



# **WITCHFORD NEIGHBOURHOOD PLAN 2019-2031**

**SUBMISSION VERSION OCTOBER 2019**

## **A Report to East Cambridgeshire District Council of the Examination into the Witchford Neighbourhood Plan**

by Independent Examiner, Peter Biggers BSc Hons MRTPI

February 2020

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## Summary and Overall Recommendation

0.1 Following my examination of the Witchford Neighbourhood Plan (WNP), including a site visit to the Neighbourhood Area on 13 December 2019 it is my view that, subject to modifications, the WNP reflects the views of the community and sets out a clear vision and suite of policies and proposals for the Neighbourhood Area.

0.2 My report highlights a number of areas where I consider the wording of the plan as submitted is not in accordance with one or more of the Basic Conditions. In particular the plan's future spatial development strategy, housing requirement and allocations for expected housing development have been challenged at the Regulation 16 Publicity Stage and require modification to the policies and supporting text to meet national policy advice. Other modifications more often arise from circumstances where the policy does not comply with the National Planning Practice Guidance that:

*"A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence".* (Paragraph: 041 Reference ID: 41-041-20140306)

0.3 I have therefore recommended a number of modifications to the Plan which should be made before the plan can proceed to Referendum. These are intended to ensure that, first and foremost, the Plan can meet the Basic Conditions.

0.4 In proposing the modifications I have tried to ensure that the integrity and value of the WNP and its vision is retained and that the intention of neighbourhood planning, where the community's wishes should be central to the plan, is honoured. A number of the representations at the Regulation 16 stage questioned the value in proceeding with the plan. However the WNP if modified to comply with the basic conditions can proceed to provide a useful policy framework for the future development of Witchford even if the reality is that it is likely to need to be reviewed promptly once a replacement local plan is successfully developed.

0.5 By its nature the examination has to be rigorous. Any criticism of the plan is not at all to undermine the significant community effort that has gone into the plan. Rather the purpose of the examination is to ensure that the Neighbourhood Plan meets the Basic Conditions and is as robust as possible and that it can play its part in planning decisions and managing change in Witchford in the future in an effective way.

0.6 In addition to the recommended modifications it should also be noted that there may be a number of consequential changes for example to referencing and numbering that will be needed as a result of making the modifications. It will also be necessary to ensure all references to the plan-making procedure are up to date. I have not necessarily highlighted all such minor consequential changes.

0.7 Subject to the recommended modifications in the report being completed I am satisfied that:

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

0.8 The WNP also complies with the legal requirements set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

0.9 With the modifications in place the Witchford Neighbourhood Plan will meet the Basic Conditions and can proceed to a Referendum.

0.10 When that referendum takes place I also recommend that the Witchford Neighbourhood Area, which is synonymous with the administrative boundary of the Parish, is taken as the area for the Referendum.

**Peter Biggers**  
**7 February 2020**  
**Argyle Planning Consultancy Ltd**

## 1. Introduction

### 1.1 Background Context

1.1.1 This Report provides the findings of the examination into the Witchford Neighbourhood Plan (referred to as the WNP throughout this report).

1.1.2 The WNP was produced by Witchford Parish Council (WPC) in consultation with the local planning authority – East Cambridgeshire District Council (ECDC), and interested parties and local stakeholders.

1.1.3 The Witchford Neighbourhood Area equates to the administrative area of Witchford Parish.

1.1.4 Witchford village lies within the District of East Cambridgeshire approximately 3 miles south west of Ely and south of the A142. The parish boundary takes in a much wider rural hinterland north and south of the village which is predominantly a Fenland landscape of largely arable fields with farm steadings dotted across it. The village of Witchford is situated in the Isle of Ely, an area of higher ground which, prior to the draining of the Fens in the 17<sup>th</sup> century, remained dry and habitable. Witchford is a linear settlement extending along the main road west of Ely to March. The Main Street contains the older village housing with drove roads and lanes at right angles to it connecting the village to the wider Fenland. The area north of Main Street to the A142 village bypass is characterised by modern estate style housing. The parish had a resident population of around 2360 in 2015 living in 970 dwellings.

1.1.5 This Examiner's Report provides a recommendation as to whether or not the WNP should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes cast in favour of it, then the WNP would be '**made**' by East Cambridgeshire District Council. In the event of a successful referendum result the WNP would immediately carry full weight in the determination of planning applications in the Neighbourhood Area.

### 1.2 Appointment of the Independent Examiner

1.2.1 I was appointed (as a retained independent examiner with Trevor Roberts Associates) by ECDC, with the consent of WPC, following a competitive procurement process, to conduct the examination and provide this report. I am independent of the qualifying body and the Local Planning Authority. I do not have any interest in any land that may be affected by the WNP nor do I have any professional commissions in the area currently and I possess appropriate qualifications and experience. I have planning and development experience, gained over 38 years across the public and private planning sectors and am a Member of the Royal Town Planning Institute. I have been an independent examiner for 6 years.

## 1.3 Role of the Independent Examiner

1.3.1 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “Basic Conditions.” The Basic Conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (TCPA) as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (PCPA). They are that \*:

- a) Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- d) The making of the neighbourhood plan contributes to the achievement of sustainable development;
- e) The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority;
- f) The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations;
- g) Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the plan.

1.3.2 Pursuant to Basic Condition g) above, Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended by the *Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018* effective from 28 December 2018) prescribes the following basic condition for the purpose of paragraph 8(2)(g) of Schedule 4B to the TCPA 1990:

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

Regulation 106 (1) of Chapter 8 states that : *“a qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 105 (that assessment is necessary where the neighbourhood plan is 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) or to enable it to determine whether that assessment is required”.*

1.3.3 In examining the Plan, I have also considered whether the legislative requirements are met namely:

- The Neighbourhood Plan has been prepared and submitted for examination by a qualifying body as defined in Section 61F of the TCPA

*\* NB Two other matters relating to the desirability of preserving or enhancing listed buildings and conservation areas are also included in the basic conditions b) and c) but as these only concern neighbourhood development orders and not neighbourhood plans they are not included in this report.*

as applied to neighbourhood plans by section 38A of the PCPA.

- The Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the TCPA as applied to neighbourhood plans by section 38A of the PCPA.
- The Neighbourhood Plan meets the requirements of Section 38B of the PCPA (the Plan must specify the period to which it has effect, must not include provisions relating to 'excluded development', and must not relate to more than one Neighbourhood Area) and
- The policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of the PCPA Section 38A.

1.3.4 I have examined the WNP against the Basic Conditions and legislative requirements above and, as Independent Examiner, I must make one of the following recommendations:

- a) that the Plan should proceed to Referendum, on the basis that it meets all legal requirements;
- b) that the Plan, once modified to meet all relevant legal requirements, should proceed to Referendum;
- c) that the Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

1.3.5 If recommending that the Plan should go forward to Referendum, I am also then required to consider whether or not the Referendum Area should extend beyond the Witchford Neighbourhood Area to which the Plan relates. I make my recommendation on the Referendum Area at the end of this Report in Section 8.

1.3.6 The role of the independent examiner is not to comment on whether the plan is sound or how the plan could be improved generally but rather to focus on the compliance with the Basic Conditions.

## **2. The Examination Process**

2.1 It is a general rule that neighbourhood plan examinations should be held without a public hearing i.e. by written representations only. However, according to the legislation, when the Examiner considers it necessary to ensure adequate examination of an issue, or to ensure a person has a fair chance to put a case, a public hearing may be held.

2.2 I have considered the representations received at the Regulation 16 publicity stage and, in the light of these, I provided ECDC and WPC with the opportunity to respond in writing to a number of clarifying questions prompted by the representations. These questions and the answers from the 2 Councils are set out at Appendix 1 of this report. This is allowed for in the guidance on carrying out examinations but in the interests of a fair and transparent process these and the Councils' answers have been uploaded to the neighbourhood plan webpages. Having assessed the representations and the responses



from ECDC and WPC and on consideration of all the evidence before me, I decided that there was not a need for a public hearing on any of the matters and the examination could proceed by written representations only. Abbey Properties in their Reg 16 representation did request that the issues regarding Local Green Space were heard at a public hearing because the WNP was taking a different view to that of the Inspector examining the replacement East Cambridgeshire Local Plan. However, as that plan has now been withdrawn following receipt of the Inspector's note outlining potential modifications and not before me, there is no potential conflict and a hearing is unnecessary.

2.3 I confirm that **all** representations on the Neighbourhood Plan received at the Regulation 16 stage (including an additional response from Howes Percival on behalf of Manor Oak Homes following criticism of the responses from the two councils) have been considered and responded to in undertaking this examination. Where appropriate I have made specific reference to the person's or organisation's comments and the responses from ECDC and WPC in section 6 of this report.

2.4 I undertook an unaccompanied site visit around the Neighbourhood Area on 13 December 2019 during which I looked at its overall nature, form, character and appearance and at those areas affected by policies and proposals in the Plan in particular. Subsequent to the site visit I asked a number of factual questions arising from the Reg 16 representations and relating to the context for and proposals of the plan of both the District Council and Parish Council as Qualifying Body. This exchange was carried out by email and the questions and the responses received from the Councils are set out in Appendix 1. I am grateful to the two Councils for responding on these matters.

2.5 In undertaking this examination, I have considered each of the following documents in addition to the Submission Version of the Witchford Neighbourhood Plan:

- a) National Planning Policy Framework (Feb 2019)
- b) National Planning Practice Guidance 2014 (as amended)
- c) Town and Country Planning Act 1990 (as amended)
- d) The Planning and Compulsory Purchase Act 2004 (as amended)
- e) The Localism Act 2011
- f) The Neighbourhood Planning Act 2017
- g) The Neighbourhood Planning (General) Regulations (2012) (as amended)
- h) The East Cambridgeshire Local Plan 2015
- i) Witchford Neighbourhood Plan Basic Conditions Statement
- j) Witchford Neighbourhood Plan Consultation Statement
- k) Witchford Neighbourhood Plan Strategic Environmental Assessment and Habitat Regulations Assessment Screening Opinion and Determination Statement
- l) Witchford Neighbourhood Area Designation Report
- m) Witchford Landscape Character Appraisal by Alison Farmer Associates
- n) Witchford Local Green Space Assessment
- o) Witchford Demographic Social and Economic Review 2017
- p) Witchford Neighbourhood Plan SWOT Analysis
- q) Supporting Evidence Paper for Policy WNP LC2 Witchford Area of Separation

- r) Witchford Housing Standards Evidence Report
  - s) Witchford Parish Council Transport Plan
  - t) Local Highways Improvement Fund Supporting Evidence - Witchford Parish Council
- Also:
- u) Representations received during the Regulation 16 publicity period post submission 17/10/2019 to 28/11/2019.

### **3. Public Consultation**

#### 3.1 Background

3.1.1 An accessible and comprehensive approach to public consultation is the best way to ensure that a neighbourhood plan reflects the needs, views and priorities of the local community.

3.1.2 WPC submitted a Consultation Statement, as required by Regulation 15 of the Neighbourhood Planning (General) Regulations, to ECDC in October 2019.

3.1.3 Public consultation on the WNP commenced with an inception stage in 2016. The start-up consultation was followed by various consultation stages, including:

- Initial and advanced plan development stages October 2016 to May 2019
- The pre-submission consultation under Regulation 14 from 12/6/2019 to 25/7/2019.
- The formal, publicity stage, as required by Regulation 16, (the consultation period post submission of the plan) from 17/10/2019 to 28/11/2019.

The Regulation 16 stage resulted in consultation responses from 13 respondents. Some of these made no specific comments but a number raised detailed matters which will be addressed as part of the examination. The responses from the 2 Councils in response to my clarifying questions prompted by these representations are set out in Appendix 1 and are considered as necessary within my assessment of the plan in section 6 below.

#### 3.2 Witchford Neighbourhood Plan Consultation

3.2.1 The WNP Neighbourhood Planning Committee has carried out consultation with the community and stakeholders throughout the process of plan preparation. The communication methods used involved use of the Witchfordian Magazine, the Fenscene Magazine, the WPC and ECDC neighbourhood planning website pages, Facebook page and email drops as well as a presence at community events and questionnaires. Copies of the Pre-Submission Draft and Submission Plan were uploaded to the websites and links provided via email as well as being available locally in hard copy.

3.2.2 Subsequent to the inception stage, raising awareness about the plan, the initial plan development stage in late 2016 involved a household survey distributed to all households following which 251 returns were received. The results from this survey were used to form the vision for the plan and the 7 objectives. These were published and tested at village events in summer 2017. The advanced plan development stage was organized under the objective topics to produce draft policy content for the plan.

This was consulted on through a second household survey in January/February 2018 which resulted in 410 returns – about a 40% return rate. At this stage there was also a drop-in (20/2/2018) and surveys of businesses and a survey on the Local Green Space proposals.

3.2.3 The Consultation Statement sets out the form and content of these early consultations. It is clear that full opportunities were available to the community to be involved and that the consultations gave a good basis for the preparation of the plan.

3.2.4 The Pre-Submission Draft consultation on the plan, as required by Regulation 14, involved a 6 week period from 12/6/2019 to 25/7/2019. The WNP was made available online on the Witchford Parish and ECDC websites and links to the plan provided via email. Hard copies of the full plan and summary versions were made available in the local area and articles were published in the press and local magazines. A drop-in session was arranged on 19/6/2019 where the plan was available for reading and there were opportunities to speak to Committee Members. Statutory consultees and other key stakeholders were consulted by email with a link to the plan or by letter. 37 responses were received including 20 from residents, 10 from statutory consultees and 7 from landowners and the development industry. Residents and statutory consultees were broadly supportive of the plan.

3.2.5 Following the pre-submission stage and the analysis of results the plan was finalised for submission.

3.2.6 The Neighbourhood Planning Regulations are part and parcel of Basic Condition a) and Regulation 15 (2) sets out clearly what the Consultation Statement should include. Having reviewed the Consultation Statement and its appendices I am satisfied that the consultation statement is compliant with Reg 15 in demonstrating who was consulted, how they were consulted, what the main issues and concerns were and what action has been taken in response to these to arrive at the Submission Draft Plan. The interest and participation by residents in the plan has been facilitated throughout the process at the various stages and I am satisfied from the evidence that the communication and consultation which took place provided sufficient opportunity for the community's participation.

## **4. Preparation of the Plan and Legislative Requirements**

In terms of the procedural tests set out in paragraph 1.3.3 of this report my findings are:

### **4.1 Qualifying Body**

4.1.1 Witchford Parish Council, as the duly elected lower tier council, is the qualifying body for preparation of the Plan.

4.1.2 I am satisfied that the requirements set out in the Localism Act (2011) and in Section 61F(1) and (2) of the TCPA (as applied to neighbourhood plans by section

38A of the PCPA) have been met.

## 4.2 Plan Area

4.2.1 The Witchford Neighbourhood Area, as designated, coincides with the administrative boundaries of Witchford Parish.

4.2.2 An application was made by WPC in 2016 to designate the Witchford Neighbourhood Area. This was approved by ECDC on 26 August 2016 following a period of consultation. Subsequently a review of Parish boundaries in 2018 resulted in an application to amend the Neighbourhood Area which was approved on 6 February 2019.

4.2.3 This satisfied the requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) (2) and (3) of the TCPA (as applied to neighbourhood plans by section 38A of the PCPA) and Regulations 5, 6 and 7 of the Neighbourhood Planning (General) Regulations as amended.

## 4.3 Plan Period

4.3.1 A neighbourhood plan must specify the period during which it is to have effect. The WNP clearly states in the text and in its headers that it covers the period from 2019–2031.

4.3.2 The plan period coincides with the end point of the East Cambridgeshire Local Plan (ECLP) which sets out the strategic policies for the neighbourhood plan. The intended time period satisfies the requirements of Section 38B of the PCPA as amended.

## 4.4 Excluded Development

4.4.1 The Plan does not include policies or proposals that relate to any of the categories of excluded development – county matters (mineral extraction and waste development), nationally significant infrastructure or any matters set out in Section 61K of the TCPA 1990. The WNP, as proposed to be modified in section 6 below, relates solely to the neighbourhood area and no other neighbourhood area and there are no other neighbourhood development plans in place within the neighbourhood area. This satisfies requirements of Section 38B of the PCPA as amended.

## 4.5 Development and Use of Land

4.5.1 The Neighbourhood Plan should only contain policies relating to development and use of land. Subject to the modifications proposed below in section 6, the WNP policies would be compliant with this requirement of Section 38B of the PCPA as amended and all relate to development and the use of land.

## 4.6 Plan Publication Following Submission

4.6.1 ECDC undertook a final validation check of the WNP following submission and confirmed in writing on 22 November 2019 that it was satisfied that the Plan could proceed to this independent examination.

## **5. The Basic Conditions**

### 5.1 National Policy and Advice

5.1.1 The main document that sets out national policy is the *National Planning Policy Framework* (the NPPF). A revised version of the NPPF was published on 24 July 2018 with a further version including minor clarifications in February 2019. For continuity purposes and for neighbourhood plans already in the system the NPPF states at paragraph 214 that “*the policies in the previous Framework (dated 2012) will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019*”. The Witchford Plan was approved for submission after this date and the submission version and the Basic Conditions statement have been prepared on the basis of the revised Framework and therefore I have based my consideration of the extent to which the WNP meets Basic Condition a) in section 6 below against the revised NPPF including the 2019 clarifications.

5.1.2 The NPPF explains that neighbourhood plans should support the delivery of strategic policies and set out non-strategic policies and plan positively to shape, direct and help to deliver sustainable development that is outside the strategic elements of the Local Plan.

5.1.3 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 Development Plan. They should not promote less development than that set out in the strategic policies of the development plan or undermine those strategic policies.

5.1.4 The NPPF indicates that plans should contain policies that are clearly written and unambiguous so that it is clear how a decision maker should react to development proposals. They should serve a clear purpose and avoid unnecessary duplication of policies that apply to a particular area.

5.1.5 National advice on planning is set out in the *Planning Practice Guidance* (PPG) which includes specific advice regarding neighbourhood plans. The PPG has also been reviewed in tandem with the NPPF and as the submitted plan has taken account of the revised Framework, for the purposes of this examination, I have considered the advice of the PPG as at the time of submission.

## 5.2 Sustainable Development

5.2.1 A qualifying body must demonstrate how a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole constitutes the Government's view of what sustainable development means in practice for planning. The NPPF explains that there are three overarching objectives to sustainable development - economic, social and environmental.

5.2.2 There is no legal requirement for a formal Sustainability Appraisal (SA) to be carried out in respect of neighbourhood plans. However an SA is an established method of demonstrating how a neighbourhood plan will contribute to achieving sustainable development.

5.2.3 In this case WPC has only included in the Basic Conditions Statement a commentary on how the plan meets the 3 main sustainability objectives in the NPPF. This has not been done against a suite of sustainability objectives (reflecting the environmental, social and economic dimensions of sustainability) to test the WNP policies, which would have been the more usual procedure. However, there is sufficient detail to support the Parish's position that the plan will contribute to the achievement of sustainable development. I consider the contribution of specific policies to sustainable development below in section 6.

## 5.3 General Conformity with the Development Plan

5.3.1 At the time the preparation of the WNP commenced the adopted development plan for the Neighbourhood Area was the *East Cambridgeshire Local Plan 2015* (ECLP). The WNP has been assessed against this plan in the Basic Conditions Statement which concluded that the WNP was in general conformity with strategic policies.

5.3.2 ECDC had embarked on the production of a replacement development plan to the ECLP which had progressed to an advanced stage and was in the process of being examined. However, following receipt of the Inspector's note outlining potential modifications, ECDC withdrew the plan. As such, although some of the Reg 16 representations refer to the new plan it cannot carry weight in my determinations.

5.3.3 I am invited to conclude in some of the Reg 16 representations that, because the new plan has been withdrawn and the adopted ECLP can no longer provide a 5 year housing supply, its policies are out of date and therefore the WNP itself is out of date. However I do not accept this argument. I acknowledge that the quantum of development set out in the ECLP and the failure to provide a 5 year supply has meant that, in the light of paragraph 14 of the NPPF, housing policy has been found to be out of date and accordingly the tilted balance and the presumption in favour of sustainable development has been applied. However this does not mean that all the strategic policies of the ECLP, which the WNP seeks to be in general conformity with, are out of



date. The overall spatial direction of the ECLP, for example, set out in Policy GROWTH 2 seeking to concentrate development on the principal sustainable centres of Ely, Littleport, and Soham and leaving smaller centres such as Witchford taking smaller quantities of development remains as a key objective of the Local Plan. Moreover neighbourhood plans should not be prevented from coming forward simply because some aspect of the adopted plan has been ruled out of date. The implication of the position with the adopted local plan however may be that there will be a need for an early review of the Neighbourhood Plan once a replacement local plan is adopted.

5.3.4 I discuss below in Section 6 how the WNP has responded to this issue and consider the extent to which the policies and proposals of the WNP are in general conformity with the strategic policies of the ECLP.

## 5.4 European Union (EU) Obligations

5.4.1 A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into UK law, in order to be legally compliant.

### Strategic Environmental Assessment and Habitat Regulations Assessment

5.4.2 Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment has a bearing on neighbourhood plans. This Directive is often referred to as the Strategic Environmental Assessment (SEA) Directive. Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (often referred to as the Habitats and Wild Birds Directives respectively) aim to protect and improve Europe's most important habitats and species and can have a bearing on neighbourhood plans.

5.4.3 Regulation 15 of the Neighbourhood Planning Regulations as amended requires either that a SEA is submitted with a Neighbourhood Plan proposal or a determination obtained from the responsible authority (ECDC) that the plan is not likely to have 'significant effects.'

5.4.4 A screening opinion was prepared by ECDC in consultation with the statutory bodies in Spring 2019 and was carried out in accordance with the findings of recent case law that the screening should not take account of potential mitigation measures. The screening opinion and determination report determined that, notwithstanding the fact that development was proposed in Witchford, all of this already had planning permission in outline and additional developments allowed for through the WNP were likely to be small. Even together, they would be unlikely to have significant environmental effects. Moreover development in Witchford would be in accordance with the district-wide scale of development planned for in the ECLP, which was itself subject to full SEA and HRA. Any effects would be local, limited and minimal and offset by the positive benefits of the policies within the neighbourhood plan. The conclusion of the SEA screening was that Strategic Environmental Assessment was not required.

5.4.5 Regarding Habitats Regulations Assessment (HRA) the test in the additional Basic Condition now essentially mirrors that in respect of SEA and requires an Appropriate Assessment to be carried out where a plan is likely to have a significant effect on a European site (either alone or in combination with other plans or projects) or a determination is obtained from the responsible authority (ECDC) that the plan is not likely to have a 'significant effect'.

5.4.6 ECDC carried out a HRA in 2018 in preparing the replacement local plan. Although the plan has now been withdrawn, ECDC retained the HRA 2018 as the most up-to-date assessment of the scale of development planned in East Cambridgeshire and specifically to assist in neighbourhood planning and planning decision making. The HRA 2018 considered effects of the planned scale of development across the District on 4 European sites – Fenland SAC, Devils Dyke SAC, Breckland SAC/SPA and Ouse Washes SAC/SPA. None of these are within the Neighbourhood Area but the HRA 2018 considered in respect of the Ouse Washes, which is the closest European site to Witchford at 7kms, that the area is vulnerable to changes in water quality and possibly increased disturbance from recreational pressure. However, of all the East Cambridgeshire settlements Ely and Witchford are furthest from the European sites and unlikely to contribute significantly to recreational pressure. Moreover in the evidence before me the Water Cycle Study for East Cambridgeshire explored the impacts of development across the district. That study assumed development up to a level of 1028 dwellings in Witchford, nearly 3 times higher than proposed in the neighbourhood plan, and concluded that this high growth scenario would not lead to deterioration of water quality in the Ouse Washes.

5.4.7 Using this background evidence, which has been accepted by the statutory consultees, the conclusion of the HRA screening for the WNP was that none of the neighbourhood plan policies or proposals either alone or in combination with other plans or projects were deemed to be likely to have a significant effect on European sites. Consequently the plan is not considered to require Appropriate Assessment under Article 6 or 7 of the Habitats Directive.

5.4.8 Representations at the Regulation 16 stage have challenged these conclusions stating that the fact that individual sites in Witchford have planning permission cannot be relied on as, in combination, these may have adverse effects.

5.4.9 EIA Screening Opinions were carried out in respect of the planning applications on each of the main areas proposed in the plan for housing namely Land North of Field End, Land off Common Road, Land South of Main Street and Land off Marroway Lane. Although Howes Percival in their Reg 16 representation state that WFD H2 (Land off Common Road) was not screened this is not in fact correct. The Council's public access system shows a screening opinion in respect of 17/01575/OUM signed off on 28<sup>th</sup> December 2017 for land off Manor and Common Roads and a second screening opinion in respect of application 18/00820/OUM. In all respects the screening opinions concluded that Environmental Statements were not required. The only potential future cumulative impact that may arise as a result of these main developments raised in the screening opinions was in respect of junction capacity at the A10/A142 roundabout which it was



proposed could be addressed through detailed transport assessments in submitting reserved matters applications.

5.4.10 The housing sites identified in the plan with the exception of Land off Marroway Lane (part of WFDH1) and Land Off Common Road now have reserved matters applications approved or, in the case of land off Common Road, submitted and under consideration. Moreover the Land North of Field End (eastern part of WFDH1) is now substantially under construction. The result of this is that, of the 330 dwellings to be provided on these sites in the WNP, over half could be built out with no further control through the planning system. Given this and the absence of any **new** major development proposals beyond those already permitted, coupled with the limited opportunities for infill within the development limits I conclude that the finding of the SEA and HRA screening, confirmed by Natural England, The Environment Agency and Historic England as the statutory consultees, is correct. The remaining development provided for in the plan period where the plan could exert influence, even in combination with development on the main sites, would not amount to a scale of development that would be likely to have significant environmental effects.

5.4.11 As such I do not agree with the representations that the WNP is unlawful because of the absence of a full SEA or HRA on this occasion. Moreover, given this conclusion, the argument by Howes Percival and Catesby Strategic Land that the plan should have considered alternative options as part of a SEA also falls.

5.4.12 I return to this matter in section 6 below.

#### European Convention on Human Rights (ECHR)

5.4.13 The Human Rights Act 1998 encapsulates the Convention and its articles into UK Law.

5.4.14 An Impact Assessment to assess the potential impacts of the neighbourhood plan against the protected characteristics identified in the equalities Act 2010 was carried out for the WNP as part of the Basic Conditions Statement and shows that the plan is not likely to lead to increased inequalities or discrimination and indeed has positive effects.

5.4.15 In respect of Article 1 of the first protocol of the Convention - the right of everyone to the peaceful enjoyment of possessions; although the WNP includes policies that would restrict development rights, this does not have a greater impact than the general restrictions on development rights provided for in national law. The restriction of development rights inherent in the UK's statutory planning system is demonstrably in the public interest by ensuring that land is used in the most sustainable way, avoiding or mitigating adverse impacts on the environment, community and economy.

5.4.16 In respect of Article 6 of the Convention's Rights and Freedoms - the right to a fair and public hearing in determination of an individual's rights and obligations - the process

for preparing the WNP is fully compatible with this Article, allowing for consultation on its proposals at various stages, and incorporating this independent examination process.

5.4.17 In respect of Article 14 of the Convention's Rights and Freedoms - the enjoyment of rights and freedoms without discrimination on any ground, the policies and proposals of the WNP have been developed in consultation with the community and wider stakeholders to produce as inclusive a document as possible.

5.4.18 No concerns or objections on the grounds of human rights or equalities have been raised during the Reg 16 Publicity Stage of the plan. I am satisfied on the basis of the above that, across the plan as a whole, no sectors of the community are likely to be discriminated against. The policies together would generally have public benefits and encourage the social sustainability of the neighbourhood.

5.4.19 I am satisfied therefore that the Plan does not breach, and is otherwise compatible with, the ECHR.

5.4.20 I am not aware of any other European Directives which apply to this particular Neighbourhood Plan and no representations at post-submission stage have drawn any others to my attention. Taking all of the above into account, I am satisfied that the WNP is compatible with EU obligations and therefore with Basic Conditions f) and g).

## **6. The Neighbourhood Plan – Assessment**

The Neighbourhood Plan is considered against the Basic Conditions in this section of the Report following the structure and headings in the Plan. Given the findings in section 5 above that the plan as a whole is compliant with Basic Conditions f) (EU obligations) and g) (Other prescribed conditions), this section largely focusses on Basic Conditions a) (Having regard to National Policy), d) (Contributing to the achievement of Sustainable Development) and e) (General conformity with strategic policies of the Development Plan). Where modifications are recommended, they are presented and clearly marked as such and highlighted in bold print, with any proposed new wording in italics.

### 6.0 The General Form of the Plan

6.0.1 The structure of the WNP is generally logical and clear with early sections setting the context, issues, vision and objectives and then policy sections.

6.0.2 The plan distinguishes between the policies themselves and their justification by boxing and colouring the policies. Each policy is accompanied by supporting text setting out the policy intent, context and reasoned justification.

6.0.3 However the general form of the plan does raise an issue in respect to Basic Condition a) and the legal requirements of neighbourhood plans. They should not include any matters which are not related to the development and use of land and at paragraph

3.2 and in Section 6 of the WNP there is reference to 'projects' which the community and WPC wish to pursue. Whilst it is made clear at paragraph 3.2 and again at Section 6 that these are 'non planning-related tasks' they are still listed in Section 6 and appear as part of the plan.

6.0.4 It is common practice amongst qualifying bodies, as WPC has done, to take the concerns of residents raised through the consultation and develop community projects to address these. Where these are not related to development and the use of land they would typically be dealt with in an appendix to the plan.

6.0.5 I recommend that an introductory paragraph is retained in Section 6 to signpost the community projects but that they are moved to a new Appendix 2.

6.0.6 There is also another minor matter to raise in respect of the general form. The PPG requires the plan to provide a clear and unambiguous guide to developers and in that respect I have one concern with the mapped content of the plan that raises issues in respect of Basic Condition a).

6.0.7 The Policy Inset Map (Map 5) on page 23 would be clearer if the policy numbers were included in the map key so that the user could easily refer to them. I acknowledge that the allocation reference numbers are given for specific sites but other policy reference numbers should be added.

### **Recommendation 1 –**

**1A – Reverse the order of paragraphs 6.1 and 6.2 in Section 6 and amend the wording to signpost the 'Projects' in a new appendix as follows:**

***“6.1 A number of projects have been directly derived from the Neighbourhood Plan questionnaires ...that particularly concerned them.***

***6.2 These projects are not directly related to the development and use of land and therefore cannot form part of the neighbourhood plan but complement the planning policies ...vision of the plan.”***

**(Reinstate the vision here)**

***“6.3 The list of projects is set out at Appendix 2 at the end of the Plan”***

**Relocate the projects listed at 6.3 and 6.4 to a new Appendix 2.**

**1B – Delete last sentence of paragraph 3.2 and insert:**

***“These are outlined in Appendix 2 to the plan.”.***

**1C – Make consequent changes to the table of contents inserting the new Appendix 2.**

**1D - Insert policy reference numbers into the key to Map 5 the Policy Inset Map.**

## **6.1 Introduction**

6.1.1 This section of the WNP describes the purpose and intent of the neighbourhood plan, how it relates to the existing policy base and defines the neighbourhood area. This is a largely factual introduction and raises no issues in respect of the Basic Conditions.

## 6.2 About the Witchford Neighbourhood Area

6.2.1 This section sets out the background to Witchford and sets the context for the plan. Again it is largely factual and the section raises no issues in respect of the Basic Conditions.

## 6.3 The Key Issues facing Witchford

6.3.1 The third section of the plan sets out the key issues that have been identified through consultation work in preparing the plan and sets out the scope of what the plan needs to address.

6.3.2 The section is again factual and other than the matter raised in Recommendation 1 relating to paragraph 3.2 and the 'projects' there are no issues in respect of the Basic Conditions.

## 6.4 Witchford Neighbourhood Plan Vision and Objectives

6.4.1 The fourth section of the plan sets out the community's vision and the objectives for the plan to deliver the vision and provide the basis for the policies.

6.4.2 Being able to demonstrate the thread from issues to vision and objectives to policies is an important part of evidencing the neighbourhood plan as required in the PPG. Section 3 and 4 of the plan achieves this and creates the basis for the policies in section 5.

6.4.3 The vision and objectives look to meet the local needs of the community whilst safeguarding the rural character of the parish and the qualities of its environment. The plan has regard to the PPG advice in respect of neighbourhood planning that it *"provides the opportunity for communities to set out a positive vision for how they want their community to develop over the next 10, 15, 20 years in ways that meet identified local need and make sense for local people."*

6.4.4 The vision and objectives also encapsulate and generally reflect the vision and objectives set out in the ECLP at sections 2.4 and 2.5 and in particular objectives 1-6, 8 and 9. Moreover, the impact of pursuing the vision and objectives of the WNP would contribute to the achievement of sustainable development and a more sustainable settlement.

6.4.5 The Vision and Objectives of the WNP therefore meet Basic Conditions a), d) and e).

## 6.5 Neighbourhood Plan Policies

Section 5 of the plan sets out the policies of the plan and I consider each in turn against the Basic Conditions following the order of the plan.

### 6.5.1 Location of New Development – A Spatial Strategy for Witchford

- i) Section 5.1 of the WNP sets out the spatial strategy for Witchford. Essentially this focusses the main development of the plan period within the sites with permission and which have been identified as allocations providing 330 homes. Thereafter the policy supports the development of sites within the development limits which meet the WNP policies. Development outside the development limits is restricted to rural exceptions housing, development at Sedgeway Business Park and for uses that need to be located in the countryside.
- ii) The situation in respect of the Development Plan in East Cambridgeshire is somewhat unusual and has had repercussions in terms of Reg 16 objections to the Neighbourhood Plan. It is important therefore to set out the context in order to respond to these objections.
- iii) The replacement ECLP, which would have replaced the adopted ECLP 2015 and probably would have been the basis against which the WNP would have been assessed, was withdrawn by ECDC following receipt of the Inspector's note outlining potential modifications early in 2019. This left a situation where the adopted ECLP 2015 remains in force for the time being as the development plan.
- iv) Because the district is in a situation where it has been found that the housing policies of the adopted local plan cannot provide a 5 year housing land supply the housing policies were deemed to be out of date. Under the provisions of the NPPF at paragraph 11 and the so-called 'tilted balance' a number of appeal decisions have been made granting planning permission for housing, including the 3 major sites in Witchford.
- v) A number of the representations submitted at the Reg 16 stage argue that, because some of the strategic policies of the ECLP have been ruled out of date, the alignment of the WNP to these policies means the WNP is also out of date and serves no useful purpose in guiding the future development of the parish. However I am not persuaded that this is the case. Although Policies GROWTH 1 and GROWTH 4 of the ECLP (the quantity of housing and where it is allocated) may have been challenged as out of date under NPPF paragraph 11 by virtue of the inability to provide a 5 year housing land supply, the same is not true of the locational strategy set out in Policy GROWTH 2. The locational strategy focusses development on Ely, Littleport and Soham and larger village centres which remains the plan objective even in circumstances where a 5 year housing supply cannot be delivered. Witchford under the locational strategy is not required to accommodate more than small scale development within the development limits.
- vi) Notwithstanding the locational strategy in Policy GROWTH 2, given the appeal decisions that have been made, the WNP has taken the view that the resulting permissions justify extending the development limits for Witchford beyond those previously defined in the ECLP 2015. To accommodate the permitted developments this has resulted in considerable extension particularly to the development limits on the north side of the village.

vii) The Reg 16 objectors argue that the WNP is not making provision for development in the plan period and is merely reflecting current commitments. Whilst I acknowledge the change to the boundaries was triggered by the need to align the development limits with the existing commitments this does not mean that the plan is not providing for future development. The plan period commences in 2019 and most if not all of the completions on these development sites (currently expected to be 330 dwellings) will occur within the plan period.

viii) After a period of relatively slow development in Witchford this amount of development equates to approximately a 33% increase in the number of dwellings in the parish not allowing for provision from windfall within the development limits over the remainder of the plan period. This level of development is far in excess of both recent development rates and what was the planned strategy for Witchford in the ECLP but has been embraced as part of the spatial strategy of the WNP in recognition of the changed circumstances in respect of housing land supply since the preparation of the ECLP 2015. Development of these sites will extend over a considerable part of the plan period and I am satisfied that, notwithstanding the way in which they came forward, they are contributing to the future development needs of the parish. Given the scale of development these sites represent in the context of Witchford it is not an unreasonable approach for the WNP to look to return to the planned spatial strategy for the villages in the ECLP; ie development at a smaller scale. It should be noted in any event that there is no absolute stop on development imposed by the development limits because if there is evidence of unmet local housing need Policy WNP SS1 allows for rural exception sites to come forward and which could include some market housing if necessary to deliver the site. In that respect therefore there is sufficient flexibility in the plan to respond to change as required by the NPPF at paragraph 11.

ix) There has also been objection at the Reg16 stage that the indicative housing requirement provided by ECDC in the absence of a local plan figure of objectively assessed need for the parish is un-evidenced and unsubstantiated. Paragraph 66 of the NPPF states that:

*“Where it is not possible to provide a requirement figure for a neighbourhood area (including where policies for housing are out of date) the local planning authority should provide an indicative figure if requested to do so by the neighbourhood planning body. This figure should take into account factors such as the latest evidence of housing need, the population of the neighbourhood area and the most recently available planning strategy of the local planning authority”.*

x) ECDC on request provided an indicative figure of 252 dwellings for the plan period and the response to my question of the District Council on how this figure was arrived at is set out in Appendix 1. Howes Percival in their supplementary letter to their Reg 16 representation argue that the ECDC response as to the basis of this figure is inadequate. However, I set out below my view that the figure does reflect the factors referred to in paragraph 66.

xi) In terms of the most recently available planning strategy the ECLP 2015 is the most



recently available planning strategy for the district and forms the starting point for calculating the indicative figure. As already stated, the locational strategy for the plan is to see the smaller villages such as Witchford take only small scale development within development limits. However ECDC in arriving at the indicative figure has taken into account the diminished status of the strategic policies of the ECLP following appeal decisions and, reflecting the levels of known commitments and accounting for the past housing completion rate, have indicated a figure very considerably in excess of what the ECLP spatial strategy planned for Witchford.

xii) Regarding the population of the neighbourhood area, the level of growth implicit in the indicative figure is about 26% over the existing stock of both dwellings and population for a village which, whilst having some services, is not completely self-sustaining in terms of community infrastructure and services and therefore is not necessarily a sustainable location for further major growth.

xiii) In terms of the latest evidence of housing need, the Government's Objectively Assessed Need (OAN) for the whole district is 598 dwellings per annum. ECDC has confirmed that if the method for preparing the indicative requirement for Witchford was applied across all of the East Cambridgeshire area the resulting total housing requirement figure would exceed the OAN. This confirms that, pro rata, the figure supplied for Witchford is not unreasonable.

xiv) In conclusion, whilst I acknowledge that the basis of the indicative requirement was not entirely clear in the plan itself and should be clarified; as an indicative figure it has regard to the NPPF and paragraph 66. In any event, in finalising the plan for submission, WPC has exceeded the ECDC supplied indicative figure adopting a figure of 330 dwellings for the 3 main housing sites. Moreover, after allowing for policy compliant windfall within the development limits during the plan period and the possibility of rural exception sites, provision in Witchford is likely to be around 350 during the plan period or c 100 homes in excess of the indicative figure.

xv) Abbey Properties in their representation argue that in a situation where there is not a 5 year supply of housing the WNP itself should be considered out of date. However the evidence before me shows that as of summer 2019 when the latest Housing Land Supply figures were published there was 3.7 years supply of deliverable and available sites. Under the terms of paragraph 14 of the NPPF a 'made' WNP at present could meet the criteria and continue to be considered up to date. Although Abbey Properties cite the recovered Sandbach Appeal Decision (Ref APP/R0660/W/15/3128707) as relevant to the WNP I am not persuaded that it is because it predates NPPF paragraph 14 and the 3 year housing supply in respect of neighbourhood plans being incorporated into national policy. I am therefore satisfied that the WNP makes appropriate provision for the future development of the parish as required by the NPPF although I acknowledge that the plan is likely to require early review if its policies are to remain relevant in circumstances where the housing delivery across the rest of the district does not improve.

xvi) Given these conclusions re housing supply the aspiration of the community and Parish

Council to see development, (additional to that on the permitted sites), taking place over the rest of the plan period at a smaller scale within the development limits of Witchford helping to retain the landscape character and separation between settlements is not in conflict with either national or local policy. In that context also the fact that the Neighbourhood Plan Group and Parish Council did not call for or assess additional housing sites for allocation is justified.

xvii) The matter of the principle of drawing development limits has been challenged at the Reg 16 publicity stage by Catesby Strategic Land and Gladman Developments who argue the concept is inappropriate where a 5 year housing provision cannot be delivered and this would otherwise restrict sustainable development from coming forward and therefore the policy approach is contrary to Basic Condition a).

xviii) Neither respondent has substantiated their claim by referring to any part of national policy which precludes the use of development limits per se and nor could I find any in the NPPF. Rather the NPPF at paragraph 68c), talking about the contribution of small and medium sized sites, states that support should be given to “*the development of windfall sites .....giving great weight to the benefits of using suitable sites within existing settlements for homes.*” This is essentially what Policy WNP SS1 is seeking to do. As discussed above the locational strategy set out in GROWTH 2 continues to apply focusing development on Ely, Littleport and Soham and larger centres which should remain the case even in circumstances where a 5 year housing supply (3 year once the WNP is made) cannot be delivered. Witchford under this strategy is not required to accommodate significant development but already has seen substantial extensions in the development limits to accommodate recent planning permissions.

xix) I have been referred to case law (Woodcock Holdings v SSCLG [2015] EWHC 1173 (Admin)) which would suggest that in circumstances where a neighbourhood plan is proceeding in advance of an up-to-date, NPPF compliant local plan there is a need for housing policies to be flexible. Whilst it would be possible to add a clause to policy WNP SS1 that would exceptionally allow development immediately outside the settlement limits. I am not persuaded that this is necessary. As already stated rural exceptions development, possibly including market housing, is already directly provided for in the policy. Moreover in circumstances where there was still a district housing shortfall and no other way of accommodating it, Policy GROWTH 5 of the ECLP sets out how the NPPF ‘tilted balance’ and the presumption in favour of sustainable development would be applied. There is therefore already flexibility to allow development outside of development limits in Witchford and I am not persuaded that it is necessary to replicate the strategic policy in the WNP.

xx) The WNP, in defining development limits and protecting the countryside around Witchford, is in general conformity with the strategic policies of the Development Plan. Development limits are defined in the ECLP and Policy GROWTH 2 sets out a locational strategy that restricts development outside of the development limit to either rural exception sites or classes of development acceptable in the countryside. For the WNP not to use development limits set out in the adopted Development Plan would undermine the



strategic policies which neighbourhood plans must not do.

xxi) Notwithstanding my findings above that the principle of the spatial strategy set out in policy WNP SS1 meets Basic Conditions a), d) and e), there are matters of detail in the policy and supporting text which need to be addressed to comply with the need for clear and unambiguous policies and a clear evidence base.

xxii) Firstly, the situation has changed with respect to what have been termed 'allocated sites' as discussed below in section 6.5.6. It is not appropriate for these to be treated as allocations where they already have planning permission. The Policy WNP SS1 references to them therefore need to be modified as do the references in Map 5. In addition the supporting text to the policy needs to provide as clear a context as possible. ECDC in its Reg 16 response suggest that the basis of the change to the development limits should be confirmed. In addition, references to the housing requirement and how the provision of housing meets it all need modification to ensure the requirement of a clear evidence base and supporting justification (and therefore Basic Condition a)) is met.

xxiii) Finally Anglian Water in its representation at the Reg 16 stage requests that the list of development permissible in areas outside the development limits is extended to include utilities infrastructure which often has to be accommodated outside settlements. Whilst I do not dispute that this is the case, ECLP policy GROWTH 2, which includes a more detailed list of development that would be permissible outside development limits, includes utility infrastructure. Advice in the PPG confirms that planning decisions are made considering a hierarchy of policies from national policy in the NPPF to local policy in Local and Neighbourhood Plans. It is not necessary to replicate policy provisions in different levels of the hierarchy if they are already satisfactorily covered. This is the case with the WNP where there is nothing specific to add to the requirements set out in ECLP GROWTH 2. The matter is not therefore one where a modification is necessary to the plan.

## **Recommendation 2 –**

**2A – Amend the first line of policy WNP SS1 to read:**

**“The permitted housing sites WFD H1, WFD H2 and WFD H3 will deliver approximately 330 homes during the plan period 2019-2031. In addition other proposals.....”**

**2B – Delete the last sentence of the policy.**

**2C – Change the key reference in Map 5 “Housing Sites” to read:**

**“Major committed housing sites”**

**2D – Section 5.1.2 2<sup>nd</sup> paragraph Line 1 amend to read:**

***“The development envelope is based on that set out in the East Cambridgeshire Local Plan 2015 for Witchford but amended to include within it the recent major housing commitments particularly those to the north of Witchford extending out to the A142. It is shown on Policy Map 6. Development proposals....”***

**2E – Section 5.1.2 3<sup>rd</sup> paragraph Line 8 insert ‘Neighbourhood Plan’ before the words ‘spatial strategy’**

**2F** - Section 5.1.2 4th paragraph Line 6 insert “(c 2 per year)” after the word ‘dwellings’

**2G**- Delete the 8<sup>th</sup> paragraph of section 5.1.2 including the bullet points. The paragraph does not assist the understanding of the indicative housing requirement. ECDC should include more detail as to how the indicative requirement meets the guidance in the NPPF using wording along the lines of that used in paragraphs xi – xiii of the report above.

**2H** - Section 5.1.2 10th paragraph (including table) replace as follows:

*“The neighbourhood plan therefore includes the following housing provision:*

Committed development on major sites	Land north of Field End (WFD H1A)	128 homes
	Land off Marroway Lane (WFD H1B)	40 homes
	Land at Common Road (WFD H2)	116 homes
	Land to south of Main Street (WFD H3)	<u>46 homes</u>
		<b>330 homes</b>
Infill development within development limits	2019-31 (Assumed approx. 2 per year)	24 homes
<b>Total</b>	<b>2019-31</b>	<b>354 homes</b>

**2J** - Section 5.1.2 11th paragraph - Delete whole paragraph.

**2K** - Section 5.1.2 12th paragraph - Make the following changes:

- Line 1 change 2018 to 2019 as this is the stated start of the plan period.
- Line 2 change ‘a minimum of 330 homes’ to ‘*around 350 homes*’
- Delete 4<sup>th</sup> sentence starting – ‘These will be delivered’.

xxiv) The modifications I propose necessitate a number of changes to clarify the spatial strategy and refocus the housing provision from allocations, which they are not, to commitments. However, these changes retain the intent of the WNP to pursue smaller development within the developed area in the future as the larger committed sites are built out. For the reasons given above I consider that modifying the plan as proposed at Recommendation 2 above is necessary to meet the Basic Conditions. Because the overall intent of the plan is unchanged and the modifications are mainly necessary to clarify the changed planning circumstances since preparation of the Plan they would be unlikely to come as a surprise to the Witchford community and therefore would not require the plan to be the subject of further consultation or re-submission at this stage.

xxv) With these modifications in place Policy WNP SS1 and its supporting text meets Basic Conditions a) and e). The proposed approach to residential development in the WNP is a sustainable one and will contribute to the achievement of sustainable development. Accordingly, Basic Condition d) would also be met.

#### 6.5.2 Landscape and Settlement Character (Policy WNP LC1)

i) It is apparent from the consultation statement and from the plan itself that the

community attaches great importance to the Fenland landscape setting of Witchford and the rural settlement character. Policy WNP LC1 seeks to ensure that development is sensitive to that distinctive character defined in the Witchford Landscape Appraisal (WLA).

ii) Section 12 of the NPPF sets out at paragraph 125 that “*neighbourhood plans can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development*”. This is exactly the intention behind the evidence base for this section of the plan, principally the WLA. Paragraph 127 of the NPPF states that “*planning policies should ensure that developments ....c) are sympathetic to local character and history including the surrounding built environment and landscape setting....*”. Paragraph 170 goes on to state that planning policies should protect and enhance valued landscapes commensurate with their identified quality and recognise the intrinsic character and beauty of the countryside. Policy WNP LC1 therefore has regard to national policy.

iii) Policy ENV1 of the ECLP requires development to be sympathetic to, and respect the capacity of the distinctive character areas defined in the Cambridgeshire Landscape Guidelines and sets out criteria that development should meet to achieve this including the protection of key views into and out of settlements and protecting the sensitivity of settlement edges, space between settlements, and their wider landscape setting. Policy ENV 2 of the ECLP on design of development also requires design to take account of key views into and out of settlements. Policy WNP LC1 therefore is in general conformity with the ECLP and complementary in identifying what is important locally in Witchford to deliver the policy.

iv) The protection of the landscape character and setting to settlements also contributes to achieving sustainable development.

v) Gladman Developments Ltd in their Reg 16 representation take issue however with policy WNP LC1 and consider that the element of the policy relating to views is subjective, inadequately evidenced and should be removed. As already stated the supporting text and the background evidence in the form of the WLA is amongst the most detailed in the plan setting out the importance of views into and out of Witchford from different directions based on the Witchford Landscape Appraisal and clearly states what ‘*takes these views out of the ordinary*’. Moreover, specifically in respect of views, the policy wording does not preclude development where views are affected; rather it requires development to respect and not adversely impact upon key views out from and in to the village as identified in Map 8. It is perfectly possible with a sensitive design, based on an assessment of landscape and visual impacts as required in the last part of the policy, that development could be allowed. The policy is not therefore rigid and inflexible and I see no need to modify it. As it stands the policy and supporting text meet the Basic Conditions.

### 6.5.3 Witchford Area of Separation (Policy WNP LC2)

i) Policy WNP LC2 seeks to ensure that the open undeveloped nature of the distinctive valley topography that separates Witchford from Ely and Witchford from the Lancaster

Way Business Park is retained. The NPPF at section 12 seeking to achieve well designed places makes it clear at paragraph 127 d) that it is important to establish and maintain a clear sense of place. Witchford's sense of place is as a rural 'island' settlement in the fens close to, but separate to, the City of Ely. This sense of place would not be well served by allowing the coalescence of the two settlements either by developing between Witchford and the Lancaster Way Business Park or by developing east towards the A142 Lancaster Way roundabout junction. In that respect the policy has regard to the NPPF.

ii) It was clear to me on my site inspections in the area of separation that the very clear, undeveloped break between the Lancaster Way Business Park and the Witchford gateway at the east end of the village was important in establishing the separate character and identity of Witchford as a rural settlement.

iii) Deloitte for the Church Commissioners in their Reg 16 representation object to policy WNP LC2 that it is a strategic policy and conflicts with and undermines the strategic policies of the ECLP. They also argue that it is unnecessary as it duplicates the control afforded by the development limits and is inadequately evidenced and justified. Dealing with the first point re undermining, this is patently not the case. The locational strategy for the ECLP is set out in Policy GROWTH 2 and expressly states that outside the development limits the countryside and settlement settings will be protected. The more specific strategies for individual settlements in section 8 of the ECLP makes clear that, in respect of Witchford, the purpose of development limits is to prevent sprawl into open countryside. The strategic intention of the ECLP is therefore clearly to maintain separation between settlements and Policy WNP LC2 complements that intention. Deloitte raise a concern that the policy may restrict agricultural development in pursuit of the current agricultural use of the area of separation. However ECLP policy GROWTH 2 sets out a list of development permissible outside development limits which includes agricultural developments and this would be considered alongside the area of separation policy.

iv) Regarding the second point, the development limits set the intention to, in the main, restrict development to that within the settlement other than in respect of rural exception sites and other categories of development acceptable in the countryside as set out in Policy ECLP GROWTH 2. The purpose of Policy WNP LC2 approaches the matter in terms of ensuring any development in this area would not adversely impact on the character of the open landscape between the two 'island' settlements of Witchford and Ely. The policy is not worded as an outright stop on development but again requires any development permitted to retain the physical and visual separation and demonstrate through a landscape and visual impact appraisal that there is no conflict with the policy.

v) In terms of Deloitte's third point of inadequate justification – again, of all the policies in the WNP, Policy WNP LC2 is supported by extensive justifying text setting out the rationale for the area of separation. This is derived from a supporting evidence paper for the area of separation which in turn is based on a professionally prepared Landscape Character Assessment in the form of the WLA. Although Deloitte state that the consultation statement refers to the fact that the WLA is not depended on as evidence, this is not stated in the WNP supporting text and indeed the WLA is referred to as setting out

the detail of the sensitivities of the area. It is very clear to me from the supporting text, as it would be to any decision maker, why the area of separation is established and the open character it seeks to protect to prevent settlement coalescence. The plan therefore meets the requirement of the PPG that policies must be robustly justified and evidenced.

vi) Finally, Deloitte refer to the fact that the Inspector examining the replacement ECLP proposed that the green wedge policy in that plan was deleted and argue that there is therefore no case to propose the area of separation in the WNP. However, as the replacement ECLP has been withdrawn following receipt of the Inspector's note outlining potential modifications and is not before me, this point cannot carry weight in my determination.

vii) Gladman Developments Ltd in their Reg 16 representation do not state that they object to the principle of the area of separation but submit that development can often be accommodated without impacting on separation and this flexibility is not allowed for in the policy. As set out above, the wording of the policy is not an outright block on development and would allow development where it can be demonstrated through a landscape and visual impact appraisal that physical and /or visual separation would not be reduced. In this respect there is sufficient flexibility in the policy already and modification is not required.

viii) The policy would meet Basic Conditions a) and e) and, inasmuch as maintaining local distinctiveness and a sense of place are important attributes of a sustainable settlement, the policy contributes to sustainability and Basic Condition d) is also met. Other than minor typographical corrections (see Appendix 2) there is no need for modification to the policy or text.

#### 6.5.4 Green Infrastructure (Policies WNP GI1, WNP GI2 and WNP GI3)

i) This section of the plan is aimed at requiring new developments to preserve and extend the green infrastructure network of Witchford. As such the policy has regard to section 8 of the NPPF which amongst other things at paragraph 91 requires planning policies to provide safe and accessible green infrastructure because of the benefits that this brings for local health and wellbeing. The principle of the 3 policies is therefore in accordance with Basic Condition a).

#### Policy WNP GI1 – Public Rights of Way

ii) Policy WNP GI1 encourages developments that will enhance the Public rights of Way (PROW) network and seeks to ensure their amenity value is maintained or enhanced. The policy has regard to section 9 of the NPPF inasmuch as it will facilitate sustainable modes of transport particularly walking. Policy COM5 of the ECLP deals with strategic green infrastructure which would include public rights of way and seeks to protect and enhance this network. Policy WNP GI1 is therefore in general conformity with it.

iii) As with a number of other policies WNP GI1 does not meet the NPPF and PPG

requirements of a clear and unambiguous policy. Whilst it can be implied from the second clause that it relates to PROW affected by development this is not actually what it says. It is not therefore clear and unambiguous and a modification is required.

### **Recommendation 3**

**Replace the text in the 2nd clause of Policy WNP GI1 after ‘amenity value’ to read: “...of any public right of way involved in the development”.**

iv) With this minor modification the policy would meet basic condition a). As already stated basic condition e) is also met and given that the policy will strengthen the links to enable sustainable modes of transport it will contribute to the achievement of sustainable development and therefore Basic Condition d) is also met.

#### Policy WNP GI2 – Local Green Space

v) The WNP at Policy WNP GI2 takes up the opportunity offered in the NPPF to identify and designate Local Green Space (LGS) in accordance with paragraphs 99-101. Such spaces can only be designated at the time the neighbourhood plan is being prepared and development within them will be treated in the same way as development within the Green Belt ie only where very special circumstances apply.

vi) The 13 sites considered and proposed to be designated as LGS are defined in Policy Map 11 based on the results of the assessment in the Witchford Local Green Spaces Report (May 2019) which assesses the spaces in terms of the tests set out in the NPPF and local criteria. The NPPF tests are:

- Is the green space in reasonably close proximity to the community it serves?
- Is the green space demonstrably special to the local community and of local significance?
- Is the green space local in character and not an extensive tract of land?

vii) The ECLP does not identify any open space as Local Green Space but at Policy COM 5 looks to protect and expand strategic green infrastructure including open spaces. As such Policy WNP GI2 is in general conformity and complements the ECLP by identifying which open spaces are important at a local level.

viii) Policy WNP GI2 has attracted a number of representations at the Reg 16 stage either seeking LGS to be added or deleted from the plan. I have studied the supporting evidence and reviewed the proposed LGS on site and assess below the matters raised by the respondents.

ix) A respondent considers that land at the end of Meadow Close should be added to the LGS designated in the plan and protected from development. No evidence is presented in the representation regarding how the proposed area would meet the NPPF tests. The site is a large open field outside the development limits for Witchford and from my assessment on site is an extensive tract of land. Although it would be close to the community, the



respondent makes no case as to how the site is demonstrably special to the community. Even if there was the opportunity to add the site at this stage in the neighbourhood plan it would not be appropriate to do so as the site does not meet the tests and therefore to add it would not have regard to national policy.

x) Deloitte for the Church Commissioners object to the proposed LGS at Sandpit Drove on the grounds that it is poorly justified and includes an area of hardstanding at its southern end which is not warranted for inclusion. The site is a dogleg, linear, old drove route with a pond, seating and small local nature conservation area around the mid-point and the southern section is identified as common land in the ECLP. The site is contained and with defined entrance points at both ends. Although extending over a considerable linear distance it is not an extensive tract of land. Its entry point at the south end is close to Main Street and is accessible to the local community. The WNP Steering Group specifically required the site to be assessed in the Witchford Landscape Appraisal (WLA) which described the site as an old drove way which are a typical feature of the fen landscape from which there are important views out over the landscape including to Ely Cathedral tower to the north east. The site is also demonstrably special being actively conserved for wildlife. I consider that the designation as an LGS is justified. Turning to the specific question of the southern end and the area of hardstanding, whilst I acknowledge that the area is not particularly attractive or green in its current form it is not a large area and it currently affords access to the woodland path on the north side of the first section of Sandpit Drove which provides for a circular walk along the drove. Policy WNP GI2 would allow for its improvement where it enhanced the function of the space and it would be open to WPC to include this in the list of projects appended to the end of the plan. I see no need in terms of the NPPF tests and therefore basic condition a) to recommend an amendment to the area.

xi) Abbey Properties at the Reg 16 stage object to the designation of the 'Horsefield' on the south side of Main Street as an LGS and argue that in the circumstances where ECDC cannot provide a 5 year supply of housing land it is inappropriate to protect the site as LGS and it should be allowed to be developed. I am aware that two applications for housing have been refused planning permission and are currently at appeal with a joint public hearing held on the 15<sup>th</sup> of January 2020. One of these proposals sees development of the whole Horsefield, the other proposes development to the east of the LGS adjacent to Rackham Primary School but depends on the Horsefield for the provision of access from Main Street.

xii) Abbey Properties argue that there is no basis to warrant designation of Local Green Space in the ECLP and therefore it is inappropriate. They cite a High Court judgement in what they consider to be a similar case with the Norton St Philip Neighbourhood Plan ([2019] EWHC 2633(QB)). However I do not accept that in this WNP case there is an inadequate basis to designate the site as LGS. As already stated the ECLP at policy COM5 seeks to protect and expand strategic green infrastructure. The NPPF at paragraph 99 makes it quite clear that it is open to neighbourhood plans being used by communities to identify and protect green spaces of particular importance to them. The paragraph goes

on to note that designating land as LGS should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. For the reasons set out in my report above at section 6.5.1 I am satisfied that the WNP does make provision for the local planning of sustainable development in the context of Witchford and East Cambridgeshire. An appropriate level of housing is provided for and although there may be a future need for expansion or redevelopment of the primary school it is land adjacent to the Horsefield and not the Horsefield itself that has been identified as a possible site for this community facility.

xiii) Abbey Properties put considerable store by the fact that the Inspector examining the, now withdrawn, replacement ECLP concluded in their note outlining proposed major modifications that the local green spaces proposed in the replacement ECLP should be deleted including the Horsefield. The Council's report withdrawing the plan makes it clear that in their opinion the Inspector gave no reason for the deletion of the LGS.

xiv) What the Local Plan Inspector's views were on this matter are not available to me, the plan having been withdrawn. The issue for me as neighbourhood plan examiner is to conclude whether the proposed LGS is appropriate in terms of the NPPF tests and therefore whether the site's designation has regard to national policy and is in accordance with Basic Condition a).

xv) The site is demonstrably in close proximity to the community it serves being immediately adjacent to Main Street and crossed and bounded by PROW giving access to other parcels of land south of the village centre. The site is a contained field bounded by mature hedgerows with hedgerow trees and at least to the north bounded by development. The village and its built development is clearly apparent from any point within the site and it is not therefore an extensive tract of land. The site is demonstrably special to the community in three main respects; first for its contribution to the townscape of the village. It is a key gap in Main Street identified in the professionally prepared Witchford Landscape Appraisal (WLA) as affording views out to the south of the village linking the village to its Fenland landscape. Secondly it has historic significance. The historic character of Witchford was one of linear parcels of farmland stretching to the south of the village but connected into the heart of the village and the Horsefield is one of the last examples of this. Thirdly the site is important for its contribution to informal recreation. It affords pedestrian links via PROW to the Millenium Wood open space and to the PROW and permissive path network and the community orchard on Grunty Fen Road to the south of the village.

xvi) The WLA recommended that the site should be local green space and it was widely supported as such by the community at the pre-submission consultation stage of the plan.

xvii) I conclude that designation as a LGS for this site is appropriate. Even if I were to accept Abbey Properties proposition that, in the light of the shortfall in the 5 year supply of housing land the tilted balance in paragraph 11 of the NPPF is brought into play, that



paragraph, in respect of plan making, very clearly states that the tilted balance will not apply where there are policies in the Framework that protect areas or assets of particular importance where these provide a strong reason to restrict development. Designation of a site as a LGS would fall into this category.

xviii) Protecting key green areas by designating them as LGS is likely to contribute to the achievement of sustainability and is a justified activity for the WNP. The selected sites have been assessed in accordance with the NPPF tests and are justified and policy WNP GI2 and its supporting text raises no issues in respect of the Basic Conditions.

#### Policy WNP GI3 – Development and Biodiversity

xix) Policy WNP GI3 seeks to ensure that development proposals avoid adverse impacts on biodiversity and indeed provide net gains by creating or enhancing habitats. The policy sets out the measures expected of development and also requires Sustainable Drainage Schemes (SuDS) to be in place to reduce flood risk from surface water flooding. Section 15 of the NPPF and in particular paragraph 170 requires planning policies to contribute to enhancing the natural environment and at 170d) to minimise impacts on and provide net gains for biodiversity. The policy therefore has regard to the NPPF. Policy ENV7 of the ECLP requires development proposals to protect biodiversity, provide appropriate mitigation and to maximise opportunities for creating and enhancing natural habitats. Policy WNP GI3 is in general conformity with Policy ENV7 and sets out how biodiversity will be protected and enhanced at the local level. A policy that seeks to protect and enhance biodiversity and secure SuDS is likely to contribute to the achievement of sustainable development. As such Policy WNP GI3 meets the Basic Conditions a), d) and e) and I have no concerns regarding the policy or the supporting text.

#### 6.5.5 Housing Policies (WNP H1, WNP H2 and WNP H3)

##### Policy WNP H1 – Housing Mix

i) Policy WNP H1 seeks to secure a mix of housing within the parish where the housing stock is currently dominated by larger dwellings and ensure appropriate provision for affordable housing. The policy draws on evidence from the Demographic and Socio-Economic Report for the WNP and other elements of the housing evidence base set out in Appendix 1 to the WNP.

ii) The NPPF at paragraph 61 encourages planning for a mix of housing based on the assessment of housing need from different groups in the community and reflecting this in planning policies. Essentially that is what the Neighbourhood Plan has done and to that end the principle of the policy has regard to the NPPF and is not inappropriate in terms of Basic Condition a).

iii) However the PPG requires proportionate, robust evidence to support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the

intention and rationale of the policies in the draft neighbourhood plan. To a degree the supporting text to Policy WNP H1 does this but not entirely. There is no reference specifically to a need for the requirement for all homes to comply with the Building Regulations M4(2) standard and although the evidence base includes the WNP Housing Standards Evidence Report this is not referred to in justifying the policy within the plan.

iv) A number of the representations at the Reg 16 stage have expressed concern about the policy requiring all housing to be compliant with the optional standard M4(2). Gladman developments consider the optional standard should not be applied through neighbourhood plans citing the 2015 Written Ministerial Statement following the introduction of the optional standards and certainly not without evidence of need and assessment of viability. Savills argue that the requirement will have a negative impact on the provision of smaller and affordable homes as it will result in lower densities and lower on site capacity as a result of increased space standards.

v) To satisfy the Building Regulation M4(2), reasonable provision must be made for people to gain access to the dwelling, and use the dwelling and its facilities. This provision must be sufficient to meet the needs of occupants with differing needs, including some older people and disabled people. The dwelling should allow adaptation to meet changing needs of the occupants over time. It is not therefore as demanding as regulation M4(3) requiring wheelchair accessibility.

vi) Although the 2015 written ministerial statement does advise that the standard will not be applied through neighbourhood plans the NPPF dating from February 2019, and therefore a much more recent national policy statement, makes no such restriction. At paragraph 127 f) it requires that planning policies “create places that are safe, inclusive and accessible and which promote health and well-being” and footnote 46 to that paragraph states that “*Planning policies for housing should make use of the Government’s optional technical standards for accessible and adaptable housing, where this would address an identified need for such properties.*” Thus, I do not have an issue with the principle of what the WNP is seeking to do as it has regard to national advice and has been supported by the Local Planning Authority. However, whilst the WNP Housing Standards Evidence Report presents some general evidence in support around need I am not satisfied this satisfactorily equates to “*identified need for such properties*” as the NPPF requires. Further, whilst I accept that the Evidence Report does assess viability, it identifies up to a 12.58% reduction in value on a scheme requiring affordable housing and with the M4(2) requirement in place as unlikely to make a scheme unviable. However this does not allow for the fact that other requirements of the development may affect viability as might the effect of lower density as a result of more generous space standards to ensure more accessible homes. Accordingly, as a minimum the policy needs to be modified to require evidence of need and give the flexibility that where a financial appraisal proves there is a viability issue the requirement for all properties to meet regulation M4(2) can be relaxed.

vii) The policy is in general conformity with ECLP Policy HOU1 which seeks a housing mix although, as that policy preceded the introduction of the optional standards, HOU 1 only

refers to the previous Lifetime Homes standard which is not relevant to policy WNP H1.

viii) Inasmuch as the policy would provide a mix of housing to suit the community and would allow residents to more easily adapt their homes in the event of accessibility issues the policy is likely to contribute to achieving sustainable development. Accordingly, the policy would meet Basic Conditions d) and e)

#### **Recommendation 4**

**Amend policy WNP H1 last sentence to read:**

***“Where there is up to date evidence of a need for homes to be accessible and adaptable they should be built to the accessible and adaptable dwellings M4(2) standard other than where it can be demonstrated in a full financial appraisal that the application of the standard would make the development unviable.”***

ix) With this modification Policy WNP H1 and its supporting text would meet the Basic Conditions a), d) and e).

Policy WNP H2 Affordable Housing on Rural Exception Sites.

x) Policy WNP H2 allows for rural exception sites to come forward to meet an identified local need for affordable housing in addition to what might be provided on permitted and allocated sites. As such the policy has regard to Paragraph 77 of the NPPF which encourages planning authorities to support rural exception sites where there is a need. Similarly Policy HOU4 of the ECLP provides for the possibility of rural exception sites to meet unmet need. Whilst there is some overlap between the 2 policies – Policy WNP H2 does set out the local considerations and therefore complements the ECLP policy. WNP H2 does not refer to the possibility of market housing on an exception site but the supporting text makes it clear that the clause in Policy HOU4 of the ECLP would apply and market housing would be accepted where demonstrated to be absolutely necessary in terms of financial viability. The policy is therefore in general conformity with the ECLP. Inasmuch as policy WNP H2 will allow those in local housing need to meet their needs within the parish, where this would otherwise be impossible, it contributes to a more sustainable settlement where local residents can stay within the parish. The Basic Conditions a), d) and e) are therefore met and no modification is required to the WNP.

xi) In addition, given the concerns raised in representations at the Reg 16 stage regarding the impact of setting development limits, the policy demonstrates that there is flexibility to allow development outside the development limits where there is a clear unmet local need for affordable housing.

Policy WNP H3 – Housing Design

xii) Policy WNP H3 requires a high quality of design in housing developments and requires developers to draw on the findings of the Witchford Landscape Appraisal (WLA) in designing their schemes. The policy also requires developers to assess their schemes against Building for Life 12 (BfL12) as the government’s current scheme for assessing

sustainability in housing design.

xiii) The policy has regard to Section 12 of the NPPF and in particular paragraphs 124 to 127 especially the criteria in paragraph 127. Policy ENV2 of the ECLP sets out a very detailed list of design criteria that development in the district should adhere to. Policy WNP H3 does not seek to replicate this but instead sets out the local requirements of the neighbourhood plan and in particular the need to observe the WLA requirements.

xiv) Representations at the Reg 16 stage have been received from Gladman Developments Ltd to the effect that the BfL12 standard is aspirational and should not be included in the policy. I acknowledge that neither the NPPF nor the ECLP require BfL12 to be applied although it is referred to in the NPPF. Building for Life 12 states that it is “a government-endorsed industry standard for well-designed homes and neighbourhoods. Local communities, local authorities and developers are encouraged to use it to guide discussions about creating good places to live”. In principle therefore there is no reason why it should not be applied as its completion should help to reassure the Local Planning Authority and the community that the design helps to create local distinctiveness and a sustainable development. However there is a problem in pegging a policy to a particular standard without any flexibility and that is that when the scheme changes the policy requirement is redundant. In order that this does not occur I recommend that the policy is modified to introduce flexibility.

### **Recommendation 5**

**Add at the end of paragraph 2 of policy H3 the following:**

**“....or similar assessment demonstrating sustainable design”.**

xv) With this minor modification the policy meets the Basic Conditions.

#### 6.5.6 Site Specific Allocations

i) Section 5.6 of the WNP currently sets out the site specific housing allocations proposed in the neighbourhood plan. In this section WPC recognise that these sites have permission for development but that, because at the time of drafting the plan the permissions were in outline only, the plan seeks to control the detailed design and reserved matters stage of these developments and treats them as allocations. The plan attaches policy control to them in policies WNP WFDH1, WNP WFDH2 and WNP WFDH3.

ii) However, the situation has changed with respect to the ‘allocated sites’ since preparation of the plan in that some of them now have permission in full and in respect of the main site north of Field End the consent has now been implemented. Therefore in respect of both the eastern section of WFD H1 (which I propose is called WFD H1A) and WFD H3 it is unreasonable and misleading for the neighbourhood plan to imply that the requirements listed for these sites will be deliverable. In respect of those sites the policies confuse the situation and do not give clear and unambiguous advice to developers and decision-makers and there is therefore conflict with Basic Condition a).

iii) I acknowledge that WPC state that in respect of WFD H3 they want the ability to control the site should the current consent expire but that was written at the time only the outline consent was in place. Developers, having gone to the lengths and expense of securing the reserved matters are unlikely to allow the permission to expire and leaving the policy in the WNP is simply confusing as to what the expected outcome from this site will be. Any elements which the WPC consider are not adequately addressed in the reserved matters permission in respect of WFD H1A and WFD H3 could be added to the proposed Appendix 2 to the plan as a community project and delivered through negotiation.

iv) With regard to the sites with only outline permission namely the western part of WFD H1 off Marroway Lane (which I propose is referred to as WFD H1B) and WFD H2 off Common Road for the time being it is appropriate for a policy to set out the requirements that the reserved matters applications will have to address. However as initial permissions are in place it would be clearer if these were simply referred to as 'proposed housing sites' rather than housing allocations. Moreover as there is a reserved matters application under consideration for WFD H2 it may be that this too can no longer be subject to a controlling policy by the time the WNP reaches referendum stage. Were reserved matters to be approved prior to the referendum version of the WNP being published then my recommendation would be to also delete policy WNP WFDH2 and supporting text relating to that site. If that is necessary there may also be a need for consequent amendments elsewhere in the plan where the housing proposals are referred to. With regard to land off Marroway Lane the second bullet would not apply as it relates more to the eastern section of the site although streetscape improvements may be appropriate at the western end too. Also the last bullet will need to be amended as the requirement for delivery of the west to east pedestrian and cycle spine will need to refer to delivery of the western end of the route.

v) Accordingly I recommend that the following detailed amendments are made to the policies and supporting text.

### **Recommendation 6**

**6A – Policy WNP WFDH1 Retitle “Housing Proposal WNP WFDH1B”. Amend first sentence to read:**

***“Land is proposed for housing development off Marroway Lane for up to 40 homes. The following.....requirements will apply to reserved matter applications and any future applications on this site”***

**6B – Amend second bullet to delete the reference to Field End:**

**6C - Amend last bullet to read:**

***“Delivery of the section of the west –east pedestrian and cycle spine route 'from Marroway Lane eastward to Field End'.”***

**6D - 5.6.1 - 1<sup>st</sup> paragraph - Delete first and last sentence. Reword remainder to read:**

***“Development is consented for 128 new homes in the eastern part of WFDH1 (WFD H1A) and is under construction. The western part of the site (WFD H1B) has outline***

planning consent for the development of 40 new homes”.

**6E** – 5.6.1 2<sup>nd</sup> paragraph line 4-5 – Delete ‘the eastern part of the site’ in line 4 and ‘the western part of the site’ in line 5 and substitute “WFD H1A” and “WFD H1B” respectively.

**6F** – Policy WNP WFD H2 Retitle “Housing Proposal WNP WFDH2”. Amend first sentence to read:

“Land is *proposed for housing development* at Common Road for up to 120 homes. The following.....requirements *will apply to reserved matter applications and any future applications on this site*”.

(Note this policy should be deleted in the event that reserved matters permission is granted before the plan goes forward to referendum because at that point the policy can no longer have any influence over the final form of the development.)

**6G** – Paragraph 5.6.3 Line 1 – Delete the words ‘is subject to an application for’ substitute “*The site has the benefit of outline planning consent.*”

**6G** - Change all references to ‘the allocated site’ to “*the housing proposal*” in the supporting text to policies WNP WFD H1B and WNP WFD H2

**6H** – Delete policy WNP WFDH3 and its supporting text as the site now has full planning permission and the policy no longer has any influence over the final form of the development.

vi) The modifications proposed to this section of the WNP ensure that it is now clear and unambiguous as to what is intended to be achieved through the policies and removes in part the confusion that treating these as housing allocations has led to with Reg 16 representations arguing that the plan should have been the subject of Strategic Environmental Assessment and Appropriate Assessment. The modifications do not affect the plan’s general conformity with the ECLP and the policies help to ensure that the detailed design of the housing proposals will deliver sustainable development. The policies as modified therefore meet Basic Conditions a), d) and e).

#### 6.5.7 Infrastructure Policies (Policies WNP IC1, WNP IC2, WNP IC3 and WNP IC4)

i) This section of the WNP seeks to secure sufficient infrastructure, amenities and services to allow Witchford to be a sustainable, thriving community.

##### WNP IC1 – Witchford Infrastructure and Community Facilities

ii) Policy WNP IC1 requires the provision of new and improved infrastructure in association with new development to respond to the community’s identified priorities to improve crossing facilities at the A10 and to reduce congestion in the village. The principle of the policy therefore is acceptable but for the same reason as in section 6.5.9 below there is conflict with Basic Condition a) in two respects. Firstly improving the crossing facilities over the A10 is outside the scope of the neighbourhood plan as legislation is clear that a plan cannot make proposals for land outside the Neighbourhood Area. The ECLP in section 8 setting out the strategy for Witchford lists improvements to the pedestrian and



cycle routes generally as a top priority and only lists the crossing of the A10 as a suggestion. Policy WNP IC1 should be modified to reflect the more generic priority of improving pedestrian and cycle routes. Secondly the last clause of the policy again fails to reflect the requirement in the NPPF for policies to be “...*clearly written and unambiguous so it is evident how a decision maker should react to development.* The wording “*all development proposals should consider whether it is appropriate*” is unclear and imprecise and uncertain in its outcome. The policy should make it clear that subject to the tests for planning obligations that all development will be expected to contribute to delivering the infrastructure priorities.

iii) The supporting text to the policy refers to whether there is a need for expansion in primary and secondary education provision and concludes that this should be monitored and left to a future review of the WNP. Abbey Properties in their Reg 16 representation express the view that there is clearly a need for the allocation of educational land and that this should be provided now if the County Council as education authority predict a shortfall during the lifetime of the plan.

iv) However, the WNP supporting text at 5.7.2 makes it clear that as at Spring 2019 there were no capacity issues at either Rackham Primary School or Witchford Village College and in any event that there was capacity on the existing Village College site to accommodate future expansion of secondary education. The evidence before me suggests that there is only likely to be a shortfall in primary provision if development beyond that provided for in the neighbourhood plan takes place. As I am not proposing a change to the overall level of residential development provided for in the plan (see section 6.5.1 above) the intended approach of leaving the matter to a review of the WNP is an acceptable one. I took the opportunity to confirm this conclusion at the fact check stage with the County Council as Education Authority and it has confirmed that, based on growth arising from sites identified by the WNP, the forecast surplus in primary provision would be sufficient to meet future demand, whilst there would be a marginal deficit in secondary places.

v) For the avoidance of doubt the plan identifying two possible education sites submitted alongside the neighbourhood plan at this stage does not form part of the neighbourhood plan and the sites identified cannot be considered safeguarded as education sites.

### **Recommendation 7**

**7A - Policy WNP IC1 Amend first bullet to read:**

**“Improving pedestrian and cycle links from Witchford to provide greater connectivity between Witchford and Ely.**

**7B - Amend the last sentence of the policy to read:**

**All development proposals in the plan area should *contribute towards infrastructure priorities where it is necessary to make the development acceptable and where directly, fairly and reasonably related in scale and kind to the development.***

**7C – Section 5.7.1 2<sup>nd</sup> Paragraph – Add at end:**

***“It is recognised that as the A10 junction is outside the neighbourhood area the WNP cannot make proposals relating to it but developments can contribute to the improvement of sustainable transport infrastructure within the neighbourhood area.”***

#### Policy WNP IC2 – Witchford Village Hall and Recreation Ground

vi) Policy WNP IC2 allocates the village hall site and recreation ground for expanded and enhanced village hall facilities. The policy has regard to section 8 of the NPPF and paragraphs 91, 92 and 97 and is in general conformity with the strategy for Witchford in section 8 of the ECLP which identifies the development of the village hall as a priority. Development of the hall will contribute to sustainability in Witchford and as such the principle of the policy meets the basic conditions. However, the NPPF and PPG requires policies to be clear and unambiguous and the policy should refer to where the allocation is defined ie in Map 12. With this minor adjustment Policy WNP IC2 meets the Basic Conditions.

#### **Recommendation 8**

**Policy WNP IC2 Line 2 – Insert after ‘open space’ the words “as defined on Map 12”**

#### Policy WNP IC3 Protection of Witchford’s Community Facilities

vii) Policy WNP IC3 seeks to ensure that development proposals do not prejudice the retention of the few community facilities that Witchford offers namely the pub, and village shop /post office. The policy has regard to paragraph 92 of the NPPF which states that policies should guard against the unnecessary loss of valued facilities which enable the community to meet its day to day needs. The policy is also in general conformity with Policy COM 3 of the ECLP which seeks to protect community facilities. The Local Plan policy is detailed and, rather than duplicate it, Policy WNP IC3 focusses on how development proposals can support the community facilities. Seeking to retain the existing community facilities in Witchford helps the village to remain a sustainable residential location and therefore contributes to the achievement of sustainability. The policy therefore meets the Basic Conditions.

#### Policy WNP IC4 Flooding

viii) Policy WNP IC4 requires development in areas at risk from surface water flooding to carry out a site-specific flood risk assessment, be designed and managed to reduce surface water flood risk and to utilise Sustainable Drainage Systems. National policy and Policy ENV8 of the ECLP sets out in detail the approach to be taken to flood risk. Rather than duplicate this detailed policy advice WNP IC4 focusses on the specific local issue of surface water flooding and seeks to ensure that this issue is not exacerbated by new development. The policy therefore has regard to the NPPF and is in general conformity with ECLP but complements this national and local policy by focusing on specific local issues. Ensuring development properly addresses surface water flood risk and surface water drainage will contribute to sustainable development. As such the policy meets the



Basic Conditions.

### 6.5.8 Getting Around the Village (Policy WNP T1)

i) Policy WNP T1 responds to clear concerns from the community and from traffic survey evidence that to avoid highway safety issues future development in Witchford needs to provide for sustainable transport options and greater opportunity for walking and cycling within the village. In that respect the principle of the policy has regard to section 9 of the NPPF and is complementary to its policy objectives in paragraphs 102 and 104.

ii) However again as with other policies there are a number of points regarding Policy WNP T1 where the requirement of the NPPF for policies to be “...*clearly written and unambiguous so it is evident how a decision maker should react to development*” is not met.

iii) Wording in the policy such as “*where applicable to a development proposal...*” and “*in some circumstances ...it may be appropriate....*” is unlikely to have very certain outcomes and does not give clear guidance to developers and decision-makers as to what is expected of them as required by the NPPF. Policies are much clearer and less ambiguous when worded as specific requirements. Thus the policy should be modified to make clear where the requirement will apply bearing in mind that requirements must be reasonable and relate to the development.

iv) Policy WNP T1 is in general conformity with Policy COM 7 of the ECLP which sets out a number of requirements of development to minimize transport impact and promote sustainable transport. Policy WNP T1 does not overlap with the ECLP policy but rather seeks to apply it at a local settlement level.

v) Inasmuch as policy WNP T1 is seeking to promote sustainable transport options through development in Witchford the policy is likely to contribute strongly to achieving sustainable development.

### **Recommendation 9**

**9A** – Amend introduction to bullet points in Policy WNP T1 to read:

**“Opportunities will be sought *through development proposals* to:”**

**9B** - Amend first bullet to read:

**“Improve existing pavements *serving the development* to make them...”**

**9C** - Amend third bullet point to read: -

**“*Implement the pedestrian and cycle spine route...*”**

**9D** – Amend fourth bullet point to read

**“Implement local transport improvements *related to and necessary for the development* as required by...”**

**9E – Amend last paragraph of policy to read:**

***“In all Major Development where necessary to.....users of the development and where directly, fairly and reasonably related in scale and kind to the development, contributions towards these initiatives will be sought.”***

vi) With these modifications the policy will be clearer for users, developers and decision makers and therefore meet Basic Condition a) as well as the other Basic Conditions.

6.5.9 Witchford and Ely Connectivity (Policy WNP C1)

i) Policy WNP C1 seeks to connect Witchford and Ely through sustainable and safe cycle and pedestrian routes but the focus of the policy is to create a safe segregated cycle and pedestrian crossing across the A10 at its junction with the A142 Witchford Road. Whilst I understand the longstanding aspiration of WPC to achieve a safe sustainable route across the junction and into Ely the legislation regarding neighbourhood plans is clear that they cannot include policies and proposals relating to land outside the Neighbourhood Area. As such as with Policy WNP IC1 above there is a direct conflict with Basic Condition a).

ii) It will still be possible to retain a policy relating to the provision of a safe segregated route out of Witchford as far as the Lancaster Way Business Park roundabout and the boundary of the Neighbourhood Area and reference to developer contributions to deliver this but any specific reference to crossing the A10 and how that should be achieved must be deleted. I note that the plan acknowledges the junction is outside the plan area but a requirement could still be placed on development within Witchford. However I am not persuaded that this is the case through the neighbourhood plan, particularly as the first paragraph of policy WNP C1 goes further than that and specifically seeks the improvement of a junction outside the neighbourhood area.

iii) The District Council has confirmed that a project for improvements to pedestrian and cycle accessibility at the A10/A142 features in the Transport Strategy for East Cambridgeshire (TSEC), prepared by Cambridgeshire County Council. Specifically the project is listed in the TSEC's action plan (scheme refs: E-2 and E-18). Absence of a policy reference to the crossing in the WNP will not therefore necessarily preclude the District Council seeking financial contributions from major developments in Witchford to this Transport Strategy project where a planning obligation would meet all the tests set out in the NPPF. It would also be acceptable to add the aspiration to see the sustainable transport route secured to Ely city centre included as a 'Project' in Appendix 2 of the WNP (see Recommendation 1) giving the Parish Council reassurance that the project can be pursued. Map 13 in the WNP, as it presents proposals outside of the neighbourhood area, should also be deleted but could be included as part of any briefing for the 'Project' to secure a safe segregated route.

iv) The policy in its modified form as recommended below would be in general conformity with Policy COM7 of the ECLP requiring development to achieve sustainable transport

solutions and would continue to contribute to achieving sustainable development.

### **Recommendation 10**

**10 A** – Reword the first section of policy WNP C1 to read:

**“The creation of a sustainable and safe segregated cycle and pedestrian route towards Ely within the neighbourhood area is strongly encouraged. It should feature as part of any future upgrade to the A142 highway network.”**

**10 B** – Reword the second section of policy WNP C1 to read:

**“Where necessary to deliver sustainable development and where directly, fairly and reasonably related in scale and kind to the proposed development, off-site contributions will be secured to achieve the pedestrian and cycle route from Witchford towards Ely.”**

**10C** – Reword Section 5.9.1 1<sup>st</sup> paragraph lines 1-2 of the supporting text to policy WNP C1 to read:

**“The current highway network presents....by foot or cycle.”**

Delete second sentence but retain third sentence.

Delete 2<sup>nd</sup> paragraph of Section 5.9.1

**10D** – Amend the text in section 5.9.2 to reflect these modifications to the policy. This could be in the following form or similar:

**“The provision of a safe cycle and pedestrian route between Witchford and Ely has long been an aspiration of the Parish Council and as development increases the need for a safe sustainable transport route increases. The neighbourhood plan and developments within Witchford can contribute to the delivery of this route and policy WNP C1 seeks to achieve that.**

***The A10 and its junction with the A142 Witchford Road is an obstacle in realizing a safe route and a segregated crossing point over the A10 would be the preferred solution. Indeed the Parish Council has a policy supporting the provision of a bridge over the A10 into Ely from Witchford “as it not only meets all the objectives but also provides a truly attractive and usable route which we feel will encourage more journeys via sustainable modes of transport”.***

***This crossing point does not fall within the Witchford Neighbourhood Area and as such the neighbourhood plan cannot directly make proposals in respect of such a crossing. However as this is a key project in delivering safe and sustainable transport routes serving the Witchford area the Parish Council includes this as one of the ‘Projects’ aimed at delivering the vision and objectives of the neighbourhood plan set out at Appendix 2.***

***The Parish Council will work with Cambridgeshire County Council, East Cambridgeshire District Council and the City of Ely Council to ensure development proposals within Witchford contribute to the provision of a safe and segregated sustainable transport route towards Ely.***

**Delete the rest of the text on page 64.**

**10E – Delete Map 13**

**10F – Add “*Improved crossing facilities for pedestrians and cyclists at the A10/A142 junction*” to the list of Projects in Appendix 2 (as per Recommendation 1) which the Parish Council will support and lobby for.**

v) With these modifications the policy can be retained and will meet Basic Condition a), d) and e).

#### 6.5.10 Supporting Witchford’s Micro-economy (Policies WNP E1 and WNP E2)

i) This section of the Plan is seeking to support existing local businesses and encourage increased economic activity appropriate to the rural nature of the parish. Policy WNP E1 is specifically directed at the development of local jobs within the village and reducing outward commuting by facilitating home working as well as encouraging the retention and expansion of local service businesses. Policy WNP E2 relates to the Sedgeway Business Park which is an established mixed use employment site which sits in an exposed location in the Fenland landscape. The policy allocates an area for development which allows for expansion of business on the site and sets out that development at the Sedgeway Business Park will be supported where it can be accommodated without detriment to the landscape character of the Common Side Local Landscape Character Area.

ii) The policies have regard to section 6 of the NPPF seeking to build a strong competitive economy, encouraging sustainable economic growth and supporting a prosperous rural economy, particularly the policy statements at paragraphs 81 and 83. The restriction placed on further development at the Sedgeway Business Park in Policy WNP E2 requiring development to protect landscape character has regard to paragraph 84 of the NPPF which acknowledges that local business development outside of settlements needs to be sensitive to its surroundings.

iii) Policies EMP2 and EMP3 of the ECLP seek to support the extension and development of new employment opportunities in the countryside subject to protective criteria. The two WNP policies are therefore in general conformity with the ECLP.

iv) The intent of the two policies in encouraging the local micro-economy and in promoting local employment opportunities that enable people to live and work locally and reducing out commuting will contribute to creating a more sustainable settlement.

v) Accordingly policies WNP E1 and WNP E2 in general meet Basic Conditions a), d) and e).

vi) There is however one minor concern with policy WNP E2 and that is that the policy does not entirely accord with the requirement of the NPPF and PPG that policies are clear and unambiguous. The policy does not make it clear that development is expected to be within the defined WFD E1 allocation identified in Map 14. I therefore recommend the

following modification in order that Basic Condition a) is fully met.

### **Recommendation 11**

**Insert the following text in policy WNP E2 line 2 after the word ‘Park’:**

***“within the allocated area WFD E1 shown in Map 14 will be supported...”***

vii) With this modification the policies meet the Basic Conditions.

## 6.7 Monitoring and Review

6.7.1 At Section 7 of the WNP the WPC sets out the approach to monitoring of the plan indicating how it will take responsibility for annual monitoring and fuller 4 yearly analysis of how the plan has performed. Decisions as to whether to review the plan will be taken on the basis of these 4 yearly reviews.

6.7.2 Given the situation in respect of the replacement East Cambridgeshire Local Plan a key trigger for review of the neighbourhood plan will be when a new local plan is brought forward and adopted. To ensure that the neighbourhood plan can remain as an effective part of the development plan for East Cambridgeshire it will be important that it is reviewed to be in general conformity with the strategic policies of that new local plan when it is adopted. Given the representations at the Reg 16 stage, WPC may wish to include a commitment to this effect but, as the wording of section 7 does not raise any issues in respect of the Basic Conditions directly, I do not make any formal recommendation in this respect.

## **7. Other Matters**

### 7.1 Other Housing Proposals Put forward in Reg 16 Representations

7.1.1 Catesby Strategic Land, in raising issues regarding housing supply and development limits, refer to an area of land north of Main Street for 44 dwellings which should be brought forward. Howes Percival in raising similar issues refer to a further housing site south of Sutton Road which is argued should have been assessed as an alternative option to the proposed sites in the WNP as part of the Strategic Environmental Assessment (SEA) which should have been carried out on the WNP. However, in view of my conclusion at Section 5 above regarding the need for a SEA and my conclusion at section 6.5.1 above that the housing provision made in the plan is sufficient, there is no need for any modification to the plan. In any event, given the fact that there is no possibility to bring forward a new site at this stage without the current plan being withdrawn to allow consultation and then resubmitted, introducing new proposals cannot be delivered.

7.1.2 The appropriate approach is for these sites to be put forward through a future review of the WNP and as set out in section 6.5.1 if, in the meantime, a 5 year supply cannot be provided (3 year in accordance with paragraph 14 of the NPPF once the WNP is made) then, under the ECLP Policy GROWTH 5, it might be possible to see the sites brought

forward subject to them meeting all appropriate policies.

## 7.2 Additional References to Provision of Green Infrastructure

7.2.1 Natural England whilst not objecting to the WNP at the Reg 16 stage did comment that they would like to see references in policies WNP SS1, WNP GI3 and WNP WFD1-3 (the 'allocations') that specifically required developments to deliver high quality, multi-functional green infrastructure. Green infrastructure is already covered in detail in Policy COM5 of the ECLP and the strategic policy GROWTH 3 which require development to protect and to provide strategic green infrastructure opportunities. Advice in the PPG confirms that planning decisions are made considering a hierarchy of policies from national policy in the NPPF to local policy in Local and Neighbourhood Plans. It is not necessary to replicate policy provisions in different levels of the hierarchy if they are already satisfactorily covered. This is the case with the WNP where there is nothing specific to add to the green infrastructure requirements and policy coverage in the ECLP. The matter is not therefore one where there is a conflict with the Basic Conditions and no modification is necessary to the plan.

## 7.3 Typographical and Formatting Corrections

7.3.1 There are a number of typographical / grammatical errors in the plan which ought to be corrected. In addition to proposing modifications to ensure the plan meets the Basic Conditions the only other area of amendment that is open to me as the examiner is to correct such errors. I have identified these in Appendix 2 and in modifying the plan as set out above and finalising it for the referendum these typographical amendments should be made.

**Recommendation 12 – Make typographical and grammatical corrections as set out in Appendix 2 at the end of this report.**

## **8. Referendum**

8.1 Subject to the recommended modifications set out above being completed, it is appropriate that the Witchford Neighbourhood Plan should proceed to a Referendum.

8.2 I am required to consider whether the Referendum Area should be synonymous with the Witchford Neighbourhood Area or extended beyond it.

8.3 The Neighbourhood Area as revised in 2019 mirrors the new administrative boundaries of Witchford Parish. Given the scale and nature of the modified plan and the fact that the policies and proposals would not affect residents in adjoining parishes I do not consider that extension of the area would be warranted.

8.4 Accordingly, I consider that it is unnecessary to recommend any other referendum



area than the Neighbourhood Area and no evidence has been submitted to suggest any alternative approach.

**Recommendation 13** - I recommend to East Cambridgeshire District Council that the Witchford Neighbourhood Plan, modified as specified above, should proceed to a referendum based on the Witchford Neighbourhood Area as designated by the District Council on 6 February 2019.

**Peter D Biggers Independent Examiner BSc (Hons) MRTPI**  
**7 February 2020**

## Appendix 1 - Clarifying questions to ECDC and WPC prompted by Reg 16 representations

### East Cambridgeshire District Council response to Examiner's questions

This note sets out East Cambridgeshire District Council's (ECDC) response to questions raised by the examiner of the draft Witchford Neighbourhood Plan (WNP), received on 20 December 2019.

Documents received from the examiner are available from the Council's website<sup>1</sup>.

#### Scope of Neighbourhood Plan examination

National planning practice guidance is clear on the scope of the Neighbourhood Plan examination and the role of the examiner conducting the examination.

When considering the content of a neighbourhood plan or Order proposal, an independent examiner's role is limited to testing whether or not a draft neighbourhood plan or Order 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). The independent examiner is not testing the soundness of a neighbourhood plan or examining other material considerations. Paragraph: 055 Reference ID: 41-055-20180222

Through its response to the Regulation 16 publication, the Council made clear that it considers the draft WNP to be capable of satisfying the basic conditions.

In responding to the matters raised by the examiner, ECDC has attempted to limit its response to the context of the basic conditions, crucially whether the plan:

- has had regard to national planning policies and guidance
- will help deliver sustainable development
- is in general conformity with the Local Plan's strategic policies
- is compatible with EU obligations, for example the plan will not result in harm to the environment or habitats and will not breach human rights

#### Question 1

*The evidence base in respect of the housing requirement given to the Parish Council has been challenged by Reg 16 respondents. The NPPG requires there to be a satisfactory evidence base for the plan's policies. If this does not exist then there is conflict with the basic condition to have regard to national policy and guidance. I therefore wish to know how the requirement of 252 units for Witchford was arrived at. Is it derived from the objectively assessed need figure provided by the Government for East Cambs of 598 dwellings per annum? Alternatively is it derived from the 2019 Housing Land Supply 5 year requirement of 6451 dwellings? If neither, please explain how the figure for Witchford is in general conformity with the development strategy for East Cambs. In other words, can 252 units (330 as provided for in the plan) be deemed to be a reasonable requirement for the parish up to 2031? (ECDC best to answer)*

<sup>1</sup> <https://www.eastcambs.gov.uk/local-development-framework/witchford-neighbourhood-plan>

The Local Plan 2015 pre-dates the current iteration of the NPPF (2019) and consequently the new requirement for strategic policies to set out a housing requirement for designated neighbourhood areas<sup>2</sup>.

At present, the provisions of paragraph 66 apply to East Cambridgeshire. Paragraph 66 states:

*Where it is not possible to provide a requirement figure for a neighbourhood area, the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body. This figure should take into account factors such as the latest evidence of local housing need, the population of the neighbourhood area and the most recently available planning strategy of the local planning authority.*

During the preparation of its Neighbourhood Plan, Witchford Parish Council requested ECDC supply an 'indicative figure'. The Council duly fulfilled this request.

ECDC developed a method for calculating the indicative figure for Neighbourhood Areas which is consistent with the requirements of the NPPF.

The East Cambridgeshire Local Plan 2015, the most recently available planning strategy for the district, forms the starting point for calculating the indicative figure. As the Local Plan is less than five years old, it provides the district's current housing requirement<sup>3</sup>.

In calculating the indicative figure, the Council has taken into consideration dwelling completions since the start of the plan period and latest housing commitment data from extant planning permissions and unimplemented Local Plan allocations (where present), within the Neighbourhood Area.

The ECDC's method takes account of population by categorising settlements and applying the requirement figure at differing rates by size of settlement, in a manner which broadly reflects the Local Plan's growth strategy.

Para 66 suggests the indicative figure should take account of latest evidence of local housing need. Whilst the Local Plan 2015 provides the district's housing requirement, ECDC has compared its method for calculating the indicative figure against the Local Housing Need figure for East Cambridgeshire, calculated as per government's standard method. If implemented across the district, ECDC's method for calculating indicative figures for Neighbourhood Areas would provide sufficient housing to exceed both the Local Plan 2015's housing requirement and the current Local Housing Need figure.

ECDC has not published in full its method for calculating indicative figures, as there is a considerable risk the results may be misinterpreted as a target for each parish across the whole district. National policy only requires a figure to be generated for a specific neighbourhood area where explicitly requested by a Qualifying Body.

For example, within East Cambridgeshire there are designated Neighbourhood Areas where the Parish Council has not requested an indicative figure. There are also many parishes where no Neighbourhood Plan is being drawn up.

<sup>2</sup> Paragraph 65, NPPF

<sup>3</sup> Paragraph: 003 Reference ID: 68-003-20190722

If government had wanted an 'indicative' figure (or a detailed district based method for calculating such a figure) published for every parish ahead of a formal housing requirement figure in the next available local plan, it would have said so. But it did not.

The indicative figure for Witchford Neighbourhood Area is therefore derived from the Local Plan 2015's housing requirement (for Witchford specifically and the district as a whole) and growth strategy, and housing commitment and completions data (as published in the AMR and Five Year Land Supply Report) for Witchford and the district as a whole. ECDC considers that this method generates a figure for Witchford which is both reasonable and consistent with national policy, and, as stated, if the same method was applied to every parish in the district both the Local Plan housing requirement and the Local Housing Need requirement would be exceeded. ECDC is satisfied that the WNP meets the indicative housing requirement figure for Witchford, and therefore meets the basic condition requiring plans to help deliver sustainable development.

## Question 2

*The Basic Conditions require the WNP to be in general conformity with the strategic policies of the adopted Local Plan. Reg 16 representations have raised concerns that the strategic policies of the adopted ECLP particularly Growth 1, Growth 2 and Growth 4 are no longer up to date as the plan cannot provide a 5 year housing supply and in seeking to conform to these the WNP is itself out of date. Am I correct in assuming that while the quantity Growth 1 and the allocations Growth 4 may have been deemed to be out of date in recent appeal decisions the spatial strategy in Growth 2 and providing the spatial strategy for Witchford is still appropriate and being applied? (ECDC best to answer)*

For the purposes of applying the NPPF's *presumption in favour of sustainable development*, ECDC considers relevant strategic policies to be out of date as at present the district is unable to demonstrate a five year housing land supply.

The Local Plan 2015 describes future growth in Witchford:

*Witchford is likely to continue to grow at a slow rate, with new housing being built on suitable 'infill' sites within the village.*

The Local Plan 2015 sets no allocations for housing development in Witchford.

ECDC's method for setting the indicative housing figure reflects the diminished status of relevant strategic policies. This has resulted in ECDC providing Witchford Parish Council with an indicative figure substantially higher than the level of growth anticipated by the Local Plan (the Local Plan envisages no growth other than infill).

Whilst relevant strategic policies may have diminished status, the policies do not cease to exist. In calculating indicative figures, the Local Plan's spatial strategy remains an important consideration.

## Question 3

*What is the current position with the three allocated sites?*

- *Clearly the eastern end of the WFDH1 site is under construction and I note from the Council's online Public Access that reserved matters have been permitted for*

*WFDH3 South of Main Street but in respect of the balance of WFDH1 at the west end and WFDH2 are these still at outline stage or have reserved matters applications been submitted?*

- *When did work actually commence on site WFDH1?*
- *I need this information to arrive at a decision in terms of the challenge from the Reg 16 reps that SEA/HRA should have been carried out plus to test the allocation policies against the NPPF requirement of plans that they give clear and unambiguous advice. (ECDC best to answer)*

#### Draft site allocation WFDH1

A reserved matters application (application ref: 18/00782/RMM) for 128 dwellings was approved by ECDC in December 2018, covering the eastern portion of the site located between the track north of Marroway Lane and Greenham Park draft employment allocation. ECDC understands the site to be under construction, but to date has not reported any dwelling commencement or completions. The developer has appointed an Approved Inspector (AI) to carry out the building control function. The AI has not yet supplied the Council with commencement or completions data.

The smaller, western portion (located to the west of the track running north from Marroway Lane) has outline planning permission for 40 dwellings (application ref: 18/00778/OUM). To date, no reserved matters application has been submitted.

The Council has not reported any dwelling commencements or completions from site WFDH1 to date. At present, the net commitment from the site is 168 dwellings.

#### Draft site allocation WFDH2

The site has outline permission for 116 dwellings (application reference: 18/00820/OUM). Another application for 120 dwellings was 'live' concurrent with the outline application, but was eventually withdrawn in May 2019 (application reference: 17/01575/OUM).

An application for reserved matters for 116 dwellings has been submitted to ECDC and is currently pending consideration (application reference: 19/01502/RMM).

#### Draft site allocation WFDH3

ECDC approved a reserved matters application for 46 dwellings in October 2019 (application reference: 19/00196/RMM).

#### Question 4

*The Basic Conditions require that the plan does not breach EU obligations and in particular to consider whether there are significant environmental effects necessitating an SEA and whether individually or in combination there would be significant effects on European sites. There are strong Reg 16 representations that, in combination, the allocated sites could adversely impact on the European sites and that therefore an Appropriate Assessment should have been carried out. I note that the conclusion of the screening opinion was that because the three allocations had been assessed through the planning application process and no significant environmental effects had been identified that SEA/HRA on the WNP did not need to be carried out and that the statutory consultees had agreed with this conclusion.*

*What I would like to know is how the in-combination effects of the allocations together with smaller anticipated windfall over the plan period have been considered. (ECDC best to answer)*

The draft Witchford Neighbourhood Plan differs from the Local Plan 2015 in that it identifies site allocations, including three housing allocations. The draft plan also proposes the Development Envelope be amended to include the housing allocations.

No other changes to the development envelope are proposed.

As discussed in the response to Question 1, the Local Plan 2015 supports the development of infill sites within the development envelope. The Strategic Environmental Assessment screening assessment is concerned principally with likely significant environmental effects not already considered and dealt with through sustainability appraisal of the Local Plan.

The draft Witchford Neighbourhood Plan offers in principle support to proposals located within the Development Envelope 'provided they accord with other provisions in the Development Plan' (Policy WNP SS1). In areas outside the development envelope, the draft Witchford Neighbourhood Plan limits development to proposals for rural affordable housing exception sites and development for agriculture, horticulture, outdoor recreation, essential educational infrastructure and other uses that need to be located in the countryside. As identified by the SEA Screening Assessment report, this approach reflects that taken by the Local Plan.

The draft Witchford Neighbourhood Plan is not anticipated to give rise to additional windfall development which would not otherwise come forward as a result of the Local Plan 2015's policies for windfall development.

Consequently the screening assessment concludes the Neighbourhood Plan does not seek to increase the overall quantum of growth beyond that which has already been allocated in the development plan or permitted through the planning system. The screening assessment notes 'the effects of this growth have therefore been considered during the planning application stage for each of the respective sites. Other policies generally accord with the adopted Local Plan, the potential environmental effects of which were duly assessed through the plan-making process'<sup>4</sup>.

Cumulative effects of the draft Witchford Neighbourhood Plan's policies are addressed in criterion 2b (Section 5) of the screening assessment. The assessment identified no cumulative or in combination effects not already assessed or dealt with through other stages of the planning process.

To put all this in simple terms, if the approval of the Neighbourhood Plan does not plan to increase growth beyond what would happen without the Neighbourhood Plan, then it stands to reason that the Neighbourhood Plan cannot possibly have an adverse effect on European sites. Consequently, a full SEA or Appropriate Assessment process is not necessary and would be completely superfluous.

<sup>4</sup> Para. 6.1 SEA & HRA Screening Assessment Report



## Question 5

*The HRA 2018 carried out in respect of the emerging Local Plan, now withdrawn, reportedly identified two in-combination impacts on the European sites ie increased disturbance from recreation and impacts on water quality in the Ouse Washes. The Water Cycle Study 2017 ostensibly shows that a much higher level of development in Witchford than that proposed in the WNP would not impact on water quality but I cannot see from the screening opinion where the other in-combination impact in terms of disturbance from recreation is dealt with other than to say that of all the East Cambs settlements Witchford is the furthest from the designated sites. I would like clarification on this point. It would additionally be helpful to the examination if a further letter could be obtained from Natural England corroborating that in their opinion the two in-combination impacts would not be aggravated by the total level of development proposed in the WNP and that therefore HRA is not required.*

As identified by the HRA and in the screening assessment, all development sites in the districts have the potential for increased disturbance from recreational pressure on designated sites in combination with other residential allocations and in-combination with housing development in neighbouring districts of Kings Lynn and Norfolk, Fenland and Huntingdonshire.

There is nothing to suggest that the sites identified by the Witchford Neighbourhood Plan would have greater impacts on designated sites, in terms of disturbance from recreational pressure, than sites elsewhere in the district. The screening assessment notes that Witchford is located relatively far from designated sites, compared with other settlements.

Specifically, the screening assessment and HRA are referring to designated sites at the Ouse Washes and Wicken Fen, accessible sites providing the public with access to nature.

At Appendix 6 of East Cambridgeshire's Habitats Regulation Assessment

*Natural England agrees that on managed sites such as Wicken Fen and Ouse Washes, increased visitor numbers to the sites are not considered a vulnerability and public access is encouraged and managed.*

Therefore whilst there is a risk that development at Witchford may increase risk from recreational pressure on the Ouse Washes and Wicken Fen, the risk is managed by Natural England and is not considered a vulnerability.

Natural England has been fully consulted and involved in all our HRA work, and fully supported the 2018 HRA. Natural England has raised no objections to this Neighbourhood Plan or its supporting evidence. ECDC also refers you to the answer in Q4, whereby growth identified in the Neighbourhood Plan already has consent, and has had its full range of implications (including that on designated sites) assessed. It is not necessary, therefore, for further dialogue with Natural England.

## Question 6

This question is directed to the Parish Council, therefore ECDC has not responded.

## Question 7

*Legislation makes it clear that neighbourhood plans should not include policies or proposals relating to land outside their area. In testing policy WNPC1 in this regard I would like to know whether there is a specific proposal included in the Infrastructure Investment Plan for improvements to pedestrian and cycle accessibility across the A10/A142 junction. The ECLP at*

*GROWTH 3 suggests there might be. I note the Parish Council has prepared a paper proposing possible solutions but has a scheme been designed? (ECDC best to answer).*

The project for improvements to pedestrian and cycle accessibility at the A10/A142 features in the Transport Strategy for East Cambridgeshire (TSEC), prepared by Cambridgeshire County Council<sup>5</sup>. Specifically the project is listed in the TSEC's action plan (scheme refs: E-2 and E-18).

A reserved matters application (ref: 18/01816/RMM) for the extension of the Lancaster Way Business Park was approved by ECDC in March 2019. The accompanying s106 agreement requires the completion of improvements to the A142/A10 (BP) roundabout by the time 30,000 sqm of floor space on the business park is occupied. Work is progressing on a design to improve the A142/A10 roundabout to mitigate the impact of Lancaster Way Business Park traffic.

## Parish Council Response to the Examiner Questions issued on 20 December 2019

**Question 6. Were alternative site options assessed during the plan preparation process or was it a case that the three intended allocations, each with outline permission at the time, adequately met the housing requirement and therefore alternatives were not considered? (WPC Best to answer)**

### PC response

The Local Plan which was subsequently withdrawn by ECDC in February 2019 included draft allocations for sites in the Witchford NP area. The Witchford community were key stakeholders in the assessment of these sites following a call for sites process that took place in summer of 2016. Eight sites in Witchford Parish were put forward in the call for sites exercise and all were considered in detail by the Neighbourhood Plan Committee and Witchford Parish Council. The sites were ranked in order of suitability and full detailed reasoning for the rankings were provided to the District Council.

This exercise took place at the Neighbourhood Plan Committee meeting on 15th June 2016 (at which many members of the public were present) and the Parish Council meeting on 6th July 2016. Copies of the Minutes of these meetings are attached as Appendix 1 and Appendix 2. The participation of the Witchford community in the site assessment process continued as the (now withdrawn) Local Plan progressed through the consultation stages.

Appendix 3 to this document demonstrates the Parish Council's involvement at a further consultation stage of the Local Plan in 2017. At this stage, the Parish Council made a representation to ECDC expressing support for the deletion of a site between Meadow Close and Broadway and its replacement in the Local Plan with the site north of Common Road. (which is in the Neighbourhood Plan as WFD.H2).

It is acknowledged that the content of the withdrawn Local Plan has now limited relevance. However, the above demonstrates the consideration that has been given by Witchford Parish Council to site options albeit, this was at a time when the sites were expected to come forward via the Local Plan.

<sup>5</sup> Transport Strategy for East Cambridgeshire, available at: <https://www.eastcambs.gov.uk/local-development-framework/transport-strategy-east-cambridgeshire>

Later in early 2019, when the NP steering group considered the inclusion of site allocations within the Neighbourhood Plan itself, the options for delivering the required growth (as provided by ECDC as the NP housing requirement figure) were largely pre-determined through development proposals that were well advanced in the decision-making process as set out below.

- WFD.H1: 18/00778/OUM (western part) Outline planning application for up to 40 dwellings. Application received 8 June 2018. Decision issued 1 March 2019. Prior to this the Planning Committee had resolved at a meeting on 5 September 2018 that: *the Planning Manager be given delegated authority to approve planning application 18/00778/OUM subject to the recommended conditions as set out in the Officer's report (with any minor changes delegated to the Planning Manager) and updated condition 15, as tabled at the meeting, and the completion of a S106 Agreement.*
- WFD.H1: 14/00248/OUM (eastern part). 128 homes allowed on appeal 25 June 2018
- WFD.H2 18/00820/OUM. Outline application submitted 14 June 2018. 116 dwellings permitted (outline) 2 May 2019. Prior to this, the ECDC Planning Committee had resolved at a meeting held on 7 November 2018 to *unanimously to give the Planning Manager delegated authority to approve planning application reference 18/00820/OUM, subject to the recommended conditions as set out in the Officer's report (with any minor changes delegated to the Planning Manager) and the completion of a S106 Agreement.*
- WFD.H3: 17/00261/OUM. Land south of Main Street. Outline planning consent issued for 46 dwellings 4 July 2018

The pre-submission consultation of the draft Neighbourhood Plan took place 12th June – 25th July 2019.

Whilst, the consideration of *alternative* sites to the proposed sites would have been a redundant exercise, the NP steering group did consider the value in allocating *additional* sites. However, the NP steering group were very mindful of the quantity of growth coming forward in the plan area and the impact this would have on existing community infrastructure as well as the impact the growth would have on the rural character and setting of Witchford. As noted on page 26 of the submitted Neighbourhood Plan, an additional 330 homes during the period 2018 to 2031 represents a growth of 33% in dwelling numbers.

Instead, a decision was made to prepare an up-to-date spatial plan for the parish that adequately addressed the housing requirement figure provided by ECDC. The designation of the updated development envelope, the site allocations as well as other policies in the plan provide certainty for residents, applicants, infrastructure providers and decision makers alike. The site allocations are important to the plan because they ensure agreed principles for the sites are established and in place ready for any future planning decisions e.g. detailed consent application stage or, in the event of

- current permissions expiring or indeed alternative planning applications for the sites being made.

#### Question 4

The Basic Conditions require that the plan does not breach EU obligations and in particular to consider whether there are significant environmental effects necessitating an SEA and whether individually or in combination there would be significant effects on European sites. There are strong Reg 16 representations that, in combination, the allocated sites could adversely impact on the European sites and that therefore an Appropriate Assessment should have been carried out. I note that the conclusion of the screening opinion was that because the three allocations had been assessed through the planning application process and no significant environmental effects had been identified that SEA /HRA on the WNP did not need to be carried out and that the statutory consultees had agreed with this conclusion. What I would like to know is how the in-combination effects of the allocations together with smaller anticipated windfall over the plan period have been considered. (ECDC best to answer).

#### PC response

It is acknowledged the examiner has indicated that ECDC are best to answer this question.

The PC however wish to take the opportunity to highlight the following point with regard to the SEA legislative framework:

As stated in paragraph 6.2 of the submitted Basic Conditions Statement, the PC requested a SEA determination statement from ECDC. This is because in SEA terms, the Local Planning Authority are widely accepted as being the most appropriate 'responsible authority' (as referred to in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004 (the SEA Regulations)) for issuing such determination.

This does not mean that implications for SEA were not considered by the NP Steering Group.

In determining whether or not a plan is likely to have significant environmental effects, it is essential to consider what the baseline situation is in order to isolate the likely effects triggered by the proposed plan itself. In this specific case and as clarified in the submitted plan at the bottom of page 25 *"The principle for development on the three above sites has been accepted through existing planning consents. From this perspective, it is possible, they could come forward without the Plan being in place"*. In other words, any environmental effects triggered by the proposed allocations including cumulative effects are already part of the baseline situation. When seeking to identify the likely significant environmental effects of any plan *it is essential* to compare the 'with plan' scenario with the 'without plan' scenario.

The need to consider the *likely evolution* of the environment (without the plan or programme being implemented) as part of the baseline environment under the SEA legislative framework is made clear in paragraph 2 of Schedule 2 of The Environmental Assessment of Plans and Programmes Regulations 2004 (the "SEA" Regulations).

Furthermore, the submitted Neighbourhood Plan, (an up to date spatial plan that, amongst other things, defines an updated village development envelope) provides a plan-based approach, which itself reduces the likelihood of unplanned, unsustainable development that when assessed cumulatively could potentially lead to significant environmental effects.

The key difference (when compared to the baseline environment) with adopting the site

allocations as part of the Neighbourhood Plan is to bring certainty to ensure the development comes forward according to key principles established in the site allocation policies.

The Parish Council therefore considers there to be no likely significant environmental effects triggered through this Neighbourhood Plan.

**The PC also wishes to take the opportunity to highlight the following point with regard to the HRA legislative framework:**

Article 6 of the Council Directive 92/43/EEC states “Any plan or project not directly connected with or necessary to the management of the site but likely to have significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives”

As with SEA, it is important to define the baseline situation without the NP in order to isolate the effects that the adoption of the NP would have on the European sites (either alone or in combination with other plans and projects).

In this case, the net impact of adopting the NP cannot lead to net additional effects on the European sites which are not already triggered through the permitted sites. The key difference with adopting the site allocations as part of the Neighbourhood Plan is to bring certainty to ensure the development comes forward according to key principles established in the site allocation policies.

It is considered that, in this specific case, there are no conceivable additional negative impacts on the European sites through the inclusion of the site allocations in the Neighbourhood Plan. Because of this, there are therefore no in-combination effects.

Notwithstanding this, it is worth considering again the baseline situation, which is an out of date development envelope, combined with continued speculative development pressure. The Parish Council is unaware as to whether there is an existing determination that identifies in-combination effects on the European sites through the existing baseline situation (the consented schemes, together with windfall development coming forward in the plan area, together with continued development pressure), but if there are any, it would be illogical, to determine that the adoption of the submitted Neighbourhood Plan would be the cause (directly or indirectly) of any net additional adverse effects.

## Appendix 2 - Recommendation 12–Table of Typographical and Formatting Corrections

Page	Location	Correction
34	Policy WNPLC2 2 <sup>nd</sup> Bullet Line 1	Insert the word 'between' after the word 'separation'. Word is missing and needed to make sense of the bullet point
34	Paragraph 5.3.1	The subheading 'Intent' is missing and needs to be inserted after the policy box as with all other policies
35	Penultimate paragraph Line 3	Insert letter 'd' at the end of the word 'create'. Needed to make sense of the sentence
40	Section 5.4.2 First paragraph line 6	Add 's' to the word 'user'. Needed to make sense of the sentence
48	Table	Delete table and the two lines preceding it as the table simply repeats the table on page 46.
56	Section 5.7.3 3 <sup>rd</sup> paragraph Line 7	Delete the word 'the' after the words 'can be'. Necessary to make sense of sentence.
	Section 5.7.3 3 <sup>rd</sup> paragraph Line 12	Add 's' to the end of the word 'stakeholder'. Needed to make sense of the sentence
60	Policy WNPIC4 Last paragraph lines 2-3	End sentence at 'to do so'. Start new sentence at 'Systems'. Necessary to make sense of phrase.
67	1 <sup>st</sup> paragraph of section 5.10.2 Line 7	Insert the word 'of' after the word 'proportion'. Necessary to make sense of the sentence.