

Burpham Neighbourhood Plan

The Report by the Independent Examiner

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Summary

The preparation of a neighbourhood plan is a major undertaking. It is particularly so where it is for part of a large town where there is not an existing parish council to undertake it and it therefore requires the establishment of a neighbourhood forum. To take on this task demonstrates a very high level of motivation by those involved to help shape the future of Burpham.

I recognise that a huge amount of work by a relatively small number of people has gone into bringing the BNP to this stage. The Plan addresses many issues of concern to the local community and its main focus is on “preserving and enhancing a quality of life that is enjoyed and cherished by those who live in Burpham, through preservation of what is best in Burpham and promoting high quality change and improvement”. Several of the policies will help to secure this aim and it is evident that there is strong support for these aspirations within the community. However, in preparing the Plan the Forum has not always had sufficient regard to some of the important requirements for neighbourhood plans as set out in national policy and guidance. I do have serious concerns about some aspects of the Plan and its supporting documentation and I realise that some, possibly many, of the conclusions that I have reached will be disappointing for the Forum.

The context for the Plan has not been easy as the Guildford Local Plan is still at a relatively early stage of preparation. It is evident that this plan will have to make provision for a large amount of residential development and that this may well include new housing on a large scale in the Green Belt adjacent to Burpham. I understand that there is, not surprisingly, some resistance to this, but it is important that the Plan has regard to its strategic context in accordance with the Planning Policy Guidance. In making only passing reference to it the Plan does not adequately make clear how it fits into the wider strategic context. While the Plan does not need to comply with the emerging policies of the Local Plan, as these may change before it is adopted, it is important that the strategic needs and evidence base of the emerging Local Plan are properly acknowledged and that the Plan does not set itself in opposition to these.

I have also had significant concerns in relation to the consultation process. While the minimum requirements of the regulations have been met, it is apparent to me that the development of the Plan did not fully engage the community in the way envisaged in the Planning Policy Guidance. There is no doubt in my mind that the process could have been more thorough and inclusive, particularly in the Plan formulation stage and that the Plan would have benefitted substantially from this. It would have had wider ownership and the

policies would have been more effectively evaluated and refined with the input of a wider cross section of the community.

My third major concern relates to the minimal amount of reasoned justification for the policies in the Plan. While substantial factual evidence has been presented, in many cases it is not clear how this has been used in the formulation of policies. The absence of justification has meant that it has been necessary for me to suggest a large number of modifications and the deletion of several policies in order for the Plan to meet the basic conditions. I realise that this reduces the scope of the Plan and prevents it from having as much influence as was intended. Clear and robust reasoning based on the views expressed by the community, the evidence available to the forum and national policy and guidance would have resulted in more defensible and effective policies.

All three of these issues were highlighted in responses to the Forum both in the regulation 14 consultation and in the health check of the plan before it was submitted. It is regrettable that the Forum did not accept and act on this advice.

I have considered very carefully whether the three significant concerns which I have identified require me to reach the conclusion that the Plan should fail this examination. There is no doubt in my mind that these issues have meant that the Plan is not able to realise its full potential. However, I have also had to consider whether the Plan is capable of satisfying the requirements set down in the legislation.

Taking my concerns in turn, the failure to have due regard to the strategic context of the Plan can be addressed by a substantial modification on the lines I have suggested. The consultation process, though flawed, does meet the minimum requirements and although the opportunities for the wider community to be engaged in shaping the Plan were somewhat limited there were such opportunities. The lack of justification for some of the policies is more difficult to address. In some cases there is adequate justification, and in some the justification is effectively contained within the policy, but in other cases there is no real reasoning or justification. It is beyond my role as examiner to undertake the research and evaluation necessary to suggest amendments which would provide justification for all of the policies. Thus where it is my view that a policy cannot be justified on the basis of the evidence before me and I am unable to suggest modifications which can be justified I have had to recommend the deletion of the policy. This of course means that the Plan, if it proceeds to referendum in this form will not address all of the issues that it intended to.

It is my view that the Forum should seriously consider whether to withdraw the Plan at this stage because of these shortcomings and the number of modifications I have had to

recommend. It would be beneficial to go through the process of developing the Plan in a way that addresses all of these issues. There is little doubt in my mind that in this way the Plan could secure a greater buy in from the community and relate more effectively to the emerging Local Plan. There would be the potential for greater collaboration with both the Borough Council and potential developers to address the issues associated with the emerging Local Plan in a robust and constructive way. I appreciate that this may not be well received, not least because of the resources that a relatively small number of people have devoted to the preparation of the Plan, but it is my firm view that this would result in a more effective and resilient plan in the long term.

However, I have concluded that if the fairly substantial modifications that I have recommended are made, the Burpham Neighbourhood Plan, albeit somewhat reduced in scope, is capable of progressing because it:

- has been prepared in accordance with Sections 38A and 38B of the Town and Country Planning Act 1990 and the Neighbourhood Planning Regulations 2012;
- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies of the development plan for the area;
- does not breach and is compatible with European Union obligations and the European Convention on Human Rights.

I am therefore able to recommend that the Burpham Neighbourhood Plan should proceed to a referendum subject to the modifications that I have recommended.

I am also required to consider whether or not the Referendum Area should extend beyond the Burpham Ward which comprises the Neighbourhood Plan Area. I am satisfied that the nature of the proposals in the plan is such that they would not have “a substantial, direct and demonstrable impact beyond the neighbourhood area”. I therefore conclude that there is no need to extend the referendum area.

Introduction

1. The Localism Act 2011 has provided local communities with the opportunity to have a stronger say in their future by preparing neighbourhood plans which contain policies relating to the development and use of land.
2. The Burpham Neighbourhood Plan 2015-2035 (which I shall refer to as the BNP or the Plan) has been prepared by Burpham Neighbourhood Forum (The Forum). The Plan covers the Burpham Ward on the north-eastern edge of Guildford, which is a mainly suburban area with a population of just under 6,000 people. The A3 Trunk Road is a prominent feature which largely defines the built up area to the west and north and the area also includes Green Belt land both beyond the A3 and to the east of the built up area.
3. If, following a recommendation from this examination, the plan proceeds to a local referendum and receives the support of over 50% of those voting, it can be made and will then form part of the statutory development plan. As such it will be an important consideration in the determination of planning applications, as these must be determined in accordance with development plan policies unless material considerations indicate otherwise.

Appointment of the Independent Examiner

4. I have been appointed by Guildford Borough Council (GBC), with the consent of Burpham Neighbourhood Forum to carry out the independent examination of the BNP. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).
5. I confirm that I am independent of the Forum and the Local Planning Authority and have no interest in any land which is affected by the BNP.
6. I am a Chartered Town Planner with over 30 years' experience in local government, working in a wide range of planning related roles, including 15 years as a chief officer. Since 2006 I have been an independent planning and regeneration consultant. I have completed five neighbourhood plan examinations and three health checks. I therefore have the appropriate qualifications and experience to carry out this examination.

The Scope of the Examination

7. The nature of the independent examination is set out in Sections 8-10 of Schedule 4B to the Town and Country Planning Act 1990.
8. I must:
 - a) decide whether the plan complies with the provisions of Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004. These requirements relate primarily, but not exclusively, to the process of preparing the plan and I shall deal with these first.
 - b) decide whether the Neighbourhood Development Plan meets the basic conditions contained in Schedule 4B paragraph 8(2) of the Town and Country Planning Act 1990. This element of the examination relates to the contents of the plan.
 - c) make a recommendation as to whether the plan should be submitted to a referendum, with or without modifications, and whether the area for the referendum should extend beyond the plan area.
9. The Plan meets the basic conditions if:
 - a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the plan;
 - b) the making of the plan contributes to sustainable development;
 - c) the making of the plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - d) the making of the plan does not breach, and is otherwise compatible with, EU obligations.
10. Paragraph 9 of Schedule 4B indicates that as a general rule the examination should be carried out on the basis of written representations unless a hearing is necessary to allow adequate consideration of an issue or to allow a person a fair chance to put a case. I am satisfied from the documentation that has been submitted to me, and with the help of the clarification that I have received from the Forum in response to some

factual queries, that the examination can be carried out satisfactorily on the basis of written representations and that a hearing is not necessary.

11. The documents which I have referred to in the examination are listed below. BNF 1 – BNF 13 all carry the heading Burpham Neighbourhood Plan 2015-2035¹:
- BNF 1: Policies
 - BNF 2: Appendix 1 Maps
 - BNF 3: Appendix 2 Character Descriptions of Burpham
 - BNF 4: Appendix 3 Local Green Space
 - BNF 5: Appendix 4 Reference Documents – this document provides a list of 72 documents which have been used in the preparation of the BNP. I have not referred to all of these but have used this document and referred to the documents in it where necessary.
 - BNF 6: Appendix 5 Survey Summary April-May 2013
 - BNF 7: Appendix 6 Water and Flooding
 - BNF 8: Appendix 7 Historic Sites
 - BNF 9: Basic Conditions Statement
 - BNF 10: Consultation Statement Part 1 of 4
 - BNF 11: Consultation Statement Part 2 Of 4
 - BNF 12: Consultation Statement Part 3 of 4
 - BNF 13: Consultation Statement Part 4 of 4
 - BNF 14: Burpham Neighbourhood Plan Strategic Environmental Assessment
 - BNF 15: Burpham Neighbourhood Forum Survey questionnaire April 2013.
 - BNF 16 Burpham Neighbourhood Forum Press release October 2013
 - BNF 17 Burpham Neighbourhood Forum response to Health Check Comments
 - Comments Received at regulation 16 consultation.
 - Guildford Borough Local Plan 2003.
 - Draft Guildford Borough Local Plan – Strategy and sites 2014. Strategic Policies and Appendices A-G. (Consultation Draft)

¹ Except BNF 9 which says 2014-2034, presumably in error.

- Department of Communities and Local Government. The National Planning Policy Framework (NPPF)
- Department of Communities and Local Government. Online Planning Practice Guidance (PPG)
- The Neighbourhood Planning (General) Regulations 2012 amended in March 2015 (NPR)
- The Environmental Assessment of Plans and Programmes Regulations (EAPPR) 2004
- Saved Policy NRM6 of the South East Plan
- E mail responses to various queries I have raised in relation to the consultation process

12. I made an unaccompanied visit to Burpham to familiarise myself with the plan area and its surroundings on 19th and 20th June 2015.

The Preparation of the Plan

13. The Forum was set up with the specific purpose of preparing a neighbourhood plan. Following initial discussions with Guildford Borough Council an application for the designation of both a Neighbourhood Area and the Neighbourhood Forum as a qualifying body was first made to GBC on 25 July 2012. The Borough Council requested some amendments to the application and a revised application was received on 29 August 2012. Consultation on the proposals took place from 14 September to 26 October 2012. Following the period of consultation discussions were held between the Forum and GBC relating to the issues raised in the consultation, in particular relating to the constitution and membership. Concerns were also raised by Barton Willmore on behalf of Martin Grant Homes regarding the inclusion of Green Belt Land at Gosden Hill Farm which may be the subject of a residential allocation in the emerging Guildford Borough Local Plan. Following amendments to the constitution to reflect the requirements of Section 61F of the Town and Country Planning Act the Borough Council approved the designation of the Neighbourhood Plan Area and the designation of the Burpham Neighbourhood Forum as a qualifying body on 4 February 2013. I will return to the issue of potential residential development at Gosden Hill Farm, but I am satisfied that the designation of the plan area and the qualifying body were in accordance with the legal requirements.
14. As required under Section 38B (1) (a) of the Planning and Compulsory Purchase Act 2004 the Plan clearly states the period to which it relates, which is 2015-2035.

15. The Plan must not include any provision about development that is excluded development as defined in Section 61K, which is inserted into the 1990 Town and Country Planning Act. Excluded development includes “county matters” such as mineral extraction and waste disposal and major infrastructure projects. I am satisfied that the submitted plan contains no such provision.
16. I am also satisfied that the BNP does not relate to more than one neighbourhood area.

Public Consultation

17. The preparation of the BNP has involved a process of public consultation and involvement which is reported in the four parts of the Consultation Statement. Regulation 15 of the NPR requires that the Consultation Statement that is submitted should
 - a) contain details of the persons and bodies who were consulted about the proposed neighbourhood plan
 - b) explain how they were consulted
 - c) summarise the main issues and concerns raised by the persons consulted; and
 - d) describe how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood plan.
18. During my examination I identified a number of gaps and deficiencies in the information provided in the Consultation Report and requested further information for clarification. I have referred to, and attached in the appendix specific instances where the additional information provided has been important to my consideration. I also have some more general concerns about the nature of the consultation process.
19. The first stage of public involvement for the BNP was a household survey which was carried out in April 2013. A questionnaire was sent to over 2750 households and 380 replies were received. The survey form was also available in shops in the area and could be completed online. The questions in the survey related to a very wide range of issues. Some questions invited people to express a preference from a list of options; others were open questions inviting suggestions and opinions. The results of the survey are presented in summary form in BNF 6 and in detail in BNF 13 which is part 4 of the Consultation Statement. The survey was an effective way of eliciting a large body of opinion on many issues and a response rate of almost 14% at this initial stage was encouraging.
20. PPG suggests that the “wider community should be able to make their views known throughout the process and have opportunities to be actively involved in shaping the

emerging plan²". Between the survey and the regulation 14 consultation, public meetings were held on 13 July 2013 and 21 and 26 October 2013. From the information in the Consultation Statement I could not tell what the purpose of these meetings was, how they were publicised and how well attended they were. This information was provided in e mails from Catherine Hughes dated 6 July 2015 (see Appendix sections 1 and 2). The meeting on 13th July was to discuss the results of the survey and was attended by 30 people. Those in October were to discuss the draft plan and were attended by 21 people on 21st and 11 on 26th in addition to members of the Committee. The emerging plan was also sent to regulation 14 consultees in October 2013 as part of what is referred to as a "pre-regulation 14 Consultation" between 20th October and 1st December 2013.

21. The limited attendance at the public meetings in July and October suggests that the level of public engagement in the emerging plan was not strong, particularly considering the strong response to the initial survey. The meeting to discuss the survey was an opportunity to be involved in shaping the plan as required by the guidance. The summary of the survey usefully drew together the issues which emerged from it and it is evident that the policies have been shaped around these issues. However, there appears to be no record of what emerged from that meeting and the draft plan was developed fairly quickly after this. It is therefore not at all clear that there was any real engagement of the wider community in the development of the policies. While there are no specific requirements on the steps to be taken at different stages of plan preparation, many qualifying bodies have made effective use of a more discursive and inclusive process, engaging different groups within the community in the development of the plan. Such a process allows the ideas and issues to be explored more fully and allows those who participate in it to understand more fully what the intentions of the Plan are, what the limitations are and what alternatives have been considered.
22. In this instance the transition between the survey and the Plan was quite rapid and, while there were public meetings at two different stages, a relatively small number of people were involved in developing the policies of the Plan. In my view the absence of wider involvement in the formative stage meant that the consultation process as a whole was much less effective than it could have been. It may be argued that the wider community was given an opportunity to participate that it did not take, but it does not appear to me that these opportunities were presented in way that was likely to draw

² PPG Reference ID: 41-047-20140306

people in. However, the Plan addresses many issues identified at the survey stage as being of concern to the local community and its main focus is on “preserving and enhancing a quality of life that is enjoyed and cherished by those who live in Burpham, through preservation of what is best in Burpham and promoting high quality change and improvement”. Several of the policies will help to secure this aim.

23. The Plan when it appeared was presented with a large volume of information but with little, or in some cases no, explanation of the purpose or justification of the policies, an issue to which I shall return.
24. The next stage of consultation was the formal regulation 14 consultation on the draft plan which took place between 2 June and 14 July 2014. Regulation 14 sets out the requirements for consultation. In particular the qualifying body must-
“a) publicise, in a manner that is likely to bring it to the attention of people who live, work or carry on business in the neighbourhood area-
(i) details of the proposals for a neighbourhood development plan;
(ii) details of where and when the proposals for a neighbourhood development plan may be inspected...”
25. Although the nature of public consultation does not form part of the basic conditions, it falls within the scope of the examination by virtue of paragraph 8 (1) (b) of Schedule 4B to the Town and Country Planning Act.³ My consideration of the Consultation Statement identified two potentially serious problems relating to the conduct of the Regulation 14 Consultation.
26. A letter dated 2 June 2014 was distributed to all the households in Burpham inviting them to comment on the draft plan. BNF 11 which is part 2 of the Consultation Statement purports to include the text of this letter. Recipients were given the choice of viewing the draft plan on the BNF website, having an electronic version of the draft plan sent to them by e mail, or purchasing a hard copy of the Plan at a cost of £30. Requests to purchase were to be sent by e mail and no telephone number is given. This wording was of concern to me as I was not satisfied that it was in a form that would be likely to bring details of the neighbourhood development plan to the attention of people in the area. While a large proportion of the population is computer literate and has access to a computer, the absence of any means of viewing the plan for those

³ Section 38C (5) (b) of the Planning and Compulsory Purchase Act 2004 (as amended under Schedule 9 of the Localism Act 2011, indicates that references to sections 61E(2), 61J and 61L of the Principal Act are to be read as references to provisions by or under Sections 38A and 38B of this Act. Section 38A (8) (g) refers to “regulations as to consultation with and participation by the public”.

without access to a computer, other than by paying £30, would be likely to discourage participation by a significant section of the population, particularly as the only way of obtaining hard copy was apparently requesting it by e mail.

27. The BNF website at <http://burphamneighbourhoodforum.org/page30.html> contains rather different text as it suggests that a hard copy can be viewed or obtained on request by calling 01483 574138.
28. I requested clarification of the reason for the conflict between the wording of the letter in the Consultation Statement and that on the BNF website. The response that I received, reproduced in Appendix section 3 indicates that the version of the letter contained in BNF11 was an error and that the version actually distributed was the one also shown on the website. The response also says that hard copies of the plan were available to view at 1 Bowers Cottages, and at Guildford Library and the reception at the Guildford Borough Council's offices.
29. The letter that was used overcomes my main concern that people without access to a computer or the skill to use one would not have a reasonable opportunity to find out about the plan and comment on it. I remain puzzled as to why this letter did not also state that the Plan could be viewed at Guildford Library and the Borough Council offices.
30. My second major concern related to the requirement to bring the plan to the attention of those who work or do business in the area. A letter was sent to all business owners as part of a pre-regulation 14 consultation in December 2013 but the consultation statement makes no reference to measures to include these groups at the formal regulation 14 consultation stage. It is evident that the number of businesses in Burpham is relatively small and my request for clarification on this point has confirmed that the letter was also sent to businesses in the area, (See Appendix Section 3).
31. Part 1 of the Consultation Statement refers to a public meeting, towards the end of the regulation 14 consultation, held on 5 July. It has been clarified to me that this was a drop in session. It was publicised by means of a flyer, displayed in various places including the shops in the Kingpost and London Road shopping parades and could also have brought the Plan to the attention of businesses. However the text of the flyer (see Appendix section 4) makes no specific reference to the BNF or the purpose of the session, it is simply billed as a Burpham Neighbourhood Forum Drop in Session. The minutes of a meeting of the BNF on 22nd July show that 18 people attended this session. The Drop in session appears to have been something of an afterthought and

the flyer used to publicise it appears very hastily prepared and uninformative as to its purpose. There is no reference to the drop in session in the letter to all households distributed on 2nd June and it is evident from the minutes of the BNF on 30 June 2014 that the format of the session and the arrangements for publicity were only agreed less than a week before the event, when it was agreed that a banner should be prepared. A press item on 4th June helped to make businesses and people who work in the area aware of the plan and the arrangements for viewing it but made no reference to the drop-in session to be held the following day. Despite these deficiencies I acknowledge that the legislation is not explicit on the specific measures that should be taken to publicise the draft plan.

32. I have various other concerns over the nature of the consultation at this stage. There is no reference to the placing of posters or leaflets in a prominent position indicating where and when the draft plan could be inspected. There is also no mention of any measures taken to engage with particular groups of the population, such as young people or the elderly. The material that could be seen on line was a very substantial bundle of documents that would be daunting for those not familiar with the planning process. The main policy document, while relatively short apparently presented the policies in much the same way as the submitted plan with very little in the way of context or justification. There was no clear explanation of the relationship between the neighbourhood plan and the emerging Guildford Borough Local Plan. All of these factors reduced the likelihood of effective public engagement at this stage.
33. Parts 2 and 3 of the Consultation Statement are particularly bulky (160 pages in all) and overlap to a large extent in reproducing the comments received and the response to them in different formats. In spite of this large volume of material, I found them difficult to follow. There is for instance no summary giving how many individuals or consultees responded to the plan but from a quick review of the names of consultees it is evident that the number of different respondents was quite small.
34. In relation to the requirements for the Consultation Statement which are set out in paragraph 16, Parts 2 and 3 go beyond what is required under (b): “summarise the main issues and concerns raised by the persons consulted” but only meet (c) “describe how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood plan” in a very cursory way. The response to comments is very brief and uninformative in many cases, simply stating noted, or amended. In relation to critical comments, particularly from Guildford Borough Council and Martin Grant Homes. There is little or no explanation of why the comments are not

accepted, and responses are defensive, avoiding addressing the main issue. Many comments, particularly from the Borough Council are offered as advice to assist the Plan to meet the basic conditions, but it is frequently discounted or sidestepped.

35. As this is an important point I will give an example. On page 13 of part 2 comments 2.15 and 2.16 from the Borough Council refer to the importance of supporting evidence. Comment 2.15 states

“Policies in the plan are generally not accompanied by adequate supporting text that sets out the evidence; and in some cases no evidence or supporting text is presented at all. We suggest policies need a reasoned justification that clearly sets out the supporting evidence and explains how decisions have been reached. This should include commentary that explains how the policy has been identified”.

The response is: “No specific requirements in legislation to provide supporting text either by length or content, but it is included where it provides additional clarity, not for its own sake.”

Comment 2.16 states:

“The supporting text could include:

- reference to evidence from the community and stakeholder engagement activities: the residents survey, public meetings and workshops, stakeholder engagement activities (including local groups, business service providers, developers etc), consultations etc
- National or local policy and guidance
- reference from external sources
- reference to evidence collected by the forum and presented in appendices”
(my bullet points to clarify).

36. The response given is “Noted”. I will return to the specific issue of supporting evidence later in this report, but this type of response does suggest an intention to keep change to an absolute minimum rather than use the consultation to improve the Plan. The Addendum to BNF 11 does amplify somewhat the response to some of the comments.

37. In part 3 the comments are grouped around particular issues and divided into general comments, supporting comments, contrary comments and other comments. The changes made to the Plan, both in the preparation stage and following the regulation 14 stage are listed, but there is no clear explanation of why some comments are accepted and others not. I recognise the problem of the resources needed to address

many of these issues and have sympathy with the Forum on this point. However it would have been beneficial in my view to have devoted more resources to seriously addressing some of the significant issues raised and rather less to the overlapping detailed recording of comments in two different formats. I am also not satisfied that the response to the comments that were received was as constructive as it could have been.

38. The final stage of Consultation was the publication of the submitted plan in accordance with regulation 16 of the NPR. This consultation took place between 13 March and 15 May 2015. The comments received at this stage have been submitted to me. While I have not referred specifically to all of these comments I have taken them all into account. I note the very strong support for the policies of the Plan from most of the individual members of the public who responded at this stage.
39. After very careful consideration, and on the basis of the material I have received in response to my requests for clarification, I have reached the view that the measures that were taken to publicise the plan at the regulation 14 stage were just sufficient to comply with the regulations. However, I am not satisfied that the whole approach to consultation was fully in accordance with the PPG requirement regarding opportunities for the wider community to be engaged in the process. I have pointed to a number of deficiencies and it is clear to me that the programme of consultation could not be regarded as exemplary and was not as far reaching or effective as it could have been. The reluctance to take on board some of the suggestions made during consultation has consequences for my consideration of individual policies late in this report. I therefore conclude that the process of consultation carried out was adequate but no more and I return to the implications of this in my conclusion.

The Development Plan

40. The statutory development plan is made up of the Saved Policies of the Guildford Borough Local Plan 2003, The Surrey Minerals Plan Core Strategy and Primary Aggregates Development Plan Document 2011 and the Surrey Waste Plan 2008. The South-East Plan was formally revoked in March 2013 but Policy NRM6 relating to the Thames Basin Heaths Special Protection Area was saved. The time horizon of the 2003 Local Plan was 2006 and it thus does not provide a clear strategic context, particularly for the scale of development to be accommodated. The BNP must be in general conformity with the saved policies of the 2003 Local Plan but where there is

any conflict with the National Planning Policy Framework of 2012 (NPPF) the latter will take precedence. The 2003 Plan will eventually be replaced by the emerging Guildford Borough Local Plan. This plan was the subject of consultation in the summer of 2014, but carries little weight as the submission plan has yet to be published. Further consideration of the relationship of the BNP to the emerging Local Plan is contained in paragraphs 47-51.

The Basic Conditions Test

41. I shall consider the compatibility of the Neighbourhood Plan with basic conditions a), b) and c) in relation to each of its policies but will first consider whether it meets European Union obligations.

European Union Obligations

42. A strategic environmental assessment (SEA) screening report, dated May 2014 was undertaken by JBA Consulting who were commissioned by Guildford Borough Council. The report concluded that the plan would not have significant environmental effects and that a SEA was not necessary. However, no formal determination under regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2014 (EAPPR) was made by either the local planning authority or the BNF to confirm this and accordingly the steps set out in regulation 11 of the EAPPR were not initially undertaken. I have no reason to question the conclusions of the report and there has been no suggestion from the consultation bodies or any other parties that a SEA is necessary. Accordingly during my examination I invited the local planning authority to make such a determination and take the necessary steps to publicise it. The determination was made on 24 June 2015 and, in accordance with regulation 11 the consultation bodies were notified and the determination was placed on the Council's website on the same date. I am satisfied that the requirements of the EAPPR have now been met.
43. I appreciate that the standard I have set for publicising this decision is not the same as that for the regulation 14 consultation. However, SEA is a largely technical matter and the notice under regulation 11 of the EAPPR is of a decision that has been taken, rather than a consultation where feedback is requested. In the latter case it is reasonable to expect that more effort would be made to ensure that all members of the public are aware of the opportunity to comment and given the opportunity to do so.

44. No Screening Report has been prepared in relation to the need for an appropriate assessment under the Conservation of Habitats and Species Regulations 2010 (CHSR). The Thames Basin Heaths Special Protection Area (SPA) lies within 2km of the plan boundary, and the Plan area therefore lies within the 5km zone of influence defined in saved policy NRM6 of the South-East Plan where new residential development will not be permitted unless adequate mitigation measures to protect the SPA are identified. However, the nature of the proposals in the BNP and in particular the absence of allocations of land for new development mean that there is no likelihood that they would have a significant effect on the area. The response of Natural England to consultation on the SEA screening report confirms this view and I am satisfied that there is no need for an appropriate assessment under the CHSR.
45. I am also satisfied that nothing in the plan is in conflict with the European Convention on Human Rights.
46. I therefore conclude that the plan is compatible with and does not breach European Union obligations.

The Neighbourhood Plan Development Plan as a whole

47. Before considering the specific policies of the BNP, I shall address some wider considerations relating to the Plan as a whole. The first of these is the relationship of the Plan to the existing development plan, the emerging Guildford borough Local Plan Strategy and Sites (GBLP) and the requirements of the National Planning Policy Framework. In doing so I shall have particular regard to the submissions of Barton Willmore LLP on behalf of Martin Grant Homes. The essence of these submissions is that the BNP does not comply with the basic conditions because it does not take account of the possibility that the GBLP will make a major allocation for mixed development at Gosden Hill Farm. More strongly it is argued that the BNP cannot be legally compliant until the spatial strategy of the GBLP has been established.
48. It is clear from PPG that a neighbourhood plan can be prepared and brought into force before a local plan.⁴ While a neighbourhood plan must be in general conformity with the strategic policies of the development plan in force, it is not tested against the policies in an emerging local plan. This principle has been established by the courts.⁵ However,

⁴ PPG Reference ID: 41-009-20140306

⁵ R (Gladman Developments Ltd) v Aylesbury Vale District Council (CO/3104/2014) 22 July 2014 and BDW Trading Ltd v Chester West And Chester Borough Council (2014)

the NPPF makes it clear in paragraph 184 that “The ambition of the neighbourhood plan should be aligned with the strategic needs and priorities of the wider local area”, and PPG makes it clear that “the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested”.⁶ It follows from this that while a neighbourhood plan can clearly not be required to be in conformity with policies that do not yet exist, it is good practice for the neighbourhood plan to have regard to the evidence base of the emerging plan and for the qualifying body and the local planning authority to work together to minimise conflicts between the policies in the neighbourhood plan and the emerging local plan.

49. Having regard to the requirements of the NPPF and PPG, the almost total absence of reference to the emerging local plan is, to say the least, disappointing. There is a very brief reference in the Introduction and Vision section which states that “Burpham may have to contend with a large new housing development at Gosden Hill that could be allocated for development by Guildford Borough Council”. This rather resentful phrase sits uncomfortably with the requirement to be aligned with strategic needs. Also, Policy: B-T 2c relating to cycle routes refers to the possibility of development in the Green Belt. However, there is no acknowledgement that the objectively assessed need for housing which has been carried out in the preparation of the GBLP indicates that the Local Plan will have to make provision for substantial new housing. Other than the references above there is no clear explanation of the status or possible scale of the Gosden Hill Farm proposal, or of the timescale for the emergence of this plan or the more specific nature of the draft proposals in it for the land at Gosden Hill Farm.
50. I can also see little evidence of effective joint working between the Borough Council and the BNF to consider the relationship between the GBLP and the BNP. While there has been some discussion between the Forum and Martin Grant Homes it does not seem to have led to a constructive working relationship. The impression is given that the plan is inward looking and reluctant to acknowledge the strategic context within which it has been prepared. In my judgement, while this may not directly require changes to the policies of the BNP it means that it is not in compliance with the requirement in the NPPF to “be aligned with the strategic needs and priorities of the wider local area.” If and when it is made the BNP will not stand alone but will be one part of the statutory development plan and it is therefore important that it is presented in a way that acknowledges and reflects this.

⁶ PPG Reference ID: 41-009-20140306

51. To rectify this problem the Plan needs to explain the strategic context and project a less negative tone towards the real possibility of new development and include a section on the strategic context.

Recommendations:

In the Introduction and Vision Statement delete “Burpham may have to contend with” and insert “There is the real possibility of”

In BNF1: Policies insert before the section on Environment Policies a section on the following lines:

Strategic Context

The Burpham Neighbourhood Plan has been prepared in the absence of a clear strategic context and the Guildford Borough Local Plan 2003 only made provision for development needs up to 2006. Provision was then intended to be made through the South East Plan, and now through new Local Plans. It will in due course be replaced by the Guildford Borough Local Plan, which has been progressing while the Burpham Neighbourhood Plan has been being prepared. Regulation 18 consultation on a draft Local Plan took place in the summer of 2014 just after the consultation on the Draft Neighbourhood Plan. The Borough Council is currently considering the need for amendments in response to the consultation and a further iteration of the Plan will be published for consultation in due course. The timescale for the completion and adoption of the Plan is uncertain.

There is no requirement for the Burpham Neighbourhood Plan to comply with the policies of the emerging Local Plan as these policies may change before they are adopted. However the National Planning Policy Framework does require that neighbourhood plans are “*aligned with the strategic needs and policies of the area*” and Planning Practice Guidance does indicate that “*the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.*”

An important role of the Local Plan will be to define the scale of new development that will be required in the Borough of Guildford and to determine where it should be located. It is evident from the consultation draft Strategy and Sites document that a substantial amount of new development will need to be accommodated in the Borough if the Council is to meet its objectively assessed need. The document is based on the provision of 13,040 new homes in the Borough of Guildford between 2011 and 2031, of which just over 5,000 were to be

accommodated in and around Guildford. While this amount may change before the Local Plan is adopted, it is clear that substantial new development would be required to meet needs and this is likely to necessitate new development in the Green Belt.

The Burpham Neighbourhood Plan accepts that substantial allocations for new residential development are likely to be necessary in the Guildford area. Because this would require new allocations that are strategic in nature, and because Burpham is substantially built-up the BNP does not make allocations for new housing development. However, one of the proposed allocations in the draft plan is for large scale new development of about 2000 houses, associated supporting infrastructure and a new employment area in the Gosden Hill Farm area to the east of Merrow Lane. This proposed allocation may also be subject to change, but the Neighbourhood Plan has had regard to the possibility of this development and has tried to address the possible implications of it for the existing community of Burpham. It also makes provision for new small scale development within the Neighbourhood Plan area subject to criteria which will ensure that the essential character of Burpham is not compromised.

52. A further general consideration is the way the Plan is presented. The submission of BNF1 as simply a series of policies means that the reason for the policies and the justification for them is not always clear. In some cases there are clear links to background papers which provide some rationale, such as in the cases of Local Green Spaces and Historic Sites. However, there is often no clear connection between evidence submitted in an appendix and the policy. Information is provided in the appendix but there is no explanation of the significance of this information or why it leads to the particular form of the policy. In other cases the brief notes below the policy in BNF1 provide some support for the policy and in some cases the wording of the policy itself contains some reasoning.
53. As the Forum states there are no specific requirements in the regulations regarding reasoned justification. However, PPG indicates that “Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn on to explain succinctly the intention and rationale of the policies.”⁷ Such justification could include an explanation of what it is intended to achieve and the rationale for it in terms of factual evidence, references to the NPPF and local policies

⁷ Reference ID: 41-040-20140306

and any evidence drawn from public consultation. Without such justification, challenges to the policy may well be successful. This is particularly the case where rigid policies based on particular measurable standards, or the preclusion of certain land uses are proposed. If standards on matters like parking or plot density differ markedly from those used elsewhere, it needs to be clear why they are necessary. Without such justification they are likely to be successfully challenged and therefore cannot be regarded as compliant with the PPG.

54. Guildford Borough Council commented at some length on this aspect of the Plan at the regulation 14 stage and I note from BNF 17 paragraph 7 that this was an issue raised in the health check of the Plan. It is disappointing that the response to these comments has not been more positive as it does mean that I have found it necessary to substantially modify or delete some policies where there is no clear justification.

The Policies of the Burpham Neighbourhood Plan

Policy: B-EN1: Development within the Green Belt

55. This policy simply cross refers to the policies in the NPPF relating to Green Belts which would be applied to all planning applications in any event. In this respect it serves no positive purpose. PPG requires neighbourhood plan policies “to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared”.⁸ Note 1 below the policy in relating the policy to the 2003 Local Plan fails to acknowledge the strategic context which is likely to require some development in the Green Belt, though not necessarily in the Neighbourhood Plan area. The note suggests that the Neighbourhood Plan seeks to resist any allocation in the Green Belt, but this is a matter for the emerging Local Plan.

Recommendation

Delete Policy B-EN1

Policy: B-EN2: Residential Gardens

56. The policy aims to control new development in residential gardens in response to considerable pressure for such development which is perceived as being harmful to the character of the area. The inclusion of a policy of this sort is consistent with paragraph 53 of the NPPF, which could usefully be referred to in the supporting text. While this

⁸ PPG Reference ID 41-041-20140306

paragraph refers specifically to local planning authorities I can see no reason why it should not relate to neighbourhood plans. The wording of the policy simply refers to “back garden development” but it is evident to me that it is intended to apply to the construction of new dwellings in gardens.

57. The policy suggests parameters for the development of new dwellings in residential gardens which would prevent development that would be cramped and would cause harm to the living conditions of the occupants of existing and new dwellings. The reference to a maximum plot coverage of 33% may be a useful guide, but there is no evidence to justify this or any other figure. Appendix 2 which sets out character descriptions of different parts of Burpham makes it clear that existing densities vary significantly and it is therefore unlikely that the application of a single figure will be appropriate. There may be circumstances where a higher plot ratio would be consistent with the character of the area; there may also be cases where a development that covered less than 33% of the plot would be too cramped or harmful to the living conditions of neighbours. It may therefore not be possible or even desirable to maintain this standard. The policy is likely to be more effective, and consistent with the presumption of sustainable development if it defines clear and defensible criteria rather than relying on a rigid and unjustified standard.
58. I also consider that the second half of the final sentence is too prescriptive to be consistent with the presumption in favour of sustainable development in the NPPF. The appropriate positioning of a building on a plot should have regard to a wide range of factors including the visual relationship with existing buildings, aspect and the positioning of windows in existing buildings. There may well be circumstances where, having regard to these factors, the best position is not equidistant from all surrounding properties. For example it may be appropriate for a dwelling or a single storey attached garage to be sited close to a boundary, which is bordered by the wall of a house with no ground floor windows to main rooms, so as to achieve an appropriate distance between dwellings where there would be facing windows on the other side of the plot.

Recommendations

Amend the second paragraph of Policy B-EN2 to read “Individual cases will be assessed on the basis of the character of the area. Any development that exceeds 50% of an existing garden, where the original house floor plan, including garages and out buildings, is left exceeding 33% of the remaining plot size or any new building covers more than 33% of the new plot will need to be clearly justified with reference to the existing character of the area and the effect on living conditions in both the new dwelling and neighbouring dwellings.” Delete

“and must be situated [external wall to external wall] equidistant from all surrounding properties”.

Policy: B-EN 3: Public Open Space

59. There is a significant overlap between this policy and Policy B-EN 4 relating to Local Green Spaces. It is questionable whether it is necessary to duplicate the geographical cover of these designations, but both offer something distinct; B-EN 3 protects public access and Local Green Space designation offers the prospect of long term protection beyond the plan period. There is no reason in terms of the basic conditions why both designations should not be applied to the same areas. However much of the wording of the policy relates to Local Green Spaces; I find that this causes some duplication and confusion and I have recommended changes to overcome this and meet the basic conditions.
60. IN Policy B-EN 3 the policy for the protection of Sutherland Memorial Park and Riverside Nature Reserve is consistent with the basic conditions. However much of the text is in fact background supporting information rather than policy.
61. The designation of Merrow Common as Public Open Space is also in accordance with the basic conditions. Again much of the additional wording is reasoned justification rather than policy and should be separated from it. The statement that “any attempt to modify this area in any way is strongly opposed by this Plan” is too rigid to be consistent with the presumption in favour of sustainable development. There may for instance be minor changes associated with the ongoing management of the woodland or measures to assist public accessibility which would be entirely consistent with the status as public open space. The text relating to Merrow Common Local Green Space and to Local Green Spaces generally is not relevant under this policy and I have considered it under Policy B-EN4.

Recommendations:

Reword Policy B-EN3 to read

“The following areas will be protected as Public Open spaces. They are also designated as Local Green Spaces (see Policy B-EN 4):

Sutherland Memorial Park – permission will be granted for a covered recreational facility that complements the existing character and use of the park within the footprint of existing buildings;

Riverside Nature Reserve

Merrow Common

In these areas development will only be permitted where it complements their existing role and character as public open spaces.”

Move the remaining text under these three headings to the status of supporting text in the format used in the rest of the Plan i.e. Note 1 Sutherland Memorial Park, Note 2 Riverside Nature Reserve and Note 3 Merrow Common.

In the section under Merrow Common delete “Any attempt to modify this area in any way is strongly opposed by this Plan”

Delete the remaining wording from “Merrow Common Local Green Space” onwards.

Policy: B-EN 4: Local Green Spaces

62. The power to designate Local Green Spaces is an important opportunity for neighbourhood plans and it enables communities to identify areas of special significance to them and to secure their future. These spaces are subject to very tight control on new development, comparable to that in Green Belts, and the designation is likely to endure beyond the life of the neighbourhood plan. The Burpham Neighbourhood Plan has taken full advantage of this opportunity and proposes the designation of 35 different areas as Local Green Spaces.
63. The NPPF in identifying this potential points out that Local Green Space will not be appropriate for most green areas or open space and should only be used:
- where the green space is in reasonably close proximity to the community it serves;
 - where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
 - where the green area concerned is local in character and is not an extensive tract of land. I have considered each of the proposed Local Green Spaces against these criteria. While I acknowledge the importance of local discretion in the application of these criteria, the need for areas to be “demonstrably special” is important.
64. BNF 4: Appendix 3 presents each of the proposed Local Green Spaces and helpfully groups them into five different categories and I shall consider them accordingly. It also presents supporting information to justify the proposals in relation to the NPPF criteria. The map which shows all the Local Green Spaces both in Appendix 1 Maps and Appendix 3 is somewhat unclear as the numbers of the spaces are not clearly legible and in some cases the boundaries are indistinct or ill-defined.

65. The first category is headed “**Woodland for longer than living memory**”. Sites 2,3,4 and 5 all form part of Merrow Common and flank Merrow Lane which is a quiet road along the eastern boundary of the settlement. These sites are already in the Green Belt and consideration should therefore be given to whether any additional benefit would be gained by Local Green Space designation.⁹ There is no doubt that the woodland along both sides of the road lends it a special character which helps to define this part of Burpham and is effectively summed up by the description of “The Green Cathedral”. This character is distinct from the more general and less local nature of Green Belt designation. The largest area is site 4 which is a triangular area of woodland, bounded by Merrow Lane, New Inn Lane and the rear of properties in Gosden Hill Road. This is an area of mature woodland and there is evidence from footpaths through the site of public access. In the drawing in on page 7 of Appendix 3 site 4 seems to be separated from a narrow strip of land to the rear of Gosden Hill Road but I understand that this division relates to Tree Preservation Area Notices and the two areas together make up site 4. Area 5 is a smaller triangle of dense woodland between New Inn Lane and the railway line, where I could see scarcely any sign of public use. Areas 2 and 3 are narrow strips of woodland on the eastern side of Merrow Lane which contain several very impressive trees.
66. Taken individually I accept that it could be argued as Barton Willmore (on behalf of Martin Grant Homes) have, that sites 2 and 3 do not clearly meet the criteria for Local Green Spaces. As relatively narrow bands of woodland they have little potential for public use. However taken together these four areas do define the character of this part of Burpham and without the trees on both sides of the road creating the canopy over the road something special would be lost. This area of green is close to the community and, while not small it could not be described as an extensive tract of land.
67. There is no evidence before me to suggest that the designation of these areas as Local Green Spaces is not capable of enduring beyond the plan period. This woodland has been in place for a long time and some of it has a designation as ancient woodland. It does not prejudice any firm development plans. It is not possible to speculate on how the planning context might change in the future, but Barton Willmore’s comments suggest that if the Godson Hill proposals do come to fruition the intention is to retain important and high value vegetation. I am satisfied that the designation of areas 2, 3, 4 and 5 as Local Green Spaces is appropriate. I found the presentation of these areas in BNF 4: Appendix 3, confusing and have recommended some alterations to clarify this.

⁹ PPG Reference ID: 37-010-20140306

68. The wording relating to Merrow Common Local Green Space, which I have suggested should be deleted from Policy B-EN 3, relates to all of these areas and to Area 1 in Appendix 3, which is included in a category headed “wildlife corridors”. I shall consider the merits of area 1 as a Local Green Space under that heading. I have already expressed concern with the suggested wording for the Merrow Common area that “any attempt to modify this area in any way is strongly opposed by this plan”. This is a much more restrictive policy than applies to Green Belts and the policy for Local Green Spaces should be consistent with the policy for Green Belts.¹⁰ Similarly, the wording “in perpetuity” is also much stronger than the requirement to be capable of enduring beyond the plan period. I therefore do not accept that there is a justification for a stronger policy to apply to the Merrow Common Local Green Space than to others.
69. The other area of woodland suggested as a Local Green Space is site 28, known as The Copse, a roughly triangular area of woodland lying between the Sainsbury’s supermarket and the Weybrook Estate. This provides several attractive convenient pedestrian routes between residential areas and the supermarket, schools and the facilities on the Sutherland Memorial Park and brings a rural character into the town. It is entirely appropriate for designation as a Local Green Space.
70. The second category is headed **Playing Fields and Recreational Green Space**. The first of these is Sutherland Memorial Park, already considered in Policy B EN-3. This is a large park in a central position in Burpham which offers a very wide range of uses. There are facilities for cricket, football, tennis and bowls as well as a children’s play area. It also contains the village hall. This is clearly a facility of prime importance to the community of Burpham and it meets the criteria for a Local Green Space.
71. The other site in this category is the George Abbott School off site playing field (site 33). This is an enclosed area of playing field, apparently solely for school use, to which there is no public access. While it provides a green space separating residential areas, I am not satisfied that it meets the requirement in the NPPF of being demonstrably special or having a particular local significance. It is quite simply a school playing field. I therefore do not consider that it can be designated as a Local Green Space.
72. The third category of Local Green Spaces is headed **Natural Green Space**. The first of these is Weylea Meadow (site 18) which is an area of informal grassland, traversed by footpaths between the Weylea Farm /Manston Road estates and the narrow strip of

¹⁰ NPPF paragraph 78

woodland bordering the A3 trunk road. It provides a green lung with a very distinctive character and is obviously well used. I am quite satisfied that Local Green Space designation is appropriate for this area.

73. Site 20 links to site 18 and is a narrower strip of land providing a pedestrian link along the narrow space between the residential area and woodland bordering the A3, widening into a roughly square area of wild grassland at the southern end. The pedestrian route provided extends beyond the plan area to the rear of the Abbotswood development. The value of this space is inseparable from that of site 18 as it is all part of the same buffer between the built up area and the A3 and is clearly a facility of a special character and well used by the community. It's designation as a Local Green Space is consistent with the basic conditions.
74. Site 21 The Wey Navigation lies on the west side of the A3 and is a long fairly narrow strip known as the Riverside Nature Reserve. It is served by a small car park at the northern end. While somewhat separated from the built up area the area is clearly well used and can be regarded as being in "reasonably close proximity to the community it serves". It is also a very attractive location which has a special significance both in terms of its recreational value and as a habitat. It therefore satisfies the criteria for designation as a Local Green Space.
75. The 4th category of Local Green Spaces is **Wildlife Corridors**. The first of these is Site 1 Land adjacent to Merrow Lane and lies to the north of sites 2 and 3 on the east side of Merrow Lane which form part of Merrow Common and lies in the Green Belt. This strip of land is quite narrow and comprises an intermittent hedge with some trees. Beyond it lies agricultural land and the site defined in the drawing in Appendix 3 is much wider than the hedging for much of the site. No doubt this land provides a valuable habitat in common with most hedges and uncultivated areas, and I note that its significance is referred to in terms of its future potential as a wildlife transit zone as it matures. However, the NPPF makes it clear that Local Green Space designation will not be appropriate for most green areas and I am not persuaded that it is sufficiently distinctive or demonstrably special to warrant designation as a Local Green Space.
76. Similar considerations apply to the other sites within this category, Nos 19,22,23,24,25,26 and 27 which are all land bordering the A3. These areas are not publicly accessible and together they make up a corridor over 2km long along the northern and western side of the built up area. All of them except Nos. 19 and 27 are in the Green Belt and thus already enjoy protection. The intention of the Local Green Space designation is to enable the retention of a limited number of special spaces for

the benefit of the community. These areas of land are essentially narrow strips of land with no special character and are extensive in terms of their length. In my judgement there is no strong local reason for their designation as Local Green Spaces.

77. The final category of Local Green Spaces is **small urban green space**. These are relatively small areas mainly within established residential areas. The first of these is Merrow Stream and its adjacent footpaths and green 'patchwork', which is unnumbered and not shown on the map of Local Green Spaces. I saw that the stream and the green space associated with it is an attractive and distinctive feature running through the Weybrook Estate to the north of The Copse. It offers an important lung within an intensely built up area. I am satisfied that it meets the criteria for a Local Green Space, but for designation to be enforceable the area needs to be clearly defined on a map.
78. Sites 6, 7, 8 and 9 are rectangular areas of grassland on the south side of New Inn Lane. They provide informal recreation space for the housing to the south and ease the transition from the rural woodland character of the eastern part of New Inn Lane to the more built-up character on the approach to London Road. They provide a distinctive feature that merits the Local Green Space designation.
79. Sites 10, 11, 12, 13 and 14 are amenity areas within the Burnett Avenue / Charlock Way area. Sites 10 and 11 are notable in providing a spacious character to the development and incorporate some particularly fine mature trees. I am satisfied that they are appropriate for designation as Local Green Spaces. Sites 12, 13 and 14 are smaller, less distinctive and fairly typical of the relatively small amenity areas to be found in housing estates. I am not satisfied that they meet the requirement of being demonstrably special, and therefore are not appropriate for Local Green Space designation, but there is no reason to believe that they will not continue to enjoy protection as amenity areas within a residential area.
80. Sites 15,16 and 17 are a linked series of spaces which provide relaxing green spaces and useful pedestrian routes between different parts of the Weylea Farm development. While individually unremarkable collectively they are an important part of this otherwise quite intensely built up area and thus justify designation as effectively one Local Green Space.
81. Sites 30 and 31 are two significant areas of open space with the Glendale Drive / Gosden Hill Road development. Site 30, Upfolds Green is a particularly spacious area creating the character of an urban square with several mature trees. It is an essential element of the design concept for this development providing a valuable amenity within

this fairly large area of residential development. I am satisfied that it meets the criteria for designation as a Local Green Space. Site 31 is a smaller roughly square area of amenity space situated to the rear of dwellings in Upfolds Green, Glendale Drive and Gosden Hill Road and to the rear of a garage block on the south side. While no doubt a valuable amenity space it is not in a prominent location and has no special defining qualities. It is also close to the much larger and more significant area of Upfolds Green. I find that it is not demonstrably special or with a particular local significance to justify the long term designation as a Local Green Space.

82. The final proposed Local Green Space, site 34, is a grassed area with several mature trees set behind a wall on the west side of London Road where it passes the Weylea Farm¹¹ development. This is a high quality space of a distinct character which clearly makes a special contribution to the environment of Burpham and entirely appropriate as a Local Green Space.
83. The conclusions I have reached on Local Green Spaces mean that I need to recommend a number of modifications.

Recommendations

Reword Policy B-EN 4 to read: “The areas identified in Appendix 3 (which forms part of this policy) are designated as Local Green Spaces. Proposals for built development on Local Green Spaces will not be permitted unless it can clearly be demonstrated that it is consistent with the role and function of that Local Green Space. (Delete all other existing wording).

In the list of Local Green Spaces in Appendix 3 delete sites 12, 13 and 14:

Charlock Greens, 31: Glendale Playground and 33: George Abbot School off site playing field, site 1 Land adjacent to Merrow Lane and sites 19, 22, 23,24,25,26 and 27 Land bordering the A3.

In the section relating to Merrow Stream give Merrow Stream a number and include a map showing the area to be defined as Local Green Space, the same number can apply to all the space so defined even though the area may not be continuous.

On page 6 of Appendix 3 alter the heading to “Site 4 Merrow Common” (i.e. delete the s from sites)”. After the first paragraph add “This area together with Sites 3 and 5 is covered by a Tree Preservation Order (13th September 1949) and the whole Merrow Common Area was designated as a Site of Nature Conservation

¹¹ In the supporting text there is some confusion of the spelling of Weylea as Waylea is also used. I have assumed that Weylea is the correct spelling.

Importance in 2007". Delete the section on page 7 headed Sites 4 & 5, but, below the photographs in the section on Site 4, insert a larger scale and more legible map showing Site 4 but excluding the line dividing the main part of Site 4 from the narrow strip to the west which runs along the rear of the houses in Gosden Hill Road. Also exclude from the map the references to the Tree Preservation Order as they are confusing.

Reproduce the map showing Local Green Spaces in both Appendix 1 and Appendix 3 at a larger scale so that the numbers and the areas to which they relate are legible and the Local Green Spaces which are not accepted are deleted.

Policy B-EN5: Historic Environment

84. This policy aims to protect the historic heritage of Burpham. Although most of the development in the plan area is relatively modern and architecturally unremarkable, there is a surprisingly rich historic heritage and it is entirely appropriate that the Plan should seek to protect it. However, the policy is worded in rather more rigid terms than that in the National Planning Policy Framework. The latter attaches high priority to the protection of heritage assets and very high priority to the protection of the highest quality assets. However in all cases the NPPF allows for a proportionate approach where the harm to a heritage asset is weighed against the public benefits of the development. The bar is set very high for the total loss of an asset and it would be exceptional to allow the loss of a Grade II Listed building. However a policy which proposes an absolute bar on the loss of or damage to any heritage asset is not consistent with this proportionate approach. Accordingly some re-wording of the policy is necessary. This should not be seen as a weakening of the policy as it ensures that appropriate weight is attached to the protection of the asset as required in any event by national policy.
85. I found some difficulty in cross referencing between the policies document and BNF-8, and between the text and maps in BNF-8. Sutherland Memorial Park is not listed in BNF-8, and some of the assets appear to be named differently in BNF-8 than in Policy B-EN5. Also it is not always clear in either document what the status of the asset is. I have therefore recommended modifications which will clarify this.

Recommendations

Reword the first section of Policy B-EN5 to read "Planning permission will not be granted for development that would result in the loss of or damage to the heritage assets in BNF-8 or their settings, unless the loss is clearly outweighed by the public benefit that would result from the development" The rest of the policy from "of particular ..." onwards to read as at present except that for each of the listed

assets the cross reference number to BNF-8 should be included.

In BNF-8 ensure that all the assets listed are located on the map. (From my reading the assets listed on the contents page from 14275 to 15973 and nos 16013 and 16132 are not shown on the map).

Add an additional Note 2 below the policy “This policy allows for the proportionate approach to the protection of heritage assets set out in the NPPF paragraphs 128-141.

Policy B-EN 6: Adapting to and Mitigating Climate Change

86. This policy seeks to ensure that new development is sustainable by mitigating the effects of climate change. The policy has effectively been overtaken by the conclusions of the Housing Standards Review announced in the ministerial statement of 25 March 2015.¹² As a result of this standards for energy use and several other aspects of new dwellings have been standardised. The first four criteria set out in policy B-EN 6 are not specific standards and thus do not conflict directly with the new standards but they are expressed in such general terms that they are not easily enforceable and do not meet the requirement to be “precise and supported by appropriate evidence”. However, to introduce more precision would be likely to bring them into conflict with the ministerial statement. The fifth bullet point relating to Sustainable Drainage Systems can be effectively included in Policy B-FD 5 and the last bullet point relating to solar energy adds little to provisions of permitted development.

Recommendation

Delete Policy B-EN 6 and transfer the fifth bullet point to Policy B-FD 5.

Policy B-FD1: General Development Standards

87. This policy sets out criteria to be met by all new development. The aim is to achieve high quality design and to at least maintain the character of the area in which the development lies. I find the policy consistent with the basic conditions for the most part, but the 6th bullet point is too prescriptive to be consistent with the approach set out in paragraphs 59 and 60 of the NPPF. It is unreasonable to preclude a building that is higher than its neighbour without having regard to how much higher it is and how far it is

¹² Planning Update March 2015, Ministerial Statement, section headed Plan Making. “local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings.

from its neighbour. Variations in height can add interest to a design and need not be harmful to the character and appearance of an area. Similarly I regard it as too prescriptive to preclude any development higher than three habitable stories. The need to respect the height of neighbouring development can be recognised by a minor change to the 5th bullet point. There also appear to be two small errors in the current wording of the policy.

88. The note which follows the policy is phrased in very subjective terms and does not amount to a reasoned justification of the policy particularly as it relates primarily to density which is not specifically the subject of this policy. The harmful effects listed are not an inevitable consequence of three storey buildings. In this instance the other criteria listed do not require explicit justification as the purpose of them is self explanatory.

Recommendations

In the third line of policy B-FD1 after “Proposals” insert “for new development,”.

In the 5th bullet point insert “, height” after “...scale” and delete the 6th bullet point.

In the last bullet point correct the spelling of “vernacular”.

Delete Note 1 and replace with justification relating the policy to the design requirements of the NPPF on the lines of “Public consultation has highlighted the importance of maintaining the character of the different parts of Burpham and not introducing development that undermines this. The policy aims to ensure that new development respects local distinctiveness in accordance with the NPPF, paragraph 55”.

Policy: B-FD 2 Dwelling Density and Land Use

89. The policy seeks to define standards for plot density, amenity space for flats and space for refuse storage / recycling in fairly rigid terms without any clear justification for the standards chosen. The limit of 33% plot coverage for new development may well be a useful guideline, but is unlikely to be universally applicable. In some areas plot coverage of less than this may well appear inappropriately crowded; in others a somewhat higher figure may be acceptable. Without reference to an evidence base and the character of different areas it would be inappropriate for me to suggest alternative standards as it would lack clear justification.
90. The standards suggested for private outdoor amenity space for flats are clearly too stringent to be enforceable. In many cases private outdoor space for flats is best

provided in the form of a balcony and it would be impractical and undesirable in terms of the appearance of the building for this to be equivalent to half the internal floor area. While it may be possible to provide private outdoor space for ground floor flats that relates well to the building for flats, on higher floors the provision of private outdoor space other than a balcony may not be feasible or necessary. Again while I could suggest alternative standards it would be inappropriate for me to do so without researching the issue and being able to explain why particular standards have been selected. There is no reason to link the level of communal open space for flats to internal floor area, as arguably a more spacious flat has less need of external communal space.

Recommendation

Delete Policy B-FD 2.

Policy : B- FD 3: Dwelling Mix

91. The policy aims to ensure that where new dwellings are provided there should be a mix of sizes. The wording of the policy suggests that new dwelling types should reflect the demographic composition of the Neighbourhood Plan area. The policy partly reflects the requirements of the first paragraph of paragraph 50 of the NPPF, but this also suggests that future demographic trends should be taken into account. It also suggests that local authorities should identify the size, type and tenure of housing that is required reflecting local demand. The link between the policy and the table which shows both the demographic structure and the applicants for social housing is not clear, particularly as the policy makes no reference to the provision of social housing. Rewording of the policy to require the mix of dwellings to reflect the needs identified by the local planning authority and to recognise the need for social housing would ensure conformity with the basic conditions.
92. The policy also suggests that 10% of dwellings in developments of 10 or more dwellings should be 1 bedroom and 10% two bedroom. This suggests no more and no less than 10% which is unreasonably inflexible to be consistent with the presumption in favour of sustainable development. As the policy suggests the appropriate dwelling mix will be influenced by the character of the area as well as housing needs and in some developments it may well not be appropriate to require 10% of the dwellings to be 1 bedroom. In other areas a much higher percentage may be appropriate.

Recommendations:

Reword Policy B-FD 3 from "...Neighbourhood Plan area" to read "the needs identified in the most up to date assessment of housing need by the local

planning authority and the character of that part of Burpham as set out in Appendix 2 (part of this policy). New developments will include social housing in accordance with the policies of Guildford Borough Council.”

Delete the last two lines of the policy.

Policy: B-FD 4: Improvements to General Infrastructure

93. This is a wide ranging policy which aims to ensure that when new development takes place any necessary improvements to infrastructure take place at the right time. The intentions of the policy are sound, but the wording is somewhat imprecise and does not distinguish between on site infrastructure that would form an integral part of a new development such as on site roads and footpaths and improvements to offsite infrastructure which are necessitated by the development such as off site road improvements or contributions to the provision of essential services. This distinction is necessary as the mechanisms for the delivery differ depending on the type of infrastructure involved. On site infrastructure would normally be secured by planning conditions, but off site improvements or contributions would normally be secured through a section 106 agreement or, where it is in operation, the Community Infrastructure Levy. Section 106 agreements must comply with strict requirements and relate to infrastructure that is:

- necessary to make the development acceptable in planning terms;
- directly related to the development and
- fairly and reasonably related in scale and kind to the development.

The introduction of the Community Infrastructure Levy (CIL) will introduce a standard infrastructure charge for new development. It also offers an opportunity to communities with a neighbourhood plan in place as 25% of the revenues from the CIL will be available to the community for improvements to their area. Unfortunately, however, the CIL has not been introduced in Guildford and there are no immediate plans to do so. From April 2015 there have been limitations on the potential to pool receipts from section 106 agreements relating to more than 5 separate developments to provide infrastructure improvements. This will limit the ability to provide improvements to services such as education and health until CIL is introduced.

94. All of the considerations above will limit the effectiveness of this policy and I have some reservations as to whether it will result in any definite change to development control practices already in operation. However, I have recommended some modifications to clarify the ways in which the policy will be implemented and enable the policy to meet the basic conditions. The reasons for individual modifications are given in footnotes.

Recommendations

Reword Policy B-FD 4 to read “New developments will be required to provide or contribute to infrastructure requirements that are related to them. Such improvements may¹³ include:

- **infrastructure that is required as an integral part of the development such as roads, pavements (including appropriate provision for people with disabilities) and essential utilities will be secured by the imposition of planning conditions that will require provision prior to the occupation of the relevant phase of development.**¹⁴
- **where new development would generate noise that would give rise to significant adverse impacts on health and quality of life, or would be adversely effected by existing noise sources, such as the A3 trunk road, appropriate measures to mitigate the harm will be required.**¹⁵
- **off site infrastructure such as highway improvements to mitigate congestion or harm to road safety, or the provision of essential services such as health and education will be secured through section 106 agreements in accordance with the legal tests or through the Community Infrastructure Levy when it is introduced.**

Policy B-FD 5: Water Supply and Sewerage Infrastructure

95. The policy aims to ensure that development does not go ahead unless appropriate requirements for water related infrastructure have been met and flood risk has been properly taken into account. BNF 7: Appendix 6 sets out in some detail the nature of the flood risk in Burpham and it is clearly an issue of considerable local concern. Planning Practice Guidance sets out the approach to flood risk and new development.¹⁶ Development would need to comply with the requirements of this guidance and it would be helpful for the policy to refer to this. Minor changes to make the policy enforceable and to include the reference to Sustainable Drainage Systems are recommended.

¹³ “may” replaces “must” as this implied that all developments would need to provide all the types of infrastructure listed which is clearly not the intention.

¹⁴ In the case of phased developments it may not be reasonable or practicable to require all infrastructure to be complete before any dwelling is occupied.

¹⁵ NPPF paragraph 123 recognises that some noise is acceptable and refers in particular to “significant adverse impacts”

¹⁶ Planning Practice Guidance

Recommendations

In the first two bullet points of Policy B-FD 5 replace “can” with “will”.

Reword the third bullet point to read “the development can be justified having regard to appropriate flood risk assessments and application of the sequential test in accordance with Planning Practice Guidance”

Add an additional bullet point “The surface water drainage requirements of the development will be met using best practice in Sustainable Drainage Systems where appropriate.

Policy B-FD 6: Green Man Site/Aldi Site

96. The policy identifies alternative commercial, community or residential uses for the site currently being developed for an Aldi supermarket. While it is evident that there was considerable local opposition to this development the planning permission has established a retail use for the site and thus changes of use to other retail uses would be permitted development. However, while the chances of the site becoming available for alternative uses during the plan period may be low, the policy would only come into effect in this eventuality and it satisfies the basic conditions.

Policy: B-EMP 1: Home Working

97. The policy encourages home working and is compliant with the basic conditions.

Policy: B-EMP2: Shopping Parades

98. The policy aims to: maintain the vitality and character of the Kingpost and London Road Parades by resisting changes of use that would result in the loss of Use Class A, D1 or D2 uses, to prevent the establishment of betting and pay day loan shops and allow for further retail development on the Sainsbury’s supermarket site.
99. At present the wording of the policy appears to imply that the loss of a Class D use would not be acceptable even if it was replaced by a Class A use. It has been confirmed to me that this is not the intention. I have therefore suggested rewording to indicate that Class A uses are preferred; where these cannot be found the next priority is Class D and other uses will then only be acceptable after a period of marketing. The requirement for premises to be vacant and marketed for 18 months is unduly long and not in the interests of sustainable development as it could lead to an extended loss of vitality within the shopping parades which would have a knock on effect on other units. I

have suggested a shorter but still significant period, on the basis that marketing for an alternative use could be expected to start before the original use finishes.

100. The policy to prevent betting and pay day loan shops would not have been enforceable when the plan was submitted as use changes within Class A2 would have been permitted development. Changes to the Use Classes Order introduced in March 2015 made these separate uses. Thus changes of use to them would require planning permission. However, no clear reason for this element of the policy has been given and it is my understanding that the primary reason for the change in the Use Classes Order was to prevent the proliferation of these uses. They remain legitimate uses which would normally be found within a retail environment and without a clear justification for precluding them this aspect of the policy is not consistent with the presumption in favour of sustainable development.
101. The proposal to allow further retail development on the Sainsburys site needs to be considered in the context of the preference for town centre uses to be located in town centres set out in the NPPF, and the policy therefore needs to refer to the need for a sequential test.

Recommendations

Reword the first part of Policy B-EMP2 as follows

“Class A uses will be retained wherever possible on the ground floor of the Kingpost and London Road shopping parades and changes of use to Class A uses will be permitted. Proposals for change of use from Class A to Class D1 or D2 will be permitted where it can be demonstrated that the premises have been marketed unsuccessfully for a class A use for a continuous period of 6 months. Proposals for changes of Use from Classes A, D1 or D2 uses to other uses will only be permitted if it can be demonstrated that the premises have not been in active authorised use for at least 6 months and the premises have no potential for either re-occupation for Class A, D1 or D2 uses as demonstrated through the results of both a full valuation report and a marketing campaign, lasting for a continuous period of 9 months. Such information must be submitted as part of any planning application”.

Delete “in addition betting and payday loan shops are not acceptable.

In the final section of the policy after “...development on this site” insert “subject to the application of a sequential test in accordance with paragraph 24 of the NPPF and Planning Practice Guidance,” and retain the remaining wording.

Policy: B-EMP 3: Business Accommodation

102. The policy aims to retain premises currently in business use and to support new business uses subject to them meeting certain criteria. It is consistent with the NPPF requirement that planning “should pro-actively drive and support sustainable economic development”.¹⁷ However the points made with regard to the period for which the property must be vacant and marketed in relation to Policy B-EMP 2 are also applicable here. Otherwise the policy is consistent with the basic conditions subject to minor modifications to correct errors and clarify the intention.

Recommendations

In the first section of Policy: B-EMP 3 delete the second sentence and insert “Proposals for alternative uses must be accompanied by marketing information to demonstrate that the premises have not been in active use for at least 6 months and have been actively and prominently marketed for Class B use for 9 months prior to any application for change of use or re-development.

Remove the bullet point format for the section which reads “New business development on land ... the following criteria” as it is an integral part of the policy introducing the next three bullet points which are subordinate to it and should retain bullet point format.

Insert “not” into the second bullet point between “...would have” and “unacceptable”.

Policy B-T1: Parking Standards

103. The amount of on street parking and its effect on congestion and traffic flow is an issue that was referred to extensively in the residents’ survey. This policy aims to ensure that new development provides sufficient off street parking to avoid exacerbating this problem. It also sets out rigorous standards for the provision of cycle storage space. There are objections from Surrey County Council and others that the standards require more off street parking than the county guidelines suggest and that they are too onerous. However, the County Council’s standards indicate that they should be applied flexibly and that in some circumstances a higher level of provision may be required. They do not form part of the development plan and there is no requirement for the neighbourhood plan policy to be in general conformity with them.

¹⁷ NPPF paragraph 17 3rd bullet point

104. The NPPF in paragraph 39 suggests parking standards should take several factors into account including car ownership levels and it is evident that in Burpham there is a high rate of car ownership and that on street parking is a particular problem in some places. The car parking standards proposed are also not exceptionally high. For these reasons I consider that the parking standards are consistent with the basic conditions but the reasoning in note 1 needs to be expanded to present the relevance of car ownership levels in Burpham.
105. The provision of a high level of cycle storage space is a means of encouraging the use of cycles as an alternative means of transport. However, the suggested level of provision is very high and in some circumstances where development is of a relatively high density or in a location where facilities and services are easily accessible on foot it may be considered too high to be consistent with the presumption in favour of sustainable development. The standard appears to be based on provision of cycle storage at the rate of one space per person which assumes almost 100% use of cycles. This is evidently not the case and I am also not satisfied that the aim of encouraging family trips with cycles is a sufficient reason for the very high level of provision suggested. While it may be appropriate to encourage cycling there is no evidence to justify the application of this standard as it would almost certainly result in a large amount of unnecessary cycle storage. Moreover, in those instances where there is a need for more cycle storage than is provided under existing standards it would normally be possible for the occupier to make arrangements for this.

Recommendation

In Policy B-T 1: delete “Houses, other than sheltered accommodation and studio apartmentsmethod of transport” and the specific cycle storage space standards which follow.

In Note 1 at the end of the first sentence insert “..and the high level of car ownership” to meet the requirement for proportionate justification.

Delete note 2.

Policy: B-T 2c: Cycle Routes

106. The Policy aims to ensure that new development contributes to the improvement of cycle routes and in particular that new development in the Green Belt makes provision for two new cycle routes, one on the old line of London Road to the east of the existing one between the junction with Merrow Lane and the Great Oaks Park roundabout and the other on the west side of London Road running north eastwards to the exit from the A3. In its present form the policy is not acceptable as it states that proposals “must”

provide these cycle paths, but the scale and form of the development proposals is not known and it is therefore not possible to be clear that the proposed cycle routes would meet the requirements for s106 agreements which were outlined in paragraph 93, or that the routes identified are necessarily the right ones. Indeed this uncertainty is acknowledged in the following sentence which points to alternative proposals, thus itself undermining the use of the word 'must'.

Recommendation

In Policy B-T 2c Delete the second sentence as these standards have been deleted from Policy B-T 1. Amend the third sentence after “ current development line of Burpham” to read “improvements to cycle routes to link the new development with the existing community will be sought through s106 agreement(s) in accordance with the conditions set out in the NPPF. Delete the 4th sentence.

Note 2 is phrased as a policy and should be moved into the policy box as a new 4th sentence, without the introduction as Note 2.”

Policy B-T 2f: Footpaths

107. The policy supports the provision of footpaths and joint cycle/foot paths separate from existing road space where possible. The policy is consistent with the basic conditions.

Policy B-C 1: Enhancing Community Facilities

108. This policy aims to prevent the loss of community facilities and support the provision of new or improved facilities. It is not clear what uses would be included under this heading, but if it is intended to include uses such as casinos the heading could usefully be expanded to include leisure facilities. While the aim is understandable, the policy is strongly worded and does not allow for specific circumstances where such a loss would be justified in the interests of sustainable development. In many instances a decision to close a community facility may not be a planning matter and it would not be justifiable to protect a site for community uses if there was no evidence of any need or demand. I have therefore suggested modifications to address this concern. Otherwise the policy is consistent with the basic conditions but there appears to be an inverted comma at the end of the first sentence where there should be a full stop.
109. Note 1 to the Policy excludes Casinos from the neighbourhood plan area. This note is phrased as a policy and would need to be presented as such if it was allowable. However, there is no clear justification for the policy. While the note says the use would be out of character it does not say why.

Recommendations

Change the heading for Policy B-C 1 to Community and Leisure facilities and in the notes list the types of use that would be included under this heading.

In the first line of the policy after “...supported” add “unless:

- **It can be demonstrated that there is no need or demand for the facility because the premises have not been in an active leisure or community use for at least 6 months and have been actively and prominently marketed for such uses for a continuous period of 9 months or**
- **the proposal includes suitable replacement provision.**

Delete Note 1.

Aspirational Policies

110. A further 7 policies are included at the end of the plan relating to matters outside the Neighbourhood Plan Area or not relating to land use. These policies are clearly detached from the main policies and will not form part of the development plan. This needs to be clearly stated. Because of this the policies will carry little weight, but there is no reason why these aspirations should not be expressed. In some cases they may well not be deliverable but as untested aspirations they are acceptable.

Recommendation

At the end of the introduction to the aspirational policies add “These Policies will not form part of the statutory development plan.”

Summary and Referendum

111. The preparation of a neighbourhood plan is a major undertaking. It is particularly so where it is for part of a large town where there is not an existing parish council to undertake it and it therefore also requires the establishment of a neighbourhood forum. To take on this task demonstrates a very high level of motivation to shape the future of Burpham.
112. I recognise that a huge amount of work by a relatively small number of people has gone into bringing the BNP to this stage. The Plan addresses many issues of concern to the local community and its main focus is on “preserving and enhancing a quality of life that is enjoyed and cherished by those who live in Burpham, through preservation of what is best in Burpham and promoting high quality change and improvement”. Several of the

policies will help to secure this aim. However, in preparing the Plan the Forum has not always had sufficient regard to some of the important requirements for neighbourhood plans as set out in national policy and guidance. I do have some serious concerns about some aspects of the Plan and its supporting documentation and I realise that some, possibly many of the conclusions that I have reached will not be welcome.

113. The context for the Plan has not been easy as the Guildford Local Plan is still at a relatively early stage of preparation. It is evident that this plan will have to make provision for a large amount of residential development and that this may well include new housing on a large scale in the Green Belt adjacent to Burpham. I understand that there is, not surprisingly, some resistance to this, but it is important that the Plan has regard to its strategic context in accordance with the Planning Policy Guidance. In making only passing reference to it the Plan does not adequately make clear how it fits into the wider strategic context. While the Plan does not need to comply with the emerging policies of the Local Plan, as these may change before it is adopted, it is important that the strategic needs and evidence base of the emerging Local Plan are properly acknowledged and that the Plan does not set itself in opposition to these.
114. I have also had significant concerns in relation to the consultation process. While the minimum requirements of the regulations have been met, it is apparent to me that the development of the Plan did not fully engage the community in the way envisaged in the PPG. There is no doubt in my mind that the process could have been more thorough and inclusive, particularly in the Plan formulation stage and that the Plan would have benefitted substantially from this. It would have had wider ownership and the policies would have been more effectively evaluated and refined with the input of a wider cross section of the community.
115. My third major concern relates to the minimal amount of reasoned justification for many of the policies in the Plan. While substantial factual evidence has been presented, in many cases it is not clear how this has been used in the formulation of policies. The absence of justification has meant that it has been necessary for me to suggest a large number of modifications and the deletion of several policies in order for the Plan to meet the basic conditions. I realise that this may reduce the scope of the Plan and prevent it from having as much influence as was intended. Clear and robust reasoning based on the views expressed by the community, the evidence available to the forum and national policy and guidance would have resulted in more defensible and effective policies.

116. All three of these issues were highlighted in responses to the Forum both in the regulation 14 consultation and in the health check of the plan before it was submitted. It is regrettable that the Forum did not accept and act on this advice.
117. I have considered very carefully whether the three significant concerns which I have identified require me to reach the conclusion that the Plan should fail this examination. There is no doubt in my mind that these issues have meant that the Plan is not able to realise its potential. However, I have also had to consider whether the Plan is capable of satisfying the requirements set down in the legislation.
118. Taking my concerns in turn, the failure to have due regard to the strategic context of the Plan can be addressed by a substantial modification on the lines I have suggested. The consultation process, though flawed, does meet the minimum requirements and although the opportunities for the wider community to be engaged in shaping the Plan were somewhat limited there were such opportunities. The lack of justification for some of the policies is more difficult to address. In some cases there is adequate justification, and in some the justification is effectively contained within the policy, but in other cases there is no real reasoning or justification. It is beyond my role as examiner to undertake the research and evaluation necessary to suggest amendments which would provide justification for all of the policies and thus, where it is my view that a policy cannot be justified on the basis of the evidence before me and I am unable to suggest modifications which can be justified, I have had to recommend the deletion of the policy. This of course means that the Plan, if it proceeds to referendum in this form will not address all of the issues that it intended to.
119. It is my view that the Forum should seriously consider whether to withdraw the Plan at this stage because of the way that these shortcomings have diminished the effectiveness of the Plan. It may well be possible to rectify this by going back to the pre-regulation 14 stage and going through the process of developing the Plan in a way that addresses all of these issues. There is little doubt in my mind that in this way the Plan could secure a greater buy in from the community and relate more effectively to the emerging Local Plan. There would be the potential for greater collaboration with both the Borough Council and potential developers to address the issues associated with the emerging Local Plan in a robust and constructive way. I appreciate that this may not be well received, not least because of the resource implications and the very large input that a relatively small number of people have devoted to the preparation of the Plan, but it is my firm view that this could result in a more effective and resilient plan in the long term.

120. However, I have concluded that, on the basis of my conclusions in paragraph 91, if the fairly substantial modifications that I have recommended are made, the Burpham Neighbourhood Plan is capable of progressing because it:

- has been prepared in accordance with Sections 38A and 38B of the Town and Country Planning Act 1990 and the Neighbourhood Planning Regulations 2012;
- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies of the development plan for the area;
- does not breach and is compatible with European Union obligations and the European Convention on Human Rights.

121. **I am therefore able to recommend that the Burpham Neighbourhood Plan should proceed to a referendum subject to the modifications that I have recommended.**

122. I am also required to consider whether or not the Referendum Area should extend beyond the Burpham Ward which comprises the Neighbourhood Plan Area. I am satisfied that the nature of the proposals in the plan is such that they would not have “a substantial, direct and demonstrable impact beyond the neighbourhood area”.¹⁸ I therefore conclude that there is no need to extend the referendum area.

Richard High 14 August 2015

¹⁸ Reference ID: 41-059-20140306

Appendix

Additional information received in relation to consultation

1. e mails dated 6 July 2015 from Christine Hughes

Richard

Please find attached e-mails regarding the publicity for the Public meeting on 13th July. The 'sign in' sheet had 30 names with addresses/email addresses.

I am forwarding you a further email for the October meetings details.

Regards

Catherine Hughes

Richard,

Please find attached photos of the Flyers used for publicising the two public meetings in October. The evening meeting on the 21st October was attended by 21 members of the community and 7 BNF committee members.

The afternoon meeting on the 26th October was attended by 11 members of the community and 6 committee members.

Several hard copies of the Neighbourhood plan were in use , as was an audio visual presentation.

The hard copies were borrowed by residents to study, a committee member took a hardcopy to several elderly residents in the ward who could not attend the meetings.

I personally visited two neighbours who could not attend the meetings, to go through the neighbourhood plan.

No one was ever charged to see, use or have a hardcopy of the plan.

I hope this information is what you required.

Regards

Catherine Hughes

2. Poster for Public Meetings in October 2013



3 Clarification of Wording of Regulation 14 Letter

2) Reference Reg. 14 consultation

In respect of the Regulation 14 query relating to the letter distributed to Burpham addresses, please ignore the previously supplied version of the letter.

The letter included in the BNF11 submission was a Draft letter which was mistakenly included in the submission document BNF11 – this was the coordinators error. Apologies for the confusion caused . Please find attached the letter Page 11 & 12 which was actually printed and distributed to all homes and businesses in the ward, together with detailed maps demonstrating the distribution routes used. For the avoidance of doubt no financial charge was imposed on anyone who wished to view the plan.

Notwithstanding this, we wish to point out that regulation 14 of the Neighbourhood Planning regulations 2012 does not state charging is prohibited or that the plan has to be in any particular format, although academic in this case as no charge was ever made. We trust this clarifies this matter

4. Poster for Regulation 14 Drop in Session.

Burpham Neighbourhood Forum

Public Meeting

5th July 2014

Drop In Session

1.30pm to 4.30pm

Holy Spirit Church Hall

