EXAMINER'S REPORT

MORETON, BOBBINGWORTH AND THE LAVERS

NEIGHBOURHOOD PLAN

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INTRODUCTION

1. This is an independent examination of a Neighbourhood Plan prepared by Moreton, Bobbingworth and the Lavers Parish Council in consultation with the local community. The Localism Act 2011 provided local communities with the opportunity to have a stronger say in their future by preparing neighbourhood plans, which contain policies relating to the development and use of land.

2.If the plan is made following a local referendum, which must receive the support of over 50% of those voting, it will form part of the statutory development plan. It will be an important consideration in the determination of planning applications as these must be determined in accordance with development plan policies unless material considerations indicate otherwise.

3.The Plan covers the whole of the Parish, which had a population of 1151 in 2011.

4.I have been appointed by Epping Forest District Council, in consultation with the Parish Council, to carry out this independent examination.

5.I confirm that I am independent of the Parish Council and the local planning authority and have no interest in any land, which is affected by the Neighbourhood Development Plan. I am a Chartered Town Planner with over 30 years experience working at a senior level in local government and as a private consultant. I am a member of the Royal Town Planning Institute.

6.This report is the outcome of my examination of the submitted version of the Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the District Council puts the plan forward to a referendum and it then receives the support of over 50% of those voting, then the Plan will be “made” by the Council as the Local Planning Authority.

BACKGROUND DOCUMENTS

7.I have considered the following documents as part of this examination;

The Neighbourhood Plan submitted to the District Council under regulation 15 of the Neighbourhood Planning (General) Regulations 2012

Basic Conditions Statement 10th September 2015
Consultation Statement 10th September 2015
Strategic Environmental Assessment (SEA) & Habitats Regulations Assessment (HRA) Statement of Reasons and a screening opinion issued by the District Council in a letter of the 17th June 2015.
Responses to the consultations under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 from Environment Agency 31.3.16; Highways England 24.2.16; Natural England 23.3.16; Savills on behalf of Thames Utilities Ltd. 29.3.16; Letter from Epping Forest District Council of the 23rd March 2016

The adopted Local Plan 1998 and the adopted Local Plan Alterations 2006
National Planning Policy Framework (NPPF); National Planning Policy Guidance (NPPG)

Responses to Examination questions as follows:
Epping Forest District Council - email from Kenneth Bean to Robert Bryan 3/5/16
The Parish Council - letter of 4th May 2016 from Adriana Jones, Clerk to Parish Council

THE EXAMINATION

8.The nature of the independent examination is set out in Section 8 of Schedule 4B to the Town and Country Planning Act 1990. (as amended)

9.The examiner has to make a recommendation as to whether the Plan should be submitted to a referendum, with or without modifications, and whether the area for the referendum should extend beyond the plan area.

10.As a general rule the examination should be carried out on the basis of written representations unless a hearing is necessary to allow adequate consideration of an issue or to allow a person a fair chance to put a case. I am satisfied from the information that has been made available to me that the examination can be carried out without a hearing.

PROCEDURAL MATTERS

11.It is necessary to determine that the plan complies with the following procedural matters[1];

- The Plan has been prepared and submitted by a qualifying body
- The Plan has been prepared for an area that has been properly designated
- The Plan specifies the period to which it has effect, does not include provisions about excluded development and does not relate to more than one neighbourhood area
- The policies relate to the development and use of land for a designated neighbourhood area.

12.The Parish Council is authorized as the qualifying body[2] to act for the purposes of a neighbourhood development plan if the area of the plan includes the whole or any part of the area of the Council.

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[1] Paragraph 8(1) of Schedule 4 B of the Town and Country Planning Act 1990 (as amended)
[2] as determined by Section 61G(2) of the Town and Country Planning Act 1990

13.In 2012 the Parish Council applied to the District Council for the designation of the parish as a Neighbourhood Area. Following advertisement and public consultation I am informed the Council approved the neighbourhood area application on the 29th July 2014.

14.The Plan clearly states that it relates to the period 2015-2035.

15.The Plan does not include any provision about development that is "excluded development"[3], such as minerals, waste disposal and major infrastructure projects.

16.I am satisfied that the plan does not relate to more than one neighbourhood area.

PUBLIC CONSULTATION

17.The submitted consultation statement identifies the public consultation process and notes that a range of relevant organisations and local people were consulted during the Plan process. It is clear the Steering Group have been thorough in consulting and documenting the process at appropriate states of the emerging Plan.

18.The consultation process has been inventive and wide to encompass a range of individuals, businesses and organizations. There was a comprehensive survey of residents and businesses and a good response rate of 55% due to strenuous efforts involving preparation of an Executive Summary and the appointment and training of "Communications Champions."

19.The Parish Council completed the requirement under the terms of Regulation 14 of the Neighbourhood Planning Regulations 2012 to consult the public and consultation bodies for a 6-week period (5th February-19th March 2016) on the final draft plan, prior to submission to the District Council.

20.The Consultation Statement provides a comprehensive breakdown of the nature and extent of consultation responses and how these have been taken into account. The main elements of the consultation responses are appropriately incorporated into the policy justifications.

21.I am satisfied that the consultation exercise has been sufficient and has properly been integrated into the policies, which have emerged.

BASIC CONDITIONS

22.It is necessary to decide whether the Neighbourhood Development Plan meets the "basic conditions" specified in the Act. [4] This element of the examination relates

[3] as defined in Section 61K,of the Town and Country Planning Act 1990

[4] Contained Paragraph 8(2) of Schedule 4B of the Town and Country planning Act 1990 (as amended)

to the contents of the Plan.

23.The Plan meets the basic conditions if :

a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the plan,
b) the making of the plan contributes to sustainable development,
c) the making of the plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
d) the making of the plan does not breach, and is otherwise compatible with, EU obligations and human rights requirements,

24.The analysis of conformity with the basic conditions is carried out below. Note this is not in the order specified above.

SUSTAINABLE DEVELOPMENT

25.The Plan seeks to give a local dimension to national and local policies concerning sustainable development. It seeks to maintain the environmental attributes of this sensitive area, which contains a number of important environmental, and nature conservation designations. The Plan also promotes a social and economic balance to ensure the local community is sustainable. The Plan demonstrates recognition of housing needs and promotion and diversification of business development and future infrastructure essential to maintain a sustainable community.

26.The Basic Conditions Statement adequately illustrates the manner in which the Plan promotes sustainable development.

27.I am satisfied that the Plan contributes to sustainable development, as defined in the NPPF.

EU OBLIGATIONS, HUMAN RIGHTS REQUIREMENTS

28. A neighbourhood plan must be compatible with European Union Directives as incorporated into UK law, in order to be legally compliant. Key directives are the Strategic Environmental Assessment Directive, the Environmental Impact Assessment Directive and the Habitats and Wild Birds Directives. A neighbourhood plan should also take account of the requirements to consider human rights.

29.The District Council made a Strategic Environmental Assessment (SEA) Screening Determination on 17th June 2015 concluding that an Environmental Assessment of the emerging Neighbourhood Plan is not required. This was on the basis that there are no sites being allocated for development within the Plan and no

significant environmental effects to result from the proposals in the Plan.

30.Natural England have confirmed in a letter of the 23rd March 2016 in respect of the EU Habitats Regulations that there is no need for an appropriate assessment. Natural England considers that the scale of growth proposed by the Neighbourhood Plan is sufficiently small that any resultant traffic growth and associated increased air pollution would be inconsequential in terms of its potential contribution to impacts on the Epping Forest Special Area of Conservation (SAC) .The plan therefore complies with sections 102 of the Conservation of Habitats and Species Regulations 2010 and the requirements of 6(2) of European directive 92/43/EEC.

31.I am satisfied that there are no human rights issues, which need addressing.

GENERAL COMMENTS and RECOMMENDATIONS ON THE PLAN IN RELATION TO BASIC CONDITIONS

32.I will set out the recommendations separately in bold type.

33.In order to comply with the NPPF requirements development plan policies should be clear to allow the public to easily interpret them and avoid any unnecessary confusion. The Plan is on the whole successful in achieving this but I wish to make some recommendations of a general nature.

RECOMMENDATION 1
The Plan would benefit from the use of paragraph numbers in order that specific references can easily be made.

RECOMMNEDATION 2
The Plan period should be adjusted to reflect the correct start date i.e. 2016-2035 and subsequent references to the Plan period altered to 19 years

RECOMMENDATION 3
The Plan would benefit from a glossary, which explains technical terms and acronyms.

34.In the section on ‘Evidence” there is a link to the Parish Council web site which displays further links to the main documentary evidence. There needs to be a direction to those who do not possess the Internet to be able to view these documents. This could simply be a reference to the address of the Council offices or in the case of national planning documents simply that these should be available in local libraries.

RECOMMNEDATION 4

There should be reference to the location where hard copies of the evidence documentation can be viewed.

35.In the section "Our Objectives" there should be a reference that these important and fundamental objectives are a distillation of the responses from the public consultation on the Plan. It is evident from analysis of the survey responses that these objectives are supported but these links are not clear. It is important that the community is seen to support these underlying objectives.

RECOMMNEDATION 5

In the section "Our Objectives" on page 6, insert the following as an extension of the last sentence.

"and are a distillation of the responses received from the public consultation on the Plan"

CONFORMITY WITH NATIONAL AND LOCAL STRATEGIC POLICIES

36.The Basic Conditions Statement analyzes the manner in which the Plan relates to national and local planning policy. It relates specific Plan policies to the National Planning Policy Framework (NPPF) but does not do this in any detail relation to the Adopted 1998 Local Plan and the Adopted 2006 Local Plan Alterations. In the Plan document there is some inaccurate or insufficient reference to the adopted local plans and I have suggested modifications to remedy these matters in the section below relating to detailed policy considerations.

SPECIFIC RECOMMENDATIONS REGARDING THE DRAFT POLICIES AND BASIC CONDITIONS

Housing and Development

37.In the section "Our policies on housing and development" the categorical statement that "the presumption is that no new homes should be built in the Green Belt." needs to be qualified in a general sense to refer to the "exceptional ' cases where new dwellings are allowed.

RECOMMENDATION 6

Add to end of sentence of the last sentence in the third paragraph in the section "Our policies on housing and development" "apart from in certain specified exceptional circumstances"

38.The supporting text to the policies states that "All new build housing development within our Parish must be on brownfield or infill sites." The status of this statement is unclear as it is not contained within a policy and it appears it may be an interpretation of existing Green Belt policy. This statement needs clarification in order to represent Green Belt policy in the NPPF and the Adopted 2006 Local Plan Alterations, which do not specifically refer to 'infill ' development.

RECOMMENDATION 7

Delete existing last paragraph of "Our policies on Housing and Development" and insert the following in its place.

Current national and local plan policy relating to the Green Belt is specified in the NPPF, mainly in paragraph 89 and the Adopted 2006 Local Plan Alterations.(policies GB2A and GB16).These policies collectively require that new open market housing development is only appropriate if it is limited infilling in villages or it is partial or complete development of previously developed sites(brownfield land) 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. In exceptional cases of proven need affordable housing may be granted in smaller settlements where there is no detriment to the character of the village or the wider Green Belt.

Policy MBL 1.1(a) - (g)

39.Policies (a) and (b) are similar and, as a result, confusing. They need to be reformed into a single, clearer and viable policy.

39.The 2011 Census reveals that 79% of dwellings in the Plan area have 3 or more bedrooms. The residents' survey illustrates the community considers there are too many larger dwellings and smaller dwellings are required to provide starter and retirement homes. However, it is necessary to recognize that in viability terms house builders may prefer some flexibility to erect larger dwellings, (as indicated in the submitted letter of the 28th April 2016 from Oakside Developments) and there is a need to ensure policies are viable and open market schemes are able to cross fund affordable dwellings. It is recommended that a limit of a third of dwellings providing 3 or more bedrooms is an appropriate and easily divisible fraction, as 30% of persons in the resident's survey responded that this is the proportion of 3 bed or more

dwellings they wish to see ultimately. This flexibility is only appropriate when there is a minimum of 3 dwellings to achieve a capacity whereby the proportion of a third can be readily applied.

40.Regarding MBL1.1(b), it is necessary to distinguish between open market and affordable housing needs. There is a difference between a person who can afford to enter the property market at starter home level and one who cannot and needs to access rented or equity-shared accommodation. It is necessary to determine the type of affordable housing required based on the most recent affordable housing needs survey, which can create different results to that relating to the open market.

41.I cannot find evidence to support the requirement in MBL 1.1(c) that there shall be no gated communities in developments of more than one dwelling. I consider, therefore, it is not appropriate to impose this requirement.

42. A Ministerial statement "Planning Update" of 25th March 2015 emphasises that technical standards for energy efficiency are the remit of the building regulations and should not be requirements in development plans including Neighbourhood Plans. The policy in MB1.1 (e) is effectively repeated by policy MBL5.1 which encourages rather than requires renewable energy installations. Policy MBL1.1(e) can therefore be removed from this section.

43.Policy MBL 1.1 (g) is too prescriptive and contrary to policies in the NPPF (paragraph 89) and Adopted 2006 Local Plan Alterations(policy GB2A) which allow redevelopment of brownfield sites provided there is no detrimental impact on the 'openness" of the Green Belt and the purpose of including land within it than the existing development. These policies can, therefore, effectively allow development of more than 4 dwellings, subject to the landscape protection criteria. The policy should therefore be deleted.

RECOMMENDATION 8

Insert as the last paragraph under "Our Policies on Housing and Development"

Policies to encourage development of smaller dwellings are applicable but must allow for an element of flexibility for a limited number of larger dwellings to provide the flexibility and incentive that developers may require. The proposed limits on larger dwellings is based on the feedback from the residents' survey.

Replace MBL 1.1 (a) and (b) with the following ;

New build open market housing shall be for smaller dwelling units consisting of 1 or 2 bedrooms. In the case of proposals for 3 or more dwellings a limited number of dwellings providing 3 or more bedrooms may be acceptable.

Insert a new MBL1.1(c) Affordable housing will be of a type and tenure derived from the latest local affordable housing needs survey

Delete policy MBL 1.1(c)

Delete policy MBL1.1(e)

Delete MBL 1.1(g)

Policy MBL1.1(h)

44.The District Council have concerns, expressed in a letter of the 23rd March 2016, that the policy MBM1.1(h) is not in accordance with national planning guidance, nor is it in general conformity with the local plan policies. During this examination, on 13th April 2016, I forwarded certain questions and requests for information from the Parish and District Council's mainly relating to issues in connection with policy MBL 1.1(h) and received responses, respectively on the 4th and 3rd May 2016.

45.The District Council consider that the proposal to have an independent system for securing commuted sums for affordable housing with a threshold of 2 or more dwellings may not be in conformity with national policies.

46.National policy was expressed in a Ministerial Statement in November 2014, that affordable housing contributions should not relate to developments of 10 or less dwellings (with a gross floor space not exceeding less than 1000sq. metres) in areas such as the Plan area. The intention was to ensure that smaller developments were exempt from this requirement in order to ensure they were viable and hence brought forward to combat a national shortage of housing.

47.Two Planning Authorities, West Berks DC and Reading BC, were concerned about the implications of this policy and challenged it in the High Court. They feared that Planning Authorities would have to find even more housing land to counteract the effect of this new ministerial policy in potentially depriving their areas of smaller sites that could otherwise contribute to affordable housing. The two Councils won in the High Court in July 2015, and secured the quashing of the policy. However, the Secretary of State appealed against this decision and during this examination on 11th May 2016, the Court of Appeal allowed the appeal. The status of this policy is now unclear as although there is now case law, the government has not yet formally reinstated it as part of national planning policy guidance and there is scope for a further Appeal to the Supreme Court.

48.At this point,(i.e.18/5/16) the 2 dwellings or more threshold, in policy MBL1.1(h) is technically not contrary to the Secretary of State's guidance. However, the District Council has to be aware that there is imminent potential for the Secretary of State to formalise the situation which may alter the position.

49.I do not consider I can simply modify the policy to alter the threshold for

affordable housing contributions as the Parish Council may wish to re-consider its approach to affordable housing policy and re-consult, particularly, with the District Council and the public.

50.Whilst this does not allow me to recommend the Plan proceeds to a referendum, I have proceeded to make recommended modifications on other policies in the Plan in order to guide the Parish Council in a re-submission of the Plan in an effort to conform to the basic conditions.

51.The District Council have further concerns that the proposed policy MB1.1 (g) is not in conformity with local plan policies as it has not been proved as viable or deliverable because there is a history, locally, of difficulty in finding sites for affordable housing and the plan does not allocate any.

52.The Parish Council have examined and compared local house prices with those nationally and produced calculations to demonstrate that there is scope for developers to make a profit, have an incentive to develop and make the proposed contributions. Following my request, I received further information supporting the assumptions made in these calculations relating to house and land prices and building costs. I am satisfied that, the comments by the economist, Angela Busch, of 27th April 2016 relating to the Land Registry data on house prices and the commercial assessment by Mr. Devereux, Director and Land Buyer of Oakfield Estates of 28th April 2016 answer my extra questions in sufficient detail. I consider the model put forward by the Parish Council is viable and a credible analysis of the proposed affordable housing contribution. However, in accordance with Core Planning principles established in paragraph 17 of the NPPF the policy should contain an element of flexibility to ensure that contributions could be adjusted if it can be proven in a viability appraisal that site circumstances require it to allow development to go ahead.

53.The Parish Council is justified in seeking a more deliberate policy to secure affordable housing in its area. The establishment of a separate affordable housing policy by the Parish Council whilst different to that of the District Council, is still in general conformity with the strategic policies in the Local Plan in my view. I note that Local plan policy H6(ii) establishes a similar affordable housing contribution threshold of 2 or more dwellings to that proposed in the Plan. In the light of the Court of Appeal decision referred to above in paragraph 47, the Local Plan policy may also be superseded by the re-instated government policy.

54.I share the concerns of the District Council regarding the availability of sites for affordable housing, based on its own experience and the need to demonstrate the policy is deliverable. It is necessary to demonstrate there is clear path to utilization of any commuted sums for affordable housing. Procurement of sites can be a difficult process and the District Council's concerns are justified. However, there appears to be scope to allocate sites as part of the Plan process as evidenced by the 6 sites suggested by the District Council as part of the "land call ' process in connection with its emerging Local plan.

55.I find that it has not been demonstrated the policy MB1.1 (h) is deliverable and contradicts the guidance in the NPPF, particularly paragraphs 17 and 47, which emphasizes Plans should produce a high degree of certainty and it must be demonstrated that affordable housing is deliverable. In these respects, therefore, this policy does not meet basic conditions.

56.I also have the concerns that the Plan does not set out the current specific affordable housing need in terms of quantity, type or tenure. The Parish Council has completed two Affordable Housing Needs surveys with the assistance of the Rural Community Council of Essex, the last one being in 2013 specifically as part of the Neighbourhood Plan process to establish if there is a need, but these results are not published or analyzed. It is appreciated that the individual responses are confidential but there needs to be an affordable housing needs overview. The NPPF, paragraph 47, states that policies on affordable housing must be based on evidence of objectively assessed housing needs. In the policy, this can be a general requirement rather than referring to a specific dated survey. I am of the view that the policy as submitted could be modified to include this requirement.

57.The Plan does not contain details of the local criteria for qualification for affordable housing. There is no reference as to whether there is a residential qualification in terms of the period of residence in the Parish or the criteria which may establish housing need. It is not clear how the proposed policy will operate in relation to the criteria operated by the District Council. This is necessary for clarity and to ensure the Plan genuinely addresses local housing needs and, therefore does not meet the requirements of the NPPF paragraphs 15 and 54 and does not therefore comply with basic conditions.

RECOMMENDATION 9

The following is the complete recommendation in relation to Policy MBL1.1(h)

This policy does not meet basic conditions for the following reasons

1)It does not allocate sites for affordable housing and therefore it has not been demonstrated it is deliverable. The policy contradicts the guidance in the NPPF, particularly paragraphs 17 and 47, which emphasizes Plans should produce a high degree of certainty and it must be demonstrated that affordable housing is deliverable.

2) it does not contain details of the local criteria for qualification for affordable housing. This is necessary for clarity and to ensure the Plan genuinely addresses local housing needs in accordance with the requirements of the NPPF paragraphs 15 and 54.

Further modifications are suggested to this policy which are not as fundamental as above but nevertheless would be required to be made in the event the Plan were re-submitted with the above matters resolved. These are

(3)In accordance with Core Planning principles established in paragraph 17 of the NPPF the policy should contain an element of flexibility to ensure that contributions could be reduced, if it can be proven in a viability appraisal that site circumstances require it to allow development to go ahead.

(4) The policy must be based on an explicit requirement to meet objectively assessed housing needs in a recent affordable housing needs survey. This can be a general requirement rather than referring to a specific dated survey

Policy MBL (i)

58. It is not considered there is a need for policy MBL1.1(i) as MBL1.1 (h),as written, refers to "all developers" which covers all types of development above the threshold despite any future policy changes.

RECOMMENDATION 10
Delete policy MB1.1(i)

Policy MBL1.1(j)

59. Policy MBL1.1(j) is necessary in order to prevent developers paying affordable housing contributions by developing single dwellings on an incremental basis. The District Council query how the Plan will effectively prohibit this. This can be covered by requiring legal agreements attached to planning permissions, under section 106 of the Town and Country Planning Act 1990, which require payments in the event of the development of sites as single dwellings during the Plan period, which effectively relate to a wider contiguous or adjacent site containing permission for other dwellings.

RECOMMNEDATION 11

Add the following as last two paragraphs to the supporting text.

It is important that policies are viable and incentivize appropriate development and, therefore, in accordance with the current Local Plan policy, affordable housing contributions will not be levied on proposals for single dwellings

It is, however, necessary to prevent avoidance of affordable housing contributions by incremental developments of single dwellings on a site which is, effectively one comprehensive larger site able to accommodate more dwellings.

Alter the policy as follows:

MBL1.1(j) In cases where there are incremental planning permissions for one dwelling on a site(add footnote), the affordable housing contribution will be levied on each dwelling after the initial dwelling is granted.
Footnote: This normally relates to sites that are contiguous or immediately adjacent and could effectively, during the Plan period, have formed a single site accommodating more than one dwelling.

Policy MBL 1.2 Rural Affordable Housing on Rural Exception Sites

60.The need for affordable housing should be related to a recent affordable needs housing survey.

61.There is a need to add more guidance to the statement in (b) which refers to "appropriate to a rural area" by referring to the need to minimize the intrusion into the "openness" and protect the landscape, as expressed in national advice in paragraph 81 of the NPPF.

62.Regarding policy MBL 1.2 (c) it is not necessary to present it as an intention to lobby the District Council. This has to be done as a separate exercise as part of a local plan consultation.

63.In relation to MBL 1.2 (d) this is normally controlled by a legal agreement. There is no definition of "local people" which needs to be remedied as explained above in Recommendation 9.

RECOMMENDATION 12

MBL1.2 is modified as follows :

Delete "Rural" from the title as the whole Plan area is rural.

(a)Affordable housing will be supported on exception sites where there is a demand expressed in a recent affordable housing needs survey. The dwellings shall be of a type and tenure which meets the demand specified in the survey.

(b) The design, density and plot-size shall minimize the impact on the openness of the Green Belt, protect and enhance the landscape, visual amenity and biodiversity and wherever possible improve damaged or derelict land.

Delete (c)

(d) delete "or planning condition". There is a need to cross-refer to a definition of what constitutes a local person and as specified in Recommendation 9 in

order to meet basic conditions.

Policy MBL 1.3 Redundant Buildings

64.This policy does not add significantly to Local Plan policy GB8A and needs to define “substantial, permanent and worthy of keeping “ in more detail in accordance with GB8A.

65.The policy is also not in conformity with Local Plan Policy GB9A which gives preference to conversion of rural buildings to business use unless unsuitable or to a residential use in connection with agriculture, horticulture or forestry. In these respects therefore the policy does not comply with basic conditions.

.**RECOMMENDATION 13**

This policy does not comply with basic conditions as it does not give preference to conversion of buildings to business use in accordance with the adopted Local Plan policy GB9A. The policy therefore is not in conformity with strategic policies in the development plan.

Policy MBL 1.4 Replacement dwellings within the Green Belt

66.There needs to be reference to the existing Local Plan policy GB15A. in order that the extra criteria in this Plan’s policy can be put in the full context.

67.The criteria (a) in the policy is covered by the Local Plan policy GB15A in greater detail and therefore should be removed.

68.It is not possible to require renewable energy features following advice in the Secretary of State’s Ministerial statement ”Planning Update” of 25th March 2015. See above, paragraph 42. However the policy could usefully encourage their use.

69.In (a)iii the term “local interest” is too vague and needs further definition.

RECOMMENDATION 14

Add as the last paragraph in the supporting text under *“Our Policies on Housing and Development”:*

Replacement dwellings can de acceptable in the Plan area subject to the Local Plan Green Belt policy GB15A which restricts replacement dwellings to a similar size, no further impact on openness and no extension to the garden area.

Delete(a) i

In (a) ii delete "should" , insert " are encouraged to"

In (a)iii after local insert "architectural or historic"

In (b) delete "as with MBL1.1" as it is not necessary

Farming, Business and Employment

Policy MBL 2.1 Homeworking

70.This is acceptable

Policy MBL 2.2 Development of Small Businesses

71.MBL 2.2 (i) needs further clarity and reference to Local Plan in addition to national policies.

72. In 2.2(iv) the term significant is open to interpretation and needs to be explained in terms of potential impact.

73.The same recommendation applies in relation to Renewable Energy as referred to above in Recommendation 14

RECOMMENDATION 15

Modify MBL2.2 , as follows :

(i)The proposed development does not conflict with national or local planning policies relating to the Green Belt.

(iv)There is no increase in traffic which is hazardous to road safety, results in congestion or has potential to create damage to the highway beyond that created by current traffic levels.

(vi) delete "should", insert 'are encouraged to".

Policy MBL 2.3 Farm Diversification

74.There is a need to set this in the context of Local Plan policy E12A which has extra detailed criteria in relation to farm diversification.

75.The same recommendation applies in relation to Renewable Energy as referred to above in Recommendations 14 and 15.

RECOMMENDATION 16

Insert the following as the last paragraph in the supporting text to the "Farming, business and employment " policies :

Proposals for farm diversification are encouraged but must conform to national policies and local plan policies E12 in addition to the policies in this Plan.

In a (vi) delete "should", insert 'are encouraged to".

Policy MBL 2.4 Agricultural Land

76.The policy needs modification to encapsulate advice in paragraph 112 of the NPPF that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be used in preference to that of a higher quality.

RECOMMENDATION 17

Add as a further sentence to the policy "Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality "

<u>Communications</u>

Policy MBL 3.1 Broadband and mobile telephones

77.The intention to lobby for improvements to broadband infrastructure is an aspiration that should not form part of the planning policies in the Plan. This should be included in the supporting text to this policy.

78.There should be reference to the NPPF, paragraph 44 and Local Plan policies U5 and U6 which set the context for this policy and provide criteria for assessing proposals telecommunications development.

RECOMMENDATION 18

Include in the supporting text as a further paragraph under Evidence and Justification;

The policies in the NPPF paragraph 44 and Local Plan policies U5 and U6 encourage the development of telecommunications infrastructure, including high speed broadband, but set criteria whereby it has to be justified on specific sites and sited and designed to minimize its visual intrusion and potential health impacts.

Delete MBL3.1(a)

In the interests of clarity in MBL 3.1(iv) delete "If proposing development in a sensitive area".

Traffic, Roads and Rights of Way

Policy MBL 4.1 Traffic

79.The policy refers to development generally and then qualifies this by reference to "residential or business". The policy has to refer to any potential traffic-generating proposal so the reference to residential or business should be deleted. The term significant is open to interpretation and needs to be explained in terms of potential impact on the roads which is undesirable.

80.The term rural lanes needs further clarification and a distinction be made with most of the roads and the A414

RECOMMENDATION 19

Modify Policy MBl 4.1 as follows ;

Development which is hazardous to road safety, results in congestion or has potential to damage the highway and its borders will be resisted. Proposals affecting just the A414 will be determined on their merits regarding traffic impact.

Policy MBL 4.2 Parking

81.I note that Essex County Council and Highways England have been consulted and as Highway Authorities have not raised an objection to the proposed parking standards.

82.The policy included within it a justification which is unnecessary as there is reference to the parking problem in the supporting text.

83.The policy should refer to development in general rather than just residential and business development.

RECOMMENDATION 20

In MBL4.2(a) delete the first sentence and therefore; delete "new-build homes and businesses", insert "development proposals".

Policy MBL4.3 Improved public rights of way

84.This policy is acceptable

Renewable Energy

85.The NPPF, paragraph 97 and Local Plan policy CP10, encourages the use of renewable energy subject to criteria to protect the landscape, buildings and the amenities enjoyed by neighbours. The supporting text should make reference to these policies to set the context for the Plan.

RECOMMENDATION 21

Insert as a further paragraph in the "Evidence and Justification" section the following :

The NPPF , paragraph 97 and Local Plan policy CP 10 encourage renewable energy technologies subject to various criteria to protect the landscape , buildings and the amenities enjoyed by users of neighbouring properties.

CONSULTATION RESPONSES to FINAL DRAFT PLAN under REGULATION 16 OF THE NEIGHBOURHOOD PLANNING REGULATIONS 2012

86.I have noted the comments from Savills, on behalf of Thames Water Utilities Ltd. in a letter of 29th March 2016. They are concerned that as the Local Plan is out of date and the emerging replacement Plan is some distance from being adopted there should be policies, in this Plan regarding "Infrastructure and Utilities". Thames Water are concerned that developers need to establish the capacity for water supply and sewerage infrastructure to accept new development.

87.I consider that it is not necessary that the Plan deals with these matters which are adequately covered by the adopted Local Plan policy U1 which prohibits development which is inadequately served by utilities infrastructure.

SUMMARY

88.I have completed an independent examination of the Neighbourhood Development Plan.

89.The Parish Council has carried out an appropriate level of consultation and has clearly shown how it has responded to the comments it has received. The supporting text to the policies includes references to the consultation responses in support of policies. I have taken into account the further comments received as part of the consultation under Regulation 16 on the Neighbourhood Planning Regulations 2012.

90.I have concluded that the Plan does not meet basic conditions in respect of

policies MBL1.1 (h) regarding affordable housing. In my Recommendation 9 , above, it is explained that it has not been demonstrated that the policy is deliverable due to the lack of identified sites and there are no criteria to establish which local persons may qualify for affordable housing. In these respects the policy does not conform with the guidance in the NPPF and it is not appropriate to make the Plan. Policy MBL 1.3 also does not meet basic conditions as it is not in general conformity with Local Plan policy GB9A which gives priority to business uses in conversions of buildings. See recommendation 13. These are fundamental issues which must be resolved by the Parish Council and it is not possible for me to recommend modifications to make the policy acceptable.

91. I have recommended modifications to other aspects of the Plan to satisfy basic conditions, in order that these may be considered if the Plan is the subject of further consultation and re-submission for examination.

92. Subject to these modifications, whilst the Plan does not meet basic conditions in relation to conformity with guidance from the Secretary of State and conformity with strategic policies in the development plan, I am satisfied that the plan meets the remaining basic conditions, as follows :

- has been prepared in accordance with the Neighbourhood Planning Regulations 2012
- contributes to the achievement of sustainable development;
- does not breach and is compatible with European Union obligations and the European convention of Human Rights;

93.I am also satisfied that the Plan meets the various procedural requirements of Paragraph 8(1) of Schedule 4 B of the Town and Country Planning Act 1990 (as amended). This is explained above in paragraphs 11 to 16.

94.I see no reason, at this stage, why the area for a referendum should be altered or extended. However, as the Plan does not meet basic conditions I cannot recommend that it proceeds to a referendum.