Street and Middle Farm Place off The Street.

Therefore we consider that the proposed allocation of up to 20 dwellings constitutes limited infilling within a village and would be appropriate development in the Green Belt in accordance with national policy.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. Dickinson', written in a cursive style.

**PAUL DICKINSON**  
**BA (Hons) MRTPI MRICS MCMI**

The Barn,  
The Street,  
Effingham,  
Surrey.  
KT24 5LP

8<sup>th</sup> Aug 2017.

Dear Mr Knowles,

I write on behalf of my mother, Vanda Powell, the site owner of ENP-SA2 known as The Barn. The Parish Council had been invited by the Examiner to make further comment with regards to this site and its inclusion in the well thought out plan the Parish Council have presented. That response is now in and affirms the Parish Council's support for the site.

It appears a solitary objection had been raised. I say solitary objection as Mr Harry Clarke is in fact also a committee member of the EFFRA who raise precisely the same point so for all intent and purpose the objection raised is the same. The Neighbourhood Plan has received wide-spread support from the greater community so it is therefore regrettable that the EFFRA have chosen to act contrary to that support. Given that Mr Harry Clarke is a member of that committee it might be argued that EFFRA's views are not necessarily objective but representative of the personal views of the committee members rather than those of the greater community they should be representing.

The published (April 2017) Draft Guildford Local Plan: strategy and sites (Reg 19, 2017) shows the Barn site removed from the Green Belt. The inseting of the site has been supported throughout the process, clearly justified within the Countryside and Green Belt study and Land Availability Assessment, along with previous iterations of both the Draft Guildford Local Plan and the Draft Effingham Neighbourhood Plan.

The site is currently available for this proportionate development and is highly deliverable over the next 1-5 years, under single ownership. Furthermore the site is within a highly sustainable location, supported by local amenities and facilities. As such it represents an excellent opportunity to provide sustainable housing within Effingham village.

Should the site be removed from the plan then the opportunity to provide much needed housing for both Effingham Village and Guildford Borough will be lost.

The site has been developed as part a rigorous process for producing both the Local Plan and the Effingham Neighbourhood Plan. This process has seen the site tested through multiple assessments phases and through the pre-submission consultation stage. The sites inclusion as an inset site for allocated housing has been informed by a sound evidence base, which includes the Green Belt & Countryside Study and the Guildford Borough Land Availability Assessment. Both evidence reports concluded that the site should be removed from the Green Belt. Furthermore other areas of the Green Belt boundary are more sensitive, no changes to the boundary in this sustainable location should take place on this highly deliverable site.

It is vital that the existing proposals within the Local Plan and Neighbourhood Plan are retained and that those areas and sites which are suitable and deliverable, particularly within 1-5 years, such as The Barn, remain.

It would be a travesty if the minority and evidently self-serving view of the EFFRA were to de-rail the considered work of the Parish Council.

Yours sincerely,  
Adam Powell.