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Report on Hatfield Peverel Neighbourhood Development Plan 2015 - 2033

An Examination undertaken for Braintree District Council with the support of the Hatfield Peverel Parish Council on the February 2019 Post Submission Further Changes version of the Plan.

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Date of Report: 23 July 2019

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Main Findings - Executive Summary

From my examination of the Hatfield Peverel Neighbourhood Development Plan (the Plan / HPNP19) and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – the Hatfield Peverel Parish Council;
- The Plan has been prepared for an area properly designated – the parish of Hatfield Peverel as marked on the map on page 5 of the Plan;
- The Plan specifies the period to which it is to take effect – 2015 to 2033; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to Referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

1. Introduction and Background

Hatfield Peverel Neighbourhood Plan 2015 - 2033

- 1.1 The parish of Hatfield Peverel is in mid Essex, being some 7 miles from Chelmsford to the west, 2 miles from Witham to the east, and just over 4 miles from Maldon on the coast to the south east. It is unevenly bisected by the dual carriageway of the A12 and the railway line, which run through its northern part from north east to south west. The main part of the large village of Hatfield Peverel lies to the south of the A12 with the smaller village of Nounsley approximately three quarters of a mile to its south. The remainder of the parish comprises attractive gently undulating agricultural land crisscrossed by narrow lanes and interspersed with small copses and woods. The River Ter runs through the parish joining the River Chelmer in the south.
- 1.2 With significant development having taken place during the last century, Hatfield Peverel has developed into a largely dormitory village with its residents commuting to London and other local towns to work. In 2011, the parish had a resident population of 4,375 people in 1,815 households.

- 1.3 Work on the preparation of a neighbourhood plan for the parish began late in 2014 with an application submitted in January 2015 for designation as a neighbourhood plan area. This was approved by Braintree District Council (BDC) on 30 March 2015 and the Hatfield Peverel Parish Council (HPPC) established a steering group, made up of residents and Parish Councillors, which met throughout the Plan making process. The Consultation Statement, which accompanied the March 2017 submission version¹ of the Hatfield Peverel Neighbourhood Development Plan (HPNDP), details the stages in the Plan preparation and the results of consultations with residents, businesses and other stakeholders.
- 1.4 Following formal consultation on the submitted Plan in the summer of 2017 and my appointment to examine the Plan, I identified issues regarding the Strategic Environmental Assessment (SEA) work that had been undertaken². In addition, I had concerns regarding the Habitats Regulation Assessment (HRA) provided as Hatfield Peverel is within what is identified as the 'zone of influence' of European nature conservation sites on the Essex coast and where there is the potential for new residential development, proposed in the Plan, to have likely significant effects. Further work was commissioned on behalf of the Parish Council and at my request, a further consultation was carried out in May and June 2018 on what were described by the District Council as Focused Changes to the Plan, resulting from work on the HRA and SEA³.
- 1.5 In June 2018⁴, I drew the local planning authority and qualifying body's attention to the recent judgement of the Court of Justice of the European Union (CJEU) in the case of *People over Wind & Sweetman v Coillte Teoranta* (Case C-323/17)⁵, the implication of which was that competent authorities cannot take account of any integrated or additional or reduction measures when considering at HRA screening stage whether a plan is likely to have a significant effect on a European site. In the light of that judgement, I asked whether the BDC considered that the HPNDP HRA screening report (December 2017) was legally compliant and if not, what further work would be required to rectify this. I consider that judgement and the responses of BDC and of Natural England (NE), the Government's adviser on nature conservation matters, in more detail below.
- 1.6 In December 2018, an amendment was made by Government to the relevant Regulations⁶ such that neighbourhood plans could progress through examination if they had been identified as having likely significant

¹ Submitted under Regulation 15 of the 2012 Regulations.

² IPe letter dated 5 September 2017 reference 01/MOR/HPNP.

³ Consultation by Braintree District Council.

⁴ IPe letter dated 15 June 2018 reference 05/MOR/HPNP.

⁵ View at:

<http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30ddf571da66f02d449d9f60cc9f39bf8846.e34KaxiLc3qMb40Rch0SaxyNch10?text=&docid=200970&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=628325>

⁶ Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

effects. In the light of that change, the grant of permission for the Arla Dairy site, allocated in the HPNDP, and advice from NE, BDC determined to rescreen the Plan for HRA and SEA. These are both new assessments, replacing previous work. In February and March 2019, further public consultation was undertaken on the January 2019 SEA and HRA Screening Report and on the February 2019 HPNP19 Post Submission Further Changes, along with an amended Basic Conditions statement and an Explanatory Note. It is that Plan which is the subject of my examination and of this report. For the avoidance of doubt, I refer to it throughout this report as the HPNP19.

The Independent Examiner

- 1.7 As the Plan has now reached the examination stage, I have been appointed as the examiner of the HPNP19 by BDC, with the agreement of HPPC.
- 1.8 I am a chartered town planner and former government Planning Inspector, with some 40 years of experience in the public and private sector, more recently determining major planning appeals and examining development plans and national infrastructure projects. I have previous experience of examining neighbourhood plans. I am an independent examiner, and do not have an interest in any of the land that may be affected by the draft Plan.

The Scope of the Examination

- 1.9 As the independent examiner I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
 - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
 - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.10 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
- Whether the Plan meets the Basic Conditions;
 - Whether the Plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:

- it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
 - it sets out policies in relation to the development and use of land;
 - it specifies the period during which it has effect;
 - it does not include provisions and policies for 'excluded development';
 - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area;
 - whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to referendum; and
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 ('the 2012 Regulations').

1.11 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

The Basic Conditions

1.12 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area;
- Be compatible with and not breach European Union (EU) obligations; and
- Meet prescribed conditions and comply with prescribed matters.

1.13 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Plan does

not breach the requirement of Chapter 8 Part 6 of the Conservation of Habitats and Species Regulations 2017 (the 2017 Regulations)⁷.

2. Approach to the Examination

Planning Policy Context

- 2.1 The Development Plan for this part of BDC, not including documents relating to excluded minerals and waste development, is the Braintree District Core Strategy 2011 (with a plan period of 2011-2026) (CS) and the saved policies of the Braintree District Local Plan Review 2005 (LPR). The Site Allocations and Development Management Plan (SADMP) was progressed in line with the Core Strategy but was withdrawn prior to submission for examination. Whilst the Strategic Environmental Assessment: Screening Report January 2019 refers to its policies as being robust and should be given appropriate weight in development management decision making, the SADMP is not part of the formal Development Plan for the Neighbourhood Plan Area.
- 2.2 The District Council is preparing a new Local Plan (LP) to cover the period to 2033. The Publication Draft Local Plan has two sections. Section 1, produced following work by BDC, Colchester Borough Council and Tendring District Council on strategic cross-boundary issues in North Essex, is shared by the three authorities within their own Local Plans and includes policies on infrastructure, housing numbers and proposals for three new garden communities. Section 2 contains District level policies. Both sections were submitted by BDC for examination in October 2017. Having completed hearing sessions, the joint examination of the Section 1 Local Plan has been paused, to allow more work and evidence required by the Inspector to be completed.
- 2.3 In accord with advice in the Government's Planning Practice Guidance⁸, the Parish Council and BDC have discussed and agreed the relationship between policies in the emerging Neighbourhood Plan and the adopted and emerging Development Plans. The Basic Conditions statement, updated in February 2019, includes assessment of the HPNP19 policies against policies in both the adopted and emerging Plans.
- 2.4 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The NPPF of July 2018, and subsequent revision in February 2019, replaced the first NPPF published in March 2012. Annex 1 of the 2018 (and subsequent 2019) Framework deals with implementation and paragraph 214 advises that '*the policies in*

⁷ This revised Basic Condition came into force during the course of the examination on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

⁸ PPG Reference ID: 41-009-20160211.

the previous Framework will apply for the purposes of examining plans, where those plans are submitted on or before 24 January 2019’. In this case, the Plan was submitted to the local planning authority in accordance with Regulation 15 of the 2012 Regulations in March 2017 and thus the policies in the first NPPF of 2012 apply to this examination. The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented.

Submitted Documents

2.5 I have considered all policy, guidance and other reference documents I consider relevant to the examination. As I explain in paragraph 1.6 above, my examination is into the latest iteration of the Neighbourhood Plan, which is the Post Submission Further Changes of February 2019 (HPNP19). However, I have also had regard to the following:

- (i) Those documents originally submitted which comprise:
 - the draft Hatfield Peveler Neighbourhood Plan 2015 - 2033, [February 2017];
 - The Map on page 5 of the Plan which identifies the area to which the proposed Neighbourhood Development Plan relates;
 - the Consultation Statement, [February 2017];
 - the Basic Conditions Statement, [February 2017];
 - all the representations that were made in accordance with the Regulation 16 consultation in June and July 2017; and
 - the Strategic Environmental Assessment Screening Report dated June 2016 prepared by Place Services for Braintree District Council.

- (ii) The documents submitted that relate to the Focused Changes consultation of May 2018. These include:
 - The Focused Changes and proposed wording amendments to the Plan’s policies F11, HO1 and HO6;
 - All the representations that were made in accordance with the Focused Changes consultation in May and June 2018; and
 - The SEA Screening Report [February 2018], the SEA Environmental Report [March 2018] and the Habitat Regulations Assessment Screening Report [December 2017].

- (iii) The documents submitted that relate to the consultation in February and March 2019 on the Post Submission Further Changes. These include:
 - The HPNP Post Submission Further Changes [February 2019], the HPNP19;
 - The Map on page 5 of that document that identifies the area to which the proposed Neighbourhood Development Plan relates;
 - The Basic Conditions Statement [February 2019];
 - All the representations that were made in accordance with the consultation in February and March 2019 on the Post Submission Further Changes [February 2019]; and

- The SEA and HRA Screening Report [January 2019].

2.6 In addition, I have considered the responses from HPPC and BDC to my letters and questions, which include advice to BDC from Natural England⁹.

Site Visit

2.7 I made an unaccompanied site visit to Hatfield Peverel and the surrounding areas on 5 June 2019 to familiarise myself with them, and to visit relevant sites and areas referenced in the Plan and evidential documents.

Written Representations with or without Public Hearing

2.8 This examination has been dealt with by way of written representations. Whilst there is no right to be heard, I have noted the requests made by various parties, in the three consultations carried out, to speak at an examination hearing, if any were to be held. However, I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan, and presented arguments for and against the Plan's suitability to proceed to a referendum.

Modifications

2.9 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

3.1 The Plan has been prepared and submitted for examination by HPPC which is a qualifying body for an area designated by BDC on 30 March 2015.

3.2 It is the only Neighbourhood Plan for the parish, and does not relate to land outside the designated Neighbourhood Plan Area.

⁹ View at:

https://www.braintree.gov.uk/info/200230/planning_policy/458/neighbourhood_planning/5

Plan Period

- 3.3 The Plan specifies clearly the period to which it is to take effect, which is from 2015 to 2033.

Neighbourhood Plan Preparation and Consultation

- 3.4 The Consultation Statement (February 2017) provides details of the public engagement that took place in the evolution of the Plan. The Parish Council agreed to begin the Plan making process in the autumn of 2014, with an executive committee formed to lead the process and agreed an engagement strategy. Following designation of the parish as a neighbourhood plan area in March 2015, a steering group of residents and Parish Councillors was formed. Timelines and milestones in the evolution of the Plan are set out in the Plan and in the Consultation Statement. A range of methods was used to engage with the community and with businesses and stakeholders during the Plan preparation period. These include holding early in 2015 a series of interactive workshops with local residents and their children as well as manned displays at various local events. The Steering Group maintained an ongoing presence on the Parish Council's website as well as on social media (Facebook, Twitter and Streetlife) and sent out regular email updates to groups who had indicated they wanted to be kept informed. This was in addition to updates in the local Hatfield Peverel Review, the distribution of posters and flyers, attendance at key local events, public meetings and surveys of residents and businesses.
- 3.5 An initial public meeting was held in March 2015, attended by 40 people, whilst specific workshops and visits to local community groups involved another 300 people. These events, including a village quiz and photo competitions, helped raised awareness of the Plan and identified key issues. Meetings of the Steering Group were also well attended. The Consultation Statement lists activities and events held nearly every week through 2015 to engage with the local community. The Housing Needs Survey carried out in February 2015 elicited 427 completed surveys (a 23% response) whilst more than a quarter of local residents responded to the residents' survey in October 2015 (517 surveys). As well as residents, village clubs and organisations, local businesses, landowners, and agents and developers, who had responded to BDC's call for sites in relation to the new LP, were kept informed about the Plan. Of the 74 local businesses with addresses identified, 17% responded to the business survey undertaken in October 2015. Key issues raised included concerns about the location, scale and type of new housing, coalescence with other settlements, design, protecting green spaces and open vistas, traffic and parking, improving connectivity, enhancing community facilities and retaining local businesses and services.
- 3.6 Formal Regulation 14 consultation on the draft Plan was held between 15 August and 30 September 2016. Local residents were made aware of this through an article in the local newsletter, posters and banners, posts on

social media, as well as by email. The Plan was made available on the Parish Council website, with hard copies distributed to the library, dentist, community association and church hall. For 2 days during the consultation period, volunteers manned a display at the Strutt Memorial Ground. In addition, an electronic copy of the draft Plan was sent to all contacts on the Plan email account, including all statutory and non-statutory consultees. Some 95 responses were received from local residents with a further 20 from statutory consultees, developers and agents. The Consultation Statement summarises the responses received in a table on pages 16 to 21 and sets out how the responses were taken into account, where appropriate, in amending the Plan, including reducing it in length, making the policies more prominent, and improving the evidence base for the policy on important views.

- 3.7 I am satisfied that engagement and consultation with the wider community and interested parties was robust through the Plan making process up to the Regulation 15 submission; that they were kept fully informed of what was being proposed, were able to make their views known, had opportunities to be actively involved in shaping the emerging Neighbourhood Plan, and would have been aware of how their views had informed the draft Plan. In that respect, therefore, I conclude that a transparent, fair and inclusive consultation process was followed, having due regard to the advice in the PPG on plan preparation and in procedural compliance with the legal requirements.

Further Consultations

- 3.8 However, in addition to the minor amendments noted above, it appears that, between the summer of 2016 and spring 2017, it was decided to include an allocation in the Neighbourhood Plan for the redevelopment of the former Arla site, and a new policy HO6 was included in the Regulation 15 submitted Neighbourhood Plan. The submitted Plan was subject to a further 6-week consultation from 5 June to 17 July 2017 under Regulation 16, when 29 parties submitted representations on the Plan.
- 3.9 These representations included those of Natural England (NE) who advised that *'the submission of the Hatfield Peverel Neighbourhood Development Plan is deferred. Alternatively, further information should be provided regarding a Habitats Regulations Assessment of the Neighbourhood Plan'*. NE particularly noted the proximity of the Blackwater Estuary Special Protection Area (SPA) and Ramsar site and the Essex Estuaries Special Area of Conservation (SAC) to Hatfield Peverel and that if the Plan sought to allocate land for development (at less than 7.5km from the SPA/SAC), the Plan should be subject to HRA screening, to determine whether there was the likelihood of significant effects alone or in-combination with other plans or projects. Given that the Appropriate Assessment Report on the draft LP had already determined that potential in-combination effects could not be ruled out; that the Neighbourhood Plan was coming forward in advance of the LP; and that no specific mitigation was identified in the

Neighbourhood Plan nor any mechanism for delivery, NE advised that 'a conclusion of no likely significant effect cannot be reached'.

- 3.10 As set out in paragraph 1.4 above, at my request further work was carried out on the SEA and the preparation of the HRA Screening Report (December 2017). This concluded that the Plan 'is predicted to have likely significant effects on any European site, either alone or in combination with other plans and projects', and recommended the inclusion of additional policy text in the Plan, that the SEA be redone, the 3 statutory consultees be consulted¹⁰, and then a new round of consultation (on the Plan) should be carried out.
- 3.11 Consultation on what were described as Focused Changes to the Plan was carried out between 10 May and 21 June 2018. The documents available for consultation included the schedule of the 3 proposed modifications to the Neighbourhood Plan, the SEA Screening Report (February 2018), the SEA Environmental Report (March 2018) and the HRA Screening Report (December 2017). Nine responses were received, including particular criticism as to the form of the consultation, the lack of explanation as to why it was taking place and on what documents, and the absence of a full and final version of the Plan, which was said would put the Plan at a very serious risk of legal challenge¹¹. I see no merit in my commenting on these particular representations given the need that then emerged to look again at the HRA Screening in the light of the *People over Wind* judgement, the subsequent amendment to the Regulations¹², and the further consultation this year on the HPNP19.
- 3.12 Further consultation was carried out between 11 February and 25 March 2019 on Hatfield Peverel Neighbourhood Development Plan Post Submission Further Changes (February 2019, HPNP19) which included all the further changes to policies in the Plan denoted in red ink and underlined. An explanatory note was also published which set out the background to the Further Changes along with a new Basic Conditions Statement (February 2019) and an up to date SEA: Screening Report (January 2019). Fourteen representors made comments on the HPNP19.
- 3.13 The progress of this Plan has been bumpy and taken time. Additional work on SEA and HRA has been needed and account has had to be taken of the European court judgement and consequential changes to regulations¹³. The Plan, now with its further changes, has been the subject of formal consultations in 2017, 2018 and 2019. I have taken account of all the representations made on the Plan in the writing of this report. Having regard to the advice in the PPG on plan preparation and

¹⁰ These are Natural England, the Environment Agency and Historic England. Regulation 4 of The Environmental Assessment of Plans and Programmes Regulations 2004 (as amended).

¹¹ Representations made on behalf of Gladman Developments Ltd and David Wilson Homes Eastern Counties.

¹² See paragraph 1.4 above.

¹³ See footnote 7 above.

the requirements of the Regulations, I conclude that taken overall the consultation process followed for this Neighbourhood Plan has been transparent, fair and inclusive and as such is procedurally compliant with the legal requirements.

Development and Use of Land

3.14 The Plan sets out policies in relation to the development and use of land in accordance with section 38A of the 2004 Act.

Excluded Development

3.15 The Plan does not include provisions and policies for 'excluded development'.

Human Rights

3.16 The Basic Conditions Statement at page 17 states that the policies in the Plan are considered to comply with the requirements of European Union obligations in relation to human rights¹⁴, which I take to mean the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and the UK Human Rights Act 1998, including equality implications. BDC has not alleged that the Plan breaches Human Rights (within the meaning of the Human Rights Act 1998). I have considered this matter independently and I have found no reason to disagree with that position.

4. Compliance with the Basic Conditions

EU Obligations

4.1 The draft Plan was initially screened for Strategic Environmental Assessment by BDC¹⁵ in June 2016. This is a legal requirement¹⁶ and accords with the submission requirements under Regulation 15(e)(1) of the 2012 Regulations. On the basis of there being no site allocations in the Plan, it concluded that it was unnecessary to undertake SEA¹⁷. As the submitted Plan did in fact include a site allocation, a second SEA: Screening Report was prepared in February 2018 which concluded that SEA was needed and a SEA: Scoping and Environmental Report (March

¹⁴ It is an international human rights treaty between member states of the Council of Europe rather than the European Union.

¹⁵ All the SEA Screening and Environmental Reports have been carried out for BDC by Place Services, Essex County Council.

¹⁶ European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004.

¹⁷ SEA Screening Report June 2016.

2018) and an Addendum (April 2018) were produced. As circumstances changed, more particularly with revisions proposed to the Plan in the light of comments from NE and the subsequent grant of planning permission for the site subject of the policy HO6 allocation, the revised draft Plan was rescreened for SEA in January 2019. It concluded that the HPNP19 could be screened out for its requirement for SEA due to the change in the planning status of the Plan's single site allocation and revised policy wording in the Plan. NE¹⁸ has agreed with that assessment. Having read the SEA Screening Reports and considered the matter independently, I agree with that conclusion.

- 4.2 There are nine European sites (SPA/SAC/Ramsar) which lie within 22km of Hatfield Peverel. Hatfield Peverel is some 4 miles north west of Maldon on the River Blackwater and the Blackwater Estuary is a SPA, a Ramsar site and Sites of Special Scientific Interest (SSSI). Hatfield Peverel is within the zones of influence of 11 Habitat sites, but NE has only listed the Blackwater Estuary SPA/Ramsar/SSSI and the Dengie SPA/Ramsar/SSSI as '*in scope*' for residential development in Hatfield Peverel¹⁹.
- 4.3 The HPNP19 has been screened for HRA by BDC²⁰. The assessment of potential impacts advises that Hatfield Peverel lies within the zones of influence of the Blackwater Estuary SPA and Ramsar and the Dengie SPA and Ramsar; that visitors may travel to these habitat sites for recreation; and, in the absence of mitigation, there are potential in-combination effects from increased recreational pressure from the effects of the LP. However, it explains that BDC is contributing to the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS), and developer contributions to fund visitor management measures, in line with the emerging RAMS, will be required for any residential development which is allowed under the HPNP19 and considered by project level appropriate assessment (AA).
- 4.4 The Screening Report notes that a project level HRA has been prepared and mitigation secured for the Arla site (policy HO6), as part of the planning application which has now been permitted, which NE has already agreed is sufficient to avoid any likely significant effect, and that this would be the same if an AA was subsequently prepared. No policies are assessed as having likely adverse effects on the integrity of habitat sites, either alone or in-combination with other plans and projects. Thus, the report concludes that '*the requirement for the Plan to undertake further assessment under the Habitats Regulations 2017 is therefore **screened***

¹⁸ Email dated 7.2.19 from Tom Broges, Sustainable Development Adviser, NE, to Alan Massow BDC.

¹⁹ SEA and HRA: Screening Report – January 2019.

²⁰ The HRA Screening Report is contained within the SEA: Screening Report January 2019 prepared by Place Services, Essex County Council, for Braintree District Council.

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out when the Regulations allow this process to be undertaken'. However, representations²¹ have been made that in view of the *People Over Wind* judgement, this conclusion is unlawful, that the HPNP19, as presently drafted, is unlawful and that it should be subject to Appropriate Assessment as policies HO1 and HO6 risk giving rise to significant adverse effects on European sites. In response to my request for BDC's view on this submission, BDC has advised that it *'does not change the view of the competent authority that an appropriate assessment is not required as no likely significant effects have been identified'*²².

- 4.5 Having considered the updated report, NE agreed with its conclusions of no likely significant effect: *'This advice is given on the basis that the only housing allocation in the NP already has planning permission, which includes mitigation agreed with NE prior to the Sweetman II ruling'*,²³ and therefore this impact has already been mitigated ahead of the Plan. BDC, as the competent authority, having considered the SEA/HRA Screening Report, and responses received from the environmental bodies, agrees that no HRA is required for the HPNP19²⁴. On the basis of the information provided (which includes the grant of permission for the Arla site) and my independent consideration, I agree that HRA is not necessary.

Main Issues

- 4.6 Having regard for the HPNP19, the consultation responses and other evidence, and the site visit, I consider that there are two main issues relating to the Basic Conditions for this examination. These are:
- Whether the Plan's policies for the economy, for facilities and infrastructure and for housing provide an appropriate framework to shape and direct sustainable development, having regard to national policy and guidance, and are in general conformity with the strategic policies of the Core Strategy; and
 - Whether the Plan appropriately provides for the protection and enhancement of the environment, having regard to national policy and guidance and the need to be consistent with the local planning of sustainable development.

²¹ Representations made by Gladman Developments Ltd with Legal Opinion of Thea Osmund-Smith.

²² Email from BDC to IPe dated 25 June 2019 (11.33am).

²³ Email dated 7 February 2019 from Tom Broges, Sustainable Development Advisor, NE to Alan Massow, BDC.

²⁴ BDC's Letter to the examiner dated 8.5.19.

Introduction

- 4.7 The Foreword and Introduction to the Plan give a brief explanation of the role of neighbourhood plans and the plan making process before setting out the local planning context and key issues raised in community engagement. The Vision is for Hatfield Peverel in 2033 to be a place where people are happy to live and where sustainability underpins decisions. The rural character and heritage of the village will be maintained, avoiding coalescence with surrounding settlements. Any new developments will be integrated into the landscape and existing development and finding creative and collaborative solutions to the challenge of the village's position in the area's road network will be a high priority. Eight objectives are identified which are then used to derive key issues and policies under 4 main headings – Economy, Environment, Facilities and Infrastructure, and Housing. Appendix 2 is a Community Action Plan, described as arising from non-planning issues identified during the engagement phase of the Plan's preparation. It is clear that these are aspirations of the Parish Council and sit outside of the statutory Plan.
- 4.8 The Plan is laid out in landscape format. The chapters are not numbered nor is there any paragraph numbering which I have found makes it an awkward document to navigate and to refer to. Indeed, I note that BDC's Consultation Portal did in fact assign numbers to the Plan's paragraphs, figures, photos and maps, to assist those seeking to make representations. To improve the Plan's readability and usability, I strongly urge that consideration is given to numbering the Plan's chapters and paragraphs, albeit I recognise it goes beyond my remit to recommend a modification in this respect.
- 4.9 There are 24 policies that fall to be considered against the Basic Conditions. When made, the HPNP19 will form part of the statutory Development Plan and the PPG advises that neighbourhood plan policy should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence, and should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared²⁵. Policies should relate to the development or use of land. With this in mind, I now turn, in the following paragraphs, to address each of my two main issues.

Issue 1: The Economy, Facilities and Infrastructure and Housing

- 4.10 The NPPF sets out core planning principles that underpin both planning making and decision taking. These include that planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and

²⁵ PPG Reference ID: 41-041-20140306.

thriving local places that the country needs. The CS identifies Hatfield Peverel as a key service village and its Vision for the District in 2026 is that *'the key service villages will have provided local housing, jobs and services, with regeneration taking place on identified sites'*. Its spatial strategy is to preserve and enhance the character of the rural heartland and to concentrate the majority of new development and services in the main towns and key service villages where facilities and services already exist. The CS includes strategic policies on housing, the economy, transport and the environment.

- 4.11 Braintree District is identified in the emerging LP as one of the fastest growing areas in the country over the past decade²⁶. The spatial strategy in the emerging LP Section 1 is for future growth to contribute to maintaining and enhancing a well-connected network of sustainable settlements across North Essex. In Braintree District, growth is to be mainly addressed via a mixture of urban extensions and new communities. Braintree town, as the largest service centre in the District, will have a number of new urban extensions. The other main focus for development is the A12 corridor with the main town of Witham and service villages of Hatfield Peverel, Kelvedon and Feering with allocations of over 2,000 new homes²⁷. In setting out the spatial strategy, policy SP2 states that *'future growth will be planned to ensure settlements maintain their distinctive character and role. Re-use of previously-developed land within settlements is an important objective, although this will be assessed within the broader context of sustainable development principles, particularly to ensure that development locations are accessible by a choice of means of travel.'*
- 4.12 Hatfield Peverel continues to be identified in Section 2 of the emerging LP as a key service village, defined as *'large villages who serve a wider rural hinterland. The ability to meet day to day needs is normally possible in a Key Service Village through the availability of early years and primary schools, primary health care facilities, convenience shopping facilities, local employment opportunities and links by public transport and road to the larger towns. Development may be considered sustainable within a Key Service Village, subject to the specific constraints and opportunities of that village'*²⁸.

The Economy

- 4.13 Outside of the 3 main towns in the District, the CS aims to maintain and support services, community facilities and appropriate employment in rural communities to meet their local needs. Hatfield Peverel as a key service village has a range of services and facilities used by its residents and those living in the surrounding rural area. These include local businesses such as vehicle repairs, retailing, hairdressing, restaurants and

²⁶ Emerging Local Plan Section 2 paragraph 3.3.

²⁷ Emerging Local Plan Section 1 paragraph 3.3.

²⁸ Emerging Local Plan Section 2 paragraph 5.6.

estate agents. It is an objective of the Plan to build a strong economic and social centre for Hatfield Peverel, and for the smaller village of Nounsley, *'to provide sustainability'*. Key issues identified in the Plan include providing a range of employment opportunities, supporting and encouraging local business activity and growth, retaining commercial and business premises, increasing opportunities for home working, and improving broadband connectivity.

- 4.14 Policy ECN1 in supporting local business, accords with Government policy in the NPPF, in particular paragraphs 21 and 28, and generally conforms with CS policy CS4 which requires employment sites in current or recent use in sustainable locations to be retained for employment purposes (and complements policies SP4, LLP2, LLP8 and LLP10 in the emerging LP). Whilst the defined business uses included a number of uses that fall within different Use Classes²⁹, it is clear how the policy is intended to be applied. It is subject to various criteria and those relating to residential amenity, traffic and parking, historic features, and waste, are reasonable to ensure an appropriate standard of development.
- 4.15 However, I am not satisfied on the evidence that there is any reason to limit the policy to only those cases where *'the business employs no more than 20 people on site'*. It may be that a majority of locally based businesses employ less than that number, but that does not justify imposing an upper limit on proposals for new or expanding businesses that could curtail their growth, contrary to paragraph 16 of the NPPF which requires that neighbourhoods should plan positively to support local development. I am therefore recommending modifications to policy ENC1 to delete the first bullet point and also the last which is a repeat. Subject to those modifications (**PM1**), I find that the policy has regard to national policy and is in general conformity with strategic policy in the CS, and thus would meet the Basic Conditions.
- 4.16 The Plan notes that increasingly people are working from home and that by reducing commuting and increasing the use made of local facilities, it can boost local economies and contribute towards the achievement of sustainable development. Policy ECN2 seeks to encourage home working by requiring new or redesigned dwellings to provide accommodation for a home office, and for new larger housing schemes to make provision for accessible work hubs. This is in accord with paragraph 38 of the NPPF which describes larger housing schemes as promoting a mix of uses *'including work on site'*. I am satisfied that with the inclusion of the words *'where appropriate'*, there is sufficient flexibility in the policy to allow for situations where there might not be evidence of local demand to justify a work hub or where its provision would unreasonably impact on the viability of the scheme.
- 4.17 The final paragraph on page 16 states that *'where not viable'*, developer contributions towards work hub provision should be considered in line with

²⁹ Use Classes Order 1987 (as amended).

policy FI5. I comment below on policy FI5. My concern here is that planning obligations should only be sought where they meet the statutory tests³⁰ which are also set out in the NPPF at paragraph 204 which are: 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. As drafted, this paragraph reads as though it were some kind of *wish list* of desirable features whether or not, in the particular circumstances of an individual development, they would meet these tests. As I am not satisfied that the final paragraph of the justification for policy ECN2, has regard to national policy, I am recommending its deletion (**PM2**).

- 4.18 Policy ECN3 supports the development of new superfast broadband and mobile phone infrastructure to serve the parish. Improving infrastructure can make a significant difference to those living and working in villages and rural areas and was raised as an issue in consultations on the Plan. The NPPF refers at paragraph 42 to advanced high-quality communications infrastructure being essential for sustainable economic activity and also playing a vital role in enhancing the provision of local community facilities and services. Policies SP5 and LLP49 in the emerging LP both refer to helping more people to work from home by improving broadband infrastructure. The roll-out of superfast broadband across North Essex to secure the earliest availability for universal broadband coverage and fastest connection speeds for all existing and new developments (residential and non-residential), is a strategic priority for BDC³¹.
- 4.19 However, I have concerns that policy ECN3, as drafted, requires developers to demonstrate how their proposal will contribute to, and be compatible with, superfast broadband and high-quality internet connectivity, when the availability and speed of broadband is not within their control. Clearly, in accord with emerging policy SP5, house builders can ensure that all new properties allow for the provision for superfast broadband in order to allow connection to the network as and when it is made available. But to require the production of a connectivity statement that considers *'the anticipated connectivity requirements, their speed, and known data networks'* and includes *'a realistic assessment of connection potential or need to contribute to any such networks'* is unduly onerous and unreasonable. I am therefore modifying the second paragraph of policy ECN3 to delete the requirement to produce a connectivity statement and changing 'must' in the first line to 'should'. The second sentence of the last paragraph is unnecessary (**PM3**).
- 4.20 To secure a key issue of the Plan to retain properties in commercial use and to increase the range of facilities and services available, policy ECN4 seeks to protect commercial premises from changes of use from employment or community activity unless it can be demonstrated that the

³⁰ Regulation 102 Community Infrastructure Levy Regulations 2010.

³¹ Emerging Local Plan Section 1 policy SP5.

use is no longer viable and appropriate marketing has been carried out for a period of at least 6 months, or there is no longer a need for the facility or a suitable convenient replacement has been found. It reinforces policies in the adopted and emerging Development Plans that seek to retain existing employment and retail services and facilities, in particular the 2005 Review policies RLP128 and RLP151 and CS policies CS4 and CS6.

- 4.21 By identifying the 3 main commercial areas of Hatfield Peverel where growth and diversity of economic activity will be encouraged, policy ECN4 is locally distinctive and supports Hatfield Peverel's role as a key service village. However, in the absence of any local justification for removing permitted development rights from new commercial premises, I am deleting that part of the policy (**PM4**) as it fails to have regard to national policy on the use of planning conditions *'which should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects'*. Subject to that modification being made, policy ECN4 would contribute towards the achievement of sustainable development, having regard to national policy and advice and in general conformity with the strategic policies in the Development Plan.
- 4.22 Policy ECN5 deals with the public realm and seeks to address concerns raised in consultations that first impressions of the village were poor and there needed to be a more co-ordinated approach to the way proposals were assessed that would encourage a *'more cared-for street environment'*, improving the shopping experience and fostering community identity. The policy refers to guidance in the Essex Design Guide and to the Hatfield Peverel and Nounsley Character Assessment, produced in 2016, and sets out those elements of the streetscape considered to be important and relevant to the policy. In that the policy reinforces the principles of high quality and inclusive design set out in the NPPF, it has regard to national policy, and is in general conformity with the adopted strategic policy CS9. I also note it does not give rise to any issue of conflict with the emerging LP policy SP6 on place shaping principles.
- 4.23 However, I have concerns about the final part of the policy which appears to require new developments to provide enhancements to existing roads, for example widening pavements, tree planting, traffic calming. It may well be that some new development, depending on its scale and traffic generation, could have impacts that require off-site works. However, any such improvements must be justified in terms of the development being proposed and meet the tests set out in the NPPF at paragraph 204, and cannot be required to remedy existing deficiencies. As I am not satisfied that the final part of policy ECN5 accords with national policy, I am deleting it from policy and moving it to the supporting text (**PM5**).
- 4.24 Subject to the modifications being made, the Economic policies in the Plan have appropriate regard to national policy, would be in general conformity

with adopted strategic policies, and would contribute towards the achievement of sustainable development, thus meeting the Basic Conditions.

Facilities and Infrastructure

- 4.25 As a Key Service Village, Hatfield Peverel has a range of facilities and services, including infants' and junior schools, a GP surgery, a NHS dental practice, as well as shops and businesses, sports and recreation facilities, the village hall and church halls. The railway station is recognised as an economic and social asset but with the village's roads providing access to the A12 to and from Maldon District, there is concern about increasing volumes of traffic flows through the parish and residents would like to see improvements to the A12 and a bypass. The Plan sets out a number of key planning issues as well as non-planning issues.
- 4.26 Policy FI1 deals with traffic and access and aims to reduce the impact of traffic and encourage lower carbon travel. It seeks to ensure that the location of new development is appropriate and minimises pollution, including from vehicle emissions, as well as seeking a high standard of amenity and promoting healthy communities. As such it accords with national policy in the NPPF and with strategic policy CS7 in the CS and policy SP5 in the emerging LP, as well as development policies in the LPR and in Section 2 of the emerging LP.
- 4.27 The policy has six parts. Part 1 requires that development proposals provide a transport statement or assessment, whilst part 6 seeks to secure more cycle parking. Part 2 refers to the need to prevent unacceptable risks from emissions and was added to the policy, following the further SEA/HRA work. I am satisfied that the additional text is justified and its' inclusion in policy FI1 is necessary and appropriate. Parts 4 and 5 refer to the needs of those with mobility problems and visual impairment and the use of '*shared spaces*' and accord with national and local policy to improve accessibility for all. Part 3 requires new development to provide safe pedestrian and cycle routes to services and facilities, and particularly notes the need for safe links from Maldon Road to the Keith Bigden Memorial Ground and from Bury Lane to the station.
- 4.28 A key issue on page 45 notes the site identified for a new primary school as part of the strategic development at Lodge Farm, Witham, to which the route for children from Hatfield Peverel would be alongside the A12. I agree with Essex County Council's suggestion of the inclusion of additional text in part 3 of the policy to require safe and direct convenient pedestrian and cycle links from Hatfield Peverel to Lodge Farm, and I am making a modification to that effect (**PM6**). The fourth paragraph on page 48 refers to reducing parking issues around the schools by encouraging families to make more sustainable transport choices by improving existing walking routes and providing suitable paths from new developments. This

could also be encouraged by the preparation of School Travel Plans and I am adding text to this effect in the policy justification (**PM7**).

- 4.29 Subject to those modifications, I conclude that policy FI1 would contribute towards the achievement of sustainable development, has regard to national policy and is in general conformity with strategic Development Plan policies, and as such would meet the Basic Conditions.
- 4.30 With a railway station and close access to the A12, the Plan notes that commuter parking on residential streets is a key issue for residents, as well as the general lack of public parking in the village centre, especially for the healthcare facilities. BDC has adopted county wide parking standards, but it is recognised in the NPPF that parking solutions may be different in rural areas. Policy FI2 of the Plan seeks to ensure that development provides for adequate off-street parking in a manner sympathetic to the development and to the character of the area, as well as protecting car parking for the station. In looking to provide for public and private electric car charging points, the Plan anticipates the increasing use of eco-friendly vehicles, thus promoting sustainable transport. Policy FI2 is consistent with adopted and emerging strategic policies on promoting accessibility for all (CS policy CS7) and place shaping (LP policy SP6).
- 4.31 The NPPF identifies the planning system as playing an important role in facilitating social interaction and creating healthy inclusive communities³². Planning policies should plan positively for the provision and use of shared space, community facilities and other local services to enhance the sustainability of communities and residential environments and paragraph 72 sets out the great importance attached by the Government to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. As drafted policy FI3 encourages the provision of education facilities and new healthcare services in appropriate locations. To be consistent with the NPPF and align with emerging LP policy SP5, I propose to strengthen the policy by the inclusion of text to clarify that new development will only be permitted where it can demonstrate that there is sufficient appropriate education capacity to support the development or that such capacity will be delivered by the development (**PM8**). Subject to that modification, I consider that the policy would meet the Basic Conditions and contribute towards the achievement of sustainable development.
- 4.32 Generally throughout the country, there is concern in rural areas at the loss of local assets and amenities and the benefits of retaining these for community use. Under the Localism Act 2011, Parish Councils and others are able to nominate local assets to be included in a list of assets of community value (ACV), whereby the ACV cannot be sold without giving community groups an opportunity to bid. The NPPF recognises at paragraph 70 the need through planning policies and decisions to *'guard*

³² Paragraph 69.

against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs'. Policies RLP151 and 160 in the 2005 LPR seek to protect community services and local facilities in rural areas and their objectives are carried forward in the emerging LP policy LLP65 on local community services and facilities.

- 4.33 Policy FI4 in the Plan seeks to resist the loss of, or substantial harm to, an ACV unless there is no longer a need for that facility or a replacement is available. The ACV designation of The Sportsmans Arms in Nounsley has now expired. However, it may be that during the Plan period, the Parish Council will wish to list other ACVs with the BDC and I note that in Appendix 2, the retention of community assets is listed as an aspiration in the non-statutory planning community action plan. I am satisfied that policy FI4 has regard to national policy, is in general conformity with the adopted Development Plan (and takes into account the emerging LP) and would contribute towards the achievement of sustainable development, thus meeting the Basic Conditions.
- 4.34 The Plan identifies new housing development as putting additional demands on services such as healthcare and education, community facilities, utilities and infrastructure, and to mitigate these demands, developer contributions will be sought by way of Section 106 obligations or Community Infrastructure Levy (CIL) payment. As CIL has not yet been implemented by BDC and there is no timetable for implementation, or whether in fact it will be progressed, references to CIL should be deleted from the Plan.
- 4.35 The Secretary of State's advice in the PPG is that a neighbourhood plan needs to be deliverable, if the policies and proposals are to be implemented as the community intended³³. However, the PPG also advises that the NPPF requires that the sites and the scale of development identified in a plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.
- 4.36 As drafted, parts 1 and 2 of policy FI5 imply that all proposals for development will be required to pay section 106 contributions, irrespective of land use and scale of development. But it is my experience that the need for developer contributions are only likely to be required for major developments, or where a threshold has been triggered for different services. For example, Essex County Council only considers developer contributions for education requirements in respect of schemes of 20 or more dwellings.
- 4.37 The final part of the policy seeks to prioritise contributions towards the delivery of targeted community objectives, as previously identified and reviewed by the Parish Council. The second paragraph of the policy justification refers to the BDC Open Spaces Action Plan, which identifies

³³ PPG Reference ID: 41-005-20140306.

projects within individual parishes for which developer contributions can be used, and which is annually updated and available on BDC's website³⁴. The first paragraph of the justification also refers to '*a list of varying scaled projects has been identified and is kept up to date and reviewed by the Parish Council which can be found on the Parish Council website. Development contributions for use by the Parish should be used to implement items from this list as prioritised by the Parish Council*'. However, it is unclear whether that is another reference to the BDC list or to a different local list of projects. If the latter, I was not able to find it on the Parish Council's website.

- 4.38 I have serious concerns about policy FI5 as drafted. Planning obligations can be used to assist in mitigating the impact of unacceptable development to make it acceptable in planning terms³⁵. However, the NPPF is clear at paragraph 204 that planning obligations under Section 106 should only be sought where they meet all of the following tests; they must be 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. Any contributions secured towards identified projects will only be considered acceptable if they meet these criteria.
- 4.39 The emerging LP Section 2 includes policy LPP82 on infrastructure delivery and impact mitigation. However, with the pausing of the examination of Section 1 of the LP, there must be some uncertainty as to when it will be adopted. In the interim, I can understand the desire of the Parish Council to have a policy in the HPNP19 on developer contributions. I am therefore modifying policy FI5 (**PM9**) along the lines of that in the Bradwell and Pattiswick Neighbourhood Plan, to which reference was made by Essex County Council in its representations and which, I understand, is due to be adopted on 22 July 2019.
- 4.40 Modifications are also needed to the first paragraph of the justification to delete the fourth and fifth sentences which appear to contradict each other, and to clarify where the list of local infrastructure projects, which should be easily accessible, can be found (**PM10**). I am also modifying the Glossary at Appendix 3 to the Plan to include a wider definition of infrastructure along the lines of that proposed by Essex County Council (**PM11**). Providing these modifications are made, I consider that policy FI5 will have regard to national policy and advice and will contribute towards the achievement of sustainable development. Accordingly, the Basic Conditions will be met.

³⁴ View at:

https://www.braintree.gov.uk/downloads/download/701/open_spaces_action_plans

³⁵ PPG Reference ID: 23b-002-20190315.

Housing

- 4.41 Hatfield Peverel is not identified in the CS as a growth area, however, Table CS1 sets out the requirement for the Key Service Villages collectively to provide a minimum of 600 dwellings in the Plan period on previously developed and infill sites. Close by and to the south west of Witham, the CS allocated some 35.7ha of land between the railway and A12 off the Hatfield Road, as a Growth Location for mixed-use development with a minimum of 600 dwellings (policy CS1).
- 4.42 Policy SP3 of the emerging LP sets out BDC's objectively assessed need for 716 units per annum, with a total minimum housing supply of 14,320 in the LP period 2013 to 2033. Policy LPP23 in the LP Section 2 allocates Wood End Farm at Witham as a strategic growth location for up to 450 new dwellings. This site is adjacent to the Lodge Farm site which is starting to be built out and on the opposite side of the road from the Maltings Lane development which is coming close to completion. Part is within the parish of Hatfield Peverel so, like BDC, I was surprised to see that the current and proposed allocations are not referred to in the background text on page 54 of the Plan and that the map on page 55 has not been extended to the north to show them. In the interests of clarity and completeness, I am therefore recommending modifications to amend the text on page 54 and the map on page 55 contained within the Plan to refer to the land at Wood End Farm which has been allocated as a strategic growth location in the emerging LP (**PM12**).
- 4.43 In Hatfield Peverel, outline permission has been granted for 145 units on the former Arla Dairy site and the site has been cleared. Permission has also been granted on adjoining land at Bury Farm for 46 units and there are proposals for a further 45 units at Sorrells Field. In the interests of clarity, the map on page 55 should also be amended to accurately show the extent of the comprehensive development area indicated on the emerging LP Inset Map 36 and centred on the former Arla Dairy site (**PM13**).
- 4.44 It is an objective of the Plan to ensure the provision of high-quality housing suitable for all ages with easy access to essential services and where family members can remain living locally. With concern expressed in residents' surveys that new housing schemes could detract from the rural character of the parish, the HPNP19 sets out a preference for smaller creatively designed developments with less impact rather than larger sites. Policy HO1 deals with design and, subject to the overarching requirement that design should be informed by the Hatfield Peverel and Nounsley Character Assessment along with Building for Life 12 and the Essex Design Guide, sets down 17 criteria for new development. A modification is proposed to the Plan to clarify that policy HO1 deals with the design of new housing developments (**PM14**).
- 4.45 In order to comment on the policy criteria, I have numbered the bullet points. I am satisfied that 1, 2, 3, 6, 9, 10, 11, 12, 13, and 14 are

appropriate to secure an acceptable standard of development in keeping with the character of the area. Requiring compliance with the industry's BREEAM and Lifetime Homes standards (7 and 8) will ensure the delivery of a high quality of housing and requiring that 1 in 10 new homes are wheelchair accessible (5) accords with national and emerging local policy³⁶ to plan for a mix of housing that meets the needs of different groups in the community. These standards are distinct from the Government's technical housing standards - which are a nationally described space standard. However, in the absence of any justification as to why '*new facilities incorporated into the scheme or through developer contribution*' should be made available for use by the general public, which might not be practicable or desirable, depending on what those facilities are, I am deleting bullet point 15.

- 4.46 Bullet point 4 seeks to limit any developments on unallocated sites to 30 or less dwellings. It is justified on the grounds that new housing should be fully integrated into the built area, avoiding a single large development perceived as a separate space, and which respect and reflect the surrounding rural area. However, there are other policies in the HPNP19 and in the adopted and emerging Development Plans that address issues of integration and character, as do criteria 1, 2 and 3 of policy HO1, without imposing an arbitrary limit on numbers. Further it may well be that small residential schemes '*bolted on*' to the existing village will have less '*easy access to existing facilities*' than a well-located larger site. Policy HO1 already provides for a mix of house types and policy HO2 supports the provision of retirement bungalows. I am not persuaded that there is any planning justification for the imposition of what appears to be an arbitrary restriction on the size of windfall housing developments in the parish. Accordingly, I am modifying policy HO1 to delete bullet point 4.
- 4.47 The final two bullet points have been added in response to the HRA of the Plan. I find the 16th, as drafted, to be inaccurate, potentially misleading, and unnecessary. The requirements in respect of undertaking a project level HRA are set out in Regulations³⁷. Subsequent to the *People over Wind* judgement, mitigation measures cannot be taken into account when considering a '*likely significant effect*'. For these reasons, I am modifying policy HO1 by deleting the 16th bullet point. However, it would be helpful to include in the Plan some explanation about the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), and I am making a further modification to that effect. With the deletion of bullet point 16, the reference in 17 to mitigation in respect of pollution becomes meaningless. However, the impact of residential development in terms of emissions and pollution, is of concern in the parish, given its proximity to the A12 as well as to European sites. I am therefore proposing to modify the Plan to add a new criterion here that repeats part 2 of policy FI1. Subject to these modifications (**PM15 and PM16**), I

³⁶ NPPF paragraph 50 1st bullet point and emerging LP Section 2 policy LPP37.

³⁷ Conservation of Habitats and Species Regulations 2017, Regulation 63.

consider that policy HO1 would meet the Basic Conditions and would contribute towards the achievement of sustainable development.

- 4.48 It is Government policy that plans should provide for a mix of housing based on current and future demographic trends and policies in the adopted LPR and draft LP support specialist housing provision. The Plan identifies a shortage of suitable housing for the parish's ageing population and policy HO2 supports the provision of retirement housing subject to meeting various criteria. As drafted the criteria lack clarity and precision and I am modifying the policy to relate them to planning matters. The policy offers specific support for bungalows, but these may be equally desirable for other households and are not exclusively retirement housing. Subject to the modifications set out in the Appendix (**PM17**), I am satisfied that policy HO2 has regard to national policy, is in general conformity with policies in the Development Plan and therefore complies with the Basic Conditions.
- 4.49 The Plan has identified a lack of affordable housing in the area for younger people. It is Government policy that local planning authorities, where they have identified that affordable housing is needed, should set policies for meeting this need on site, unless off-site provision or a financial contribution can be robustly justified³⁸. Policy CS2 in the 2011 Core Strategy provides for affordable housing to be directly provided by the developer setting a target of 40% affordable housing provision on sites in the rural areas. This policy was arrived at following the 2008 Strategic Housing Market Assessment (SHMA) and the 2009 Affordable Housing Viability Study for the district, which set the 40% target subject to up to date scheme specific viability assessment. Further studies have been undertaken as evidence supporting the emerging LP, including the 2015 SHMA Update, work on Objectively Assessed Need, and a Viability Study which concluded that 30-40% affordable housing was viable in the district. Policy LLP33 therefore provides for a target of 40% affordable housing to be directly provided by developers on sites outside the main urban areas.
- 4.50 The Plan's policy HO3 also provides for 40% affordable housing on developments of 11 or more dwellings but provides little evidence to justify the 80/20 tenure split that is proposed. The RCCE Housing Needs Survey was simply a questionnaire sent out to local residents and it is unclear what evidence is being relied upon for the statement that 34 households in the parish are in need. I also have concerns about the requirement for occupation based on local connections, as I would not expect that sites in Hatfield Peverel would meet the rural exception sites criteria. Advice in the PPG is that neighbourhood plans are not obliged to contain policies addressing all types of development but where they do contain policies relevant to housing supply '*these policies should take account of the latest and up-to-date evidence of housing needs*'. I am not convinced that this has been done in this case. Further I am not satisfied

³⁸ NPPF Paragraph 50.

that there is any local justification to deviate from the strategic affordable housing policies in the adopted Core Strategy and in the draft LP. As the policy does not meet the Basic Conditions, I am deleting it from the HPNP19 (**PM18**).

- 4.51 Policy HO4 seeks to require minimum sizes for private gardens in new housing developments. Whilst there are policies in the adopted and emerging district wide plans on the layout and design of development, to date BDC has relied upon the recommended minimum garden sizes in the Essex Design Guide which allow for reduced provision in certain circumstances. The Plan notes the concerns of local residents about the lack of amenity space in recent new developments, resulting in a cramped environment, affecting the rural feel of the village and the wellbeing of the residents. Whilst the Government has introduced national technical housing standards, these do not address external amenity space.
- 4.52 National policy is that supplementary planning documents, like the Essex Design Guide, should be used where they can help applicants make successful applications but should not be used to add unnecessarily to the financial burdens on development³⁹. Advice in the PPG is that a neighbourhood plan needs to be deliverable and that development should not be subject to such a scale of obligations and policy burdens that their viability is threatened⁴⁰. However, I have seen no compelling evidence that providing gardens of the minimum sizes set out in the Plan's policy would adversely impact on the viability of any housing scheme in the area.
- 4.53 The provision of external amenity space of an appropriate size for the dwelling is an element of good design, and it is a core planning principle to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings⁴¹. In requiring good design, planning policies should not be overly prescriptive, however, the NPPF states it is proper to seek to promote or reinforce local distinctiveness⁴². In that regard, Hatfield Peverel is valued for its rural setting where historically many properties have large gardens. I am satisfied that policy HO4, as drafted, is not unreasonably prescriptive in setting minimum private garden sizes for new houses and flats. It has regard to national policy and guidance, is in general conformity with the strategic approach of the adopted Development Plan (and takes into account the emerging strategic policies) on the layout and design of development, and would contribute towards the achievement of the social dimension of sustainable development, thus fulfilling the Basic Conditions.

³⁹ NPPF paragraph 153.

⁴⁰ PPG Reference ID: 41-005-20140306.

⁴¹ NPPF paragraph 17, 4th bullet point.

⁴² NPPF paragraph 60.

- 4.54 In promoting healthy communities, the NPPF requires that planning policies and decisions should aim to achieve places which promote, amongst other things, *'safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion'*⁴³. Policy HO5, in requiring developments to design out crime by incorporating Secured for Design methods into any new residential development, is in accord with national policy and with policies RLP9, RLP49 and RLP90 in the LPR and with draft LP policy LPP55 on the layout and design of development. Whilst I agree it is important that children's play space should be located where good passive surveillance can be achieved, depending on the site's relationship to existing development, this may not always be central to the scheme. Subject to amended wording to required that play space 'well located' (**PM19**), I am satisfied that policy HO5 meets the Basic Conditions.
- 4.55 The HPNP19 refers to the closure of the Arla Dairy as a key issue for the Plan; employment was lost to the village but its closure provided the opportunity for redevelopment of a brownfield site for mixed residential and commercial facilities. Policy HO6 provides for the allocation of the former Arla site (shown on the map on page 55 as site HATF608) for a mix of uses and sets out a list of contributions that would be sought as part of any scheme including various access improvements and enhanced pedestrian and cycle routes. The justification refers to the site appraisal in the SEA and to Hatfield Peverel Site Assessment 2017. However, the site allocation was put into the Plan after the SEA of the Regulation 14 version and further SEA work was required to be carried out after the Regulation 16 consultation. In response to the recommendations in the HRA Screening Report December 2017, additional text was added to the policy which was subject to consultation in 2018.
- 4.56 The Arla site is also allocated in the draft LP. It is included within the Comprehensive Redevelopment Area – Land between the A12 and Great Eastern Main Line, where policy LPP31 proposes *'mixed use development of up to 200 dwellings on former Arla Dairy site (3.8ha)'*, as well as residential development on Sorrells Field, Bury Farm and land to the rear of Station Road. The policy includes a number of requirements that are mirrored in the HPNP19 policy HO6.
- 4.57 National policy in the NPPF⁴⁴ is clear that neighbourhoods should plan positively to support local development, shaping and directing development in their area *'that is outside the strategic elements of the Local Plan'*. In this case the LP is still in draft but whilst the PPG advises that a draft neighbourhood plan is not tested against the policies in an emerging LP, it goes on to say *'the reasoning and evidence informing the*

⁴³ NPPF paragraphs 58 and 69.

⁴⁴ NPPF paragraph 16.

*Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested'*⁴⁵. In that LP policy LPP31 proposes a Comprehensive Redevelopment Area that could provide in the order of 285 dwellings, I consider it to be a strategic policy, which, if adopted, the neighbourhood plan when/if reviewed would have to be in general conformity with. National policy is that neighbourhood plans should not promote less development than set out in the local plan or undermine its strategic policies⁴⁶. In that policy HO6 only relates to the Arla site, and not Bury Farm or Sorrells Field, I note that it is not consistent with draft strategic policy LPP31.

4.58 However, I have a fundamental and overriding concern about policy HO6 in that outline planning permission has already been granted for development on the Arla site, for 145 units. Bellway Homes are already on the site; there are hoardings in place along Station Road and the site has been cleared. Permission has also been granted by BDC for 46 units at Bury Farm to the same developer. I accept that it may be that development on the Arla site does not take place in accord with the permission granted. But in my opinion, the chances of that happening are slim. Thus, it seems to me that keeping policy HO6 in the Plan would not serve any planning purpose when development is already progressing on the site, and when the allocation does not align with the strategic Comprehensive Redevelopment Area proposed in the draft LP. Therefore, as I do not consider that the policy contributes towards the achievement of sustainable development, I am recommending its deletion from the Plan (**PM 20**).

4.59 Providing the recommended modifications as set out in the Appendix are made, I conclude that the economic, facilities and infrastructure, and housing policies of the Plan have regard to national policy and guidance, would contribute towards the achievement of sustainable development, and would be in general conformity with strategic local plan policies, thus meeting the Basic Conditions.

Issue 2: Protection and Enhancement of the Environment

4.60 The Plan describes the main attraction of the parish as being its rural location whilst also being close to the road and rail networks, and that the open spaces, countryside views and well-established network of rights of way contribute to its overall appeal. Consultation responses indicated that residents wanted to retain that character and to retain the separate identities and distinctiveness of the two settlements of Hatfield Peverel and Nounsley and keep a degree of separation from Witham.

⁴⁵ PPG Reference ID: 41-009-20190509.

⁴⁶ NPPF paragraph 184.

- 4.61 Through policy HPE1, the Plan proposes to create green wedges around the village of Hatfield Peverel. These are indicated on the map on page 25 where development is proposed to be limited to uses listed in the policy which are considered would maintain the open nature of the land. I am aware that the green wedge to the north east of Gleneagles Way was subject to an application for 120 homes⁴⁷, approved by BDC but subsequently called in by the Secretary of State for determination, along with two applications for different amounts of housing at Stonepath Drive⁴⁸, and on which decisions have been recently received granting planning permission.
- 4.62 Reference is made in the policy justification to the findings of the Hatfield Peverel Landscape Character Assessment 2015. However, both Hatfield Peverel and Nounsley have village envelopes defined in the LPR, outside of which development is subject to long standing countryside policies of restraint⁴⁹. Thus, current planning policies already serve to maintain the characteristics of the open farmland landscape which is identified in the Assessment⁵⁰ as contributing to a sense of separation between Hatfield Peverel and Witham, and between Hatfield Peverel and Nounsley, without the need to specifically identify land as a green wedge. Also, through policy HPE2, the Plan requires that any development should have regard to and respect the character of the landscape whilst policy HPE6 identifies important views.
- 4.63 I also have concerns as the lack of clarity as to how the boundaries of the green wedges shown on the map were formulated and where they were drawn. For example, that to the north east of Gleneagles Way appears to cut across two areas of water and does not appear to follow any discernible feature on the ground. Nor is there any explanation given in the Plan as to why there are two separate wedges to the north of the A12, how their widths were determined, or the status of the land in-between.
- 4.64 The HPNP19 is not tested against the policies in the emerging LP. However, the PPG advises that *'the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested'*⁵¹. The introductory sections to the Hatfield Peverel Landscape Character Assessment refer to landscape work carried out to inform the preparation of the LP. With the benefit of that evidence, which rated the landscape

⁴⁷ Application 16/02156/OUT.

⁴⁸ Two applications 16/01813/OUT and 16/00545/OUT (for up to 80 dwellings).

⁴⁹ Including CS policy CS5 which strictly controls development outside village envelopes to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.

⁵⁰ Hatfield Peverel Landscape Character Assessment 2015 landscape guidelines for areas 3, 4 and 6.

⁵¹ See footnote 45.

sensitivity of individual sites to development, the draft LP proposes the allocation of land for development at Wood End Farm, Witham, part of which is within the parish of Hatfield Peverel. The draft LP⁵² also refers to the need for green buffers to be used to prevent the main towns and villages in the District coalescing with neighbouring villages, and policy LPP72 identifies a Green Buffer between Witham, Rivenhall and Rivenhall End. However, it is telling that the District Council has not identified the need for one between Witham and Hatfield Peverel, suggesting that it does not have the same concern here about coalescence.

- 4.65 Advice in the PPG is that policy in a neighbourhood plan should be supported by appropriate evidence and be distinct to reflect and respond to the unique characteristics and planning context of the area. I am not satisfied that a strong case has been put forward on the basis of the particular local circumstances of Hatfield Peverel to justify policy HPE1. As I have concluded that the policy does not have regard to the advice contained in the guidance issued by the Secretary of State, it fails the Basic Conditions and I am recommending modifying the Plan to delete policy HPE1 (**PM21**).
- 4.66 Policy HPE2 deals with the natural environment and biodiversity and seeks to ensure that development retains and enhances existing trees, hedgerows and habitats. In the interests of clarity, this should be expanded to make particular reference to Local Wildlife Sites, priority habitats and ancient woodland, which is an irreplaceable habitat, which would be in accord with paragraph 117 of the NPPF and with strategic policies in the adopted and emerging local plans, in particular CS policy CS8 on the natural environment and biodiversity. The policy refers to the protection of 'the best and most versatile agricultural land'. However national policy in the NPPF at paragraph 112 is that local planning authorities '*should take into account the economic and other benefits of best and most versatile agricultural land*', and it may well be that, in certain circumstances, the loss of such land may be justified when balanced against other planning objectives. I am also recommending that further text be included in the policy justification to explain the mitigation hierarchy to be applied as set out in the NPPF at paragraph 118 and give examples of the way that all proposals can enhance biodiversity. Subject to these modifications which are set out in the Appendix (**PM22 and PM23**), I consider that policy HPE2 would satisfy the Basic Conditions.
- 4.67 Section 8 of the NPPF addresses the way planning can promote healthy communities and policy LPP53 of the draft LP refers to areas of particular value to the local community that will be recognised and protected. Paragraph 76 of the NPPF enables local communities through local and neighbourhood plans to identify for special protection green areas of

⁵² Draft Local Plan Section 2, paragraphs 8.31 to 8.36.

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particular importance to them. By designating land as Local Green Space (LGS), local communities are able to rule out new development other than in very special circumstances. Thus, policies identifying LGSs must be consistent with planning for sustainable development and must complement investment in sufficient homes, jobs and other essential services. They should be capable of enduring beyond the end of the Plan period.

- 4.68 Stringent criteria on LGSs are set out in the NPPF at paragraph 77 and there is further advice in the PPG⁵³. Policy HPE3 designates 2 open spaces as LGSs and these are identified on the map at page 27 and detailed information on them is provided in the table on page 28. I am satisfied on the evidence provided and what I saw on my site visit that both The Green and The Duck Pond are local in character, but not extensive tracts of land, are demonstrably special to the local community, and in close proximity to the community they serve. They are therefore appropriate to be designated as LGSs in policy HPE3. As I am satisfied that policy HPE3 has had regard to national policy and guidance and the need to be consistent with the local planning of sustainable development, and is in general conformity with strategic policy, the Basic Conditions will be met.
- 4.69 Policy HPE4 is concerned to ensure that no building takes place on the Strutt Memorial Recreation Ground unless it would provide for needs directly related to recreational use. The Memorial Ground is located in the heart of the village, by the Village Hall, and is used extensively for recreational purposes by the local community. The Plan's policy is in accord with national policy in the NPPF at paragraph 74 which resists building on existing open space and recreational land unless certain stringent criteria are met, including that the need for alternative sports and recreational provision clearly outweighs any loss. It is also consistent with policy CS10 of the adopted CS and draft LP policy LPP53 which seek to avoid the loss of recreational facilities. For these reasons, I conclude that policy HPE4 meets the Basic Conditions.
- 4.70 Hatfield Peverel benefits from having a range of local recreation and sports facilities available for use by the local community but consultation identified the need for further facilities to serve the expanding resident population. Existing sport and recreation facilities, as well as existing footpaths, cycleways and allotments, are to be protected through the Plan's policy HPE5 and the map on page 31 shows the existing recreation and sports facilities in the parish. In resisting the loss of recreational facilities unless a replacement facility of equal or enhanced quality is provided, the policy is in accord with the NPPF and in general conformity with Core Strategy policy CS10 (and does not conflict with policy LPP53 of the draft LP) on provision for open space, sport and recreation. The policy

⁵³ PPG Reference ID: 37-005-20140306 to ID: 37-022-20140306.

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provides for the protection of the Dannatt's quarry site off Wickham Bishop Road for recreation use as a community park, which is supported by Essex County Council as the mineral planning authority. I am satisfied that policy HPE5 contributes towards the achievement of sustainable development, has regard to national policy and is in general conformity with strategic Development Plan policies, and thus fulfils the Basic Conditions.

- 4.71 Government policy is that the planning system should contribute to and enhance the natural and local environment, amongst other things, by protecting and enhancing valued landscapes. Paragraph 113 of the NPPF requires local planning authorities to set criteria-based policies against which development proposals on or affecting landscape areas will be judged. Policy CS5 of the Core Strategy strictly controls development outside village envelopes to uses appropriate to the countryside, *'in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside'*, whilst policy CS8 requires development to have regard to the character of the landscape and its sensitivity to change and to enhance the locally distinctive character of the landscape. In the draft LP, policy LPP71 states that *'the Local Planning Authority will take into account the different roles and character of the various landscape areas in the District, and recognise the intrinsic character and beauty of the countryside, in order to ensure that any development permitted is suitable for the local context'*.
- 4.72 The HPNP19 refers to the support expressed in the community engagement process to protect the rural landscape setting of the built area of the parish. Through a residents' survey, photographic competition and village walkabout, eleven views considered important to the village's landscape setting were identified which are numbered on the map on page 33, together with their fields of view, and described in the table on pages 34 to 37. As the Plan explains that the most important of the views identified in the Hatfield Peverel Landscape Character Assessment have been identified for protection through policy HPE6, I see no need to include quotes from the Landscape Character Assessment in the justification or to refer to it in the policy.
- 4.73 The rural area around Hatfield Peverel is attractive countryside and I am satisfied from what I saw on my site visit that the identified views are special to the area and justify policy protection. However, as drafted policy HPE6 lacks the necessary precision of wording and clarity of intent required by the PPG and I propose to modify its wording to clarify that any proposed development should not detract from the key landscape features of the identified views. Providing these modifications are made (**PM24 and PM25**), I am satisfied that policy HPE6 would meet the Basic Conditions.

- 4.74 There are two rivers that run through the parish and both are prone to breaching their banks. Section 10 of the NPPF sets out policy on meeting the challenge of climate change, flooding and coastal change. Along with Core Strategy policy CS8 on the Natural Environment and Biodiversity, policies LPP74, LPP78, LPP79 and LPP80 address issues of climate change, flood risk and surface water drainage and management, and sustainable urban drainage systems (SuDS). HPNP19 policy HPE7 accords with national and local policy in seeking to avoid development in areas prone to flooding. It also expects developers to use SuDS where feasible to reduce the potential impact of surface water drainage discharges.
- 4.75 The term SuDS covers a wide range of features of which some are reliant on infiltration but other SuDS techniques can be used on sites without infiltration potential and this should be made clear in the policy and justification. The use of SuDS to reduce the risk of surface water and sewer flooding is supported by Anglian Water Services, subject to clarification that discharge to a watercourse should be considered before discharge to a public sewer, as set out in Part H of the Building Regulations. Modification is required to the policy wording to clarify that the risk relates to flooding generally and not just flash flooding. The reference to '*betterment*' in the last part of the policy is also deleted as planning conditions and obligations should not be used to remedy existing deficiencies in the wider area. Subject to the modifications as set out in the Appendix (**PM26 and PM27**), I am satisfied that policy HPE7 would contribute towards the achievement of sustainable development and meet the Basic Conditions.
- 4.76 Hatfield Peverel has a long history, dating back to Roman times or earlier. The old A12, which followed a similar route to the Roman road which linked Colchester to London, passed directly through the village and it was a popular place for travellers to stop with several coaching inns. There are a number of designated and non-designated heritage assets in the parish as well as two historic lanes identified by Essex County Council's Place Services.
- 4.77 The NPPF sets out the Government's objective for the planning system to contribute to the achievement of sustainable development by conserving the historic environment and its assets in a manner appropriate to their significance. National policy for conserving and enhancing the historic environment is set out in the NPPF at paragraphs 126 to 141. Policy CS9 of the Core Strategy on the built and historic environment predates the NPPF and the approach set out therein to determining planning applications depending on the degree of harm identified to the designated heritage asset. The more recent draft LP contains a raft of policies (LPP50, LPP60, LPP61, LPP62 and LPP63) which set out the approach to be

taken to development affecting heritage assets and their settings, as well as enabling development and archaeological evaluation, excavation and recording. In introducing a further layer of policy, which effectively seeks to summarise the NPPF, policy HPE8 on heritage risks confusing and diluting national and local policy. I am not satisfied that policy HPE8, as drafted, is sufficiently locally distinctive nor that it is a response to any particular characteristics of the parish.

- 4.78 Not all heritage assets are designated and paragraph 135 of the NPPF deals with the approach to be taken to weighing applications that affect directly or indirectly non-designated heritage assets. The justification for policy HPE8 refers to the Essex Historic Environment Record and the 2010 BDC Historic Environment Characterisation Project. However, work is still ongoing on a local list of non-designated heritage assets. As drafted, policy HPE8 fails to have adequate regard to the detailed nuances of national policy as set out in paragraph 135. I have seen nothing to indicate that policy HPE8 would add anything of a local dimension to the policies in the emerging LP. Indeed, it seems to me for a developer or decision maker having a third layer of policy on heritage assets would more likely lead to ambiguity and confusion. I am regrettably, therefore, recommending modification of the Plan to delete policy HPE8 (**PM28**). However, the accompanying Map of Historic Features includes details of other important features and could be usefully moved to be next to the Map of Green Areas on page 31 of the Plan.

5. Conclusions

Summary

- 5.1 The Hatfield Peverel Neighbourhood Development Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the HPNP19 meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the neighbourhood plan, and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

The Referendum and its Area

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The HPNP19 as modified has no policy or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary,

requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

Overview

- 5.4 I recognise that the Plan is the product of a lot of hard work by the Steering Group and the Parish Council, who were effective in engaging with local people to consider the future of the villages and parish at a time when the local community was also engaged in consultation on the emerging LP and participating in local inquiries into development proposals. It has taken time to complete the examination on the Plan because of the need to ensure compliance with statutory requirements and with the 2018 decision of the Court of Justice of the European Union. I commend the Parish Council and the Steering Group for their perseverance and for producing this Plan which, subject to some modifications, will influence development management decisions for the next 14 years or until its review.

Mary O'Rourke

Examiner

Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Page 14	In policy ECN1, delete the first and last bullet points.
PM2	Page 16	Delete the last paragraph on page 16.
PM3	Page 17	In the second paragraph of policy ECN3, in the first line change ' <i>must</i> ' to ' should ' and delete the second and third sentences of the paragraph. In the fourth paragraph of policy ECN3, delete the second sentence.
PM4	Page 18	In policy ECN4 delete the sentence that begins ' <i>Any new proposals</i> '.
PM5	Page 20	In policy ECN5 delete the third paragraph of the policy and move to the supporting text after the paragraph starting ' <i>There has been ongoing discussion</i> '.
PM6	Page 47	In policy FI1 third paragraph after ' <i>required</i> ' add the following: 'Safe and direct convenient pedestrian and cycle links from Hatfield Peverel to Lodge Farm, Witham are required' .
PM7	Page 48	In the fourth paragraph of the Justification after the first sentence add the following: ' <i>This can be encouraged through the preparation of a School Travel Plan</i> '.
PM8	Page 51	In policy FI3 add at the beginning of the policy the following: 'New development will only be permitted where it can demonstrate that there is sufficient appropriate education capacity to support the development or that such capacity will be delivered by the development' .
PM9	Page 53	Delete the text of policy FI5 and replace with the following:

		<p>'a) Where appropriate development will be required to make a proportionate contribution towards the provision of relevant infrastructure in the Parish.</p> <p>b) Planning applications should where appropriate clearly demonstrate the impact of the proposed development on local infrastructure in the area, and demonstrate how developer contributions towards local infrastructure will satisfactorily mitigate the identified impacts.'</p>
PM10	Page 53	In the first paragraph of Justification on page 53, delete the 4th and 5th sentences which start ' <i>Without.....</i> '.
PM11	Glossary	<p>Amend the definition of Infrastructure in the Glossary to read as follows:</p> <p><i>'Infrastructure means any structure, building, system facility and/or provision required by an area for its social and/or economic function and/or well-being including (but not exclusively):</i></p> <ul style="list-style-type: none"> • <i>Affordable housing</i> • <i>Broadband</i> • <i>Community and social facilities</i> • <i>Cultural facilities, including public art</i> • <i>Drainage and flood protection</i> • <i>Education and childcare</i> • <i>Emergency services</i> • <i>Facilities for specific sections of the community, such as youth or the elderly</i> • <i>Footways, cycleways and highways</i> • <i>Green infrastructure</i> • <i>Live/work units and lifetime homes</i> • <i>Open space</i> • <i>Public transport</i> • <i>Sports, leisure and recreation facilities</i> • <i>Waste recycling facilities</i>

		<ul style="list-style-type: none"> • <i>Public realm enhancements</i>’.
PM12	Page 54	Amend the text on page 54 and the map on page 55 contained within the Plan to refer to the land at Wood End Farm which has been allocated as a strategic growth location in the emerging LP.
PM13	Page 55	Amend the map on page 55 to show the extent of the comprehensive development area indicated on the emerging LP Inset Map 36 and centred on the former Arla Dairy site.
PM14	Page 57	Amend the heading of policy HO1 to read Design of New ‘Housing’ Developments.
PM15	Page 57	<p>In policy HO1:</p> <p>Delete the 4th, 15th, 16th and 17th bullet points.</p> <p>Add a new bullet point as follows:</p> <p><i>‘Proposals for new housing development should prevent unacceptable risks from emissions and all forms of pollution (including air, water and noise pollution) to ensure no deterioration of current standards. All applications for development where the existence of/or potential for the creation of pollution is suspected should be supported by relevant assessments.’</i></p>
PM16	Page 58	<p>Add the following text to the Justification for policy HO1:</p> <p><i>‘Following consultation with Natural England, an Essex-wide Recreational disturbance Avoidance and Mitigation Strategy (RAMS) is being prepared to include all coastal European Sites. The strategy will identify where recreational disturbance is happening and the main recreational uses causing the disturbance. New residential development that is likely to affect the integrity of the European Sites will be required to contribute towards the implementation of the mitigation. At this stage, it is considered that development allocations in this location will be required to</i></p>

		<p>pay for the implementation of mitigation measures to protect the interest features of European designated sites along the Essex Coast which include the Crouch and Roach Estuaries Special Protection Area, Ramsar site and Site of Special Scientific Interest, and the Essex Estuaries Special Area of Conservation. The appropriate mechanisms will be identified in the RAMS. Details of the zones of influence and the necessary measures will be included in the Essex Coast RAMS Supplementary Planning Document (SPD) currently being prepared. Following consultation during Summer 2019, the SPD is anticipated to be adopted by each LPA in late summer/autumn 2019.'</p>
PM17	Page 59	<p>Delete policy HO2 and replace with the following:</p> <p>'Proposals for retirement housing, which may include bungalows, should:</p> <ol style="list-style-type: none"> 1. Have regard to the accessibility of the site to public transport and to local communal facilities, shops and services; 2. Respect the character of the area; 3. Protect the amenity of neighbouring residents; 4. Provide appropriate landscaping to include outside amenity area/s; 5. Provide unobstructed safe footways within the development for the use of mobility scooters and wheelchairs; and 6. Provide accommodation suitable for wheelchair users and built to Lifetime Homes Standards.'
PM18	Page 60	Delete policy HO3 and renumber the Housing policies that follow.
PM19	Page 62	In policy HO5 delete the words 'located centrally' and replace with ' well located '.

PM20	Page 63	Delete policy H06.
PM21	Pages 24 and 25	Delete policy HPE1 and the Justification and map on page 25. Renumber the Environment policies that follow.
PM22	Page 26	In policy HPE2 in the 2nd line after ' <i>habitats</i> ' add the following words: 'particularly Local Wildlife Sites, priority habitats and ancient woodland (an irreplaceable habitat)' . In the 2nd bullet point delete ' <i>protect</i> ' and replace with ' take into account the economic and other benefits of... '.
PM23	Page 26	Replace the 2nd paragraph of the Justification for policy HPE2 with the following: <i>'Mitigation measures should enable the preservation, restoration and re-creation of wildlife habitats, and the protection and recovery of priority species. The mitigation hierarchy should be adhered to (from the NPPF paragraph 118) and can be summarised as follows: aim to avoid; then mitigate; and then only compensate in exceptional circumstances after all other options have been considered.</i> <i>Additionally, enhancement for biodiversity should be included in all proposals, commensurate with the scale of the development. For example, such enhancements could include watercourse improvements to benefit biodiversity and improve water quality, habitat creation, wildlife links (including as part of green or blue infrastructure) and building design which creates wildlife habitat (e.g. green roofs, bird and/or bat boxes).'</i>
PM24	Page 32	Delete policy HPE6 and replace with the following: 'The landscape setting of the village will be protected. Any proposed development should not detract from the key

		landscape features of the views identified on the map on page 33 and described in the table following at pages 34 to 37.'
PM25	Page 32	In the justification to policy HPE6 delete the paragraphs on the right-hand side of page 32.
PM26	Page 38	Modify policy HPE7 to read as follows: 'Any proposed development should include measures to mitigate against future risk to properties, residents and wildlife from flooding and be located away from areas prone to flooding. The use of appropriate Sustainable Drainage Systems (SuDS), based on an engineering and ground assessment will be expected on all sites. Should it be demonstrated that infiltration is not possible then surface water should be discharged to a watercourse or if this is not feasible a sewer with appropriate attenuation and treatment to ensure that flood and pollution risk is not increased.'
PM27	Page 38	In the last paragraph of the Justification for policy HPE7 delete the last words of the last sentence from 'unless' to the end of the paragraph.
PM28	Page 39	Delete policy HPE8 and its justification and move the Map of Historic Features next to the Map of Green Areas and Recreation.