

Uttlesford District Council

# **Saffron Walden Neighbourhood Plan 2021-2036**

## **Independent Examiner's Report**

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28 April 2022

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## Summary

I have been appointed as the independent examiner of the Saffron Walden Neighbourhood Development Plan. The Plan covers the town of Saffron Walden and the hamlet of Little Walden. Saffron Walden is the larger of two market towns within Uttlesford District and acts as the area's administrative and commercial centre. With a wealth of historic buildings, this market town is well preserved, set in a valley.

The Plan has a clear vision and is supported by well-articulated objectives. It contains 32 policies covering a wide range of topics and has been ambitious in its aspirations and desire to plan the market town's future.

It has been necessary to recommend a large number of modifications including the deletion of a number of policies. These include the site allocations policies SW1 and SW3. Whilst this will come as disappointing news to those involved in the production of the Plan, there are no fatal flaws in the Plan's production which mean the Plan, as modified, cannot proceed to referendum. However, in my view, the number and scope of some of the modifications recommended significantly changed the submitted Plan. As a result, I advised that a short period of consultation be undertaken on the significant modifications in accordance with the NPIERS Guidance to Service Users and Examiners.

In the main the modifications have been made because the evidence base sitting behind the policies is limited or lacking in some way and / or the policy does not meet the basic conditions in other ways, for example it lacks the necessary clarity and precision to provide a practical framework for decision-making. I have set out my detailed reasoning under individual policies.

I appreciate that some of the modifications will come as a disappointment to those involved in the preparation of the Plan and be frustrating. I can see much work has been put into the production of the Plan over a long time period; in many ways it is an ambitious and comprehensive document. It has a good range of, and many, policies that will guide development in the area and be valuable.

Subject to my recommendations being accepted, my overall conclusion is that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend to Uttlesford District Council that the Saffron Walden Neighbourhood Development Plan, as modified by my recommendations, can go forward to a referendum.

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

Ann Skippers MRTPI  
Ann Skippers Planning  
28 April 2022



## 1.0 Introduction

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

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

I have been appointed by Uttlesford District Council (UDC) with the agreement of the Town Council (TC), to undertake this independent examination.

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

## 2.0 The role of the independent examiner

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

The basic conditions<sup>1</sup> are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, retained European Union (EU) obligations<sup>2</sup>
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

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

<sup>2</sup> Substituted by the Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018/1232 which came into force on 31 December 2020

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to in the paragraph above. Only one is applicable to neighbourhood plans and was brought into effect on 28 December 2018.<sup>3</sup> It states that:

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

The examiner is also required to check<sup>4</sup> whether the neighbourhood plan:

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

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.<sup>5</sup>

The examiner must then make one of the following recommendations:

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

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

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

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<sup>3</sup> Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

<sup>4</sup> Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

<sup>5</sup> The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

### 3.0 The examination process

I have set out my remit in the previous section. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).<sup>6</sup>

PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.<sup>7</sup> Some representations suggest additions or amendments to policies or even new policies. Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further amendments or additions are required. It is not my role to rewrite the plan or to produce an alternative one except where this arises as a result of my recommended modifications to ensure that the plan meets the basic conditions and the other requirements I am obliged to examine.

PPG<sup>8</sup> explains that it is expected that the examination will not include a public hearing. Rather the examiner should reach a view by considering written representations. Where an examiner considers it necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case, then a hearing must be held.<sup>9</sup> I consider that all parties have had satisfactory opportunity to state their case.

I sent a Note of Interim Findings with Questions of Clarification (Note 1) to the TC and UDC on 5 October 2021. Note 1 is included as Appendix 2 to this report. In Note 1, I explained that I had identified a number of matters which I considered would significantly change the Plan as produced by the TC on behalf of the local community. I explained what these matters were and gave the TC an opportunity to consider whether they wished me to progress the examination or whether they wished to withdraw the Plan from examination so that these matters could be considered and remedied. The TC asked me to continue with the examination.

As part of Note 1, I also raised some questions of clarification. These were queries that were able to be dealt with by a simple exchange of written material between UDC, the TC and I. The answers received to these queries (all publicly available) have enabled me to examine the Plan without the need to hold a hearing.

In 2018, the Neighbourhood Planning Independent Examiner Referral Service (NPIERS) published guidance to service users and examiners. Paragraph 2.12.6 of that guidance explains that examiners will not generally refer back to the parties on detailed revisions. However, where a modification is considered to be significant by the examiner there is a reasonable expectation that a description of the intended modification will be

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<sup>6</sup> PPG para 055 ref id 41-055-20180222

<sup>7</sup> Ibid

<sup>8</sup> Ibid para 056 ref id 41-056-20180222

<sup>9</sup> Ibid

publicised on the local planning authority's website, seeking comments, prior to recommending the change.

The guidance also explains that such changes can lead to concerns over community ownership as extensive modification may mean that the Plan is very different to that submitted by the community.

As I had already indicated that, in my view, some of the modifications I was likely to make were significant and changed the Plan significantly and as the TC had requested I continue with the examination, in accordance with the guidance, I asked UDC to organise a period of publicity. This correspondence is found in Appendix 3 and is Note 2 with further clarification provided in another note, Note 3 which can be found in Appendix 4 to this report. The guidance recommends that the description of the intended modifications are publicised on the local planning authority's website. I asked for this to be publicised for two weeks and invited comments during this period. UDC organised this consultation on the significant modifications between 1 – 21 March 2022.

This resulted in 55 responses. Many of these were auto-responses or out of office responses and I am grateful to UDC for sifting these responses from those making specific comments.

Some of those responses refer to a lack of transparency about the other modifications to be made. The NPIERS guidance is clear that the decision about whether or not a modification is significant lies with the examiner. Unless there are significant modifications, there is usually no consultation about the proposed modifications with any party. The consultation for significant modifications is also only suggested in guidance. However, I can see that the approach I took, particularly in relation to Policies SW24 and SW27 could have resulted in confusion and in retrospect I could have added a note to indicate that consequential amendments would be needed.

In line with the NPIERS guidance the TC was also given an opportunity to comment upon any representations made by other parties at the Regulation 16 consultation stage and I extended this to the publicity period for the significant modifications. There is no obligation for a qualifying body to make any comments; it is only if they wish to do so. The TC made comments at both stages and I have taken these into account.

Earlier in the examination process, before the consultation on the proposed significant modifications, the Government published a new National Planning Policy Framework (NPPF). Given that the NPPF is a key document issued by the Secretary of State against which the Plan is examined, I suggested that a two-week period of consultation specifically on the newly published NPPF be held. This was to give all interested parties, UDC and the TC an opportunity to consider whether the new NPPF had any implications for the Plan. This consultation was held between 9 - 23 August 2021.

This stage of focused and additional consultation resulted in nine representations. The TC did not submit a representation on the new NPPF. The TC was also given an opportunity to comment on any representations received, but chose not to do so.

To summarise then, this Plan underwent consultation at the Regulation 16 stage between 15 February – 12 April 2021, a consultation in relation to the new NPPF between 9 – 23 August 2021 and a consultation in relation to the proposed significant modifications between 1 – 21 March 2022.

I am very grateful to everyone for ensuring that this complex examination has run so smoothly and in particular Demetria Macdonald at UDC.

I made an unaccompanied site visit to familiarise myself with the Plan area on 24 March 2022.

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

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

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

## 4.0 Neighbourhood plan preparation

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

Initial consultations took place in 2016 with a questionnaire to every household and business in the Parish and two events being held.

In 2017, a number of exhibitions and consultations were held and a further survey was conducted.

Throughout the process, a number of focus groups have been convened.

Articles were published in the local press. Activities were publicised via the local press, on Facebook and via the TC website. Minutes of meetings have been available on the website.

Pre-submission (Regulation 14) consultation took place between 22 January – 10 March 2020. Both online and paper copies of the Plan were available. Articles in the local press and activity on Facebook advertised the consultation.



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

Submission (Regulation 16) consultation was carried out between 15 February – 12 April 2021.

As explained, a short focused period of additional consultation was held on the NPPF (published July 2021) in August 2021 and a further short focused period of consultation was held on the proposed significant modifications in March 2022.

Whilst I make reference to some responses and not others, I have considered all of the representations and taken them into account in preparing my report.

## **5.0 Compliance with matters other than the basic conditions**

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

### **Qualifying body**

Saffron Walden Town Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is satisfactorily met.

### **Plan area**

The Plan area is coterminous with the administrative boundary for the Parish. UDC approved the designation of the area on 13 December 2012. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Plan area is shown on page 4 of the Plan, but I did not find the map to be clear. Therefore I recommend a new, clearer map be substituted.

- **Insert a clearer, more easily discernible map of the Plan area on page 4 of the Plan**

### **Plan period**

The Plan period is 2021- 2036. This is clearly stated in the Plan itself although different dates are given in the Basic Conditions Statement. I have taken the dates to be the one specified in the Plan itself. This requirement is satisfactorily met.

### **Excluded development**

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

## **Development and use of land**

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

## **6.0 The basic conditions**

### **Regard to national policy and advice**

The Government revised the National Planning Policy Framework (NPPF) on 20 July 2021. This revised Framework replaces the previous National Planning Policy Framework published in March 2012, revised in July 2018 and updated in February 2019.

The NPPF is the main document that sets out the Government's planning policies for England and how these are expected to be applied.

In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the delivery of strategic policies in local plans or spatial development strategies and should shape and direct development outside of these strategic policies.<sup>11</sup>

Non-strategic policies are more detailed for specific areas, neighbourhoods or types of development.<sup>12</sup> They can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment as well as set out other development management policies.<sup>13</sup>

The NPPF also makes it clear that neighbourhood plans should not promote less development than that set out in strategic policies or undermine those strategic policies.<sup>14</sup>

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<sup>10</sup> PPG para 004 ref id 41-004-20190509

<sup>11</sup> NPPF para 13

<sup>12</sup> Ibid para 28

<sup>13</sup> Ibid

<sup>14</sup> Ibid para 29

The NPPF states that all policies should be underpinned by relevant and up to date evidence; evidence should be adequate and proportionate, focused tightly on supporting and justifying policies and take into account relevant market signals.<sup>15</sup>

Policies should be clearly written and unambiguous so that it is evident how a decision maker should react to development proposals. They should serve a clear purpose and avoid unnecessary duplication of policies that apply to a particular area including those in the NPPF.<sup>16</sup>

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

PPG indicates that a policy should be clear and unambiguous<sup>17</sup> to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the planning context and the characteristics of the area.<sup>18</sup>

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.<sup>19</sup> It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.<sup>20</sup>

Whilst this has formed part of my own assessment, Table 1 in the Basic Conditions Statement<sup>21</sup> briefly sets out how each policy the Plan has responded to national policy and guidance.

### **Contribute to the achievement of sustainable development**

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development.

The NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development.<sup>22</sup> This means that the planning system has three overarching and interdependent objectives which should be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of

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<sup>15</sup> NPPF para 31

<sup>16</sup> Ibid para 16

<sup>17</sup> PPG para 041 ref id 41-041-20140306

<sup>18</sup> Ibid

<sup>19</sup> Ibid para 040 ref id 41-040-20160211

<sup>20</sup> Ibid

<sup>21</sup> Basic Conditions Statement page 11

<sup>22</sup> NPPF para 7

the different objectives.<sup>23</sup> The three overarching objectives are:<sup>24</sup>

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

The NPPF confirms that planning policies should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account to reflect the character, needs and opportunities of each area.<sup>25</sup>

Whilst this has formed part of my own assessment, Table 1 in the Basic Conditions Statement explains how each Plan policy helps to achieve sustainable development as outlined in the NPPF.<sup>26</sup>

### **General conformity with the strategic policies in the development plan**

The development plan consists of the Uttlesford Local Plan (LP), adopted on 20 January 2005. UDC has helpfully provided a list of the LP 2005 policies which are considered to be strategic.

A Compatibility Assessment was also adopted by UDC in September 2012 for development management purposes which considered the compatibility of the LP 2005 with the NPPF published in 2012. By coincidence I carried out that assessment on behalf of UDC. I have also referred to this document in making my assessment of the relevance of the policies in the LP 2005, but have considered the more recently published NPPF.

Where I do not refer to any LP 2005 policies in my discussion of each Plan policy, I have concluded that there are none of direct relevance; either because they are not regarded as strategic by UDC or because their level of compatibility with the most recent NPPF means that the NPPF gives guidance as to the stance the Plan should take.

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<sup>23</sup> NPPF para 8

<sup>24</sup> Ibid

<sup>25</sup> Ibid para 9

<sup>26</sup> Basic Conditions Statement page 11

In addition the UDC website cites two changes since adoption; the first is that some boundary changes have been made to conservation areas; the second is that an amendment to parking standards has been made in 2009.

The Essex Minerals Local Plan 2014 and the Essex and Southend-on-Sea Waste Local Plan 2017 also make up the current development plan for the area.

Whilst this has formed part of my own assessment, Table 1 in the Basic Conditions Statement refers to the relevant LP policies.<sup>27</sup>

### ***Emerging Local Plan***

The draft Uttlesford Local Plan 2019 was withdrawn by Councillors and it was agreed to start work on a new plan at an extraordinary council meeting on 30 April 2020. This decision was taken in response to the Inspector's letter of 10 January 2020 and the independent Peer Review report from the East of England Local Government Association of 23 March 2020.

In March 2020, the Government announced that all authorities will be required to have an up to date Local Plan in place by December 2023. Work has begun on a new local plan, but is at an early stage.

There is no legal requirement to examine the Plan against emerging policy. However, PPG<sup>28</sup> advises that the reasoning and evidence informing the local plan process may be relevant to the consideration of the basic conditions against which the Plan is tested. Furthermore Parish Councils and local planning authorities should aim to agree the relationship between policies in the emerging neighbourhood plan, the emerging Local Plan and the adopted development plan with appropriate regard to national policy and guidance.<sup>29</sup>

### **Retained European Union Obligations**

A neighbourhood plan must be compatible with retained European Union (EU) obligations. A number of retained EU obligations may be of relevance for these purposes including those obligations in respect of Strategic Environmental Assessment, Environmental Impact Assessment, Habitats, Wild Birds, Waste, Air Quality and Water matters.

With reference to Strategic Environmental Assessment (SEA) requirements, PPG<sup>30</sup> confirms that it is the responsibility of the local planning authority, in this case UDC, to ensure that all the regulations appropriate to the nature and scope of the draft neighbourhood plan have been met. It states that it is UDC who must decide whether the draft plan is compatible with relevant retained EU obligations when it takes the

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<sup>27</sup> Basic Conditions Statement page 11

<sup>28</sup> PPG para 009 ref id 41-009-20190509

<sup>29</sup> Ibid

<sup>30</sup> Ibid para 031 ref id 11-031-20150209

decision on whether the plan should proceed to referendum and when it takes the decision on whether or not to make the plan.

### ***Strategic Environmental Assessment and Habitats Regulations Assessment***

The provisions of the Environmental Assessment of Plans and Programmes Regulations 2004 (the 'SEA Regulations') concerning the assessment of the effects of certain plans and programmes on the environment are relevant. The purpose of the SEA Regulations, which transposed into domestic law Directive 2001/42/EC ('SEA Directive'), are to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes.

The provisions of the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations'), which transposed into domestic law Directive 92/43/EEC (the 'Habitats Directive'), are also of relevance to this examination.

Regulation 63 of the Habitats Regulations requires a Habitats Regulations Assessment (HRA) to be undertaken to determine whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects. The HRA assessment determines whether the Plan is likely to have significant effects on a European site considering the potential effects both of the Plan itself and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, an appropriate assessment of the implications of the Plan for that European Site, in view of the Site's conservation objectives, must be carried out.

A Screening Determination Statement dated March 2020 has been prepared by UDC. This in turn appends a SEA and HRA Screening Report of January 2020. Although it is titled SEA Screening Determination it also covers HRA matters. Dealing with SEA first, the Screening Determination concludes that the Plan does not require a SEA.

Consultation with the three statutory bodies was undertaken on the Screening Report of January 2020 Included as Appendix 1 of the Screening Determination Statement. All three statutory consultees (Historic England (HE); Natural England (NE) and the Environment Agency (EA) agreed with the conclusions.

The Screening Determination Statement therefore concludes that the Plan does not require a SEA.

I have treated the Screening Report and the Screening Determination Statement to be the statement of reasons that the PPG advises must be prepared and submitted with the neighbourhood plan proposal and made available to the independent examiner where it is determined that the plan is unlikely to have significant environmental effects.<sup>31</sup>

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<sup>31</sup> PPG para 028 ref id 11-028-20150209

Taking account of the characteristics of the Plan, the information and the characteristics of the areas most likely to be affected, I consider that retained EU obligations in respect of SEA have been satisfied.

Turning now to HRA, the Screening Determination Statement of March 2020 also addresses HRA. This explains that the nearest European sites are the Eversden and Wimpole Woods Special Area of Conservation (SAC) which lies some 22km to the north west of the Plan area and the Lee Valley Special Protection Area (SPA) to the south west, some 27km away from the Plan area boundary.

The Screening Report concludes that there are no European sites or habitats close enough to the Plan area which need to be assessed for likely significant effects. The report concludes that the Plan will not have any likely significant effects either alone or in combination with other plans and projects on European sites and therefore screens the Plan out from requiring an appropriate assessment. NE was consulted and agreed with this conclusion.

The HRA Screening Determination therefore concludes the Plan does not require further assessment.

On 28 December 2018, the basic condition prescribed in Regulation 32 and Schedule 2 (Habitats) of the Neighbourhood Planning (General) Regulations 2012 (as amended) was substituted by a new basic condition brought into force by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 which provides that the making of the plan does not breach the requirements of Chapter 8 of Part 6 of the Habitats Regulations.

Given the distance, nature and characteristics of the nearest European sites and the nature and contents of this Plan, I agree with the conclusion of the Screening Determination Statement that an appropriate assessment is not required and accordingly consider that the prescribed basic condition is complied with, namely that the making of the Plan does not breach the requirements of Chapter 8 of Part 6 of the Habitats Regulations.

### ***Conclusion on retained EU obligations***

National guidance establishes that the ultimate responsibility for determining whether a plan meets EU obligations lies with the local planning authority.<sup>32</sup> In undertaking work on SEA and HRA, UDC has considered the compatibility of the Plan in regard to retained EU obligations and does not raise any concerns in this regard.

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<sup>32</sup> PPG para 031 ref id 11-031-20150209

## European Convention on Human Rights (ECHR)

The Basic Conditions Statement contains a statement in relation to human rights.<sup>33</sup> Having regard to the Basic Conditions Statement, there is nothing in the Plan that leads me to conclude there is any breach or incompatibility with Convention rights.

## 7.0 Detailed comments on the Plan and its policies

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

The Plan is presented to a high standard and contains 32 policies. There is an eye catching front cover. The Plan begins with a short introduction and a helpful contents page.

### 1. What is a Neighbourhood Plan?

This is a helpful introduction to the Plan that sets the scene well. It sets out the background to the Plan and how it has evolved, explaining a Steering Group was established to lead its preparation. It explains the purpose and scope of the document in a clear and succinct way.

### 2. Saffron Walden Today

This section sets out the context of the Plan area highlighting key issues and directing the reader to further evidence documents.

### 3. Saffron Walden's Future

This section interestingly categorises the key themes from the public engagement stages into three; assets, opportunities and challenges. This then enables a lot of information to be captured and presented succinctly in this part of the Plan.

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<sup>33</sup> Basic Conditions Statement page 34



The vision statement for the area is:

“Saffron Walden will retain its unique identity as a visually beautiful market town with its rich heritage, a large number of listed buildings and a number of historic green spaces within the town and across the parish. It will be a settlement of the highest environmental sustainability due to provision for pedestrians and cyclists, continued reduction in carbon emissions, encouragement of recycling and use of green energy. Movement within the town will be safe and easy and journeys by car will be minimised. Economic activity will develop so that as many residents as possible will be able to earn their livings in the town. The traditional long-established links with the artistic community will be maintained and its proximity to Cambridge will enable it to become a popular tourist destination. The existence of many local interest groups, combined with activities organised by residents demonstrates a high level of civic pride. Little Walden will maintain its separate identity and integrity as a rural village served by Saffron Walden.”

The vision statement is supported by five objectives. All the objectives are articulated well, relate to the development and use of land and will help to deliver the vision.

Each policy in the Plan is then usefully mapped against the objectives.

#### **4. Future Housing Need in Saffron Walden**

##### **Policy SW1 SWNP Site Allocations**

This part of the Plan indicates it brings forward three site allocations. Two of these sites were proposed in the now withdrawn emerging local plan. The third has the benefit of planning permission. There also seems to be reference to a fourth site in the policy but it is not clear to me what this is.

The Plan explains that various calls for sites were carried out by UDC as part of the work on the emerging local plan. Although that local plan has been withdrawn, and cannot be relied upon, this Plan makes two assumptions. Firstly, that landowners having put forward their sites would still wish to develop those sites. Secondly, that those sites identified as suitable for development during the local plan process were still suitable.

I am concerned that these assumptions were made and that a standalone site selection assessment was not carried out - or at least some review of work carried out on the emerging local plan if this was the starting point – to check its continued validity. The NPPF is clear that sites should be available, suitable and have likely economic viability.<sup>34</sup> I discuss this further below.

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<sup>34</sup> NPPF para 68

Secondly, the Plan indicates that 1,460 new dwellings are required between 2011 – 2033, a position which, I understand, has been taken from the now withdrawn emerging local plan which cannot be wholly relied upon. Moreover, this stated position does not reflect the Plan period which is 2021 – 2036. It is therefore not clear to me what the housing requirement figure is for this important market town in Uttlesford's settlement hierarchy.

No indicative figure seems to have been sought from UDC given the lack of strategic housing supply policies as PPG urges.<sup>35</sup> Even exceptionally when a housing requirement is determined by the qualifying body itself, this needs to take account of relevant policies, the existing and emerging strategy and characteristics of the Plan area.<sup>36</sup> This has not been done to any great extent and I therefore cannot test any figure in this scenario as required by PPG.<sup>37</sup>

Thirdly, despite a need for a considerable amount of development, the defined development limits for both Saffron Walden and Little Walden have not been reviewed; instead the defined development limits are brought forward from the LP 2005. It might well be that such a review would recommend retaining these boundaries, but this cannot be assumed.

Turning now to the policy, it refers to the now withdrawn local plan. The first part of the policy refers to SAF 1. I am not clear where this site is and the maps on page 27 of the Plan do not assist me. This part of the policy does not set out any numbers and there is a lack of evidence or explanation of key requirements. For example, the evidence to support 5% older persons housing.

The next part of the policy relates to SAF 3, land at Viceroy Coaches. This is a brownfield site in the town centre for up to 10 dwellings. The site is in a sensitive location as it falls within a Conservation Area, is adjacent to a registered park and garden and falls within the Air Quality Management Area. I note the SEA Screening Determination Statement, in turn referring to the SEA for the emerging, now withdrawn, local plan, found a number of negative impacts associated with this site including heritage, fluvial flood risk and surface water. The potential effects of developing the site seem to be left to be dealt with at planning application stage. Had a site assessment process being carried out these issues would have been at the very least picked up.

The next part of the policy refers to SAF 4; again it is not clear to me where or what this site is (although from subsequent correspondence to my Note of Interim Findings this is Jossaumes).

The policy then refers to land north of Shire Hill. In relation to land north of Shire Hill, subject of planning application reference UTT/17/2832/OP, the Plan explains that a spine road was an essential part of the development. The supporting text to the policy

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<sup>35</sup> PPG para 009 ref id 41-009-20190509

<sup>36</sup> Ibid para 105 ref id 41-105-20190509

<sup>37</sup> Ibid para 104 ref id 41-104-20190509

states that any subsequent application would need to demonstrate it would not have any adverse impacts and “...must not rely on evidence provided in support of UTT/17/2832/OP.” It is not clear to me why the evidence for an extant planning permission cannot be relied upon. Again there is no explanation of some of the key requirements.

However of equal importance, is the basis for these site allocations. Whilst neighbourhood plans give communities power to shape the development and growth of their area, plans should be deliverable. PPG is clear that “proportionate, robust evidence should support the choices made and the approach taken”.<sup>38</sup> Where neighbourhood plans contain policies relevant to housing supply, these policies should take account of the latest and up-to-date evidence of housing need.<sup>39</sup>

PPG is clear that if a neighbourhood plan allocates sites for development, an appraisal of options and an assessment of individual sites against clearly identified criteria should be carried out.<sup>40</sup>

Given that three sites were proposed as allocations in the emerging local plan, evidence would have been available as to their suitability for development. The emerging local plan was withdrawn and has no status and so whilst the evidence sitting behind it could have been used, it was, in my view, necessary to at least review that evidence and ensure it was still fit for purpose and that there were no better or alternative sites to consider. It was not sufficient to simply roll forward sites in the withdrawn local plan without such consideration and the fact that no selection or assessment process for the sites was carried out is, in my view, a fatal flaw.

Likewise in relation to the deliverability, I consider that some dialogue with the interested parties would have been useful to ensure that the sites chosen, after an appropriate selection process, were still available and viable to deliver.

I note UDC also expresses concern about the assumptions made in their representation indicating “...the availability, achievability and deliverability of these sites under consideration should have been checked rather basing site selections on assumption.” (SIC).

Furthermore it appears that some site allocations in the now defunct local plan have not been rolled forward. It seems some were, and others were not, brought forward. This also required explanation and a proper site selection and assessment process would have addressed this.

There is also no sense of how the Plan period relates to this housing provision. This concern is also expressed by UDC; their representation states “...it would be more appropriate to discuss numbers of dwellings expected to be delivered during the Neighbourhood Plan period i.e. 2021 – 2036.”

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<sup>38</sup> PPG para 040 ref id 41-040-20160211

<sup>39</sup> Ibid

<sup>40</sup> Ibid para 042 ref id 41-042-20170728

On a more detailed matter, PPG continues that policies on the size or type of housing required will need to be informed by evidence.<sup>41</sup> As I have explained above, this unfortunately is not the case.

The fourth element of the policy rightly and positively indicates the housing growth is not a ceiling, but then restricts further growth to three scenarios. These are community-led development, development brought forward by a Community Land Trust or for schemes of 100% affordable housing.

These requirements do not take account of national policy and guidance. Whilst the lack of a ceiling or cap is welcomed, this element of the policy is very restrictive; again without explanation or justification. The NPPF states that planning policies should identify opportunities for villages to grow and thrive.<sup>42</sup> A number of criteria are set out for housing in the rural area including development that represents the optimal viable use of a heritage asset, development that would re-use redundant or disused buildings and enhance its setting and so on.<sup>43</sup>

With regard to this part of the policy, the NPPF is clear that even on rural exception sites which provide affordable housing to meet identified local needs, some market housing can be provided to help facilitate this.<sup>44</sup>

This part of the policy is also not in general conformity with LP 2005 Policy S1 which allows for development on sites on the edge of the built up area if compatible with its countryside setting. This strategic policy is another reason why it would have been useful to at least review the development limits of the town to see if they were still relevant.

The final part of the policy refers to infill development indicating it must meet the criteria of other policies. There is no indication to say whether infill development is supported or promoted or not. There is no need to indicate any such development should be in accordance with other policies in the Plan as the Plan is read as whole.

In my Note 1 (Appendix 2 to this report), I highlighted these concerns. The TC in their response indicates that the new sites are SAF 3, Viceroy Coaches, SAF 4, Jossaumes and Land at Shire Hall. The TC explain that standalone evidence was not carried out because SAF 3 and SAF 4 were included in a previous 'Call for Sites' and as they are brownfield sites remain valid allocations. The TC advise me that Land at Shire Hall had obtained planning permission and therefore could be included as an allocation.

The TC indicates that as two of the sites are brownfield and one has planning permission they are available for development.

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<sup>41</sup> PPG para 103 ref id 41-103-20190509

<sup>42</sup> NPPF para 79

<sup>43</sup> Ibid para 80

<sup>44</sup> Ibid para 78

The TC also indicates that the housing figure was taken from the then emerging local plan and at the time of Plan production, there was no need to ask for an indicative figure. However, even if this is the case, the figure relied on, all be it in good faith, was out of kilter with the Plan period.

I have explained above in detail why the position the Plan takes is untenable.

Taking stock of all these issues, I am left with little option but to recommend deletion of this policy. I do not consider it meets the basic conditions and in particular it does not have regard to national policy and guidance or help to achieve sustainable development for the reasons given above.

Given this recommendation, I do not outline other modifications which would be necessary should this section be retained. These, in the main, pertain to inaccuracies in the supporting text and updates to the table on page 26 of the Plan and the maps. Further information on these updates can be found in the representation from UDC.

- **Delete Policy SW1 and its supporting section 4.1, paragraphs 4.1.1 to 4.1.8 inclusive**
- **Consequential amendments will be needed including the deletion of Appendix 9**

## **Policy SW2 Protection of Views**

A number of views have been identified through work on the Heritage and Character Assessment (HCA) as being of importance.

These views should be identified, numbered, described and clearly mapped. A series of maps and photographs on page 35 onwards of the Plan show some views, but it is not clear to me whether these are the same views as those generally identified in the HCA, where precisely these viewpoints are and how they relate to the included photographs.

Whilst then in principle a policy protecting views of importance is to be welcomed, particularly when evidenced through work on a HCA or similar, much more work is needed to be carried out for the policy to meet the basic conditions. At present it does not meet the basic conditions given its lack of clarity and precision; both are needed to ensure the policy provides a practical decision-making framework in order to have regard to national policy and guidance.<sup>45</sup>

I note that UDC in the response to my Note 1 highlight the importance of this policy and the need for the additional work I have identified so that the policy is not recommended for deletion. I further note that the TC indicates this work can be undertaken and

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<sup>45</sup> NPPF para 16

supplied. The issue is that this would have to be done outside the examination process i.e. the Plan would need to be withdrawn. As I have been asked to continue with the examination, then unfortunately I am left with only being able to recommend deletion of the policy.

- **Delete Policy SW2 and its supporting section 4.1, paragraphs 4.1.9 to unnumbered on page 39 inclusive**

### **Policy SW3 Site Allocation – Land at Viceroy Coaches to rear of 10 – 12 Bridge Street**

I have explained in my discussion of Policy SW1 why the site allocations in the Plan do not meet the basic conditions.

This policy, specific to this site known as SAF 3 in the now withdrawn emerging Local Plan, should be deleted.

Even if this was not the case, to have two policies on the same site which both set out (different) requirements for development is unnecessary and confusing. In addition, there is no detailed map of the site, the policy sets out requirements for a “mixed community”, but there is no hint as to how a prospective developer might meet this criterion and the policy contains options. Overall this means the policy does not have the required clarity and also deals with issues outside the site boundary.

Furthermore the supporting text contains requirements which cannot be achieved through the planning system such as residents parking permits costs.

- **Delete Policy SW3 and its supporting text paragraphs 4.1.10 to 4.1.13 inclusive**

### **Policy SW4 Housing Mix on New Developments**

The NPPF states that the needs of groups with specific housing requirements should be addressed to support the Government’s objective of significantly boosting housing supply.<sup>46</sup> It continues that the size, type and tenure of housing needed for different groups should be assessed and reflected in planning policies.<sup>47</sup>

This policy encourages a wide range of housing to meet local needs. It refers to a number of different evidence sources in the supporting text. The policy sets out the percentage proportion of house sizes sought, but these which do not appear to reflect the evidence set out in the Plan. I asked a query about this. In response the TC state that the District’s waiting list shows the highest social housing need is for 1 bed, then 2

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<sup>46</sup> NPPF para 60

<sup>47</sup> Ibid para 62

bed, then 3 bed and then 4 bed houses. Indexed demand statistics from Rightmove then show the highest in demand are 2 bed.

UDC indicate that any policy requirements should be backed up by robust up to date evidence and that the requirements may be too restrictive both in the percentages sought and the lack of flexibility regarding changing needs.

I do appreciate the policy seeks a mix of housing sizes and is flexibly written relying on the most up to date evidence available and also has inbuilt flexibility of 10%. However, it is not clear to me where the percentage requirements have come from. Modifications are therefore made to address this concern.

The supporting text is also recommended for modification in three places. The first is in the interests of ensuring language used is inclusive. The second relates to a comment on UDC's Strategic Housing Market Assessment which seems to be without foundation given these types of assessment are carried out to the same standards nationwide. The third relates to an issue about charities not raising their rents or selling properties in the future; this is not something which can be controlled through planning.

With these modifications, I consider the policy will meet the basic conditions; it will have regard to the NPPF in particular by seeking to boost the supply of housing needed for different groups in the community, it will help to achieve sustainable development and especially its social objective of ensuring a sufficient number and range of homes are provided to meet the needs of present and future generations and be in general conformity with the LP 2005.

- **Reword the policy to read:**

**"1. All residential development proposals should include a mix of sizes which reflects local needs but also provides for balanced and vibrant neighbourhoods. *The specific mix should be based on up-to-date local evidence of need and take account of local circumstances and the nature of the surrounding area.***

**2. The housing mix of affordable homes is to be determined by local housing need and policies set out by the planning authority.**

**3. Developments may not be subdivided into smaller parcels to avoid the housing mix policy."**

- **Delete the words "Noting that people in receipt of LHA should be no different to people not in receipt of LHA, other than the fact they have lower household incomes" from paragraph 4.2.9 on page 43 of the Plan**
- **Delete the last sentence of paragraph 4.2.15 on page 45 of the Plan which begins "This the 2015 SHMA..."**
- **Delete the last sentence of paragraph 4.2.21 on page 47 of the Plan which begins "In order to use..."**

## Policy SW5 Affordable Housing

The NPPF states that the needs of groups with specific housing requirements should be addressed to support the Government's objective of significantly boosting housing supply.<sup>48</sup>

Affordable housing can only be sought in sites of ten or more dwellings or 0.5 hectare sites.<sup>49</sup> The policy recognises a dwelling number threshold but sets this at 11 or more and then introduces a residential floor space threshold in the policy and I am not sure how this has been derived. A modification is therefore made to correct the dwelling number threshold, remove the floor space threshold and to add in the site size threshold as set out in the NPPF.

The policy requires 40% provision. There is some evidence to support this and I asked UDC for their view on this figure. I am informed that the requirement of 40% aligns with District level evidence.

The policy then seeks to ensure that affordable homes are distributed throughout any scheme. Tenure mix is to be determined by the latest evidence. Artificial subdivision is resisted. The policy is flexibly worded in that it recognises viability considerations.

There is a further modification to make the wording used clearer.

With these modifications, the policy will have regard to the NPPF by seeking to boost the supply of housing needed for different groups in the community, it will help to achieve sustainable development and especially its social objective of ensuring a sufficient number and range of homes are provided to meet the needs of present and future generations and be in general conformity with LP 2005 Policy H9 insofar as it remains relevant.

- **Amend criterion 1. of the policy to read: “Development on sites which provide for 10 dwellings or more, or the site has an area of 0.5 hectares or more will be required...”**
- **Delete the words “...strongly meets all the other objectives in the SWNP” from criterion 6. and replace with “...meets the objectives of the SWNP and complies with all relevant development plan policies.”**

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<sup>48</sup> NPPF para 60

<sup>49</sup> Ibid Glossary



## Policy SW6 Housing Density

Density is considered in this policy. It sets out that densities should be appropriate to the context of the site and include considerations such as location, scale, character and grain of built form.

The policy sets out average net densities for urban extension sites, infill sites and rural exception sites. There is some evidence for these figures, but not a great deal. However, the policy does permit higher densities if this can be justified on the site's context or specific use, where parking provision is satisfactory or there are other achievable solutions.

The NPPF is clear that planning policies should support development that makes efficient use of land.<sup>50</sup> It is also acceptable to distinguish between different areas of the Plan area. However, this policy seeks to distinguish between types of development. This seems to me to be without foundation as it is not based on the availability and capacity of infrastructure or services, location in terms of sustainable travel modes for example or the area's prevailing character or setting. These are all factors referred to in the NPPF<sup>51</sup> in its discussion of achieving appropriate densities.

I have considered whether to modify it, but to do so would simply result in a repetition of the NPPF.

Therefore without sufficient or satisfactory evidence, the policy should be deleted as it does not meet the basic conditions; particularly it does not have sufficient regard to the NPPF and will not help to achieve sustainable development.

- **Delete Policy SW6 and its supporting text [paragraphs 4.4.1 – 4.4.4]**

## 5. Town Layout and Design

This section contains a number of references to the NPPF which has now been replaced by the one published in July 2021. I include a list of necessary modifications to bring this section up to date.

Paragraph 5.2.7 refers to the Conservation Area and a desire to preserve them in its current form. This does not meet the guidance in the NPPF or indeed the statutory provisions for Conservation Areas. A modification is therefore made to ensure this part of the Plan is accurate.

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<sup>50</sup> NPPF para 124

<sup>51</sup> Ibid

Reference is also made to the RTPI's Dementia and Town Planning publication; this has now been revised and so an update is also needed here. A further small addition is made in the interests of accuracy.

- **Paragraph 5.1.1 on page 53; paragraph 124 of the NPPF has now changed to paragraph 126 and the quote is different and so needs updating**
- **Paragraph 5.1.3 on page 53; paragraph 130 is now 134 and the contents have changed so this needs updating**
- **Delete the words “...which must be preserved in its current form.” from paragraph 5.2.7 on page 56**
- **Update the date in paragraph 5.2.16 on page 58 from “2017” to “2020”**
- **Add “*and Public Health England*” to the list of endorsements in paragraph 5.2.17**

## **Policy SW7 Design**

The NPPF states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.<sup>52</sup> It continues that neighbourhood plans can play an important role in identifying the special qualities of an area and explaining how this should be reflected in development.<sup>53</sup>

It refers to design guides and codes to help provide a framework for creating beautiful and distinctive places with a consistent and high quality standard of design.<sup>54</sup>

It continues that planning policies should ensure developments function well and add to the overall quality of the area, are visually attractive, are sympathetic to local character and history whilst not preventing change or innovation, establish or maintain a strong sense of place and optimise site potential.<sup>55</sup>

Policy SW7 is a long policy with numerous and varied criteria covering a wide range of issues. In essence, the policy seeks to deliver locally distinctive development of a high quality that protects, reflects and enhances local character leading on from LP 2005 Policy GEN2 in particular.

Six modifications are recommended. The first is to change the wording of criterion 2. to ensure there is clarity.

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<sup>52</sup> NPPF para 126

<sup>53</sup> Ibid para 127

<sup>54</sup> Ibid para 128

<sup>55</sup> Ibid para 130

The second is to delete reference to the nationally described space standard. The Government introduced national technical standards for housing in 2015. A Written Ministerial Statement (WMS)<sup>56</sup> explains that neighbourhood plans should not set out any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. I also note the WMS states that neighbourhood plans should not be used to apply the national technical standard. This is echoed in PPG.<sup>57</sup>

The third is to change criterion 5e); at present it requires infill development to preserve and enhance heritage assets and their setting. This is a high bar to set; higher than the statutory protection for Conservation Areas for example and so a modification is made to make the policy more flexible and in line with national policy and guidance.

The fourth is to enhance clarity in criterion 6. It currently refers to “relatively large footprint” and whilst I understand the intention of this phrase it is open to interpretation.

The fifth is to alter the reference to street naming to the language used in the RTPI’s Dementia and Town Planning Practice Note so there is additional clarity in criterion 10.

Lastly, a criterion about trees is added to ensure the policy has regard to the new NPPF which makes it clear that it is the Government’s intention that all new streets include trees unless this would be inappropriate.<sup>58</sup>

I note that Sport England and Anglian Water welcome this policy.

With these modifications, the policy will meet the basic conditions in that it has regard to the NPPF, is in general conformity with LP 2005 Policy GEN2 and will help achieve sustainable development.

- **Change the word “Following” in criterion 2. of the policy to “Adherence”**
- **Delete criterion 4. h)**
- **Change the first “and” in criterion 5e) of the policy to “or”**
- **Add the word “major” before “...developments...” in criterion 6. of the policy and delete the words “...which have a relatively large footprint...”**
- **Reword criterion 10. to read: “There should be a hierarchy of street types to ensure developments are legible with clear signage at decision points.”**
- **Add a new criterion that reads: “include tree-lined streets unless in specific cases there are clear, justifiable and compelling reasons why this would be**

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<sup>56</sup> Written Ministerial Statement 25 March 2015

<sup>57</sup> PPG para 001 ref id 56-001-20150327

<sup>58</sup> NPPF para 131

***inappropriate and include trees elsewhere within developments where the opportunity arises.”***

### **Policy SW8 Parking on New Developments**

The NPPF is clear that if local parking standards are set, policies should take account of the accessibility of the development, the type, mix and use of the development, the availability of, and opportunities for, public transport, local car ownership levels and the need for provision of spaces for charging plug-in and other ultra-low emission vehicles.<sup>59</sup>

The Plan explains that car ownership across Uttlesford District is higher than the national average. It is recognized that the availability of public transport is relatively poor. Much of the area is rural in nature. Therefore there is a high reliance on use of the private car.

The policy therefore refers to the Essex County Council Parking Standards Design and Good Practice document of 2009 and the Essex Design Guide in relation to both standards and design of car parking space and bicycle parking and future proofs any update to these documents.

UDC has adopted the Parking Standards Design and Good Practice. However due to nature of the District, local parking standards have been adopted in addition to the Parking Standards Design and Good Practice for dwellings of 4 or more bedrooms. Reference should be made to this in the policy.

It then details provision of electric vehicles. I raised a query on the details and asked for the rationale and evidence behind the details. The TC referred me to the NPPF, but unfortunately did not point me in the direction of any further detailed rationale. A modification to retain the reference, but remove the detail is therefore made.

A modification is also made to the supporting text to help future proof the requirements.

With these modifications, the policy will meet the basic conditions, particularly helping to achieve sustainable development.

- **Add the words “*and UDC’s local parking standard for 4+ bedroomed dwellings.*” at the end of criterion 2.**
- **Revise criterion 3. to read: “All dwellings will *make provision for electric vehicle (EV) charging points.*”**

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<sup>59</sup> NPPF para 107

- **Amend the words “...must provide...” in paragraph 5.3.10 on page 63 of the Plan to “*make provision for*”**

### **Policy SW9 Energy Efficient and Sustainable Design**

As explained in my discussion of Policy SW7, the Government introduced national technical standards for housing in 2015. The WMS<sup>60</sup> explains that neighbourhood plans should not set out any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings and should not be used to apply the national technical standard. This is echoed in PPG.<sup>61</sup>

The Plan acknowledges the position set out above. However the supporting text to the policy explains that the Plan sets out a non-binding policy on construction standards viewed as desirable.

I do not consider that this position meets the stance of the WMS; even if it were to be successfully argued that it does then having a non-binding policy within a development plan seems to me to create a lack of clarity and certainty within the Plan document.

For the above reasons, I recommend Policy SW9 and its supporting text be deleted. If desired it would be possible to include this information as a community aspiration in a separately identified part or appendix of the Plan with appropriate changes to reflect this new status.

- **Delete Policy SW9 and its supporting text**

### **Policy SW10 Accessible and Adaptable Homes**

This policy seeks to provide for an ageing population. There is much to commend this approach, but, similar to the previous policy, the WMS does not allow neighbourhood plans to set such standards. I consider that the inclusion of a “non-binding” policy within the Plan is too confusing.

It would however be possible to include these elements as a community aspiration with appropriate changes to reflect this new status, or potentially to include those elements which do not set or encourage standards within a general design policy. It is not for me to rewrite the Plan, but this could be considered in an early or future review of the Plan.

Given the stance of the Government’s national policy and guidance on these matters, I am left with little option but to recommend deletion of the policy and its supporting text.

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<sup>60</sup> Written Ministerial Statement 25 March 2015

<sup>61</sup> PPG para 001 ref id 56-001-20150327

- **Delete Policy SW10 and its supporting text [paragraphs 5.5.1 – 5.5.10, but note wrong sequencing of paragraph numbers]**

## 6. Commercial Premises

The supporting text refers to the NPPF; some updating is needed in the light of the new NPPF.

A table in paragraph 6.3.8 on page 77 of the Plan lists the Use Classes against main town centre uses as defined in the glossary of the NPPF. Two changes are needed in the interests of accuracy; as far as I can see professional and financial services are not included in the NPPF's definition (despite now being in the same Use Class) and hotels are specifically included in the NPPF's definition.

UDC also points out a number of updates in its representation. Firstly, there is also a reference to garden villages; this needs to be updated given the emerging Local Plan has now been withdrawn.

Secondly, the Premier Inn referred to in paragraph 6.1.9 has now been constructed.

- **Paragraph 6.3.6 on page 75; paragraph 182 is now 187**
- **Remove the asterix to the fourth column of the table in paragraph 6.3.8 on page 77 of the Plan for professional and financial services**
- **Add an asterix to hotels to the fourth column of the table in paragraph 6.3.8**
- **Delete the penultimate sentence of paragraph 6.1.5 on page 72 of the Plan which begins "This may change..." and replace with a new sentence to read: *"It should be noted that the emerging Local Plan has now been withdrawn along with the concept of garden villages."***
- **Update paragraph 6.1.9 on page 72 by replacing "...has been granted planning permission." with "...has been constructed."**

## Policy SW11 Town Centre Uses

This policy identifies primary and secondary frontages in the town centre which are shown on a map at paragraph 6.3.1. I am not clear how these frontages have been identified although from my site visit, they have been defined logically and appropriately bearing in mind what I saw on the ground.

The first element of the policy seeks to restrict ground floor uses in these frontages to the main town centre uses defined in the NPPF. This differs to the Use Classes Order brought in on 1 August 2021 which permits change to Use Class C3 (dwelling houses) subject to various criteria.

I appreciate that the policy was devised before the new Use Classes Order came about. The Plan rightly points out that Saffron Walden has a compact and vibrant town centre and I can understand why there is a desire to retain retail and other more commercial town centre uses in it. However, as far as I am aware, the only way to remove all or some permitted development rights (which are devised by the Government) is through an Article 4 direction of the Town and Country Planning (General Permitted Development) (England) Order 2015.

The NPPF contains guidance as to when Article 4 directions may be appropriate.<sup>62</sup> It would be up to the TC to pursue this as a separate matter.

The second element of the policy is redundant given the first element is to be deleted.

The third element supports hotels subject to the policy on building design. This is unnecessary as all proposals will be subject to consideration against any relevant policies. This element can therefore be deleted.

The fourth element refers to the agent of change principle; whilst this is a welcome reference, it makes little sense to retain only this criterion and the principle is included in the NPPF.<sup>63</sup>

The final element refers to hot food takeaways and indicates such proposals will be subject to considerations of impact on local amenity and public health. These are general considerations against which any such application would be assessed. Given this, and the fact the policy does not further indicate any steer on how such proposals would be considered against these criteria, the element is unnecessary to retain.

Therefore for the reasons given above, the policy should be deleted in order to meet the basic conditions. Changes to the supporting text are necessary as a consequence.

- **Delete Policy SW11**
- **Delete the second sentence of paragraph 6.3.1; all of paragraph 6.3.3; the associated map and the fourth sentence of paragraph 6.3.4 to end**

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<sup>62</sup> NPPF paras 51 - 54

<sup>63</sup> Ibid para 187

## Policy SW12 Convenience Stores in Residential Neighbourhoods

Convenience stores are supported by this policy subject to three criteria. The Plan recognises that local facilities and services are important to provide people with everyday essentials. The criteria are impact on the town centre, accessibility and traffic levels.

It seems to me that this policy supports the NPPF's aim of providing the facilities and services communities need<sup>64</sup> and help to achieve sustainable development. The policy meets the basic conditions and no modifications are recommended.

## Policy SW13 17 Market Hill & 29-31 Church Street

This policy relates to a Grade I listed building and gives guidelines for its potential reuse.

The first element of the policy seeks to minimise harmful or intrusive interventions and refers to a preference for freestanding fittings, activities that have a low fire risk and are not "messy".

The second element seeks to ensure compatibility between uses on the ground floor and first floors.

Local planning authorities, in determining planning applications, have no powers or responsibilities around fire safety of buildings or materials<sup>65</sup> and planning gateway one relates to high rise buildings. In some circumstances consultation will take place for example about the access arrangements for fire engines.

However, I have taken the wording of the policy to signal a concern about the compatibility of future uses in this historic building. I therefore recommend some modifications to the wording of the policy to ensure it meets the basic conditions, in particular have regard to the NPPF<sup>66</sup> and to help achieve sustainable development.

- **Reword the policy to read: "Any future uses of the building must be compatible with and sustain and enhance the historic significance of the building and be viable consistent with the building's conservation and enhancement. Substantial harm to or loss of the building should be wholly exceptional."**

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<sup>64</sup> NPPF para 93

<sup>65</sup> Responsibility for fire safety during the development application process in England, RTPI, December 2017

<sup>66</sup> NPPF section 16



## Policy SW14 Shopfront Design

The plan explains that the town centre falls within a Conservation Area. This policy seeks to ensure that any shopfronts make a positive contribution to local character and distinctiveness and are of a high quality. It refers to an emerging Design Guide produced by UDC or any successor document. During the course of the examination, UDC endorsed a Shopfront Design Guide dated February 2022 on 9 February 2022.

Achieving well-designed, beautiful and safe places is part of the social objective for sustainable development in the NPPF.<sup>67</sup> This policy seeks to establish design principles on a specific type of development setting out expectations. The NPPF places emphasis on high quality, beautiful and sustainable buildings and places indicating this is fundamental to what the planning process should achieve.<sup>68</sup>

The HCA also identified that the design of some shopfronts within the town centre could be an area for enhancement.<sup>69</sup>

There is one modification to make to ensure that the recently endorsed Design Guide referred to is taken into account rather than just considered in relation to this policy. This modification will strengthen the link between the policy and the document.

With this modification, I consider this policy will meet the basic conditions by having regard to the NPPF, being in general conformity with LP 2005 and Policy GEN2 in particular and helping to achieve sustainable development.

- **Change criterion 2. of the policy to read: “Uttlesford District Council sets out guidance for shopfront design in its *document Shopfront Design Guide February 2022* and (1) above should be read in conjunction with this document or any successor document and must be taken into account in developing and determining such proposals.”**

## Policy SW15 Development of 56 High Street

This policy prevents the redevelopment of this site until a suitable replacement for the scout hall on the site is found. The second element of the policy then supports a comprehensive redevelopment scheme for a viable town centre use.

The NPPF indicates that planning policies should support the role town centres play by taking a positive approach to their growth, management and adaption.<sup>70</sup>

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<sup>67</sup> NPPF para 8

<sup>68</sup> Ibid para 126

<sup>69</sup> HCA page 33

<sup>70</sup> NPPF para 86

A representation on behalf of the landowner made at the time of the significant modifications consultation states that the scout hall is not within the same ownership. This means that the first element of the policy is not relevant and should be deleted along with references to this desire in the supporting text.

The second element of the policy refers to the comprehensive development of the whole site which is of course desirable, but I cannot find a plan or map of the area referred to in the Plan. I note that the next policy includes a desire for the possibility of a comprehensive scheme for the regeneration of George Street which could, at least in part, include this site. In any review of the Plan, the TC may wish to consider the benefit of a comprehensive policy dealing with this area as a whole, but in the meantime there is a lack of clarity in the policy which means it does not have regard to national policy and guidance and therefore does not meet the basic conditions.

- **Delete Policy SW15 and paragraph 6.5.4**

### **Policy SW16 Regeneration of George Street**

This policy supports the regeneration of Nos 2-18 George Street setting out various criteria. The principle of the policy is acceptable but its wording is not clear enough.

With some modifications, the policy will meet the basic conditions by taking account of the NPPF's stance on promoting clear visions and strategies to allow regeneration in building a strong and competitive economy<sup>71</sup> and creating high quality, beautiful and sustainable buildings and places.<sup>72</sup>

- **Reword the first sentence of the policy to read: "Proposals to regenerate George Street *will be supported where the following criteria are met:*"**
- **Add the word "*residential*" before "...accommodation..." in criterion a)**
- **Move criterion c) to become a separate sentence at the end of the policy adding the words "*...would be welcomed.*"**

### **Policy SW17 Development of New and Existing Commercial Spaces**

Policy SW17 covers a number of different issues. It supports the replacement and enhancement of existing industrial units, farm diversification and visitor accommodation.

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<sup>71</sup> NPPF para 82

<sup>72</sup> Ibid para 126

I have some concern about how the policy is worded. At present, it supports proposals which, as an example, result in additional employment in respect of farm diversification, but this would give a carte blanche to all such proposals regardless of any other impacts they might have. In addition, it may be hard to quantify employment and this is not a common test of the acceptability of farm diversification however desirable this might be in this locality.

A modification is also made to the last criterion which refers to cladding and is therefore too restrictive given that other materials might well be as suitable.

A number of modifications are therefore recommended to ensure the policy meets the basic conditions.

There is then a section, 6.6 on page 83 of the Plan which contains a number of statements of support for various initiatives. In themselves these read well and are appropriate. However, some could be interpreted as policy statements and therefore it is important that their status is clear. They should be moved to a separate section of the Plan and clearly denoted as community aspirations. Some consequential amendments to the text will be needed. For example there is a reference to Policy SW11 which I have recommended for deletion.

- **Add the words “*Otherwise acceptable*” at the start of criteria 1., 2. and 3.**
- **Add the word “*particularly*” before “...supported.” in criteria 1. and 2.**
- **Amend criterion 4. to read: “New and renovated commercial buildings must be *constructed from appropriate and suitably coloured* materials that enables them to blend into the surrounding countryside.”**
- **Move section 6.6 on page 83 of the Plan to a separate section or appendix of the Plan called “Community Aspirations” ensuring that the reference to Policy SW11 is deleted**

## 7. Digital Connectivity

### Policy SW18 High Quality Communications Infrastructure

Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well being.<sup>73</sup> The NPPF continues that planning policies should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.<sup>74</sup>

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<sup>73</sup> NPPF para 114

<sup>74</sup> Ibid

This policy supports such provision. It therefore meets the basic conditions, particularly having regard to the NPPF and helping to achieve sustainable development. No modifications are therefore recommended.

## 8. Ecology

There are two issues raised in the supporting text in this section which require clarification. The first is that paragraph 8.3 on page 86 refers to public planting. I consider this to be a community aspiration and it should be moved to a separate section of the Plan.

The second issue relates to ownership of the land in relation to Sustainable Drainage Systems (SuDs) in paragraph 8.6. This is not a development and use of land matter and so again should be placed in a separate community aspiration section.

- **Move paragraphs 8.3 and 8.6 on page 86 of the Plan to a separate section or appendix of the Plan called “Community Aspirations”**

### Policy SW19 Ecological Requirements for All New Domestic and Commercial Developments

The NPPF is clear that planning policies should contribute to and enhance the natural and local environment by, amongst other things, minimising impacts on, and providing net gains for biodiversity.<sup>75</sup>

The policy and supporting text refers to TCPA Garden City Standards for the 21st Century and in particular guide 7 planning for green and prosperous places. My reading of these guides is that they apply to new garden communities. In response to a query on this, the TC has confirmed this is the case, but considers the guidance to be equally relevant to established towns. It may well be that the guidance would be applicable to Saffron Walden, but this needs consideration and explanation. As it stands, the references in the policy or supporting text are not relevant and therefore should be removed.

The policy requires SuDs on all developments. Although I note Anglian Water supports this stance, this position is contrary to current Government guidance which explains that SuDs should be incorporated in major developments unless there is clear evidence that this would be inappropriate.<sup>76</sup> A modification is therefore made to ensure the policy takes account of national policy and guidance.

A correction is made to the supporting text in referring to the CIRIA SuDs Manual.

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<sup>75</sup> NPPF para 174

<sup>76</sup> Ibid para 169

Criterion 4. refers to the ownership of land which is not a development and use of land matter. A modification is therefore made to remove this criterion from the policy.

Anglian Water has suggested a modification to criterion 6. which I consider is appropriate given this would ensure that the foul drainage hierarchy is followed to be consistent with national policy and guidance.

With these modifications, the policy will meet the basic conditions in that it will have regard to national policy and guidance and help to achieve sustainable development.

- **Delete criterion 1. from the policy**
- **Add the word “*major*” before “...developments...” in criterion 2. and the words “*unless there is clear evidence that this would be inappropriate*” after “...developments...” in the same criterion**
- **Delete criterion 4. from the policy**
- **Change criterion 6. to read: “It is the preferred option that *foul drainage* for all new development is connected to the mains sewerage system.”**
- **Delete paragraphs 8.8 and 8.9 on page 87 of the Plan**
- **Change the words “...published in 2016...” in paragraph 8.7 on page 87 to “...published in 2015...”**

## 9. Infrastructure Delivery

The supporting text refers to paragraphs 91 and 92 of the NPPF; these references should be updated to reflect the new NPPF.

There are a number of actions detailed on page 98 of the Plan. None of these relate to the development and use of land except for the desire to resist further significant development in the east of the town. This should be deleted and the others moved to a separate community actions section of the Plan.

- **Change the reference to paragraphs 91 and 92 of the NPPF in paragraph 9.2 on page 89 to paragraphs 92 and 93 respectively**
- **Delete action 7) under paragraph 10.1.12 on page 98 of the Plan**
- **Move paragraph 10.1.12 on page 98 of the Plan to a separate section or appendix of the Plan called “Community Aspirations”**

## 10. Transport Infrastructure

Paragraph 10.1.5 on page 93 of the Plan refers to a map and images which then follow. I found it hard to read the numbers on the map. A modification is therefore made to assist with clarity.

- **Ensure that the map on page 94 of the Plan is clear and clearly shows the roads marked 1 -4 referred to on page 95 of the Plan**

### Policy SW20 Promoting Walking and Cycling

This policy seeks to promote walking and cycling. This is in line with the NPPF which states that opportunities to promote walking and cycling and public transport use should be identified from the early stages of plan making and pursued.<sup>77</sup> It continues that planning policies should provide for attractive and well-designed walking and cycling networks.<sup>78</sup> Priority is given to pedestrian and cycle movements within schemes and with neighbouring areas and then access to public transport.<sup>79</sup>

However, some of the detail of the policy is problematic. Firstly, it seeks the retention of routes on site rather than the enhancement. This may well adversely affect the achievement of sustainable development. A modification is made to address this.

Secondly, the next part of the policy seeks to protect existing footpaths and pedestrian cut throughs through town. This may not always be possible, but it also and more importantly may prevent improvements and enhancements coming forward. This element is then recommended for deletion.

Thirdly, reference is made to Secured by Design, but this needs updating.

Fourthly, reference is made in criterion 3. to DFT user hierarchy guidelines, but these do not reflect the hierarchy outlined in the NPPF.<sup>80</sup> A modification is made to ensure the NPPF's hierarchy is substituted.

Lastly, there is a blanket requirement for all new streets in the Plan area to be designed to keep vehicles speeds at or below 20mph. Whilst reference is made in the Plan to the Manual for Streets and the Essex Design Guide, there is little specific or local justification for such a requirement. There is little option but to delete this criterion. This is not to say that such a requirement would not be appropriate or meet the basic conditions, but rather there is insufficient evidence put forward for it in this version of the Plan.

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<sup>77</sup> NPPF para 104

<sup>78</sup> Ibid para 106

<sup>79</sup> Ibid para 110

<sup>80</sup> Ibid para 112

With these modifications, the policy will meet the basic conditions, particularly having regard to the NPPF and helping to achieve sustainable development.

- **Change the first sentence of the policy to read: “development proposals which retain, *enhance* or incorporate safe, attractive and direct walking and cycling routes on site *as appropriate* and which...”**
- **Delete criterion 2. a)**
- **Update the reference in 2. d) to Secured by Design to “*Homes 2019, Version 2, 2019*”**
- **Change criterion 3. a) to read: “The scheme design will conform to the hierarchy outlined in the NPPF which is to give priority to pedestrian and cycle movement first, then facilitate access to high quality public transport as far as possible including catchment areas and facilities to encourage such use and private vehicles last.”**
- **Delete criterion 4.**

### Policy SW21 Travel Planning

A travel plan is, according to the glossary in the NPPF, a long-term management strategy for an organisation or site that seeks to deliver sustainable transport objectives and is regularly reviewed.

The NPPF supports the use of travel plans for all developments which will generate significant amounts of movement.<sup>81</sup>

Policy SW21 does not distinguish between the types of development which may require a travel plan. It instead focuses on measurable objectives, provision for funding and delivery of sustainable initiatives and the involvement of the Town Council.

Modifications are therefore recommended to ensure that the policy will meet the basic conditions, in particular, the guidance in the NPPF referred to above, and to ensure the policy relates to the development and use of land.

- **Add a sentence at the beginning of the policy before the three [existing] criteria that reads: “*Where developments will or are likely to generate significant amounts of movement and are required to provide a travel plan, it is expected that the travel plan will.*”**

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<sup>81</sup> NPPF para 113

- **Change criterion 1. to read: “*include provision, where appropriate, for the funding and delivery of necessary, sustainable travel initiatives.*”**
- **Delete criterion 2. and move if desired to a separate section or appendix of the Plan called “Community Aspirations”**
- **Consequential amendments will be needed**

### **Policy SW22 Improving Provision of Public Transport**

This short policy expects developers to enhance public transport services and infrastructure to improve connections and accessibility to key destinations from the site.

Whilst I accept the desirability of this, the reality is that only obligations necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development can be sought.<sup>82</sup> A blanket requirement is not appropriate or feasible and may adversely affect the ability of the Plan to help to achieve sustainable development.

The policy is therefore recommended for modification so that it can meet the basic conditions.

- **Reword the policy to read: “*Where appropriate, developers will be expected to take every available opportunity to promote the use of public transport including identifying and protecting routes and delivering services and infrastructure to widen transport choice and accessibility to key destinations from the location of the site.*”**

### **Policy SW23 Vehicular Transport**

This policy covers four different elements. The first element relates to congestion and air quality for any development beyond the east of the town’s development limits.

The second element refers to HGV movements and conditions restricting the timing of those movements. The NPPF is clear that the imposition of planning conditions should only occur where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.<sup>83</sup> It is impossible to say whether these tests could be met through on every application and so a modification is made to increase flexibility and ensure that the NPPF’s stance on conditions is taken account of.

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<sup>82</sup> NPPF para 57

<sup>83</sup> Ibid



The third element supports the provision of electric charging points. I note Highways England supports such an initiative, but UDC asks for further clarity. A modification is made to address this.

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

- **Delete the word “...will...” and replace it with “...may, if necessary and appropriate,...” and delete the words “...the timing of ...” in criterion 2.**
- **Add at the end of criterion 3. “*across all development types.*”**

## **11. Open Space, Sports and Recreation**

This section begins with a quotation from the NPPF which needs to be updated given the publication of the new NPPF. Other references to the NPPF also require correction in the interests of accuracy and updating.

- **Add the words “*...and can deliver wider benefits for nature and support efforts to address climate change.*” after the word “...communities...” in paragraph 11.1.1 on page 106 of the Plan**
- **Change the reference to NPPF paragraph 96 in paragraph 11.1.3 to NPPF paragraph 98**
- **Change the reference to paragraph 100 in paragraph 11.1.3 to paragraph 101 and substitute the word “Identifying” at the start of the second sentence with “*Designating*”**
- **Change the references to paragraphs 101 and 102 of the NPPF in paragraph 11.1.3 to paragraphs 102 and 103 respectively**

## **Policy SW24 Allotments**

The NPPF recognises allotments as a way of enabling and supporting healthy lifestyles.<sup>84</sup>

This policy requires all new residential development to provide 2 square metres of allotments space per person, either on or off site. A financial contribution can be made in lieu. However, the Plan points out that Saffron Walden exceeds the amount of allotment space based on the UDC Open Space Assessment Report dated 2019. It is then difficult to justify this requirement without further evidence even though I note UDC’s support in principle for this.

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<sup>84</sup> NPPF para 92

Reference is also made to the emerging local plan which had a similar requirement, but has now been withdrawn and this reference should now be removed from the Plan.

Secondly, the policy seeks the designation of allotments in the UDC Open Space Assessment Report as Local Green Spaces (LGS). Although Appendix 5 is referenced, it is not clear to me from the Plan where these spaces are given they are included in a long list of open spaces and they are not mapped clearly in the appendix given there is no key to the maps and again other types of spaces are shown on the maps. The maps are also at a very small scale making accuracy as to the boundaries of the spaces difficult. Even giving the benefit of the doubt and indicating that five allotments are proposed to be designated, the issue is more problematic than an identification and mapping one.

This is because the NPPF explains that LGSs are green areas of particular importance to local communities.<sup>85</sup>

The designation of LGSs should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.<sup>86</sup> It is only possible to designate LGSs when a plan is prepared or updated and LGSs should be capable of enduring beyond the end of the plan period.<sup>87</sup>

The NPPF sets out three criteria for green spaces.<sup>88</sup> These are that the green space should be in reasonably close proximity to the community it serves, be demonstrably special to the local community and hold a particular local significance and be local in character and not be an extensive tract of land. Further guidance about LGSs is given in PPG.

However, the policy clearly states that the allotments will be protected from development “unless accessible, enhanced compensatory provision is made”. This then means it would be possible for these spaces to be lost within the Plan period subject to their satisfactory replacement. This indicates to me it is therefore not the spaces themselves which are demonstrably special or hold a local significance but the use as allotments. I suspect the policy has muddled the designation of LGSs with a desire to protect the amount of allotment land available.

Thirdly, the policy seeks the designation of three additional allotments identified outside the Report as LGSs. As before, there is little evidence to support such a designation and in any case the policy allows these spaces to be replaced.

For the reasons given above, I do not consider satisfactory evidence has been put forward to either identify the proposed spaces clearly or to demonstrate how the proposed LGSs meet the criteria in the NPPF satisfactorily.

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<sup>85</sup> NPPF para 101

<sup>86</sup> Ibid

<sup>87</sup> Ibid

<sup>88</sup> Ibid para 102

The policy therefore does not meet the basic conditions and should be deleted.

- **Delete Policy SW24 and its supporting text (paragraphs 11.2.1 to 11.2.8 inclusive) and the associated appendices (appendices 5 and 6)**

The next section of the Plan refers to the NPPF and its references need updating.

- **Change the reference to paragraph 97 of the NPPF in paragraph 11.3.1 to paragraph 99**

### **Policy SW25 Playing Fields and Sports Halls**

The first element of this policy supports the provision of a multi-sport site subject to an accessible location. The NPPF seeks to achieve healthy, inclusive and safe places which, amongst other things, enable and support healthy lifestyles.<sup>89</sup>

The second element of this policy seeks developer contributions towards sports provision using Sport England's calculations. I note that Sport England welcome this policy and the references to the calculators and that UDC raise no objection to this approach.

Whilst other approaches could be taken to the provision of sports facilities in the town, the NPPF states that access to a network of high quality open spaces and opportunities for sport and physical activity is important to the health and wellbeing of communities as well as delivering wider benefits to nature and helping to address climate change.<sup>90</sup> This policy does help to plan positively for such facilities.

The policy meets the basic conditions and no modifications are recommended.

### **Policy SW26 Community Halls and Centres**

The supporting text to this policy explains that all of the existing local community spaces are well used. The first element of the policy therefore seeks to ensure that major developments with a forecast of 1500 population or more provides a new community centre or hall. Whilst the NPPF supports the positive planning of social, recreational and cultural facilities<sup>91</sup>, there must be some basis for setting such a standard in this Plan.

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<sup>89</sup> NPPF para 92

<sup>90</sup> Ibid para 98

<sup>91</sup> Ibid para 93

The second part of the policy requires the extension or other enhancement of existing facilities to address the additional demand or to contribute to a fund for new facilities as required.

The NPPF is clear that plans should set out the contributions expected from development.<sup>92</sup> This includes infrastructure of this type. Planning obligations can only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development and are fairly and reasonably related in scale and kind to the development.<sup>93</sup> Where policies set out such contributions it is expected viability has been assessed.<sup>94</sup>

Whilst there is a detailed discussion of the need for such facilities in the Plan area, there is little on the viability and deliverability of such requirements. These requirements would form part of a wider package of infrastructure sought by UDC. I do not consider either element meets the basic conditions.

The last element of the policy refers to 56 High Street indicating that the Scout Hall will be lost and contributions, presumably financial or land, will be needed to replace it. It is not clear to me what this part of the policy addresses and in any case, other policies in the Plan deal with this particular site. This then is unnecessary as it duplicates policies and can be deleted.

- **Delete Policy SW26 and its supporting text (paragraphs 11.4.1 to 11.4.5 inclusive)**

### **Policy SW27 Open Space for Informal Recreation**

The NPPF specifically refers to open spaces in setting out its social objective in relation to the achievement of sustainable development.<sup>95</sup> It indicates that planning policy should plan positively for the provision of open space, amongst other things, to provide the social, recreational and cultural facilities and services the community needs.<sup>96</sup>

Access to a network of high quality open spaces and opportunities for sport is important for the well-being and health of communities as well as delivering wider benefits for nature and supporting efforts to address climate change.<sup>97</sup>

The NPPF is clear that any need for open space should be based on robust and up to date assessments.<sup>98</sup>

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<sup>92</sup> NPPF para 34

<sup>93</sup> Ibid para 57

<sup>94</sup> Ibid para 58

<sup>95</sup> Ibid para 8

<sup>96</sup> Ibid para 93

<sup>97</sup> Ibid para 98

<sup>98</sup> Ibid

This policy seeks to achieve a number of things; it firstly sets out a standard for informal recreation based on per head of population. Like the previous policy, there is little information on deliverability or viability.

The second element sets a standard for developments of 50 plus units, requiring the design and location to be agreed with the Town Council. There is no evidence to support the requirement and it would be impractical for all sites to be agreed with the TC when they are not the determining body. Nevertheless some elements of this requirement can be retained as they set out good planning principles. This also applies to the third, fourth, fifth and sixth elements (there are two fifth elements in the policy).

The last element of the policy (criterion 6.) seeks to designate the amenity green space identified in the UDC Open Space Strategy and additional spaces identified as part of work on the Plan as LGSs.

It is not clear which spaces the Plan seeks to designate as LGSs. Appendix 5 contains details of “accessible green space”, playgrounds, parks and gardens and natural/semi-natural green space. These are difficult to discern on the maps in the appendix.

Appendix 6 seems to identify a further 12 areas for designation. There is a table on page 148 of the Plan which sets out the areas against the criteria for designation in the NPPF. There is insufficient information to justify the designations even if these were clear. For example, in seeking to meet the demonstrably special to the local community and local significance criteria, the table indicates “well used” for many of the proposed LGSs.

Whilst I accept that some of the spaces may well be suitable for designation as LGSs and meet the criteria, there is such a lack of clarity and information about the proposed designations, that I cannot reach the conclusion with any degree of certainty that these do meet the criteria in the NPPF.

Even if they did, the NPPF is clear that designating land as LGS should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services and be capable of enduring beyond the end of the Plan period.<sup>99</sup> Given my earlier comments about the housing strategy put forward by the Plan, I cannot be certain that to designate these spaces would have regard to this part of the NPPF.

Therefore I am left with little option but to delete this element of the policy.

Turning now to the supporting text, this states at paragraph 11.5.11 that green space adjacent to main roads will not be permitted in the future. This is a policy statement which appears in the supporting text and should be modified.

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<sup>99</sup> NPPF para 101

Paragraph 11.5.13 refers to the Town Council's desire to be owners and custodians of suitable open space and sets out requirements. This is not a development and use of land matter.

- **Delete criterion 1.**
- **Delete the first and second sentences of criterion 2. and change the [existing] last sentence of this criterion to read: "*Play areas must be in locations central to the development, be well-overlooked and built in durable materials.*"**
- **Change criterion 3. to read: "*The provision of amenity green space must be in a single...*" [retain as existing to end]**
- **Delete [existing] criterion 6., any associated supporting text [including paragraph 11.5.15] and appendices 5 and 6 [note both appendices are recommended for deletion in an earlier modification in relation to Policy SW24]**
- **Change the second sentence of paragraph 11.5.11 on page 118 of the Plan to read: "*This is to be avoided* in future developments."**
- **Move paragraph 11.5.13 on page 118 of the Plan to a separate section or appendix of the Plan called "Community Aspirations"**

## **Policy SW28 Public Rights of Way**

The NPPF is clear that planning policy should protect and enhance public rights of way and access including through opportunities to provide better facilities for users, for example by adding links.<sup>100</sup>

This policy seeks to ensure that public rights of way are protected and can continue to be enjoyed. Whilst this is a laudable aim, the policy wording effectively restricts development. The supporting text, which I discuss later and make some amendment to, is clear that development adjacent or along routes is not welcomed.

Often development is the means of securing enhancements to existing routes or a way of providing new routes or connections between routes. The blanket restriction in the first element of the policy does not meet the basic conditions; it does not take account of national policy or guidance and may hinder the achievement of sustainable development.

The second element of the policy relates to development which would be visible from a public right of way. It seeks to ensure that this is a consideration in any planning

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<sup>100</sup> NPPF para 100

determination and that landscaping could help with any such impacts. This latter element would seem to protect and promote the use of rights of way with their known benefits to health and the social aspect of sustainable development in particular.

Paragraph 11.5.21 on page 123 of the Plan makes a statement that any development along or adjacent to a route known as Beechy Ride would be detrimental. This is a statement of policy and should be amended to ensure that the Plan has clarity.

Another statement of policy is to be found in the next paragraph. A modification is made to this statement in the interests of clarity.

With these modifications, the policy will meet the basic conditions for the reasons given above.

- **Delete criterion 1. of the policy**
- **Change the last sentence in paragraph 11.5.21 on page 123 of the Plan to read: “Any development along or adjacent to *this* route *must be carefully considered in relation* to the amenity value of the route.”**
- **Change the third sentence in [the first numbered] paragraph 11.5.22 on page 123 of the Plan to read: “Development *should consider the mitigation of any adverse effect on the amenity value of a footpath which could include the provision of landscaping for example.*” and delete the next sentence which begins ““Substantial” ...”**
- **Consequential amendments will be needed [for example criteria numbering]**

## **Policy SW29 Land of Value to the Natural Environment**

Any area of environmental value in the Plan area has been mapped as part of the work carried out on the Plan. These areas are mapped at Appendix 8. I find the small scale of the map difficult to decipher. In addition the supporting text to the policy indicates that there is a table of the areas; I cannot find this in Appendix 8.

The policy designates the areas identified as LGSs. There is no list of the areas and no evidence to demonstrate how they meet the criteria in the NPPF for LGSs.<sup>101</sup> The wording of the policy then only permits development which would enhance the value of these sites and /or increases the overall area of the sites. This again does not reflect the stance of the NPPF on LGSs. As a result this element of the policy does not meet the basic conditions and is recommended for deletion.

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<sup>101</sup> NPPF paras, 101, 102 and 103

The second element of the policy supports the creation of publicly accessible woodland. This is an acceptable policy stance given that the NPPF indicates that planning policy should contribute to and enhance the natural and local environment by recognising the benefits of trees and woodland.<sup>102</sup>

Paragraph 11.5.23 refers to conservation covenants; the support given in the Plan amounts to a community aspiration and should be moved to a separate section of the Plan.

- **Delete criterion 1. of the policy and Appendix 8**
- **Move paragraph 11.5.23 on page 124 of the Plan to a separate section or appendix of the Plan called “Community Aspirations”**
- **Consequential amendments will be needed including the deletion of [the second numbered] paragraph 11.5.22 on page 123 of the Plan**

## **12. Arts and Cultural Facilities**

### **Policy SW30 Arts and Cultural Facilities**

There is little doubt of the importance and contribution the arts make to Saffron Walden; this is described in this section of the Plan.

The NPPF recognises that planning policy should provide the social, recreational and cultural facilities and services that communities need to improve health, social and cultural well being.<sup>103</sup> Part of its social objective in the achievement of sustainable development is to support communities’ health, social and cultural well being.<sup>104</sup>

Policy SW30 has three elements. The first element supports public art subject to site-specific considerations. There are no criteria or indication as to what these considerations might be or when public art might or might not be acceptable. There is therefore a lack of clarity in this element and without any criteria it has limited value as a development management tool. As a result it is recommended for deletion.

The second element supports a cinema or arts centre in the town centre or at or near the Fairycroft site. This gives a clear indication for support for such a facility and Fairycroft House is discussed in the supporting text.

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<sup>102</sup> NPPF para 174

<sup>103</sup> Ibid para 93

<sup>104</sup> Ibid para 8



The final element seeks contributions from development for arts and arts facilities. As explained elsewhere in this report, developer contributions can only be sought where they meet certain criteria.<sup>105</sup>

Plans should set out the contributions expected from development, but this should include setting the level and type and be sure that deliverability is not adversely affected.<sup>106</sup>

There is no reference to any such contributions in the supporting text and aside from the identification of gaps in provision, no indication as to what these contributions may consist of. Given this lack of detail or explanation, this element of the policy is too generalised and lacks the required clarity.

The supporting text to this section refers to an All-Party Parliamentary Group on Arts, Health and Wellbeing Inquiry. The document referred to is dated July not June 2017. Paragraph 12.15 offers support for the change of use to an arts centre; this is a statement of policy which is contained in the policy itself and so there is no need to duplicate it here. In addition the use classes changed and so the use classes referred to are out of date.

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

- **Delete criteria 1. and 3. from the policy**
- **Change “June” in paragraph 12.3 on page 125 of the Plan to “July”**
- **Delete the last sentence in paragraph 12.15 on page 127 of the Plan which begins “Applications for change of use...”**

## 13. Education

### Policy SW31 Education

The NPPF states the importance of having enough school places to meet the needs of existing and new communities.<sup>107</sup> It urges local planning authorities to take a positive approach to this need and to widen choice in education.<sup>108</sup>

This policy has four elements. The first offers blanket support for early years provision where there is a local need. Such blanket support may have unintended consequences

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<sup>105</sup> NPPF para 57

<sup>106</sup> Ibid para 34

<sup>107</sup> Ibid para 95

<sup>108</sup> Ibid

and lead to otherwise unacceptable development. This would not meet the basic conditions.

The second element requires land in two planning applications (UTT/13/3467/OP and UTT/17/2832/OP) to be retained for educational or community use unless or until required for educational use. A representation on behalf of the landowner of this site explains that the signed S106 agreement relating to UTT/17/2832/OP includes provision for the specified land to be reserved for educational purposes for a fixed period of ten years. In the event the land is not required within that time frame, the land would then be offered to the Town Council for community or open space use. The wording of the policy (and the supporting text) does not accurately reflect this scenario.

The third element relates to the library. The criterion simply resists change of use. There are no criteria to guide developers as to what alternative uses might be appropriate. Whilst I understand the desire to retain this facility, the blanket resistance to any changes of use does not meet the basic conditions as this might scupper the achievement of sustainable development.

The fourth element supports a separate sixth form college and the expansion of the County High School onto a separate site. This again offers blanket support with no criteria to indicate suitable sites or locations. This might inadvertently result in unacceptable development. This lack of clarity and potential to hinder the achievement of sustainable development means this criterion does not meet the basic conditions.

- **Delete Policy SW31 and its supporting text (paragraphs 13.1 to 13.11 inclusive)**

## **14. Healthcare**

### **Policy SW32 Healthcare**

The NPPF states that planning policy should take into account and support the delivery of local strategies to improve health, social and cultural well being of the community.<sup>109</sup> This also forms part of the social objective of the achievement of sustainable development in that accessible services reflecting current and future needs are fostered.<sup>110</sup>

Policy SW32 supports the provision of a health centre in the town subject to four criteria. These are appropriate criteria to ensure that the location of such a facility is accessible to all.

A combined community health centre at the existing community hospital is also supported.

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<sup>109</sup> NPPF para 93

<sup>110</sup> Ibid para 8

The policy meets the relevant basic conditions and no modifications are recommended.

## **Appendices**

A number of appendices follow.

Appendix 1 is a list of strategic policies in the LP 2005.

Appendix 2 contains information about the air quality management area. This is referred to in various parts of the Plan.

Appendix 3 is a transport “wish list”. This is referred to in section 10.2 of the Plan.

Appendix 4 contains information about SuDs.

Appendix 5 is the open spaces audit. I have recommended deletion of this appendix.

Appendix 6 contains proposed LGSs. I have recommended deletion of this appendix.

Appendix 7 contains community centre survey responses and is useful to retain.

Appendix 8 is land of environmental value. I have recommended deletion of this appendix.

Appendix 9 contains extracts of policies in the now withdrawn ELP and the policy which this appendix sits alongside has been recommended for deletion. I have recommended deletion of this appendix.

## **Plan Monitoring and Delivery**

Whilst monitoring and review is not currently a requirement for neighbourhood planning, the measures contained in this section are to be welcomed.

## **8.0 Conclusions and recommendations**

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

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

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

I therefore consider that the Saffron Walden Neighbourhood Development Plan should proceed to a referendum based on the Saffron Walden Neighbourhood Plan area as approved by Uttlesford District Council on 13 December 2012.

*Ann Skippers* MRTPI

Ann Skippers Planning

28 April 2022

## **Appendix 1 List of key documents specific to this examination**

Saffron Walden Neighbourhood Plan 2021 – 2036

Basic Conditions Statement October 2020

Strategic Environmental Assessment (SEA) Screening Determination Statement March 2020 (UDC) which includes the Habitats Regulations Assessment Screening

Consultation Statement undated

Heritage and Character Assessment October 2018 (AECOM)

Saffron Walden Bus Survey Report - July 2018 by David Corke

Uttlesford Local Plan adopted January 2005

Essex Design Guide (ECC)

Parking Standards Design and Good Practice September 2009 (ECC and EPOA)

Air Quality Action Plan 2017 – 2022 (UDC)

The SuDs Manual (CIRIA)

TCPA Garden City Standards for the 21st Century: Practical Guides for Creating Successful New Communities guide 7 planning for green and prosperous places 2017 (TCPA)

UDC Open Space Assessment Report February 2019 (Knight, Kavanagh & Page Ltd)

UDC Shopfront Design Guide February 2022

And other evidence available on the Town Council's website [www.saffronwalden.gov.uk](http://www.saffronwalden.gov.uk)

**List ends**

## Appendix 2 Note of Interim Findings with Questions of Clarification (Note 1)

### Saffron Walden Neighbourhood Plan Examination

#### Note of Interim Findings from the Examiner to the Town Council and Uttlesford District Council

Having completed my initial assessment of the Neighbourhood Plan (the Plan), I am writing to the Town Council (TC) and Uttlesford District Council (UD) to set out my interim findings.

Unfortunately I have identified a number of matters which I consider will significantly change the Plan as produced by the TC on behalf of the local community. I understand this will be disappointing news to those involved in the production of the Plan. I therefore want to ensure that I present a rounded picture of these matters to help the TC and LPA make an informed judgement as to how best to progress the Plan.

#### **Main Matters**

1. Policy SW1 (SWNP Site Allocations) makes a number of site allocations. However, it relies wholly on work carried out on the now withdrawn emerging Local Plan. There is no standalone work or at the very least a review to check the validity of this untested evidence. It is not clear to me why some sites in the emerging Local Plan have come forward whilst others appear not to. Furthermore there is no evidence, given the assumptions made, that the sites selected are still available, suitable and are likely to be economically viable.

Secondly, there is no clarity over the housing figure requirement the Plan is to meet. It does not appear that UDC have been asked to provide a housing figure and so there is no way of knowing whether the Plan meets its housing requirement.

Thirdly, and this is related to the second point above, the Plan does not satisfactorily deal with its Plan period which runs from 2021 – 2036 in relation to housing supply.

Fourthly, even if the approach of the Plan and the proposed site allocations were to be found to meet the basic conditions, there is insufficient evidence to support some of the key requirements in the site allocation policies. An example of this is the 5% older persons 1 and 2 bedroom dwellings required for SAF 1.

Taking all these points singly and together, means that it is likely I would have little option but to delete the relevant policies and section of the Plan resulting in a Plan that would not deal with housing supply or contain any site allocations.

2. Policy SW2 (Protection of Views). A number of views have been identified through work on the Heritage and Character Assessment (HCA) as being of importance. These views should be identified, numbered, described and mapped. A series of maps and photographs on page 35 onwards of the Plan show some views, but it is not clear to me whether these are the same general views as identified in the HCA, where these viewpoints are and how they relate to the photographs or the work carried out on the HCA. Much more work would need to be carried out for the policy to meet the basic conditions. This work may mean that consultation would have to be redone. However, if the work is not carried out, this policy is likely to be recommended for deletion.
3. There are likely to be a significant number of recommended modifications. The two examples above give a flavour of the reasons why. At the present time, eight policies are

likely to be recommended for deletion (these include what I regard to be key policies in the Plan, for example in relation to the identification of Local Green Spaces), 11 policies are recommended for modification and you will see a list of queries on a number of other policies in the next heading on this note "other issues" which may result in modification or even deletion to these policies.

In the main the deletions of, and modifications to, policies are either due to a lack of sufficient and/or appropriate evidence to support them and/or to ensure they have regard to national policy and guidance, particularly in relation to the necessary clarity and precision needed to provide a practical framework for decision-making.

Given this, and the number of queries below on other policies, I would like to give the TC and UDC an opportunity to consider the best way forward.

#### ***Other issues – questions of clarification***

During the course of an examination, it is not unusual for me to have a number of questions of clarification. These are usually queries which can be readily dealt with by an exchange of correspondence.

4. Policy SW4 (Housing Mix on New Developments). There is a lot of supporting text for this policy, but the policy requirements do not seem to reflect the supporting evidence. I invite comments on this from both the TC and UDC.
5. Policy SW5 (Affordable Housing). Does UDC have any comments about the requirements set out in this policy; are they appropriate?
6. Policy SW8 (Parking on New Developments). Please could the rationale/evidence for the electric vehicle charging points requirements be explained?
7. Policy SW14 (Shopfront Design) refers to a Shopfront Design Guide being produced by UDC. Please could UDC confirm whether this has now been adopted and if so, please provide a copy?
8. Policy SW19 (Ecological Requirements for All New Domestic and Commercial Developments). (a) the policy refers to TCPA guidelines, but I think these relate to new communities; is this correct? Please could you provide a copy of the guidelines referred to; (b) please explain what is meant by not-for-profit housing which is redevelopment of land and the rationale for the footprint proviso in the exception; (c) please check the date of the latest CIRIA SuDs Manual; (d) are the requirements in the CIRIA SuDs Manual and the Essex SuDs Design Guide referred to in criterion 3. the same?; if not, how should this requirement in the policy be reconciled?
9. Section 10 (Transport Infrastructure) refers to a number of documents in relation to highway impact and the air quality management area. (a) please provide the source documents so I can readily find the source of the evidence quoted; (b) the Air Quality Action Plan seems to contain more than the seven measures referred to in the supporting text; why have only seven been referred to?



10. Policy SW20 (Promoting Walking and Cycling) refers to Secured by Design New Homes 2014; is this the latest version? The supporting text refers to 2019.
11. Paragraph 10.3.5 refers to a review report carried out by Dr. Corke; the link is not working for me so please can a copy of this report be provided?
12. Policy SW23 (Vehicular Transport). The policy refers to the Uttlesford Local Plan Highway Impact Assessment October 2013; is this document the most recent and the most appropriate assessment to use?

### ***Conclusion***

It will be apparent that there are a number of issues in the Plan which, in my view, will require modifications that will come as a disappointment to those involved in its production and result in a Plan very different to that submitted to UDC. These may in themselves be regarded as significant changes. This may mean that further public consultation would need to be carried out.

In making this statement, I have kept in mind the guidance in the NPIERS Guidance to service users and examiners which indicates that "Examiners will not generally refer back to parties on these detailed revisions. But where the modification may necessitate a change which in the opinion of an examiner would be significant, there is a reasonable expectation that a description of the intended modification will be publicised on the local planning authority's website, seeking comments, prior to recommending the change. Significant changes may typically require further work to be undertaken, particularly in relation to Strategic Environmental Assessment." (paragraph 2.12.6 of the Guidance).

I am conscious that the NPIERS Guidance indicates that what might constitute a significant change will be for me to determine in the context of the Plan examined, but that such changes can lead to concerns over community ownership of the Plan.

Whilst this Plan is not examined through NPIERS, I consider it helpful to refer to that Guidance.

It is also important to recognise that I must ensure I am not rewriting the Plan (and indeed would not wish to do so) in making modifications.

### ***Possible courses of action to consider***

There are therefore two ***possible courses of action*** to consider:

- A. I carry on with the examination once you have responded to the queries of clarification set out above. This is likely to result in a report that recommends the Plan proceeds to referendum, but with many modifications. It is possible that the number and type of modifications may be regarded as significantly changing the intent and nature of the Plan's contents requiring a short further period of consultation. A timescale for receipt of the answers to the queries would need to be agreed between us all; the usual period is two weeks with other milestone dates being set out for all parties to minimise any further delays to the examination.
- B. The Plan is withdrawn from examination and no further work is carried out by me on the examination. This would allow the TC and UDC to work together on remedying the



deficiencies of the Plan. Once and if the Plan was to be (re)submitted to UDC in a revised form with revised supporting documentation at some point in the future, I could be appointed again to undertake the new examination (with the agreement of all parties including me) or another examiner could be appointed as preferred. No timescales would be needed.

I have considered whether to hold an exploratory meeting or hearing to consider these issues. I see no immediate benefit to any party in holding a meeting or hearing at the present time as I have set out the issues and options as I see them in detail above.

In the light of the above, I would like to give the TC the opportunity to consider my comments above and the best way forward.

At this point in time I am not asking the TC or UDC to address the queries posed above. They are simply there to illustrate the concerns about some aspects of the Plan to help the TC to make an informed choice.

I am also not seeking, and will not accept, any representations from other parties regarding this matter at this stage.

I have not yet made a site visit to the area. I will not spend any further time on the examination until the TC and UDC have had an opportunity to come back to me with their preferred course of action.

I realise this will be an important consideration for the local community. Once the TC has had a chance to consider the options moving forward, including holding any discussions with UDC, please let me know how you wish to proceed. Please respond by **Wednesday 20 October**. If a little further time is required, for example to coincide with a TC meeting, please let me know.

Should you decide you would like me to proceed, please then let me know a reasonable timescale for receipt of the responses to the queries set out above. This would usually be a period of about two weeks.

This note will be a matter of public record and should be placed on the relevant websites.

With many thanks,

Ann Skippers MRTPI  
Independent Examiner  
5 October 2021

## Appendix 3 Note re Significant Changes (Note 2)

### Saffron Walden Neighbourhood Plan Examination

#### Note from the Examiner to the Town Council and Uttlesford District Council

I wrote to the Town Council and Uttlesford District Council (UDC) on 5 October 2021. This was called "Note of Interim Findings". This explained that I had found a number of matters requiring modification which would, in my view, significantly change the Saffron Walden Neighbourhood Plan (the Plan) as submitted. I outlined a number of options in terms of a way forward which included the withdrawal of the Plan from examination to allow those deficiencies to be addressed.

The Town Council confirmed on 10 November that they wished to continue with the examination.

The Note of Interim Findings referred to NPIERS Guidance to Service Users and Examiners. This states: "Examiners will not generally refer back to parties on these detailed revisions. But where the modification may necessitate a change which in the opinion of an examiner would be significant, there is a reasonable expectation that a description of the intended modification will be publicised on the local planning authority's website, seeking comments, prior to recommending the change. Significant changes may typically require further work to be undertaken, particularly in relation to Strategic Environmental Assessment." (paragraph 2.12.6 of the NPIERS Guidance to Service Users and Examiners).

In my view I will be making a number of modifications to the Plan which can be regarded as significant.

The significant modifications I propose are the deletion of the following proposed Policies:

- SW1 Site Allocations (lack of satisfactory evidence and clarity)
- SW2 Protection of Views (lack of satisfactory evidence and clarity)
- SW3 Site Allocation (as per Policy SW1)
- SW6 Housing Density (lack of satisfactory evidence)
- SW9 Energy Efficient and Sustainable Design (presented as a non-binding policy so lack of clarity as to status and acceptable elements cannot be retained as it has not been consulted upon as policy)
- SW10 Accessible and Adaptable Homes (as per Policy SW09)
- SW11 Town Centre Uses (lack of clarity and satisfactory evidence)
- SW24 Allotments (lack of clarity and satisfactory evidence)
- SW26 Community Halls and Centres (lack of satisfactory evidence on viability and deliverability)
- SW31 Education (lack of clarity/would not achieve sustainable development)

Individually with the exception of Policies SW1 and SW3, none of the other policies to be deleted might be regarded as significant modifications by themselves. The proposed deletion of Policies SW1 and SW3 are significant, as these two policies together constitute the housing supply and site allocations. However, taken

cumulatively and alongside the number of proposed policy deletions, even bearing in mind this is a complex and ambitious Plan, means that the Plan put forward for referendum will be significantly different to that put forward by the Town Council and the community at submission stage.

The description of the intended modification alongside brief reasons for these significant changes are outlined in my Note of Interim Findings and summarised above. A number of other policies are also proposed to be modified.

In accordance with guidance to examiners in paragraph 2.12.6 in Part 2 of the NPIERS Guidance to Service Users and Examiners, I now intend to seek comments on these proposed significant modifications to the Plan.

The guidance states that in these circumstances there is a reasonable expectation that a description of the intended modifications (which I have provided above) will be publicised on UDC's website, seeking comments, prior to recommending the changes. There is no requirement for any further publicity, but I am happy for both Councils to publicise this matter further if they wish to do so. However, this should not mean a delay in publicity. A period of two weeks should be allowed for comments. Please can this publicity period start as soon as possible. I have included, in separate correspondence, a suggested timetable to ensure there is no further delay to the examination.

I will only accept comments on these significant modifications and will accept no other correspondence on any other aspects of the Neighbourhood Plan. During this consultation period, both Councils are welcome to make comments on these proposed significant modifications if they wish to do so.

Ann Skippers  
Independent Examiner  
7 February 2022

## Appendix 4 Note (of Clarification) (Note 3)

### **Saffron Walden Neighbourhood Plan Examination Note from the Examiner to the Town Council and Uttlesford District Council**

Further to my Examination Note 2 of 7 February 2022, I am now writing to address a request from Saffron Walden Town Council (TC) to Uttlesford District Council (UDC) to clarify that Note.

Briefly, the history is that I wrote to the TC and UDC on 5 October 2021. This was called "Note of Interim Findings". This explained that I had found a number of matters requiring modification which would, in my view, significantly change the Saffron Walden Neighbourhood Plan (the Plan) as submitted. I outlined options in terms of a way forward. I explained that I considered I would be recommending a number of significant changes to the Plan and that, in line with NPIERS Guidance to service users and examiners, 2018 (the Guidance), a description of those significant changes would be publicised on the local planning authority's website seeking comments prior to recommending the changes.

My Note of 7 February 2022 sets out what those significant changes are and requests that the publicity period be started. A separate email set out a suggested timescale for progressing the Plan as the TC indicated it wished me to continue with the examination.

Most of the ten policies proposed for deletion are recommended for deletion due to a lack of satisfactory evidence. The TC has asked whether it can submit evidence at this stage.

Firstly, it is usual for additional evidence only to be submitted in exceptional circumstances; this is confirmed in the Guidance.

Secondly, if the evidence is not already in the public domain, the public has not had an opportunity to consider it.

In order to assist the TC to see whether the evidence is already available and within the public domain, I set out here further information about the proposed significant modifications. The full reasoning will be set out in my report should the policies still be proposed for deletion after the publicity period has been held.

- Policies SW1 and SW3 Site Allocations (lack of satisfactory evidence and clarity). The emerging local plan has now been withdrawn. In these circumstances, in line with national policy and advice, an indicative housing figure should be requested from UDC. The Plan then would work to that housing figure (which itself would be examined) with its proposed site allocations. There is no indication that such a housing figure has been sought. The Plan period does not tie up with the local plan period so the Plan cannot use those figures. There is then no evidence that a site selection and assessment process has been undertaken. There is no information on whether the sites subject to these policies are still suitable and available. There is little explanation of the key requirements sought for each site even if the sites were found to be appropriate.
- SW2 Protection of Views (lack of satisfactory evidence and clarity). Whilst a Heritage and Character Assessment has been undertaken, there is a lack of clarity



and precision around identifying, numbering, describing and mapping the views subject of the policy.

- SW6 Housing Density (lack of satisfactory evidence). There is insufficient evidence to support the densities sought.
- Policies SW9 Energy Efficient and Sustainable Design and SW10 Accessible and Adaptable Homes are presented as non-binding policies so there is a lack of clarity as to their status. Any acceptable parts of each policy which might have been able to be retained through modification cannot be retained as there has been no consultation on these as policies.
- SW11 Town Centre Uses (lack of clarity and satisfactory evidence). It is not clear on what basis or how the frontages have been defined.
- SW24 Allotments (lack of clarity and satisfactory evidence). There is no evidence to justify the requirement sought. The policy seeks designation of allotments as Local Green Spaces. There is no evidence to show how each of the proposed spaces meets the criteria set out in the NPPF.
- SW26 Community Halls and Centres (lack of satisfactory evidence on viability and deliverability). There is no evidence to support the standard sought or satisfactory consideration of viability and deliverability for the contributions sought.
- SW31 Education (lack of clarity/would not achieve sustainable development). All four elements of the policy are not considered to meet the basic conditions; the first and last elements offer blanket support which may lead to unacceptable development. The second does not reflect the current planning position of the site in question. The third does not offer guidance to developers on what alternative uses may be appropriate.

The Guidance explains it is the responsibility of the qualifying body to ensure all evidence relied on to justify the policies has been provided. I appreciate evidence can be time consuming and costly to produce and should always be proportionate to deal with the matter in hand. Deletion of policies is always a last resort.

As the Guidance recommends I have brought my concerns about various aspects of the draft Plan to the attention of the TC and UDC. I am inviting comments on the proposed significant modifications. Even if the TC considers the necessary evidence is available and already within the public domain, it can only be accepted at this late stage if there are exceptional circumstances to do that. I am not aware of any such circumstances at this time.

I trust this further information is helpful to all parties.

Ann Skippers  
Independent Examiner  
15 February 2022