

Babergh District Council

**Elmsett
Neighbourhood Plan
2017-2036**

Independent Examiner's Report

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5 August 2019

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Summary

I have been appointed as the independent examiner of the Elmsett Neighbourhood Development Plan.

The Plan has been prepared against the backdrop of an emerging Local Plan. It focuses on three themes; historic and natural environment, housing and infrastructure and jobs. It is presented well with a clear vision. The vision is underpinned by a set of objectives. The vision is translated into 17 policies including two site allocations.

It has been necessary to recommend some modifications. In the main these are intended to ensure the Plan is clear and precise and provides a practical framework for decision-making as required by national policy and guidance. These do not significantly or substantially alter the intention or overall nature of the Plan.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend to Babergh District Council that the Elmsett Neighbourhood Development Plan can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI
Ann Skippers Planning
5 August 2019



1.0 Introduction

This is the report of the independent examiner into the Elmsett Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by Babergh District Council (BDC) with the agreement of the Parish Council, to undertake this independent examination.

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over thirty years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

2.0 The role of the independent examiner

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The basic conditions¹ are:

- 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
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (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 neighbourhood plan.

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation

¹ Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

and referred to in the paragraph above. Only one is applicable to neighbourhood plans and was brought into effect on 28 December 2018.² It states that:

- The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

The examiner is also required to check³ whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.⁴

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case Babergh District Council. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

² Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

³ Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

⁴ The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

3.0 Neighbourhood plan preparation

A Consultation Statement has been submitted. It meets the requirements of Regulation 15(2) of the Neighbourhood Planning (General) Regulations 2012.

Work began on the Plan in 2017. Drop in events were held in December 2017 to launch the process after leaflets were distributed to every household in the Parish and a stall at the Village Christmas Fayre to introduce the concept. The two drop in events were well attended attracting over 120 residents.

A Steering Group consisting of both Parish Councillors and residents was established. Notes of the meetings held are publicly available. A visit to the primary school was made. A survey was sent to every household and achieved a 65% response rate which is very good.

Pre-submission (Regulation 14) consultation took place between 19 October – 30 November 2018.

Households were leafleted about the consultation. A drop in event and exhibition was held in the Village Hall with over 100 people attending. Section 4 of the Consultation Statement details the pre-submission responses received.⁵

I consider that the consultation and engagement carried out is satisfactory.

Submission (Regulation 16) consultation was carried out between 11 February – 27 March 2019.

The Regulation 16 stage resulted in ten representations. I have considered all of the representations and taken them into account in preparing my report.

4.0 The examination process

I have set out my remit earlier in this report. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).⁶ PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.⁷ Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further amendments or additions are required.

⁵ Consultation Statement page 10

⁶ PPG para 055 ref id 41-055-20180222

⁷ Ibid

Some representations seek further policies or make suggestions for policy changes. I feel sure the Parish Council will wish to consider these further in any future review of the Plan.

PPG⁸ explains that it is expected that the examination will not include a public hearing. Rather the examiner should reach a view by considering written representations. Where an examiner considers it necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case, then a hearing must be held.⁹

I sought clarification on a number of matters from the Parish Council and BDC in writing and my list of questions is attached to this report as Appendix 2. I am very grateful to both Councils who have provided me with comprehensive answers to my questions. The responses received (all publicly available) have enabled me to examine the Plan without the need for a hearing.

Last year NPIERS published guidance to service users and examiners. Amongst other matters, the guidance indicates that the qualifying body will normally be given an opportunity to comment upon any representations made by other parties at the Regulation 16 consultation stage should they wish to do so. There is no obligation for the Parish Council to make any comments; it is only if they wish to do so. The Parish Council sent comments and I have taken these into account.

I am very grateful to everyone for ensuring that the examination has run so smoothly and in particular Paul Bryant at BDC.

I made an unaccompanied site visit to familiarise myself with the Plan area on 23 April 2019.

Where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in ***bold italics***.

As a result of some modifications consequential amendments may be required. These can include changing section headings, amending the contents page, renumbering paragraphs or pages, ensuring that supporting appendices and other documents align with the final version of the Plan and so on.

I regard these as primarily matters of final presentation and do not specifically refer to such modifications, but have an expectation that a common sense approach will be taken and any such necessary editing carried out and the Plan's presentation made consistent.

⁸ PPG para 056 ref id 41-056-20180222

⁹ Ibid

5.0 Compliance with matters other than the basic conditions

I now check the various matters set out in section 2.0 of this report.

Qualifying body

Elmsett Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is satisfactorily met.

Plan area

The Plan area is coterminous with the administrative boundary for the Parish. BDC approved the designation of the area on 27 October 2017. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Plan area is shown clearly on page 9 of the Plan.

Plan period

The Plan period is 2017 – 2036. This is clearly stated in the Plan itself and confirmed in the Basic Conditions Statement.

A representation points that the end date does not reflect the end date of the CS which is 2031. It does however reflect the end date for the Joint Local Plan being prepared by Babergh and Mid Suffolk Councils. In any case, there is no compulsion for a neighbourhood plan to reflect the end dates of a strategic level plan.

The requirement is therefore satisfactorily met.

Excluded development

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also helpfully confirmed in the Basic Conditions Statement.

Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the development and use of land. If I consider a policy or proposal to fall within this category, I will recommend it be clearly differentiated. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.¹⁰

¹⁰ PPG para 004 ref id 41-004-20190509

In this instance, community actions have been included in amongst policies. The Plan explains what they are and that they do not form part of the policies.¹¹ They are clearly distinguishable from the planning policies. I consider this to be an appropriate approach for this particular Plan.

6.0 The basic conditions

Regard to national policy and advice

The Government published a National Planning Policy Framework (NPPF) in 2012. On 24 July 2018, a revised NPPF was published. On 19 February 2019, the revised NPPF was updated and replaces the previous NPPF published in March 2012 and revised last July.

Paragraph 214 in Annex 1 of that document explains that:

“The policies in the previous Framework published in March 2012 will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.”

Footnote 69 explains that for neighbourhood plans “submission” means where a qualifying body submits a plan proposal to the local planning authority in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012.

As the Plan was submitted before 24 January 2019, it is clear that it is the previous NPPF published in 2012 that is relevant to this particular examination. Any references to the NPPF in this report refer to the NPPF published in 2012 unless otherwise stated.

The NPPF is the main document that sets out national planning policy. 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, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.¹²

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 Local Plan. They

¹¹ The Plan, pages 6 and 24

¹² NPPF paras 14, 16

cannot promote less development than that set out in the Local Plan or undermine its strategic policies.¹³

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.¹⁴

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at www.gov.uk/government/collections/planning-practice-guidance which is regularly updated. The planning guidance contains a wealth of information relating to neighbourhood planning. I have also had regard to PPG in preparing this report.

PPG indicates that a policy should be clear and unambiguous¹⁵ to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.¹⁶

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.¹⁷ It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.¹⁸

Whilst this has formed part of my own assessment, the Basic Conditions Statement sets out how the Plan has responded to national policy and guidance. An appraisal¹⁹ briefly sets out how the Plan's policies align with the NPPF's core planning principles. More detail is then given²⁰ with a discussion of how the key themes of the NPPF relate to the Plan.

Contribute to the achievement of sustainable development

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole²¹ constitutes the Government's view of what sustainable development means in practice for planning. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.²²

¹³ NPPF para 184

¹⁴ Ibid para 17

¹⁵ PPG para 041 ref id 41-041-20140306

¹⁶ Ibid

¹⁷ Ibid para 040 ref id 41-040-20160211

¹⁸ Ibid

¹⁹ Basic Conditions Statement page 9

²⁰ Ibid page 12 and following

²¹ NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

²² Ibid para 7

Whilst this has formed part of my own assessment, the Basic Conditions Statement contains a table²³ which explains how the Plan aligns with each of the three components of sustainable development outlined in the NPPF.

General conformity with the strategic policies in the development plan

The development plan consists of the Babergh Local Plan 2011 – 2031 Core Strategy & Policies (CS) adopted in February 2014 and the saved policies of the Babergh Local Plan Alteration No 2 (LP) adopted in June 2006. In addition the Minerals Core Strategy and the Waste Core Strategy produced by Suffolk County Council also form part of the development plan.

Whilst this has formed part of my own assessment, the Basic Conditions Statement outlines selected CS policies and saved LP policies alongside the Plan’s policies with a commentary on each.

Emerging Joint Local Plan

BDC with Mid Suffolk District Council are working together to deliver a new Joint Local Plan (JLP Draft) which will cover the period up to 2036. BDC wrote to me on 2 July 2019 to advise that a working draft Regulation 18 Preferred Options Joint Local Plan consultation document was published to accompany a report presented to BDC on 25 June asking Members to approve the document for public consultation later this Summer. At the time of writing the Preferred Options Consultation Document (Regulation 18) is currently out to consultation and this period ends on the 30 September 2019.

BDC explain that the JLP Draft now provides “some degree of certainty”²⁴ on housing numbers and strategic housing site allocations alongside other policies. Once adopted, it will replace all other policies across the two Districts.

There is no legal requirement to examine the Plan against emerging policy. However, PPG²⁵ advises that the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which the Plan is tested.

Furthermore Parish Councils and local planning authorities should aim to agree the relationship between policies in the emerging neighbourhood plan, the emerging Local Plan and the adopted development plan with appropriate regard to national policy and guidance.²⁶

The Plan has rightly been produced in parallel with the production of the emerging Local Plan. While there is no requirement for the Plan to conform to emerging policies, I see no harm in it referencing the JLP Draft. Conformity with emerging plans can

²³ Basic Conditions Statement page 13

²⁴ Email from Paul Bryant, BDC of 2 July 2019

²⁵ PPG para 009 ref id 41-009-20190509

²⁶ Ibid

extend the life of neighbourhood plans, providing this does not result in conflict with adopted policies. However, the JLP Draft could change and so this should be carefully considered. Some natural updating of the Plan's references to the JLP Draft may also be needed.

European Union Obligations

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant. A number of EU obligations may be of relevance including Directives 2001/42/EC (Strategic Environmental Assessment), 2011/92/EU (Environmental Impact Assessment), 92/43/EEC (Habitats), 2009/147/EC (Wild Birds), 2008/98/EC (Waste), 2008/50/EC (Air Quality) and 2000/60/EC (Water).

PPG²⁷ confirms that it is the responsibility of the local planning authority, in this case BDC, to ensure that all the regulations appropriate to the nature and scope of the draft neighbourhood plan have been met. It is BDC who must decide whether the draft plan is compatible with EU obligations when it takes the decision on whether the plan should proceed to referendum and when it takes the decision on whether or not to make the plan.

Strategic Environmental Assessment

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR).

A Screening Determination of January 2019 has been submitted. This in turn refers to a Screening Report of December 2018 prepared by Place Services. This concluded that a SEA would not be needed. Although it was noted that the Plan contains two site allocations, both the report from Place Services and the Screening Determination refer to both sites as having the benefit of planning permission.

The sites subject to Policies EMST3 and EMST4 have planning permission. The principle of development has been established outside of the Plan process. Any effects have been identified and considered at the application stage ahead of the Plan process.

I am also mindful that the requisite consultation with the statutory consultees was undertaken. All three statutory consultees, the Environment Agency (EA), Natural England (NE) and Historic England (HE) responded and all concurred that a SEA would not be required.

²⁷ PPG para 031 ref id 11-031-20150209

Bearing these factors in mind and taking account of the characteristics of the Plan and the characteristics of the effects and area likely to be affected, I am of the view that EU obligations in respect of SEA have been satisfied.

Habitats Regulations Assessment

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.²⁸ The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

A Screening Determination of January 2019 has been submitted. It relies on the Screening Report of December 2018 prepared by Place Services. The Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site lie within 20km of the Plan area. The Plan area lies within the Zone of Influence (ZOI). As both site allocations in the Plan have the benefit of planning permission, the Report concludes there are no likely significant effects.

The Determination indicates that in allocating the sites for development, the Plan “...has the potential for likely significant effects in combination with other plans and programmes that result in a cumulative increase in growth within the ZOI”. However, as mitigation has already been secured alongside the planning applications to which the Plan’s allocations relate, screens the Plan out.

Consultation with the three statutory bodies confirms this position although NE would, at this point in time, require project level HRAs for any windfall sites.

On 28 December 2018, the basic condition prescribed in Regulation 32 and Schedule 2 (Habitats) of the Neighbourhood Planning (General) Regulations 2012 (as amended) was substituted by a new basic condition brought into force by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

I have considered the nature, characteristics and distance of the European sites and the nature and contents of the Plan. Given the two site allocations already have planning permission, and indeed construction has commenced on one, taking into account the recent planning permissions, the position of NE and on the basis of the information provided, I consider that the prescribed basic condition is complied with.

European Convention on Human Rights (ECHR)

The Basic Conditions Statement contains a detailed statement and assessment on the Plan’s objectives and policies in relation to human rights. There is nothing in the Plan

²⁸ PPG para 001 ref id 65-001-20190722

that leads me to conclude there is any breach of the fundamental rights and freedoms guaranteed under the ECHR or that the Plan is otherwise incompatible with it or does not comply with the Human Rights Act 1998.

7.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. Where modifications are recommended they appear in **bold text**. As a reminder, where I suggest specific changes to the wording of the policies or new wording these appear in ***bold italics***.

The Plan is presented clearly and contains 17 policies. There is a foreword and useful contents page at the start of the Plan.

1. Introduction

This is a helpful introduction to the Plan that sets out how the Plan came into being and key stages in its evolution. It will need some natural updating as the Plan progresses to the next stages.

2. The Plan Area

Another introductory section that is well written and sets the scene well with a summary of the stages of preparation for the Plan.

3. Elmsett in Historical Context

As well as setting out the most interesting history of Elmsett, this section guides the reader through some of the key information for the Parish. It summarises the key findings from a household survey in graphic form which is very effective.

4. Planning Policy Context

This section explains the policy context for the Plan. Paragraph 4.1 refers to the NPPF, but does not fully reflect the relevant basic condition. In the interests of accuracy, a modification is recommended to address this.

Furthermore the recent publication of the Regulation 18 Preferred Options Joint Local Plan means that some natural updating is now required.

- **Reword paragraph 4.1 on page 22 of the Plan to read: “The regulations governing the preparation of Neighbourhood Plan require that they *take account of* the NPPF and *be in general conformity with* the strategic policies of the local development plan.”**
- **Update Section 4 as required to reflect the most recent situation**

5. The Plan

A short, but useful section that explains the Plan focuses on three themes. It goes through the three elements of sustainable development. It will require some natural updating in relation to strategic environmental assessment and habitats issues as the Plan progresses towards the next stages.

6. Vision and Objectives

The vision for the area is:

“In 2036 Elmsett will be a thriving rural village and will have balanced the provision of housing growth with the need to maintain existing village services and minimising the impact of growth on both the local environment and infrastructure.”

The vision is supported by ten objectives across the three thematic areas. All are articulated well, relate to the development and use of land and will help to deliver the vision.

7. Planning Strategy

Policy EMST1 - Spatial Strategy

The CS takes an economic growth/jobs-led strategy to facilitate and plan for managed growth. It identifies a network of villages clustered around towns and larger villages, a settlement pattern based on functional everyday needs. CS Policy CS2 identifies Elmsett as a ‘Hinterland Village’ within the functional cluster of Hadleigh.

The preamble to the policy explains that the strategy in the neighbourhood plan has been predicated on the CS designation of Elmsett as a 'Hinterland Village'. This type of settlement accommodates some development to help meet the needs within the settlement and all proposals are assessed against CS Policy CS11.

However, in an early JLP Draft, Elmsett was identified as a 'Core Village'. This proposed designation was contested by the qualifying body.²⁹ The Parish Council wish to see the continuation of the modest growth experienced historically and which has, in the main, been small estates and infill development.

However, in the more recently published Regulation 18 Preferred Options Joint Local Plan, Elmsett is proposed to be classified as a 'Hinterland Village' in Policy SP03. In such locations appropriate and well-designed development is permitted within the settlement boundary. As a result of these changes, some natural updating will be required to the Plan in Section 4 and this is a modification I have already put forward.

A Built Up Area Boundary (BUAB) has been defined for Elmsett. The boundary is based on that predicated in the LP 2006, but has been reviewed to ensure it is still fit for purpose. A 'hamlet' has also been defined at Rookery Road. This will also provide some opportunity for some development.

I note there are some differences between the BUABs defined for Elmsett and Rookery Road (which is a proposed hamlet in the JLP Draft) and those shown in the JLP Draft.

It is however, the development plan which should be considered in respect of the relevant basic condition. Nevertheless, the Plan's strategy is now in tune with the evidence and background for the latest published JLP Draft. It should be recognised that this Plan may quickly become out of date if the JLP Draft changes. This is because PPG advises that if there is a conflict between a policy in a neighbourhood plan and a policy in a local plan, the conflict must be resolved in the last document to become part of the development plan.³⁰

Turning now to the policy itself, it is clearly worded. It defines the new BUAB and the Rookery Road hamlet which are both clearly shown on maps on page 27 of the Plan.

However, it refers to "development commensurate with Elmsett's designation of a Hinterland Village". I considered whether it might be difficult to know whether a particular development proposal met this or not and asked a question about this. The Parish Council considers a cross reference to CS Policy CS11 may be appropriate. Having given the matter further thought, I consider this would be helpful.

The policy then focuses development within the BUAB and the Rookery Road hamlet restricting development outside these boundaries unless it is demonstrated that there is an identified local need for the proposal which cannot be located within the boundaries. This broadly reflects the approach in CS Policy CS2. CS Policy CS11 sets out

²⁹ The Plan page 22

³⁰ PPG para 044 ref id 41-044-20190509

more detailed criteria for the acceptability or otherwise of development. The supporting text to CS Policy CS11 explains that the BUABs defined in the LP 2006 provide a starting point for defining the extent of proposed development and the distinction between built up areas and the countryside. Policy CS11 is intentionally flexible allowing appropriate development beyond the BUABs.

I am mindful that the opportunity has been taken to review the BUAB and to define a settlement boundary at Rookery Road. With the modification suggested, the policy will meet the basic conditions.

- **Add the words “*in line with CS Policy CS11*” at the end of the first sentence of the policy**

8. Housing

The supporting text to this section which contains six policies, explains that the CS housing requirement has already been met. CS Policy CS3 indicated that 1, 050 dwellings would be provided in Core and Hinterland Villages. However, the Plan recognises that as it covers an additional five years, some further growth should be accommodated.

At the time of producing the Plan, the NPPF of July 2018 introduced a standard housing methodology and BDC had not indicated any requirement for the Parish. With the passage of time, the recently published Regulation 18 Preferred Options Joint Local Plan sets out a minimum housing requirement of 50 new dwellings within the Plan area in the table appended to draft Policy SP04.

Based on the information available at the time of writing the Plan, the Parish Council sought to calculate its own housing figure for the District using a base date of 2017. It calculated that a higher figure than appears in the original JLP Draft would be appropriate and deducts commitments leaving a net requirement of 5, 720 new homes for Babergh.

It explains that, taking the range for Hinterland Villages in the JLP Draft, this results in a range of between 15 – 46 new dwellings recognising this is a minimum. The Plan states that as commitments already match that higher figure, the Plan makes provision for 60 new homes through commitments, site allocations and windfall development.

I am not convinced that it is sensible for the Plan to seek to set a District-wide housing number, however admirable this desire might be, in this context. There is a level of uncertainty about the emerging JLP and methods of calculating numbers have changed.

In any case, the Plan does not seek to allocate sites other than those which, with the passage of time, have received planning permission.

Whilst there is no objection to Policy EMST2 setting a figure, and this broadly accords with the latest position put forward by BDC, it would seem that this policy may be superseded quickly. Given the uncertain situation at District level, it would therefore seem sensible for the Plan to be reviewed to ensure it remains up to date.

A 'Call for Sites' was issued as part of work on this Plan³¹ and sites identified through a Strategic Housing and Employment Land Availability Assessment (SHELAA) carried out by BDC in 2017 were also considered. Independent consultants AECOM were appointed to assess the sites, but did not consider any sites rejected in the SHELAA. Five sites were considered suitable.

AECOM have produced a Site Assessment Final Report. This confirms that nine sites were identified for development through the SHELAA of August 2017 with six suitable for taking further for either housing or employment uses. AECOM have assessed five sites discounting the one for employment as the Parish Council looks only to allocate housing sites through this exercise. Three sites have been found to be suitable for development.

Using the Parish Council's figure of 60, 48 dwellings already have permission which left (at the time of Plan production) a residual of 12. The AECOM Report explains that as a result of this, parts of the sites put forward have been assessed. Two sites have been found to be suitable for allocation; one already with planning permission at the time the Report was produced. Two have significant constraints and one was found not to be suitable for allocation.

Policy CS2 of the CS identifies Elmsett as a 'Hinterland Village' within the functional cluster of Hadleigh. These villages accommodate some development to help meet the needs within them with all proposals assessed against Policy CS11. Outside these areas, development is only permitted in exceptional circumstances subject to a proven justifiable need.

CS Policy CS3 proposes 1, 050 new homes in Core and Hinterland Villages. It is made clear that this is not to be divided equally or randomly between the number of villages, but the approach to housing distribution is to be driven by the function of the village, their role in the community and the capacity for a particular level of growth guided by many factors resulting in what is an appropriate level of development different in different settlements. One of the factors will be infrastructure.

The BUABs provide a starting point; they have been rolled forward from the 2006 Local Plan Saved Policies in the CS.

The policy then accords with the CS and is not at odds with the most recent published position at BDC level. It is clearly worded and meets the basic conditions.

³¹ The Plan page 30

Policy EMST2 - Housing Development

This overarching policy provides for “around 60” dwellings over the Plan period to come forward through site allocations, subject to separate policies and windfall development in Elmsett village and Rookery Road hamlet. It is clearly written. The Plan has made an admirable attempt to define its housing growth in the absence of much solid information. The policy meets the basic conditions and no modifications are recommended.

Policy EMST3 – Land at Hadleigh Road

This policy allocates site SS0212 which has been granted outline planning permission. It allocates the site for 41 dwellings including some affordable units. Although permission has been granted for 41 units, the policy could include some greater flexibility on the numbers should that permission lapse.

The allocation is subject to a number of criteria. These cover the provision of open space, wildlife areas and play equipment, improvements to the highway and footways and enhanced tree and hedgerow planting.

Some of the requirements are prescriptive, but the Parish Council has confirmed they reflect the grant of permission; this includes the provision of some off-site works.

A plan of the site is found on page 32 of the Plan. This should be cross-referenced in the policy in the interests of providing certainty.

With these modifications, the policy will meet the basic conditions.

- **Add “*and as shown on the Policy EMST3 map*” after “...Hadleigh Road...” and before “...is allocated for:...” in the first sentence of the policy**
- **Insert the word “*approximately*” before “41 dwellings...” in criterion a) of the policy**

Policy EMST4 – Land South of Whatfield Road

Seven dwellings are allocated on this site. This reflects outline planning permission granted for the site in 2017. BDC has now confirmed that a start has been made on this site.³² It seems to me that to retain this policy in the Plan would not serve any useful planning purpose when development is already progressing on site.

³² Email from Paul Bryant, BDC of 13 June 2019

- **Delete Policy EMST4 and any supporting text**

Policy EMST5 – Affordable Housing on Rural Exception Sites

Reflecting CS Policy CS20 which takes a flexible approach to the location of rural exception sites, such sites are supported outside the BUAB. The NPPF supports the provision of rural exception sites to enable local needs to be provided for.³³ The policy is clearly worded, it meets the basic conditions and no modifications are recommended.

Community Action 1

A well worded action that explores the possibility of setting up a Community Land Trust.

Policy EMST6 – Housing Space Standards

As the Plan explains, the Government introduced national technical standards for housing in 2015. A Written Ministerial Statement³⁴ explains that neighbourhood plans should not set out any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings.

This policy seeks compliance with the national technical standards and also includes storage facilities for cycles and bins, car parking provision and seeks ducting capable of accepting fibre and electric vehicle charging points. It therefore does not seek to set additional local standards.

The policy is clearly worded. It will help to achieve sustainable development and is in line with current Government thinking.³⁵ It therefore meets the basic conditions and no modifications are recommended.

Policy EMST7 – Housing Mix

The NPPF³⁶ emphasises the need to deliver a wide choice of high quality homes. Local planning authorities should, amongst other things, plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.

³³ NPPF para 54

³⁴ Written Ministerial Statement 25 March 2015

³⁵ See NPPF 2019 para 110 for example

³⁶ NPPF para 50

The Strategic Housing Market Assessment (SHMA), updated in 2017, shows that 46% of new stock should be three bedroomed, 29% two bedroomed and 18% one bedroomed. These figures relate to the Ipswich Housing Market Area rather than any smaller geographical area such as the Parish.

However, the Plan explains that Elmsett has a higher proportion of homes with three or more bedrooms than the District and the survey identified a need for family homes and starter/affordable homes.

Policy EMST7 sets out a housing mix requirement for smaller units in developments of ten or more dwellings to redress the balance and reflect local circumstances. The policy is flexibly written recognising viability and other site constraints. It would be useful for a reference to up to date needs to be added to ensure that the most recently available information is used.

With this modification, the policy will have regard to national policy and guidance, contribute to the achievement of sustainable development and be in general conformity with strategic policy, particularly CS Policy CS18.

- **Add at the end of the policy “...or where such provision is demonstrated to not be in accordance with the latest available housing needs information for the Plan area.”**

9. Historic and Natural Environment

Policy EMST8 – Area of Local Landscape Sensitivity

Land to the east and southeast of Elmsett village has been designated as a Special Landscape Area (SLA) in the development plan since the mid 1980s. The Plan seeks to reaffirm that designation under saved LP Policy CR04 in recognition of the high quality of this landscape. The opportunity to review the boundaries has been taken and the policy takes a pragmatic approach in following field boundaries.

The policy is clearly worded closely reflecting the wording of LP Policy CR04. It does not prevent development per se, but seeks to ensure any development within this area is appropriate given the qualities of this landscape. I saw at my visit that this area is distinguishable from surrounding land and the rest of the Parish given its topography and characteristics.

The policy refers to a Landscape Character Assessment, but this is in error. Subject to this correction, the policy will meet the basic conditions.

- **Delete the words “...identified in the Landscape Character Assessment” from the first bullet point of the policy**

Policy EMST9 – Local Green Spaces

Seven areas of Local Green Space (LGS) are proposed.

The NPPF explains that LGSs are green areas of particular importance to local communities.³⁷ The effect of such a designation is that new development will be ruled out other than in very special circumstances.

The identification of LGSs should be consistent with local planning of sustainable development and complement investment. The NPPF makes it clear that this designation will not be appropriate for most green areas or open space. Further guidance about LGSs is given in PPG.

I saw all the areas on my site visit. Taking each one in turn:

Buckles Wood is close to the Village Hall and the primary school. The supporting information explains this is recently planted woodland established by the community where school children have helped to grow trees and use the area as an outdoor classroom.

The Squeech is a linear area of woodland covered by Tree Preservation Orders. It is reached by public footpaths and is valued as a wildlife area and 'destination' for exploration on the edge of the village.

The Green is at the heart of the village and is an area valued for its visual and recreational amenity.

Green at Windings Road is a broadly circular area of visual and recreational amenity central to the setting of residential properties around it.

Green at Church View is described as a relatively new space provided as part of the Church View development. It is an area of open space and has a SuDs balancing pond. It is close to the school which is on the opposite side of the road. It adds to the setting and is on one of the main entrances to the village.

Community Open Space at Hazelwood is an area of open space and woodland to the rear of Hazelwood. Although at the time of my visit, this area is clearly evolving as woodland, it also provides an area for recreation for local residents.

Green at Mill Lane is a fenced, grassed area with play equipment which also adds to the setting of development around it.

In my view, all the proposed LGSs meet the criteria in the NPPF satisfactorily.

³⁷ NPPF paras 76, 77 and 78

The policy is clearly worded. It refers to “exceptional circumstances” whereas the NPPF’s policy on LGSs (which is to manage development in LGSs in line with policy for Green Belts) refers to “very special circumstances”. It would provide more of a practical framework for decision making if the policy reflected this language and I do not consider this would change the stance of the policy. This would also reflect the supporting text for the policy.

With this modification, the policy will meet the basic conditions.

- **Change the words “...exceptional circumstances...” in the policy to “...very special circumstances...”**

Policy EMST10 – Protection of Important Views

The Plan explains that views in and out of Elmsett village are important to its setting and feel given the topography of the area.

Community consultation was undertaken on those views considered to be most significant. 19 views have been identified. Some more detail about each view is given in a supporting document, the Elmsett Important Views Assessment.

The area is attractive countryside and I am satisfied from what I saw on my site visit, that whilst there were other views which could have been identified, given the character and setting of the village, the most important have been selected. Many offered wide and expansive 180 degree views. They are all clearly identified on accompanying maps.

The policy itself refers to “distinctive views” requiring them to be “maintained”. This then needs more precision to provide the practical decision making framework required by national policy and guidance.

The policy then requires proposals for new buildings outside the BUAB to be accompanied by a Landscape Visual Impact Appraisal. This is to show the impact on the countryside and the more built up areas and the relationship between the two and to ensure that the landscape and beauty is conserved and enhanced. Some more flexibility should be accommodated in the policy because requirements for documents accompanying planning applications are a matter for the local planning authority and a proportionate approach should be taken.³⁸

The wording of the policy then seeks to do more than protect important views and this is also addressed in my modifications.

³⁸ PPG para 038 ref id 14-038-20140306

Subject to these modifications, the policy will meet the basic conditions as it will take account of national policy and guidance in recognising the intrinsic character and beauty of the countryside and promoting and reinforcing local distinctiveness, adding a local layer to CS Policies CS11 and CS15 in particular and will help to achieve sustainable development.

- **Change the first sentence of the policy to read: “*Important views from public vantage points either within the built up area or into or out of the surrounding countryside are identified on the Proposals Map. Any proposed development should not detract from the key landscape features of these views.*”**
- **Add the words “*or other appropriate and proportionate evidence*” after “...a Landscape Visual Impact Appraisal...” in the second sentence of the policy**
- **Change the title of the policy to “*Protection of Important Views and Landscape Character*”**

Policy EMST11 – Elmsett Special Character Area

This policy seeks to designate a “special character area”. The area is identified on a map and includes The Green, one of the proposed LGSs, two listed buildings, a scheduled ancient monument and a number of trees subject to tree preservation orders. The village does not have a conservation area, but the Plan indicates that this area is at the heart of the village and contributes to its character positively. It is a relatively small area that has a logic and cohesiveness to it.

The policy seeks to ensure that this area is carefully considered with any proposals enhancing the characteristics and any proposal causing harm not supported. It is clearly worded and meets the basic conditions. No modifications are therefore suggested.

Policy EMST12 – Heritage Assets

The preamble to this and the following policy explains that although the Parish does not have a conservation area, there are a number of listed buildings and other features of historical interest.

The policy seeks to ensure that development proposals preserve or enhance the significance of heritage assets through an understanding of the asset’s significance and the provision of clear justification for any works that would lead to harm. The NPPF is clear that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.³⁹

³⁹ NPPF para 126

The policy is clearly worded, but should distinguish between designated and non-designated heritage assets in line with the NPPF. With these modifications, the policy will meet the basic conditions.

- **Amend criterion c) to read: “provide clear justification for any works that would lead to *substantial harm to or total loss of a designated heritage asset...*”**
- **Add a new paragraph to the end of the policy to read: “*A balanced judgment will be taken having regard to the scale of any harm or loss to a non-designated heritage asset in relation to its significance.*”**
- **Delete the last paragraph of the policy**

Community Action 2

Action in respect of overhead wires and other such infrastructure is put forward.

Policy EMST13 – Development Design Principles

The NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.⁴⁰ It continues that neighbourhood plans should set out robust and comprehensive policies that set out the quality of development expected for the area. Policy EMST13 is a long policy with numerous and varied criteria covering a wide range of issues. In essence, the policy seeks to deliver locally distinctive development of a high quality that protects, reflects and enhances local character leading on from CS Policy CS15.

A number of modifications are made to ensure it provides the practical framework for decision-making sought by national policy and guidance. They are made to add clarity, avoid ambiguity or phrases that could be open to interpretation or be difficult to demonstrate, or to remove repetition between other policies in the Plan.

Another modification is made to remove the reference to restricting building height to two storeys. In the absence of any evidence to support this such as a Character Appraisal, this is without justification and is something which can detrimentally affect the ability to achieve sustainable development.

BDC also point out that the Recreational Avoidance and Mitigation Strategy (RAMS) referred to in the policy is yet to be adopted and request a revision to this part of the

⁴⁰ NPPF para 56

policy to reflect this, putting forward wording. I consider this to be an appropriate course of action to ensure the policy meets the basic conditions.

With these modifications, the policy will meet the basic conditions.

- **Change the first paragraph of the policy to read: “Proposals for new development must reflect the local *character of Elmsett* and create and contribute to a high quality, safe and sustainable environment.”**
- **Change the word “significant” in criterion c) to “*positive*”**
- **Delete criterion e) iii)**
- **Changing criterion g) to read: “produce designs that respect the character, scale, *height*, density of the locality; “ [delete the words “...restricting new dwellings to a maximum of two storeys in height;”]**
- **Delete the last paragraph of the policy and replace it with: “*Where appropriate, contributions from new housing developments will be required to provide mitigation measures identified in the Suffolk Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) once it has been adopted. Prior to RAMS completion, contributions will be required, where appropriate, through project level HRAs or otherwise, to mitigate any recreational disturbance impacts at the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site, in compliance with the UK Habitats Regulations 2017.*”**

10. Infrastructure, Jobs and Facilities

Policy EMST14 – Communications Technology

Telecommunications infrastructure is supported by this policy. This is in line with the NPPF’s support for high quality communications infrastructure.⁴¹ The policy is clearly worded and meets the basic conditions. As a result no modifications are recommended.

Community Action 3

An action that seeks to improve telecommunications within the Parish.

⁴¹ NPPF Section 5

Policy EMST15 – Employment Sites

Two sites currently in employment use in the Parish are protected for such uses by this policy alongside support for intensification at these two sites. The two sites are Popular Hall and Gate Farm. Both are identified on maps clearly.

The second element of the policy safeguards these two sites from non-employment uses unless various criteria are met. The criteria are exclusive and all are sensibly flexible in permitting the loss of uses regarded as inappropriate for the site insofar as adverse environmental issues are caused by the uses, supporting employment related facilities such as crèches or where an alternative use or mix of uses provides benefits that outweigh the loss of the site.

The policy supports employment uses appropriately, takes account of CS Policy CS3 which supports employment uses that contribute to the local economy and increase the sustainability of Core and Hinterland Villages where scale, character and nature is appropriate to the locality and CS Policy CS15 which seeks to create jobs to strengthen or diversify the local economy. It contributes towards the economic role of achieving sustainable development. It meets the basic conditions. It is not therefore necessary to recommend any modifications to it.

Policy EMST16 – Community Facilities and Services

Community facilities and services are protected by this policy. The NPPF encourages planning policies to plan positively for the provision of facilities and other local services to enhance the sustainability of communities and to guard against the unnecessary loss of valued facilities and services.⁴²

The clearly worded policy takes account of national policy and has sufficient flexibility. It takes account of the CS and in particular CS Policies CS11 which seeks to safeguard the needs of local communities and CS15 which seeks the retention, protection or enhancement of local services and facilities. It will help to achieve sustainable development. As a result it meets the basic conditions and it is not necessary to recommend any modification to it.

Community Action 4

An action relating to Village Hall provision.

⁴² NPPF paras 28 and 70

Policy EMST17 – Open Spaces, Sport and Recreation Facilities

This policy supports the provision and improvement of amenity, sport or recreation open space or facilities subject to other development plan policies. This is a sensible cross-reference given some areas are designated as LGSs for example.

The loss of such spaces and facilities is prevented unless they are surplus to requirements or they will be replaced by equivalent or better provision in a suitable location.

New development is required to provide such areas as appropriate.

Finally, the policy requires associated buildings such as clubhouses or pavilions to be of a high standard of design. It also refers to internal layout which is not usually covered by planning control. Therefore this element is removed.

With this modification, the policy will take account of national policy and guidance, will reflect the evidence in the JLP Draft that there is a deficiency in accessible open space across the two Districts and will help to achieve sustainable development.

- **Delete “...and internal layout” from the last paragraph of the policy**

Proposals Map

The maps are clearly presented.

Glossary

The Plan includes a helpful glossary.

Appendix

Appendix 1 contains details of the listed buildings in the Parish.

8.0 Conclusions and recommendations

I am satisfied that the Elmsett Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to Babergh District Council that, subject to the modifications proposed in this report, the Elmsett Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion.

I therefore consider that the Elmsett Neighbourhood Development Plan should proceed to a referendum based on the Elmsett Neighbourhood Plan area as approved by Babergh District Council on 27 October 2017.

Ann Skippers MRTPI
Ann Skippers Planning
5 August 2019

Appendix 1 List of key documents specific to this examination

Neighbourhood Plan 2017 – 2036 Submission Plan January 2019

Basic Conditions Statement January 2019

Strategic Environmental Assessment Screening Determination January 2019

Habitats Regulations Screening Determination January 2019

Consultation Statement January 2019

Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Report December 2018 Place Services

Site Assessment Final Report September 2018 AECOM

Local Green Space Assessment October 2018

Important Views Assessment October 2018

Babergh Local Plan 2011 – 2031 Core Strategy & Policies February 2014

Babergh Local Plan Alteration No. 2 adopted June 2006

Rural Development & Core Strategy Policy CS11 Supplementary Planning Document adopted August 2014

Affordable Housing Supplementary Planning Document adopted February 2014

Safeguarding Employment Land Supplementary Planning Document

BDC Interim 5 year housing land supply statement April 2017

Other supporting documents on www.elmsett.onesuffolk.net/neighbourhood-plan/

List ends

Appendix 2 Questions of clarification from the examiner

Elmsett Neighbourhood Plan Examination

Questions of clarification from the Independent Examiner to the Parish Council and BDC

Having completed my initial review of the Neighbourhood Plan (the Plan), I would be grateful if both Councils could kindly assist me as appropriate in answering the following questions which either relate to matters of fact or are areas in which I seek clarification or further information. Please do not send or direct me to evidence that is not already publicly available.

1. Please could BDC briefly confirm the latest position on the emerging Joint Local Plan?
2. Policy EMST1 indicates that “development commensurate with Elmsett’s designation of a Hinterland Village” will be accommodated. Please could a brief explanation of the development supported be given or a suggestion for more precise wording be put forward as the current language used may be construed as difficult to know whether a proposal might comply with this policy or not.
3. Please could BDC confirm (or not) agreement to the housing figures put forward in the Plan and whether (or not) this will generally conform to the strategic housing needs requirements for the District based on the latest available information.
4. In relation to the site allocations, Policies EMST3 and EMST4, a number of queries arise:
 - a. please briefly update me on the latest position on any planning application/appeal on the sites which are wholly or partly subject to these policies
 - b. please confirm whether the sites subject of Policies EMST3 and EMST4 are the same sites as covered by the extant planning permissions
 - c. in relation to both policies, please confirm whether the policies reflect the planning permission and if they differ, including in relation to on-site and off-site requirements, please explain the differences and the rationale for them
5. Policy EMST8 refers to a Landscape Character Assessment. Please provide me with a copy or link to this document.
6. Policy EMST15 refers to two sites; Popular Hall and Gate Farm. Does the second element of the policy only refer to these two sites or was it intended to be more generally applied?

It may be the case that on receipt of your anticipated assistance on these matters that I need to ask for further clarification or that further queries will occur as the examination progresses. Please note that this list of clarification questions is a public document and that your answers will also be in the public domain. Both my questions and your responses should be placed on the Councils’ websites.

With many thanks.

Ann Skippers
23 May 2019