

Felsted Parish Council

Felsted Neighbourhood Development Plan

A report to Uttlesford District Council of the Independent
Examination of the Felsted Neighbourhood Development Plan

Independent Examiner Christopher Edward Collison

Christopher Edward Collison

BA (Hons) MBA MRTPI MIED MCMi IHBC

Planning and Management Ltd

collisonchris@aol.com

29 September 2019

Contents

Page

Overall Finding	5
Neighbourhood Planning	6
Independent Examination	6
Basic Conditions and other Statutory Requirements	8
Documents	11
Consultation	13
The Neighbourhood Plan taken as a whole	17
The Neighbourhood Plan Policies	31
Protecting the Historic Village Centre	36
Policy FEL/HVC1 Historic Village Centre	
Policy FEL/HVC2 Existing Village Shop and Post Office	
Policy FEL/HVC3 Royal British Legion Site	
Policy FEL/HVC4 Additional Car Parking in the Village Centre	
Policy FEL/HVC5 Managing Congestion at the T Junction in Felsted Village	
Village Amenities	44
Policy FEL/VA1 Doctors' Surgery	
Policy FEL/VA2 Memorial Hall	
Policy FEL/VA3 Infrastructure Priorities	
Policy FEL/VA4 Burial Ground	
Policy FEL/VA5 Recreational and Play Areas	
Developing Our Schools	51
Policy FEL/SC1 Supporting our Schools	
Policy FEL/SC2 Felsted School	
Policy FEL/SC3 Felsted School Follyfield Site	
Policy FEL/SC4 Felsted School Facilities off Braintree Road and Garnetts	

Lane	
Policy FEL/SC5 Felsted Primary School – Modernisation	
Policy FEL/SC6 Felsted Primary School – Expansion	
Policy FEL/SC7 Felsted Primary School Site	
Meeting Housing Needs	59
Policy FEL/HN1 Meeting Housing Needs	
Policy FEL/HN2 Land at Braintree Road (Sunnybrook Farm)	
Policy FEL/HN3 Land at Station Road (Bury Farm)	
Policy FEL/HN4 Residential Development within Development Limits	
Policy FEL/HN5 Residential Development outside Development Limits	
Policy FEL/HN6 Supplemental Dwellings	
Policy FEL/HN7 Housing Mix	
Policy FEL/HN8 Habitats Regulations Assessment	
Integrity, Character and Heritage	99
Policy FEL/ICH1 High Quality Design	
Policy FEL/ICH2 Heritage Assets	
Policy FEL/ICH3 Signage Pollution	
Policy FEL/ICH4 Light Pollution	
Policy FEL/ICH5 Avoiding Coalescence	
Supporting the Rural Economy	108
Policy FEL/RE1 Start Up and Small Businesses	
Policy FEL/RE2 Loss of Employment Uses	
Policy FEL/RE3 Re-use of Rural Buildings	
Policy FEL/RE4 Home Working	
Countryside and Wildlife	112
Policy FEL/CW1 Landscape and Countryside Character	
Policy FEL/CW2 Nature Area including Felsted Fen	
Policy FEL/CW3 Footpaths, Bridleways and Cycleways	
Policy FEL/CW4 Green Infrastructure	

Summary and Referendum	119
Annex: Minor corrections to the Neighbourhood Plan	120

Overall Finding

This is the report of the Independent Examination of the Felsted Neighbourhood Development Plan. The plan area comprises the entire administrative area of Felsted Parish Council within the Uttlesford District Council area. The plan period is 2018-2033. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan allocates land for residential development.

This report finds that subject to specified modifications the Neighbourhood Plan meets the Basic Conditions and other requirements. It is recommended the Plan should proceed to a local referendum based on the plan area.

Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities the power to develop a shared vision for their area*”¹
2. Following satisfactory completion of the necessary preparation process, neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Felsted Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Felsted Parish Council (the Parish Council). The draft plan has been submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Felsted Neighbourhood Area which was formally designated by Uttlesford District Council (the District Council) on 4 December 2014. The Neighbourhood Plan has been produced by the Neighbourhood Plan Steering Group made up of Parish Councillors and other volunteers from the local community.
4. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Parish Council for submission of the plan and accompanying documents to the District Council. The District Council arranged a period of publication between 12 June 2019 and 24 July 2019 and subsequently submitted the Neighbourhood Plan to me for independent examination.

Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan.² The report makes recommendations to the District Council including a recommendation as to whether or not the

¹ Paragraph 29 National Planning Policy Framework (2019)

² Paragraph 10 Schedule 4B Town and Country Planning Act 1990

Neighbourhood Plan should proceed to a local referendum. The District Council will decide what action to take in response to the recommendations in this report.

6. The District Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and the decision taken to put the plan to a referendum, it must be taken into account when determining a planning application, in so far as the policies in the plan are material to the application³.
7. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area⁴ unless the District Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan⁵. The Framework is very clear that where a planning application conflicts with an up to date neighbourhood plan that forms part of the development plan, permission should not usually be granted⁶.
8. I have been appointed by the District Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the District Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of Neighbourhood Plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years

³ Paragraph 48 of the National Planning Policy Framework 2019 explains full weight is not given at this stage

⁴ Section 3 Neighbourhood Planning Act 2017

⁵ Section 156 Housing and Planning Act 2016

⁶ Paragraph 12 National Planning Policy Framework 2019

professional planning experience and have held national positions and local authority Chief Planning Officer posts.

9. As independent examiner, I am required to produce this report and must recommend either:

- that the Neighbourhood Plan is submitted to a referendum, or
- that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
- that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.

10. I make my recommendation in this respect and in respect to any extension to the referendum area,⁷ in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.⁸

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.⁹ The Planning Practice Guidance (the Guidance) states *“it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.”*

12. The examiner has the ability to call a hearing for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had opportunity to state their case. As I did not consider a hearing necessary, I proceeded on the basis of written representations and an unaccompanied visit to the Neighbourhood Plan area.

Basic Conditions and other Statutory Requirements

13. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.¹⁰ A neighbourhood plan meets the Basic Conditions if:

⁷ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁸ Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

⁹ Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

¹⁰ Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- 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 2017.¹¹

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights.¹² All of these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’ and ‘The Neighbourhood Plan Policies’.

15. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.¹³ I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 (the Regulations) which are made pursuant to the powers given in those sections.

16. The Neighbourhood Plan relates to the area that was designated by the District Council as a neighbourhood area on 4 December 2014. A map of the Neighbourhood Area is included as Figure 3 of the Submission Draft Plan. The Neighbourhood Plan designated area is coterminous with the Felsted Parish Council boundary. The

¹¹ This Basic Condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 are amended. This basic condition replaced a basic condition “the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects”.

¹² The Convention Rights has the same meaning as in the Human Rights Act 1998

¹³ In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

Neighbourhood Plan does not relate to more than one neighbourhood area,¹⁴ and no other neighbourhood development plan has been made for the neighbourhood area.¹⁵ All requirements relating to the plan area have been met.

17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;¹⁶ and the Neighbourhood Plan does not include provision about excluded development.¹⁷ I am able to confirm that I am satisfied that each of these requirements has been met.

18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.¹⁸ The front cover of the Submission Version Plan clearly states the plan period to be 2018-2033.

19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.¹⁹ It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.

20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.

21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character.

¹⁴ Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

¹⁵ Section 38B (2) Planning and Compulsory Purchase Act 2004

¹⁶ Section 38A (2) Planning and Compulsory Purchase Act 2004

¹⁷ Principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment, and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

¹⁸ Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

¹⁹ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.

22. Apart from minor corrections and consequential adjustment of text (referred to in the Annex to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.²⁰

Documents

23. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:

- Felsted Neighbourhood Plan 2018-2033 Submission Draft including Appendices 1, 2, and 2A and Maps 1 to 13 included in the Map Book
- Felsted Neighbourhood Plan Consultation Statement including Appendices 1 to 18 [*In this report referred to as the Consultation Statement*]
- Felsted Neighbourhood Plan Basic Conditions Statement [*In this report referred to as the Basic Conditions Statement*]
- Felsted Neighbourhood Plan Strategic Environmental Assessment (SEA) Screening Determination Statement June 2018 and May 2019
- Neighbourhood Plan for Felsted Parish Habitats Regulations Assessment (HRA): HRA Screening and Appropriate Assessment updated 30 May 2019
- Felsted Neighbourhood Plan Submission – (1 May 2019) Statement of Common Ground between Uttlesford District Council and Felsted Parish Council
- Felsted Neighbourhood Plan Site Assessment Report
- Felsted Neighbourhood Plan Preferred Sites Justification Report
- Felsted Neighbourhood Plan Viability Study (AECOM) April 2018
- Felsted Heritage and Character Assessment October 2017 including Appendices A, and B parts 1 and 2
- Felsted Housing Needs Survey March 2016
- Felsted Neighbourhood Plan Estate Agents Survey April 2016
- Felsted Neighbourhood Plan information available on the Uttlesford District Council website and the Felsted Neighbourhood Plan website
- Representations received during the Regulation 16 publicity period

²⁰ See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Correspondence between the Independent Examiner and the District and Parish Councils including the initial letter of the Examiner dated 30 July 2019; the Parish Council comments on the representations of other parties dated 14 August 2019; the letter of the Examiner seeking clarification of various matters dated 3 September 2019; and the joint response of the District and Parish Councils to that letter dated 12 September 2019
- Uttlesford Local Plan Adopted January 2005 and interactive Proposals Map
- Uttlesford District Council Local Plan submitted to the Secretary of State for examination 18 January 2019 (emerging Plan) [In this report referred to as the emerging Local Plan]
- National Planning Policy Framework (February 2019) [*In this report referred to as the Framework*]
- Permitted development rights for householders: technical guidance MHCLG (10 September 2019) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated) [*In this report referred to as the Guidance*]
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- The Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act 2011
- The Housing and Planning Act 2016
- The Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- The Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations*].
- The Neighbourhood Planning (General) (Amendment) Regulations 2015
- The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016.
- The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

Consultation

24. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the Submission Plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.
25. The Neighbourhood Plan Steering Group comprising Parish Councillors and other local volunteers first met in July 2014 and continued to meet regularly throughout the plan preparation process. Minutes of meetings have been published on a dedicated website.
26. A coffee morning and briefing session for interested parties and representatives of village organisations was held in March 2015. An agenda for consultation was launched that same month and distributed to “Green Leaders” and village organisations. An initial consultation document generated response on a range of topics. Businesses operating within the parish were invited to a stakeholder’s event in April 2015. A well-advertised open day in May 2015, attended by more than 175 people, resulted in 500 comments that were collated and analysed. A Smart Survey in 2015 and 2016 generated a further 68 comments. Other consultation included focussed workshops on key themes attended by over 200 people; a survey of local estate agents; a housing needs survey; a youth survey; and surveys in relation to the three schools in the parish and the doctors’ surgery. Traffic and car park surveys were undertaken in 2015, and a further car parking survey in 2016. A feedback event was hosted by the Steering Group in May 2016.
27. Throughout the plan preparation process publicity has been achieved through the dedicated Neighbourhood Plan website, through Felsted News, and through the Holy Cross Church newsletter. Meetings relating to the Community Hub were held during 2016 and 2017. Preparation of the Heritage and Character Assessment involved a drop-in session in January 2017. Policy intentions were presented in July 2017 with over 150 people attending, and later these intentions were published which generated further response. A reference forum was established in September 2017. Housing development proposals have been developed through discussion with land owners and

agents. Village meetings were held in April 2018.

28. Pre-submission consultation in accordance with Regulation 14 was undertaken between 23 July 2018 and 21 September 2018. The consultation included seven drop-in open events; making Plan and evidence base documents available on the dedicated website with copies available for viewing at several locations; summary notes and questionnaire sent to every address in the parish; advertisements in local newspapers; use of noticeboards; and an online opportunity to comment. The representations arising from the consultation are presented in Appendix 18 of the Consultation Statement where responses and changes made to the Neighbourhood Plan, are set out. The suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was approved by the Parish Council, for submission to the District Council.
29. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 12 June 2019 and 24 July 2019. A total of 15 representations were submitted during the period of publication. I have been provided with copies of each of these representations.
30. Historic England confirm they have no specific comments on the Neighbourhood Plan. Sport England has submitted generic statements relating to neighbourhood plan preparation with no comment on any specific part of the Neighbourhood Plan. These representations and the representation on behalf of National Grid do not necessitate any modification of the Plan to meet the Basic Conditions.
31. Essex County Council has commented on a large number of the policies of the Neighbourhood Plan. I have taken these comments into consideration, where they are relevant to my remit, when examining the policies in question. The County Council has also provided information regarding mineral developments and waste developments and allocations. These are matters that are excluded development for the purposes of neighbourhood planning.
32. The Environment Agency has submitted representations including comments relating to water recycling centre capacity, sustainable drainage systems, and flood risk. I have made a specific recommendation for modification of the Neighbourhood Plan in respect of issues raised by the Environment Agency, and taken the representations into consideration when considering relevant policies,

in particular those relating to meeting housing need.

33. Representations submitted by the District Council, and by the Council for the Preservation of Rural England (CPRE) refer to aspects of several of the policies of the Neighbourhood Plan. CPRE also state more emphasis should be given to the protection of best and most versatile agricultural land however this is not necessary to meet the Basic Conditions. Anglian Water has commented on Policies HN2 and HN3. Natural England has commented on Policies HN8 and CW4. Springfields Planning and Development, on behalf of one client, have commented on Policy HN4 and supporting text, and village development limits; and on behalf of another client have commented on Policies HN1, HN2, HN4, and HN5. In addition to general comments that do not necessitate modification of the Neighbourhood Plan, Gladman Developments have commented on Policies HN5 and ICH5. An individual has commented on Policy HN2. Another individual has commented on Policy HN5. The representation of GO Planning Ltd (on behalf of GO Homes Ltd Limited in conjunction with landowners of land within the Neighbourhood Area) includes a statement that too much emphasis has been given to the doctors surgery and school parking in site allocations, and the plan fails to recognise how development on the settlements edge can be absorbed into the village with the open character of the countryside protected. The representation comments on many components and policies of the Neighbourhood Plan including Maps and supporting documents.
34. In preparing the entirety of this report I have taken into consideration all of the representations submitted during the Regulation 16 period even though they may not be referred to in whole. I have taken account of the representations of all parties relating to specific policies of the Neighbourhood Plan, so far as they are relevant to my remit, when considering the policies later in my report. Several representations suggest additional policies or aspects of policy, or alternative approaches to policy matters, however it is beyond my remit to make recommendations for modification of the Neighbourhood Plan in these respects except where they are necessary to meet the Basic Conditions and other requirements.
35. On 15 August 2019 the District Council sent me a copy of an email sent by an individual to the Neighbourhood Plan Steering Group on 12 August 2019. As the period for representations had closed on 24 July 2019, I wrote to the District Council on the basis that if the Council was proposing this letter should be accepted as a late representation the

Council should state the reasons why this should be the case. The Neighbourhood Plan Steering Group advised me that the person sending the representation had been inadvertently omitted from an email list. Having read the representation, I note the writer had submitted a representation in the publicity period, covering the same principal issue. The District Council subsequently advised me that it was not proposing the late representation should be considered. The District Council had advertised the publicity period in the correct way. I have not taken the late representation into consideration.

36. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. I placed no obligation on the Parish Council to offer any comments but such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. On 15 August 2019 the Parish Council responded to the opportunity to comment by setting out a statement in respect of a number of the Regulation 16 representations. I have taken the Parish Council response into account in preparing my report. I advised the District Council that the Regulation 16 representations, and the Parish Council response, should be published on their website.

37. The representation of Go Planning Ltd makes reference to consultation, including at page 5, *“However, it is apparent that at certain junctures the Steering Group have not provided written responses to direct representations made, or indeed failed to follow up their own letters for further consultations especially with regard to the potential to deliver their idea of a new community hub”*, and at page 11, further reference to consultation regarding the community hub. In this respect the Parish Council has commented, drawing specific attention to parts of the Consultation Statement. The representation of an individual states *“We were not given the power to decide where new housing was to be located, at each step the two sites proposed were Sunnybrook Farm and the Bury Fields. Other housing projects have been turned down by the committee.”* I am satisfied there is evidence of adequate consultation being undertaken as part of the Plan preparation process.

38. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a Consultation Statement means a document which:

a) contains details of the persons and bodies who were consulted

- about the proposed neighbourhood development plan;
- b) explains how they were consulted;
- c) summarises the main issues and concerns raised by the persons consulted; and
- d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.²¹

39. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

The Neighbourhood Plan taken as a whole

40. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and Human Rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the development plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this. In considering all of these matters I have referred to the submission, background, and supporting documents, and copies of the representations and other material provided, and available, to me.

Consideration of Convention Rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and 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

41. The Basic Conditions Statement states “*The Neighbourhood Plan has been prepared through continued, active, and committed consultation with the local community and stakeholders. It reflects the views and aspirations of the local community. The consultation undertaken has been inclusive and provided the opportunity to participate in the plan*”

²¹ Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

preparation process through the various methods that were used to consult and engage. The Plan put forward by the Parish Council presents opportunities for further involvement, participation and engagement with all groups within the community through the delivery of projects and aspirations within the Neighbourhood Plan. The Parish Council have considered the European Convention on Human Rights and in particular Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property). It is considered that none of the policies or proposals in the Neighbourhood Plan would breach the Convention.” I am satisfied the European Convention on Human Rights, and in particular to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property)²², has been considered in Plan preparation. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention.

42. An equality impact assessment has been undertaken in respect of the Neighbourhood Plan. The Equalities Impact Analysis presented as Table 5 of the Basic Conditions Statement shows the Neighbourhood Plan would have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010. I agree with this assessment.
43. The objective of EU Directive 2001/42²³ is *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”* The Neighbourhood Plan falls within the definition of ‘plans and programmes’²⁴ as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.²⁵
44. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to Uttlesford District Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and

²² The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

²³ Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

²⁴ Defined in Article 2(a) of Directive 2001/42

²⁵ Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.

45. A Felsted Neighbourhood Plan Strategic Environmental Assessment (SEA) Screening Determination Statement was published in June 2018. The conclusion of the SEA Screening Determination Statement was *“The assessment concludes that the Neighbourhood Plan is not likely to have significant environmental effects and consequently that a strategic environmental assessment is not required.”* Following the advice of Natural England, the SEA screening was repeated in 2019 to reflect the updated information from the Habitats Regulations Assessment of the plan. The Screening Report of May 2019 concluded that the Neighbourhood Plan is not likely to have a significant effect on the environment. Necessary consultation has been undertaken with statutory bodies. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.
46. I have earlier in my report referred to the replacement on 28 December 2018 of the Basic Condition relating to Habitats that had previously been in place throughout much of the period of preparation of the Neighbourhood Plan.
47. The Basic Conditions Statement states *“On 13 September 2018, UDC received a letter from Natural England whereby Natural England informed UDC that the zone of influence for the Blackwater Estuary SPA and Ramsar site had been increased following updated information collected as part of visitor surveys. The zone of influence increased to 22km. This had direct implications for the neighbourhood plan since a sizeable part of the plan area now fell within the zone of influence including the site allocation of 24 additional homes at Watch House Green. Natural England advised UDC that the neighbourhood plan needed to be subject to an appropriate assessment due to this change in circumstance”.*
48. The appropriate assessment under the Habitats Directive and Conservation of Habitats and Species Regulations 2017 has subsequently been undertaken through an update on 30 May 2019 which concludes *“The HRA screening process has identified that Policy HN2 (Sunnybrook Farm) in the Felsted NP might have a likely significant effect on the Blackwater Estuary SPA and Ramsar site when it is considered in combination with other plans in the 22 km zone of influence of this European site. The scale of development coming forward within the zone of influence is recognised by stakeholders including Natural England, Essex County Council and the*

Local Planning Authorities (LPAs) themselves. The extent to which the development across the region could have cumulative significant adverse impacts on the Blackwater Estuary SPA and Ramsar Site is also recognised by stakeholders. In response to this situation, the twelve Essex LPAs are working on the Recreational disturbance and Avoidance and Mitigation Strategy (RAMS) for the Essex Coast. This is being prepared by Essex County Council's Place Services on behalf of 12 partner Local Planning Authorities. The RAMS sets out a package of necessary avoidance and mitigation measures for each of the 10 Essex Coast Habitats sites and a tariff which will be used to pay for the avoidance and mitigation measures. For the strategy to work, all residential development within the zones of influence will either need to pay the tariff, which is a fair and proportionate contribution to the overall package of measures or prepare a project level HRA with bespoke mitigation. The RAMS is intended to ensure compliance with the Habitats Regulations for new residential development within the emerging Local Plans (across the area) and is intended on mitigating impacts so that such residential development does not have any adverse effect on the integrity of the involved coastal designated sites. A final draft of the RAMS has been prepared and is expected to be consulted upon in September/October 2019. However, in the interim period, it is proposed Uttlesford District Council will use the draft RAMS to seek contributions towards the identified avoidance and mitigation measures to ensure that residential development coming forward as part of the Felsted NP does not adversely affect the integrity of the Essex coastal designated European sites and planning decisions comply with the requirements of the Habitats Regulations. Uttlesford District Council's commitment to RAMS will mean that the Felsted neighbourhood plan will not result in any adverse effects on the integrity of European sites alone or in-combination. Uttlesford District Council's commitment to RAMS is demonstrated through: - a commitment to request financial contributions towards avoidance and mitigation measures in line with the RAMS from any development coming forward within the zone of influence (this is a small area in the south east of the district where little development is expected to come forward) and - the inclusion of a RAMS planning policy in the Felsted neighbourhood plan. The entire zone of influence falls within Felsted parish so, once adopted, this policy will apply to any development coming forward in zone of influence. See Figure 3 for a map showing the 22 km zone of influence within Uttlesford District. The findings of the appropriate assessment are that, following the consideration of mitigation measures including the incorporation of HRA policies in the

NP, the Felsted neighbourhood plan will not result in any adverse effects on the integrity of the European site.”

49. As a point of clarification I asked the District and Parish Councils to confirm the Habitats Regulations Assessment (HRA) Screening and Appropriate Assessment updated 30 May 2019 does not require further updating following the granting, on 20 June 2019, of outline planning permission on appeal of the project for up to 30 dwellings on land east and north of Clifford Smith Drive, Watch House Green. (Appeal ref APP/C1570/W/18/3210034). In a joint response the District and Parish Councils stated *“The May 2019 report takes into account the draft site allocation in the emerging Local Plan. Furthermore, at the point of this application being permitted by appeal (Appeal ref APP/C1570/W/18/3210034), the scheme had been subject to its own appropriate assessment (see paragraphs 19 to 26 of the appeal report) which concludes (following consideration of mitigation measures) no adverse effects to the Blackwater Estuary Special Protection Area. There are therefore no additional impacts to be assessed from this in combination with the FNP.”* I am satisfied the Neighbourhood Plan meets the requirements of the revised Basic Condition relating to Habitats Regulations.
50. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.
51. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
52. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The District Council as Local Planning Authority must decide whether the draft neighbourhood plan is compatible with EU obligations:
- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and

- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).²⁶

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

53. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans²⁷ which requires plans to be “*consistent with national policy*”.

54. Lord Goldsmith has provided guidance²⁸ that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”

55. The most recent National Planning Policy Framework published on 19 February 2019 sets out the government’s planning policies for England and how these are expected to be applied. I have undertaken this Independent Examination of the Neighbourhood Plan in the context of the Framework published in February 2019 and the Planning Practice Guidance most recently updated on 22 July 2019. Clearly some updates of the Guidance have occurred after the Neighbourhood Plan had been prepared and submitted.

56. The Basic Conditions Statement includes general text in section 2.1 and commentary in Table 1 that explains how the Neighbourhood Plan

²⁶ Planning Practice Guidance paragraph 031 Reference ID: 11-031-20150209 revision 09 02 2015

²⁷ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

²⁸ The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the House of Lords Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

policies have regard for the Framework. I am satisfied the Basic Conditions Statement demonstrates how the Neighbourhood Plan has regard to relevant identified components of the Framework.

57. The Neighbourhood Plan includes a positive vision for Felsted Parish that includes:

- economic dimensions (*“local employment”, “small business development”, “village shopping”, “supported additional market housing development”*); and
- social components (*“a special place to live”, “village amenities particularly primary health care”, “new larger community hall”, “safety and comfort”, “enhanced public space”, “met housing needs”, “schools emblematic of educational excellence, meet emerging demands and play an active role in the community”*); and
- environmental considerations (*“in a rural setting”, “setting of listed buildings protected”, “dispersed nature remains”, “character and identity protected”, “ecology protected”, “natural environment protected and enhanced”, “green infrastructure delivered”, and enhanced use of active travel routes*).

58. Paragraph 4.3.2 of the Neighbourhood Plan includes a table that identifies the relationship of each policy to components of the vision. Paragraph 4.4.1 of the Neighbourhood Plan states the Steering Group has worked with the Parish Council to establish the Felsted Community Trust as a mechanism to help secure the community benefits objectives of the Plan.

59. Section 4.5 of the Neighbourhood Plan identifies *“issues that are not deliverable through planning policy”* that have not or cannot be addressed through the planning policies of the Neighbourhood Plan. It is stated *“the Parish Council will seek to implement these projects through the identification of key partners and sources of funding”*. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on ways to improve a neighbourhood other than through the development and use of land. It is important that those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning represents good practice. The Guidance states, *“Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly*

identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan".²⁹ I am satisfied the approach adopted in the Neighbourhood Plan presenting the *"issues that are not deliverable through planning policy"* in a separate section and with such an unambiguous title differentiates the community aspirations from the policies of the Plan and has sufficient regard for the Guidance.

60. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to *'have regard to'* national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition *"having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan."*

61. At the heart of the Framework is a presumption in favour of sustainable development³⁰ which should be applied in both plan-making and decision-taking.³¹ The Guidance states, *"This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions"*³².

62. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that

²⁹ Planning Practice Guidance *Paragraph: 004 Reference ID: 41-004-20190509 Revision 09 05 2019*

³⁰ Paragraph 10 National Planning Policy Framework 2019

³¹ Paragraph 11 National Planning Policy Framework 2019

³² Planning Practice Guidance Paragraph 072 Ref ID:41-072-20190509 Revision 09 05 2019

contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

63. The Framework states there are three dimensions to sustainable development: economic, social and environmental. The Basic Conditions Statement includes Table 1 which provides an analysis of how the Neighbourhood Plan has regard to the specific paragraphs of the Framework which, in turn, demonstrates how the Neighbourhood Plan contributes to the achievement of sustainable development as defined by the Framework as a whole. Table 2 of the Basic Conditions Statement sets out an assessment how the policies of the Neighbourhood Plan impact on the three dimensions of sustainable development. This analysis shows that with the exception of two policies every other policy of the Neighbourhood Plan will have a positive impact in at least two of those dimensions.

64. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes are of an appropriate quality; will serve economic needs; will protect and enhance social facilities; and will protect important environmental features. In particular, I consider the Neighbourhood Plan seeks to:

- Strengthen the village centre as a service centre, building on its historic character;
- Conditionally support relocation or redevelopment of key services and facilities;
- Ensure major developments provide for infrastructure improvements;
- Conditionally support provision of a new burial ground;
- Guard against loss of recreational and play facilities;
- Conditionally support school related developments;
- Allocate two sites for housing development;
- Support residential development within village development limits;
- Establish criteria for support of residential development proposals outside village development limits;
- Require a mix of house types and sizes within developments;

- Protect the Blackwater Estuary SPA and Ramsar site;
- Establish design criteria;
- Establish criteria for support of signage proposals;
- Limit the impact of lighting schemes;
- Guard against coalescence of settlements;
- Conditionally support start-up and small businesses, and establish criteria for loss of business premises;
- Conditionally support employment use of rural buildings and home working;
- Protect identified elements of countryside areas;
- Designate a nature area;
- Guard against adverse impact on public rights of way; and
- Protect and enhance the green infrastructure network.

65. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

66. The Framework states neighbourhood plans should “*support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies*”.³³ Plans should make explicit which policies are strategic policies.³⁴ “*Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area*”³⁵. “*Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies*”.³⁶

67. The Guidance states, “*A local planning authority should set out clearly its strategic policies in accordance with paragraph 21 of the National*

³³ Paragraph 13 National Planning Policy Framework 2019

³⁴ Paragraph 21 National Planning Policy Framework 2019

³⁵ Footnote 16 National Planning Policy Framework 2019

³⁶ Paragraph 29 National Planning Policy Framework 2019

Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”³⁷

68. In this independent examination, I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). The District Council has informed me that the Development Plan applying in the Felsted Neighbourhood Area and relevant to the Neighbourhood Plan is the Uttlesford Local Plan adopted in 2005. Whilst the Essex Minerals Local Plan 2014 and the Essex and Southend-on-Sea Waste Local Plan 2017 are also part of the Development Plan those Plans do not appear to be relevant to the Neighbourhood Plan. The District Council has confirmed that the following policies of the Uttlesford Local Plan (2005) are regarded by the Local Planning Authority as strategic policies for the purposes of neighbourhood planning:

Policy S1 Development Limits for the Main Urban Areas
Policy S3 Other Development Limits
Policy S4 Stansted Airport Boundary
Policy S7 The Countryside
Policy GEN 1 Access
Policy GEN 2 Design
Policy GEN 3 Flood Protection
Policy GEN 4 Good Neighbourliness
Policy GEN 6 Infrastructure Provision to support Development
Policy Gen 7 Nature Conservation
Policy E1 Distribution of Employment Land
Policy E2 Safeguarding Employment Land
Policy ENV 1 Design of Development within Conservation Areas
Policy ENV 5 Protection of Agricultural Land
Policy ENV 7 The Protection of the Natural Environment (Designated Sites)
Policy ENV 9 Historic Landscapes
Policy ENV 10 Noise Sensitive Development and Disturbance from Aircraft
Policy H 1 Housing Development
Policy H 3 New Houses within Development Limits
Policy H 9 Affordable Housing
Policy H 11 Affordable Housing on “Exception Sites”
Policy LC 2 Access to Leisure and Cultural Facilities
Policy RS 1 Access to Retailing Centres
Policy RS 2 Town and Local Centres
Policy RS 3 Retention of Retail and Other Services in Rural Areas
Policy T 1 Transport Improvements.

³⁷ Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20190509 Revision 09 05 2019

69. The District Council is working to prepare the Uttlesford Local Plan 2011-2033 that will form part of the Development Plan. This work has proceeded to the stage where the Uttlesford Local Plan was formally submitted to the Secretary of State on 18 January 2019, and hearing sessions commenced on 2 July 2019.

70. The Neighbourhood Plan can proceed ahead of preparation of the emerging Local Plan. The Guidance states: *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan. A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. Although a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*

- *the emerging neighbourhood plan*
- *the emerging Local Plan*
- *the adopted development plan*

with appropriate regard to national policy and guidance. The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan. Strategic policies should set out a housing requirement figure for designated neighbourhood areas from their overall housing requirement (paragraph 65 of the revised National

Planning Policy Framework). Where this is not possible the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body, which will need to be tested at the neighbourhood plan examination. Neighbourhood plans should consider providing indicative delivery timetables and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan.”³⁸

71. I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and the emerging Local Plan when it is adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan; however, the Guidance is clear in that potential conflicts should be minimised.

72. The Regulation 16 consultation on the Submission Neighbourhood Plan included a Statement of Common Ground between the District Council and the Parish Council dated 1 May 2019. The statement sets out the main points of agreement and understanding between both parties with regard to the submission Neighbourhood Plan and its relationship with the emerging Local Plan. Paragraph 1.3 of the document states *“This statement relates to issues associated with the Council’s proposal to allocate land in the ULP as Policy FEL02 (Footnote - identified in the SHLAA as site 17FEL15 and identified as Land East of Braintree Road, Watch House Green, Felsted) and the FNP proposed housing allocation as Policy FEL/HN2 (Footnote - identified as SHLAA site 19FEL15, and identified as land at Sunnybrook Farm, Braintree Road, Watch House Green, Felsted).”* The Statement of Common Ground states the District Council and the Parish Council do not agree about the appropriateness of the allocation of FEL02 (17FEL15) Land East of Braintree Road, Watch House Green. It is however agreed that ULP Policy FEL02 is not a strategic policy. The Regulation 16 representation of Springfields Planning and Development Ltd on behalf of Mr David Payne includes as Appendix 8 a copy of an appeal decision letter dated 20 June 2019 granting planning permission for up to 30 dwellings on land east and north of Clifford Smith Drive, Watch House Green, Felsted. The Appeal decision letter states the appeal site is allocated for housing in the emerging Local Plan. I refer to the appeal decision later in my

³⁸ Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

report when considering the policies of the Neighbourhood Plan grouped under the heading “meeting housing needs”.

73. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The emerging Local Plan is not part of the Development Plan and this requirement does not apply in respect of that. Emerging planning policy is subject to change as plan preparation work proceeds. The emerging Local Plan is at an advanced stage but is subject to potential modification following hearing sessions. The Statement of Common Ground in respect of the Neighbourhood Plan dated 1 May 2019 includes at paragraph 3.2 *“It is agreed that if the FNP is made (adopted) with the allocation at Sunnybrook Farm retained in the plan, that UDC should submit a main modification to the examination of the ULP to seek the matching allocation of this site.”* Later in my report I refer to a joint response of the District and Parish Councils to my request for clarification of matters which states the Statement of Common Ground has been overtaken by events and become redundant. I return to this matter when considering the policies of the Neighbourhood Plan that are grouped under the heading “Meeting Housing Needs”.

74. The Guidance states *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan”*³⁹. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.

75. In considering a now-repealed provision that *“a local plan shall be in general conformity with the structure plan”* the Court of Appeal stated *“the adjective ‘general’ is there to introduce a degree of flexibility.”*⁴⁰ The use of ‘general’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

³⁹ Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

⁴⁰ *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

76. The Guidance states, “When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

- whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;
- the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;
- whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;
- the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”⁴¹

My approach to the examination of the Neighbourhood Plan Policies has been in accordance with this guidance.

77. Consideration as to whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and each of the plan policies below. This consideration has been informed by Section 2.3.1 of the Basic Conditions Statement which includes “Table 3 General Conformity Assessment” that indicates the relationship between the Neighbourhood Plan policies and policies of the Adopted Local Plan (2005). Subject to the modifications I have recommended, I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

The Neighbourhood Plan Policies

78. The Neighbourhood Plan includes 38 policies as follows:

Protecting the Historic Village Centre

Policy FEL/HVC1 Historic Village Centre

Policy FEL/HVC2 Existing Village Shop and Post Office

⁴¹ Planning Practice Guidance Paragraph 074 ID ref: 41-074 20140306 Revision 06 03 2014

Policy FEL/HVC3 Royal British Legion Site

Policy FEL/HVC4 Additional Car Parking in the Village Centre

Policy FEL/HVC5 Managing Congestion at the T Junction in Felsted Village

Village Amenities

Policy FEL/VA1 Doctors' Surgery

Policy FEL/VA2 Memorial Hall

Policy FEL/VA3 Infrastructure Priorities

Policy FEL/VA4 Burial Ground

Policy FEL/VA5 Recreational and Play Areas

Developing Our Schools

Policy FEL/SC1 Supporting our Schools

Policy FEL/SC2 Felsted School

Policy FEL/SC3 Felsted School Follyfield Site

Policy FEL/SC4 Felsted School Facilities off Braintree Road and Garnetts Lane

Policy FEL/SC5 Felsted Primary School – Modernisation

Policy FEL/SC6 Felsted Primary School – Expansion

Policy FEL/SC7 Felsted Primary School Site

Meeting Housing Needs

Policy FEL/HN1 Meeting Housing Needs

Policy FEL/HN2 Land at Braintree Road (Sunnybrook Farm)

Policy FEL/HN3 Land at Station Road (Bury Farm)

Policy FEL/HN4 Residential Development within Development Limits

Policy FEL/HN5 Residential Development outside Development Limits

Policy FEL/HN6 Supplemental Dwellings

Policy FEL/HN7 Housing Mix

Policy FEL/HN8 Habitats Regulations Assessment

Integrity, Character and Heritage

Policy FEL/ICH1 High Quality Design

Policy FEL/ICH2 Heritage Assets

Policy FEL/ICH3 Signage Pollution

Policy FEL/ICH4 Light Pollution

Policy FEL/ICH5 Avoiding Coalescence

Supporting the Rural Economy

Policy FEL/RE1 Start Up and Small Businesses

Policy FEL/RE2 Loss of Employment Uses

Policy FEL/RE3 Re-use of Rural Buildings

Policy FEL/RE4 Home Working

Countryside and Wildlife

Policy FEL/CW1 Landscape and Countryside Character

Policy FEL/CW2 Nature Area including Felsted Fen

Policy FEL/CW3 Footpaths, Bridleways and Cycleways

Policy FEL/CW4 Green Infrastructure

79. Paragraph 29 of the Framework states *“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies”*. Footnote 16 of the Framework states *“Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”*

80. Paragraph 15 of the Framework states *“The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing*

housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”

81. Paragraph 16 of the Framework states *“Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).*
82. The Guidance states *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*⁴²
83. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.*⁴³
84. A neighbourhood plan should contain policies for the development and use of land. *“This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material*

⁴² Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306 Revision 06 03 2014

⁴³ Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).⁴⁴

85. *“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.”⁴⁵ “A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.”⁴⁶*
86. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is ‘made’ they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn. I have considered any inter-relationships between policies where these are relevant to my remit.
87. The Environment Agency has advised *“Providing sewerage capacity for new development in Felsted is currently complicated. Our figures (from volumes of sewage output supplied to us by Anglian Water) show that Felsted Water Recycling Centre is currently discharging way above its permitted capacity. This is because of flow which has been diverted from Great Dunmow Water Recycling Centre (WRC), ostensibly as a temporary measure while works were done at Dunmow. This excess flow is due to be diverted back to Great Dunmow very soon, but it does mean that we cannot be certain of the volume of discharge which Felsted would process from its own catchment. It is possible that we will find that additional capacity needs to be created at Felsted before new properties can be connected to the sewerage system, and this can be a lengthy process. Early discussions with Anglian Water and the Parish Council, on this matter should occur as soon as possible. It should also be included in the Neighbourhood plan that this will be looked into and that new development should not be occupied until Felsted WRC discharges within its capacity or upgrades are made if necessary”* and *“There is no mention to fluvial flood risk within the Neighbourhood plan. The river Chelmer falls on the site boundary of the Neighbourhood area*

⁴⁴ Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20190509 Revision 09 05 2019

⁴⁵ Planning Practice Guidance Paragraph 040 Reference ID 41-040-20160211 Revision 11 02 2016

⁴⁶ Planning Practice Guidance Paragraph 042 Reference ID 41-042-20170728 Revision 28 07 2017

and the River Ter flows through the middle of the Neighbourhood area. This is an opportunity to ensure that development does not increase flood risk elsewhere. We would want to see that the principles of the National Planning and Policy Framework (NPPF) are adhered to in identifying which sites are taken forward. All proposals for development of 1 hectare or above in Flood Zone 1 and for development in Flood Zones 2 and 3 must be accompanied by a flood risk assessment that sets out the mitigation measures for the site and agreed with the relevant authority. Development in these flood zones must accord with those categories in the Flood Risk Vulnerability Classification, which are described as appropriate for this Flood Zone. All of the site allocations are in Flood zone 1 so there are no issues in regards to flood risk but they need to be aware there maybe unmodelled watercourses in the area. Developments will be required to model these to determine flood risk. Environment Agency phasing re water reclamation capacity Flood risk from unmodelled watercourses.” I have recommended modification of the Neighbourhood Plan so that the matters of water recycling capacity and fluvial flood risk from unmodelled watercourses are addressed so that the Neighbourhood Plan has regard for national policy.

Recommended modification 1:

- **Insert additional policy FEL/INF1 “New development will only be supported where proposals demonstrate sufficient water reclamation capacity exists, and that fluvial flooding will not result.”**
- **Insert supporting text based on the Environment Agency representation**

Protecting the Historic Village Centre

Policy FEL/HVC1 Historic Village Centre

88. This policy seeks to designate the historic village centre, identified on Map 2, as a historic character area and local centre. The policy also seeks to establish criteria for support of proposals within that area.

89. In a representation Essex County Council recommend alternative wording for criterion ii). I have not recommended a modification in this respect as the proposed wording includes the imprecise term, “*maximise*” and introduces uncertainty by using the term “*as appropriate*”.

90. The terms “*should*” and “*can be*” do not provide a basis for the determination of planning applications. The criteria in the second and third paragraphs of the policy are presented without purpose. The terms “*good*”, “*sensitive*”, “*impinging on*”, “*help alleviate*”, and “*unacceptable*” are imprecise. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
91. The requirement “*will help alleviate existing traffic congestion*” does not meet the tests set out in paragraph 56 of the Framework. Paragraph 109 of the Framework states “*Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*” I have recommended modification of the policy in these respects so that the policy has regard for national policy.
92. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
93. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with: building a strong, competitive economy; ensuring the vitality of town centres; promoting healthy and safe communities; promoting sustainable transport; making effective use of land; achieving well-designed places; conserving and enhancing the natural environment; and conserving and enhancing the historic environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 2:
In Policy FEL/HVC1**

- in the second paragraph before “Development proposals” insert “To be supported”; replace “should” with “must”; and delete “a good” and “sensitive and”
- commence the third paragraph with “To be supported”; after “within the” insert “Historic Village Centre”; and delete “that”
- replace (i) with “safe access, and that off-street parking provision will be sufficient to avoid additional on-street parking;”
- replace (ii) with “the proposal will not result in severe traffic congestion; and”
- replace (iii) with “the proposal will not adversely affect residential amenity through noise, fumes, smells, or disturbance.”

Policy FEL/HVC2 Existing Village Shop and Post Office

94. This policy seeks to establish conditional support for relocation of the village shop and post office to an alternative location. The policy also seeks to establish conditional support for specified reuse of the existing shop and post office premises should they be vacated.
95. Essex County Council recommend reference to cycle parking and requirement for Transport Statement/Assessment. Paragraph 104 of the Framework states planning policies should provide for cycle parking. Paragraph 109 of the Framework states “*Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*”. Paragraph 111 of the Framework refers to transport statements and transport assessments. I have recommended modification of the policy in these respects so that the policy has regard for national policy.
96. In a representation GO Planning Ltd state “*To plan positively to deliver the Plan, it should consider a consultation exercise to review opportunities for the village shop and Post Office relocation and provide an assessment for each in order to try ensure the continued financial viability of this much valued existing service.*” A consultation of this nature is not necessary to meet the Basic Conditions.
97. In commenting on the Regulation 16 representations the Parish Council has stated “*The NP does not prevent the PC and stakeholders from continuing to pursue the relocation of the village shop or other*

amenities outside the NP. In fact, paragraph 2.4.1 of the NP includes at the end: 'The surgery in community ownership will generate a revenue stream for community amenities, which could include the redevelopment of the Memorial Hall and the relocation of the village convenience shop and Post Office.' To add clarity to this point at paragraph 4.5, we will add *'The Felsted PC will continue to work with stakeholders and residents to review opportunities for the village shop and post office relocation'*". Whilst I would have no objection to this additional reference being made in the "Issues that are not deliverable through Planning Policy" section of the submission Plan document I am unable to make a recommendation of modification in this respect as it would be outside my remit.

98. The terms *"sustainable, accessible location"* and *"adequate"* are imprecise. It is unnecessary and confusing to refer to parking issues in both the first and third paragraphs of the policy. I have recommended a modification in these respects so that the policy *"is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals"* as required by paragraph 16d) of the Framework.
99. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
100. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, and promoting sustainable transport the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 3:
In Policy FEL/HVC2**

- **replace "sustainable, accessible location which includes adequate car parking" with "to a location no less**

- accessible to users and which will not necessitate on-street car parking”
- replace the third paragraph with “Proposals must be subject to a Transport Statement/Assessment in accordance with ECC Development Management Policies (2011) to demonstrate that they will not exacerbate existing traffic congestion and parking issues at this location.”

Policy FEL/HVC3 Royal British Legion Site

101. This policy seeks to establish conditional support for relocation of the Royal British Legion, and in the event of a relocation safeguards the existing site, identified on Map 2, for community use and accessible public open space.
102. The representation of GO Planning Ltd states “*The Policy fails to consider the deliverability aspects of relocating the Royal British Legion site and building to an alternative location. The site is identified to be safeguarded for community use and for the provision of accessible public open space. This in turn will provide very limited value in the existing site, which will preclude the viability of relocating. A suitable future relocation site should have been identified in the Plan in order to aid possibly delivery*”. These representations do not necessitate modification of the Neighbourhood Plan to meet the Basic Conditions.
103. In a representation Essex County Council recommend reference to cycle parking. In commenting on the Regulation 16 representations the Parish Council has stated the policy could be revised to include an additional criterion “*v) addition of public cycle parking for the village centre*”. Paragraph 104 of the Framework states planning policies should provide for cycle parking. I have recommended a modification in this respect so that the policy has regard for national policy although the term “*for the village centre*” is unnecessary and not sufficiently justified. The term “*are sought which*” does not provide a basis for the determination of planning applications. I have recommended a modification in this respect so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
104. The requirement to “*include the provision of accessible public conveniences*” does not have sufficient regard for the requirement to

meet the tests set out in paragraph 56 of the Framework, or paragraph 34 of the Framework relating to the undermining of deliverability of the plan as a result of development contributions. I have recommended modification of the policy in this respect so that the policy has regard for national policy.

105. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

106. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, and conserving and enhancing the historic environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 4:

In Policy FEL/HVC3

- **replace “Proposals are sought which” with “To be supported proposals relating to the existing RBL site must”**
- **commence point iv) with “Subject to viability considerations”**
- **add point “v) include public cycle parking facilities**

Policy FEL/HVC4 Additional Car Parking in the Village Centre

107. This policy seeks to conditionally welcome additional off-street parking spaces within the Felsted Village Development Limits shown on Map 13, and supports installation of electric vehicle charging points.

108. The representation of GO Planning Ltd states *“The Policy has no ability to be successful given the land ownership and funding requirements for such a proposal.”* This representation does not

necessitate modification of the Neighbourhood Plan to meet the Basic Conditions.

109. The term “*welcomed*” does not provide a basis for the determination of planning applications. In a representation Essex County Council suggest the policy should refer to the standards identified in Policy TA2 of the Pre-Submission Local Plan. I have, earlier in my report, referred to the relationship between the Neighbourhood Plan and the emerging Local Plan. The County Council also recommend reference to cycle parking. In commenting on the Regulation 16 representations the Parish Council has stated “*Policy wording to be revised as follows: • Includes appropriate cycle parking*”. Paragraph 104 of the Framework states planning policies should provide for cycle parking. The term “*appropriate*” is imprecise. I have recommended a modification in these respects so that the policy has regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
110. In response to a representation by the District Council, the Parish Council has proposed that the reference to electric vehicle charging should be transferred to Policy FEL/ICH1 so as to apply throughout the Neighbourhood Area. I have recommended a modification in this respect in order to correct an error.
111. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
112. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with promoting sustainable transport, and achieving well-designed places, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 5:

In Policy FEL/HVC4

- **replace “welcomed” with “supported”**
- **add a further bullet point “include cycle parking in accordance with the most up to date parking standards of the highway authority.”**
- **transfer the final sentence to become a free-standing sentence after the paragraph relating to energy hierarchy in Policy FEL/ICH1**

Policy FEL/HVC5 Managing Congestion at the T Junction in Felsted Village

113. This policy seeks to establish that development proposals which would increase the number of access points or significantly increase the volume of traffic in areas identified on Map 2 of the Neighbourhood Plan must be accompanied by a traffic impact statement relating to specified traffic implications.
114. In commenting on the Regulation 16 representations the Parish Council has proposed the Policy wording is revised in accordance with the recommendation of Essex County Council as follows: *“Paragraph 1 is deleted, and replaced with: ‘Proposals must be subject to a Transport Statement/Assessment in accordance with ECC Development Management Policies (2011) to demonstrate how walking, cycling and passenger transport will be maximised and the impact on the existing conditions on the local highway network minimised’*”. I have recommended a modification in this respect but avoided use of the terms *“maximised”* and *“minimised”* as they do not provide a basis for the determination of planning proposals. Paragraph 102 of the Framework states opportunities to promote walking, cycling and public transport use should be identified and pursued. I have recommended a modification in these respects so that the policy has regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
115. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

116. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with promoting sustainable transport, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 6:

In Policy FEL/HVC5 after “must be” replace the text before the numbered points with “subject to a Transport Statement/Assessment in accordance with ECC Development Management Policies (2011) to demonstrate how walking, cycling and passenger transport will be promoted and adverse impact on the existing conditions on the local highway network will be avoided:”

Village Amenities

Policy FEL/VA1 Doctors' Surgery

117. This policy seeks to establish support for the relocation of the GP surgery and associated dispensary, and in the event of a relocation, redevelopment of the existing site for residential (C3) or professional services/office (A2) use is conditionally supported.

118. In a representation GO Planning Ltd state *“The Policy should not restrict the redevelopment of the site should the surgery not relocate within the neighbourhood area.”* The policy does not place any restriction on redevelopment of the site in those circumstances.

119. The term *“adequate”* is imprecise. The final sentence of the policy is without consequence. I have recommended a modification in these respects so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

120. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local

Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

121. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with: promoting healthy and safe communities; promoting sustainable transport; achieving well-designed places; and conserving and enhancing the historic environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 7:

In Policy FEL/VA1 commence the final sentence with “To be supported” and replace “include adequate off” with “will not necessitate on”

Policy FEL/VA2 Memorial Hall

122. This policy seeks to establish support for the redevelopment of the Memorial Hall, with a capacity up to 250 people seated, on the existing site or at another suitable site. The policy also seeks to establish that in the event of a re-location the existing site is safeguarded for a community use and/or A1 retail. Provision of a new village shop and post office in line with policy FEL/HVC2 is supported. The policy also seeks vehicular access and parking facilities associated with the recreational area to the rear of the Memorial Hall site.
123. In a representation GO Planning Ltd state *“Reference is made to possible relocation of the Memorial Hall to an alternative site within the neighbourhood area. The Submission Plan should include consultation on a range of suitable sites and consider the deliverability of the available sites on offer which although started this exercise was never pursued to a conclusion.”* Consultation of this nature is not necessary to meet the Basic Conditions. In a representation Essex County Council recommend reference to cycle parking facilities. Paragraph 104 of the Framework states planning policies should provide for cycle

parking. I have recommended a modification in this latter respect so that the policy has regard for national policy.

124. The final sentence of the policy is without consequence. The achievement of vehicular access to the recreation areas at the rear of the site and additional parking facilities must meet the tests set out in paragraph 56 of the Framework. I have recommended a modification in these respects so that the policy has regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
125. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
126. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 8:

In Policy FEL/VA2 replace the final sentence with “To be supported development or redevelopment proposals must not prevent future achievement of vehicular access to the recreational area to the rear of the site where additional car and cycle parking facilities may be provided.”

Policy FEL/VA3 Infrastructure Priorities

127. This policy seeks to establish that major developments should provide, or provide for, infrastructure improvements made necessary by the scheme. The policy acknowledges provision can be on-site or off-site. Infrastructure priorities are identified.

128. In a representation GO Planning Ltd state *“Reference is made to developer contributions towards the Neighbourhood Plan’s identified infrastructure priorities, namely: - improvements to and enlargement of the primary school - a village hall to accommodate up to 250 seated people - and premises for the relocation of the Royal British Legion. It is noted that no developer contributions are sought towards the provision of a new doctor’s surgery. It is also noted that each request would need to be CIL compliant. As these demands would not be considered CIL compliant the Submission Plan is therefore considered non-compliant.”* The District Council state *“Paragraphs 5.2.13 and 5.2.15 (page 37) – S106 commuted monies on housing schemes that trigger the Local Plan requirement for affordable housing are ring fenced for the delivery of affordable housing. Other funds like new homes bonus funding may be accessible for infrastructure projects. Paragraph 5.2.13 should be amended to make it clear that S106 monies commuted in lieu of affordable housing cannot be used for other community infrastructure projects. The NP needs to suggest how other funding is going to be secured via S106 or other mechanisms for clarity.”*
129. The Regulation 16 representation of Essex County Council includes support for the reference to new development being required to contribute to improvements/enlargement of the primary school; suggests the Parish Council should consider whether contributions to a village hall and relocation of the Royal British Legion meet the requirements for Section 106 contributions set out in the Framework and are compliant with the CIL Regulations; and suggests definition of infrastructure.
130. Developer contributions are negotiated as part of the planning application process and Councils’ can only seek Section 106 contributions for reasons that are directly related to the impacts of the proposed development. Paragraph 34 of the Framework states that *“Plans should set out the contributions expected from development”*. Section 106 contributions are governed by the Community Infrastructure Levy Regulations 2010 (as amended) and require that any request for funding meets the three tests as outlined in Section 122 (2) of the Regulations, namely that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is — (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. Contributions would be highlighted by the relevant

infrastructure providers either at the pre-application stage or through the formal consultation process. The policy must not be reliant on a third party for realisation.

131. Whilst most developer contributions are subject to strict limitations on use and are tied to specific purposes, for example through Section 106 agreements, some funds may become available during the plan period the use of which can be locally determined, for example the neighbourhood portion of Community Infrastructure Levy. I have recommended a modification so that this point is clarified. It is appropriate to use the Neighbourhood Plan preparation process to engage with the community to identify how any neighbourhood determined element of development generated finance should be utilised and for the priority areas to be set out in the policy itself. I have recommended modification of the policy in this respect so that the policy has regard for national policy.

132. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

133. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 9:

In Policy FEL/VA3 replace the second sentence before the bullet points with "Use of developer contributions able to be locally determined will be directed to any of the following priorities:"

Policy FEL/VA4 Burial Ground

134. This policy seeks to establish conditional support for provision of a new burial ground.
135. In a representation GO Planning Ltd state *“This Policy is supported. Perhaps the Steering Group would consider a consultation exercise to identify the available sites and the merits of those available”*. Consultation of this nature is not necessary to meet the Basic Conditions.
136. The term *“adequate and sympathetically designed”* is imprecise. I have recommended a modification in this respect so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
137. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
138. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with promoting healthy and safe communities; promoting sustainable transport; and conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 10:

In Policy FEL/VA4

- **replace “adequate and sympathetically designed” with “off-street”**
- **after “visitors” insert “so that on-street parking is not necessary”**

Policy FEL/VA5 Recreational and Play Areas

139. This policy seeks to establish criteria for change of use of existing recreational or play facilities.
140. In commenting on the Regulation 16 representation of the District Council, the Parish Council has stated *“We agree that this policy should be amended to be in line with NPPF para 97(c). By adding “or better” after “.....an equivalent...” to read: “The change of use of any recreational or play facility will not be supported unless an equivalent or better alternative facility is provided in an acceptable location within the Neighbourhood Area.”* I have recommended a modification in this respect so that the policy has regard for national policy.
141. The term *“in an acceptable location”* is imprecise. I have recommended a modification in this respect so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
142. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
143. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 11:

In Policy FEL/VA5

- after “equivalent” insert “or better”
- delete “in an acceptable location”

- after “Area” insert “in no less convenient location for users”

Developing Our Schools

Policy FEL/SC1 Supporting our Schools

144. This policy seeks to establish support for named school related development proposals. The policy also seeks to establish that development proposals that do not include sufficient off-street parking and/or traffic management schemes will not be supported.
145. In a representation Essex County Council recommend a requirement for schools to prepare School Travel Plans. Paragraph 111 of the Framework states “*All developments that will generate significant amounts of movement should be required to provide a travel plan.*” Paragraph 16 of the Framework states “*plans should serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).*”
146. Planning applications must be determined on the basis of the proposals, not the identity of the applicant. It is unnecessary and confusing for the policy to state “*other than those specifically supported in SC5*” as the policies of the Neighbourhood Plan should be read together. The requirement to “*ease the free flow of traffic and reduce parking stress*” and to “*alleviate pressure on the local highway network*” does not meet the tests for obligations set out in paragraph 56 of the Framework. The terms “*wider community benefits*”; “*sympathetically designed*”; and “*effective and deliverable traffic management schemes*” are imprecise. The requirement to “*wherever possible, provide wider community benefits*” has not been sufficiently justified. The term “*wherever possible*” does not provide a basis for the determination of planning applications. Paragraph 109 of the Framework states “*Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*” I have recommended a modification in these respects so that the policy has regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

147. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

148. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with promoting sustainable transport and achieving well-designed places, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 12:

In Policy FEL/SC1

- **after “following” insert “school related” and delete “by the schools”**
- **in the first bullet point delete “and, other than those specifically supported in SC5” and replace the colon and points 1 and 2 with “not result in severe congestion or additional on-street parking.”**
- **in the second bullet point replace “sympathetically designed,” with “designed to”**
- **in the third bullet point delete “sympathetically designed” and delete “and include effective and deliverable traffic management schemes”**
- **replace the final sentence with “Development proposals that will result in additional on-street parking will not be supported.**

Policy FEL/SC2 Felsted School

149. This policy seeks to establish conditional support for proposals to expand the permanent facilities of Felsted School off Stebbing Road.

150. It is unnecessary and confusing for the policy to state “*Subject to SC1*” as the policies of the Neighbourhood Plan should be read together. I have recommended a modification in this respect so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
151. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
152. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with promoting sustainable transport the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 13:
In Policy FEL/SC2 delete “Subject to SC1,”**

Policy FEL/SC3 Felsted School Follyfield Site

153. This policy seeks to establish parking and vehicular entry/exit requirements for any redevelopment of Felsted School’s Follyfield site.
154. In a representation the District Council ask “*Has the Policy requirement to manage ‘right turns to and from the public highway’ been explored with highways to ascertain feasibility?*”
155. The policy is without consequence, and overly prescriptive without adequate justification. In commenting on the Regulation 16 representation of Essex County Council, the Parish Council has stated “*Policy to be revised as follows: ‘Any scheme to redevelop Felsted School’s Follyfield site (as shown on Map 4) must be subject to a Transport Statement/Assessment and provide a safe and suitable access and conform with Essex Parking Standards.’*” I have

recommended a modification of this nature but which is future-proofed. I have recommended a modification in this respect so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

156. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

157. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with promoting sustainable transport the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 14:

Replace Policy FEL/SC3 with “To be supported any scheme to redevelop Felsted School’s Follyfield site (as shown on Map 4) must be subject to a Transport Statement/Assessment and provide a safe and suitable access and conform with the latest parking standards of the highway authority.”

Policy FEL/SC4 Felsted School Facilities off Braintree Road and Garnetts Lane

158. This policy seeks to establish criteria for support of further development of Felsted School’s facilities off Braintree Road or Garnetts Lane.

159. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level

of detail or distinct local approach to that set out in the strategic policies.

160. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with achieving well-designed places; conserving and enhancing the natural environment; and conserving and enhancing the historic environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

Policy FEL/SC5 Felsted Primary School – Modernisation

161. This policy seeks to establish conditional support for the replacement of temporary buildings and other measures that modernise the Primary School

162. In a representation Essex County Council has recommended additional text however this is not necessary to meet the Basic Conditions.

163. It is unnecessary and confusing for the policy to state "*Notwithstanding the general conditionality of SC1*" as the policies of the Neighbourhood Plan should be read together. The term "sympathetic design and an appropriate scale" is imprecise. I have recommended a modification in these respects so that the policy "*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*" as required by paragraph 16d) of the Framework.

164. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

165. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable

development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, and achieving well-designed places, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 15:

In Policy FEL/SC5

- **delete “Notwithstanding the general conditionality of SC1”**
- **replace “are of sympathetic design and of an appropriate scale” with “reflect the character and appearance of the setting”**

Policy FEL/SC6 Felsted Primary School – Expansion

166. This policy seeks to establish conditional support for the development and expansion of the Primary School on the existing site.

167. The representation of GO Planning Ltd states “*The general aim of the Policy is supported. However, the extent of points referred to would benefit from a more general aim and allow proposals to be developed accordingly.*” In a representation Essex County Council recommend paragraph 1 is replaced with “*The development and expansion of Felsted Primary School on the existing site, as shown in Map 5, must be subject to a Transport Statement/Assessment which considers local traffic management including:*” Subject to adding a consequence, I have recommended a modification of this nature so that the policy has regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

168. The terms “adequate” and “modal shift through travel planning” are imprecise. The requirement for a new access has not been sufficiently justified. The term “potentially including” does not provide a basis for the determination of planning applications. Implementation of enhanced parking restrictions, and measures to achieve speed reduction, are dependent on a third party for realisation. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker*

should react to development proposals” as required by paragraph 16d) of the Framework. Whilst the term “*substantial off-street short-term waiting*” is also imprecise and may result in limited provision a more precise requirement cannot be specified in the absence of quantification of demand.

169. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

170. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, and promoting sustainable transport, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 16:

In Policy FEL/SC6

- **replace text before the numbered points with “To be supported the development and expansion of Felsted Primary School on the existing site, as shown in Map 5, must be subject to a Transport Statement/Assessment which considers local traffic management including:”**
- **replace “new “with “safe and effective”**
- **replace part iii) with “Sufficient off-street parking for staff to avoid the necessity for staff to park on-street;”**
- **delete parts v), vi), and ix)**

Policy FEL/SC7 Felsted Primary School Site

171. This policy seeks to establish conditional support for housing development on the existing Primary School site following relocation of the school to an alternative site.

172. In a representation GO Planning Ltd state “*The requirement for 2-3-bedroom homes is not supported by the more recent housing needs for the District and should simply refer perhaps to the latest guidance.*” The Neighbourhood Plan is not required to respond to the needs of the wider District.
173. The terms “*downsizing opportunities*” and “*homes suitable for elderly people*” are imprecise. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
174. The Framework states local planning authorities cannot require a developer to engage with them before submitting a planning application but they should encourage applicants to take-up any pre-application services and also where they think it will be beneficial to encourage applicants, not already required to do so by law, to engage with the local community. The requirement for active consultation by applicants with the community and the Parish Council and provision of a development brief prior to any application being submitted does not have sufficient regard for national policy. I have recommended modification of the policy in this respect so that the policy has regard for national policy.
175. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
176. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 17:

In Policy FEL/SC7 replace all text after “mix of” with “dwelling types that reflects the latest assessment of local housing need applicable to Felsted parish.”

Adjust supporting text paragraph 5.3.22 to encourage rather than require community consultation in the preparation of development proposals.

Meeting Housing Needs

177. The Guidance states *“The National Planning Policy Framework expects most strategic policy-making authorities to set housing requirement figures for designated neighbourhood areas as part of their strategic policies. While there is no set method for doing this, the general policy making process already undertaken by local authorities can continue to be used to direct development requirements and balance needs and protections by taking into consideration relevant policies such as the spatial strategy, evidence such as the Housing and economic land availability assessment, and the characteristics of the neighbourhood area, including its population and role in providing services. In setting requirements for housing in designated neighbourhood areas, plan-making authorities should consider the areas or assets of particular importance (as set out in paragraph 11, footnote 6), which may restrict the scale, type or distribution of development in a neighbourhood plan area.”*⁴⁷
178. *“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.”*⁴⁸
179. *“Where neighbourhood planning bodies have decided to make provision for housing in their plan, the housing requirement figure and its origin are expected to be set out in the neighbourhood plan as a basis for their housing policies and any allocations that they wish to make. Neighbourhood planning bodies are encouraged to plan to meet*

⁴⁷Planning Practice Guidance Paragraph: 101 Reference ID: 41-101-20190509 Revision date: 09 05 2019

⁴⁸ Planning Practice Guidance Paragraph: 040 Reference ID: 41-040-20160211 Revision date: 11 02 2016

their housing requirement, and where possible to exceed it. A sustainable choice of sites to accommodate housing will provide flexibility if circumstances change, and allows plans to remain up to date over a longer time scale. Where neighbourhood planning bodies intend to exceed their housing requirement figure, proactive engagement with their local planning authority can help to assess whether the scale of additional housing numbers is considered to be in general conformity with the strategic policies. For example, whether the scale of proposed increase has a detrimental impact on the strategic spatial strategy, or whether sufficient infrastructure is proposed to support the scale of development and whether it has a realistic prospect of being delivered in accordance with development plan policies on viability. Any neighbourhood plan policies on the size or type of housing required will need to be informed by the evidence prepared to support relevant strategic policies, supplemented where necessary by locally-produced information.”⁴⁹

180. *“The scope of neighbourhood plans is up to the neighbourhood planning body. Where strategic policies set out a housing requirement figure for a designated neighbourhood area, the neighbourhood planning body does not have to make specific provision for housing, or seek to allocate sites to accommodate the requirement (which may have already been done through the strategic policies or through non-strategic policies produced by the local planning authority). The strategic policies will, however, have established the scale of housing expected to take place in the neighbourhood area. Housing requirement figures for neighbourhood plan areas are not binding as neighbourhood planning groups are not required to plan for housing. However, there is an expectation that housing requirement figures will be set in strategic policies, or an indicative figure provided on request. Where the figure is set in strategic policies, this figure will not need retesting at examination of the neighbourhood plan. Where it is set as an indicative figure, it will need to be tested at examination.”⁵⁰*

181. *“Where an indicative housing requirement figure is requested by a neighbourhood planning body, the local planning authority can follow a similar process to that for providing a housing requirement figure. They can use the authority’s local housing need as a starting point, taking into consideration relevant policies such as an existing or emerging spatial strategy, alongside the characteristics of the neighbourhood plan area. Proactive engagement with neighbourhood*

⁴⁹ Planning Practice Guidance Paragraph: 103 Reference ID: 41-103-20190509 Revision date: 09 05 2019

⁵⁰ Planning Practice Guidance Paragraph: 104 Reference ID: 41-104-20190509 Revision date: 09 05 2019

*plan-making bodies is important as part of this process, in order for them to understand how the figures are reached. This is important to avoid disagreements at neighbourhood plan or local plan examinations, and minimise the risk of neighbourhood plan figures being superseded when new strategic policies are adopted”.*⁵¹

182. *“Where strategic policies do not already set out a requirement figure, the National Planning Policy Framework expects an indicative figure to be provided to neighbourhood planning bodies on request. However, if a local planning authority is unable to do this, then the neighbourhood planning body may exceptionally need to determine a housing requirement figure themselves, taking account of relevant policies, the existing and emerging spatial strategy, and characteristics of the neighbourhood area. The neighbourhood planning toolkit on housing needs assessment may be used for this purpose. Neighbourhood planning bodies will need to work proactively with the local planning authority through this process, and the figure will need to be tested at examination of the neighbourhood plan, as neighbourhood plans must be in general conformity with strategic policies of the development plan to meet the basic conditions.”*⁵²

183. *“If a local planning authority is also intending to allocate sites in the same neighbourhood area the local planning authority should avoid duplicating planning processes that will apply to the neighbourhood area. It should work constructively with a qualifying body to enable a neighbourhood plan to make timely progress. A local planning authority should share evidence with those preparing the neighbourhood plan, in order for example, that every effort can be made to meet identified local need through the neighbourhood planning process.”*⁵³

184. *“Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing need evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought*

⁵¹ Planning Practice Guidance Paragraph: 102 Reference ID: 41-102-20190509 Revision date: 09 05 2019

⁵² Planning Practice Guidance Paragraph: 105 Reference ID: 41-105-20190509 Revision date: 09 05 2019

⁵³ Planning Practice Guidance Paragraph: 043 Reference ID: 41-043-20140306 Revision date: 06 03 2014

forward before an up-to-date local plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:

- the emerging neighbourhood plan*
- the emerging local plan (or spatial development strategy)*
- the adopted development plan*

with appropriate regard to national policy and guidance.

The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body so that complementary neighbourhood and local plan policies are produced. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. Strategic policies should set out a housing requirement figure for designated neighbourhood areas from their overall housing requirement (paragraph 65 of the revised National Planning Policy Framework). Where this is not possible the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body, which will need to be tested at the neighbourhood plan examination. Neighbourhood plans should consider providing indicative delivery timetables, and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new local plan.”⁵⁴

185. *“A neighbourhood plan can allocate additional sites to those identified in an adopted plan so long as the neighbourhood plan meets the basic conditions.”⁵⁵ and “A neighbourhood plan can allocate additional sites to those in a local plan (or spatial development strategy) where this is supported by evidence to demonstrate need above that identified in the local plan or spatial development strategy. Neighbourhood plans should not re-allocate sites that are already allocated through these strategic plans. A neighbourhood plan can also propose allocating alternative sites to those in a local plan (or spatial development strategy), where alternative proposals for*

⁵⁴ Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision date: 09 05 2019

⁵⁵ Planning Practice Guidance Paragraph: 009 Reference ID: 67-009-20190722 Revision date: 22 07 2019

inclusion in the neighbourhood plan are not strategic, but a qualifying body should discuss with the local planning authority why it considers the allocations set out in the strategic policies are no longer appropriate. The resulting draft neighbourhood plan must meet the basic conditions if it is to proceed. National planning policy states that it should support the strategic development needs set out in strategic policies for the area, plan positively to support local development and should not promote less development than set out in the strategic policies (see paragraph 13 and paragraph 29 of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the local plan or spatial development strategy. Should there be a conflict between a policy in a neighbourhood plan and a policy in a local plan or spatial development strategy, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.”⁵⁶

186. Whilst it is not within my role to test the soundness of the Neighbourhood Plan it is necessary to consider whether the Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies, as required by paragraph 29 of the Framework; and meets the requirements set out in the Guidance. Several policies of the Neighbourhood Plan, in particular Policies FEL/HN1, FEL/HN2, FEL/HN3, FEL/HN4, FEL/HN5, and FEL/HN6, are relevant to housing supply. Paragraphs 5.4.1, 5.4.3, and 5.4.4, of the Neighbourhood Plan confirm an intention of the Neighbourhood Plan policies is to meet housing needs. The Statement of Common Ground between the District Council and the Parish Council states the District Council “*had no mechanism to provide a housing number for specific villages such as Felsted*”, and with respect to the Regulation 19 Local Plan states that in total in all 19 Type A villages there will be up to 134 new homes in new allocations of 6 or more homes and excluding windfall sites. It is stated this is “*not a housing target for Type A villages, merely a reflection of the deliverable and developable sites which have been allocated in these villages.*”

187. The Neighbourhood Plan states at Paragraph 5.4.16 “*UDC have not provided a housing target at a neighbourhood-area level, and the SG therefore had to develop an appropriate methodology which is*

⁵⁶ Planning Practice Guidance Paragraph: 044 Reference ID: 41-044-20190509 Revision date: 09 05 2019

based on Planning Practice Guidance. This methodology also reflects local circumstances and the range of sites that may come forward as suggested by the Strategic Land Availability Assessment (SHLAA). The process of establishing a housing target for Felsted and the consequent site selection to meet this target is set out in the Sites Justification Evidence Base document.”

188. The spatial strategy of the emerging Local Plan states at paragraph 3.38 *“Type A Villages are listed in Table 2 below (Felsted is listed as one of 19 Type A Villages). These villages have a primary school and some local services, e.g. village hall, public house or shop. They act as a local service centre and are suitable for a scale of development that reinforces their role as a local centre. In total in all the Type A Villages there will be up to 134 new homes in new allocations for housing development in the Local Plan.”* The Statement of Common Ground clarifies *“This identifies allocated sites of 6 or more homes in Type A villages, and does not include sites that may come forward as windfall sites. It is not a housing target for Type A villages, merely a reflection of the deliverable and developable sites which have been allocated in these villages.”*

189. It is commendable that the District Council and the Steering Group, acting on behalf of the Parish Council, have been working positively together throughout the Neighbourhood Plan preparation process in respect of issues relating to the Felsted Neighbourhood Area. In response to my request for clarification the District and Parish Councils recognise the Statement of Common Ground prepared in May 2019 is now redundant having been overtaken by events in respect to the development of ULP/FEL/02 through the consent granted on appeal in August 2019. The Councils also acknowledge the Statement of Common Ground does not reflect the latest Planning Practice Guidance published after the statement was prepared. The Councils state *“The emerging Local Plan is likely to be adopted later than the Neighbourhood Plan. Given the emerging Local Plan timetable, following the Felsted NP being made UDC is prepared to submit a main modification of the removal of the Local Plan Bury Farm site allocation so as to complement and not supersede the NP allocations.”*

190. In response to my request for clarification the District and Parish Councils stated *“The growth range provided in the Sites Justification Report has been identified by examining various indicators (e.g. past completion records) to help inform an appropriate range of growth during the plan period 2018 to 2033. It also however identifies supply-*

side constraints and recommends that any growth target is plan-led. The emerging Local Plan does not provide an appropriate number for Felsted but the Felsted NP does. The Felsted NP plans for the delivery of 63 new homes on the allocated sites. The NP includes additional policies that would facilitate the delivery of other development: HN4 – appropriate development within the development envelope; HN5 – development outside the development envelope subject to restrictions e.g. rural exception sites etc; HN6 – single supplemental dwellings policy. A reasonable assumption of numbers that could come forward under these other policies is 30. This is based on past records of windfall development. The NP therefore provides for the delivery of approximately 93 homes which is appropriate given the range of 70 – 140 identified in the Sites Justification Report.”

191. The Preferred Sites Justification Report sets out the rationale for the housing numbers that the Neighbourhood Plan provides for. The Preferred Sites Justification Report includes sections relating to: understanding the development need; Local Plan requirements; past completions data in the parish; Ministry of Housing, Communities and Local Government Household projections; identifying an appropriate housing number for the Felsted NP; Felsted Neighbourhood Area demographics; local housing needs survey; and the role of the neighbourhood area in providing services. The report draws conclusions on the quantity of housing needed in Felsted Parish over the plan period, which is found to be in the range of 70 to 140 dwellings after taking completions into consideration. The lower end of the range relates to the level of specific provision made in the emerging Local Plan. In response to my request for clarification the District and Parish Councils state “*The emerging Local Plan proposes to allocate 70 dwellings for the Felsted on 2 sites (not including windfalls) and this should be regarded as what UDC considers an appropriate minimum for Felsted. The NP proposes to allocate 63 dwellings (not including windfalls) on two sites albeit one being an alternative site.*” The Preferred Sites Justification report also identifies that in addition to allocated sites that will provide approximately 63 new homes, there will be an assumed additional supply of 30 dwellings arising from windfall sites. In response to my request for clarification the District and Parish Councils have advised me that in August 2019 there were unimplemented housing commitments that will provide 91 dwellings as follows:

Application Ref	Address	No. of Dwellings	Comments
1. UTT/17/2397/FUL	Post Office Station	2	

	Road		
2. UTT/17/2628/FUL	Sparlings Farm Braitree Road	1	
3. UTT/16/1106/FUL	Andrews House Braitree Road	1	
4. UTT/18/0784/OP	Land East and North of Clifford Smith Drive	30	Allowed on Appeal
5. UTT/18/1011/OP	Land West of Maranello Watch House Green	28	Allowed on Appeal
6. UTT/17/1470/FUL	Orchard End Braitree Road	1	
7. UTT/17/2825/FUL	Fairfield Hartford End Felsted	1	
8. UTT/17/1787/FUL	Elms Farm Bartholomew Green Lane	2	
9. UTT/17/1432/OP	Edwards House Braitree Road	2	
10. UTT/17/1241/OP	Land Between Wytewais and Hawthorns Gransmore Green Lane	1	
11. UTT/16/3616/FUL	41 Evelyn Road Willows Green	3	
12. UTT/16/2348/FUL	Land At 15 Evelyn Road Willows Green	1	
13. UTT/17/1123/FUL	Brook Cottage Gransmore Green Gransmore Green Lane	3	
14. UTT/18/3038/FUL	Gate Cottage Cock Green Cock Green Road	1	
15. UTT/18/1022/FUL	Land Adj Aylands Bannister Green	2	
16. UTT/18/1340/OP	Land at Gransmore House Gransmore Green	1	
17. UTT/18/3019/FUL	Land at Thorpes Frenches Green	1	
18. UTT/17/0649/OP	Land Off Stevens Lane Felsted	8	Allowed on appeal
19. UTT/18/0849/FUL	Mill House Barn Mill Lane Hartford End	1	
20. UTT/18/1200/FUL	Wytewais Gransmore Green	1	

	Gransmore Green Lane		
Total		91	

These unimplemented planning commitments which are a matter of public record available for inspection on the statutory Planning Register include windfall supply up to August 2019. In the context of the Neighbourhood Area there is currently a significant committed supply of new dwellings. It is reasonable to assume there will be further windfall supply during the remainder of the Plan period up to 2033.

192. Allocated, committed, and future windfall housing provision together will significantly boost the supply of homes in the Neighbourhood Plan area. The level of provision will accommodate flexibility in the timing of delivery of any specific site and obviates any pressing need to identify reserve sites. In response to my request for clarification the District and Parish Councils state *“at the Local Plan level, the housing requirement is spread across all 19 Type A villages, Felsted is expected to take half of that requirement on its own due to the availability of sites in the village”*. I am satisfied the approach adopted to address housing need in the Neighbourhood Area is appropriate for the purpose of neighbourhood plan preparation and provides the necessary justification of those policies that are relevant to housing supply. The Neighbourhood Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.

Policy FEL/HN1 Meeting Housing Needs

193. This policy seeks to allocate two sites for housing development and establish the expected timing of delivery.

194. In a representation Springfields Planning and Development, on behalf of Hill Rise Homes Limited state *“Policy FEL/HN1 allocates the Sunnybrook Farm site for 24 ‘units’, although ‘dwellings’ might be a better term to use. The policy goes on to state that ‘Proposals for allocated housing sites are expected to come forward within years 1 – 5 of the Plan period’. The imperative to proceed quickly is understood, due to the serious issues of congestion etc which are currently caused by school related on street parking. Indeed, our client expects that the*

site will be subject of a planning application within the next 6 months, with a view thereafter to early delivery. As stated at paragraph 5.4.22 of the FNP, 'the landowner at Sunnybrook Farm is...keen to see the development proceed quickly'. However, if unforeseen circumstances arise which delay either the submission of a planning application or actual delivery of the development beyond 5 years, the policy is not clear on the position if its 'expectations' are not met."

195. The representation of GO Planning Ltd states *"The highly restrictive Policy allocates two identified sites for development for up to 63 new homes. The Submission Plan does not allocate sufficient market housing sites to meet its own vision or assist the District with its current shortfall in 5 year housing supply as a type A Felsted could with a level of sustainable development and given its very strong housing market this would allow owners of larger homes to downsize within the Parish."*

196. The Guidance states *"A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available."*⁵⁷

197. I have, earlier in my report, concluded the Preferred Sites Justification Report, which sets out the rationale for the proposed housing allocations and how they will be delivered, and other evidence provide the necessary justification for the amount of housing development provided for in the Neighbourhood Plan. The Site Assessment Report sets out the method of residential development site assessment and the selection criteria used. The Felsted Neighbourhood Plan Viability Study concluded there is sufficient evidence that the residential allocations in the Neighbourhood Plan have the potential to be viable and stated a need to consider levels of affordable housing provision in the context of enabling development of neighbourhood facilities and infrastructure. The achievement of community objectives has been an important consideration in the site assessment and selection process. Such an approach is not inconsistent with meeting the Basic Conditions. I am satisfied the method of site selection and assessment deployed is appropriate to preparation of the Neighbourhood Plan and provides sufficient

⁵⁷ Planning Practice Guidance Paragraph: 042 Reference ID: 41-042-20170728 Revision date: 28 07 2017

evidence to support the residential allocations of the Neighbourhood Plan.

198. The specification of “*up to 63 units*”, “*(24 units)*” and “*(39 units)*” is overly prescriptive and has not been sufficiently justified. The specification “*up to*” with respect to total provision and of precise figures for each allocation site may prevent an otherwise sustainable development proposal. There is internal inconsistency within the policy. Two precise figures cannot sum to an “*up to*” total. There is also inconsistency with terminology used in Policies FEL/HN2 and FEL/HN3. I have recommended use of the word “*approximately*” in all three policies to achieve internal consistency and allow necessary flexibility in the determination of sustainable development proposals. The final sentence of the policy relies on the actions of third parties for its realisation, which it may not. The term “*are expected to*” does not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy has regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

199. Policies FEL/HN2 and FEL/HN3 relate to each of the residential site allocations. I consider these policies later in my report. Policy FEL/HN1 is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

200. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 18:

In Policy FEL/HN1

- **replace “up to” with “approximately”**
- **insert “approximately” before “24” and “39”**

- delete the final sentence, which should be transferred to section 4.5 of the Neighbourhood Plan and presented as a community action providing an indicative housing development site delivery timetable

Policy FEL/HN2 Land at Braintree Road (Sunnybrook Farm)

201. This policy seeks to allocate, subject to stated requirements, the Sunnybrook Farm site identified on Maps 6 and 7 for housing development of 24 units.

202. In a representation Springfields Planning and Development, on behalf of Hill Rise Homes Limited state “*Policy FEL/HN2 sets out the detailed policy allocation for 24 housing units ie ‘dwellings’ (NB see our comments above) at Sunnybrook Farm. The first sentence states that, The Plan allocates the Sunnybrook Farm Site as shown on Map 6 and Map 7 for housing development of 24 units. However, the Maps which show the area of FEL/HN2 allocation require some modification. The reason for our suggested modification is that Maps 6 and 7 do not properly reflect the area of the Block Plan (which was agreed with the Steering Group) and shown at FNP Section 6, Appendix 1. The Block Plan was prepared to show the required housing and parking/amenity areas. By way of background, the Block Plan was based on a provisional layout scheme with supporting text (attached as Appendix 1 to this letter) showing 24 dwellings and car park with drop off area. The layout plan was prepared for a public exhibition as part of the Regulation 14 Consultation exercise. Whilst the layout plan is not a blueprint, it shows the area of land which might reasonably be required to deliver the policy requirements of the allocation. The area of site allocation at Regulation 14 Consultation stage was also shown incorrectly and whilst this has been modified in the current Regulation 16 Consultation, it still appears incorrect, as it does not extend sufficiently far enough to the north-west area. The allocated area would then curtail room to provide several dwellings and gardens (plus boundary trees/hedges) which are potentially critical to enabling the delivery of the car park and housing allocation. We therefore suggest that the FEL/HN2 allocation more accurately reflects the northern (N)/north western (NW) extent of the Block Plan (and also the area of the provisional layout). Furthermore, the ‘curved’ boundaries of the allocated area as currently proposed are less easy to interpret and would benefit if they were of more linear shape and relate to physical features. To this extent we suggest that the adjacent woodland (to the south-west side) marks the SW boundary of the allocated area and*

that the western boundaries run parallel to the western field boundaries (with Chaffix Farm), running approximately NW then N, before returning along an internal field boundary to the north of the allocation area (marked on the OS base plan, running east-west) at Sunnybrook Farm. Our suggested modifications to Map 6 are shown on the plan at Appendix 2. This appendix also includes a Google overhead plan upon which the suggested allocation area is plotted so that the physical context in relation to features and boundaries can be understood. This amendment would aid clarity of the allocated area to meet NPPF Para 16 (d) ie contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals. Furthermore, the revision would ensure sufficient room is provided to deliver not just housing and a car park but significant landscaping, noting that the development will 'be well-screened with native hedgerows or tree screening to the western and northern boundaries to mitigate the visual impact of the development on the landscape' as per subsection (II) of the policy. The NW part of the site is envisaged to provide several 3 or 4 bed properties, balancing these against the requirements of the subsection (V) policy requirement to deliver "a significant proportion of starter homes and accessible homes that are suitable for the elderly". The starter units and homes for the elderly may attract insufficient revenues on their own in order to deliver the car park benefit. As such, it is important that the development is able to derive revenue from 3 and 4 bed properties and to do so it is reliant on the adequacy of the site area of the allocation. Our suggested revision to the area of the site allocation will provide sufficient design flexibility and ensure there is enough room to provide space for the required units, totalling 24 dwellings. Subsection (I) of Policy FEL/HN2 states a requirement to 'Include a new access road, a kiss and drop facility and significant off-road landscaped secure car parking provision for approximately 90 vehicles, including contingency provision pending future expansion of the Primary School'. In our discussions with the Steering Group it was understood that the 90 spaces car park would satisfy (ie be inclusive of) the 'contingency' element. However, the way the policy is worded is open to misinterpretation because it could alternatively be read that the contingency parking is required in addition to the 90 spaces, in which case the area of the allocation would not be sufficient. We therefore suggest the inspector makes an appropriate modification to the text of this part of the policy to clarify and reflect what we believe is intended ie the contingency parking is included as part of the 90 spaces."

203. The representation of GO Planning Ltd states “HN2 to the east of Felsted village adjoins in part Watch House Green hamlet but again significantly reduces the gap between the eastern edge of the village and the hamlet, which in turn provides for increased levels of coalescence. The western boundary of HN2 is considered arbitrary and any landscape buffer will take decades to provide a significant landscape buffer” and “The allocation of a site in a sustainable location which can also provide improved access and parking for the local primary school are supported. However, the issue of coalescence is a key concern highlighted in the consultation process and so it requires further consideration as to the deliverability of the policy. The reference to the land for the ‘kiss and drop’ area being conveyed to the Parish and an income stream being generated fails to recognise that Essex County Council as the Educational Services provider would not be in a position to fund such a revenue stream as the direct consequence would be a reduction to educational funds. The SHLAA assessment of the site considered it to be unsuitable. If pursued this site should provide for policy compliant affordable housing.”

204. The District Council state “Starter Homes – The regulations have not been issued therefore it is suggested to use the broader NPPF (Annex 2) definition of affordable homes which includes starter homes among other types of affordable housing. Use of the phrase affordable instead of starter homes will obviate the need to specify the housing mix criteria of the affordable housing element. Homes suitable for the elderly.....” –. How are ‘elderly people’ defined? Are they frail, house bound residents or fit retired people? Frail, house bound people will need help to live independently, is this practical with a limited bus service (not all care workers have cars). I think the definition of accessible properties should include specific details such as bungalows or properties that meet the building regulations M4 (cat 3) which are the accessible homes standard. This provides clarity. UDC accept that Policy HN2 (24 dwellings) is considered as enabling development that facilitates a major community benefit of addressing the significant problem of traffic congestion around the primary school. Affordable housing provision on this site will need to take account of the effect of viability of the development as a whole as has been explained in paragraph 5.4.37.”

205. In a representation Anglian Water confirm no objection to the principle of residential development of this site and support the incorporation of SuDS within the development. The representation of an individual objects to or requires clarification in respect of several

matters including justification for the development at Sunnybrook Farm and adequacy of the landscape buffer referred to in point iii of the policy. Essex County Council has recommended alternative wording in respect of transport matters. I have incorporated the amended wording in my recommended modification but have avoided use of the imprecise term “*maximise*” in favour of identification and pursuit of opportunities to promote walking, cycling and public transport as set out in paragraph 102 of the Framework.

206. A representation has raised the issue of coalescence of Felsted village and Watch House Green hamlet. I am satisfied this matter has been considered in the Site Assessment Report. The adequacy of landscaping is a matter that can be considered in the context of a planning application. The policy does not refer to the conveyancing and revenue opportunity matters described in supporting text

207. A representation proposes different boundaries for the site allocation, in part to follow Ordnance Survey lines to assist clarity, and in part to “*provide sufficient design flexibility and ensure there is enough room to provide space for the required units, totalling 24 dwellings.*” The representation states the area of the site allocation “*still appears incorrect, as it does not extend sufficiently far enough to the north-west area.*” I provided the Parish Council an opportunity to comment on the representations of other parties. The Parish Council did not comment on this matter, and in particular did not indicate any error had been made in defining the boundaries of the allocation. Map 7 which shows the allocation site, is very clearly drawn and presented at a large enough scale to enable accurate definition of the boundaries of the allocation. I have earlier in my report explained, that apart from the correction of errors, my role is limited to the recommendation of modifications that are necessary to meet the Basic Conditions and other requirements that I have identified. Whilst the representation includes an illustration of a possible development layout that requires additional land, I am satisfied the land included in the allocation is capable of development for the uses proposed. Alternative site boundaries are not necessary in this respect. The Felsted Neighbourhood Plan Viability Study indicates some flexibility in affordable housing requirements may be necessary in order to facilitate the delivery of neighbourhood infrastructure. This would be a matter for consideration in the preparation of detailed proposals and their determination. The allocation of additional land would represent a significant alteration of the Neighbourhood Plan that would warrant a return to an earlier stage of plan preparation so that the

Neighbourhood Plan area community, and other stakeholders, would have the opportunity to submit representations in respect of both the extent of additional allocation, and also a preferred location. It is not within my role to determine these matters on behalf of the local community and other stakeholders. I have, earlier in my report, explained my role is to determine whether or not the submitted Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified.

208. The specification of 24 units is overly prescriptive and has not been sufficiently justified. A precise requirement may prevent an otherwise sustainable development proposal. I have recommended inclusion of the word “*approximately*”. The District and Parish Councils have clarified the requirement for 90 parking spaces results from discussions with the developers and is “*the maximum number of spaces within a development boundary that did not unduly impact on coalescence with the village.*” In response to my request for clarification the District Council and Parish Council have confirmed that the approximately 90 vehicle provision includes the contingency parking provision, adding the comment that the County Council has been unable to confirm longer term development plans for the school. The terms “*maximise land use*”, “*well-screened*”, and “*existing and future needs of our community*” are imprecise. In response to my request for clarification regarding the meaning of the term “*secure*” the Parish Council and District Council stated “*The car park will be owned by the Felsted Community Trust as an asset for the village, leased to the primary school for their use. The carpark is intended to be locked outside hours and similarly secured to allow safe use by pupils when not in use as a car park.*” The Glossary to the Framework states housing needs of older people can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs. In response to my request for clarification the Parish Council and District Council have jointly confirmed the intention of the policy and stated “*Our objectives for the site is for there to be majority smaller homes and homes suitable for older people, single people and young people, subject to the outcome of housing needs surveys.*” It is necessary for the policy to avoid being overtaken by changed circumstances regarding housing need and supply during the plan period. The term “*provision of a development brief*” does not provide a basis for the determination of planning applications. The second sentence of the policy is without consequence. Realisation of the “*active consultation*” component of the policy is reliant on third parties. I have

recommended a modification in these respects so that the policy has regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework and has regard for national policy.

209. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

210. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with: delivering a sufficient supply of homes; promoting healthy and safe communities; promoting sustainable transport; making effective use of land; and achieving well-designed places the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 19:

In Policy FEL/HN2

- **before “24” insert “approximately”**
- **replace the second sentence before the colon with “To be supported development proposals must:”**
- **in part I replace “secure” with “lockable” and delete “and maximise land use”**
- **in part II delete “well-”**
- **commence part III and part IV with “Include”**
- **in part V replace the text after “housing” with “to meet the latest assessment of local housing need including a significant proportion of two- or three-bedroom accommodation suitable for young families, and homes that are suitable for older people (which can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for**

- those with support or care needs), having regard to the supply of such units at the time of application.”
- delete part VI
 - in part VII replace the full stop with a semi-colon
 - renumber part VII as VI
 - insert new parts:
 - “VII) be subject to a Transport Statement/Assessment in accordance with ECC Development Management Policies (2011) and Car Parking Standards;
 - VIII) identify and pursue opportunities to promote walking, cycling and public transport to improve accessibility and integration into the wider community and wider networks; and
 - IX) protect the public’s rights and ease of passage over the adjacent Public Footpath 12 (Felsted), ensuring it is maintained free and unobstructed at all times to ensure the continued safe passage of public on the definitive right of Way.”

Policy FEL/HN3 Land at Station Road (Bury Farm)

211. This policy seeks to allocate, subject to stated requirements, the Bury Farm site identified on Maps 6 and 8 for housing development of up to 39 units and for the development of a doctor’s surgery.
212. The District Council state *“UDC accept that that Policy HN3 (39 dwellings) is considered as enabling development that facilitates a major community benefit of the provision of a surgery. Affordable housing provision on this site will need to take account of the effect of viability of the development as a whole. A paragraph similar to 5.3.47 (5.4.37) should be added to the supporting text to this policy. Policy FEL/NH3 (point ii) Smaller homes for first time buyers will stay affordable if they are protected under affordable housing tenures, i.e. shared ownership etc. as per the NPPF. If they are market homes, they will become unaffordable at resales, especially if extensions have been built. (A Trust can protect them).”*
213. In a representation Anglian Water confirm no objection to the principle of residential development of this site. Essex County Council state *“This site falls within a Waste Consultation Area (WCA) associated with the safeguarded Felsted Waste Water Treatment Works (WWTW). A map showing the relationship between the site and the WWTW is attached as Appendix A. By virtue of the site being*

located within a WCA, it is subject to Policy S2 of the Essex and Southend-on-Sea Waste Local Plan. Whilst not prohibiting development, the policy seeks to ensure that any development within a WCA will not prohibit the continued operation of the safeguarded waste facility. I have, earlier in my report recommended insertion of a policy in the Neighbourhood Plan stating new development will only be supported where proposals demonstrate sufficient water reclamation capacity exists.

214. Essex County Council has recommended alternative wording in respect of transport matters. I have incorporated the amended wording in my recommended modification but have avoided use of the imprecise term “*maximise*” in favour of identification and pursuit of opportunities to promote walking, cycling and public transport as set out in paragraph 102 of the Framework.

215. The representation of GO Planning Ltd states “*This Plan (Map 6) shows the site HN3 to the west of Felsted only adjoins a very small section of the village development boundary. Whilst the build allocation is defined as only extending to align with the properties on the southern side of Station Road, the site represents a significant intrusion into the countryside on rising land, which narrows the effective gap to Flitch Green to the west*” and “*The promise of a funded doctor’s surgery providing a modern facility, ultimately serving 4,500 patients (70% from the Parish of Felsted) have provided for the support of the Steering Group to the site at Bury Farm. The potential to provide a new doctor’s surgery is to be applauded, but not when the site’s development would lead to such visual intrusion and the potential for increased coalescence with Flitch Green, a key objective of the Plan’s vision sought to avoid. Within the preamble to the Policy text at paragraph 5.4.45 it notes ‘the assessed housing need in the Parish having been met’. The overall viability of the proposals, including its requirements to facilitate the delivery of the GP Surgery will, therefore, as noted, need to take into account the level of housing contributions to be requested through a planning obligation. This is totally contrary to the District’s overarching policy objective to deliver much needed affordable housing. Given that the Housing Needs Survey was based on a very limited return and is now in excess of three years old, affordable housing and starter homes are likely a significant need within the Parish and District alike.*”

216. I am satisfied the site assessment has considered the landscape and coalescence of settlements implications of development of the site. The specification of “*up to 39 units*” is overly prescriptive and has

not been sufficiently justified. The specification “up to” may prevent an otherwise sustainable development proposal. I have recommended use of the word “approximately”. The second sentence of the policy is without consequence. The Glossary to the Framework states housing needs of older people can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs. Whilst the policy does not make reference to affordable housing a note in supporting text as suggested by the District Council will assist in interpretation when other development plan policies relating to affordable housing provision are applied. In response to my request for clarification the Parish Council and District Council have jointly confirmed the intention of the policy and stated “*this part of the policy provides flexibility for the applicant of the site, and places a burden on the developer to demonstrate how the site meets local housing needs as part of the planning application*”. It is necessary for the policy to avoid being overtaken by changed circumstances regarding housing need and supply during the plan period. The scale of obligations must not undermine the deliverability of the plan, as required by paragraph 34 of the Framework, and must meet the tests set out in paragraph 56 of the Framework. The terms “adequate”, “high standard”, “suit the needs of the community”, and “high-quality” are imprecise. The term “provision of a development brief” does not provide a basis for the determination of planning applications. Realisation of the “active consultation” component of the policy is reliant on third parties. The term “gifted to the Parish” does not provide a basis for the determination of planning applications and has not been justified. I have recommended a modification in these respects so that the policy has regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

217. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

218. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1

implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with: delivering a sufficient supply of homes; promoting healthy and safe communities; promoting sustainable transport; making effective use of land; and achieving well-designed places, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 20:

In Policy FEL/HN3

- **replace “up to” with “approximately”**
- **replace the second sentence before the colon with “To be supported development proposals must:”**
- **delete part I c**
- **replace “to a high standard” with “so as to enhance the character and appearance of the area”**
- **in part II replace the text after “housing” with “to meet the latest assessment of local housing need including a significant proportion of two- or three-bedroom accommodation suitable for young families and older people, having regard to the supply of such units at the time of application”**
- **in part V delete “gifted to the Parish”**
- **in part VI after “hedgerows” delete “and”**
- **in part VII delete the final “and”**
- **in part VIII replace the full stop with “; and”**
- **delete the final sentence of the policy**
- **Insert new parts:**
 - “IX) be subject to a Transport Statement/Assessment in accordance with ECC Development Management Policies (2011) and Car Parking Standards; and**
 - X) identify and pursue opportunities to promote walking, cycling and public transport to improve accessibility and integration into the wider community and wider networks.”**

Add a paragraph of a similar nature to paragraph 5.4.37 to the supporting text

Policy FEL/HN4 Residential Development within Development Limits

219. This policy seeks to establish conditional support for residential development proposals within the Local Plan Village Development Limits (VDLs).
220. In a representation Essex County Council has recommended inclusion of an additional criterion relating to access and Transport Statement/Assessment. I have recommended modification of the policy in this respect so that the policy has regard for national policy as set out in paragraphs 108 and 111 of the Framework.
221. The representation of Springfields Planning and Development, on behalf of Mr David Payne includes extensive background submissions and concludes with the following suggestions *“As will be clear from the above commentary, the FNP in its current guise could not be said to have been prepared positively nor would it contribute to the achievement of sustainable development. This is because the Village Development Limits in Watch House Green do not include sustainable housing sites, including the FEL2 site which has been allowed at appeal. Sustainable development at this site would therefore be restricted and not supported by the FNP, such approach being contrary to the NPPF’s objectives. The reason for the Development Limits is to make a distinction between village built up areas (which the FEL2 site will become following the appeal decision) and countryside beyond. The FNP is not positively prepared to take account of the up to date and prevailing planning circumstances, these including the appeal scheme and an existing housing area constructed in recent years to the south of FEL2. The FNP does not explain why it replicates the 2005 Local Plan’s Development Limits or why it has not extended them to include existing and permitted housing in Watch House Green. There are no cogent reasons to exclude these existing and permitted housing areas from the Development Limits, indeed no justification is offered in the FNP for keeping Development Limits unaltered from the 2005 Local Plan. The approach of the FNP in this respect is therefore contrary to the Presumption in Favour of Sustainable Development. As a result, compliance with Basic Conditions (a) and (d) would not be achieved. To meet the Basic Conditions tests, we suggest that the FNP should be subject of Modifications before it proceeds to Referendum. The reliance on the outdated 2005 Local Plan Development Limits is misguided and unjustified given the ‘up to date’ circumstances. Accordingly, our client’s objection to the FNP would be removed through the following*

Modifications: (1) Amend the Village Development Limits for Watch House Green as currently shown on Map 12 to accurately include the FEL2 site (as allowed at appeal) and the Clifford Smith Drive/Porter Close development. A Plan showing a suggested modification to the Village Development Limits is attached at Appendix 11. This is based on the on line plan prepared by Uttlesford DC for their emerging Local Plan. We point out that the Development Limits on Map 12 are difficult to accurately interpret and would benefit from an improved scale or a separate plan extract for Watch House Green. Also the legend for 'HVC4: Village Development Limits' is shown as a black line which appears similar to the black line used on that plan showing the neighbourhood plan area. Some confusion may occur here. It is not necessary to show the appeal site at Clifford Smith Drive as an 'allocated' site for housing because the FNP does neither wish to, nor is compelled to make (other) housing allocations. However, the extension of the Development Limits should adequately address our concerns but it may be helpful for parishioners and users of the document if the FNP clarifies (either by text or plan annotation) why the Development Limits are shown as per our suggestion. The plan at Appendix 11 provides an example wording. (2) Amend the wording of Policy FEL/HN4 to delete the words 'Local Plan' in the first sentence, such that it reads, "Residential development proposals within the Village Development Limits (VDLs) will be supported subject to:..."(3) Make consequential amendments to text eg paragraph 5.4.55 to make it clear that the Village Development Limits for Watch House Green are not 'Local Plan' Village Development Limits, in order to ensure they take account of the up to date circumstances of built housing and allowed housing appeals outside of the Local Plan's Development Limits. Paragraph 5.4.24 is no longer fully relevant as it does not refer to the appeal site. A reference should be included to highlight that by including the site within the Village Development Limits it would allow a consideration to be given to shaping the eventual housing mix (supporting housing mix preferences identified in the FNP) pursuant to Policy FEL/HN4. Taking our suggestions forward and on the basis that only the Development Limits are to be enlarged in Watch House Green (to recognise the allowed housing appeal site) but without any specific housing allocation being made, further site assessments by the FNP should not be required. Other policies will cater for scrutiny of subsequent planning/reserved matters applications. Furthermore, should our suggestions be agreed to, the Inspector will need to consider the adequacy of the Strategic Environmental Assessment, especially regarding Blackwater Estuary Special Protection Area and Ramsar site. To meet Basic Conditions, the Neighbourhood Plan must

not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017. Assuming the Development Limits are extended as suggested but no additional site-specific housing allocation is made at the site east and north of Clifford Smith Drive, the HRA Screening and Appropriate Assessment May 2019 may be deemed sufficient, as it did not exclude 'in combination' effects arising from the FEL2 allocation. It will be also noted that the appeal inspector had also fully considered the HRA issue in allowing the appeal at the FEL2 site."

222. GO Planning Ltd states Village Development Limits (VDL) limits shown on Map 13 should be updated to reflect either extant permissions or built out developments. Springfields Planning and Development, on behalf of Hill Rise Homes Limited state "*Policy FEL/HN4 and FEL/HN5 provides the policy both within and outside 'Local Plan' Village Development Limits respectively. It is intended that the Local Plan Development Limits (as shown on FNP Map 12) are used but there appears to be little justification cited for this approach. The Uttlesford Local Plan was adopted in 2005 and the Development Limits it uses are out of date because housing allocations were only made to the period 2011. Updating of the Development Limits is long overdue, especially to comply with the NPPF's Presumption in Favour of Sustainable Development. In the case of Sunnybrook Farm, this site will be committed for development and as a result will eventually become part of the built-up area of Watch House Green. It is therefore entirely logical and in line with the NPPF's Presumption in Favour of Sustainable Development that such committed allocation should be included in the Village Development Limits. We suggest that Map 12 is modified accordingly. The Village Development Limits would then essentially encompass the area of the site allocation at Sunnybrook Farm. (NB A similar approach for consistency could apply to the Development Limits re Site Allocation HN3, the Bury Farm Site in Felsted). If the inspector agrees to our suggested modification, a consequential amendment would be to amend Policy HN5 by deleting subsection (V) 'Sites allocated in this plan (HN2, HN3)', the same being one of the allowable exceptions to residential development proposals outside Village Development Limits. The words 'Local Plan' Village Development Limits would then need to be deleted in Policies FEL/HN4 and FEL/HN5 and any related text, to reflect the fact that the FNP's Village Development Limits are not the same as those of the adopted (2005) Local Plan*".

223. I have earlier in my report explained the relationship between the Neighbourhood Plan and the emerging Local Plan and stated it is commendable that the District Council and the Steering Group, acting on behalf of the Parish Council, have been working positively together in respect of issues relating to the Felsted neighbourhood area. I have noted the Statement of Common Ground prepared by the District Council and the Parish Council on 1 May 2019 is now considered by the Councils to have been overtaken by events following the grant of outline planning permission on 20 June 2019 on appeal in respect of land east and north of Clifford Smith Drive, Watch House Green. (appeal reference APP/C1570/W/18/3210034).

224. The term “*Village Development Limits*” is imprecise. I have recommended the policy should make reference to maps where the Village Development Limits are defined. Whilst Map 13 provides an inset for Felsted Village, Map 12 is not at sufficient scale to identify other village development limits accurately. In response to my request for clarification the Parish Council and District Council have jointly sent me maps showing the Causeway End, Bannister Green, and Watch House Green Development Limits at a scale that allows the identification of boundaries of properties. These maps should be added to the maps of the Neighbourhood Plan. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

225. Whilst it is not within my role to test the soundness of the Neighbourhood Plan it is necessary to consider whether the Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies, as required by paragraph 29 of the Framework, and meets the requirements set out in the Guidance. I have undertaken this consideration earlier in my report. I now consider issues relating to the precise alignment of the Village Development Limits (VDL).

226. Representations propose the Village Development Limits (VDL) should be extended to include sites allocated for residential development in the Neighbourhood Plan and a site granted planning permission. The emerging Local Plan proposes to amend the Village Development Limits to take account of proposed allocations and development. The District Council has stated “*Once the Felsted*

Neighbourhood Plan is made, a further modification to the ULP will be suggested to the Inspectors to amend the development limits to include new development. The reason for this approach in the emerging LP is that new development is part of a village. Residents in these properties will view themselves as part of the village, and will be covered by 'countryside policies' if the VDLs are not extended. UDC considers this not to be logical or equitable". The Steering Group has stated strong opposition to this in that *"It provides developers with the opportunity to increase density within the VDL and offers developers an opportunity to constantly 'creep' the boundary with 'exception' housing. The community is against this. We have policies that support development within the Vdl's but those policies were developed with existing Vdl's in mind. Whilst we have had development foisted on us that we did not want, the density is relatively low and if this site becomes part of the VDL there is an open door for the developer to increase density."* This is a matter that will be determined through the examination of the emerging Local Plan. It is anticipated the emerging Local Plan will become part of the Development Plan after the Neighbourhood Plan. Any conflict between the two plans *"must be resolved in favour of the policy which is contained in the last document to become part of the development plan."*⁵⁸

227. Village Development Limits can represent the dividing line between built areas and open countryside, and can follow clearly defined features such as walls, hedgerows or water courses. The definition of the boundary however does not have to relate to some observable land use difference or dividing feature. Village Development Limits do not have to reflect land ownership boundaries or the precise curtilages of properties. One approach is to exclude curtilages of properties which have the capacity to extend the built form of a settlement in areas where this is not considered desirable. Such areas could include whole properties or parts of large residential gardens. Village Development Limits do not have to include the full extent of settlements. The Village Development Limits proposed to be used in policies in the Neighbourhood Plan are long established and have been subject to community engagement and consultation during the plan preparation process. Whilst consideration has been given to the character of settlements and their development form, the Village Development Limits do not define the built-up areas of Felsted Parish. I am satisfied the Village Development Limits will guide development

⁵⁸ Planning Practice Guidance Paragraph: 044 Reference ID: 41-044-20190509 Revision date: 09 05 2019

to sustainable solutions. It is beyond my role to consider whether any alternative alignment of the Village Development Limits would offer a more sustainable solution.

228. Village Development Limits are used in the Neighbourhood Plan as a policy tool to define where plan policies are to apply, and in particular where new residential development proposals will be conditionally supported through Policy FEL/HN4, and where support is limited to residential development in specified circumstances through Policy FEL/HN5. Extant planning permissions and allocations can be included within the Village Development Limits but this is not necessary to meet the Basic Conditions. It would be beyond my role to recommend modification of the Neighbourhood Plan where this is not necessary to meet the Basic Conditions or other requirements that I have identified.

229. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

230. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with: delivering a sufficient supply of homes; promoting sustainable transport; making effective use of land; achieving well-designed places; and conserving and enhancing the natural environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 21:

In Policy FEL/HN4

- **after “Limits” insert “shown on Maps 12 and 13”**
- **add an additional criterion “v) Demonstrating safe and suitable access, and being accompanied by a Transport Statement/Assessment, as appropriate, in accordance with the ECC Development Management Policies (2011).”**

As inserts to Map 12 present each of the Village Development Limits relating to Causeway End, Watch House Green, and Bannister Green on a map at a scale sufficient to identify individual property boundaries.

Policy FEL/HN5 Residential Development outside Development Limits

231. This policy seeks to establish that residential development proposals outside the Local Plan Village Development Limits will be supported under specified circumstances.
232. Essex County Council has recommended inclusion of an additional criterion relating to access and Transport Statement/Assessment. I have recommended modification of the policy in this latter respect so that the policy has regard for national policy as set out in paragraphs 108 and 111 of the Framework.
233. In a representation GO Planning Ltd state *“The reference to dwellings in line with Policy FEL/HN6 should be deleted. See objection to HN6 Policy below.”* GO Planning Ltd also states Village Development Limits (VDL) shown on Map 13 should be updated to reflect either extant permissions or built out developments. I have considered this latter issue earlier in my report when examining Policy FEL/ HN4.
234. The representation of an individual states a negatively worded policy would more accurately reflect their own, and many others in the community’s, wishes. The representation states use of the words “only” and “exceptional” would improve the positively worded policy.
235. In a representation Springfields Planning and Development, on behalf of Mr David Payne includes extensive background submissions and concludes with the following suggestions *“As will be clear from the above commentary, the FNP in its current guise could not be said to have been prepared positively nor would it contribute to the achievement of sustainable development. This is because the Village Development Limits in Watch House Green do not include sustainable housing sites, including the FEL2 site which has been allowed at appeal. Sustainable development at this site would therefore be restricted and not supported by the FNP, such approach being contrary to the NPPF’s objectives. The reason for the Development Limits is to make a distinction between village built up areas (which the FEL2 site will become following the appeal decision) and countryside*

beyond. The FNP is not positively prepared to take account of the up to date and prevailing planning circumstances, these including the appeal scheme and an existing housing area constructed in recent years to the south of FEL2. The FNP does not explain why it replicates the 2005 Local Plan's Development Limits or why it has not extended them to include existing and permitted housing in Watch House Green. There are no cogent reasons to exclude these existing and permitted housing areas from the Development Limits, indeed no justification is offered in the FNP for keeping Development Limits unaltered from the 2005 Local Plan. The approach of the FNP in this respect is therefore contrary to the Presumption In Favour of Sustainable Development. As a result, compliance with Basic Conditions (a) and (d) would not be achieved. To meet the Basic Conditions tests, we suggest that the FNP should be subject of Modifications before it proceeds to Referendum. The reliance on the outdated 2005 Local Plan Development Limits is misguided and unjustified given the 'up to date' circumstances. Accordingly, our client's objection to the FNP would be removed through the following Modifications: (1) Amend the Village Development Limits for Watch House Green as currently shown on Map 12 to accurately include the FEL2 site (as allowed at appeal) and the Clifford Smith Drive/Porter Close development. A Plan showing a suggested modification to the Village Development Limits is attached at Appendix 11. This is based on the on line plan prepared by Uttlesford DC for their emerging Local Plan. We point out that the Development Limits on Map 12 are difficult to accurately interpret and would benefit from an improved scale or a separate plan extract for Watch House Green. Also the legend for 'HVC4: Village Development Limits' is shown as a black line which appears similar to the black line used on that plan showing the neighbourhood plan area. Some confusion may occur here. It is not necessary to show the appeal site at Clifford Smith Drive as an 'allocated' site for housing because the FNP does neither wish to, nor is compelled to make (other) housing allocations. However, the extension of the Development Limits should adequately address our concerns but it may be helpful for parishioners and users of the document if the FNP clarifies (either by text or plan annotation) why the Development Limits are shown as per our suggestion. The plan at Appendix 11 provides an example wording. (2) Amend the wording of Policy FEL/HN4 to delete the words 'Local Plan' in the first sentence, such that it reads, "Residential development proposals within the Village Development Limits (VDLs) will be supported subject to:..."(3) Make consequential amendments to text eg paragraph 5.4.55 to make it clear that the Village Development Limits for Watch House Green are not 'Local Plan' Village

Development Limits, in order to ensure they take account of the up to date circumstances of built housing and allowed housing appeals outside of the Local Plan's Development Limits. Paragraph 5.4.24 is no longer fully relevant as it does not refer to the appeal site. A reference should be included to highlight that by including the site within the Village Development Limits it would allow a consideration to be given to shaping the eventual housing mix (supporting housing mix preferences identified in the FNP) pursuant to Policy FEL/HN4. Taking our suggestions forward and on the basis that only the Development Limits are to be enlarged in Watch House Green (to recognise the allowed housing appeal site) but without any specific housing allocation being made, further site assessments by the FNP should not be required. Other policies will cater for scrutiny of subsequent planning/reserved matters applications. Furthermore, should our suggestions be agreed to, the Inspector will need to consider the adequacy of the Strategic Environmental Assessment, especially regarding Blackwater Estuary Special Protection Area and Ramsar site. To meet Basic Conditions, the Neighbourhood Plan must not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017. Assuming the Development Limits are extended as suggested but no additional site-specific housing allocation is made at the site east and north of Clifford Smith Drive, the HRA Screening and Appropriate Assessment May 2019 may be deemed sufficient, as it did not exclude 'in combination' effects arising from the FEL2 allocation. It will be also noted that the appeal inspector had also fully considered the HRA issue in allowing the appeal at the FEL2 site."

236. In a representation Springfields Planning and Development, on behalf of Hill Rise Homes Limited state "*Policy FEL/HN4 and FEL/HN5 provides the policy both within and outside 'Local Plan' Village Development Limits respectively. It is intended that the Local Plan Development Limits (as shown on FNP Map 12) are used but there appears to be little justification cited for this approach. The Uttlesford Local Plan was adopted in 2005 and the Development Limits it uses are out of date because housing allocations were only made to the period 2011. Updating of the Development Limits is long overdue, especially to comply with the NPPF's Presumption in Favour of Sustainable Development. In the case of Sunnybrook Farm, this site will be committed for development and as a result will eventually become part of the built-up area of Watch House Green. It is therefore entirely logical and in line with the NPPF's Presumption in Favour of Sustainable Development that such committed allocation should be*

included in the Village Development Limits. We suggest that Map 12 is modified accordingly. The Village Development Limits would then essentially encompass the area of the site allocation at Sunnybrook Farm. (NB A similar approach for consistency could apply to the Development Limits re Site Allocation HN3, the Bury Farm Site in Felsted). If the inspector agrees to our suggested modification, a consequential amendment would be to amend Policy HN5 by deleting subsection (V) 'Sites allocated in this plan (HN2, HN3)', the same being one of the allowable exceptions to residential development proposals outside Village Development Limits. The words 'Local Plan' Village Development Limits would then need to be deleted in Policies FEL/HN4 and FEL/HN5 and any related text, to reflect the fact that the FNP's Village Development Limits are not the same as those of the adopted (2005) Local Plan".

237. Gladman Developments Ltd state *"This Policy identifies settlement boundaries for each village in the Parish and states that land outside of this defined area will be treated as countryside, where development will be carefully controlled to those essential for agricultural operations. Gladman object to the use of settlement boundaries if these preclude otherwise sustainable development from coming forward. The Framework is clear that sustainable development should proceed. Use of settlement limits to arbitrarily restrict suitable development from coming forward on the edge of settlements does not accord with the positive approach to growth required by the Framework and is contrary to basic condition (a) and (d). As currently drafted, this is considered to be an overly restrictive approach and provides no flexibility to reflect the circumstances upon which the FNP is being prepared. Greater flexibility is required in this policy and Gladman suggest that additional sites adjacent to the settlement boundary should be considered as appropriate. Gladman recommend that the above policy is modified so that it allows for a degree of flexibility. The following wording is put forward for consideration: 'When considering development proposals, the Neighbourhood Plan will take a positive approach to new development that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Applications that accord with the policies of the Development Plan and the Neighbourhood Plan will be supported particularly where they provide: New homes including market and affordable housing; or Opportunities for new business facilities through new or expanded premises; or Infrastructure to ensure the continued vitality and viability of the neighbourhood area. Development adjacent to the existing settlement will be permitted*

provided that any adverse impacts do not significantly and demonstrably outweigh the benefits of development.’ Indeed, this approach was taken in the examination of the Godmanchester Neighbourhood Plan.” (Paragraph 4.12 of the Examiner’s Report is quoted).

238. Comments of the Parish Council on the Regulation 16 representations of other parties include *“A key point for the FNPSG is that removing settlement boundaries would lead to unwelcome uncertainty for residents, stakeholder and developers. It also would significantly undermine the ability to bring forward rural exception sites (sites on edge of settlement intended to deliver affordable housing for those with local connection) should there be a need identified by the Parish Council through a housing needs survey. Our position in respect of settlement boundaries will not restrict sustainable development from coming forward (i.e. meeting housing numbers)”* and *“By way of a summary position, the NPSG is concerned that a policy of continually increasing the settlement boundary allows infill development on sites where low density has been a determining factor in the original application. It creates greater risk of coalescence and restricts the creation of rural exception sites. There may also be further complications with regard to increasing the settlement site: Natural England - The HRA for the NP has been undertaken on the basis of including just one site in Felsted Parish which also falls within the zone of influence of the Blackwater Estuary European site. Community support for the plan - The community in Felsted feels under siege from developers. There is a real fear that the unique and historic nature of the parish with its individual fifteen hamlets/Greens is in danger of being lost through development. Were the NP to support any increase in the settlement limits it would be perceived as a betrayal of the community and contrary to the views expressed through consultations. We fear the Plan would be rejected.”*

239. The term *“Village Development Limits”* is imprecise. I have recommended the policy should make reference to maps where the Village Development Limits are defined. Whilst Map 13 provides an inset for Felsted Village Map 12 is not at sufficient scale to identify other village development limits accurately. In my recommendation relating to Policy FEL/HN4 I have proposed each of the Village Development Limits relating to Causeway End, Watch House Green, and Bannister Green is presented on a map at a scale sufficient to identify individual property boundaries so that the Neighbourhood Plan *“is clearly written and unambiguous, so it is evident how a decision*

maker should react to development proposals” as required by paragraph 16d) of the Framework. In my consideration of Policy FEL/HN4 I have considered whether or not the Village Development Limits should be adjusted to take account of proposed allocations and new development that has occurred. I have concluded adjustment of the Village Development Limits is not necessary to meet the Basic Conditions.

240. Paragraph 79 of the Framework states “*Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply: a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside; b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; c) the development would re-use redundant or disused buildings and enhance its immediate setting; d) the development would involve the subdivision of an existing residential dwelling; or e) the design is of exceptional quality, in that it: - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*” I have recommended modification of the policy in this respect so that the policy has regard for national policy.

241. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

242. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with: delivering a sufficient supply of homes; promoting sustainable transport; making effective use of land; achieving well-designed places; and conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the

Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 22:

In Policy FEL/HN5

- after “proposals” insert “demonstrating safe and suitable access, and being accompanied by a Transport Statement/Assessment, as appropriate, in accordance with the ECC Development Management Policies (2011),”
- after “Limits” insert “shown on Maps 12 and 13”
- after “supported” insert “where one or more of the circumstances set out in paragraph 79 of the National Planning Policy Framework apply or”

As inserts to Map 12 present each of the Village Development Limits relating to Causeway End, Watch House Green, and Bannister Green on a map at a scale sufficient to identify individual property boundaries.

Policy FEL/HN6 Supplemental Dwellings

243. This policy seeks to establish that development proposals for a single supplemental dwelling wholly within the curtilage of an existing residential dwelling outside the Village Development Limits where permitted development rights for the primary dwelling and the supplemental dwelling have been surrendered, and subject to specified criteria.

244. The representation of GO Planning Ltd states “*The Policy is wholly inconsistent with the objective to maintain the intrinsic character of the countryside. The requirement for a time-based condition to seek to justify such a policy indicates the Policy is not supported by the NPPF 2019 and should be deleted. Other policies such as infill development and case by case arrangements would already provide for such personal circumstances to be considered. There is no need to positively support such an arrangement which would prove extremely difficult to control within the planning system*”. In a representation Essex County Council has recommended inclusion of an additional criterion relating to access. I have recommended modification of the policy in this latter respect so that the policy has regard for national policy as set out in paragraph 108 of the Framework.

245. I have earlier in my report concluded it is not necessary to adjust the Village Development Limits in order to meet the Basic Conditions. The term “*Village Development Limits*” is imprecise. I have recommended the policy should make reference to maps where the Village Development Limits are defined. I have recommended a modification in this respect so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

246. Paragraph 79 of the Framework states planning policies should avoid the development of isolated homes in the countryside unless on or more stated circumstances apply. One of those circumstances is where the development would involve the subdivision of an existing residential dwelling. Whilst the development of a supplemental dwelling as described in the Neighbourhood Plan would not involve the subdivision of an existing residential dwelling it would amount to development within the curtilage of an existing residential dwelling. Paragraph 5.4.63 seeks to introduce a policy approach which it may not. In response to my request for clarification the District Council and Parish Council have jointly stated “*The period of 15 years was considered as a reasonable measure intended to avoid ‘artificial application’. However, the condition could be that it’s agreed in writing by the local authority on a case by case basis.*” The placing of a 15-year restriction on the separation for sale of the primary and supplemental dwellings has not been sufficiently justified. Planning policy can only be established through the policies of the Neighbourhood Plan. For the policy to have sufficient regard for national policy there must be a restriction, without time limit, on separation of the primary and supplemental dwellings. I have recommended modification of the policy in this respect so that the policy has regard for national policy.

247. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

248. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1

implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes and conserving and enhancing the natural environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 23:

In Policy FEL/HN6

- **replace “VDLs” with “Village Development Limits shown on Maps 12 and 13”**
- **add additional criterion “v) Is able to demonstrate safe and suitable access to the local highway network in accordance with the ECC Development Management Policies (2011);”**
- **add additional criterion “vi) Restrictions are in place that prevent the supplemental dwelling being severed from the primary dwelling.”**

Policy FEL/HN7 Housing Mix

249. This policy seeks to establish support for new housing development that provides a mix of house types and sizes to meet identified need in Felsted and is of specified types. The policy also seeks to establish that major proposals must be accompanied by an up-to-date housing needs assessment if a survey meeting specified criteria is not available.

250. In a representation the District Council state *“Paragraph 5.4.64 (page 56) – Clarity is needed on what is meant by “less well off?” Is it Median income in Uttlesford £24,000 or Average income of £36,000 or welfare recipients? Policy FEL/HN7 (page 57) – The regulations have not been issued for starter homes and it is suggested to use the definition of affordable homes as per the NPPF and state desire for small private homes (although shared ownership can meet that need and requires significantly less deposit).”* The GO Planning Ltd representation states *“The policy appears to duplicate site allocation policies and should refer to latest housing need requirements.”*

251. In response to my request for clarification the District Council and Parish council stated *“support will be given to proposals that meet identified needs. Not every site is expected to meet every need. However, each site can contribute to the overall housing mix in the*

parish. Proposals will be considered on a case by case basis and will take into account needs over time, the character of the location and other material considerations. The policy aims to support proposals that improve housing mix in Felsted to improve local sustainability and to allow residents to stay within the parish should their current property not meet their needs.”

252. The terms “lower cost”, “meet the needs of our younger population”; and “suitable for the elderly wishing to downsize” are imprecise. The Guidance states “Plan-making authorities should assess the need for housing of different groups and reflect this in planning policies. When producing policies to address the need of specific groups, plan-making authorities will need to consider how the needs of individual groups can be addressed having regard to deliverability.”⁵⁹ The annex 2: glossary to the Framework sets out a definition of affordable housing as including one or more of four types.

253. The Guidance states “Plan-making authorities should set clear policies to address the housing needs of groups with particular needs such as older and disabled people. These policies can set out how the plan-making authority will consider proposals for the different types of housing that these groups are likely to require. They could also provide indicative figures or a range for the number of units of specialist housing for older people needed across the plan area throughout the plan period.”⁶⁰ and “There are different types of specialist housing designed to meet the diverse needs of older people, which can include: Age-restricted general market housing: This type of housing is generally for people aged 55 and over and the active elderly. It may include some shared amenities such as communal gardens, but does not include support or care services. Retirement living or sheltered housing: This usually consists of purpose-built flats or bungalows with limited communal facilities such as a lounge, laundry room and guest room. It does not generally provide care services, but provides some support to enable residents to live independently. This can include 24-hour on-site assistance (alarm) and a warden or house manager. Extra care housing or housing-with-care: This usually consists of purpose-built or adapted flats or bungalows with a medium to high level of care available if required, through an onsite care agency registered through the Care Quality Commission (CQC). Residents are able to live independently with 24-hour access to support services and staff, and

⁵⁹ Planning Practice Guidance Paragraph: 001 Reference ID: 67-001-20190722 Revision date: 22 07 2019

⁶⁰ Planning Practice Guidance Paragraph: 006 Reference ID: 63-006-20190626 Revision: 26 June 2019

meals are also available. There are often extensive communal areas, such as space to socialise or a wellbeing centre. In some cases, these developments are known as retirement communities or villages - the intention is for residents to benefit from varying levels of care as time progresses. Residential care homes and nursing homes: These have individual rooms within a residential building and provide a high level of care meeting all activities of daily living. They do not usually include support services for independent living. This type of housing can also include dementia care homes. There is a significant amount of variability in the types of specialist housing for older people. The list above provides an indication of the different types of housing available, but is not definitive. Any single development may contain a range of different types of specialist housing.”⁶¹ and “Plans need to provide for specialist housing for older people where a need exists. Innovative and diverse housing models will need to be considered where appropriate. Many older people may not want or need specialist accommodation or care and may wish to stay or move to general housing that is already suitable, such as bungalows, or homes which can be adapted to meet a change in their needs. Plan-makers will therefore need to identify the role that general housing may play as part of their assessment. Plan-makers will need to consider the size, location and quality of dwellings needed in the future for older people in order to allow them to live independently and safely in their own home for as long as possible, or to move to more suitable accommodation if they so wish.”⁶²

254. The Glossary to the Framework states housing needs of older people can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs. It is necessary for the policy to avoid being overtaken by changed circumstances regarding housing need and supply during the plan period. The term “*increased provision*” does not provide a basis for the determination of planning applications. The term “*in Felsted*” is imprecise. All policies of the Neighbourhood Plan relate to the Neighbourhood Area unless some lesser area is specified. Any requirement for the amount and type of affordable housing must not undermine the deliverability of the plan, as required by paragraph 34 of the Framework. I have recommended a modification in these respects so that the policy has regard for national policy and “*is clearly written and unambiguous, so it is evident how a*

⁶¹ Planning Practice Guidance Paragraph: 010 Reference ID: 63-010-20190626 Revision date: 26 June 2019

⁶² Planning Practice Guidance Paragraph: 012 Reference ID: 63-012-20190626 Revision date: 26 June 2019

decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

255. The exemption of minor development from the requirement to be accompanied by an up to date housing needs assessment avoids a burdensome scale of obligations falling on smaller scale developments.

256. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

257. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 24:

In Policy FEL/HN7

- **replace the first two paragraphs with “New housing development will be supported where it provides:**
 - **two-bedroom or three-bedroom accommodation suitable for young families; or**
 - **homes suitable for older people that can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs; or**
 - **other types of accommodation identified in the latest assessment of local housing needs; and/or**
 - **affordable housing.”**
- **in the final paragraph replace “meeting” with “meet”**

Policy FEL/HN8 Habitats Regulations Assessment

258. This policy seeks to establish requirements relating to residential proposals that fall within the Blackwater Estuary SPA and Ramsar site Zone of Influence.
259. In a representation Natural England state *“We note the inclusion of policy FEL/HN8 which refers to the recreational disturbance impacts felt within the Essex Coast designated sites. Natural England commented on this policy wording within our response reference 281604, however the suggested alterations to this wording do not appear to have been forthcoming. Whilst the aims of this policy are supported, it would be advised, as previously suggested, for this wording to be future-proofed. It would be advised for this to refer to the ‘Essex Coast RAMS Zone of Influence’, as is detailed in the supporting Essex Coast RAMS ‘Habitats Regulations Assessment Strategy Document’. Natural England would recommend this policy wording be amended.”*
260. In commenting on the Regulation 16 representations the Parish Council has stated *“Policy wording has been revised as follows in consultation and agreement with UDC and Natural England. All residential development within the zones of influence of European Sites will be required to make a financial contribution towards mitigation measures, as detailed in the Essex Coast RAMS, to avoid adverse in-combination recreational disturbance effects on European sites. In the interim period, before the Essex Coast RAMS is completed, all residential development within the zones of influence will need to deliver all measures identified (including strategic) measures through project level HRAs, or, otherwise, to mitigation and recreational disturbance impacts in compliance with the Habitats Regulations and Habitats Directive.”* I am satisfied this proposed wording addresses the issues raised by Natural England and will ensure the policy has regard for national policy. I have recommended a modification in this respect.
261. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

262. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 25:

Replace Policy FEL/HN8 with “All residential development within the zones of influence of European Sites will be required to make a financial contribution towards mitigation measures, as detailed in the Essex Coast RAMS, to avoid adverse in-combination recreational disturbance effects on European sites. In the interim period, before the Essex Coast RAMS is completed, all residential development within the zones of influence will need to deliver all measures identified (including strategic) measures through project level HRAs, or, otherwise, to mitigation and recreational disturbance impacts in compliance with the Habitats Regulations and Habitats Directive.”

Integrity, Character and Heritage

Policy FEL/ICH1 High Quality Design

263. This policy seeks to establish design principles for all development proposals.

264. In a representation GO Planning Ltd state “*The requirement for countryside locations that all new build proposals should be accompanied by a landscape and visual impact assessment are considered disproportionate and should be on a case by case basis.*”

265. The policy includes the requirement for a landscape and visual impact assessment to accompany all new build proposals outside the defined development limits. The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) sets out what is required from applicants when submitting planning applications. The 'Guidance on Information Requirements

and Validation’ document published by the Department for Communities and Local Government Department (DCLG) in 2010 provides more information on the mandatory national information requirements and states that a valid planning application should include *‘information to accompany the application as specified by the local planning authority on their local list of information requirements’*. The use of local lists of information was again promoted in the Framework requiring that local lists be reviewed on a frequent basis to ensure that they remain *‘relevant, necessary and material’*. The DMPO states that validation requirements imposed by local planning authorities should only be those set out on a local list which has been published within 2 years before the planning application is made to ensure information requirements are robust and justified on recent research. The Growth and Infrastructure Act 2013 makes clear that local planning authority information requirements must be reasonable having regard to the nature and scale of the proposed development and the information required must be a material consideration in the determination of the application. The policy is seeking to establish information requirements in support of planning applications. This is a function that must be achieved through inclusion in the District Council Local Area Planning Applications Requirements List that is subject to modification during the Plan period. I have made a recommendation of modification in this respect so that the policy has sufficient regard for national policy

266. The policy is without consequence. The term *“where appropriate”* introduces uncertainty and does not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework. I have also recommended insertion of the text relating to electric vehicle charging recommended to be transferred from policy FEL/HVC4 so that it applies throughout the Neighbourhood Area.

267. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these.⁶³ The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood*

⁶³ <https://www.gov.uk/guidance/housing-optional-technical-standards>

plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings". I have recommended modification of the policy in this respect so that the policy has regard for national policy.

268. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

269. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with achieving well-designed places, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 26:

In Policy FEL/ICH1

- **commence the policy with "To be supported" and replace "should" with "must"**
- **delete ", where appropriate,"**
- **at the end of the 3rd bullet point insert "and"**
- **replace "; and" at the end of the 4th bullet point with a full stop**
- **convert the 5th bullet point to a free-standing paragraph, and replace "Following" with "Development proposals that follow", and conclude the paragraph with "will be supported"**
- **insert as a free-standing paragraph before "For countryside locations" the text relating to electric vehicle charging recommended to be transferred from policy FEL/HVC4**
- **delete "shall be accompanied by a landscape and visual impact assessment and appropriate landscape mitigation" and insert "must not harm their landscape setting"**

Policy FEL/ICH2 Heritage Assets

270. This policy seeks to establish criteria for support of development affecting designated and non-designated heritage assets.
271. In a representation GO Planning Ltd state *“The Policy is not considered to comply with the NPPF 2019. It should refer to less than substantial harm not ‘any harm’ as noted.”*
272. Paragraphs 193 to 202 of the Framework set out a clear policy approach to the consideration of potential impacts on heritage assets. Policy FEL/ICH2 does not serve a clear purpose by providing an additional level of detail or distinct local approach to that set out in national policy. I have recommended the policy is deleted as it does not *“serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant)”* as required by paragraph 165 f) of the Framework.

Recommended modification 27: Delete Policy FEL/ICH2 and supporting text

Policy FEL/ICH3 Signage Pollution

273. This policy seeks to establish criteria for support of proposals for signage
274. The term *“sensitively designed”* is imprecise and does not provide a basis for the determination of proposals. I have recommended a modification in this respect so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
275. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
276. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1

implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with achieving well-designed places, and conserving and enhancing the historic environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 28:
In Policy FEL/ICH3 delete "Sensitively designed"**

Policy FEL/ICH4 Light Pollution

277. This policy seeks to limit the impact of overhead cables and light pollution from artificial externally visible light sources.
278. The representation of GO Planning Ltd states "*The policy should consider development proposals which provide for existing overhead cables to be removed as a positive benefit.*" It is beyond my role to recommend additional policy matters are addressed. In a representation the District Council state "*It should be noted that Development Management has no control over overhead cables but can condition light sources to a certain degree.*" In commenting on the Regulation 16 representations the Parish Council has stated this point is noted.
279. The Guidance states a policy in a Neighbourhood Plan should be supported by appropriate evidence. I have recommended the supporting text to the policy should include reference to overhead cables. The Felsted Conservation Area Character Appraisal 2012 and the Felsted Heritage and Character Assessment 2017 have identified overhead cables as an existing visual amenity issue. It is appropriate that further overhead cables requiring planning permission should not be supported where they will adversely affect visual amenity. The term "*artificial externally visible light sources*" is imprecise. The term "*limit the impact*" is ambiguous and does not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy has regard for national policy and "*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*" as required by paragraph 16d) of the Framework.

280. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

281. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with achieving well-designed places, and conserving and enhancing the natural environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 29:

Replace Policy FEL/ICH4 with "To be supported planning proposals:

- **must not introduce overhead cables that will have an adverse effect on visual amenity; and**
- **only include external lighting that is essential, and include measures to avoid light spillage beyond the application site."**

Supporting text in paragraph 5.5.14 should be extended to make reference to the identification of overhead cables as an issue in the Felsted Conservation Area Character Appraisal 2012 and in the Felsted Heritage and Character Assessment 2017.

Policy FEL/ICH5 Avoiding Coalescence

282. This policy seeks to establish that development that would result in, or increase the risk of, identified instances of coalescence will not be supported.

283. In a representation CPRE Essex state "*Avoidance of coalescence is a key issue in North Essex, given the high level of development currently being proposed through the Local Plans. This includes the proposed "garden communities" in Uttlesford, Braintree,*

Colchester and Chelmsford and their impact on the existing settlement pattern. As a result, policy FEL/ICH 5 is really important and needs to be a priority theme in the Neighbourhood Plan.”

284. The representation of GO Planning Ltd states “*The policy is considered overly restrictive and does not comply with the NPPF 2019.*” Gladman Developments Ltd state “*Whilst Gladman acknowledge that preventing coalescence can assist in maintaining unique and separate identities of existing settlements, the policy is ambiguous and appears to be an attempt to preclude any development whatsoever from coming forward in the gap between the built-up areas. In this regard there appears to be no supporting evidence to support this element of the policy. Whilst Map 9 shows the character areas, there is no description or map of the extent of land proposed to be protected, nor the limits on the scale of development therein, other than the hatching demarcating one of the areas protected by the ‘Avoiding Coalescence’ policy. This simply forms a line drawn 200 metres inside the Parish boundary, with the exception of the northernmost limits where the line sits 200 metres south of the A120 and protects all land between the line and the Parish boundary. The resulting “no-man’s-land” therefore protects a large arbitrary zone, regardless of its landscape merits, built-form, or whether there is in fact a gap to protect in any given area. Any development on the edge of a settlement will inevitably close the gap slightly between hamlets. However, a more nuanced approach needs to be established to avoid a blanket ban on all development, which would essentially form a new green belt policy, being introduced by the back door. There is no justification within the FNP for the additional protection of land between the neighbouring settlements of Felsted, Banister Green, Causeway Green and the other hamlets. Correspondingly, there is no matching policy in the Uttlesford Local Plan. There is also no evidence base to inform the extent of the Green Gap proposed and no assessment of land parcels between hamlets, nor an evaluation of their relative performance in preventing coalescence. Furthermore, the areas described contain existing farmsteads with significant levels of built development, as well as outlying hamlets, collections of dwellings and individual households. Great Notley, meanwhile, is separated from the Parish settlements by the A131 and Great Notley Country Park. Any development proposed within these areas should be assessed on its own merits, depending on landscape impact. The imposition of Policy FEL/ICH5 would effectively create a lesser form of Green Belt by the back door. Uttlesford found no justification for protecting the*

gaps between the settlements which are proposed in the FNP and therefore, this Policy is in conflict with basic condition (e)."

285. In response to my request for clarification regarding the existence of evidence that supports the precise boundaries of the cross hatched area on Map 9 the District Council and Parish Council has jointly responded *"Coalescence has been an issue for local residents throughout the preparation of the plan. There are two main concerns. Firstly, that coalescence within the Parish would threaten and undermine the character of the individual greens within Felsted. Secondly, that the risk of coalescence with nearby parishes could undermine altogether Felsted as a place with a discrete identity. In particular, there has been concern regarding potential future expansion of Braintree to the east and of Little Dunmow to the west. The growth of both of these settlements could harm local character and identity. This is highlighted throughout the Felsted Heritage and Character Assessment (2017) and also in the consultation statement material. A central theme of the early consultation process focussed on Parish Integrity. The examiner is referred in particular to Sections 3.1, 3.2, 3.5, 3.10 and 5 of the Consultation Statement, and Appendices 2, 3, 5 and 7 of the Consultation Statement. With regard to the specific boundary of ICH5, a buffering approach was taken to provide consistency throughout the neighbourhood area. In the Heritage and Character Assessment, areas of open countryside surrounding the parish and in between the individual settlements within the parish are highlighted as being at risk or sensitive to change."*

286. The Guidance states a policy in a Neighbourhood Plan should be supported by appropriate evidence. The cross hatched areas identified on Map 9 have not been sufficiently justified. I have recommended this element of the policy is deleted. Policy FEL/HN5 of the Neighbourhood Plan will apply in those areas. The term *"or increase the risk of"* does not provide a basis for the determination of planning applications. I have recommended a modification in this respect so that the policy *"is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals"* as required by paragraph 16d) of the Framework.

287. A policy defining an area where no development is to be permitted would be seeking to establish a regime that is more restrictive than even that applying in designated Green Belt. Such an approach would not have sufficient regard for national policy for it to be appropriate. Whilst the resistance of all forms of development in a defined area of open countryside would not have sufficient regard for

national policy the resistance of coalescence of settlements can be a legitimate objective of land use policy. Preventing two settlements from coalescing is not the same as preventing any development between them. I have recommended a modification of the policy such that development that visually significantly diminishes the openness of the gap between identified settlements, as viewed from publically accessible locations, will not be supported. As recommended to be modified the policy would be compatible with Policy FEL/HN5 which identifies circumstances where residential development outside the Village Development Limits identified on Maps 12 and 13 will be supported. The recommended modification would have regard for those elements of the Framework that establish a presumption in favour of sustainable development; and those elements that specifically recognise the importance of economic growth in rural areas; and that state that there are special circumstances where isolated homes in the countryside will be acceptable. The Felsted Heritage and Character Assessment document identifies the areas of open countryside, which prevent the coalescence of historic settlements as being particularly sensitive to change. Responses at Regulation 14 stage of Plan preparation provide further evidence that the undeveloped rural landscape between settlements is a valued landscape. Having regard for national policy, Policy FEL/ICH5 as recommended to be modified, is appropriate.

288. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

289. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with achieving well-designed places, and conserving and enhancing the natural environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 30:

Replace Policy FEL/ICH5 with “Development proposals that, as viewed from publically accessible locations, will visually significantly diminish the openness of the gap:

- between Felsted village and the hamlets of the Neighbourhood Area (Bannister Green; Bartholomew Green; Causeway End; Cobblers Green; Cock Green; Crix Green; Frenches Green; Gransmore Green; Hartford End; Molehill Green; Prior’s Green; Pye’s Green; Thistley Green; Watch House Green; Willows Green); or
- between the hamlets of the Neighbourhood Area; or
- between the hamlets of the Neighbourhood Area and settlements in adjoining parishes

will not be supported.”

Delete the cross hatched area and reference to Policy FEL/ICH5 from Map 9

Supporting the Rural Economy

Policy FEL/RE1 Start Up and Small Businesses

290. This policy seeks to establish conditional support for the development of start-up and small business enterprises in identified locations.

291. The representation of GO Planning Ltd states “*The policy is considered overly restrictive in that it refers to no adverse impacts on residential amenity. There should be no material impact, otherwise the support for the rural economy will be very limited indeed.*” I have recommended a modification with regard to this element of the policy.

292. The Guidance states a policy in a Neighbourhood Plan should be supported by appropriate evidence. No justification is provided in respect of communications infrastructure. I have recommended this element of the policy is deleted. The term “*where the road and communications infrastructure can support the size and additional volume of the business traffic*” is imprecise and does not provide a basis for the determination of planning applications. I have recommended a modification in this respect so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

293. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

294. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with building a strong, competitive economy, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 31:

In Policy FEL/RE1 replace “the road and communications infrastructure can support the size and additional volume of business traffic and there being no” with “it is demonstrated safe access can be achieved, and severe congestion will not be caused, and there will be no significant”

Policy FEL/RE2 Loss of Employment Uses

295. This policy seeks to establish change of use of business premises will not be supported except in stated circumstances.

296. The representation of GO Planning Ltd states “*The policy is considered overly restrictive.*” In a representation Essex County Council “*supports reference to requiring active marketing of an existing employment site for no less than 12 months prior to it being released for an alternative use. However, ECC recommends the policy is enhanced to include a requirement for independent assessments to be undertaken to determine that the site is no longer viable for employment use. This would also ensure that the FNP is consistent with the Uttlesford Local Plan, in particular Appendix 5 section 42.8 which states that “The marketing should be supplemented by an independent assessment that the use is unlikely to be economically viable in the foreseeable future. The assessment should be*

undertaken by a reputable and suitably experienced company to be determined by the Council in agreement with the applicant and to be funded by the applicant.” I have, earlier in my report explained the relationship between the Neighbourhood Plan and the emerging Local Plan.

297. The term “*from estate agents*” has not been sufficiently justified. In response to my request for clarification in this respect the District and Parish Councils have jointly stated “*We do not consider it necessarily a requirement for the evidence to come from estate agents. Our intention is to ensure that there is evidence from a reputable and reliable source that verifies a significant period of marketing has shown there is no longer a demand for the premises in business use. It is acknowledged that the case officer for the proposed change of use would make a judgement on the evidence from the applicant to demonstrate this.*” I have recommended a modification in this respect so that the policy has regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

298. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

299. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with building a strong, competitive economy the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 32:
In Policy FEL/RE2 delete “from estate agents”**

Policy FEL/RE3 Re-use of Rural Buildings

300. This policy seeks to establish conditional support for development proposals for the reuse of rural buildings that create new employment opportunities or prevent the loss of existing employment opportunities.
301. In a representation CPRE Essex state *“this section is underplayed and ambiguous. The reuse of under-used agricultural buildings for new commercial enterprises is an important contribution to farm diversification and supporting the rural economy. More prominence should be given to the policy and it should be made clear whether it relates to farm (and other existing commercial buildings) rather than rural buildings in general (which includes inappropriate types, such as residential properties).”* The representation of GO Planning Ltd states *“The policy should make reference to residential use also.”* Reference to or exclusion of buildings in certain land uses is not necessary to meet the Basic Conditions.
302. The term *“No adverse impacts on residential amenity”* is imprecise. I have recommended a modification with regard to this element of the policy. The term *“where the road and communications infrastructure can support the size and additional volume of the business traffic”* is imprecise and does not provide a basis for the determination of planning applications. I have recommended a modification in this respect so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
303. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
304. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with building a strong, competitive economy the policy is appropriate to be included in a

'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 33:

In Policy FEL/RE3 replace “the road and communications infrastructure can support the size and additional volume of business traffic and there being no” with “it is demonstrated safe access can be achieved, and severe congestion will not be caused, and there will be no significant”

Policy FEL/RE4 Home Working

305. This policy seeks to establish conditional support for development that enables home working.

306. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

307. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with delivering a strong, competitive economy, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

Countryside and Wildlife

Policy FEL/CW1 Landscape and Countryside Character

308. This policy seeks to protect the countryside, with development that adversely affects the landscape character not being supported unless mitigation measures minimise the impact.

309. In a representation GO Planning Ltd state “*The policy is not considered to comply with the NPPF 2019*” without explanation.

310. The terms “*important views and vistas*”; “*traditional open spaces*”; “*minimise*”; and “*appropriate*” are imprecise. The reference to coalescence and to open spaces introduce unnecessary and confusing duplication of Policies FEL/ICH5 and FEL/CW4 respectively. In response to my request for clarification in this respect the District Council and Parish Council have jointly confirmed it is intended that the term “important views and vistas” should refer to the important long distance, short range and glimpsed views, identified in the Felsted Heritage and Character Assessment Report 2017. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

311. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

312. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 34:

Replace Policy FEL/CW1 with “To be supported development proposals must protect and enhance the landscape of the character area in which they are situated, and must not significantly harm the important long distance, short range and glimpsed views, identified in the Felsted Heritage and Character Assessment Report 2017.”

Policy FEL/CW2 Nature Area including Felsted Fen

313. This policy seeks to protect the designated Felsted Fen Local Wildlife Site from development, with the exception of development supported by Policy FEL/VA4.
314. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

Policy FEL/CW3 Footpaths, Bridleways and Cycleways

315. This policy seeks to protect public rights of way from adverse visual impact of development, and supports enhancement or extension of the public right of way network.
316. In a representation GO Planning Ltd state "*The policy is not considered to comply with the NPPF 2019*", without explanation. In a representation Essex County Council has recommended additional text however this is not necessary to meet the Basic Conditions.
317. The stopping up or diversion of highways is achieved through Orders using Sections 247 and 248 of the Town and Country Planning Act 1990 and applications made under Section 253 as amended by the Growth and Infrastructure Act 2013. A Neighbourhood Plan policy is not able to vary the legal process in this respect, and any duplication is unnecessary.
318. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
319. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable

development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with promoting sustainable transport, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 35:
In Policy FEL/CW3 delete the final sentence**

Policy FEL/CW4 Green Infrastructure

320. This policy seeks to establish conditional support for development proposals that extend or enhance Green Infrastructure Networks.
321. In a representation Essex County Council has recommended amended and additional text however modification in these respects is not necessary to meet the Basic Conditions.
322. In a representation Natural England state "*Furthermore Natural England notes that no general biodiversity policy has been included within the plan. Whilst aspects relating to the natural environment have been considered within other policies, Natural England would strongly advise specific biodiversity policy wording considering the protection and enhancement of the natural environment in a strategic manner. We support the aims and intentions of Policy FEL/CW4 relating to Green Infrastructure and in line with our comments above on biodiversity, suggest that this policy could be broadened to include this requirement.*"
323. In commenting on the Regulation 16 representations the Parish Council has stated "*Biodiversity policy wording has been added and the policy broadened in consultation and agreement with UDC and Natural England. Development proposals should protect, and where possible, enhance the natural environment. All proposals should seek to deliver measurable net biodiversity gain, in addition to protecting existing habitats and species. Proposals should seek to avoid any significant impacts on the natural environment. If avoidance isn't possible proposals which significantly affect, or have the potential to significantly affect, the natural environment should demonstrate that impacts on biodiversity, including flora and fauna, and local wildlife*

(including wildlife habitats), will be adequately mitigated and where this is not possible compensated. Development proposals that meet other NP policies will be supported where they: Protect and enhance existing green spaces and/or create new green/open spaces; Improve the connectivity between wildlife areas and green spaces through green corridors and/or improvements to the Public, Rights of Way, and cycle and footpath networks; Enhance the visual characteristics and biodiversity of green spaces in close proximity to the development; Ensure their landscape schemes, layouts, access and public open space provision and other amenity requirements contribute to the connectivity, maintenance and improvement of the GI Network; Meet the Accessible Natural Greenspace Standards wherever possible and what they can do to address any local deficiency in provision of green space; Take into consideration the principles of Sustainable Urban Drainage (SUDs) and natural flood management, which will enhance biodiversity and ecosystems; or Consider the multi-functional use of local green spaces as part of the Green Infrastructure (GI) network. Development proposals which are likely to have a negative impact on biodiversity, flora and fauna and local wildlife (including wildlife habitats) will only be permitted where the benefits of the development clearly outweigh any negative impacts to the nature conservation value of the feature or to its contribution to wider biodiversity objectives. Developments that are likely to have an adverse impact, either alone or in-combination, on a Special Protection Area, Special Area of Conservation, and / or Ramsar site must satisfy the requirements of the Habitats Regulations, determining site specific impacts and avoiding or mitigating against impacts where identified.” I am satisfied this revised wording will address the points made by Natural England and ensure the policy has regard for national policy. It is however unnecessary and confusing to include the term *“that meet other NP policies”* as the policies of the Neighbourhood Plan should be read as a whole. I have recommended a modification in this respect.

324. It is confusing and unnecessary for one policy to include the term *“within the Neighbourhood Area”* as all the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a lesser area is specified. The term *“Public, Rights of Way, and cycle and footpath networks”* is ambiguous. The terms *“wherever possible”*, *“what they can do”*, *“consider”* and *“take into consideration”* do not provide a basis for the determination of planning applications. The term *“local green spaces”* has a particular meaning in terms of paragraphs 99 and 100 of the Framework and should not be applied otherwise. I have recommended a modification in these respects so

that the policy has regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

325. The requirement “*meet the Accessible Natural Greenspace Standards*” must not undermine the deliverability of the plan, as required by paragraph 34 of the Framework, and must meet the tests set out in paragraph 56 of the Framework. The application of Accessible Natural Greenspace Standards for towns and cities to the rural context of the Neighbourhood Plan area has not been justified. I have recommended modification of the policy in this respect so that the policy has regard for national policy.

326. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Uttlesford Local Plan 2005) and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

327. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections; annex 1 implementation; and annex 2 glossary of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, and conserving and enhancing the natural environment, policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 36:

Replace Policy FEL/CW4 with “Development proposals should protect, and where possible enhance the natural environment. All proposals should seek to deliver measurable net biodiversity gain, in addition to protecting existing habitats and species. Proposals should seek to avoid any significant impacts on the natural environment. If avoidance isn’t possible proposals which significantly affect, or have the potential to significantly affect, the natural environment should demonstrate that impacts on biodiversity, including flora and fauna, and local wildlife (including wildlife habitats), will be adequately mitigated and

where this is not possible compensated. Development proposals will be supported where they:

- Protect and enhance existing green spaces and/or create new green/open spaces;
- Improve the connectivity between wildlife areas and green spaces through green corridors and/or improvements to the active travel networks;
- Enhance the visual characteristics and biodiversity of green spaces in close proximity to the development;
- Ensure their landscape schemes, layouts, access and public open space provision and other amenity requirements contribute to the connectivity, maintenance and improvement of the GI Network;
- Meet the latest Accessible Natural Greenspace Standards of Natural England so far as they are applicable to a rural village location, and subject to viability;
- Adopt the principles of Sustainable Urban Drainage (SUDs) and natural flood management, which will enhance biodiversity and ecosystems; or
- Enhance the multi-functional use of open spaces as part of the Green Infrastructure (GI) network.

Development proposals that are likely to have a negative impact on biodiversity, flora and fauna and local wildlife (including wildlife habitats) will only be permitted where the benefits of the development clearly outweigh any negative impacts to the nature conservation value of the feature or to its contribution to wider biodiversity objectives. Developments that are likely to have an adverse impact, either alone or in-combination, on a Special Protection Area, Special Area of Conservation, and / or Ramsar site must satisfy the requirements of the Habitats Regulations, determining site specific impacts and avoiding or mitigating against impacts where identified.”

Summary and Referendum

328. I have recommended 36 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

329. I am satisfied that the Neighbourhood Plan⁶⁴:

- is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the Statutory Requirements set out in paragraph 8(1) of schedule 4B of the Parish and Country Planning Act 1990 and meets the Basic Conditions:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
 - 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 2017.⁶⁵

I recommend to Uttlesford District Council that the Felsted Neighbourhood Development Plan for the plan period up to 2033 should, subject to the modifications I have put forward, be submitted to referendum.

⁶⁴ The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

⁶⁵ This basic condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 (5) are amended

330. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.⁶⁶ I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”⁶⁷. I have seen nothing to suggest the referendum area should be extended for any other reason. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Uttlesford District Council as a Neighbourhood Area on 4 December 2014.

Annex: Minor Corrections to the Neighbourhood Plan

331. A number of consequential modifications to the general text, and in particular the text supporting the policies of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies.

332. In commenting on the representation of an individual relating to paragraph 5.4.34 of the Neighbourhood Plan the Parish Council has proposed a replacement paragraph to read “*Properly secured to avoid inappropriate use, the site also offers an opportunity for a safe and secure recreational area for use by the primary school. The car park will serve as an additional recreational facility primarily for the children but also for the wider community at school led events.*”

333. I recommend minor change in these respects and in other instances only in so far as it is necessary to correct an error or where it is necessary so that the Neighbourhood Plan “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

**Recommended modification 37:
Modify general text to achieve consistency with the modified policies, and to correct identified errors including those arising from updates. Renumber parts of policies arising from deletions.**

⁶⁶ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁶⁷ Planning Practice Guidance Paragraph 059 Reference ID: 41-059-20140306 Revision 06 03 2014

I have noted the intention to add page numbers to the contents page of the Neighbourhood Plan. Whilst I agree this will assist users, I am unable to recommend a modification of this nature which would be beyond my remit.

Chris Collison
Planning and Management Ltd
collisonchris@aol.com
29 September 2019
REPORT ENDS