

Lawshall Parish Council

**Lawshall
Neighbourhood Plan
2016 - 2036**

Independent Examiner's Report

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23 August 2017

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Summary

I have been appointed as the independent examiner of the Lawshall Neighbourhood Development Plan.

During the course of the examination I asked for further information about what assessment had been carried out in relation to one of the basic conditions which states that “the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site either alone or in combination with other plans or projects”. As a result of this, a screening stage was undertaken and further consultation carried out. Unfortunately, it transpired that a European site some 11km away from the Plan area had not been considered and as a result this was rectified and a further period of consultation held.

The Plan is very well presented with an eye catching front cover. It is clearly laid out and easy to use. It is distinctive in style and generally clearly written. Whilst no site allocations are made for housing, the Plan’s 16 policies reveal a thoughtful approach to guiding the future sustainable development for the area. Furthermore the Plan is supported by a comprehensive evidence base including an enviable Character Assessment. It is clear that the community has invested much time and resource into the Plan.

This has paid off as I have made relatively few modifications. Those made largely relate to precision and clarity and overall are intended to ensure that the basic conditions are met satisfactorily.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend to Babergh District Council that the Lawshall Neighbourhood Development Plan can go forward to a referendum.

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

Ann Skippers MRTPI
Ann Skippers Planning
23 August 2017



1.0 Introduction

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

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

I have been appointed by Babergh District Council (BDC) with the agreement of Lawshall Parish Council, to undertake this independent examination.

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

2.0 The role of the independent examiner

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

The examiner is required to check¹ whether the neighbourhood plan:

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

The basic conditions² are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan

¹ Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

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

- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to in the paragraph above. Only one is applicable to neighbourhood plans and is:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site³ or a European offshore marine site⁴ either alone or in combination with other plans or projects.

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

The examiner must then make one of the following recommendations:

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

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

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

³ As defined in the Conservation of Habitats and Species Regulations 2012

⁴ As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

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

3.0 Neighbourhood plan preparation and the examination process

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

Work began on the Plan in 2015. The Consultation Statement confirms and it is clear from the documents and evidence in front of me, that from the outset, the Plan has been led by the community and that many members of the community have been involved in the Plan's production in one way or the other. It is nice to see those writing elements of the Plan or undertaking surveys specifically acknowledged in the Plan and putting their name to the Plan's authorship.

Engagement has included utilising the Parish Council's website with a special 'tab', Facebook, Twitter, regular articles in the monthly Parish magazine, posters and notices and door to door flyers. Presentations to local groups including to the youth club and senior residents were made together with approaches to landowners, developers and other key stakeholders.

A useful table on page 4 of the Consultation Statement summarises the various activities of the consultation process. A schools project, village questionnaire, a housing needs survey, other evidence gathering such as the Character Assessment together with two consultation events. The Youth Club also created a banner and their collage of their paintings of Lawshall buildings is the image on the front cover of the Plan.

The Consultation Statement contains comprehensive information about the outcomes of the two consultation events as well as how they were managed and set up. Information about the 'who', 'how', 'what' and 'how the issues were addressed' is presented clearly and informatively. Of particular note are the kids corner and refreshments to encourage attendance, the availability of a mini-questionnaire to capture those who could not attend the event itself which was an e-consultation for the second event and the feeding back of key results to the community with an opportunity for villagers to get in touch if they felt the results were unrepresentative (no one did).

The questionnaire and housing needs survey both resulted in high response rates. This may well have been due at least in no small part to the 'road testing' of the surveys by what the Consultation Statement describes as "village guinea pigs". Two sessions were also held for young people and those who might need assistance filling in forms.

Pre-submission (Regulation 14) consultation took place between 30 October – 11 December 2016. A pre-submission launch before the pre-submission stage took place to attract attention to the impending consultation period. As well as specific letters and emails to landowners and stakeholders, posters, the Parish magazine and the website and Facebook were used to publicise the consultation. Drafts of the Plan could be viewed online and paper copies were available at three different locations. 37 responses were received.

I consider there has been sustained and excellent engagement with, and feedback to, the community throughout the process.

Submission (Regulation 16) consultation was carried out between 13 February – 31 March 2017. The Regulation 16 stage attracted seven representations from different people or organisations.

I have set out my remit earlier in this report. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).⁶ PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.⁷ Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further amendments or additions are required. In addition some representations seek the addition of further detail or new policies. Whilst many of these suggestions may well be worthy of consideration, neighbourhood plans can focus on those policy areas of most importance to the community; it does not have to include policies to cover every planning issue or circumstance.

PPG explains⁸ the general rule of thumb is that the examination will take the form of written representations,⁹ but there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. I have sought clarification on a number of matters from the Parish Council and BDC in writing and my list of questions is attached to this report as Appendix 2. I am very grateful to both Councils who have provided me with comprehensive answers and a great deal of additional helpful information. The responses received (all publicly available) have enabled me to examine the Plan without the need for a hearing.

One representation made at the Regulation 16 stage expressed concern about openness and transparency. This is a matter which I consider falls outside my remit as examiner. However, I draw BDC's attention to these concerns and ask BDC to consider whether these concerns should be subject of an investigation by the Council and to take any action deemed necessary.

I made an unaccompanied site visit to Lawshall and the neighbourhood plan area on 29 April 2017.

⁶ PPG para 055 ref id 41-055-20140306

⁷ *Ibid*

⁸ *Ibid* para 056 ref id 41-056-20140306

⁹ Schedule 4B (9) of the Town and Country Planning Act 1990

4.0 Compliance with matters other than the basic conditions

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

Qualifying body

Lawshall Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is satisfactorily met.

Plan area

The Plan area was approved by Babergh District Council on 8 December 2015. The Plan area is coterminous with the Parish administrative boundary. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with the necessary requirements. The Plan area is shown on page 2 of the Plan.

Plan period

The Plan covers the period 2016– 2036. This is clearly stated on the Plan’s front cover and confirmed in the Plan itself and in the Basic Conditions Statement (BCS).

Excluded development

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

Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community’s priorities for the future of their local area, but are not related to the development and use of land. If I consider a policy or proposal to fall within this category, I will recommend it be moved to a clearly differentiated and separate section or annex of the Plan or contained in a separate document. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.¹⁰ Subject to any such recommendations, this requirement can be satisfactorily met.

¹⁰ PPG para 004 ref id 41-004-20170728

5.0 The basic conditions

Regard to national policy and advice

The main document that sets out national planning policy is the National Planning Policy Framework (NPPF) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.¹¹

The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.¹²

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at planningguidance.communities.gov.uk. The planning guidance contains a wealth of information relating to neighbourhood planning and I have had regard to this in preparing this report.

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.¹³

PPG indicates that a policy should be clear and unambiguous¹⁴ to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.¹⁵

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.¹⁶ It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.¹⁷

¹¹ NPPF paras 14, 16

¹² *Ibid* para 184

¹³ *Ibid* para 17

¹⁴ PPG para 041 ref id 41-041-20140306

¹⁵ *Ibid*

¹⁶ *Ibid* para 040 ref id 41-040-20160211

¹⁷ *Ibid*

The BCS sets out how the Plan has responded to national policy and guidance through a table which lists the core planning principles of the NPPF and highlights these in relation to the Plan's objectives and policies. The BCS then considers each of the 13 elements of sustainable development outlined in the NPPF with a short commentary as to how the Plan and its policies align with the NPPF.

Contribute to the achievement of sustainable development

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole¹⁸ constitutes the Government's view of what sustainable development means in practice for planning. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.¹⁹

The BCS contains a table which assesses the Plan's vision and objectives against the three components of sustainable development outlined in the NPPF and a second table that sets out each individual policy (with the exception of Policy LAW16) and its intended outcome in relation to achieving sustainable development. This is a helpful and systematic way of considering this basic condition.

General conformity with the strategic policies in the development plan

The development plan consists of the Babergh Local Plan 2011 – 2031 Core Strategy & Policies (CS) adopted in February 2014 and the saved policies of the Babergh Local Plan Alteration No 2 (LP) adopted in June 2006.

The CS takes an economic growth/jobs-led strategy to facilitate and plan for managed growth. It identifies a network of villages clustered around towns and larger villages, a settlement pattern based on functional everyday needs. CS Policy CS2 identifies Lawshall as a 'Hinterland Village' within the functional cluster of Long Melford.

BDC has also commenced preparation of a new joint local plan with its neighbouring authority, Mid Suffolk District Council, for the period up to 2036.

The BCS outlines selected CS policies and saved LP policies alongside the Plan's policies with a short commentary on each.

European Union Obligations

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant. A number of EU obligations may be of relevance including Directives 2001/42/EC (Strategic Environmental Assessment), 2011/92/EU (Environmental Impact Assessment),

¹⁸ NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

¹⁹ *Ibid* para 7

92/43/EEC (Habitats), 2009/147/EC (Wild Birds), 2008/98/EC (Waste), 2008/50/EC (Air Quality) and 2000/60/EC (Water).

PPG indicates that it is the responsibility of local planning authorities to ensure that the Plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive) when it takes the decision on a) whether the Plan should proceed to referendum and b) whether or not to make the Plan.²⁰

Strategic Environmental Assessment

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004.

A Screening Report dated December 2016 has been submitted. Whilst there are some minor drafting errors in the Screening Report including a reference to another local planning authority, I am confident that the contents of the Screening Report contain the relevant information and is specific to this Plan area.

In response to my query, BDC confirms it has assessed the pre-submission draft Plan of October 2016 and has determined that a SEA is not required. The SEA Screening Report recognises that this will need to be reassessed and updated if the contents of the Plan changes. The requisite consultation with the statutory consultees was undertaken and requested and have been sent their responses. It is not unusual for such responses not to be included with Screening Reports and I am not aware of any requirement to do so. I have been zealous in requesting those responses and it would have been open for others to make the same request.

All three statutory consultees responded and the two responding with substantive comments concur with the conclusions of the screening assessment that there will be no likely significant environmental effects and a SEA is not required.

Based on the Screening Report and the consultee responses, the contents of the Plan and its relationship with higher level planning policy documents, I consider it was not necessary for the Plan to have a full SEA assessment. Therefore EU obligations in respect of SEA have been satisfied.

Habitats Regulations Assessment

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identifies whether a plan is likely to have a significant effect on a

²⁰ PPG para 031 ref id 11-031-20150209

European site, either alone or in combination with other plans or projects.²¹ The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

BDC confirmed to me that only one European site lies within the District's boundary; the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site, some 28km from the boundary of the Plan area.

A HRA Screening Report was carried out as part of the Babergh Local Plan (2011-2031) Core Strategy and Policies. This report concludes that the Babergh Core Strategy alone, or in combination with other plans, is not predicted to have likely significant effects on any European site.

Given the need for me to ascertain whether the Plan complies with the Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) referred to earlier in my report, I considered that it would be prudent for a HRA screening assessment to be carried out. This was set out in my letter of 31 May 2017 which is appended to this report as Appendix 3.

BDC duly prepared a HRA Screening Assessment. This was consulted on between 9 June – 21 July 2017 including specific consultation with Natural England, Historic England and the Environment Agency. Natural England responded on 6 July agreeing the Plan is not likely to have any significant effects on any European sites on the basis that the nearest European site referred to as the Stour and Orwell Estuaries SPA is some 28km from the Plan boundary.

During the latter stages of the consultation period, BDC became aware of a potential error in the HRA Screening Assessment. Specifically the Screening Assessment had failed to acknowledge the Breckland SPA, closer to the Plan area than the Stour and Orwell Estuaries SPA.

As a result BDC contacted Natural England drawing this to their attention and Natural England responded on 19 July that the Plan is not likely to have any significant effects on the Breckland SPA and that no further HRA work is necessary.

The Screening Assessment referred to the need for a HRA to be required based on the contents of the Plan and the potential impact on European sites within a "reasonable distance" from the Plan area. A distance of 13km was given as this "reasonable distance" based on draft work commissioned by the Ipswich Policy Area authorities. Although the Screening Assessment was based on the Stour and Orwell Estuaries SPA being some 28km away, the Breckland SPA is closer. What is important is that the assessment is undertaken and that all relevant European sites are considered in relation to the making of the Plan.

²¹ PPG para 047 ref id 11-047-20150209

Although I was confident that the Breckland SPA had now been considered and Natural England's opinion is now based on that, I thought it prudent in the light of the representations received during the consultation period on the HRA screening, including one that pointed out the error, that a further short two week period of consultation be undertaken. This was also because the email sent by BDC to Natural England indicated that the Breckland SPA was some 13km away whereas in checking the distance in readiness for the further consultation I requested, it transpired that the Breckland SPA was approximately 11km away. My letter of 26 July explains this situation and my request and is attached to this report as Appendix 4.

The additional period of consultation took place from 28 July – 11 August 2017. It resulted in further representations being made. I have considered those responses carefully, but they firstly relate to the competency and resources of Natural England. As a statutory consultee, the views of Natural England are sought and considered, but the concerns expressed about the competency of that organisation goes beyond my remit.

Given the HRA Screening Assessment, the comments from Natural England, the HRA Screening Report which was carried out as part of the Babergh Local Plan, the contents of the Plan and the European sites and their distance from the Parish, I consider that a full HRA is not required. Therefore the further basic condition set out in Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) is complied with.

European Convention on Human Rights (ECHR)

The BCS contains a short statement about fundamental rights and freedoms guaranteed under the ECHR and the Human Rights Act 1998. There is nothing in the Plan that leads me to conclude there is any breach of the Convention or that the Plan is otherwise incompatible with it.

PPG²² confirms that it is the responsibility of the local planning authority, in this case BDC, to ensure that all the regulations appropriate to the nature and scope of the draft neighbourhood plan have been met. It is BDC who must decide whether the draft plan is compatible with EU obligations when it takes the decision on whether the plan should proceed to referendum and when it takes the decision on whether or not to make the plan.

²² PPG para 11-031-20150209

6.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. Where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in *bold italics*.

The Plan is very well presented. It has an eye-catching front cover and a helpful contents page. It is clearly laid out and is easy to read and use, peppered with photographs and graphics including sketches by a former resident of the village and drawings from the school project that make this Plan unique and give a very good sense of the Parish, its history and its community. Policies are clearly differentiated in bold text and sit within boxes. A number of 'Community Actions' appear throughout the Plan on pages 41, 47 and 51. All are clearly differentiated from the planning policies and articulated well.

Overall the Plan takes an effective approach to its presentation and is of a high standard.

Part One Why a Neighbourhood Plan for Lawshall?

This introductory section begins with a helpful breakdown of the key statistics of the Parish and includes a map of the Plan area. A description of the Parish reveals the importance of farming and its many assets including a Donkey Sanctuary, village pub and Forest for Our Children and is home to the Green Light Trust.

There is a welcome simplicity to the section 'Why a Neighbourhood Plan for Lawshall?' which sets out eight succinct reasons.

The timeline on page 7 of the Plan is also particularly helpful as are the signposts to supporting documents where the reader can find more information about the neighbourhood planning journey undertaken.

Table 1 on page 11 which sets out key findings from evidence based work is also helpful.

The Plan has a living vision which covers six topics ranging from village character to amenities and services, heritage, housing, infrastructure and youth. All 13 bullet points sitting underneath each of the six topics are clearly articulated and relate to the development and use of land.

This is a clearly worded and extremely helpful first section to the Plan which sets the scene well.

Part Two Components of the Plan

8. Settlement Pattern & Spatial Policy

The supporting text to this section explains that the Parish is characterised by a series of hamlets. CS Policy CS2 defines Lawshall as a Hinterland Village and adopts a sequential approach to new development based on local housing need, the role of settlements as employment providers and retail/service centres, infrastructure capacity and provision, environmental constraints and the views of local communities in, amongst other things, neighbourhood plans. Hinterland Villages will accommodate some development to meet the needs of those villages. CS Policy CS11 sets out when proposals might be approved by making reference to CS Policy CS15 and setting out 11 criteria. The Rural Development & Core Strategy Policy CS11 Supplementary Planning Document (SPD) 2014 adds further explanation on how the CS policy will operate. A table on pages 17 - 19 of the Plan sets out the Plan area context in relation to CS Policies CS11 and CS15, adding a useful layer of local detail.

Policy LAW1 Lawshall's Settlement Planning Policy

This policy supports development within the Built-Up Area Boundaries (BUAB) of which there are five separate areas in the Parish; Lambs Lane and two separate areas at Bury Road and two at The Street. The BUABs are rolled forward from the LP.

The policy then supports small-scale development outside the BUABs where they accord with other policies of the development plan and they contribute to meeting local needs and are well related to the existing pattern of development in Lawshall. The policy defines what "well related" means; adjacent to the BUAB subject to environmental constraints or within the confines of five identified clusters – Harrow Green, Hanningfield Green, Hibbs Green, Lawshall Green and Audley End.

The BUABs and clusters are identified on a map on page 20 of the Plan. I raised a question about how clear it was to identify each of the clusters. In response the Parish Council has helpfully prepared larger scale maps identifying each cluster.

The Parish Council has also prepared boundary maps of each cluster in the event I consider that even more precision is needed in order to meet the basic conditions. The Parish Council points out, and I agree, that should the cluster boundaries be included in the Plan it is important they are distinguished from the BUABs given the nature of the CS and other policies that apply to BUABs.

I have given this careful consideration and I have come to the view that it would not be appropriate to define or include cluster boundaries, but that it would be helpful to include larger scale maps of the location of the clusters. I have reached this view because of the difference between both the character and role of BUABs and clusters together with the approach taken in the Plan and the wording of the applicable policies.

These give more flexibility and opportunity if the location of the clusters rather than precise boundaries are identified. In addition, the definition of precise boundaries for the clusters have not been subject to any public consultation.

The policy is clearly worded. It sets out the preferred locations for development and is a local expression of the strategy in the CS including the sequential approach referred to in CS Policy CS11. It takes account of national policy and guidance and will help to achieve sustainable development.

As a result the policy meets the basic conditions and no modifications are recommended to the policy itself with the exception of changing the reference to “Policies Map” to “Proposals Map”. In the interests of clarity it is recommended that the Map on page 20 of the Plan which identifies the BUABs and clusters is titled “Proposals Map for Policy LAW1” to remove any doubt.

- **Change the reference in the policy to “Policies Map” to “Proposals Map”**
- **Add a title “Proposals Map for Policy LAW1” to the map on page 20 of the Plan**
- **Include larger scale maps of each of the location of each of the five clusters in the Plan**

9. Housing Development

Four character areas are identified; the main population hub, residential roads, village greens and country lanes.

The preamble explains that in the Core and Hinterland Villages identified in the CS, some 1, 050 new homes are to be accommodated in the period 2011 – 2031. Although Lawshall has only had nine new homes, about 50% of the target figure has already been achieved in the first five years of the CS time period across the 53 Core and Hinterland Villages. Whilst the Plan does not seek to identify a housing number other than suggesting that a minimum of 20 new homes could be accommodated in the village, it recognises that Lawshall can and will make a contribution to meeting housing needs. Neighbourhood plans cannot impose a maximum figure or cap on housing development.

Whilst a new joint local plan is in preparation, it is at an early stage. Current indications are the overall amount of housing needed identified in the CS, but for the period to 2031 is an appropriate basis for this Plan (which extends to 2036 to align with the emerging joint local plan).

A Housing Needs Survey (HNS) was carried out in April 2016.

Given the nature of the Parish, described in the Plan as a “string of small hamlets with open farmland between them; two longer strips of housing along the main

thoroughfares of Bury Road and The Street and a central hub”,²³ infilling and small developments are preferred. Recognising that there are limited opportunities within the BUABs, infilling within larger hamlets has been included.

Policy LAW2 Housing Development within the Built-Up Area Boundaries

This clearly worded policy supports development within the BUABs up to five dwellings subject to satisfactory associated services and infrastructure.

Whilst neither CS Policy CS11 or the accompanying Rural Development & Core Strategy Policy CS11 Supplementary Planning Document (SPD) 2014 refer to an upper or lower limit, this policy does. The SPD explains that the size and scale of any proposal should be proportionate to the settlement in which it is located. It continues that in Hinterland Villages, development is expected to be small-scale. The introduction of a threshold is therefore a local interpretation and definition of small-scale based on the character of the Parish and community engagement and one I consider to be justified and supported by evidence in the Character Assessment.

The policy takes account of national policy, CS Policies CS11 and CS21 and will help to achieve sustainable development. As a result it meets the basic conditions and no modifications are recommended.

Policy LAW3 Housing Development outside the Built-Up Area Boundary

Single dwellings and developments of up to five units are permitted outside, but adjacent to the BUABs together with one or a pair of semi-detached dwellings adjacent to a highway and within one of the identified clusters provided that satisfactory associated services and infrastructure can be provided.

All proposals must be accompanied by a completed CS Policy CS11 checklist and a Landscape Visual Impact Assessment. On the face of it this could be considered to be onerous requirements for a small number or even a single dwelling to comply with. However, given the nature of the BUABs and the clusters and because this policy permits housing where there is environmental sensitivity, I consider this provides an appropriate balance at the local level in this particular area. I am further persuaded that this is acceptable as the SPD referred to in the discussion of Policy LAW2 requires the submission of a statement setting out how issues in CS Policy CS11 have been addressed.

The policy is clearly articulated, defining potentially ambiguous phrases such as “a small undeveloped plot”. It sets out the expectations for development clearly. As explained

²³ Page 25 of the Plan

in relation to Policy LAW2, the introduction of a threshold is, in this Plan area, justified. The policy takes account of national policy and guidance which promotes housing in rural areas to be located where it will enhance or maintain the vitality of rural communities,²⁴ generally conforms to CS Policies CS11 and CS15 and will help, through its safeguards, to achieve sustainable development.

Policy LAW3 makes it clear that permission will not be granted if a proposal harms or undermines a settlement gap. Settlement gaps are subject to Policy LAW9. I consider that the two policies are compatible, and whilst I am not generally a fan of cross-referencing, in this case I consider that it would be helpful to insert a reference to Policy LAW9 in Policy LAW3 in order to ensure the two policies are read together.

- **Reword the first bullet point under “*Permission will not be granted where*” to “*a proposal harms or undermines a Settlement Gap identified by Policy LAW9 or otherwise does not accord with that policy,*”**

Policy LAW4 Housing Mix

Identified local need for smaller units suitable for first time buyers and older people are particularly encouraged by this policy which seeks to ensure that any housing development meets local needs. The policy refers to “the village”, but I consider this should be the Parish so that local needs across the Plan area can be addressed. This would also take account of the strategy in the CS which focuses on flexibility both in terms of provision and allocation of housing.

Subject to this modification, the policy will take account of national policy by helping to provide a wide choice of homes and plan for a mix of housing based on the needs of the community, reflect CS Policy CS18 and help to achieve sustainable development.

- **Change the word “village” to “Parish” in the first sentence of the policy**

Policy LAW5 Affordable Housing on Rural Exception Sites

Reflecting CS Policy CS20, rural exception sites are supported. The NPPF supports the provision of rural exception sites to enable local needs to be provided for. By its close relationship to CS Policy CS20 which takes a flexible approach to the location of such sites, it is not necessary or desirable for the policy to include more detail on location in order to meet the basic conditions. The policy meets the basic conditions and no modifications are recommended.

²⁴ NPPF para 55

10. Our Natural Environment

Policy LAW6 Important Recreation and Green Space

Ten areas are identified and clearly shown on Maps 1 – 3 on pages 30 and 31 of the Plan. Policy LAW6 designates these areas as “Important Recreation and Green Space”, protecting them from new development unless very special circumstances exist. The policy then supports ancillary development on green spaces, playing fields, allotments and other sport and recreation areas so long as the quality and use of the area is not harmed. I have assumed that this second element of the policy only refers to the ten identified areas given the title of the policy and this has been confirmed by the Parish Council. To aid clarity a modification is recommended in this respect.

The policy does not designate these areas as Local Green Space (LGS) which, as the NPPF explains, are green areas of particular importance to local communities²⁵ as this language is not used. Yet the effect of a LGS designation is that new development will be ruled out other than in very special circumstances; that wording is used in Policy LAW6 and so to all intents and purposes, this policy would have a similar effect as if these areas had been proposed as LGSs.

I visited each on my site visit:

The Foundry Meadow is an open field with well-defined boundaries.

The Glebe Open Space is an area of open, flat grass with trees which is an important open space in the context of the residential development around it and adds to the character and appearance of the area.

Walcher’s Meadow is a grassed area with play area.

Village Hall Open Space is an open, grassed area next to the village hall with trees. It adds to the setting of the hall.

Hall Mead Open Space is an open, flat, grassed area.

Churchill Close Meadow is an area with clear boundaries backing onto housing.

Harrow Green is a slither of grass with a bench on it alongside the road.

Hanningfield Green is a triangular shaped area close to a road junction with a number of important trees and wild flowers.

Hibbs Green comprises of two areas of grass alongside the road.

²⁵ NPPF paras 76, 77 and 78

Lawshall Green is a grassed area with trees and wild flowers.

All are important areas in terms of their use, their habitat value and/or the contribution made to character and appearance or setting of the Parish. In my view all are appropriately identified.

The policy is clear in its intent and the ten areas appropriately identified. The policy will in particular help to achieve sustainable development and subject to a modification to aid clarity, it meets the basic conditions.

- **Amend the last paragraph in the policy so that it reads: “Ancillary development relating to the primary use of the *areas identified above* will be supported provided that *the use and quality of the area is maintained or enhanced.*”**

Policy LAW7 Protecting Existing Natural Environmental Assets

Seven types of “Natural Environment assets” are identified in the preamble to this policy and range from a Site of Special Scientific Interest (SSSI) to ponds and hedgerows to village greens and wide verges.

The Plan explains that the “jewel in the crown” is Frithy Wood, a 37 acre SSSI ancient woodland located in the centre of the village. The NPPF²⁶ explains that development which is likely to have an adverse effect on a SSSI should not normally be permitted and an exception should only be made where the benefits of the development at that site clearly outweigh both impacts on the specific SSSI and the wider national network of SSSIs.

The NPPF²⁷ also makes it clear that planning permission should be refused for development that results in the loss of, or deterioration of, irreplaceable habitats including ancient woodland unless the need for, and the benefits of, development in that location clearly outweighs the loss.

Policy LAW7 seeks to protect the areas of woodland and ancient hedgerows shown on the Proposals Map. Not all the ancient hedgerows identified in the Character Assessment or the Ancient Hedgerows Survey Map have been shown on the Proposals Map and this was confirmed by the Parish Council in response to my query about this.

I have considered, as the issue arose in response to a query, whether all identified ancient hedgerows should be identified on the Proposals Map. I note that the policy refers to “Important...ancient hedgerows shown on the Proposals Map, are valued highly by the community...”. Bearing in mind this wording of the policy, I consider that a distinction has been made between the hedgerows particularly valued by the

²⁶ NPPF para 118

²⁷ *Ibid*

community and subject to this policy. These then are the ones identified on the Proposals Map.

This is not in any way to diminish the importance of other ancient hedgerows not subject to this policy or shown on the Proposals Map. I have considered whether it would be necessary in relation to the basic conditions to show all the ancient hedgerows on the Proposals Map or a separate map in the Plan. I do not consider it necessary given the wording of Policy LAW7.

The policy is clearly worded with a degree of flexibility. The NPPF is clear that the planning system should contribute to and enhance the natural and local environment²⁸ and given the high value placed on these areas by the community, this policy takes account of national policy and will help to achieve sustainable development. As a result it meets the basic conditions and no modifications are recommended.

Policy LAW8 Protecting and Maintaining Features of Biodiversity Value

This clearly worded policy seeks to protect and, where possible, enhance biodiversity. It is clear in its intention and takes a pragmatic approach to development proposals seeking mitigation where appropriate. It takes account of national policy and will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended.

Policy LAW9 Settlement Gaps

The policy refers to the designation of gaps between the hamlets which form this Parish and to the protection of views. Reference is made to saved policy LP CN03 which protects important open space, visually important gaps in the street scene and recreational facilities.

The policy refers to the gaps identified on a Proposals Map. It protects these areas from development to both preserve the visual qualities of the landscape and to retain the separate identities of the settlements. The policy only permits development if the physical or visual separation would not be undermined, the integrity of the gap would not be compromised and significant views would be protected.

At my visit, it was apparent that separation between the hamlets is important and integral to the character and local distinctiveness of the area. The settlement gaps shown on the Proposals Map are drawn logically. In addition the key views have been identified. Whilst there are many others which could have been identified, the most important given the character and context of the Parish have been selected. The

²⁸ NPPF para 109

identification of the settlement gaps and important views is underpinned by a detailed Character Assessment.

As a result this clearly worded policy takes account of national policy and guidance in recognising the intrinsic character and beauty of the countryside and promoting and reinforcing local distinctiveness and will help to achieve sustainable development. There are however two minor issues to address in respect of clarity and application of the Plan. Firstly, the policy refers to “significant views” and the Proposals Map to “important views”. To assist with clarity and to avoid doubt and argument at a latter stage, I recommend the phrase “important view” be used consistently. Secondly, one of the important views to the north of Brands Lane falls outside the Plan area and so cannot be included.

- **Replace the words “significant views” in criterion iii. of the policy with “important views”**
- **Remove the arrow viewpoint to the north of Brands Lane from the Proposals Map**

Policy LAW10 Special Landscape Area

A Special Landscape Area has been designated near and including Frithy Wood in the development plan. This policy reaffirms that designation although the supporting text recognises that the designation may come under review as part of the new joint local plan. I consider that it falls within the neighbourhood plan’s remit to identify and ‘roll forward’ this designation and that it can do so without one eye on the emerging local plan. This is because the Special Landscape Area is a current designation under saved LP Policy CR04. The designation though should be able to stand the test of time and stand on its own two feet. For this reason and to avoid confusion, I suggest it is titled differently.

The policy itself is clearly worded and largely resembles LP Policy CR04 with one subtle, but important difference that requires a modification to ensure the policy has sufficient flexibility and takes account of national policy.

- **Retitle the policy and change all references to “Special Landscape Area” within the policy, its supporting text, Proposals Map and anywhere else in the Plan to “Area of Local Landscape Sensitivity”**
- **Change the phrase “protect and enhance” in the first bullet point of the policy to “protect or enhance”**
- **Delete the following words from paragraph 10.19 “...although we acknowledge the SLA designation....Babergh Local Plan.” ending the sentence at “below”**

11. Our Built Heritage and Design

Policy LAW11 Protection of Heritage Assets

The preamble to this and the following policy explains that although the Parish does not have a Conservation Area, there are a number of listed buildings and archaeological features of interest.

Policy LAW11 seeks to ensure that development proposals preserve or enhance the significance of heritage assets through an understanding of the asset's significance and the provision of clear justification for any works that would lead to harm. The NPPF is clear that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.²⁹ The policy is clearly worded. Although a representation rightly points out the NPPF requires the significance of any heritage asset affected and a proposal's potential impact on it to be described, criteria b and c of the policy read together achieve this and reflect the NPPF. The policy will help to achieve sustainable development. It meets the basic conditions and no modifications are recommended.

Policy LAW12 Local Heritage Assets

Local heritage assets are retained and protected by this policy. The Plan explains that some 33 buildings and structures of local note have been identified and that a 'local list' will be instigated. Appendix 4 has details of possible candidates. The NPPF explains that the significance of a non-designated heritage asset should be taken into account in the determination of any planning applications.³⁰ A balanced judgement will be needed having regard to the scale of any harm or loss and the significance of the asset.³¹

Where harm or substantial harm would be caused, this policy sets out a requirement for an analysis of the wider public benefit of the proposal. This is a lesser test than is set out in the NPPF for designated heritage assets which require substantial public benefits to be achieved that outweigh any harm or loss. However, the NPPF's focus is on the scale of any harm and loss and the significance of the heritage asset rather than the benefits of the proposal although this can be considered to be a local expression of what the balanced judgement might involve. Therefore the last element of the policy requires modification to ensure that the policy takes account of national policy in the NPPF and that it will achieve sustainable development.

- **Change the last sentence of the policy to read: "Proposals for any works that would lead to *the loss of* or substantial harm to a non-designated heritage asset should be supported by an *appropriate* analysis of the *significance of the***

²⁹ NPPF para 126

³⁰ *Ibid* para 135

³¹ *Ibid*

heritage asset together with an explanation of the wider public benefits of the proposal.”

Policy LAW13 Design Principles

This policy seeks to deliver locally distinctive development of a high quality. It encompasses many different aspects including the recognition of key features and character, development on gardens which make a significant contribution to the locality’s character and appearance, sustainable design and construction where appropriate and the impact of development on the living conditions of residents. It is clearly worded. It refers to Appendix 4. It will therefore help to achieve sustainable development and takes account of national policy and guidance which particularly seeks good design indicating it is indivisible from good planning.³² It therefore meets the basic conditions and no modifications are recommended.

12. Our Amenities and Services

Policy LAW14 Community Facilities and Services

Community facilities and services are both protected and encouraged by this policy. The NPPF encourages planning policies to plan positively for the provision of facilities and other local services to enhance the sustainability of communities and to guard against the unnecessary loss of valued facilities and services.³³

Whilst a representation would like The Willows Residential Care Home to be specifically identified in this policy, and there may have been some benefit in so doing, the policy as worded would apply to it and there is no need for me to recommend the Care Home be named in order for the policy to meet the basic conditions. This is because this policy takes account of national policy and has sufficient flexibility. It will help to achieve sustainable development. As a result it meets the basic conditions and it is not necessary to recommend any modification to it.

13. Our Infrastructure and Businesses

Policy LAW15 Infrastructure

The supporting text explains that a major concern is parking at the All Saints Primary School. This policy requires the provision of off-street parking for drop off and pick up

³² NPPF para 56 and section 7

³³ *Ibid* paras 28 and 70

alongside a traffic impact assessment accompanying any proposals for development at the school that would enable its capacity to be increased.

This seems to me to be a sensible way forward in supporting the school to enhance facilities for the existing capacity but ensuring that the parking issue is not exacerbated through any increase in numbers. This chimes with the NPPF's stance on the need to give great weight to the expansion or alteration of schools and the need to resolve key planning issues, of which parking is clearly one, before any applications are submitted.³⁴

The submission of a traffic impact assessment of some sort is likely to be needed to reassure the community and to demonstrate existing problems will not worsen. The NPPF does however indicate that transport statements or assessments will be needed where proposals generate significant amounts of movement.³⁵ It may well be the case that the school would do that, but in order to increase the flexibility within the policy to ensure that it does not introduce overly onerous requirements, a modification is recommended to ensure that it takes account of national policy.

- **Insert the words “*an appropriate and proportionate*” before “traffic impact assessment” in the policy and delete the now redundant “a”**

Policy LAW16 Flood Management

There is a concern about surface water flooding and records show two houses were unfortunately flooded with sewage in 2014. A report by Suffolk County Council indicated that a number of factors contributed to this including the historical culverting of open watercourses.

Proposals which create new culverts or result in the loss of an open watercourse are resisted by this policy. There is flexibility within the policy to allow culverts if they are proven to be essential and their impact is acceptable.

The policy is clearly worded and takes account of national policy and guidance and will help to achieve sustainable development given local circumstances. It meets the basic conditions and no modifications are recommended.

Business and Enterprise

Paragraphs 13.15 and 13.16 under a heading “Business and Enterprise” supports proposals as detailed in CS Policy CS17 and resists large industrial units. There is no policy sitting alongside this and it could be interpreted as, and indeed it reads as, a planning policy. To ensure that it is clear that these two paragraphs do not constitute planning policy in this Plan, two modifications are recommended.

³⁴ NPPF para 72

³⁵ *Ibid* para 32

- **Add the words “*Whilst not subject to a policy in this Plan, proposals for:* [retain list i. to vi.] before “Thus proposals for:” and delete the then redundant “Thus” in paragraph 13.15**
- **Delete “However, large industrial units would not be welcomed.” from the end of paragraph 13.15**

14. Implementation and Monitoring

This short section recognises the dynamic nature of planning setting out the intention to review the Plan on a regular basis. This is to be welcomed.

Proposals Map

A useful Proposals Map is included.

I raised a query with the Parish Council that the Proposals Map did not appear to accurately reflect what is on the ground in relation to an ancient hedgerow on Folly Lane. In turn this did not match with the Folly Lane (south) map in the Character Assessment. The Parish Council agreed that some amendments were needed including the important view location. An amended Folly Lane (south) map was submitted. This map should be substituted in the Character Assessment in the interests of accuracy. The Proposals Map should also be updated accordingly so both maps are the same and reflect what is on the ground.

On the Bury Road map in the Character Assessment, three important views are indicated. However, only two are shown on the Proposals Map which should align with this important evidence document which has informed the Plan and its policies. In response to a query on this, the Parish Council confirm that the view should have been included. I regard this as a simple drafting error and do not consider its inclusion will prejudice any interests.

- **Update the Folly Lane (south) map in the Character Assessment and update the Proposals Map so that both are the same to accurately reflect what is on the ground**
- **Include all three important views as indicated on the Bury Road map in the Character Assessment on the Proposals Map**

Glossary

A useful glossary is included. Whilst it is not a matter for the examination, there may be a superfluous “1148” at the end of the definition of local planning authority.

Appendices and Supporting Documents

A number of appendices and supporting documents are included in the Plan. It may be more appropriate for some of these documents to be separated from the Plan as it reaches its latter stages towards adoption so that the Plan becomes a more manageable document. The documents could and should still be available separately.

Appendices 1 – 6 are referred to within the body of the Plan. As a result it would be appropriate for these, together with the Character Assessment, to be retained.

The Character Assessment is an excellent and bespoke assessment of the Parish. It takes a pragmatic approach to the Plan area identifying four different areas ‘types’. This works very well given the nature of the Parish. Each area has an excellent map or maps showing clearly and simply each of the four area’s key features of importance. Each area is then further distilled into sub-sections which are described simply but effectively using ten aspects ranging from landmarks and buildings to layout and topography and accompanied by photographs. The assessments give a real feel for the areas. The approach is to be commended.

As I have mentioned in relation to the discussions on Policy LAW7 and the Proposals Map earlier in this report, I found some inaccuracies with the Proposals Map remedied by modifications in respect of a notation not reflecting what was on the ground and a drafting error bringing forward the information in the Character Assessment to bear on the Proposals Map. In addition not all the ancient hedgerows identified in the Character Assessment and survey appeared on the Proposals Map. As my discussion in relation to Policy LAW7 explained, I do not consider this to be necessary or desirable.

I asked the Parish Council to check whether the Character Area Maps in the Character Assessment tied in with the Proposals Map. They kindly undertook this task and sent a list of discrepancies and suggested amended maps (Appendix 3 of responses to my queries). I have carefully considered these. It is the Character Assessment maps that do not show all the different features/designations on the Proposals Map. I do not consider that they need to.

I also queried whether a light coloured background on each of the Village Green maps in the Character Assessment were confusing in relation to the clusters location identification. I am satisfied with the explanation given by the Parish Council and with the inclusion of larger scale cluster maps, any misgivings would be remedied by that modification.

Furthermore I do not consider it within my remit to suggest changes to a supporting evidence document. I have corrected any inaccuracies or drafting errors in relation to the Proposals Map.

On a separate note, I noticed a spelling error in the Plan on page 29 which could be corrected in the next version of the Plan (“story” on page 29 should be “storey”). There

may be others that I have not picked up on, but I am sure that a final edit of the next version of the Plan will iron out any such minor points.

7.0 Conclusions and recommendations

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

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

Following on from that, I am required to consider whether the referendum area should be extended beyond the Lawshall Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion. I therefore consider that the Plan should proceed to a referendum based on the Lawshall Neighbourhood Plan area as approved by Babergh District Council on 8 December 2015.

Ann Skippers MRTPI
Ann Skippers Planning
23 August 2017

Appendix 1

List of key documents specific to this examination

Lawshall Neighbourhood Plan 2016 - 2036 Submission Plan January 2017

Basic Conditions Statement dated January 2017

Consultation Statement dated January 2017

Character Assessment dated January 2017

Strategic Environmental Assessment Screening Report dated December 2016

Babergh Local Plan 2011 – 2031 Core Strategy & Policies February 2014

Babergh Local Plan Alteration No. 2 adopted June 2006

Rural Development & Core Strategy Policy CS11 Supplementary Planning Document adopted August 2014

Affordable Housing Supplementary Planning Document adopted February 2014

Safeguarding Employment Land Supplementary Planning Document

BDC Interim 5 year housing land supply statement April 2017

Babergh District Council Core Strategy Submission Draft Habitats Regulations Assessment: Screening September 2011

Addendum to the Sustainability Appraisal Final Report and Habitats Regulations Assessment (including review of Main Modifications to Core Strategy) Babergh Development Framework Strategic Policies (Core Strategy) Submission Draft June 2012

List ends

Appendix 2

Questions of clarification to BDC and the Parish Council

Lawshall Neighbourhood Plan Examination

Questions of clarification from the Examiner to the Parish Council and BDC

Having completed my initial review of the Neighbourhood Plan (the Plan) and visited the area, I would be grateful if both Councils could kindly assist me as appropriate in answering the following questions which either relate to matters of fact or are areas in which I seek clarification or further information. Please do not send or direct me to evidence that is not already publicly available.

1. Please confirm the dates of the Regulation 14 (pre-submission) stage period of consultation.
2. Policy LAW6 refers to ten areas of important recreation and green space. Does the second element of the policy (relating to ancillary development) only apply to the ten identified areas?
3. The Proposals Map does not appear to accurately reflect what is on the ground in terms of ancient hedgerow on Folly Lane. In turn this does not reflect what is shown on the Folly Lane (south) map in the Character Assessment. Please may I ask you to check this and advise me suggesting a way forward.
4. On the Character Area Map of Bury Road on page 11 of the Character Assessment, three important views are indicated. One of them, approximately opposite Brick Kiln Plantation does not appear on the Proposals Map. Is this intentional or a drafting error?
5. On the Character Area Map of Hanningfield Green on page 15 of the Character Assessment, the ancient hedgerow notation does not appear to match that indicated on the Proposals Map? Is this correct and if so, how should this be remedied?
6. On the Character Area Map of Brands Lane on page 19 of the Character Assessment, the ancient hedgerow notation does not appear to match that indicated on the Proposals Map? Is this correct and if so, how should this be remedied? In addition on both the Proposals Map and the Character Area Map one of the viewpoints along Brands Lane seems to be across land that falls outside the Parish/Plan area boundary; is this correct?
7. In the light of the above, please would you check the other Character Area Maps including those of the sub sections and confirm that they tie in with the Proposals Map (I will of course do the same and so this request is to assist and confirm my own assessment).

8. One of the issues I have identified is how easy or difficult it would be for a prospective developer to be able to identify the extent of each of the clusters with clarity and precision. Would it be useful for the clusters to be identified more precisely and if so, please could maps be prepared for each? The next question also relates to this point.
9. The Character Assessment shows four of the five clusters on page 15 (the one not shown is Audley End). The maps show the clusters in a white background, but it may not have been the intention to define them as such in the Character Assessment. They appear to be bigger than the circles on the Proposals Map for instance. If it was not the intention for the clusters to be shown on the Character Area maps, would it be best if the white background were to be removed to avoid confusion? Or should these areas be adopted as the definitions of the clusters and be brought forward to the Proposals Map? And Audley End added?
10. A Strategic Environmental Assessment Screening Report of December 2016 has been submitted. It does not specify the version of the Plan assessed. Secondly, it refers to seeking the opinions of the statutory consultees, but no details are given about this consultation or the responses received from Historic England, Natural England or the Environment Agency. In addition there is little assessment of the likely significant effects set out in Schedule 1 as referred to in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004. Please i) confirm which version of the Plan was assessed, ii) provide details of the consultation undertaken with the statutory consultees and copies of the responses received (or confirmation that no replies were forthcoming) and iii) how the criteria specified in Schedule 1 to the Regulations have been taken into account.
11. Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation. Only Regulation 32 is applicable to neighbourhood plans and this states “The making of the neighbourhood plan is not likely to have a significant effect on a European site³⁶ or a European offshore marine site³⁷ either alone or in combination with other plans or projects.” Please advise me what assessment has been carried out in respect of this basic condition or provide me with sufficient information to enable me to consider whether this basic condition can be complied with.

It may be the case that on receipt of your anticipated assistance on these matters that I may need to ask for further clarification or that further queries will occur as the examination progresses. Please note that this list of clarification questions is a public document and that your answers will also be in the public domain. Both my questions and your responses should be placed on the Councils' websites as appropriate.

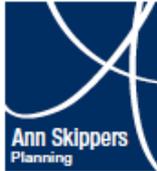
With many thanks.
Ann Skippers
1 May 2017

³⁶ As defined in the Conservation of Habitats and Species Regulations 2012

³⁷ As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

Appendix 3

Letter to BDC of 31 May 2017



146 New London Road, Chelmsford, Essex CM2 0AW
T. 07776 204651
E. ann@annskippers.co.uk
W. annskippers.co.uk

31 May 2017

Dear Mr. Munson,

Lawshall Neighbourhood Plan Examination

I am writing in relation to the above examination.

I sent some questions of clarification to you and the Parish Council to which both parties have kindly and helpfully responded. One of those queries related to Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) which sets out an additional basic condition to those set out in primary legislation. Regulation 32 states: "The making of the neighbourhood plan is not likely to have a significant effect on a European site¹ or a European offshore marine site² either alone or in combination with other plans or projects." I asked for further information about what assessment had been carried out in respect of this basic condition.

A Strategic Environmental Assessment (SEA) screening report has been produced and I note that two of the three statutory consultees who responded with substantive comments agree with the assessment which concludes there will be no likely significant environmental effects and that a SEA is not required.

In order to enable me to ascertain whether the Plan complies with the basic condition referred to above, I consider that it would be prudent for a Habitats Regulation Assessment (HRA) screening assessment to be carried out. If one has been produced, then I apologise; I have not found it in the bundle of submitted documents. However, if I am correct that one has not been produced, I would recommend this matter be remedied as soon as possible.

There are of course a number of options open to us if HRA has not been considered. These include continuation of the examination, suspension of the examination or withdrawing the Plan from examination. Both the latter options would allow the matter to be remedied as soon as possible.

My suggestion is that I suspend the examination whilst the requisite HRA screening work is carried out and a period of consultation, with both the statutory consultees and the public, for six weeks is undertaken. It should be made clear that this period of consultation is only in relation to the HRA screening report and that all other representations made at the submission stage consultation period will be 'rolled forward'. As soon as the consultation period ends, any representations received should be forwarded to me and I will recommence the examination.

¹ As defined in the Conservation of Habitats and Species Regulations 2012

² As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

I appreciate that this and the ensuing delay will come as a disappointment to you and particularly the Parish Council and others involved in the development of this Plan. Yet it is important to ensure that all the basic conditions are satisfactorily met and that the Plan, once it proceeds to its latter stages, can do so with confidence.

Given the nature of the situation in that there is a remedy to this outstanding issue, I am therefore writing to you to seek your further instructions as to whether you and the Parish Council wish me to suspend the examination to allow the situation to be remedied along the lines suggested above or whether you wish me to continue the examination which may unfortunately result in a report that recommends the Plan does not proceed to referendum. Once the Council has decided on the course of action it wishes to take, please let me know how you wish to proceed.

Assuming you will wish me to suspend the examination to carry out the requisite HRA work, to avoid any unnecessary delay it would also be helpful to me to indicate when the consultation period might start so I can programme the examination restart in and ensure that I can continue with the examination very promptly after the consultation period ends.

The comments made in this letter are without prejudice to my conclusions on any other issue.

If you have any queries, please do not hesitate to get in touch.

Yours sincerely

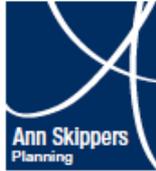
Ann Skippers

Ann Skippers
Director

via email to Paul Munson, Babergh District Council

Appendix 4

Letter to BDC of 26 July 2017



146 New London Road, Chelmsford, Essex CM2 0AW
T. 07776 204651
E. ann@annskippers.co.uk
W. annskippers.co.uk

26 July 2017

Dear Mr. Bryant,

Lawshall Neighbourhood Plan Examination

I am writing in relation to the above examination.

I sent a letter to you dated 31 May which suggested that further work was carried out in relation to Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) which sets out an additional basic condition to those set out in primary legislation. Regulation 32 states: "The making of the neighbourhood plan is not likely to have a significant effect on a European site¹ or a European offshore marine site² either alone or in combination with other plans or projects.". Specifically, I suggested that a Habitats Regulation Assessment (HRA) screening assessment be carried out with a period of six weeks consultation on it.

A HRA screening has now been carried out and the six week period of consultation undertaken. However, it came to light during the consultation that there was a potential omission in the HRA screening as the Breckland Special Protection Area (SPA) had not been considered. The LPA quickly informed Natural England of this and sought their further advice as to whether this changed their advice given during the consultation period that the neighbourhood plan was not likely to have a significant effect on a European site. Natural England confirmed that their advice was unchanged.

You brought my attention to this situation by email of 22 July. I consider that it would be prudent in the light of representations received during the HRA consultation which drew attention to the Breckland SPA that a further short and focused period of consultation is undertaken and that this should draw attention to Natural England's responses so that they are placed within the public domain and there is a further opportunity to comment if desired.

In considering this suggestion today, it has come to light that the Council's email to Natural England which pointed out the potential omission referred to the Breckland SPA being some 13km north west of Lawshall, intending to be helpful and informative. In checking those distances today in preparing the further consultation I suggest, it has transpired by a common calculation that the Breckland SPA is approximately 11km away from the Parish/neighbourhood plan area boundary.

As the distance is less than previously indicated to Natural England and whilst Natural England will be aware of the proximity of European sites to the Parish/Plan area, I suggest that a further

¹ As defined in the Conservation of Habitats and Species Regulations 2012

² As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

email is sent to Natural England pointing out that the Parish/Plan area is about 11km away and Natural England should be invited to confirm whether their earlier advice still stands (or not). After this has been actioned and a response received from Natural England, I would then recommend the further and short focused period of consultation for two weeks should be undertaken.

This additional period of consultation is only in relation to this circumstance and Natural England's advice and that all other representations made at the submission stage consultation period and on the HRA will be 'rolled forward'. As soon as the consultation period ends, any representations received should be forwarded to me and I will recommence the examination.

I do appreciate that this further short delay will be a source of frustration. Yet it is important to ensure that all the basic conditions are satisfactorily met and that the Plan, once it proceeds to its latter stages, can do so with confidence.

The comments made in this letter are without prejudice to my conclusions on any other issue.

If you have any queries, please do not hesitate to get in touch.

Yours sincerely

Ann Skippers
Ann Skippers
Director

via email to Paul Bryant, Babergh District Council