

Newport Quendon and Rickling Neighbourhood Plan 2018- 2033

Submission Version

A Report to Uttlesford District Council on the Examination of the
Newport Quendon and Rickling Neighbourhood Plan

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Executive Summary

My examination has concluded that the Newport Quendon and Rickling Neighbourhood Plan should proceed to referendum, subject to the Plan being amended in line with my recommended modifications, which are required to ensure the plan meets the basic conditions. The more noteworthy include –

- Remove Recommendations NQRST4, NQRTR8, NQRTR5 and NQRSC5
- Separating the business policy to differentiate between policy for new businesses and the policy to protect existing premises.
- Include a presumption in favour of the conversion of the upper floors of business premises to residential use.
- Require developers to install the infrastructure necessary to allow the installation of high speed broadband.
- Delete the two air quality policies.
- Refine the surface water drainage policy to have to address the increase in run off as a result of the development.
- Delete the policy which specifically allows weight to be given to locally produced information as a material consideration.
- Restricting the policy regarding connecting to the rights of way network to development sites close to or adjacent to footpaths.
- Introduce a separate new policy for the Protection of Locally Important Views.
- Delete the Primary School Places Policy.
- Widen the range of development acceptable outside the development limits
- Deletion of the brownfield first policy.
- Replacing the policy that presumes against all development on two specific countryside area which lie close to the village centre of Newport with a more general policy regarding ensuring that the visual connections to the countryside is not lost.
- Refine the Building in the Countryside policy to change the emphasis from “no material harm” to an approach to “protect and enhance” the historic and landscape setting of the villages.
- Remove the Parish Council’s veto on the access arrangements to the Foxley House allocation.
- Refine the design policy to refer to applications that need to be accompanied by a Design and Access Statement and give greater flexibility in terms of density of sites within and adjacent to development limit boundaries.
- Deleting the local connection policy in terms of the allocation of social housing.
- Removing policies that reference speed limits and on street parking restrictions.

- Restrict the requirement to build pavements in the countryside to only those developments where it would be appropriate.
- Delete the policy in terms of traffic impact mitigation in favour of CIL.
- Deleting the Sport Leisure Services Levy in favour of CIL or planning obligations which meet the three tests until such time as CIL is introduced.

The referendum area does not need to be extended beyond the plan area.

Introduction

1. Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the adopted Uttlesford Local Plan. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.
2. The neighbourhood plan making process has been led by Newport Parish Council with the agreement of Quendon and Rickling Parish Council as the plan covers its parish as well as Newport. There can only be one Parish Council that can act as the qualifying body for the neighbourhood area. A Steering Group was appointed to undertake the plan preparation made up of both parish councillors and local volunteers. Newport Parish Council is a “qualifying body” under the Neighbourhood Planning legislation.
3. This report is the outcome of my examination of the Submission Version of the Newport Quendon and Rickling Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be “made” by Uttlesford District Council.
4. It will be appreciated that in the light of the COVID 19 crisis, a referendum cannot be held until at least May 2021. However, upon the issuing of the Decision Statement under Regulation 19 by Uttlesford District Council on how it intends to respond to my recommendations, the plan can be accorded *significant weight* in development management decisions until such time as a referendum can be held.

The Examiner’s Role

5. I was appointed by Uttlesford District Council in September 2019, with the agreement of Newport Parish Council and the Quendon and Rickling Parish Council to conduct this examination.
6. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 41 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant and director of John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of Uttlesford District Council and both Newport Parish Council

- and also Quendon and Rickling Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.
7. Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:
 - That the plan should proceed to referendum on the basis that it meets all the legal requirements.
 - That the plan should proceed to referendum, if modified.
 - That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements
 8. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Newport Quendon and Rickling Neighbourhood Plan area.
 9. In examining the Plan, the Independent Examiner is expected to address the following questions
 - Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
 - Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 - namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
 - Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body?
 10. I am able to confirm that the Plan does relate only to the development and use of land, covering the area designated by Uttlesford District Council, for the Newport Quendon and Rickling Neighbourhood Plan, on 16th February 2017, *if it is modified in accordance with my recommendations.*
 11. I can also confirm that it does specify the period over which the plan has effect namely the period from 2018 up to 2033.
 12. I can confirm that the plan does not cover any “excluded development”.
 13. There are no other neighbourhood plans covering the area covered by the neighbourhood area designation.
 14. Newport Parish Council, as a parish council, is a qualifying body under the terms of the legislation. Initially both Parish Councils were described as qualifying bodies but the neighbourhood plan legislation only allows for there to be one Qualifying Body and where the plan area covers land in more than one parish council area then one of the parish council should be put forward as the Qualifying Body with the agreement of any other parish council within the neighbourhood area.

The Examination Process

15. The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.
16. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.
17. Whilst the examination has raised important issues, I have throughout the examination been satisfied that I could properly examine the plan without the need for a hearing.
18. On 6th November 2019, I issued a preliminary document entitled *Initial Comments* which sought clarification as to the status of the qualifying body as the documentation referred to both parish councils as being qualifying bodies. I also sought confirmation as to the status of the District Councils position with respect to the HRA screening.
19. I carried out unaccompanied visits to Newport, Quendon and Rickling Green as well as the surrounding countryside, on 11th and 12th November 2019. I saw the traffic conditions around Newport village when the secondary school was finishing on my first visit. The following morning, I made a point of arriving in Newport just after 7am and I watched for over an hour the traffic conditions and the queueing of cars joining the High Street from Wicken Road. I also saw conditions at the start of the school day at the primary school as well as the Joyce Frankland Academy.
20. I visited all the sites where Regulation 16 comments had been made. I walked along the High Street and saw the car parking at the railway station and also on the land to the east of the railway line. I also explored the other two villages, at Quendon and Rickling and had coffee at the Cricketers Arms at Rickling Green. I also took the opportunity to visit Saffron Walden and I saw the traffic conditions in that town. I also used both motorway accesses onto the M11.
21. Following my site visits, I issued a document *Further Comments of the Independent Examiner*, dated 15th November 2019, which raised a number of questions and points of clarification with both the Steering Group and Uttlesford District Council. I received a response from the District Council on 5th December and from the Steering Group on 6th December 2019.
22. On 16th January 2020, I became aware of the publication of the joint Local Plan Inspectors' report on the emerging Uttlesford Local Plan which had been issued on 10th January 2020. That letter was expressing concerns regarding the soundness of the local plan following the conclusion of the Stage 1 hearing. Whilst the two Inspectors had not come to a final decision, in their letter they indicated that the withdrawal of the plan was the most likely option. I understand that the District Council had planned to have responded to the Inspectors but that response was delayed, due to the COVID 19 crisis. I have now been advised that Uttlesford Borough Council resolved on 30th April 2020 to withdraw the local plan

23. In view of the importance of the relationship between the neighbourhood plan and the emerging Local Plan I prepared a paper entitled *Additional Comments of the Independent Examiner*, inviting the views of the Regulation 16 parties as to what the implications of the Inspectors' conclusions. This was issued on 13th February 2020 and I asked for comments to be returned to me by 16th March 2020. I was sent six responses on the due date.
24. In accordance with my usual practice, I issued a fact check version of my report on 29th April 2020, which is an opportunity for the Qualifying Body and the District Council to correct any factual errors in my report and the inevitable typographical or grammatical errors. At that time, no decisions had been taken on the response of Uttlesford District Council to the Inspectors' report. I subsequently learnt that the very next day the District Council had decided to withdraw the Local Plan. That has necessitated some rewriting of my report and also changed some recommendations.
25. The Steering Group, in its response to my fact check report, offered comments and a commentary which, in places, went beyond what I would not be considered as fact checking. I have reflected on their comments very carefully. In some cases, their comments did influence my thinking in terms of the implications of the local plan's withdrawal. In some cases, I have revised my justification to explain better the rationale for my recommendations but in other cases where they have disagreed with my reasoning, I have not responded, as that would not be appropriate, as these are the conclusions on my examination. There will be a further opportunity for the Steering Committee to engage with the District Council when it has to make a decision as to how to respond to my recommendations and in turn have to reach its own conclusions on the basic conditions and other legal tests.

The Consultation Process

26. When work first commenced on the neighbourhood plan, initial consultation events were held in both Newport and Quendon, which were, in total, attended by 71 residents.
27. Those meetings were followed up with a survey which was made available by a 17-page document published on the village magazines, which was publicised by letters in the local press and the village Facebook groups as well as being sent out by post and email. The survey was open between 27th June and 13th September 2017. This produced 221 replies, a 7% response rate.
28. Discussions then took place with various stakeholders and five landowners prior to the publication of the Pre-Submission version of the plan, which was the subject of a six-week consultation, known as the Regulation 14 consultation, which took place between 2nd May and 15th June 2018. This generated responses from 13 organisation and stakeholders and 12 other responses from residents, businesses and local organisations.
29. I have been satisfied with the openness of the process which has allowed the residents and interested parties, to shape their neighbourhood plan.

Regulation 16 Consultation

30. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation which took place over a 6-week period, between 17th September 2019 and 29th October 2019. This consultation was organised by Uttlesford District Council, prior to the plan being passed to me for its examination. That stage is known as the Regulation 16 Consultation.
31. In total, 11 responses were received from Uttlesford District Council, Essex County Council, Historic England, National Grid, Anglian Water, and Lichfields, Sworders, Residential Development Land Agents Ltd, Gladman, Sir Arthur Ellis Will Ltd and Hill Residential Ltd and Joyce Frankland Academy Trust Newport all who represented landowner interest within and around Newport.
32. I have carefully read all the correspondence and I will refer to the representations where it is relevant to my considerations and conclusions in respect of specific policies or the plan as a whole.

The Basic Conditions

33. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.
34. The five questions, which seek to establish that the Neighbourhood Plan meets the basic conditions test, are: -
 - Is it appropriate to make the Plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State?
 - Will the making of the Plan contribute to the achievement of sustainable development?
 - Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
 - Will the making of the Plan breach or be otherwise incompatible with EU obligations or human rights legislation?
 - Will the making of the Plan breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

Compliance with the Development Plan

35. To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Uttlesford Local Plan, adopted in January 2005 and the Mineral and Waste Local Plan, prepared by Essex County Council.

36. In the adopted local plan, Newport is recognised as one of the district's Key Rural Settlements. The Key Settlements are described as lying on the main transport network and there are local employment opportunities. Policy S3 states that in these villages, development compatible with the settlements character and countryside setting will be permitted within settlement boundaries. Rickling Green and Quendon are designated as Other Villages, where the policy is to allow limited development on small, previously developed sites. Outside of the development boundaries, planning permission will only be granted for the development that needs to take place in the countryside or is appropriate for a rural area.
37. There are a number of general policies appropriate to development including Policy GEN1 dealing with access and Policy GEN2 dealing with design and it includes in b) a requirement that development should safeguard "important environmental features of its setting". Policy ENV1 deals with the design of development within conservation areas and Policy ENV2 addresses development affecting listed buildings. Policy ENV3 looks to protect "traditional open spaces, other visually important spaces, groups of trees and fine individual tree specimens."
38. Particularly relevant to this neighbourhood plan, air quality is dealt with in Policy ENV13 which deals with areas exposed to poor air quality.
39. The housing policies set out a requirement covering the period only up until 2011 and that provided for the delivery of 5,052 dwellings.
40. Policy H3 deals with new housing within development limits and includes both Newport and Quendon and Rickling and this allows infilling, subject to it being compatible with the character of the site and where relevant, its countryside setting. It sets criteria for considering windfall development.
41. Policy RS3 deals with the retention of retail and other services in rural areas and also this policy also covers other community facilities including garages, doctors/dental surgeries, village halls, pubs and shops/post offices.
42. The District Council acknowledges that the adopted plan, which predates the 2012 NPPF, is increasingly out of date.
43. Work started in 2015 on the replacement local plan, covering the period up to 2033. It had reached the stage where it had been submitted to the Secretary of State and an Examination in Public was held before two joint inspectors. This draft plan is proposing an overall housing requirement figure of at least 14,000 net new homes. This figure was made up of 3,190 dwellings already built in the period 2011 to 2017, 2,120 dwellings on small and unidentified windfall sites, 3,939 dwellings approved through planning permissions up to 1st April 2017. The remaining 6,380 dwellings were to be provided in the period 2017 to 2033, with a housing figure of 94 allocated specifically to Newport. 134 dwellings are allocated to Type A and Type B villages (Quendon and Rickling are identified as Type settlements). The remaining requirements, comprising at least 4,820 new homes are proposed in three new garden communities although this figure has been subsequently reduced to 4,190.
44. Policy SP2 of the draft plan was proposing that Key Villages will be the major focus for development in the rural areas, reflecting their role as providers of services to a wide rural area.

45. Policy SP9 sought to restrict development to within development limits, subject to a number of criteria, including being "compatible with the character of the settlement and depending on the site location "its countryside setting and natural environment". The plan allocated a number of sites in Newport
- Policy NEWP1 - land west of London Road – 94 dwellings on a 4.5 ha site
 - Policy NEWP 2 land at Bricketts, London Road – 11 dwellings on a 0.7 ha site
 - Policy NEWP3 – land at Holmwood, Whiteditch Lane – 12 dwellings on a 1.4 ha site
 - Policy NEWP4 – land at Bury Water Lane - 81 extra care units on a 2.1 ha site
46. The Proposals Map identified 160 dwellings, on a number of planning commitments.
47. There is an additional non-housing allocation, Policy NEWP5 identified land at the south of Newport Primary School for potential future educational use.
48. In Quendon and Rickling, the draft plan identified 19 dwellings on a 0.64 ha site east of Foxley House and it also acknowledged, the residential commitment on Ventnor Lodge for 12 dwellings on a 0.5 ha site.
49. The Stage One hearings into the local plan took place between 2nd and 18th July 2019. In their 10th January letter to Uttlesford District Council, the Joint Inspectors expressed significant concerns regarding the soundness of the plan. In particular, they felt that there was insufficient evidence to demonstrate the delivery of the garden communities which then cast doubt over the overall spatial strategy, in view of the role that these new settlements were expected to play in delivering a significant amount of the district's new housing. They were concerned that the council's chosen strategy would mean that other sites in the district would not be developed or permitted for a significant period of time, which could affect the viability and vitality of services in existing towns and villages. Essentially the reliance on these three sites, delivering 4,190 dwellings in the period 2023/24 - 32/33 against an overall target of 7,190 dwellings allows little flexibility, if development does not proceed as envisaged.
50. As guidance, as to what would deliver a sound strategy, the Inspectors expressed their view that the District Council will need to allocate more small and medium-sized sites in the short term, before the garden communities come on-stream, not least to maintain a five-year housing land supply.
51. In essence, they consider that the amount of work required to address their concerns is not a reasonable prospect within a realistic timeframe. They have suggested that the plan will need a complete re-write and their preference would be for the preparation of a new local plan, following the withdrawal of the current plan. The District Council has now resolved to withdraw the plan and will be commencing work on a fresh plan.
52. Whilst the emerging plan had been a backdrop to the preparation of the neighbourhood plan, and its withdrawal will leave a void in terms of an up to date strategic framework, I do not believe that the evidence underlying the policies, in

terms of the plan area, will necessarily be invalidated so I am able to give such information where relevant some weight.

53. Under the terms of the neighbourhood plan legislation the particular basic condition test is whether the plan as a whole is in general conformity with the strategic policies in the *adopted* local plan. These have been helpfully set out in a table by the District Council. My overall conclusion is that subject to my recommendations being accepted the neighbourhood plan, is in general conformity with the strategic policies set out in the adopted Local Plan, when taken as a whole.

Compliance with European and Human Rights Legislation

54. Uttlesford District Council issued a Screening Determination Statement, dated September 2019 which concluded, having consulted with the three statutory consultees, that a full strategic environmental assessment, as required by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 204”, would not be required.
55. The District Council, as competent authority, issued a preliminary screening under the Habitat Regulations, in the same document. This concluded that the plan is unlikely to have any significant adverse effects on the nearest European Protected sites, which are Eversden and Wimpole Woods SAC, and the Lee Valley SPA.
56. I am satisfied that the basic conditions regarding compliance with European legislation, including the newly introduced basic condition regarding compliance with the Habitat Regulations, are met. I am also content that the plan has no conflict with the Human Rights Act.

The Neighbourhood Plan: An Overview

57. The starting point of this examination is the presumption in favour of sustainable development. Paragraph 13 of the Framework is particularly relevant:
“The application of the presumption has implications in the way that communities engage in neighbourhood planning. Neighbourhood plans should support the delivery of the strategic policies contained in local plans or special development strategies and should shape and direct development that is outside of these strategic policies.”
58. It goes further in paragraph 29 to say that "neighbourhood planning gives communities the power to develop a shared vision for the area. Neighbourhood plans can shape, direct and help 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 undermined those strategic policies.”.
59. The starting point is the Uttlesford Local Plan which was adopted as long ago as January 2005, but that only sought to identify the land for housing and employment for the period up until 2011. Its publication also pre-dated the publication of the NPPF and that is a question mark over the degree of conformity of some policies against the Frameworks principles.

60. However, the overall spatial strategy in that Local Plan remains as the cornerstone of the distribution of development in the district as the adopted local plan. This recognises the role of certain settlements, within the settlement hierarchy and in particular recognises the importance of Key Rural Settlements, such as Newport to promote and provide “further limited employment or residential development”. The purpose is to protect and strengthen the role of such settlements to enable people to live and work locally. Quendon and Rickling are classed as “Other Villages” and sit lower in the settlement hierarchy and are only required to provide limited small-scale development within the boundaries of the villages.
61. The Key Rural Settlement status recognises Newport as a village that provides a wide range of facilities and services, which not only serve Newport itself, but also the wider rural area. It has both a secondary and primary school, a railway station a number of shops and businesses, a medical practice and regular bus services.
62. Uttlesford District Council has been preparing its replacement local plan since 2015, when work on an earlier version was abandoned following a public examination. Its strategy also recognises and builds upon the enhanced status of Key Service Villages such as Newport. However, the strategy of allocating some growth to a number of towns and villages is supplemented by allocating the delivery of a significant amount of the district’s housing and employment to the three proposed garden communities. The draft plan allocated a specific housing figure to the plan area, much of which has actually now been built, as the proposed plan has proceeded through its various stages.
63. The conclusions of the Joint Inspectors put the future of the replacement local plan into question. This is of significance for the neighbourhood plan, in that the Newport, Quendon and Rickling Neighbourhood Plan has been promulgated on the basis of broad compliance with the emerging local plan. The Inspectors’ interim conclusions undermines the integrity of that plan’s spatial strategy.
64. My examination has to focus on whether the neighbourhood plan is in general conformity with the strategic policies set out in the *adopted* local plan in order to meet one of the basic conditions. I have also to be conscious of the PPG advice given by the Secretary of State, covering the situation where a neighbourhood plan is being prepared against an emerging local plan. However, that advice is greatly diminished if that emerging plan is subsequently pronounced to be likely to be found unsound. My reading of the Inspectors’ letter dated 10th January 2020, is that their overall conclusion does not necessarily undermine the provisions that relate to the neighbourhood plan area including the continued role for key settlements like Newport, but is more centred on the deliverability of the garden communities.
65. However, one of the Inspectors’ conclusions is relevant, as set out in paragraph 114 of their letter, namely, that the District Council will need to allocate more small and medium-sized sites that could deliver homes in the short to medium term to help bolster the five-year housing land supply until such time as the garden communities begin to deliver housing. They go on to actually recommend the deletion of the North Uttlesford garden community. I believe it is inevitable that the District Council will need to allocate more sites in towns and villages such as Newport. The District Council’s response to my *Additional Comments* paper,

which invited views on the implications of the Inspectors' letter, seems to confirm that to be the case.

66. I envisage that the District Council may wish to revisit the development limits around the villages as these were essentially a response to the housing numbers set in the original local plan some 15 years ago. It would not be appropriate for me to recommend the reintroduction of the revised limits set out in the local plan, at this late stage, as this would not have been subject to Regulation 16 consultation.
67. It is not the role of my examination to take on a role of speculating whether the housing numbers for the plan area will increase, and by how much or indeed where these should be allocated, nor indeed is it for the neighbourhood plan, as these are essentially strategic planning matters. However, I do firmly believe that the neighbourhood plan should not seek to frustrate the process for making future site allocations, which could involve identifying land close to the centre of Newport village (albeit recognising there are major constraints with their delivery), by effectively imposing, within the development plan, what could be perceived as a total prohibition of all development on these important sites for the lifetime of the neighbourhood plan.
68. Another of the basic conditions is whether the plan will deliver sustainable development. The three strands are set out in paragraph 8 of the NPPF. The plan seeks to protect and encourage employment uses which contribute to the economic strand, it seeks to cover the environmental objectives by enhancing and protecting the historic environment and countryside settings of the villages. However, its response in terms of the social objective, is essentially to rely upon the planning consents already granted over recent years and not make provisions for any further residential provision, beyond the allocation at Foxley House in Quendon, which already has planning permission.
69. The plan's general response to further development, primarily based around stated concerns regarding air quality and traffic congestion, could undermine one of the social elements of sustainable development, namely that the planning system should be ensuring "a sufficient number and range of homes... to meet the needs of the present and future generations and by fostering a well-designed and safe built environment with accessible services and open spaces that reflect current and future needs..." That thread sits alongside the clear Government objective set out in the NPPF that the planning system needs to deliver a significant boost to new housing.
70. Essentially the plan is not countenancing any significant any new development within the settlements for the next 13 years.
71. Many of the well-articulated issues that lie at the heart of the neighbourhood plan have been very fully explored at three public inquiries held over the last year or so, the results of which have emerged during the course of this examination. Two of these have specifically addressed issues of air quality and traffic, hearing expert witness from all sides of the question. These also looked at the relationship of Newport to its landscape setting. These appeal decisions have to some degree shown the robustness and continued relevance of existing local plan policies. The Inspectors' conclusions have been a material consideration in terms of this examination.

72. There are a number of overarching comments that underlie my recommendations. Some policies are written so as to apply to *all* development. I suspect that the authors had particular types of development in mind when drafting the policies, but the term “development” covers not just new buildings but also changes of use and engineering operations, for example. There is a multiplicity of planning applications that will cross the desks of the District Council’s planning officers. To place onerous obligations on all applicants, where they are not justified is an unnecessary burden and I have had to amend the scope of some policies so that the requirements are focused on only relevant development.
73. I also need to draw attention to the plans “Recommendations”. As previously noted the neighbourhood plan will form part of the development plan. It will be used to determine all types of planning applications. It will, for example be a document of relevance to Essex County Council, in its role as a local planning authority for its own operational development. It is required by law to have regard to the provisions of the development plan when determining their planning applications. The Parish Council seems to imply, wrongly, that the neighbourhood plan will only be used by Uttlesford District Council as set out in their response to my questions as to the status of recommendations where it was said “A Policy is to be used in the determination of planning application decisions, and the setting of conditions, by the LA. A Recommendation is to be used to inform planning decisions which are determined by other bodies (for example the County) or to make recommendations and support aspirations which may involve land use but are not necessarily related to planning applications”.
74. A neighbourhood plan policy is required to be a policy for the use and development of land only. The Secretary of State in his Planning Practice Guidance recognises that communities may wish to include other matters in their document which are not related to the development and use of land. The advice is that they can be included within the neighbourhood plan but they must be clearly differentiated and it suggests, for example, including them in a companion document or an annex, so that they are not misconstrued as development plan policies.
75. The issue is that this neighbourhood plan includes within its “Recommendations” matters that **do** relate to the development and use of land and which would be relevant to the determination of a planning application. Of these I would include Recommendation NQRGSE4 – Development Bordering Hedgerows, Recommendation NQRTR5 - Impact of Development of Carver Barracks, Recommendation NQRTR8 - Joyce Frankland Academy Expansion and finally Recommendation NQRSCL5 - Improve the Facilities at the Newport Recreation Ground. These individual “Recommendations” are not subject to this examination, nor are any of the other “recommendations” but the planning policies are, but their inclusion could raise expectations and misunderstandings as to their status.
76. The Secretary of State is clear that the neighbourhood plan policies form part of the development plan and then the other matters, which are covering subjects unrelated to planning application decisions, can be included, if clearly differentiated. As submitted this neighbourhood plan is promoting almost a 2-tier approach to planning policies, those which form part of the term development plan

and *other* planning policies, which do not form part of the development plan. That is not an approach that I can support.

77. In the interests of clarity, my recommendation is that any matter which would be relevant to the determination of a planning application should be included in the document as the neighbourhood plan policy and that "Recommendations" should be restricted to matters that are irrelevant to the determination of planning application. I will be recommending that the above four planning related recommendations be removed in their entirety from the plan document. The Steering Group may wish to reconsider their inclusion in any future review of the neighbourhood plan. At this late stage, it would not be appropriate to reinstate them as planning policies, as there has been no consultation following the plan's submission and these policies would not have been subject to examination.
78. The remaining recommendations can remain in the document as they are not matters that will be a material consideration in determining a planning application. It is not my role to comment on them even though they have generated comments at Regulation 16 stage. These are expressions of local views on matters not related to planning and will not form part of the development plan.
79. Similarly, there are instances where the proposed neighbourhood plan policy deals with matters which fall outside the remit of the Local Planning Authority and are not material to the consideration of a planning application. In a number of cases, matters are referred to in a planning policy, which fall under the jurisdiction of the Highway Authority, such as the speed limits and their funding and on-street parking control. I have had to remove these aspects from the policy, but these are the type of matters that could be dealt with as non-planning recommendation matters.
80. A number of the policies are seeking developer contributions. Until the District Council introduces its Community Infrastructure Levy (CIL) Scheme, which I had been given to understand was likely to be later this year, until the withdrawal of the local plan. Any Section 106 obligation is required to comply with Secretary of State policy, as set out in Paragraph 56 of the NPPF, but more importantly by secondary legislation through Regulation 122 of the Community Infrastructure Levy Regulations. This requires every planning obligation to have to meet all three of the following criteria, namely it is directly related to the development, is required to make the development acceptable in planning terms and is fairly and reasonably related in scale and kind to the development proposed.
81. Whilst it is normal that a Community Infrastructure Levy Scheme would be expected to be used to deliver an up to date plan, all councils are now required to publish by December 2020, an Infrastructure Funding Statement which could be the basis for setting up a CIL scheme. I noted from the minutes of the Extraordinary Council Meeting, that members indicated their continued support for introducing CIL and that it remains in the Corporate Plan on the Council's website. As there will not be a new local plan in place, the CIL Examination will have to test the robustness of the infrastructure requirements to be funded via this route.
82. These 3 legal tests can be onerous requirements, which are unlikely to be capable of being imposed via a blanket policy contained within the neighbourhood plan. There is far more latitude and flexibility in terms of securing funding and

determining how the receipts are spent, when contributions are received using CIL that has the benefit of 25% of the contributions can be spent by the relevant Parish Council to address the infrastructure requirements that it specifically identifies as being raised by the development.

83. My recommendations have concentrated on the wording of the actual policies against which planning applications will be considered. It is beyond my remit as examiner, to comprehensively recommend all editorial changes to the supporting text. These changes are likely as a result of my recommendations, so that the plan will still read as a coherent planning document. Some of these are highlighted in the Regulation 16 Comments.
84. Following the publication of this report, I would urge the Parish Council and Uttlesford planners to work closely together to incorporate the appropriate changes which will ensure that the text of the Referendum Version of the neighbourhood plan matches the policy, once amended in line with my recommendations. It is also an opportunity to resolve many of the textual issues that have been raised in the Regulation 16 representations.

Recommendation

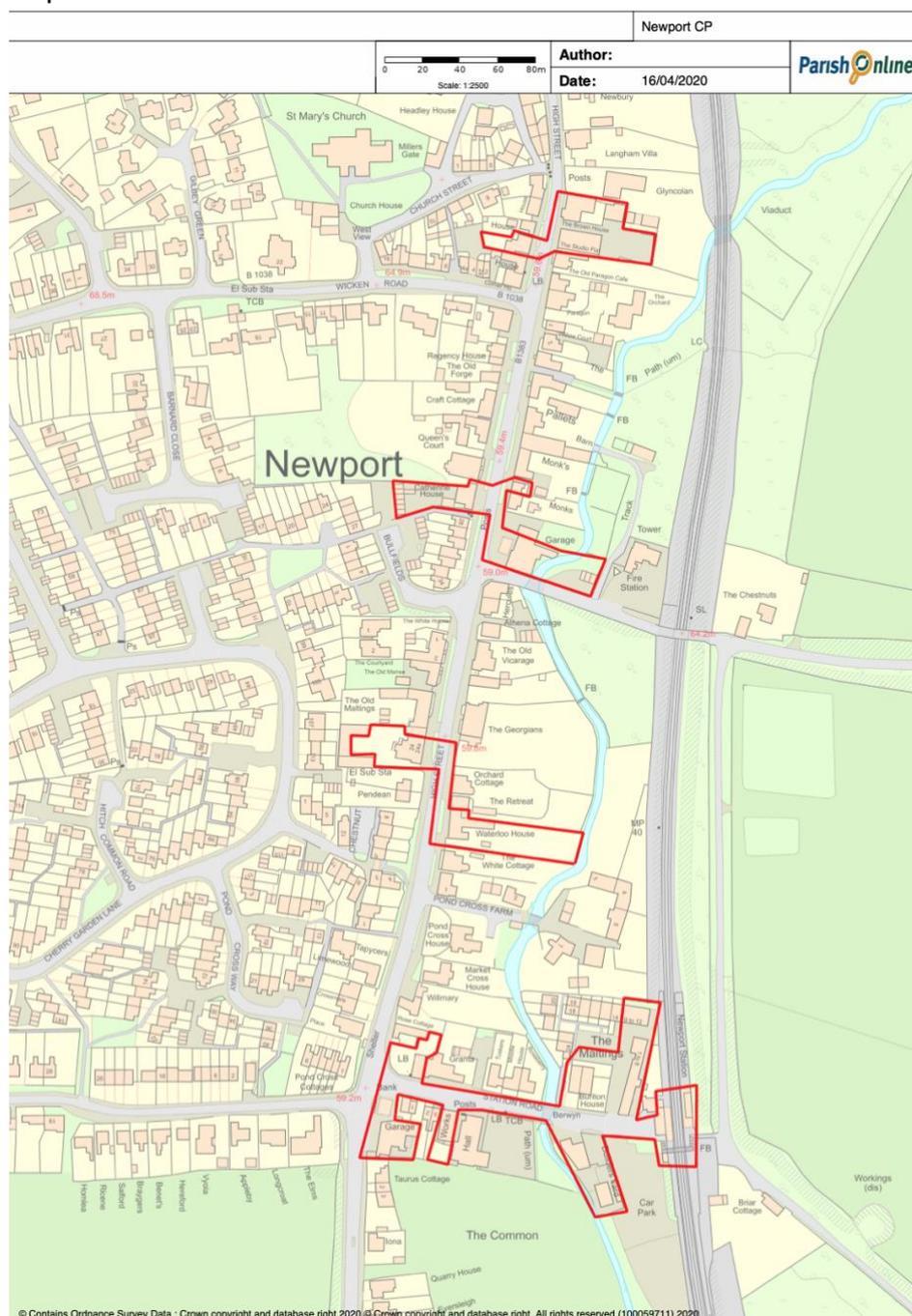
That Recommendations NQRGSE4, NQRTR5, NQRTR8 and NQRSC5 be deleted.

The Neighbourhood Development Plan Policies

Policy NQRBL1 Support of new and existing businesses

85. I am satisfied that this policy which seeks to retain business uses in the plan area is generally consistent with national and local plan policy.
86. There are two elements to the policy; namely the support for new businesses and secondly the protection of existing businesses in the plan area. The policy tries to combine the two arms, but not entirely successfully, in that it caveats support for existing facilities, particularly those that meet a criterion dealing with the accessibility by walking and cycling, yet in the next sentence it appears to resist the loss of *such sites*, some of which may not meet these criteria.
87. It is not clear whether the policy is seeking to resist the loss of business uses that are not readily accessible from homes, either on foot or by cycle. My recommendations essentially separate the two arms of the policy, allowing different criteria for new changes of use or construction of new business premises which is seeking to direct them to the most accessible locations, which may be different to the criteria for resisting the loss of existing employment space.
88. In view of the role that the villages have in supporting the wider rural economy, I do not believe that it is a reasonable expectation to impose on a decision maker or an applicant, to decide whether the development will sustain and enhance the rural economy, especially as the occupiers of the premises may not be known at the time a planning application is made.
89. The policy particularly seeks to encourage businesses within the identified core areas in the centre of Newport. I have asked for and have been provided with a more accurate plan which identifies the properties to which the policy relates within

the core areas as the submission plan merely showed them defined as a trapezium. This is included below.



90. I consider that it is entirely appropriate for the policy to set criteria to justify the loss of such facilities. However, the extensions to permitted development rights could in time, undermine the objectives of the policy by taking such changes outside of planning control.

91. I did question the Steering Group, on how a decision maker would interpret the criterion involving assessing whether the need for the proposed use is greater than the need for the premise's continued use as an employment site. Their response suggested a scenario where the loss of an antique shop to residential would be deemed acceptable, but a change of use of a chemist, garage or village shop would not.

92. Notwithstanding the permitted development rights, I envisage that it would be difficult to interpret such a policy at development management stage, for example, if the premises were empty but its last use was perceived as a valued facility or that valued community facilities such as a chemist changed to another type of shop which fell within the same use class. I do not think that it is practical to distinguish between shops selling different items, as the basis for considering whether a change of use is permissible or not. I will be recommending that this criterion be deleted, as it could not be used with confidence to ascertain whether a planning application would be approved or refused.

Recommendations

Replace the policy with:

“New shops, service and business uses will be supported where they are of an appropriate scale for their location, especially if they are within walking or cycling distance of homes. They will be particularly encouraged to locate in the existing core areas of Newport as shown on Map 2.

The loss of shops, service uses and employment sites will be resisted unless it is demonstrated that they are not financially viable and it has been shown that there no significant demand for the premises, which will have been demonstrated by appropriate marketing of the premises for at least 12 months, including, for example, being widely advertised on site, in estate agents and in relevant newspapers, property and trade magazines and/or websites, where prospective users would be expected to search and be advertised at a realistic price reflecting the existing use.”

Replace Map 2 with the Map shown in paragraph 84.

Policy NQRBL2 Change of Use of Upper Floors

93. Again, the Steering Group needs to be conscious that the objectives of this policy could be undermined by permitted development rights under Part G of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), which allows changes of use of the building in A1 use to a mixed use comprising an A1 with up to 2 flats above.

94. I do not consider that the support should be conditional upon the conversion being shown to support the viability of the business part below. The introduction of small residential uses in the centre of the village, close to all facilities and the railway station should be considered an acceptable use, especially as the plan is seeking to encourage small residential units.

Recommendation

Delete “where the Local Plan viability test conditions for conversion of the whole building have not been met” and also delete the remainder of the sentence after “supported.”

Policy NQRBL3 Business Parking

95. I note that this policy seeks to support additional parking subject to it not harming the conservation area. I consider that the proposal also should have regard to the amenities of any residential properties in the vicinity.

96. The second part of the policy relates to “additional parking restrictions” being opposed. These are matters that would be covered by Traffic Regulations rather than by a planning application and comes under the remit of the Highway Authority rather than the Local Planning Authority. This is not a policy for the use and development of land to be used for the determination of the planning application. The wording is related to traffic management measures and the stance the Parish Council proposes to take on any proposed order. As such it does not meet the requirements of the legislation and I will be recommending that this part of the policy be deleted, although it could have been included in the plan as a “Recommendation”.

Recommendation

After “Conservation Areas” insert “or the residential amenities of adjacent properties” and then delete the remainder of the policy.

Policy NQRBL 4 High Speed Internet Connections

97. The requirement for a high-speed internet connection to the highest standards is not actually within the gift of the developer, rather, the provision of the connection is down to the telecommunications provider. What is a reasonable requirement, is that appropriate ducting and other infrastructure should be put in place so that a connection to the new premises, can be provided on behalf of the occupier. I note that the policy also applies to new housing and I will amend the policy to refer to both new residential premises. The speed of the connection is again the responsibility of the broadband supplier not the developer.

Recommendation

Replace the policy with “The development of new residential or business premises will be expected to include the installation of the necessary infrastructure and ducting to enable the delivery of high speed broadband to the property.”

Policy NQRAQ1 Air Quality Impact of Development Proposals

98. I appreciate that this is an important policy from the Steering Group’s perspective and it is clear that much work seeking to justify the policy has been put forward for my consideration. However, the policy and its accompanying policy, does impose onerous requirements which could be perceived, as some Regulation 16 comments suggest, that this is an anti-development mechanism. As mentioned earlier, I made a specific point of visiting Newport in a typical early morning rush hour situation and experience for myself the traffic conditions in Wicken Road, close to the junction with High Street and Bury Water Lane. That would have been at a time when car engines would be cold, which is the particular argument being advanced to justify the policy requirements in this valley location. I was able to compare the traffic volumes using the B1363, both around the 9 am peak and then at other quieter periods of the day.

99. My starting point is whether air quality is a matter for neighbourhood plans. The Planning Practice Guidance (Ref ID 32–003–20191101) states that air quality concerns can be relevant. It then goes on to emphasise that advice should be

taken from the local planning and environmental health teams, primarily as a source of expert advice on these matters.

100. It goes on to say that air quality is relevant to planning decisions if:
 - new development will have an adverse effect on air quality in areas where it is known to be poor, especially if it would affect the implementation of air quality strategies or breach legal obligations. This could be resulting from changes through vehicle related emissions, both in the immediate vicinity of the development or further afield.
 - the development is sensitive to poor air quality.
101. Beyond the advice in the PPG, Secretary of State policy on air quality is set out in paragraph 181 of the NPPF.

“Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.”
102. My consideration of this issue has to solely be on the basis of compliance with basic conditions which involves weighing local aspirations, as an expression of the localism agenda which goes to the heart of neighbourhood planning, against the statutory tests.
103. The adopted local plan policy regarding air quality as set out in Policy ENV13 is not helpful in terms of the basic conditions, as it has not been identified as a strategic policy by Uttlesford District Council. In any event that policy only relates to a zone either side of the M 11 and one other non-related location.
104. The withdrawn local plan had Policy ENV15 dealing with air quality which requires that development should not have an adverse effect on air quality in an Air Quality Management Area. It went on to require that development shall not lead to emissions or increases in exposure to pollution at or above health-based air quality objectives.
105. The draft policy required large developments, which require a Travel Plan and Transport Assessment/Statement, to prepare a site based Low Emission Strategy.
106. The assessment of air quality and its implication for policy making can be a highly technical topic and my consideration of this issue has to be guided by the professional advice, and I am, to a certain extent, reliant upon the District Council’s Environmental Health Officers, as expected by the previously mentioned Secretary of State advice (in paragraph 94 above).
107. They have confirmed that Newport, nor any other villages, does not have an Air Quality Management Area and the monitoring and the predictions, based on

committed developments are pointing to the fact that an AQMA will not be justified and current levels stand at 75% of EU limits.

108. In terms of the District Council's overall approach, the threshold where an Air Quality Statement is required, outside of an AQMA, is set at 75 dwellings, unless there are exceptional local circumstances. This compared to the figure of 10 that the neighbourhood plan is proposing.
109. The Environmental Health Officers have confirmed the air quality in Newport is not reaching levels which will have a significant adverse effect on health.
110. The Steering Group's case is based upon the specific topography of the Cam Valley and that development is likely to add standing traffic whilst engines are cold which would lead to the pooling of nitrogen dioxide in the valley bottom. I can understand this as an argument, but equally these factors would already be reflected in terms of existing air quality, which I have been told is not close to triggering AQMA designation status.
111. I have also had regard to the recent three recent appeal decisions for large residential developments in Newport, one for up to 150 dwellings and the second for 74 dwellings both of which would have been primarily accessed down Wicken Road onto the High Street. The Inspector, on the Countryside Properties scheme, south of Wicken Road, heard substantive technical evidence including submissions on behalf of the Parish Council submitted by Mr Mayle, which rehearsed the same arguments being advanced through the neighbourhood plan. The Inspector in his letter stated that whilst there was merit in the argument being put forward, he nevertheless concluded that the proposal "would not give rise to unacceptable levels of air quality to the extent that will be demonstrably harmful to human health". The Parish Council did not press the same arguments in terms of the Gladman Appeal.
112. The recent development appeal decision at the Joyce Frankland Academy also noted that the site is not an air quality management area and the Inspector referred to the Council's Environmental Health Officer's conclusions that air quality monitoring does not indicate that there is a particular problem. He felt that there was no substantive evidence presented to him that the development would be unacceptable on air quality grounds either individually or cumulatively with other development.
113. The District Council has published an Air Quality Technical Planning Guidance Note which gives comprehensive advice on the interface between planning and air quality across the district. That sets the threshold for Air Quality Impact Assessment at 75 dwellings, in areas which do not have an AQMA. It does have a threshold of 10 but that relates to development within a designated AQMA.
114. Having regard to the professional advice of the District Councils Environmental Health Officers who have a primary responsibility for monitoring and taking action in respect of air quality matters, the provisions of the policy in the emerging local plan and the national advice set out in both the NPPF and the PPG, as well as the conclusions reached by inspectors dealing with the type of development that would trigger this policy, I have concluded that this particular neighbourhood plan policy imposes an unnecessary and over onerous requirement on new

development, which is not justified on the basis of evidence and accordingly in my judgement does not meet the basic conditions.

Recommendation

That the policy be deleted

Policy NQRAQ2 Cumulative Impact of Development on Clean Air and Traffic Congestion

115. I remain unconvinced that the basic premise of this policy, that air quality and traffic congestion is so bad in the plan area, to warrant a policy that does not support “development of *any scale*... without consideration of the cumulative impact of related vehicle movements”. I have dealt with my assessment of the air quality thresholds in respect of the previous policy. I also do not consider that traffic conditions are so poor as to warrant a general presumption against new development. Again, the NPPF, in paragraph 109, states that “development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impact on the road network would be severe”. I am also conscious that Essex County Council has not objected to a number of the larger developments which have been justified on the basis of Transport Assessments. In this respect, I have taken into account the findings of the Newport Transport Study, as well as the recent appeal decisions.
116. I also consider the Steering Group’s policy with reference to travel plans and the weight to be given to them to be unconvincing, in that they state that they will only be a material consideration “if they alter modes of travel to more sustainable options for a significant number and distance of journeys.” The test of what is a material consideration, against which a development plan policy is weighed, is not a matter for a planning policy but is a matter that a decision maker must exercise in decision making.
117. Travel plans are encouraged by the Secretary of State who recommends them as a way of promoting sustainable development, which is one of the basic conditions and as the PPG states they should “set measures to promote and encourage sustainable travel (such as promoting walking and cycling)”. It goes on: “They should not however be used as an excuse for unfairly penalising drivers and cutting provisions for cars in the way that it is unsustainable and would have negative impacts in surrounding streets”. I believe that travel plans have a role beyond the consideration of air quality and traffic congestion. They have a role in encouraging sustainable modes of transport, reducing climate change and reducing the need for new development to increase road capacity. They are also supported by the Highway Authority as an effective means of reducing single person trips.
118. I again conclude that this policy does not meet basic conditions. It does not have regard to Secretary of State policy and guidance and could lead to unsustainable development. For example, if new homes are not built in a settlement which has the local facilities, such as a primary and secondary school, local shops and services, and a railway station, then these homes may have to be located in other, less sustainable locations, where residents will still be forced to drive to

Newport to make use of the same facilities that it offers to the wider rural area and therefore will contribute to the very issues that the neighbourhood plan is seeking to address. In fact, new development within walking distance and cycling distance of these local facilities could lead to less traffic than would be generated by development in other locations within the catchment area of the Newport facilities.

119. I will recommend that the policy be deleted.

Recommendation

That the policy be deleted.

Policy NQRGSE1 Discharges into Watercourses

120. The Parish Council has confirmed that this policy relates to surface water discharges. Where development is required to incorporate Sustainable Urban Drainage Systems (SUDS), there should be a requirement that the scheme deals with *any increase* in run-off above greenfield run-off rates, which will already be entering the water courses, once the ground is saturated.

121. Part of the national guidance prepared by the Department for Environment Food and Rural Affairs on Sustainable Urban Drainage Systems states, in paragraph S6, that "where it is not reasonably practical to constrain run-off to any drain, sewer or surface water body... run-off volume *must be discharged at a rate that does not adversely affect flood risk*". The policy needs to be clarified to recognise the fact that it is *the increase* in run-off which results from the development that must be mitigated, so as not to worsen the risk of flooding.

Recommendations

Retitle policy Surface Water Discharges into Watercourses.

Delete the first paragraph.

Replace "new water discharges or run offs of water" with "increases in surface water run off".

Policy NQRGSE2 Locally supplied evidence of flood risk

122. There needs to be a strong degree of certainty when identifying land at risk of flooding. That is why the national guidance refers to the Environment Agency Flood Maps, which are the starting point for any flood risk assessment. These maps are supplemented by other sources of information, based on actual flood events, such as the Strategic Flood Risk Assessment and the Surface Water Management Plans, where made. It is important that flood constraints are known and identified in advance, when developments are being initially considered, with possibly land being purchased, schemes designed etc. rather than only once a planning application has been submitted, with possibly contradictory information only emerging when the application is actually being considered.

123. There is absolutely nothing that prevents locally supplied evidence, which may not have been available when the flooding maps were being prepared, being considered and tested/ accepted as a material consideration at the planning application stage.

124. But the weighing up of any material matters or consideration, is an important part of the decision-making process, which can test a submitted Flood Risk Report of the Examination of the Newport Quendon and Rickling Neighbourhood 24 Plan

Assessment against locally provided information. But a decision needs to be based on more than anecdotal statements submitted by residents, who may have a vested interest in opposing a development and the information should be evidentially based.

125. I do not consider a planning policy should be stipulating whether weight is to be given to be to representations, but rather the weighing up of material considerations is better left to the development management process. The expectation as to the role of a planning policy is really about how decisions are determined, rather than how an application is to be considered in a planning officer's report, which is a procedural matter. As such I do not consider it meets the definition of being a policy for the development and use of land and I will recommend that the policy be deleted.

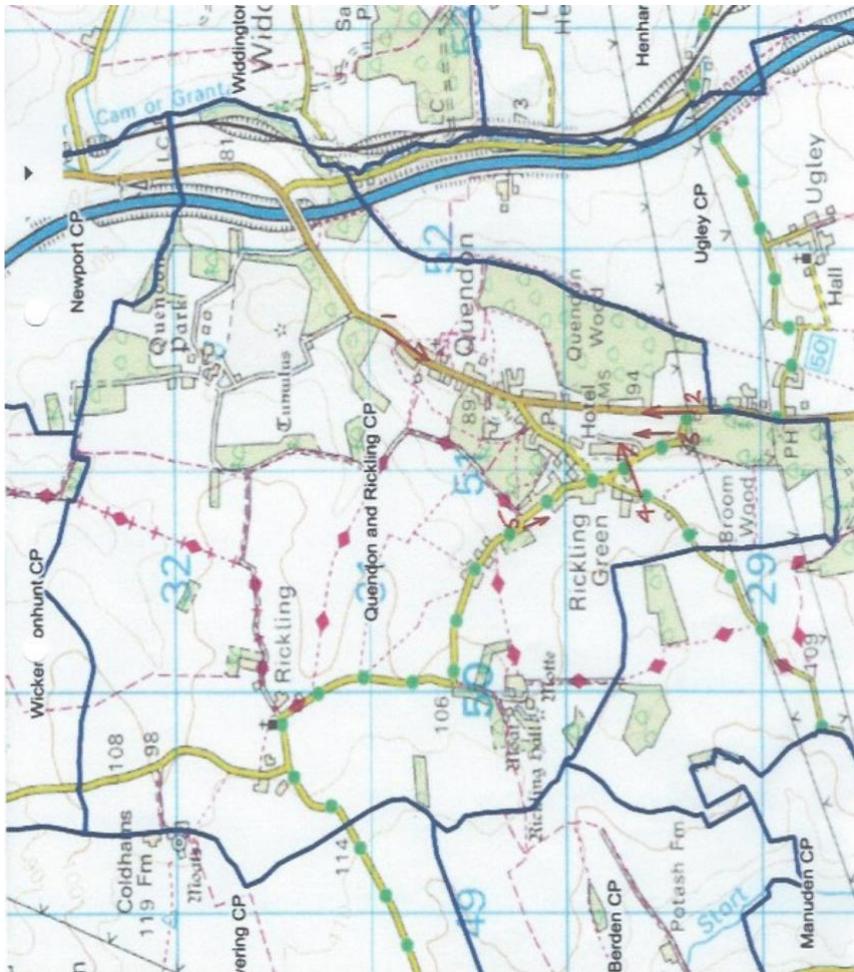
Recommendation

That the policy be deleted.

Policy NQRGSE3 Footpaths and access to the countryside

126. The requirements of this policy apply *to new development*, irrespective of the size or type of development, or its location with regard to the footpath network. Therefore, I propose to amend the wording of the first paragraph so that applies to appropriate new residential development adjacent to the public rights of way network.
127. I agree that creating new links offers an important opportunity to enable new residents to be able to access the countryside and promote a healthy community. I also consider that it is appropriate to encourage enhancements to the existing network from development such as improvements to servicing and signage that would be in line with the objectives set out in NPPF paragraph 98. These obligations will have to meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations or may more appropriately be covered by future Community Infrastructure Levy receipts.
128. In terms of the issue of rural views, I saw for myself the importance of the relationship between the respective villages and the surrounding countryside and this will be an important consideration for any new development that is going to take place on the edge of the settlements. The views from the footpath network will be one of the main ways that residents can appreciate that relationship. The importance of the countryside context to these settlements is already set out in Local Plan Policy GEN3.
129. I was able to appreciate for myself the importance of particular landmarks, such as the Newport Parish Church, St Mary the Virgin, but these are also important viewpoints from other public areas such as the roads approaching the village of Newport. However, the policy is entitled as *Footpaths and Access to the Countryside* and I consider that the policy would be easier to use in a development management context, if the submitted policy was split into two, one covering rights of way and then create a new policy entitled *Protection of Locally Important Views*, which can then cover all the identified sites, some of which do not sit on or alongside footpaths.

130. I am generally satisfied that the views shown on Maps 16 and 17 are all valued viewpoints, (and that this is a matter that I consider should be left to local determination notwithstanding the comments made by Gladman Developments) which need to be taken into consideration when development proposals are being considered. I did have initial concerns about the direction of a number of viewpoints on Map 17 and I received a revised drawing which is shown below which should be inserted in its place.



131. It is not appropriate for decision-makers to have to refer to online documents, on a neighbourhood plan website, where there is no guarantee that it will be maintained over the lifetime of the plan. This information contained in Appendix 11 should be embedded in the actual neighbourhood plan document with photographs demonstrating the views to be protected.

132. The policy refers to an *adverse* impact on views, but to ensure that sustainable development is not necessarily frustrated, I will introduce a caveat that recognises that adverse impacts can be satisfactorily mitigated. It is important that a decision maker should know which are the specific views that are particularly valued locally and it would create uncertainty if additional views were to be covered by the provisions of, that policy introduced, at application stage, which would be the case if the policy included wording “such as those shown on Maps 16 and 17”.

133. The issue of the acceptability of any footpath diversions is not a matter that would be part of the determination of any planning application as the status of any

routes as rights of way will not be determined by the determination of the planning application. These are matters that are covered by their own rights-of-way processes, normally only after planning permission has been granted, either under the terms of the Town and Country Planning Act or the Countryside and Rights-of-Way Act and this information should be moved to the supporting text.

Recommendations

Replace the first paragraph with “New development, which is located close to, or adjacent to the existing rights of way network will be expected, where practicable, to provide footpath links between the development and the right of way network. Improvements to the surfaces and signage of existing footpaths will be encouraged.”

Delete the final paragraph of the policy.

Insert a new Policy Heading (with an appropriate policy number and renumber accordingly other policies if necessary) “The Protection of Locally Important Views”

Replace the second paragraph with “Development resulting in an adverse impact on the locally valued views, shown on Maps 16 and 17 will not be supported unless that impact is adequately mitigated.”

Replace Map 17 with the map shown in paragraph 123 and integrate the text and pictures shown in Appendices 10 and 11 of the evidence base, into the neighbourhood plan document but refer to the views as “Locally Important Views” rather than “Views with a Low Capacity to Change”.

Policy NQREH1 General Practice

134. I have no comments on this policy which supports the expansion of the primary care facilities to be able to expand to match the increased population that will have to be served. The policy meets basic conditions.

Policy NQREH2 Primary School Places

135. This policy seeks to limit the supply of new homes in the plan area until there is confirmation that there is capacity “at the nearest primary school”.

136. The NPPF in paragraph 94, stresses that there should be a “sufficient choice of school places to serve existing and new communities and urges LPAs to work proactively, positively and collaboratively to widen the choice in education. That includes placing great weight on the need to create, expand or alter schools through plans and planning application decisions”.

137. This policy goes beyond the remit of being a policy for the development and use of land to a school admission policy, which is not a matter for the Parish Council, or indeed the local planning authority. The Education Authority and the school providers have a role in administering school admission policy. This is the point made by Essex County Council in its Regulation 16 response.

138. I consider that if it can be shown that a new development increases the need for school places, and there is no capacity to accommodate these children, when the houses are first occupied, then it is appropriate for the developers to be

expected to fund the provision of such spaces upon the commencement of the development

139. I note from the recent planning appeals that arrangements are already in place to secure funding for additional school places as part of the agreed planning obligations. It may be that the expansion of school places will be funded by future CIL payments, which is its purpose, by pooling contributions to provide the infrastructure generated by the development in an area. This can be a more equitable situation, if residents from outside the plan area are also attending schools in the plan area, who may not have such a policy where development may not be contributing. This will be a matter that the District Council will have to decide, when it prepares its Infrastructure Funding Statement, which identifies the type of projects the CIL will cover and the infrastructure which will continue to be funded by Section 106 payments.
140. My view is that the basis for calculating the number of school places should not be enshrined in a planning policy, but rather should be a matter that is determined at the development management stage. It needs to be a more flexible response and also a more sophisticated basis for determining school places. For example, the number of school places generated will, in my experience, vary between a one bed unit and a five-bed house, similarly there is a difference in the number of education places required, when comparing market and affordable housing.
141. I will be recommending the policy be deleted as it extends the existing policy into areas which are not related to the use and development of land

Recommendation

That the policy be deleted

Policy NQRHA1 Coherence of the villages

142. There is an element of contradiction in the first paragraph. Not only is it a justification for having the policy i.e. to address the impact of the linear layout of Newport, it refers to the maximum distance from the development site to a range of services. However, if sites are within the settlement's development limit, then the overall presumption will be in favour of development, irrespective of the distance from the services and the fact that its location may encourage persons to drive does not override that policy presumption. As such it would not be in general conformity with strategic policy allowing development within development limits.
143. Whilst using such accessibility criteria may be helpful, when choosing to *allocate* sites, it should not be used as a material consideration when considering the acceptability of development within the settlement boundary.
144. I have no issues with the first criteria which will deliver sustainable development. The second and third criteria cover the same areas, namely to presume against development beyond the development limits. The second criteria could be used to prevent the delivery of affordable housing on exception sites on the edge of the settlement.
145. The extent of activities allowable by the policy, in a countryside location is more restrictive than is currently allowable under national policy and this will impact the basic condition test. Secretary of State policy, for example, allows for the Report of the Examination of the Newport Quendon and Rickling Neighbourhood 28 Plan

conversion of existing rural buildings and the construction of well-designed new buildings for business use, as set out in paragraph 83 and 84 of the NPPF. National policy also allows for the conversion of redundant or disused buildings and homes where the design is of an exceptional quality in a countryside location. I have seen no justification for taking a more restrictive approach in the plan area.

146. In terms of the structure of the policy, I will recommend, for the sake of clarity, that the three exceptions to the countryside policies be indented. I will also remove, in terms of the infill policy, the reference to only being acceptable in the instance of “*significant* existing clusters of development”, as what constitutes “*significant*” is not defined and is somewhat vague, resulting in ambiguity as to whether proposals would be supportable under this policy.
147. In terms of the rural exception sites, the Secretary of State acknowledges that in some cases, a limited amount of market housing may be required to ensure the viability of the scheme to be able to deliver affordable housing (as set out in paragraph 77 of the NPPF).
148. Reference to the “developments limits maps” should be amended, as suggested by Uttlesford DC, to now refer to Maps 13 and 14.

Recommendation

Delete the first paragraph and the second paragraph

Delete the second bullet point

In the third bullet point replace “(see maps section)” with “(see maps 13 and 14)”

In bullet point 5, delete “significant”

At the end of the sixth bullet insert “including some market housing necessary to secure the viable delivery of the affordable homes”

Indent bullet points 4- 6 and insert the following bullet points

- ***Residential conversion of redundant or disused rural buildings, which will enhance their setting***
- ***Subdivision of an existing dwelling***
- ***Construction of new houses of exceptional design meeting the criteria set in paragraph 79e) of the NPPF***
- ***Conversion of existing buildings and the erection of well-designed new buildings for business uses.***

Policy NQRHA2 – Buildings on Brownfield Sites

149. The Secretary of State’s approach to the development of previously developed sites is that “strategic policies should set out a clear strategy for accommodating objectively assessed need in a way that makes as good use as possible of previously developed land or brownfield sites.” It does not state, nor does local plan policy, that brownfield sites should be developed before greenfield site development.
150. Ironically the two examples quoted in the policy, as being brownfield sites, namely redundant quarries and glasshouses, do not actually fall within the definition of “previously developed land” as set out in the Glossary to the NPPF.
151. This policy is not in line with national or local planning policy, in that it would allow inappropriate development in unsustainable locations in the countryside.

Recommendation

The policy be deleted.

Policy NQRHA3 – Connection with the Countryside

152. This policy rules out all forms of development in two specific locations. These two areas are already protected from inappropriate development, as they fall outside the development limits and are covered by countryside protection policy. As worded, the policy would presume against the construction of buildings and structure necessary for the agricultural use of this land.
153. I consider that it is for the District Council and the new local plan making process, to decide whether it needs to identify additional broad locations of any new development in Newport. It will need to determine whether it continues to proceed with the existing spatial strategy and/or review housing requirements to be met in market town and key villages as suggested by the inspectors. These are strategic policy matters which lie outside the scope of a neighbourhood plan.
154. Nevertheless, I appreciate the importance of retaining the relationship of the villages with their countryside setting. Yet it could be argued that having regard to the Neighbourhood Plan's accessibility criteria being advanced in Policy NQRHA1 that these are both sustainable locations as they lie within the prescribed walking distance of local facilities.
155. I am conscious the LPA will have to make difficult decisions in terms of demonstrating how it is to meet its objectively assessed housing need across Uttlesford. I consider that for the development plan to offer particular protection to these specific areas of land would at this time be premature and could close off the opportunity to meet housing need in locations, where people can be within walking distance of local facilities which is one of the aspects that could deliver sustainable development. Once these matters have been resolved at a strategic planning level then the on-going protection could be addressed in a future review of this local plan.
156. Not only are the two areas already protected by Policy NQRHA1 but also Local Plan Policy S7. In respect of the land north of Wicken Road, I am very conscious that planning permission has recently been refused at appeal (APP/C1570/W/19/322 3694). The inspector concluded that the site had a high landscape sensitivity to change.
157. Rather than completely deleting the policy I will be adopting the wording put forward by Lichfields in their Regulation 16 representation, which builds on existing local plan policy regarding the visual connection with the countryside

Recommendation

Replace the policy with “proposed development must be sensitive to the setting of Newport within the surrounding countryside. The design and layout of any new development must take into account existing views into and from the countryside and ensure that the visual connection to the countryside is not lost.”

Policy NQRHA4 – Buildings in the Countryside

158. The neighbourhood plan period extends until 2033 whilst the policy requires applicants to have to refer to assessments which were carried out in 2003 and 2007. These studies may need to be updated during the plan period, as could/should the Conservation Area Management Appraisal. Certainly, the development of Wicken Lea has changed the landscape setting to the west of Newport. I consider that it is not necessary for the policy to have to refer to particular assessments, but rather reference could be made in the supporting text to the most up-to-date landscape character assessment and conservation area management appraisals. It may be that the District Council will need to revisit landscape studies, as it moves forward on the local plan in the light of the Inspectors' conclusions. This is a point highlighted by Sworders in their representations.
159. Turning to the specifics of the policy, it deals positively with the integration of development into the landscape. The justification of the policy is that the policy is based on the emerging local plan. It has, however, been amended to make it locally distinctive to the plan area. I do think that the threshold of there being "no material harm" is too restrictive and I will substitute the wording that development should "preserve and enhance" as used in the emerging local plan, in the context of the landscape and historic settlement pattern.
160. The final "additional element" merely duplicates existing policy, which is specifically contrary to Secretary of State advice.

Recommendation

Delete the first two paragraphs including the three bullet points.

In the third bullet point replace "No material harm is caused to" with "The development protects and enhances"

In the fourth bullet point replace "No material harm is caused to" with "The development protects and enhances"

In the fifth bullet point replace "No material harm is caused to" with "The development protects and enhances"

Delete the final paragraph and bullet point

Policy NQRHA6 Foxley House, Quendon

161. I note, as a purely editorial comment, that there is no Policy NQRHA5 and the Steering Group may wish to revisit the numbering of this set of policies.
162. The first paragraph is again a policy justification, not a statement of planning policy and should be moved to the supporting text.
163. As previously mentioned the policy includes a hyper link but there is no guarantee that the document will remain available on the website for the duration of the plan period. It does not actually add to the policy.
164. The policy requires the access to be to the satisfaction of the Parish Council. The access arrangements need to be approved by the LPA, if necessary in consultation with the Highway Authority. The Parish Council is merely a consultee in the development management process. It would be an untenable situation for the District Council to be restricted from determining an application as it sees fit,

on the basis that the Parish Council was not satisfied with the access arrangements.

165. I understand that permission has been granted and the Parish Council is content with its access arrangements, but until it is implemented there is a value in retaining the policy, in case a revised planning application were to be submitted.

Recommendations

Delete the first paragraph and the second sentence of the second paragraph. Replace the third bullet point with “Vehicular access should be from Bluebell Drive.”

Policy NQRHD1 Parking Standards

166. The policy requires compliance with parking standards imposed in three other named documents. I consider that it would be more appropriate, bearing in mind that these may change over the lifetime of the plan, to refer “to the up-to-date relevant parking standards currently in force in Uttlesford District”. It would cause uncertainty for applicants to have to comply with separate parking requirements especially with the withdrawal of UDC ELP policy D2.

Recommendations

Replace all the text in the first paragraph with “up to date relevant parking standards currently in force in Uttlesford district”.

Policy NQRHD2 Housing Design

167. The planning policy, through the use of the term “must”, imposes an obligation on every planning application that is submitted in the plan area, to meet the 5 criteria, irrespective of the type of application e.g. a change of use is a development, or irrespective of the location the construction of a conservatory or the installation of an ATM. In some circumstances, it may not be possible for the development “to make a positive contribution to the distinctive character of the village(s) as a whole”. There are some locations within the plan area that are not within a conservation area, equally there are sites within the Newport High Street which have no visual relationship with the countryside. This ambiguity can be resolved by only requiring compliance “where it is appropriate”.
168. The policy in the final paragraph requires “planning applications of all sizes” to demonstrate compliance with the Essex Design Guide. There was a period when all planning applications had to submit material describing the design process and how the design is a suitable response to the site and its setting, for example reflecting site constraints, surrounding development etc. These are known as a Design and Access Statements. That requirement now is only triggered by development within a conservation area or for “major schemes” i.e. residential schemes of more than 10 units. I consider the policy can impose this requirement, but only in those cases who are required to submit such a Statement. In other cases, then reference to the Essex Design Guide should be “encouraged”.
169. I do not consider that the test should be showing how they “comply” with the Design Guide as it is effectively a set of principles. I consider the obligation should

be to show how they have “had regard” to the Essex Design Guide. That equally is the view held by the District Council.

170. The section of the policy dealing with density, is somewhat vague, when it refers to “density may be to the top end of the UDC density range of 50 per hectare”. It would be unclear whether a scheme of 49 would be permissible. To provide clarity, I recommend that the policy should refer to density within the development limits, being in the range 30 to 50 dwellings per hectare.
171. The draft local plan proposes the same density range for development outside the settlement boundary, but adjacent to it. The neighbourhood plan is proposing “a maximum of 20 per hectare”. If, for example, a rural exception site came forward adjacent to the development boundary, I cannot see a justification for imposing a lower density of development, merely on the basis of it extending across a notional boundary. That could lead to an inefficient use of a site, and in fact, could require more countryside being given over to development, to secure the same number of units built at the lower density or alternatively, the unforeseen implications would be that it would encourage the building of bigger houses, as density only relates to the total number of dwellings rather than the size of the dwelling. In coming to this conclusion, I am aware of the appeal decision of the scheme at Bricketts, but that does not change my recommendation.
172. In view of the restrictions on development outside the settlement limits, development on larger sites should only come forward if land is allocated in the future local plan for development. Once allocated then I should consider that it should be developed in the most efficient way. In other circumstances, away from development boundaries if residential development is considered acceptable, then the 20 dwelling per acre maximum, will be appropriate. However there needs to be flexibility, as some schemes such as the conversion of redundant rural buildings may lend themselves to smaller units, rather than larger homes.

Recommendations

In the first paragraph, replace “must” with “will be expected to” and at the end of the sentence insert “, and where it is appropriate”.

Replace the final paragraph with “Design and Access Statements will be expected to show how the scheme has had regard to the Essex Design Guide. Other applications are also encouraged to show how they also have had regard to the principles set out in the Guide”

Under the heading “Densities” replace “particularly in village centres, housing densities may be to the top end of the UDC density range of 50 per hectare” with “and adjacent to the settlement boundaries, housing density should be in the range of 30 – 50 dwellings per hectare”

At the end of the second sentence insert “unless a departure is justified on the basis of the particular characteristics of the scheme”

Policy NQRHD3 Use of Specimen Trees

173. Again, this policy covers *all* new developments. I consider that there will be some developments where it is not appropriate because of the nature of the land use or

form of development. That is covered by the caveat “wherever possible” to which I will add “and appropriate to the nature, form and layout of the development”.

174. The reference to suitable species being included in the Essex Design Guide is not a statement of planning policy and should be moved to the supporting text.

Recommendations

After “wherever possible” add “and appropriate having regard to the nature, form and layout of the development”

Delete the final sentence.

Policy NQRHD4 House Sizes

175. In the first paragraph, the policy requires a mix of house types and **size** and then, at the end, repeats that requirement “including a full range of house **sizes**”. I find that the second part of the first sentence is an unnecessary duplication and should be removed.
176. The policy seeks to support 15% of affordable housing being one bed units. The mix of affordable housing should be directly driven by the housing needs of the area and in that particular, the specific needs of those whose needs cannot be met by market housing.
177. It is of note that the post-2018 definition of affordable housing now includes affordable rent, starter homes, discounted market sales and as well as shared ownership etc. The tenure mix should be based not on just local demand but also on local housing need and this can change during the lifespan of the plan. I will therefore recommend that the specific requirements set out in the second paragraph be removed, as being too prescriptive.

Recommendations

In the first paragraph delete the remainder of the sentence after “whole”.

Delete the second paragraph.

In the final paragraph replace “in greatest demand” with “having regard to local housing need and indications of market demand. They will also be expected to demonstrate how the house sizes are meeting that need and demand”.

Delete the final sentence.

Policy NQRHD5 Social Homes and Local Connection

178. This is a policy which seeks to govern how social homes are allocated. These are matters that fall under the jurisdiction of the Housing Authority rather than the Local Planning Authority. As such it is not a policy for the development and use of land and accordingly I will be recommending that the policy be deleted.

Recommendation

The policy be deleted.

Policy NQRHD6 Affordable Housing

179. The policy requires on-site provision whilst the draft local plan would have allowed for offsite provision and/or commuted sums in exceptional circumstances. As the adopted local plan refers to on-site provision, I do not feel

justified in requiring an amendment to allow offsite provision or financial commuted sums. However, I understand that there have been issues in the past of affordable housing requirements being avoided by artificially subdividing housing sites. I am therefore persuaded to recommend the addition of a paragraph, which had formed part of the emerging local plan to address this issue.

Recommendation

Insert the following paragraph at the end of the policy

“Developers may not circumvent this policy by artificially subdividing sites. Where sites are subdivided, the Council will normally expect a subdivision or smaller development to contribute proportionately towards achieving the amount of affordable housing which would have been appropriate on the whole or larger site”

Policy NQRTR1 Extension of Speed Limits and Footways

180. The need for additional pedestrian routes will be ordinarily a matter that is identified as part of an application’s transport assessment. There can be developments that take place outside the development limits, such as the conversion of farm buildings or new rural worker housing where it would not be appropriate or indeed viable to require a pavement to be constructed along rural lanes, which would not be justified by the number of pedestrians likely to be generated and which could have made it detrimental urbanising effect on the countryside. The policy needs to relate to the provision of pedestrian links “where justified, appropriate and deliverable”.
181. In my experience, where the acceptability of the development is dependent upon securing a speed limit, that would be a matter covered by a separate agreement under highways legislation. These agreements can include provision for the funding and implementation of Traffic Regulation Orders. These are separate from planning applications, and will be subject to the Highways Authority’s own policies for introducing speed limits. These matters fall outside the remit of the local planning authority and accordingly I would recommend reference to speed limits be deleted from the policy.

Recommendations

Retitle policy “Extension of footways”

Replace the policy with “Where development outside development limits is considered acceptable, the development will be expected to provide or fund where it is justified, appropriate and deliverable safe footways connecting to the nearest settlement. These may be alongside roads, or preferably on the inside of developments, connecting to existing footways.”

Policy NQRTR2 Mitigation of Traffic Impacts

182. Applicants can only be required to make financial contributions where the obligation meets three specific criteria. These criteria are set out in Regulations 122 of the Community Infrastructure Levy Regulations 2010 and also reflected in Paragraph 56 of the NPPF namely that the contribution: -

- is necessary to make the development acceptable in planning terms
 - is directly related to the development
 - is fairly and reasonably related in scale and kind to the development.
183. The policy is expressed of addressing the impact of traffic, congestion and air quality, but no information was submitted with the policy identifying any specific measures that the contributions would be directed towards.
184. I am not satisfied that such a general policy, which is directed at “*developers*”, irrespective of the scale and type of development or how it will impact upon the matters that contributions are to be sought has been properly justified. Whilst there may be traffic mitigation works required for a particular development that meets the 3 statutory tests, then these can continue to be sought, but I am not satisfied that there is justification for a policy that requires contributions from *all* developers to fund unspecified projects which may not be related to that actual development. Such payments would not meet the legal tests.
185. I am given to understand that Uttlesford District Council is still committed to the introduction of a Community Infrastructure Levy Scheme, which will allow developer funding to be secured from all types of development and this will enable the Parish Council to allocate some of its 25% receipts to such measures. These payments have more flexibility in terms of how they can be spent and are not subject to the above statutory tests. It is not possible to collect money via a Section 106 agreement and also seek CIL funding.

Recommendation

That the policy be deleted.

Policy NQRTR3 Safe Access to Schools and Village Facilities

186. I fully appreciate the objectives of policy, but again the policy is expressed in terms of “*all new development* should provide safe, convenient internal footways and cycle paths”. Such requirements will not be appropriate for most development. I will propose a form of wording to ensure that these are only sought “where justified by the nature of the development” and also make it explicit that the routes are only to be provided within the land under the control of the applicant or public highway so as to enable connection of the internal routes with existing networks. Some of the policy wording is not actual policy but the justification for the policy which can be moved to the supporting text.

Recommendation

Delete all text prior to “all new development” and insert “Where justified by the nature of the proposal,” and at the end insert “on land within the development site or under the control of the Highway Authority”.

Policy NQRSL1 Retaining and Enhancing Community Facilities

187. I have no comments to make on this policy.

Policy NQRSL2 Financial Contributions from Development

188. Again, this policy covers “each development” even though the policy relates to a need to fund additional sports and leisure facilities within or close to the parishes.

The plan describes these being sought through a “Sports and Leisure Services Levy” or a Section 106 contributions. I recognise that new residential development can justify enhancements to the parishes leisure facilities, but any contribution under a planning obligation must be shown to meet the three tests. There is no mechanism for collecting moneys under a separate levy other than via a planning obligation.

189. However, the future introduction of the Community Infrastructure Levy, is still a material consideration and is, I believe, a more appropriate mechanism for collecting funding which can be used for such purposes. In the meantime, I will retain a policy basis for negotiating developer contributions. I am not able to recommend a specific formula approach as it will not have been subject to viability testing as required by Secretary of State guidance. I believe that such contributions are only justified in respect of any net gain in residential units and where it meets the 3 legal tests for planning obligations. If CIL is introduced then this policy would not be appropriate as it would involve an element of double payment.

Recommendation

Replace the policy with “Where it can be shown to meet the legal tests set out in Regulation 122 of the Community Infrastructure Regulations 2010, financial contributions will be sought from any net additional new housing units through a planning obligation to fund additional sport and leisure facilities with the parishes, unless any funding is provided by the introduction of a Community Infrastructure Levy Scheme.”

Policy NQRSL3 Provision of Amenity Space and Ballgames

190. I have no issues relating to the intention of this policy. However, the support should be caveated that the facilities are provided in appropriate locations, for example, having regard to protecting the amenities of local residents.

Recommendation

Add at the end of the policy “in appropriate locations having regard to the residential amenities of nearby residents”.

Policy NQRSL4 Retention of Sports Fields

191. Whilst I support the intention of the policy, for the sake of clarity, I consider it is important that the extent of the sports fields which are to be covered by the policy are shown on the map and I will recommend that that map should be referred to in the policy.

Recommendation

After “sports fields” insert “as shown on Map X”

Prepare and insert a map of all sports fields within the plan area

The Referendum Area

192. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Newport Quendon and Rickling Neighbourhood Plan as designated by Uttlesford District Council on 4th February 2014, is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

Summary

193. I congratulate Newport Parish Council and Quendon and Rickling Parish Council for working together and seizing the opportunities presented by neighbourhood planning to allow the community to prepare its planning policies.

194. All three settlements are attractive historic villages, Newport has a fine Conservation Area. All are set in the beautiful Essex countryside.

195. I know that the Steering Group will be disappointed with my conclusions, especially with the policies that I have had to recommend be deleted, but I have to be candid and state that without their removal, I would not have been able to recommend that the neighbourhood plan should proceed further forward. I have chosen the route of modification and removing specific policies, rather than deciding that the plan as a whole should not proceed.

196. I anticipate that planning in Uttlesford will remain in a state of some flux for the next year or so, as the ramifications of the Inspectors' conclusions and the subsequent withdrawal of the Local Plan will have to be worked through and I suspect some difficult decisions will have to be taken at a strategic planning level. The Parish Councils will, I know, wish to be fully engaged in that process.

197. However, I suspect that Newport's particular role in the settlement hierarchy will not change and that with its range of facilities will continue to be regarded as a sustainable location alongside other key villages to contribute to meeting the need for new homes in the district, notwithstanding the scale of growth that has occurred since 2011.

198. The promised introduction of CIL will allow development to contribute to the additional infrastructure that it will generate and the neighbourhood plan through its remaining policies will still be able to influence new development across the two parishes.

199. To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.

200. I am therefore delighted to recommend to Uttlesford District Council that the Newport Quendon and Rickling Parish Neighbourhood Plan, as modified by my recommendations, should proceed in due course to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI
John Slater Planning Ltd
27th May 2020