



West Bergholt Neighbourhood Plan 2018-2033

Regulation 16 - Submission Version - November 2018

Examination Report

A Report to Colchester Borough Council into the West Bergholt
Neighbourhood Plan - Submission Version

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26th May 2019



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Introduction and Role of the Independent Examiner

- 1.1 Neighbourhood Planning is an approach to planning introduced by the Localism Act 2011 which provides communities with the power to establish the priorities and policies to shape the future development of their local areas. This Examination Report sets out the findings of the independent examination of the West Bergholt Neighbourhood Plan 2018-2033, Submission Version.
- 1.2 My role as an Independent Examiner, when considering the content of a neighbourhood plan is limited to testing whether a draft neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended). The role is not to test the soundness of a neighbourhood development plan, or to examine other material considerations.
- 1.3 Paragraph 8 of Schedule 4B (2) to the Town & Country Planning Act 1990 (as amended), states that the Plan must meet the following “basic conditions”;
 - it must have appropriate regard for national policy;
 - it must contribute towards the achievement of sustainable development;
 - it must be in general conformity with the strategic policies of the development plan for the local area;
 - it must be compatible with human rights requirements and
 - it must be compatible with EU obligations.
- 1.4 In addition to the basic conditions set out in the primary legislation, neighbourhood plans must conform to Regulations 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended). This requires that the making of the neighbourhood plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017, which set out the habitat regulation assessment process for land use plans, including consideration of the effect on habitats sites. In relation to the examination of neighbourhood development plans this requires compliance with Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (as amended). Schedule 2 requires that the making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects).



- 1.5 In accordance with Schedule 4B, section 10 of the Town & Country Planning Act 1990 (as amended), the examiner must make a report on the draft plan containing recommendations and make one of the following three recommendations:
- (a) that the draft order is submitted to a referendum, or
 - (b) that modifications specified in the report are made to the draft order and that the draft order as modified is submitted to a referendum, or
 - (c) that the proposal for the order is refused.
- 1.5 If recommending that the Plan proceeds to a referendum, I am also then required to consider whether the Referendum Area should extend beyond the West Bergholt Neighbourhood Plan designated area to which the Plan relates. I make my recommendations at the end of this Report.
- 1.6 I am independent of the qualifying body, associated residents, business leaders and the local authority. I do not have any interest in any land that may be affected by the Plan and I possess appropriate qualifications and experience.
- 1.7 I was appointed to undertake the independent examination of the Submission Version of the West Bergholt Neighbourhood Plan 2018-2033 (WBNP) on 7th February 2019. The Regulation 16 "Submission" Consultation concluded on 5th March 2019 and the consultation responses were forwarded to me for consideration on 7th March 2019. The documents that I have taken into consideration in undertaking this examination are listed in Appendix 1.

West Bergholt – Background

- 1.8 Section 7 of the WBNP explains that West Bergholt is a compact rural parish located to the north west of Colchester comprising some 929 hectares. Originally known as Bercolta from 11th century and later recorded as Bergholt Sackville, after the Sackville family who held the main manor from the early 12th century to the 17th century, the settlement was named West Bergholt in the early 20th century to distinguish it from East Bergholt in Suffolk.
- 1.9 To the south and west are the valleys of the River Colne and St Botolph's Brook, whilst to the north and east are arable farmlands interspersed with small woodlands. There are ten local wildlife sites of importance for nature conservation, including Hillhouse Wood (owned and administered by the Woodland Trust) and known locally as the 'Bluebell Wood'.



- 1.10 The WBNP explains that the village has 34 listed buildings, the Church of St Mary, Hall Road, originally Saxon in origin being Grade 1, now redundant, but still consecrated and used for special services and village events.
- 1.11 The village has had a largely agricultural heritage and was a centre for brewing in the nineteenth century, continuing until 1989. The village expanded significantly in the 1960's and 1970's and currently has a population of 3,344 residents and 1,363 households. The WBNP explains that compared with Colchester Borough as a whole, the Parish has a large elderly population and a slightly larger population of those aged 5 to 17 years. Approximately 20% (675) of residents are of retirement age compared with 15% at Borough level and approximately 17% (574) are aged 5 –17 years, compared with approximately 14% at Borough level.
- 1.12 West Bergholt supports two general stores, one incorporating a post office with access to banking facilities, a gift shop, hairdressers, and three Public Houses. Other commercial enterprises include a garage workshop, shops and business parks. In addition to St Mary's Old Church referred to above, there is the St Mary the Virgin church. Community facilities also include Heathlands Primary School, Bluebells Pre-School and other child and baby care facilities. There is also a doctors' surgery and a pharmacy.
- 1.13 Other community resources available include the Orpen Hall and the attached John Lampon Hall and a Social Club. The WBNP notes that the Parish Church also has meeting rooms for hire and that all facilities are well used.
- 1.14 Opportunities for sport and recreation are provided by the Lorkin Daniell Field and Poor's Land and are often used by the local West Bergholt Football Club and the Bergholt Heath Youth Football Club. There is a Multi-Use Games Area on the Lorkin Daniell Field which is available for hire for tennis and other sports. The Cricket Club has the use of a field off the main Colchester Road.
- 1.15 A Scout Hut is situated on the Heath by the primary school and is well used by different groups and activities. There are 3 areas of children's playground equipment and I understand an area for 140 allotment plots.
- 1.16 The WBNP describes the opportunities beyond the settlement boundary to enjoy the surrounding countryside by the network of public rights of way and access to areas of accessible green space. Within the settlement boundary although there are no formal public parks and gardens, the Village Green (known as The Heath) provides openness together with pockets of smaller green space, generally within housing areas (amenity greens), the churchyards and three ponds. The WBNP also notes that some trees are protected with Tree Preservation Orders, although hedgerows and verges are generally not protected.



- 1.17 The West Bergholt Village Design Statement, 2011 and the West Bergholt Parish Plan 2008 explain the morphology of the village and the eclectic residential styles that have emerged but which nonetheless contribute to local distinctiveness as identified within the various character areas within the village, and more recently smaller developments usually consisting of four or more bedroomed detached properties, closely positioned on sites within the settlement boundary. Considerable further background information relating to West Bergholt and the planning issues faced by the local community are provided in the West Bergholt Neighbourhood Plan Position Statement, 2018, prepared by West Bergholt Parish Council.
- 1.18 It is evident that West Bergholt remains a highly accessible and desirable village in which to live, situated just to the north-west of Colchester in close proximity to the A12, convenient for people who work in Colchester, Ipswich or Chelmsford and only 2.5 miles from the main railway to London has meant that West Bergholt is a desirable commuter location.

West Bergholt Neighbourhood Plan 2018-2033 – Geographic extent

- 1.19 The Plan area is contiguous with the parish boundary. The designated 'Neighbourhood Area', was approved by Colchester Borough Council (CBC) on the 29th July 2013, in accordance with the Neighbourhood Planning (General) Regulations 2012.

West Bergholt Neighbourhood Plan 2018 -2033 – Plan Preparation and Consultation

- 2.0 The Consultation Statement, December 2018, explains in considerable detail the establishment of the Steering Group from inception of the neighbourhood planning process in 2013. The Consultation Statement clearly explains the systematic approach taken towards community engagement throughout the preparation of the WBNP identifying five main stages leading to the preparation of the first draft plan, being:
- Stage i: Early discussions with stakeholders
 - Stage ii: Seeking initial input from the community
 - Stage iii: Consolidating local survey findings
 - Stage iv: Exploring potential sites for development
 - Stage v: Producing the first draft of the Plan
- 2.1 Early in the plan preparation period, a vision statement and nine principal themes emerged. The CS explains how the Steering Group organised the preparation of three surveys;
- Residents survey – posing a series of broad questions on each of the nine themes;



- Youth Survey – a simplified version of the residents’ survey, with a focus on activities and facilities that under 18s might like to see in the parish; and a
- Business survey – targeting local business owners with questions tailored to what might make running their business easier.

2.2 The CS explains how the questionnaire surveys were disseminated throughout the Parish, including the use of social media in relation to the youth survey. The high response rate from the community outlined in the CS is a tribute to the success of the Steering Group in successfully engaging the local community in the preparation of the WBNP and adds weight to the survey findings and evidence base. As such the activities undertaken and approach to planning the surveys and analysis, including for example the Rural Community Council to help establish housing need appears to offer an exemplar in community consultation for neighbourhood planning. The CS also explains the considerable work undertaken in housing need assessment undertaken in 2014, where the assistance of CBC was also harnessed. This involved a local call for sites to local landowners, developers and others to submit land to be assessed for the neighbourhood plan. The Call for Sites was also advertised online and in the local press and Village Bulletin. The CS notes that three sites emerged and were added to the list of 17 sites submitted to CBC in the Call for Sites. The CS advises that the Steering Group worked with the planning team at CBC in developing a framework against which the long list of sites was to be assessed, based upon the criteria adopted following public consultation by CBC. Each site beings assessed against these criteria, with a short description and one of the following ‘HANBI’ ratings, depending on how well it met that criterion:

- H – High adverse impact
- A – Adverse impact
- N – Neutral or Negligible impact
- B – Beneficial impact
- I – Impact highly beneficial

2.3 The initial draft neighbourhood plan was prepared in 2016 by the Steering Group, informed by the earlier Issues and Options Survey. During this period the CS explains that meetings with CBC, landowners and developers continued to help shape the draft plan, on completion of which, a six-week consultation took place, concluding on 19 October 2016. This included a fixed exhibition in the Village Hall and also two community events on the 8 and 15 October, attended by over 450 residents. Overwhelming support for the initial draft WBNP was revealed by a questionnaire survey completed by 190 people.

2.4 I understand that Pre-Submission (Regulation 14) plan preparation followed, the themes consolidated from 9 to 8, consultation followed, with amenities being amalgamated with community facilities. The consultation for the Regulation 14 draft plan ran for a further period



of 6 weeks, concluding on 22 July 2018. Again, extensive consultation was undertaken as explained in the CS, the plan being available on the Parish web-site, with paper copies also available on request.

- 2.5 Following a review of the findings of the pre-submission consultation, the pre-examination version of the WBNP was finalised and submitted to CBC for public consultation. This closed on 5th March 2019.
- 2.6 It is clear from the Consultation Statement that the policies in the West Bergholt Neighbourhood Plan (WBNP) have been developed through considerable interaction and consultation with the community from designation of the neighbourhood plan area in July 2013 onwards, throughout the Plan preparation stages. The Consultation Statement explains that the Parish website was harnessed to publicise information about the emerging Plan; Facebook was used to communicate messages about the emerging Plan to 4,200 individuals and Focus groups were established with members from the local community including the school PTA, the football club and the guides to seek views on the future of the parish. The Consultation Statement explains that community groups approached included the Allotment and Horticultural Association and King's Court First School PTA. To assess housing need, the two local estate agents were contacted to establish information on the housing type, price, location and tenure sought in the area. This information was supplemented, I understand by a Parish Survey, undertaken via a parish-wide questionnaire constructed around a set of local topics and delivered to all 2,000 households in the parish. The Consultation Statement notes that 95 questionnaires were completed.

Consultation Summary

- 2.7 To meet the requirements of Regulation 15(2) of Neighbourhood Planning Regulations 2012, the consultation statement should:
- contain details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
 - explain how they were consulted;
 - summarise the main issues and concerns raised by the persons consulted; and
 - describe how these issues and concerns have been considered and where relevant addressed in the proposed neighbourhood development plan.
- 2.8 I conclude that the consultation process reviewed above in relation to the preparation of the WBNP is acceptable in meeting the Basic Conditions test and I am satisfied that the information in the WBNP Consultation Statement complies with Section 15(2) of part 5 of the Regulations in



demonstrating that the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act.

Basic Conditions

- 3.1 The Neighbourhood Plan contains policies relating to the development and use of land within the Neighbourhood Plan area and has been prepared in accordance with the statutory requirements and processes set out in the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and the Neighbourhood Planning Regulations 2012.
- 3.2 The Neighbourhood Plan states that the period to which it relates is from 2018 until 2033. The WBNP clearly explains that the adopted Development Plan Documents (DPD) that are referred to as the adopted Local Plan which guides future growth and development in CBC's administrative area up to 2021. The DPD comprises the:
 - Core Strategy (adopted 2008, amended 2014);
 - Site Allocations DPD (adopted 2010);
 - Development Policies DPD (adopted 2010, amended 2014);
 - Proposals Maps (adopted 2010);
 - Tiptree Jam Factory DPD (adopted 2013).
- 3.3 A new Local plan has been prepared and is currently the subject of independent examination. It will provide the strategy for the growth of the Borough to 2033. The WBNP explains that to accord with the Regulations, the neighbourhood plan has been prepared to be in general conformity with the strategic policies of the adopted Local Plan, but has taken into account the direction of the draft Local Plan and has had regard to the relationships with other service and planning bodies. For avoidance of doubt, this examination has been conducted assessing the draft WBNP against the adopted policies of the adopted Local Plan to 2021.
- 3.4 Although the WBNP makes reference to the development plan for the area including the Essex Minerals Local Plan 2014 and the Essex & Southend Waste Local Plan 2017, I am content that the WBNP policies do not relate to excluded development, being county matters (mineral extraction and waste development), nationally significant infrastructure or any other matters set out in Section 61K of the Town and Country Planning Act 1990.

Conformity with the National Planning Policy Framework (NPPF).

- 3.5 On 24th July 2018, the Ministry of Housing, Communities and Local Government published the NPPF (2018), which was updated in February 2019. Annex 1 to the then new NPPF stated at

paragraphs 212- 214:

“212. The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this replacement Framework has made. This should be progressed as quickly as possible, either through a partial revision or by preparing a new plan.

213. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

214. The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.....”

3.6 Footnote 69 to paragraph 214 states:

“69 For spatial development strategies, ‘submission’ in this context means the point at which the Mayor sends to the Panel copies of all representations made in accordance with regulation 8(1) of the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, or equivalent. For neighbourhood plans, ‘submission’ in this context means where a qualifying body submits a plan proposal to the local planning authority in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012.”

3.7 I note that the WBNP was formally submitted to CBC together with supporting documents for Regulation 16 consultation and subsequent examination in December 2018. Therefore, in the light of the transitional arrangements outlined above it is not necessary to examine the WBNP against the revised national policy, but rather the NPPF (2012).

3.8 In section 2, the Basic Conditions Statement explains how the ten 10 key objectives of the NPPF are met and how the Neighbourhood Plan contributes to meeting these objectives, noting also the specific national policies that the WBNP is intended to support. The BCS sets out in tabular form in table 2.1 the Neighbourhood Plan’s eight principal objectives and adjacent to each the NPPF goals that are sought to be addressed. In Table 2.2, the BCS helpfully sets out each policy

of the WBNP and the policies in the NPPF to which that it has had regard and assesses the extent to which each draft WBNP policy contributes to achieving the key objectives of the NPPF.

Achieving sustainable development

- 3.9 The NPPF advises that all plans should be based upon the presumption in favour of sustainable development with clear policies that guide how the presumption should be applied locally. Paragraph 16 of the NPPF acknowledges that the application of the presumption in favour of sustainable development will have implications for how communities engage in neighbourhood planning. In particular neighbourhoods should develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development and plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan. The NPPF explains at paragraph 183, that neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. The national guidance explains that Parishes and neighbourhood forums can use neighbourhood planning to:
- set planning policies through neighbourhood plans to determine decisions on planning applications; and
 - grant planning permission through Neighbourhood Development Orders and Community Right to Build Orders for specific development which complies with the order.
- 3.10 The Basic Conditions Statement identifies in section 3 how the WBNP has been positively prepared, reflecting the presumption in the NPPF in favour of sustainable development. Table 3.1 in the BCS summarises how the objectives and policies in the Plan will contribute towards the three strands of sustainable development, delivering environmental, economic and social benefits. I concur that the WBNP has been prepared with regard to principles of delivering sustainable development as identified in the Basic Conditions Statement, and in the event that subject to my recommendations, the Plan proceeds to referendum and is subsequently made, it will assist in delivering sustainable development within the Parish.

General conformity with the strategic policies of the Local Planning Framework

- 3.11 Paragraph 184 of the NPPF requires that neighbourhood planning policy should be aligned with the strategic needs and priorities of the wider local area and that neighbourhood plans must be



in general conformity with the strategic policies of the Development Plan. Furthermore, neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them.

- 3.12 Section 4 of the BCS advises that the WBNP must be in general conformity with the strategic policies of the adopted Local Plan. It has also taken into account the direction of the draft Local Plan, now also subject to examination. Table 4.1 of the BCS provides details of how the WBNP policies are in general conformity with both the strategic policies in the adopted and emerging Local Plans where pertinent. With reference to the Draft Borough Local Plan however, whilst this is helpful as a general comparator, it is to the adopted local planning policies that the examination of the WBNP should have greatest regard. However, I have given consideration to the emerging Local Plan in limited circumstances where relevant, as pointed out in this examination report.
- 3.13 I agree that the general thrust of the draft policies in the Neighbourhood Plan will contribute to achieving sustainable development by seeking positive improvements to the quality of the natural, built and historic environment, as well as in people's quality of life as outlined in the Basic Conditions Statement. I am also content that the WBNP, subject to the recommended policy alterations, would be in general conformity with national and adopted strategic local planning policies and that the WBNP does not promote less development than set out in the Local Plan, or undermine its strategic policies. The WBNP if made would help shape and direct sustainable development in the Parish. I am also content that the WBNP complies with the provisions of paragraph 185 of the NPPF which seeks to avoid duplication of adopted planning policies covering the same geographic area, at the neighbourhood spatial scale.

EU obligations

Appropriate Assessment, Strategic Environmental Assessment and Habitats Regulation Assessment

- 3.12 The Consultation Statement explains that in July 2018, CBC undertook a screening of the draft Plan, seeking views from the statutory bodies (the Environment Agency, Natural England and Historic England) to assist in the determining whether the WBNP would have significant environmental effects in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004.



- 3.13 A Strategic Environmental Assessment (SEA) Screening Report prepared by CBC in November 2018¹, concluded that the West Bergholt Neighbourhood Plan will result in positive, long term effects, but none of these effects will be significant. Therefore, the LPA concluded that the West Bergholt Neighbourhood Plan will not require an assessment of the significant environmental effects of the plan under the SEA Directive and Environmental Assessment Regulations based on the content of the submission draft plan (November 2018).
- 3.14 Circumstances changed considerably in April 2018, in the case *People Over Wind & Sweetman v Coillte Teoranta* (“People over Wind”), where the Court of Justice of the European Union, (CJEU) clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. This judgment led to uncertainty for those working on neighbourhood plans and rendered a range of other planning tools inoperable where a case is determined likely to have significant effects on a protected habitats site as explained in the Chief Planning Officer’s letter to planning officers dated 15th January 2019, informing them that consequential changes to the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 came into force on 28 December 2018. The regulations now allow neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an ‘Appropriate Assessment’ to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or planning application, to meet the basic condition of no likely significant effects on Habitat sites.
- 3.15 If appropriate assessment is required, the SEA Directive states that SEA is mandatory. Accordingly, to meet these requirements both Appropriate Assessment and SEA were undertaken in relation to the WBNP and published in January 2019 and subject to consultation.

Habitats Regulation Assessment

- 3.16 Under Directive 92/43/EEC, also known as the Habitat’s Directive, it must be ascertained whether the draft Plan is likely to have significant effects on a European site designated for its nature conservation interest. The Directive is implemented by the Conservation of Habitats Regulation Regulations 2010. Assessments under these regulations are known as Habitats Regulation Assessments (HRA). CBC published an HRA Screening Report in July 2018. The

¹ Strategic Environmental Assessment (SEA) Screening Report Version 3, Colchester Borough Council, November 2018



screening report acknowledges that because Zones of Influence (Zoi) have been set as part of the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS), endorsed by Natural England and since all of Colchester Borough lies within the Zoi for various Essex European sites, all residential development in Colchester is likely to significantly affect the integrity of European sites, in-combination.

- 3.17 Colchester BC concluded in preparing the HRA Screening Assessment that due to the provision of open space within West Bergholt, together with the requirement for new areas of open space, and there being no European sites within a reasonable walking distance of West Bergholt, the West Bergholt Neighbourhood Plan *alone* will not adversely affect the integrity of any European sites.
- 3.18 The HRA assessed all draft planning policies within the West Bergholt Neighbourhood Plan by way of a screening matrix. Only two policies:
- Policy PP12 - The number of dwellings to be constructed in the NP period: and
 - Policy PP21 - Exception sites,
- were “screened-in” for further assessment in-combination.

Cumulative effects of Neighbourhood Plan policies

- 3.19 The HRA screening report explains that the LPA carried out an appropriate assessment of Section 2 of the Local Plan. This includes a detailed in-combination assessment, which considers the in-combination effects of the Section 2 Local Plan with other neighbourhood plans and other Local Plans across Essex, on European sites. The HRA Screening Report explains that a Statement of Common Ground signed by CBC and Natural England, confirms that Natural England agrees with the conclusion that Section 2 of the Local Plan will not lead to adverse effects on the integrity of European sites either alone, or in-combination. The Screening Report further explains that Policy SS15 of the Local Plan which provides for the development of 120 dwellings in West Bergholt and the policies map which indicates the broad area of search, includes the neighbourhood plan allocations for 120 dwellings. I note that Policy SS15 was screened out of further assessment owing to the location of West Bergholt in relation to European sites.
- 3.20 The Screening Report confirms that the neighbourhood plan includes the LPA’s standard RAMS policy for neighbourhood plans (Policy PP10), which has been agreed by Natural England. This policy requires development within the zones of influence of a European site to make financial contributions towards the mitigation measures set out in the RAMS and refers to interim measures in the absence of a RAMS. However, the People Over Wind and Sweetman CJEU

decision means that avoidance and mitigation measures cannot be considered at the HRA screening stage.

- 3.21 I note that the proposals in the West Bergholt neighbourhood plan that are likely to significantly affect the integrity of European sites in-combination, have been appraised as part of the appropriate assessment of the Local Plan Section 2, with mitigation measures identified in the appropriate assessment, and included in the Local Plan and neighbourhood plan. As a consequence, the HRA Screening Report advises that the WBNP will not adversely affect the integrity of European sites; and mitigation measures have been identified through appropriate assessment, not through a screening assessment. I agree with this assessment and that by extension, the basic condition in paragraph 1 of Schedule 2 of The Neighbourhood Planning (General) Regulations 2012, stating that a neighbourhood plan cannot proceed if there is a likely significant effect on a European site, is therefore met.

Appropriate Assessment

- 3.22 The West Bergholt Neighbourhood Plan Appropriate Assessment Report, January 2019 prepared by CBC concluded that recreational disturbance with other plans is the only issue that has not been screened out of further assessment in the consideration of pathways of impact and likely significant effects.
- 3.23 As to likely significant effects alone, the LPA has concluded that due to the provision of open space within West Bergholt, together with the requirement for new areas of open space, and there being no Habitats sites within a reasonable walking distance of West Bergholt, the West Bergholt Neighbourhood Plan alone will not adversely affect the integrity of any Habitats sites.
- 3.24 Concerning the “in combination effects”, the Appropriate Assessment Report (AAR) included a screening matrix of all planning policies within the West Bergholt Neighbourhood Plan which showed only three policies were “screened-in” for further assessment in-combination. These were:
- Policy PP13 - the number of dwellings to be constructed in the WBNP period,
 - Policy PP16 - Infill and Redevelopment Sites; and
 - Policy PP21 - Rural Exception sites.
- 3.25 The AAR advised that CBC had carried out an appropriate assessment of the Section 2 Local Plan following which Natural England confirmed agreement with the conclusion that Section 2 will not lead to adverse effects on the integrity of Habitats sites either alone or in-combination. Policy SS15 of the Local Plan which provides for the development of 120 dwellings in West



Bergholt indicates the broad area of search including the neighbourhood plan allocations for 120 dwellings. Policy SS15 was screened out of further assessment due to the location of West Bergholt in relation to Habitats sites.

- 3.26 The AAR also notes that appropriate assessment of the Section 2 Local Plan recommended the implementation of an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS), including the Colne and Blackwater Estuaries. Reference to the RAMS is included in the Section 2 Local Plan. I note that the draft Essex Coast Recreational disturbance Avoidance and Mitigation Strategy SPD has been prepared and will shortly be subject to public consultation with adoption in late 2019.
- 3.27 The SPD will provide a framework under which development within the zones of influence of a Habitats site will be required to make financial contributions towards the mitigation measures set out in the RAMS. The implementation of the RAMS is written into the WBNP at Policy PP10. Prior to adoption of the SPD, interim measures have been set in place by CBC.
- 3.28 The AAR concluded that the West Bergholt neighbourhood plan will not adversely affect the integrity of Habitats sites alone or in-combination. The basic condition set out in Schedule 2 of The Neighbourhood Planning (General) Regulations 2012 that the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 is therefore met.

Strategic Environmental Assessment

- 3.29 The unusual circumstances leading to the late preparation of the Strategic Environmental Assessment (SEA) of the submission draft version of the WBNP has been outlined earlier in this examination report. The environmental assessment must include the likely significant effects on the environment of implementing the plan and reasonable alternatives taking into account the objectives and geographical scope of the plan. In scoping the content and level of detail of the information to be included in this environmental report the authorities identified with environmental responsibility to be consulted were Natural England, the Environment Agency and Historic England. They were consulted on the scoping report for a 5-week period.
- 3.30 Whilst acknowledging that the SEA has been prepared at a late stage, which includes a risk that the SEA will not be fit for purpose, the SEA has been prepared in accordance with the requirements of the SEA Directive and sets out the likely environmental effects of the neighbourhood plan and reasonable alternatives. The SEA assessment concluded that the West Bergholt Neighbourhood Plan will result in positive effects on all the SEA objectives.



- 3.31 The overall assessment points towards the delivery of sustainable development being delivered over the life of the WBNP, through the submission draft policies contained within the Plan. The SEA notes that the WBNP includes policies to avoid settlement coalescence, promote good design, ensure positive effects on biodiversity by avoiding significant harmful effects on Habitats sites. The SEA notes that WBNP policies will also protect areas outside the settlement boundary and protect landscape character and promote sustainable safe and convenient means of transport. The SEA identifies that the allocated sites will deliver the objectively assessed housing need over the Plan period and that cumulatively the sites are likely to deliver a wider mix of housing types. The SEA does however recognise that development close to the settlement boundary is likely to lead to a change towards a more urban character but that gardens can provide a biodiversity rich environment and biodiversity enhancement should be encouraged,
- 3.32 The SEA further notes that a Sustainability Appraisal, incorporating Strategic Environmental Assessment, has been prepared for the emerging Colchester Local Plan and that this has not identified any negative environmental effects in West Bergholt.
- 3.33 Under the circumstances of the preparation of the SEA, it is inevitable that it will be open to criticism. I consider that it is appropriate to allow some latitude and accept that the SEA has been prepared professionally and that its findings and conclusions should be accepted.

Convention on Human Rights

- 3.34 In addition to conforming to its EU obligations, I am content that the Plan does not breach, and is not otherwise incompatible with the European Convention on Human Rights. This statement is justified through the extensive engagement with the community and stakeholders as indicated in the Consultation Statement. I also note that considerable care has been exercised throughout the preparation and drafting of the WBNP to ensure that the views of the whole community were considered to avoid unintentional negative impacts on particular groups. I am therefore of the opinion that there are unlikely to be any prejudicial effects on Human Rights and the related Equality Act 2010 if the Plan were to be made in accordance with my recommendations in this examination report.

Basic Conditions – Interim Conclusion

- 3.35 The Basic Conditions Statement (BCS) has been clearly and systematically prepared. In setting out how the Plan meets the Basic Conditions. These are cited in section 1.3 of the BCS.



- 3.36 In addition to the Basic Conditions Statement, the WBNP is supported by a Consultation Statement, an Appropriate Assessment, a Strategic Environmental Assessment and Habitats Regulation Assessment Screening Report and an evidence base seeking to justify the Plan's policies.
- 3.37 The BCS helpfully confirms in the Key Statements at the beginning of the BCS that:
- West Bergholt Parish Council is a qualifying body and entitled to submit a Neighbourhood Plan for its own parish. (paragraph 1.7)
 - The WBNP expresses policies that relate to the development and use of land only within the neighbourhood area. (paragraph 1.7)
 - The neighbourhood area is contiguous with the parish boundary, as shown in the map accompanying the neighbourhood area designation application. (paragraph 1.7)
 - The WBNP covers the period from 2018 to 2033.
 - No provision for excluded development as defined by section 61K of the Town and Country Planning Act 1990 such as national infrastructure is contained within the Neighbourhood Plan. (paragraph 1.9)
 - The WBNP does not relate to more than one neighbourhood area. It is solely related to the area of CBC's administrative area as designated by CBC in June 2013. (paragraph 1.7)
 - There are no other Neighbourhood Development Plans in place for the West Bergholt neighbourhood area. (paragraph 1.7)
- 3.38 The Basic Conditions Statement notes that the WBNP is in general conformity with the strategic policies of the adopted Development Plan Documents (DPD) that are referred to as the adopted Local Plan which guides future growth and development in CBC's administrative area up to 2021. The DPD comprises the:
- Core Strategy (adopted 2008, amended 2014);
 - Site Allocations DPD (adopted 2010);
 - Development Policies DPD (adopted 2010, amended 2014);
 - Proposals Maps (adopted 2010);
 - Tiptree Jam Factory DPD (adopted 2013).
- 3.39 In evaluating the WBNP draft policies in this examination report, I have assessed the extent to which these are consistent with the strategic planning policies in the adopted Local Plan in considering each policy and the WBNP as a whole. I make my comments in respect of specific draft policies in Section 5 and more generally in the Summary and Conclusions sections of this report below.

Background Documents

- 4.1 The background documents referred to in this examination report are listed in Appendix 1.

West Bergholt Neighbourhood Plan 2018-2033 – Planning Policies

- 5.1 The submission draft WBNP sets out in section 8, the Vision, Aims and Framework for developing the neighbourhood plan. From the Vision Statement, four aims are outlined from which the WBNP explains how these aims will be achieved through a sustainable approach to development encouraged through eight “working areas” or themes, from which land use planning policies have been derived as well as non-land use related “ambitions”.
- 5.2 The vision for the designated area is expressly aspirational and generally positive, seeking to build on the qualities of the Parish and to meet the needs of residents of the Parish over the life of the Plan.
- 5.3 Where, in my opinion, the explanatory or supporting text to the WBNP requires some alteration, those changes suggested in this report are advisory and for clarification; they are not mandatory in order to meet the Basic Conditions test.
- 5.4 If the WBNP is to proceed to referendum, the recommended alterations to the policies must be accepted by the Parish Council in order that the Plan may move forward to that stage. Where I have recommended changes to the draft policies, the recommended revisions are shown as tracked changes in Appendix 2 with “clean” copies of the altered policies in Appendix 3. Where policy revisions are recommended, the explanatory text relating to those policies subject to alteration may require some modification to reflect the recommended modified policies. Such changes will be a matter for the Parish Council to draft, doubtless in conjunction with the Planning Department of the Borough Council, as part of its duty to co-operate, although I have in a number of cases offered suggested alterations to the supporting text.
- 5.5 I now consider each of the WBNP draft planning policies and the related explanatory text within the Plan to establish, as previously indicated in accordance with paragraph 184 of the NPPF, whether the neighbourhood plan policies are in general conformity with the strategic policies of the adopted Local Plan.

Policy No. PP1: Sustainable Development

1. **Our Neighbourhood Plan will take a positive approach to development where this brings forward a balance of housing, employment, retail and community development to ensure West Bergholt remains an attractive and vibrant place. Development located as specified in this Plan will be supported if it enhances the environmental assets in and around West Bergholt and improves access to the countryside and open spaces for residents and visitors wherever possible.**
2. **Development will be supported where it can be shown that such proposals would support the continued sustainability of West Bergholt by meeting at least one of these criteria:**
 - a. **new homes in locations allocated in the Plan of a size, type and tenure to meet local requirements; or**
 - b. **affordable housing of size and tenure to meet the objectively assessed need; or**
 - c. **housing that meets the local housing needs of the parish; or**
 - d. **infrastructure associated with leisure, recreational pursuits and social and community activities within the parish; or**
 - e. **new and expanded business premises within existing commercial locations.**
3. **All development shall be designed and located having regard to the principles and advice set out in this Neighbourhood Plan and shall be located to ensure that the development does not adversely affect the**
 - a. **amenities of nearby residents; and**
 - b. **the character and appearance of that part of the village in which it is located; and**
 - c. **the social, built, heritage, cultural and natural assets of the parish.**
4. **All planning policies are considered necessary to make Developments sustainable and acceptable, relate directly to the Development and fairly and reasonably relate to its setting.**

5.6 The Basic Conditions Statement, (BCS) indicates that Policy PP1 conforms to the NPPF (2012) in relation to advice contained in paragraphs 6, 7, 8, 9, 14, 16 of the national guidance. At the local level, the policy is said to conform to Core Policy, Policy SD1 – Sustainable Development Locations (Revised July 2014) and also conform to the emerging Local Plan draft policies SP1 - Presumption in Favour of Sustainable Development, SG8: Neighbourhood Plans and SS15: West Bergholt.

5.7 This “umbrella” policy which has been prepared to help shape the direction of planning in West Bergholt over the life of the WBNP, attracted comparatively little attention during the Regulation 16 consultation. Comments were received from Mr Robert Carney and the Pegasus Group (Pegasus) on behalf of Hopkins and Moore. Mr Carney raised concern over the third

point in the draft policy to the extent that the proposed housing allocations on sites A and B in Policy PP13 would detract from the village character and would greatly reduce views of green spaces from within the settlement boundary of the West Bergholt.

- 5.8 Pegasus raised the need for clarification as to the aim and purpose of bullet point 4 on the grounds that at present it required amendment to make it a legible and useable as a policy tool. Furthermore, Pegasus considered that point 4 appears to be trying to be a broad “catch all” policy by stating that all policies in the Neighbourhood Plan apply to all developments. Their view was that such a policy is unnecessary since all policies in the Development Plan relevant to a development proposal, will be considered by the applicant and the determining planning authority. Finally, Pegasus refer to Paragraph 16 of NPPF which requires Plans and policies to be clearly written and unambiguous, so it is evident how a decision maker should react to development proposals. In its current form Bullet Point 4 does not satisfy paragraph 16 of the NPPF (2019). As such basic condition A (having regard to national policies and advice contained in guidance by the Secretary of State) is not met.
- 5.9 The first sentence of the first bullet point in the draft policy is aspirational but would be better suited to being within the supporting text, rather than policy.
- 5.10 In considering this Policy PP1, which contains significant strategic planning policy components within it, risks being at odds with adopted local plan policy. Bullet point 2 for example, is not qualified as to whether this might be subject to respecting adopted strategic policy expectations in adopted Local Plan policy. There is no certainty that this is inferred and so gives rise to ambiguity. I am sympathetic to the concerns raised by Mr Carney and Pegasus. As prepared, this policy could give rise to difficulties of interpretation and as such would not assist decision making and delivery of development. I am not therefore satisfied that as drafted this policy would provide the clarity required of a planning policy, nor am I persuaded that the policy is capable of amendment that would add to delivering sustainable development decisions in West Bergholt. Accordingly, I recommend that the policy is deleted. The supporting text does not in fact directly refer to draft Policy PP1, but rather underpins the thematic and sustainable approach to the other planning policies in the draft WBNP. Thus, this text is helpful and should be retained. If my recommendations are accepted, the policies to be retained will obviously need re-numbering, on the assumption that the modified plan is to be taken forward to a referendum.

Village Society and Community Planning Policies

Policy PP2: Protection of Community Facilities

All development must demonstrate an enhancement to the quality of life and wellbeing of the local community and, where appropriate, promote diversity and enhance community cohesion through the provision of new multiuse facilities or contributions to existing facilities, The loss of existing community buildings will be resisted unless it can be demonstrated that demand within the locality for the facility no longer exists or suitable alternative provision is made elsewhere.

- 5.11 Policy PP2 seeks to protect existing community facilities. The BCS indicates that this policy conforms to the guidance in the NPPF at paragraphs 28, 69, 70, 73, 74, 75 and policies SD2 – Delivering Facilities and Infrastructure (Revised July 2014), SD3 – Community Facilities (Revised July 2014) and Policy DP4: Community Facilities in the Adopted Core Strategy/ Development Policies.
- 5.12 The policy was subject to comment from Mr Carney, Pegasus on behalf of Hopkins and Moore and also from Gladman. Mr Carney's concerns are that despite commentary in the WBNP that the community facilities were not necessary. This assertion appears to pay little regard to the evidence derived from the surveys and consultations from the 2015 Issues and Options survey which indicated that support for retaining community facilities was high. The findings, reported in the *"Consultation Report on Surveys carried out at key stages of West Bergholt Neighbourhood Plan – May 2018"*² indicated strong local support for the following statements:
- Existing community buildings of value will be retained. 97%
 - The village hall complex will be further developed as a community resource. 91%.
- 5.13 On the basis of the findings above, I understand the policy was prepared subsequent to the preparation of the initial draft of the West Bergholt Neighbourhood Plan.
- 5.14 The *"Consultation Report on Surveys carried out at key stages of West Bergholt Neighbourhood Plan – May 2018"*, comments that in considering village expansion and further population growth, the village hall complex will need to be adapted to accommodate this change. I note that at that time, the Consultation Report also records that there was a call for a focal point for the community, which might have been a role performed by an evolving village hall complex.

² Consultation Report on Surveys carried out at key stages of West Bergholt Neighbourhood Plan – May 2018, Alison Eardley Consulting, prepared for West Bergholt Parish Council



- 5.15 As an alternative to using the planning system and planning policy to protect and retain the community facilities in West Bergholt, the community could also consider designating these facilities as Assets of Community Value and then use a Community Right to Bid to try to purchase these assets. It would appear that the preference of the community thus far has been for the neighbourhood plan to provide this protection.
- 5.16 I agree with Gladman's comments that demonstration of any economic redundancy of these community facilities should be subject to viability testing, with sufficient detail to demonstrate how this should be achieved to provide a consistent and objective application of policy and to avoid missed opportunities were existing facilities to become redundant at some future point during the life of the Plan. Without such a mechanism to test viability, Gladman recommend that this policy should be deleted. To overcome any deficiency in the policy in this regard and bearing in mind the evident strong support in the community for this policy, I have drafted a modification to the policy providing an appropriate viability and marketing mechanism which I recommend be incorporated with other modifications to the policy as shown in Appendix 2 (tracked changes) and Appendix 3 (clean copy) and supplemented by the suggested explanatory text in the WBNP to provide guidance to developers as to the information that should be provided in support of such proposals.
- 5.17 The objection to the policy from Pegasus focuses on the lack of clarity as to how the quality of life and wellbeing of the local community might be objectively assessed and the justification for the planning system to improve on an existing situation, if this could be assessed. I agree that the formulation of the policy is unsatisfactory and unclear as to how it might be interpreted for development management decisions. I am grateful to Pegasus for the suggestion that Policy PP2 would be improved by replacing the first half of the first sentence of this policy to read:
- 'All development proposals must ensure that they do not give rise to adverse impacts on the quality of life and wellbeing of the local community and provide enhancements wherever possible...'
- 5.18 I agree with that proposal and recommend that this be incorporated to provide greater clarity, as provided in the modified policy in Appendix 2 and Appendix 3.

Policy PP3: New Community Facilities

Proposals that improve the quality and/or range of community facilities, particularly those for younger and older age groups, will be supported provided that the development is of a scale appropriate to the needs of the locality and is conveniently accessible for residents of the village. Provision for a parish office/community hub will be supported.



- 5.19 The BCS avers that Policy PP3 conforms with guidance in the NPPF at paragraphs 28, 35, 69, 70, 73, 75 and Adopted Core Strategy/ Development Policies SD2 – Delivering Facilities and Infrastructure (Revised July 2014), SD3 – Community Facilities (Revised July 2014) and Policy DP4: Community Facilities.
- 5.20 There were no representations during the Regulation 16 consultation relating to this policy, which is supported by evidence and would assist in delivering sustainable development in the Parish relating to proposals for new community facilities. I consider this draft policy to be acceptable and propose no modifications to it

Environment Planning Policies

- 5.21 The WBNP explains that the Environment community ambition has three objectives, with nine planning policies. The objectives are as follows:
- To maintain the distinctiveness of the parish and its identity by protecting, conserving and enhancing the natural and built environment for the enjoyment of future generations;
 - To explore opportunities to create new areas of open space; and
 - To integrate new areas of development into the environment in a way which complements the built and natural environment.

Policy PP4: Open Spaces

All development proposals should ensure new open spaces are intrinsic to their proposals and not designated as single purpose use but deliver multiple functions and benefits, which link to the green infrastructure network, through green corridors, cycle or footpaths and demonstrate environmental gains.

Development that results in the loss of open spaces or that results in any harm to their character, setting, accessibility or appearance, general quality or to amenity value will only be supported if the community would gain equivalent benefit from provision of a suitable replacement space.

- 5.22 The BCS explains that the open space policy conforms to the NPPF, paragraphs 58, 74 and 109. Concerning the Adopted Core Strategy/ Development Policies, this policy conforms to Policy PR1 – Open Space; Table PR1 – Open Space and Recreation Facilities; ENV1 – Environment, and Policy DP15: Retention of Open Space and Indoor Sports Facilities (Revised July 2014).



- 5.23 The Regulation 16 consultation attracted one comment concerning this policy from Mr Carney, indicating that the proposed housing allocation sites in Policy PPP13/2, “would reduce the amount of space and harm the character of the village. Resident wildlife (especially deer) would also be affected.”
- 5.24 The advice in the NPPF (2012) at paragraph 74 provides for a more nuanced approach to considering proposals that would facilitate the “loss” of open space recognising three routes which might result in proposals being acceptable whilst resulting in such a loss. This advice states:
- “Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
 - the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
 - the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.”
- 5.25 By contrast, draft Policy PP4 limits the flexibility afforded by the NPPF to the second bullet point only. This would be unacceptable in terms of meeting the Basic Conditions test. In circumstances where proposals do not result in loss of open space, but nonetheless result in planning harm to the “character, setting, accessibility or appearance, general quality or to amenity value” of that open space, it may be disproportionate to only support such proposals where, “the community would gain equivalent benefit from provision of a suitable replacement space”, as proposed by the policy. An assessment of the magnitude of any harm might in such circumstances lead to acceptable planning solutions that may mitigate any harmful effects, rendering the proposal acceptable in planning terms. For the policy to be retained in part, a more positive approach would be preferable which could be achieved through the modification that I recommend to the policy in Appendix 2 and 3. No alteration to the supporting text would be necessary if the recommended modifications to this policy are accepted.

Policy PP5: Local Green Spaces

The following areas designated as Local Green Space, are shown on Proposals Map PP5:

LGS1 - Hillhouse Wood

LGS2 - Lorkin Daniell Field

LGS3 - Poor’s Land

LGS4 - Heath/Village Green

LGS5 - Allotments

LGS6 - Mumford Close Oak Tree

LGS7 - Churchyard: St Mary the Virgin Church

LGS8 - Churchyard: Old St Mary's Church

LGS9 - Pocket Park - Maltings

LGS10 - Erle Havard Park – Pirie Road

LGS11 - Queen's Road Pond

LGS12 - Lexden Road Pond

LGS13 - Hall Road Pond

LGS14 - Village Sign/Beacon Area

Proposals for any development on Local Green Spaces will be resisted other than in very special circumstances.

- 5.26 The WBNP explains that West Bergholt benefits from a high-quality environment. Although this is managed, its green spaces, trees and hedgerows, with the surrounding countryside contribute in defining the character and distinctiveness of the area. The Plan seeks to protect and enhance access to these green spaces for future generations to enjoy through Policy PP5.
- 5.27 BCS advises that Policy PP5 – Local Green Spaces is consistent with the national planning advice in paragraph 77 and with advice in adopted Core Strategy / Development Policies PR1 – Open Space, Table PR1 – Open Space and Recreation Facilities, Policy DP15: Retention of Open Space and Indoor Sports Facilities (Revised July 2014).
- 5.28 Regulation 16 comments were received from Mr Carney and Gladman. Mr Carney's comments were directed towards the operation of draft housing policy in the Plan and queried why Local Green Space (LGS) did not feature as a land use policy requirement as part of development associated with those sites, whilst the substantive comment from Gladman queried the appropriateness of LGS at all in West Bergholt and in particular the size and scale of proposed LGS allocations having regard to other examination decisions.
- 5.29 Gladman also criticised the consultation process following representations made during the earlier Regulation 14 consultation about the lack of publicly available evidence to support the inclusion of LGS allocations. I note that the Regulation 14 version of the Plan provided for the designation of LGS in Policy 2 and all existing open space to be designated as LGS in Policy 3. Since that time the evidence has been supplied in support of LGS designation in the submitted Plan in Policy PP5.
- 5.30 Whilst Gladman acknowledged that evidence comprising a Schedule of Local Green Spaces has now been provided as part of the evidence base for the submission version of the Plan, the complaint that the information was not available on the Council's web-site during the



Regulation 16 consultation appears unjustified. The Council provided the submission documents online and importantly in this context, supplied a link to the Parish Council's web-site where all of the supporting evidence for the WBNP is listed and publicly accessible, including the evidence base for the proposed Schedule of sites to be designated as LGS and supporting justification. As far as I am aware, no other complaints have been made regarding the accessibility of the supporting information available on the Parish Council's web-site, concerning the Regulation 16 consultation of the WBNP.

5.31 The tests to be satisfied to justify designation of Local Green Space are set out in the NPPF (2012) at paragraph 77 are as follows:

“...The designation 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.”

5.32 The proposed LGS sites are individually assessed in the Schedule of Local Green Spaces against these tests. Having regard to the proximity test, all of the sites are located within the neighbourhood area and may be regarded as being in reasonably close proximity to the community that it would serve. Indeed, 11 of the proposed 14 sites are located within the settlement boundary of West Bergholt, or contiguous with it. Regarding the “demonstrably special to a local community test”, the Schedule struggles to provide a convincing assessment that the proposed LGS is “demonstrably special”. At the time of the base-line survey in 2013, as indicated in the “Consultation Report on Surveys carried out at key stages of West Bergholt Neighbourhood Plan – May 2018,”, at page 5, in relation to questions about the environment, the report notes, “The overwhelming majority of respondents felt that existing open spaces and important wildlife and landscape areas should be protected.” In the 2015 Issues and Options Survey, concerning the Environment, the Report notes that “Existing green spaces must be safeguarded, including the Lorkin and Poors Fields.” (page 20).

5.33 From the community engagement undertaken during the preparation of the Plan, the only sites that may be regarded as demonstrably special to the local community are, LGS2 - Lorkin Daniell Field and LGS3 - Poor's Land having recreational value from a few comments in the



“Consultation Report on Surveys carried out at key stages of West Bergholt Neighbourhood Plan – May 2018”, from the Issues and Options Survey, 2015.

- 5.34 Local Green Space is not referred to in the Consultation Statement, notwithstanding it existed as a planning policy ambition in the Regulation 14 consultation version of the Plan. The lack of positive support for the policy during the recent Regulation 16 consultation is a matter of concern. Express support for the policy might have provided sufficient justification that some of these sites were valued by the community as being demonstrably special.
- 5.35 Although I have been advised that Lorkin Daniell Field, Poor’s Field, the Allotments and Heath (Village Green) are managed by the Parish Council under Charitable Trust arrangements, there is no evidence of any discussion with the owners of the land regarding the proposed allocations or an explanation of how the land will be managed and maintained in the future. Whilst this is not a necessary condition, it is nonetheless advisable were the land identified to be confirmed as LGS.
- 5.36 Concerning the third criterion to be satisfied under paragraph 77 of the NPPF 2012, *“being local in character and not an extensive tract of land”*, all of the sites would qualify for inclusion, other than LGS1 - Hillhouse Wood. This site which extends to 13.56ha (33.51 acres) is too large and remote from the settlement to be included as Local Green Space.
- 5.37 In conclusion given the clear advice in the NPPF at paragraph 77 that a Local Green Space designation will not be appropriate for most green areas or open space, the lack of support during the Regulation 16 consultation, taken together with a general lack of earlier community support for the designation of the proposed areas to be designated as LGS, with the exception of Lorkin Daniell Field and Poor’s Field for the reasons expressed above, I am not satisfied on the evidence available to me that all of these sites are, *“demonstrably special”* to the community. As a consequence, I recommend that Policy PP5 is modified as indicated in Appendix 2 and as shown in Appendix 3. Map PP5 will need to be appropriately amended showing Lorkin Daniell Field and Poor’s Field, as LGS only and renumbered. The supporting text at section 14.3.6 - Local Green Spaces and Green Infrastructure will need amendment as indicated in Appendix 2 and 3.

Policy PP6: Character Area

A “Character Area” in the village has been designated as shown on Map PP6, this area, which reflects the built local distinctiveness of Essex’s heritage, will be protected from degradation. Development proposals will be expected to respect its features and character in relation to the scale, design and setting of any development.



- 5.38 The BCS explains that national policy encourages neighbourhood plans to develop robust and comprehensive design policies that ensures that development responds to local character and history and reflects local identity. The BCS avers that Policy PP6 contributes to this aim by ensuring that development in West Bergholt respects the features and character in the designated 'Character Area' within the village and that this policy is compliant with national advice in the NPPF 2012 at paragraphs 9, 17, 56, 57, 58, 60, 126, 128 and 136 and locally, the adopted Core Strategy / Development Plan in Policy ENV1 – Environment, Policy DP1: Design and Amenity (Revised July 2014) and Policy DP14: Historic Environment Assets.
- 5.39 Objections to the policy were raised by Mr Carney on the grounds that there are other areas in the village more appropriate for a character area designation and by Gladman on the grounds that no justification is made for this policy in the submission version of the draft WBNP.
- 5.40 In considering this policy, I note that the Parish prepared a Village Design Statement (VDS) in 2011. This was subject to public consultation and adopted by CBC as non-statutory planning guidance and thus is a material consideration in relation to development proposals in West Bergholt. I further note that the VDS divides the settlement into nine-character areas, or zones, as listed and shown on the plan of the settlement on page 18 of that guidance. The reason for the assessment of these character areas in the VDS is explained in the submission version of the WBNP in section 7.3.3 at page 12 as being, "to help distinguish the mixture of vernacular and modern housing styles and help assess the applicability of housing and extension proposals."
- 5.41 It is not clear in the submission version of the Plan, or the supporting information why, given the more comprehensive assessment of character areas, already adopted by the Borough Council, why this guidance should be replicated in the WBNP, but only in relation to one of the nine-character areas. In preparing the WBNP, the "Consultation Report on Surveys carried out at key stages of West Bergholt Neighbourhood Plan – May 2018," refers to the consideration of West Bergholt character areas following the 2015 Issues and Options survey. At that time, it appears that a number of character areas were being considered or identified in the village. The then intention appears to be that character areas would be declared and protected through policies in a Village Design Statement, presumably to supersede the VDS adopted in 2011. The commentary on page 31 of the Consultation Report notes at paragraph 4.10, *"There was concern about the extent to which the Plan can enable some of the policies to happen, such as the creation of special landscape areas and village character areas."* The reason for the concern is not clarified.
- 5.42 In order for Policy PP6 to be of utility, the explanatory text needs to provide appropriate justification for the policy and needs to explain how this character area particularly reflects the

built local distinctiveness of Essex's heritage including the design features and approach that the Plan is seeking to emulate or avoid, to complement the design quality of the built environment within the character area. The supporting text for this policy in the WBNP is mildly cross referenced to "The Lanes" Character Area and shown on Map PP6 forming part of the WBNP. This infers that the VDS would need to be retained in some form to provide the design references to aid developers in order that the qualities of The Lanes Character Area were available, to inform and influence urban design more generally in the Parish.

- 5.43 The supporting text states that the preparation of the WBNP has followed the advice provided by Historic England on their website concerning Neighbourhood Planning and the Historic Environment. Historic England has also published guidance. There are other references available which are helpful in preparing character areas in plans, notably the Oxford Character Assessment Guidance Toolkit³. This guidance recognises that the terminology is expansive and it may be the case, such as West Bergholt, that only some of it is applicable to an individual area, the purpose being to provide developers and decision makers with a greater understanding about the historic environment and the intricate layers that have helped form our city and villages to enable change to be managed in an effective and positive manner and so that informed decisions can be made on the impact of change. Draft Policy PP6 in combination with the VDS provides guidance, but comparatively weakly. Bearing in mind that the VDS already provides adopted guidance on character areas in West Bergholt, there is some justification in accepting that the background evidence for this policy is sufficiently proportionate and the Policy would provide some assistance in delivering sustainable development in West Bergholt.
- 5.44 For the reasons set out above I recommend that Policy PP6 is retained, but subject to minor modification if the Plan is to be taken forward to referendum. In that event it would be desirable to augment the supporting text providing a greater explanation regarding the relationship between the existing guidance in the adopted VDS and the guidance in Policy PP6 including an indication of the likely future status of the VDS in the event that the Plan were to be made. I appreciate that the later point would require agreement with CBC, as the LPA.

³ Oxford Character Assessment Toolkit, Oxford City Council, in association with the Oxford Preservation Trust and English Heritage. https://www.oxford.gov.uk/downloads/file/1643/character_assessment_toolkit_-_guidance_notes

Policy PP7: Heritage Assets

Any changes to heritage assets will be expected to be carried out sympathetically so that their character and appearance is preserved or enhanced proportionally.

- 5.45 The BCS advises that Policy PP7: Heritage assets conforms to national planning guidance in the NPPF at paragraphs 9, 58, 60, 69, 126, 128 and the Core Strategy and Development Policies DPD in ENV1 – Environment and Policy DP14: Historic Environment Assets. There were no Regulation 16 comments recorded in relation to this policy.
- 5.46 Support for this policy is not to be found in the explanatory text in the WBNP. The appropriate location for this would be in section 14.3.3 on Urban Character. The second paragraph in this section advises that, *“There are several listed buildings which are adequately protected by current planning legislation from either wholesale change or unsympathetic extensions.”* To the extent that this policy applies to development proposals requiring planning permission, this policy does not alter or extend the protection already afforded to heritage assets in the Development Policies DPD through Policy DP14. In this regard, guidance in Section 3 of the NPPF (February 2019) at paragraph 16 states,
“Plans should:.....
f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”
- 5.47 In the light of this guidance, I recommend that Policy PP7 be deleted. No change is required to the supporting text.

Policy PP8: Trees and Hedgerows

Any development that would result in the loss of trees or hedgerows of arboricultural and amenity value will not normally be supported. The retention of trees and hedgerows in situ will always be preferable. Where the loss of such features is unavoidable, replacement provision should be of a commensurate value to that which is lost.

- 5.48 The BCS indicates that this policy conforms to the NPPF 2012 at paragraphs 9, 58 and 109 and the Core Strategy and Development Policies DPD in ENV1 – Environment and Policy PR1 – Open Space. There was one Regulation 16 comment recorded in relation to this policy from Mr Robert Carney. This objection claimed that development on Site A under draft WBNP Policy PP13/2 *“....would destroy hedgerows and trees. The proposed cemetery would also condemn the fruit from the trees in the surrounding orchard. It is therefore hard to see how the WBNP can say “the loss of trees or hedgerows of arboricultural and amenity value will not normally be supported.”* Mr Carney’s objection to this policy, in common with a number of his objections is more



appropriately targeted at the impact of possible development under Policy PP13 rather than the policy under consideration in this part of the examination report.

- 5.49 The Consultation Report on Surveys carried out at key stages of West Bergholt Neighbourhood Plan – May 2018, records strong support from the community for neighbourhood plan policies providing protection for trees and hedgerows in the village, from the Draft Neighbourhood Plan Survey, 2016.
- 5.50 This policy as drafted, does not adequately conform to national and local adopted planning policy. Whilst it is clearly the case that protection of biodiversity and the natural environment is to be accorded great weight, national planning policy accepts at paragraph 118 that there will be circumstances that will necessitate the felling of trees and harm to the natural environment and equally there will be circumstances where the planning judgment will be to conserve habitats, such as ancient woodland and prevent development. Paragraph 118 of the NPPF 2012 sets out principles to assist in making those planning judgments. As drafted, the policy requires needs to reflect a more balanced approach and also to reflect the position that the planning decision taker will be CBC. Accordingly, I recommend that this policy be amended as indicated in Appendix 2 and the clean copy in Appendix 3.
- 5.51 The explanatory text to the policy requires no alteration.

Policy PP9: Natural Environment

All development should protect and where appropriate enhance biodiversity by:

- a) **Protecting designated sites, protected species and ancient and species-rich hedgerows, grasslands and woodlands; and**
- b) **Preserving ecological networks, and the migration and transit of flora and fauna; and**
- c) **Protecting ancient trees or trees of arboricultural value, or ancient woodlands; and**
- d) **Promoting the mitigation, preservation, restoration and recreation of wildlife habitats, and the protection and recovery of priority species; and**
- e) **Providing a net gain in flora and fauna; and**
- f) **Adopting best practice in sustainable urban drainage.**
- g) **Proposals must demonstrate that ecological considerations have been properly assessed in relation to the application site and those adjacent to it. Where necessary mitigation measures must be carried out.**

- 5.52 The BCS advises that Policy PP9 conforms to the NPPF guidance at paragraphs 58, 99, 109 and 114, whilst conforming to the adopted Core Strategy and Development Policies DPD through Policy PR1 – Open Space, Policy ENV1 – Environment, Policy DP21: Nature Conservation and Protected Lanes. The BCS explains that this policy seeks to safeguard local landscape and green



infrastructure networks and support biodiversity and provide environmental net gain. In addition, the BCS notes that the policy complements the environmental policies of the emerging Local Plan.

- 5.53 In considering the submission version consultation comments on this policy in the draft WBNP, Mr Carney raises concern that proposed development at Site A, supported by Policy PP13/2 would destroy hedgerow, grassland and orchards and would not give rise to the preservation, restoration and recreation of wildlife habitats, benefits which are which is promoted in PP9.
- 5.54 Anglian Water Services state that following earlier consultation comments on the WBNP, which sought changes to strengthen the policy to make it clear that Sustainable Drainage Systems (SuDSs) should be utilised for surface water disposal on development sites unless demonstrated that this would not be feasible for technical reasons. Anglian Water Services note that whilst additional text has been included in paragraph 14.3.9 stating that where appropriate, developments sites will be expected to provide their own SuDS, the policy wording has not been amended. Anglian Water Services refer to the NPPF guidance (February 2019), which states that major developments sites will be expected to incorporate SuDs unless it can be shown to be technically unfeasible and therefore Policy PP9 be amended to reflect this approach in national planning policy guidance, helpfully offering suggested text for the policy.
- 5.55 Gladman also made representations in relation to this policy referring to paragraph 113 of the NPPF and the need for criteria-based policies in relation to proposals affecting protected wildlife or geodiversity sites or landscape areas, the protection appropriate being commensurate with their status, to give appropriate weight to their importance and contributions to wider networks. As currently drafted, Gladman states that this policy does not fully align with the NPPF (2012), paragraph 113 as the policy fails to make a distinction between the two balancing exercises which need to be undertaken for national and local designated sites and their settings.
- 5.56 Mr Carney's comments relate to the application of Policy PP9 in relation to its application and likely impact on the housing site in Policy PP13/2, rather than the appropriateness of Policy PP9 itself. The comments from Anglian Water Services are helpful and a useful reminder of the national approach towards the use of SUDs where technically feasible.
- 5.57 In relation to the comments from Gladman, CBC's Development Policy DP21 provides the distinction sought in considering the appropriate protection for wildlife or geodiversity sites and landscape areas, commensurate with their status. Since the decision-taker in development management matters will be Colchester Borough Council, it is more appropriate for Policy PP9 to be framed to indicate where the Parish Council provides reasoned policy support, (or

otherwise), in commenting upon proposals having regard to their likely impact, without undermining adopted strategic policy.

- 5.58 Accordingly, I recommend that Policy PP9 be amended as indicated in Appendix 2 and 3, if the WBNP is to be taken forward to referendum.

Policy PP10: Recreational disturbance Avoidance & Mitigation Strategy (RAMS)

All residential development within the zones of influence of Habitat Sites will be required to make a financial contribution towards mitigation measures, as detailed in the Essex Coast RAMS, to avoid adverse in-combination recreational disturbance effects on Habitat Sites. In the interim period, before the Essex Coast RAMS is completed, all residential development within the zones of influence will need to deliver all measures identified (including strategic measures) through project level HRAs, or otherwise, to mitigate any recreational disturbance impacts in compliance with the Habitat Regulations and Habitats Directive.

- 5.59 The BCS advises that Policy PP10 supports the national policy objective of minimising the negative impacts of development on biodiversity and geodiversity and seeks to mitigate impacts particularly on protected habitat sites. The BCS states that the policy conforms to paragraphs 117 and 118 of the NPPF (2012). In relation to the Adopted Core Strategy/ Development Policies Document, this policy conforms to PR1 – Open Space, ENV1 – Environment, Policy DP21: Nature Conservation and Protected Lanes.
- 5.60 No Regulation 16 comments were received concerning this proposed policy.
- 5.61 The supporting explanatory text for this policy at section 14.3.8 of the WBNP advises that the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) has been prepared following recent concerns over the housing supply likely to be generated over the life of the WBNP, and the consequential disturbance that is thought likely to ensue. Natural England in September 2017 advised that 11 districts/boroughs Councils across Essex should jointly prepare an Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), as a strategic approach to identifying the scale of recreational disturbance to Special Protection Areas, Special Areas of Conservation and Ramsar sites along the Essex Coast and proposes measures to mitigate impacts.
- 5.62 The West Bergholt Neighbourhood Plan, Strategic Environmental Assessment Report, January 2019, explains that neighbourhood plans can have an appropriate assessment under the Habitats Directive and meet the basic condition of no likely significant effects on Habitat sites.



The SEA explains that the (draft) Essex Coast RAMS sets out Zones of Influence (Zoi), which have been agreed by Natural England, where residential development is likely to significantly affect Habitat sites through increased recreational disturbance. As the whole of Colchester Borough is within the Zoi, this means that all residential development in Colchester Borough is likely to significantly affect Habitats sites through increased recreational disturbance. The neighbourhood plan therefore considers the need for appropriate avoidance/ mitigation measures. Following the European Court of Justice (People Over Wind and Sweetman) decision, avoidance and mitigation measures are now to be considered in an appropriate assessment rather than a screening opinion. The SEA Directive states that SEA is mandatory if an appropriate assessment is required. In turn, in considering this policy, the SEA advises at page 40;

“Alternatives: There are no reasonable alternatives as this policy is a requirement of the Habitat Regulations Assessment. An option not to include this policy would not be sustainable and would be contrary to the Habitat Regulations.”

- 5.63 I consider that Policy PP10 is therefore essential to the WBNP in terms of complying with the EU Directive and delivering sustainable development through mitigating planning and environmental harm over the life of the plan. I propose no alterations to the policy or the supporting text.

Policy PP11: Area of Separation

An “Area of Separation” is designated for the part of the parish, as shown centred on Map PP11. Changes in land use and development that adversely affect the key landscape and visual characteristics of the area will be resisted.

- 5.64 The BCS notes that draft Policy PP11 conforms to the NPPF (2012), at paragraphs 17 and 58. In relation to the Core Strategy and Development Policies DPD, this policy is said to conform to strategic policy PR1 – Open Space. The BCS explains that this policy identifies a specific area in the parish that will resist changes in land use and development as a result of the importance of protecting its landscape and visual characteristics.
- 5.65 The proposed policy engendered Regulation 16 comments and objections from Mr Carney, Gladman and the Pegasus Group. Mr Carney’s objection relates to the lack of coherence of the Area of Separation in the vicinity of housing site PP13/2. The objection from Gladman essentially relates to the introduction of a strategic planning policy within the neighbourhood plan and for which no substantive evidence is offered. The objection from Pegasus is similar, although with a suggestion of a partial removal of the Area of Separation to the north of the current settlement boundary to align with the emerging Local Plan map of West Bergholt associated with draft Local Plan Policy SS15.

- 5.66 In considering the evidence for the Area of Separation as shown in the WBNP, there is no substantive evidence for this extensive designation. It is not clear what the settlement boundary of West Bergholt would be separated from, other than the Parish boundary to the north and west of the settlement. Conventionally, policies seeking to protect land from development similar to Policy PP11 would be to prevent coalescence of settlements, but this would not be the case in relation to this policy. There is little doubt in my mind that this is an attempt at securing a broad-brush strategic planning policy, but not for a purpose that has been clearly articulated and for which there is any clear support. There is no mention of an Area of Separation in the Consultation Statement, or the Consultation Report on Surveys carried out at key stages of West Bergholt Neighbourhood Plan – May 2018.
- 5.67 Other evidence available and cited as part of the evidence base for the WBNP is the Settlement boundary review 2017, prepared by CBC. This appears to be a comprehensive assessment of the settlement boundaries in the Borough and I note that the review advises that the settlement boundaries have proved to be enduring with little change over many years. It is clear from this review that the settlement boundaries have been used effectively as a growth management tool and it is proposed that this function will continue. To that extent, the settlement boundary at West Bergholt is likely to remain effective in containing the development in West Bergholt, rendering the extensive Area of Separation to be unnecessary in planning policy terms to provide the strategic scale of protect sought by Policy PP11 in any event. It is said in the BCS that the purpose of this policy would be to protect landscape and visual characteristics, however there are no views of other features associated with this area which might justify such a policy.
- 5.68 This policy conflicts with the advice contained in the NPPF 2012, paragraph 16 and 185 as Policy PP12 amounts to a strategic planning policy which would be inappropriate in a neighbourhood plan. For the reasons set out above and in order not to offend the Basic Conditions test, I recommend that this policy, the associated plan showing the proposed Area of Separation and references to it should be deleted from the WBNP. As the policy is not referenced in the explanatory text, this will not require revision.

Policy PP12: Key Views

The views indicated on Map PP12 will be protected and wherever possible enhanced. Any development or alteration to an area within these views must ensure that the key features of the views can continue to be enjoyed including distant buildings, areas of landscape and the juxtaposition of village edges and open agricultural countryside.

- 5.69 In the BCS, Policy PP12 is confirmed as conforming to NPPF (2012) paragraph 58. The policy is also said to conform to local adopted strategic planning policy in the adopted Core Strategy policies Policy PR1 – Open Space and Policy ENV1 – Environment.
- 5.70 The BCS advises that the policy seeks to protect locally important views from development that would otherwise reduce their contribution towards West Bergholt's character. It is also intended to protect a series of local views that have been identified by the local community as being particularly important and reflective of local character and sense of place.
- 5.71 Objections and comments were raised to the policy by Mr Carney and developer Gladman. Mr Carney queried why no key views had been identified across the proposed development sites and expressed the opinion that View 2 was enjoyed by very few people, expressing the concern that more work should be undertaken with developers to protect views during the process of working up proposals. The opinion expressed by Gladman related more to the veracity of the identified views in the Plan and the quality of the evidence to support those views. Commenting on the views included in the WBNP, an assessment would need to demonstrate some form of identifiable physical attribute which would 'take it out of the ordinary', which might distinguish it from views which may not have landscape significance, but based solely on community support. Gladman's representation notes that without more robust evidence to justify why particular views are considered special, the policy is likely in its current form to lead to inconsistencies in decision-making.
- 5.72 In reviewing the content of the Parish Plan and Village Design Statement there appear to be no previous assessments of "key views" in and out of the settlement providing a sense of quality, which might provide some evidence that the various views identified in the WBNP hold a special significance for the community, as suggested in the BCS.
- 5.73 On my site visit on May 2nd, I considered each of the identified views as shown on the illustrative map which purports to identify each viewpoint and direction of view. Conventionally, to precisely locate each view, each is normally pinpointed on an Ordnance Survey plan, but in this case, the map base (Map PP12) does not facilitate such precision. Most of the identified views are looking out from land beyond the settlement boundary across the valley of the River Colne to the south of West Bergholt, or east – west longitudinal views along the valley. It is not entirely

clear what particularly distinguishes any of the views said to be, “key views” since attractive views can be obtained from many other locations which provide views similar to those identified in the Plan. This appears to be the approach that was taken in the Landscape Character Assessment undertaken on behalf of CBC in 2005 by Chris Blandford Associates. This assessment defined three landscape character areas within the Parish, which include the “key views” identified on Map PP12 in the submission draft WBNP. These character areas are shown below in the extract from Figure 6, in the Landscape Character Assessment. The relevant ‘Landscape Character Types’ are described in the Landscape Character Assessment as being broad tracts of land that share common characteristics of geology, landform, vegetation, land-use and settlement. They are generic landscapes which reoccur throughout the Borough. The “A” type landscape typologies form river valleys, whilst the “B” types comprise farmland plateau landscapes. The ‘Landscape Character Areas’ are described as being geographically unique areas with a recognisable pattern of landscape characteristics, both physical and experiential, that combine to create a distinct sense of place. These landscape character assessment areas in the vicinity of West Bergholt parish are:

- A4 Colne River Valley Floor (blue)
- A5 Colne River Valley Slopes (blue)
- B6 Great Horkesley Farmland Plateau (green)

5.74 The Landscape Character Assessment remarks that the key characteristics of area A4, the Colne River Valley Floor close to West Bergholt are:

- Meandering River Colne is narrow in comparison with the broad spread of the floodplain across which the river flows; and
- Colne River is bridged by several roads and lanes, which connect the north and south valley slopes and facilitate views along the river corridor to the east and west.

5.75 The relevant “Landscape Planning Guidelines” for area A4, the Colne River Valley Floor are defined as;

- Conserve the open character of the floodplain;
- Maintain cross valley views through careful consideration of development within the floodplain; and
- Protect and conserve the distinctive WWII defensive features within the area (particularly anti-tank pimples).

5.76 As to Area A5, the “Colne River Valley Slopes”, the Landscape Character Assessment advises that the principal key characteristics of this area pertaining to views are the relatively steep v-shaped valley slopes facilitate attractive and open views across and along the River corridor, whilst the visual characteristics include:

- Attractive framed and panoramic views of the meandering river channel and associated floodplain from higher points along the valley sides, such as Hill House Farm to the south of Chappel;
- The church and viaduct at Chappel (within character area A4 Colne Valley Floor) are dominant landmarks in views from both the southern and northern valley sides around Wakes Hall Farm, Old Hall Farm and Wakes Colne;
- The spire of All Saints Norman church at Wakes Colne is a prominent landmark within the landscape, which is intervisible with the church at Chappel (also with a spire) in views from the east;
- Views along the river valley corridor.

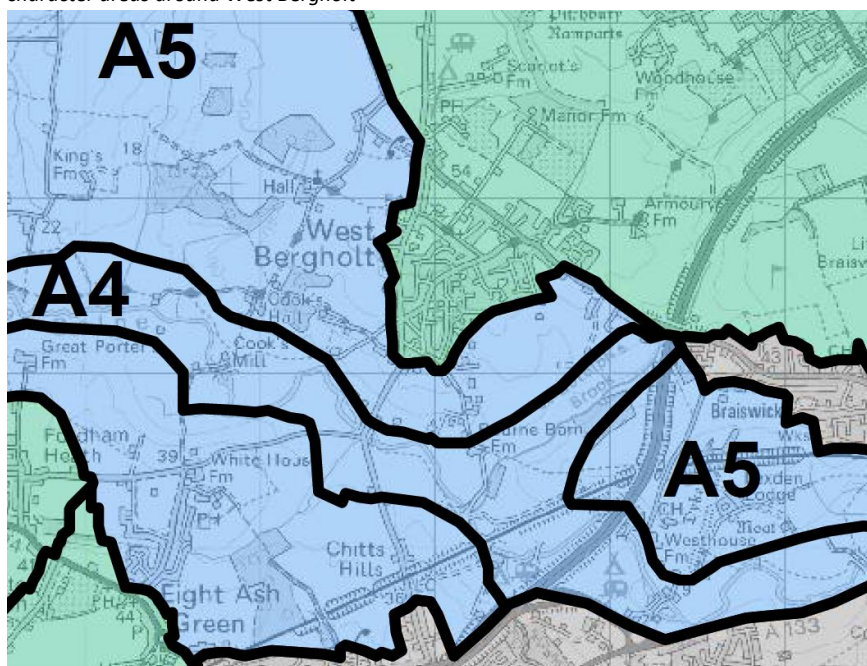
5.77 These defined landmarks are about 5km to the west of West Bergholt and not intervisible from the WBNP key viewpoints.

5.78 As to Landscape Planning Guidelines within Area A5, the advice in the Landscape Character Assessment is:

- Ensure any new small-scale development in, or on the edges of Fordham, Wivenhoe, West Bergholt and Colchester is of an appropriate scale, form and design and uses materials which respond to historic settlement pattern, landscape setting and locally distinctive building styles and materials. (Development opportunities are limited around Fordham due to the Woodland Trust site);
- Ensure any new development on valley sides is small-scale, responds to historic settlement pattern, form and building materials;
- Maintain cross-valley views;
- Conserve views of the river and floodplain;
- Ensure that new woodland planting is designed to enhance existing landscape character and species composition reflects local provenance.

5.79 Concerning the plateau comprising the settlement of West Bergholt and land to the north, the Great Horkesley Farmland Plateau (B6), this describes the land to the north of the village as being fringed by fragmented orchards, with views from roads within the character area limited by hedgerow vegetation.

Extract from Figure 6, in the Landscape Character Assessment, 2005, identifying the landscape character areas around West Bergholt



- 5.80 Taking the comments from the Landscape Character Assessment into consideration together with the related planning guidelines distilled from the landscape analysis, whilst general east-west longitudinal views are to be enjoyed from the valley floor close to the River Colne, and from the steep “V” shaped valley sides across the valley of the River Colne, the views of particular note are to be found further to the west of the Parish.
- 5.81 In conclusion, I accept that the views identified in draft Policy PP12 and the accompanying map may give considerable enjoyment to local residents and visitors alike, but these do not appear to be adequately supported by evidence as distinguishable as “key views” across the River Colne Valley and along the valley floor. I accept however it is desirable in planning terms that the whole of the valley within the Parish is be maintained as open countryside. Existing strategic planning policy and other policies relating to containing development with the settlement boundary of West Bergholt in any event adequately protect the many attractive views across and along the Colne Valley within the Parish, as noted in the supporting text within the submission draft version of the WBNP (see section 14.3.2, page 32). Accordingly, I recommend

that Policy PP12 and the accompanying map should be deleted from the WBNP. Since “key views” are not referenced in the Plan, no amendment to this text is necessary.

Housing Planning Policies

Policy PP13: Housing Sites

The settlement boundary is shown on Map PP13/1. The minimum number of dwellings to be provided over the Neighbourhood Plan period will be 120. These dwellings will be provided on Site A and Site B as shown on Map PP13/2.

Development on land on the North East side of Colchester Road and identified on Map PP13/2 as Sites A and B for one, two and three bedroomed dwellings suitable for first time buyers, homes for older people or small families will be supported.

The density of the development should be within the range of 20-25 per hectare on average.

A mix of housing tenure will be encouraged. It is expected that the development will include at least 30% affordable housing including affordable rent or shared ownership.

Satisfactory access must be provided.

A 12-metre strip of land parallel to the highway boundary of Colchester Road will be retained and integrated into the design and layout of the scheme to respect the semi-rural village aspect.

Landscaping will be an important and integral part of the design and layout of the scheme. It is expected that all principal roads will incorporate a minimum 1 metre wide green verge to each side and the development should include an appropriate amount of public open space.

In order to ensure that a stock of smaller dwellings is retained to meet the village’s needs, permitted development rights will usually be withdrawn for extensions through the imposition of conditions on any grant of planning permission.

The provision of land for a cemetery indicated on Map PP13/2 will be supported.

The provision of land to accommodate sports facilities adjacent to the cricket club as indicated on Map PP13/2 will be a requirement of the developer of this site.

- 5.82 The BCS explains that Policy PP13 conforms to national planning policy guidance by encouraging local communities to plan for a mix of housing based on current demographic and market trends



and the needs of different groups in the community. The BCS advises that this policy supports that national objective by setting out the scale of housing appropriate over the Plan period, based on an assessment of housing need. The BCS further explains that Policy PP13 allocates two sites for housing, based on evidenced local need. It contributes to the NPPF objective to boost the housing supply, in a sustainable location, close to local services and amenities. The policy is said to conform to the guidance in NPPF (2012), paragraphs 17, 47, 50, 54, 55, and 109. Regarding the Core Strategy and Development Policies DPD, Policy PP13 conforms to Policies H1 – Housing Delivery; H2 – Housing Density (Revised July 2014); H3 – Housing Diversity (Revised July 2014); H4 – Affordable Housing (Revised July 2014); UR 2 – Built Design and Character; and Policy DP12: Dwelling Standards. The BCS states that Policy PP13 supports the overarching spatial strategy for the borough, providing for new homes in a way that is sustainable and considering local context and housing needs, while also contributing to the wider strategic housing need.

- 5.83 Three sets of objections were made to this policy during the Regulation 16 consultation. Gladman raised concerns relating to the mode of assessment and site selection, Mr Carney objected to the selection of the site based on likely impact, whilst the Pegasus Group on behalf of Hopkins and Moore supported the allocation of Site B and sought the allocation of additional land identified in area WBG 14 for housing development and raised a number of detailed concerns regarding the form and content of the policy. There were additional comments from other local residents considered further below
- 5.84 As to the points raised by Gladman, I have visited the 17 sites assessed by the Steering Group and have considered the criteria used in the “HANBI” method explained in the background material provided to me forming the Parish Council’s evidence base together with the Steering Group’s “Initial Site Analysis, Criteria and Reasoning template”. These sites were largely brought forward in 2014 and 2015 following the Parish Council’s call for sites. CBC has also been considering possible housing sites in West Bergholt in parallel for its emerging Local Plan and has prepared its own assessment of these sites. I have also had regard to the CBC assessment of the 17 sites considered for the WBNP, to provide not less than 120 dwellings during the Plan period to 2033. There is considerable common ground between the assessments made by the Steering Group and CBC, in preparing the Strategic Land Availability Assessment, (SLAA) update June 2017 despite the scoring irregularities raised by Gladman, the Pegasus Group on behalf of Hopkins and Moore and the additional comments by Mr. Carney in their respective Regulation 16 comments.
- 5.85 Whilst the SLAA is not definitive in determining housing land allocations, the National Planning Practice Guidance (PPG), provides the recommended process of identifying, assessing and

reviewing the delivery of potential development sites. The PPG advises that strategic land availability assessments should take the form of:

- Identifying sites and broad locations with potential for development;
- Assessing their development potential;
- Assessing their suitability for development and the likelihood of development coming forward.

The PPG also emphasises the importance of the SLAA process in evaluating the ‘suitability’, ‘availability’ and ‘achievability’ of potential development for proposed land use development. The PPG recommends the combined assessment of land for housing, employment and other uses as part of land use assessment. This approach has been adopted by CBC in carrying out its SLAA for the preparation of the emerging Local Plan.

5.86 The SLAA explains that in assessing each site for development potential, each site was assigned a Red, Amber or Green rating, (RAG rating), reflecting its potential developability for specific land uses, allowing for a qualitative interpretation of each site’s potential. The SLAA explains that the Red sites “sieved out”, during Stages 1a and 1b were automatically assigned a red RAG rating and no further assessment was necessary. Sites which passed both of the sieving stages were given a red rating if during the next stages of assessment an issue or issues with the site were highlighted which could not realistically be overcome through reasonable mitigation measures. Some sites which have already been committed for development, such as sites with existing allocations in the current Local Plan (2001-2021) or those with extant planning permission, were classed as existing commitments in the new Local Plan and sieved out at Stage 1b. An overall red rating rendered the site not deliverable or developable during the plan period. The SLAA Update explains that amber sites had an issue or issues which whilst not significant enough to rule out development completely, were significant enough to be highlighted in the sites’ ratings. Sites were given an amber rating if the issues affecting the site were considered able to be overcome through reasonable mitigation measures. Amber rating means the site needs further consideration of key issues before being allocated for development in the Local Plan. Sites were rated green if there were no significant issues or collectively no issues which together were significant to the sites’ deliverability or developability during the plan period.

5.87 The SLAA update 2017 further explains that the SLAA (potential Local Plan housing) sites which have not been given a red RAG rating will need to be considered in combination with the emerging spatial strategy, settlement boundary review, and other technical evidence, including strategic housing market assessment (SHMA), strategic assessment and habitats regulation assessment and subject to public consultation.



- 5.88 The “Settlement Boundary Review - Part of the evidence base for the new Local Plan, April 2017 Update”, prepared by CBC provides a helpful critique of the settlement structure of West Bergholt, the objectives of the settlement boundary of West Bergholt and how the settlement boundary will maintain and reinforce the existing settlement form of West Bergholt in the future and prevent visual coalescence of West Bergholt with Colchester. The village is centred around a triangle formed by the B1508 Colchester Road, Chapel Road and Lexden Road. I understand that the broad assumption is that these roads will continue to define the nucleus of the settlement in the future. A further objective is the prevention of ribbon development north of the village on Colchester Road/Nayland Road to discourage further development away from the existing village services and facilities where the character is changes and becomes rural/open countryside, maintaining the distinct entrance to the village from Nayland Road/Colchester Road junction into West Bergholt. The intention is that new development should be within a reasonable walking distance of the village school and main facilities, ideally within 400 metres. The Settlement Boundary Review also recognises that new built development on land along Colchester Road may undermine the sense of settlement separation and give rise to a high potential for visual coalescence.
- 5.89 In summarising the development potential for housing growth, the Settlement Boundary Review acknowledges that West Bergholt has been classified as a sustainable settlement capable of accommodating additional growth without compromising the existing settlement shape. The broad area on the north eastern edge of the existing settlement encompasses land that would form logical amendments to the settlement boundary. Land comprising WBG 9 and WBG 14 has strong potential to deliver an appropriate level of growth (approximately 120 dwellings). The Settlement Boundary Review also advised that the housing sites appropriate for development in West Bergholt will be determined by the Neighbourhood Plan, within the broad area defined in the Local Plan.
- 5.90 The settlement boundary defined within the WBNP is therefore a powerful determinant in locating potential housing growth within the settlement. Broad agreement discussed in the Settlement Boundary Review between CBC and West Bergholt Parish Council is that the anticipated capacity of the settlement during the Plan period to 2033 is about 120 houses. This quantum of development could be delivered by developing sites within or contiguous with the existing settlement boundary. The constraints to development at this scale, appear to be relatively modest. Drainage issues where these are likely, appear capable of being resolved through the use of SuDs. The village school has some residual capacity, but developer contributions, would subject to viability, contribute towards the provision of additional places necessary as a consequence of new housing development.



- 5.91 Following my visit to West Bergholt on May 2nd, despite developer criticism of the scoring mechanism for the proposed site allocations to the north of the Colchester Road, sites WBG 9 and WBG 14 (part), appear logical and appropriate extensions to the settlement, with good sight lines for the formation of new access points and well located to the school and without causing significant harm to environmental considerations. To accommodate housing need over the life of the Plan some adjustment to the tightly drawn settlement boundary is necessary. The Plan is silent as to the size of the proposed site allocations. Having regard to the information in the SLAA Update 2017 and the representations made by Pegasus, I understand that the combined areas of the proposed housing land allocations would be about 5 hectares. CBC's GIS team checked the site areas during the examination at my request. I understand that the two proposed housing allocations have a combined developable area of 4.8ha which would deliver 120 dwellings at 25 dwellings per hectare. In addition, the land for the cemetery is 0.35ha and land for the playing fields is 1.86ha.
- 5.92 The extent to which the sites will offer capacity for the delivery of 120 dwellings will be dependent upon factors including agreed layout, housing mix, access arrangements, landscape proposals including verges and play areas. I note that the developers promoting the site have offered the ability to connect the development site with backland (including further land within the WBG 14 parcel) to extend the development area in the future. This would appear to be a prudent consideration and could provide some flexibility to deliver the housing quota of 120 dwellings within the Plan period in the event that the site allocation boundaries struggle to deliver this quantum of housing due to site layout and design matters.
- 5.93 Residential development on further land forming part of Site WBG 14 would appear a reasonable aspiration in the future, to meet subsequent dwelling targets, due to the proximity of the village school, sports ground, easy access to the Colchester Road but without giving rise to potential harm caused by coalescence of West Bergholt and Colchester. This could help safeguard and protect the "gap" between West Bergholt and built-up extent of Colchester as shown on the map based diagram (proposed Policy PP22), which defines the gap to be maintained in an arc from the north – east of West Bergholt clockwise to the south- west of the settlement and extending to the parish boundary.
- 5.94 The development of the proposed sites identified in the WBNP should reinforce the nucleus of West Bergholt, but without including sites of poor shape on the western margin of the settlement, such as WBG11 and WBG12, or giving rise to problems associated with increasing coalescence. Having regard to the information and assessment in the Parish Council's site assessment, the Borough Council's Settlement Boundary Review and SLAA update 2017, I consider the following sites; WBG 06, 07, 08, 10, 11, 12, 13, 15, 16 and 17 should not be considered appropriate as housing allocations. Sites WBG 01, 03, 04 and 05 all have potential



as deliverable housing allocations. Indeed, I note that site WBG 1 has a green rating in the SLAA Update. Nonetheless, all of these sites would give rise to a reduction of the gap to the east and south-east of the settlement. The degree of qualitative harm caused through development of each of these sites may be debated, but for the purposes of considering the sites to be allocated in the WBNP, the preferred approach on the grounds of sustainability and providing adequate capacity for the objectively assessed need is to allocate the sites proposed in the submission version of the Plan, providing appropriate capacity for housing development in the Parish over the Plan period.

- 5.95 Submission draft Policy PP13 and the related map sets out prescriptive requirements in relation to the location of a cemetery and sports field beyond the proposed altered settlement boundary. The policy also includes prescriptive requirements in relation to a 12 metre landscape buffer adjacent to the Colchester Road and overall housing densities. The policy encourages a housing mix skewed towards the provision towards smaller dwellings, comprising 1, 2 and 3 bed dwellings, suitable for occupation by young families and the elderly. The housing mix envisaged would plainly be supported by Core Strategy Policy H3. Whilst landscape considerations site layout and housing density are important matters, it is not clear to me that it is necessary to provide a 12 metre buffer to respect the semi-rural character of the village. These do not appear typical of development on Colchester Road. Regarding the affordable housing expectation, current delivery in Policy H4 of the adopted Core Strategy anticipates 20% affordable housing. It is likely that this will soon rise to 30% if the emerging Local Plan is adopted. To meet the Basic Conditions tests, it would not be appropriate for the neighbourhood plan to require a greater percentage of affordable housing than provided in adopted strategic planning policy, but it would be prudent to reflect the likelihood of this requirement, subject to viability considerations coming forward shortly in the WBNP period, as commented in the Regulation 16 representations of the Pegasus Group.
- 5.96 Concerning Map PP13/2, which shows the locations of the proposed cemetery and playing field, beyond the amended settlement boundary identifying the limits to Sites A and B, these locations should, I believe be regarded as being illustrative in order not to sterilise the potential to develop land for possible residential and mixed use development beyond the Plan period, or when the Plan becomes subject to review. This may assist the community at that time in protecting other land regarded locally as being sensitive to development from being successfully promoted for development.
- 5.97 It is not clear to me that there would be sufficient justification in this instance for this policy to remove permitted development rights to restrict landowners' from undertaking such development afforded by Parliament under the national planning system. This proposal would appear to run contrary to national policy direction on the purpose of imposing such restrictions.



To the extent that it may be desirable and necessary to restrict permitted development rights on part, or all of development proposed on Sites A and B, this should be a matter for the Borough Council using an Article 4 Direction rather than neighbourhood planning policy.

- 5.98 In considering other comments received in relation to the proposed housing allocations, I have had regard to those submitted by Dr and Mrs Eldrington concerning two adjoining holdings at 42A and 44 Lexden Road, both of which straddle the existing settlement boundary on the western margin of the village and total about 0.8 ha. Redevelopment of these properties would appear to involve the demolition and redevelopment of at least one of the existing dwellings and would provide a modest amount of back-land development. The net developable area, having allowed for the provision of adequate site access to Lexden Road is not clear, but would be unlikely to yield a capacity for more than 6-7 dwellings when considering the shape of the sites and other site constraints including development density, the existing trees and maintaining the amenity of neighbouring properties. It appears that there would be no advantage in altering the settlement boundary to develop this land compared to the proposed site allocations, or indeed other sites that have been subject to more detailed consideration for housing development.
- 5.99 Representations were also made by Boyer Planning on behalf of Mr Harrington concerning a request that land at Barn End, Cooks Hall Road be included in the Plan as a reserve site. It would not appear necessary or appropriate to encourage development to the west of the settlement, given the adequate housing capacity supported by CBC and the Parish Council which may be provided to the north of Colchester Road and which has been assessed as providing an appropriate sustainable development opportunity for the expansion of the settlement.
- 5.100 For these reasons I recommend that Policy PP13 should be altered as shown in Appendix 2 showing tracked changes and as modified in Appendix 3. It would be desirable to amend the supporting text in section 15.4.4 to delete reference to a 12 metre buffer strip fronting Colchester Road and amend the sentence relating to the range of housing densities to read in the region of 25 dwellings per ha.
- 5.101 If these recommended changes are accepted, the supporting text to the modified policy will require amendment to reflect these alterations. In particular, it would be helpful to indicate that the housing need in West Bergholt, as also in the wider Borough area, is for the housing mix to be skewed towards the provision of 1 bed and 2 bed dwellings for housing market entrants and 3-bedroom family housing. Whilst I am not proposing a reserve site is included in the WBNP for future housing development, it would nonetheless be appropriate for junction capacities associated with the access points on the Colchester Road and related site infrastructure and landscape design should be prepared with a view to providing the ability for

further development of the wider site known as WBG 14 and possibly other adjacent land in the future. The location of the cemetery and sports area should be located to facilitate further residential and mixed use beyond the life of the Plan to provide some prospect of future-proofing and resilience. For this reason, the location of the cemetery and sports field should be clearly marked as illustrative on Map PP13/2.

Policy PP14: Design

All new development should be of a high-quality design and sustainable construction is encouraged. Account should be taken of the guidance and principles in the Village Design Statement, which seeks to promote or reinforce local distinctiveness. In particular new development and any additions or extensions to existing dwellings will be expected to:

- **Have an acceptable visual impact on the valley sides; and**
- **Give careful consideration to the impact on views across the village; and**
- **Provide or retain garden sizes appropriate to the size of the development and reflective of the character of the area in which the development sits; and**
- **Buildings must respect and be in harmony with their surroundings in respect of plot width, layout, building lines, materials, height, proportion and scale; and**
- **Planning applications must show contextually the impact of their proposals on adjacent buildings by means of adequately detailed plans with accurate street elevations; and**
- **There should be no unacceptable adverse impact upon the amenities of the occupiers of nearby residential properties; and**
- **Details of all boundary walls, fences and gates around the site shall be as submitted drawing but should not lead to urbanisation**

In addition, any infrastructure required for new development will be expected to be provided in a timely manner and before the development is substantially occupied.

- 5.102 The BCS advises that this policy seeks to ensure that housing development is in keeping with the design of surrounding housing, without stifling good or innovative design, in line with the national aim to plan positively for the achievement of high quality and inclusive design for all development. The BCS also comments that this policy should encourages developers to engage with communities on local design matters. In relation to national planning advice, the BCS notes that the policy accords with advice in NPPF 2012, at paragraphs 7, 9, 17, 56, 58, 60, 63, 64, 66, and 95. At the Borough Council level, the BCS notes that Policy PP14 conforms to adopted Core



Strategy UR 2 – Built Design and Character and Development Policies DPD Policy DP1: Design and Amenity (Revised July 2014), Policy DP12: Dwelling Standards, and Policy DP16: Private Amenity Space and Open Space Provision for New Residential Development (Revised July 2014).

- 5.103 This policy attracted Regulation 16 consultation comment from Gladman, noting that the policy makes reference to the VDS, adopted as supplemental planning policy in 2011 and this is now long dated and encourages updating of this policy document. The VDS nonetheless remains adopted planning policy and the design advice included still has purpose in aiding building design through the provision of references reflecting material, character and built form which the community expects should influence and be reflected in design to reinforce local distinctiveness. It is not clear to me that the policy proposals require greater flexibility to avoid the risk that for viability reasons, high quality and inclusive design might be compromised. Certainly, no evidence is offered which might support this assertion. Neither am I persuaded, having regard to the advice in NPPF, paragraph 60, that the policy would be likely, “to impose architectural styles or particular tastes” or “stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.” To help plan positively for future housing growth in West Bergholt and to achieve this policy ambition of delivering development of high design quality, it may be helpful were the explanatory text to encourage the use of “Building for Life 12”⁴ which is endorsed in the NPPF (May 2019) at paragraph 129 and footnote 47.
- 5.104 Policy PP14 encourages sustainable design and construction for all new development and particularly refers to additions and extensions to dwellings. In these cases, proposals may be covered under permitted development rights and procedure. It would be helpful if the supporting policy text made this clear. Concerning garden sizes, it would not be appropriate to contain a policy which seeks to control this matter without clear evidence and guidance as to what would be appropriate. This is a subjective matter. Likely impact on amenity of neighbours should prove sufficient to influence development management considerations for such development, taking each proposal on its merits.
- 5.105 Concerning the timing of infrastructure provision to serve development can be adequately controlled by means of planning conditions for development where necessary prior to first occupation without the need for a policy. Accordingly, I recommend that Policy PP14 be amended as indicated in Appendix 2 and as shown in Appendix 3.

⁴ Building for Life 12, 2018, David Birkbeck and Stefan Kruczkowski,
http://www.builtforlifehomes.org/downloads/BfL12_2018.pdf

Policy PP15: Energy Hierarchy

Developers will be required to demonstrate how they have followed the energy hierarchy in reducing energy demand before implementing renewable energy or make the most of solar gain and passive cooling through the orientation, layout and design of the development.

- 5.106 The BCS explains that this policy seeks to ensure new development is sustainable and minimises the use of scarce natural resources and addresses the causes and potential impacts of climate change and encourages renewable energy through land use planning. The policy is compatible with the guidance and advice in the NPPF at paragraphs 18, 95, 96 and 97; and within the Core Strategy, policies UR 2 – Built Design and Character and ER1 Energy, Resources, Waste and the Development Water and Recycling. The policy also conforms to Development Policies DPD, Policy 25: Renewable Energy.
- 5.107 There were no Regulation 16 consultation comments in relation to this policy.
- 5.108 Policy PP15 regarding use of the energy hierarchy in assessing development proposals is commendable. Energy assessments associated with supporting development proposals to demonstrate the use of the energy hierarchy are complex and detailed and whilst may be sought to support strategic developments, could be regarded as disproportionate for most developments in neighbourhood areas. In preparing planning applications where reference to the energy hierarchy is expected, it would be helpful if the supporting text to the WBNP could provide more information on the level of detail anticipated in any accompanying energy assessment. For most planning application applications, it is likely that it will be sufficient to include this information in a Design and Access Statement as part of the planning application for assessment by the Borough Council's planning department. For clarity, I recommend the minor modification to the policy as shown in Appendix 2 by tracked changes and as made, in Appendix 3.

Policy PP16: Infill and Redevelopment Sites

Applications for residential developments on infill and redevelopment sites within West Bergholt village will only be supported subject to proposals being well designed and where such development meet all the following criteria:

- a. **fills a small restricted gap in an existing frontage or on other sites within the built-up area of the village where the site is closely surrounded by buildings; and**

- b. does not reduce the privacy or amenity of adjoining properties or is inconsistent with the character of the area; and**
- c. where the scheme is for one dwelling, the proposal must be in keeping with its wider surroundings in relation to the historic development patterns or building/plot sizes.**

5.109 The BCS states that this policy conforms to paragraphs 17, 56 and 58 of the NPPF 2012, and with Core Strategy policies 2 – Built Design and Character, ENV2 – Rural Communities (Revised July 2014) and Development Policies DPD, Policy DP1: Design and Amenity (Revised July 2014).

5.110 There were no Regulation 16 consultation comments in relation to this policy.

5.111 There are no references to a policy concerning infill and redevelopment sites in the supporting text anywhere in the WBNP. Concerning criterion a, the proposal relates to sites located “within the built-up area of the village where the site is closely surrounded by buildings”. This effectively corresponds to sites within the settlement boundary, where there is a presumption in favour of development, (see WBNP, supporting text, page 13). In relation to the criterion b, privacy, amenity and effects on the character of the area are all satisfactorily controlled under Development Policies DPD, Policy DP1. Concerning criterion c., it is not clear to me why this should necessarily be restricted to one dwelling only. Much would depend on the site size and other site characteristics within the settlement boundary. As drafted this criterion is too inflexible. Taking these points into consideration together and with the lack of any justification in the supporting text, I recommend that this policy be deleted.

Policy PP17: Dormers

Dormers should be used sparingly and be subservient in nature.

5.112 The BCS advises that Policy PP17, conforms to the NPPF 2012, at paragraphs 17, 56 and 58 of the NPPF 2012, and with Core Strategy policies 2 – Built Design and Character, ENV2 – Rural Communities (Revised July 2014) and Development Policies DPD, Policy DP1: Design and Amenity (Revised July 2014) by providing locally specific guidance in relation to dormer extensions including the need to maintain the character of the area.

5.113 There were no Regulation 16 consultation comments in relation to this policy.

5.114 As with Policy PP16, there are no references to a policy concerning dormer extensions in the supporting text anywhere in the WBNP. The policy is however to be found in the West Bergholt VDS, as Design Guidance 14, “*DG14 Dormers should be used sparingly and be subservient in nature.*” Since there is no justification for the policy in the supporting text that might justify the inclusion of this policy separately from other design guidance in the WBNP, coupled with the

fact that it already carries weight in relation to development control considerations, I recommend that this policy be deleted from the submission draft version of the WBNP. No alteration is necessary to the supporting text.

Policy PP18: New Agricultural Buildings

Any new agricultural buildings should have a high-quality design and be constructed from suitable materials and be sited appropriately within their setting taking account of the surrounding landscape.

and

Policy PP19: Change of Use of Agricultural Buildings

Change of use of agricultural buildings to residential must not have any adverse effect or cause any disturbance to the occupiers of any nearby properties. Buildings must be suitable for conversion without substantial rebuilding or expansion.

- 5.115 The BCS avers that these policies conforms to the NPPF 2012, paragraphs 17, 28, 56, and 58. In relation to the Core Strategy and Development Policies DPD, Policies PP18 and PP19 are said to conform with Policy UR 2 – Built Design and Character; Policy DP1: Design and Amenity (Revised July 2014); Policy DP13: Dwelling Alterations, Extensions and Replacement Dwellings. This assessment is not correct. Certain types of permitted development including the erection of new agricultural buildings, demolition and the installation of telecommunications equipment require prior approval. Matters which must be considered by the local planning authority in each type of development are set out in the relevant Parts of Schedule 2 to the General Permitted Development Order. The need for planning permission for new agricultural buildings is not explored or explained in the supporting text for this policy, again there is no mention of any guidance concerning this policy relating agricultural buildings. There is a range of permitted development rights to support the re-use of agricultural buildings and land within their curtilage. These permitted development rights are set out in Classes Q, R and S, of Part 3 of Schedule 2 (changes of use) to the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 5.116 No Regulation 16 comments were made concerning either draft policy.
- 5.117 For the reasons above and given that no justification is offered in support of these policies, I recommend both be deleted if the Plan is to be taken forward to referendum. Again, as there are no references to these policies in the supporting text in the WBNP, no alterations to the supporting text is necessary.



Policy PP20: Essex Parking Standards

Compliance with Essex Parking Standards will be sought for new or altered dwellings. Designs that cannot satisfactorily show how parking cannot be accommodated on the site and which would result in spill over parking on the adjacent highway will be resisted.

- 5.118 The Development Policies DPD, Policy DP19 sets out clear parking standards for development in the Borough Council's administrative area. This adopted policy is justified by a clear explanation. By contrast, there is no justification for the proposed parking standard in the draft WBNP.
- 5.119 No Regulation 16 representations were submitted relating to this policy.
- 5.120 I therefore again recommend that this policy be deleted. No alteration to the supporting text is necessary.

Policy PP21: Rural Exception Sites

Proposals for affordable housing on rural exception sites will be supported if it meets all of the following criteria:

- a. **Is justified by evidence of need through a local housing needs survey for the village**
- b. **Is located outside the shaded area on Map PP22**
- c. **Is appropriately located and designed to respect its surroundings and does not affect open land which is of particular significance to the form and character of the settlement.**

- 5.121 In the BCS, Policy PP21 is said to conform to the NPPF 2012, paragraph 54 which refers to development on rural exception sites and Core Strategy Policy H4, (revised in 2014). In common again with several policies previously considered, PP21 is not supported, justified or cross referenced to evidence that might support the policy. This means the policy would not meet the Basic Conditions test and is therefore unacceptable. Since there is no justification for this policy in the WBNP, I recommend that the policy be deleted from the Plan if the intention is to take the Plan forward to referendum.

Policy PP22: Coalescence

Development will not be supported in the area shown on Map PP22 if individually or cumulatively it would result in increasing the coalescence between West Bergholt village and Braiswick, reducing their separate identity by reducing the separation between these two settlements.

- 5.122 According to the BCS, this policy has been introduced to protect the distinct character of West Bergholt, to retain individual identity and a strong sense of place. The policy conforms to the NPPF 2012, at paragraphs 56 and 58. In addition the policy conforms to local guidance in the Core Strategy in strategic policy ENV1 – Environment, by protecting, conserving or enhancing landscape and townscape character, including maintaining settlement separation.
- 5.123 The WBNP provides a clear rationale for this policy in section 15.4.3 which discusses housing location within the Plan, describing the assessment undertaken following the call for sites, resulting in the desire to retain separation between the village of West Bergholt and Braiswick. The policy is justified in seeking to maintain the existing separation of these settlements to prevent coalescence which would be harmful to the aims of the WBNP and contrary to the strategic guidance in the Core Strategy, Policy ENV1.
- 5.124 The policy has been subject to Regulation 16 comment from Gladman. In particular Gladman consider this to be a strategic policy that should be determined by the Local Planning Authority. Full implementation of the policy would result in a blanket restriction on development to the east of West Bergholt and would effectively offer a similar level of protection as Green Belt land without undertaking the necessary exceptional circumstances test for the designation. Gladman refer to paragraph 074 of the PPG, which states that neighbourhood plans should not attempt to introduce strategic policies, which would undermine the strategic policies set out in the development plan. Gladman have been unable to identify any specific evidence to support the inclusion of this policy in the Neighbourhood Plan. It is vital that all of the evidence that underpins policies within the plan are available for review by anyone wishing to comment on the consultation.
- 5.125 Concerning Gladman's points, I consider Policy PP22 conforms to Strategic Policy ENV1 in the Core Strategy. It does not undermine the strategic policy but complements it. There is no suggestion from the local planning authority that this policy would undermine or adversely affect the guidance contained in the Core Strategy. In considering the tests in the PPG at paragraph 074, these are as follows:

"When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”*

5.126 There is no doubt that Policy PP22 meets the first three criteria above. In relation to the 4th bullet point, concerning evidence, several policies in the submission draft version of the WBNP are not based on adequate evidence as demonstrated. Consequently, I have been unable to support their inclusion since the Plan would fail the Basic Conditions test. As to Policy PP22, I accept that there is no reference to evidence to support a policy for the prevention of coalescence between West Bergholt and Braiswick in the Consultation Statement or the Basic Conditions Statement. There is however evidence in the Landscape Character Assessment prepared by Chris Blandford Associates for CBC in 2005. This clearly states in relation to character area B6, the Great Horkesley Farmland Plateau which includes the settlement of West Bergholt and the land comprising Armoury Farm Livery Stables and associated land north of the Colchester Road between West Bergholt and Colchester, (see the extract above from Figure 6 considering Policy PP 12 Key Views), that “Key Planning and Land Management Issues” include potential pressure from expansion of Boxted, Great Horkesley and West Bergholt. Expansion of West Bergholt on land to the north of Colchester Road within the gap, being part of the B6 designated landscape area would give rise to a reduction of the narrow countryside gap and greater coalescence, or perception of coalescence with Colchester beyond the A12 to the east.

5.127 Also concerning landscape area A5, the sloping valley sides, which would include land to the south of the Colchester Road to the east of West Bergholt, the Landscape Character Assessment states that “Key Planning and Land Management Issues” include potential pressure from “... urban expansions on the edge of West Bergholt, Fordham, Wivenhoe and Colchester.” On land to the south of the Colchester Road to the east of West Bergholt, being part of the A5 designated landscape area, would similarly give rise to a reduction of the countryside gap and greater coalescence, or perception of coalescence with Colchester beyond the A12 to the east.



- 5.128 Further evidence includes an assessment commissioned by CBC in September 2008, when Chris Blandford Associates were instructed to undertake an evaluation of the contribution provided by open countryside in maintaining the physical and visual separation between Colchester and adjacent settlements. This study included the open countryside between Colchester and West Bergholt. The conclusions of this study⁵ note that the “.... work carried out by CBC as part of the Core Strategy consultation confirmed that the existing pattern of settlements in the Borough is strongly valued by local people.”
- 5.129 At paragraph 13.1.3, the Summary and Conclusions to the study “... considers that protection of this open countryside is essential to the maintenance of the distinct character of the above settlements. Adopted Core Strategy Policy ENV1 - Environment of the adopted Core Strategy states that “Where new development needs, or is compatible with, a rural location, it should demonstrably (amongst other things) protect, conserve or enhance landscape and townscape character, including maintaining settlement separation. ”
- 5.130 It is necessary for evidence to be provided if this policy is to be included in the WBNP. This study would provide such justification if referenced in the supporting text, together with the earlier Landscape Character Assessment, 2005, also undertaken by Chris Blandford Associates.
- 5.131 I note that in assessing the sites and in planning positively to allocate land for housing development over the Plan period, the WBNP supporting statement acknowledges that small scale development could prove acceptable adjoining the settlement boundary to the south and south-east of West Bergholt. This is not inconsistent with Policy PP22, which does not preclude development in the gap if this would not result in increasing the coalescence between West Bergholt village and Braiswick through reducing their separate identity by reducing the separation between these two settlements. However, whilst small scale is not defined, given the clear justification within the WBNP to promote sustainable residential development to meet objectively assessed need on land to the north of the Colchester Road close to the village school, there is no planning advantage to be gained by allocating land within the safeguarded area defined on Map PP22, which would risk eroding the physical and perceptual gap, since this would inevitably cause planning harm in the absence of identified need. In making that judgement, I note that site WBG 01, Valley Crescent, West Bergholt, was accorded a RAG score of green, being only 0.389 ha in area (small scale) and possibly suitable for development of about 12 dwellings adjacent to the settlement boundary, despite being located within the designated safeguarded area. This is consistent with and reflects the conclusions of the Colchester Assessment of Open Countryside, July 2009 at paragraph 13.3.7, where the report notes that a

⁵ Summary and Conclusions of Colchester Assessment of Open Countryside, July 2009 (pages 87-89), Chris Blandford Associates.



number of areas located close to edges of certain settlements (including West Bergholt), where open countryside provides a much more limited contribution to settlement separation have the potential to accommodate some new built development, subject to appropriate design, landscape and visual mitigation measures.

- 5.132 I therefore conclude that Policy PP22 will contribute to the delivery of sustainable development without modification, but that this is subject to a revision of the supporting statement providing the evidence to justify the inclusion of this policy as outlined in the Colchester Assessment of Countryside report, July 2009 and the Landscape Character Assessment, November 2005, referred to above.
- 5.133 In reflecting on the policies in this Plan which are not clearly justified by reference to evidence, as required to meet the Basic Conditions, the format of the neighbourhood plan would be improved if each policy was individually considered and justified sequentially in the Plan, rather than collectively at the end of each theme, thereby encouraging consideration of the evidence in support of each policy and how each policy is likely to assist in the delivery of sustainable development to help shape development and facilitate development management outcomes that reflect and reinforce local distinctiveness.

Policy PP23: Sustainable Transport

All new developments will provide on-site, or contribute towards, appropriate measures to assist walking, cycling, public transport use as well as other highway improvements and links to village facilities. All proposals are to include provision for electric vehicles.

- 5.134 The BCS states that this policy conforms to national planning policy guidance in relation to the NPPF 2012, at paragraphs 29, 32 and 35. Concerning local strategic planning policy the BCS advises that Policy PP23 conforms to Core Strategy policies SD3 – Community Facilities (Revised July 2014), TA2 – Walking and Cycling and TA3 – Public Transport.
- 5.135 There were no Regulation 16 comments in relation to this policy.
- 5.136 The transport policies are mainly set out in section 20 of the WBNP rather than as an addition to the Housing section in the WBNP. There is clear evidence in the report of surveys that traffic and transport issues were important matters upon which many comments were raised. In relation to sustainable transport and Policy PP23, the policy ambition generally fails to reflect in detail the aspirations of the local community, such as the inclusion of 20 mph zones to create safer streets, which could fit appropriately within this policy. The provision for electric vehicle charging points articulated in the report of surveys and improvements to bus services which would undoubtedly improve sustainable transport within the neighbourhood area and beyond,



will be subject to consumer demand over which planning policy is unlikely to have much control. From a policy perspective, the WBNP can assist in encouraging the use of more sustainable means of transport, particularly walking and cycling, through measures such as encouraging the provision of a network of cycleways in the parish where this can be realistically provided and safe pedestrian environments through footway improvements, both of which were identified as being matters requiring investment and provision in the village during the preparation of the Plan. For reasons of proportionality and viability, it may not always be appropriate or necessary for such contributions to be sought and consequently the policy should be applied more flexibly. Also, as the decision maker will be the Borough Council, the policy should be framed to reflect that the Parish Council will be a consultee in the development management process.

- 5.137 Accordingly, I propose that the draft policy be modified as shown in Appendix 2 (tracked changes) and Appendix 3 with the modifications included. The supporting text will require some modification as indicated above to reflect the evidence available in the Report of Surveys relating to community consideration of the sustainable transport needs identified within the Parish, caused as a result of land use planning proposals. This policy and supporting text may sit more comfortably within the Transport section of the Plan in section 20, but that would be a matter of discretion for the Steering Group.

Policy PP24: Highways Network

Colchester Road (in the vicinity of the two development sites), will be the subject of speed reduction and accessibility improvements. New mini roundabouts are to be installed at the junctions of the new development areas with Colchester Road, and a new zebra crossing sited to allow access to the rest of the village safely including the school and sports fields. This is to be funded by the developers of Site A and Site B.

- 5.138 As the BCS notes, this policy is concerned with developer contributions in relation to the delivery of development on the allocated housing sites in the Plan. The BCS advises that Policy PP24 conforms to the NPPF 2012 at paragraphs 51, 61. This is not correct. The policy does however conform to the advice contained in paragraph 204 of the 2012 version of the NPPF against which the proposed policies of this Plan are examined. Concerning local adopted strategic planning policy in the Core Strategy, PP24 conforms to Policy TA4 – Roads and Traffic.
- 5.139 The Pegasus Group on behalf of developers Hopkins & Moore, in its Regulation 16 consultation comment on this policy complained that it included an inappropriate level of detail given the absence of any detailed proposals to test. The Pegasus Group allege that some of the requirements appear to be required to address existing issues which would be inappropriate and would undermine the deliverability of these sites. They also state that there is no evidence



that the detailed highway measures within the adopted public highway are necessary, safe or acceptable to the Local Highway Authority.

- 5.140 I agree that whilst accessibility improvements will be necessary, the form that these may take will be subject to agreement with Highway Authority. It is sufficient for the policy to acknowledge that highway improvements to safely accommodate allocated development will be necessary and that these improvements should be funded as appropriate, by developer contributions. I therefore recommend that the policy be modified as shown by tracked changes in Appendix 2 and the amended version in Appendix 3. The supporting text will require amendment in section 15.4.4 to reflect the policy recommendation if the Plan is to be taken forward to a referendum.

Policy PP25: Infrastructure

Any planning applications for new development within the Neighbourhood Plan Area must demonstrate how they can contribute towards the delivery of infrastructure and other development projects prioritised by the community. This may be through planning conditions, via a section 106 agreement or through payment of any Community Infrastructure Levy.

- 5.141 The Basic Conditions Statement advises that Policy PP25 conforms to NPPF 2012 guidance at paragraph 17 concerning core planning principles. Paragraphs 21 and 31 are also relevant. At the local level, the BCS notes that Policy PP25 is consistent with the strategic policy advice in the adopted Core Strategy Policies, Policy SD2 – Delivering Facilities and Infrastructure (Revised July 2014) and Policy SD3 – Community Facilities (Revised July 2014).
- 5.142 This policy attracted comment from the Pegasus Group on behalf of Hopkins & Moore, who complain that Policy PP25 and the associated list of infrastructure projects has the potential to undermine the deliverability of site allocations in the Plan. Pegasus cite paragraph 34 of the NPPF 2019 which advises that Plans should set out the contributions expected from development, but that this should not undermine the deliverability of plan. Pegasus state that as this information is not provided, basic condition A (having regard to national policies and advice contained in guidance by the Secretary of State) is not met.
- 5.143 Whilst the WBNP includes in Appendix 2, an extensive list of infrastructure projects which potentially might be funded through contributions from new development by way of s106 or CIL contributions or other (unspecified) funding opportunities, there has been no attempt to assess the likely cost burden to consider the likely impact of expected contributions on development proposals and assess whether development would be viable and therefore deliverable. Without an assessment clarifying the scales of development and trigger points when contributions would be expected to be delivered, this policy as drafted is not capable of



being implemented. Further work would be required to ensure compliance with the Community Infrastructure Levy Regulations and considerable liaison with the local planning authority who would as decision maker need to implement the policy through development management processes. For these reasons, I recommend this policy should be deleted and references to it removed from the Plan, if the WBNP is to proceed to referendum.

Business, Commerce and Employment Planning Policies

- 5.144 The objectives for business, commerce and employment are defined in the WBNP as twofold:
- To support local business and retain local employment; and
 - To encourage local employment opportunities through controlled expansion of existing employment located on, or adjacent to, the existing business parks.

Policy PP26: Expansion of Employment Sites

Proposals to upgrade or extend existing employment sites will be supported provided that:

- **the impact on the amenities enjoyed by occupants of nearby properties is acceptable; and**
- **they do not compromise the character of the area or openness of the countryside; and**
- **traffic impact is acceptable in terms of highway safety and living conditions for residents. Proposals may be required to submit a traffic impact analysis or transport assessment which is proportionate to the development and demonstrates traffic impact and any measures which may be taken to mitigate impacts.**

- 5.145 The BCS advises that Policy PP26 conforms with the NPPF 2012 at paragraphs 18, 19, 21 and 28. The policy is also said to conform with strategic Core Strategy policies, Policy CE1 – Centres and Employment Classification and Hierarchy, Policy CE3 – Employment Zones and Development, and Development Policies DPD Policy DP5: Appropriate Employment Uses and Protection of Employment Land and Existing Businesses. It would also appear to conform to Development Policies DPD Policy DP9.
- 5.146 No Regulation 16 comments were received in relation to this, or other policies in the Business, Commerce and Employment thematic section of the WBNP.
- 5.147 There is evidence in the Report of Surveys from the initial business survey in 2013, that the Steering Group has been seeking views on the need for business, commerce and employment accommodation in West Bergholt and concerns voiced about possible future expansion. There are a range of views, but to the extent that employment development is supported, the main



concerns relate to possible effects of traffic impact and effect on residential amenity for nearby occupants. This policy seeks to provide an effective policy approach to mitigate planning harm associated with employment harm, in circumstances where planning permission would be necessary to authorise development. I note that only exceptionally would employment development prove acceptable other than on existing employment sites in West Bergholt as explained in adopted strategic policy.

5.148 Concerning the need to prepare Transport Assessments to support planning proposals, this would be a matter principally for the Local Planning Authority to determine as decision taker. It is conceivable that Traffic Statements may be more appropriate than Traffic Impact Assessments in relation to explaining likely parking needs and traffic impact associated with the proposals. The use of Travel Plans associated with such proposals may also be important in mitigating impact and encouraging more sustainable means of travel.

5.149 Accordingly, I recommend that this policy be amended as identified in Appendix 2 by tracked changes and as amended in Appendix 3. The supporting text should be amended to demonstrate that extensive consultation has been undertaken to establish an assessment of local attitudes and concerns regarding employment development, including an earlier survey of the business community which established the need to facilitate appropriate opportunities for business expansion in the village.

Policy PP27: Protection of Employment Sites

There will be a strong presumption against the loss of commercial premises or land which provide employment and are of demonstrable benefit to the local community. Applications for a change of use to an activity that does not provide employment opportunities will only be permitted if it can be demonstrated that:

- **the commercial premises or land in question have not been in active use for at least 12 months and there is little, or no prospect of the premises or land being reoccupied by an employment generating user. This must be proven through an independent sustained marketing campaign lasting for a continuous concurrent period of at least six months; and**
- **the new use will enhance road safety and the living conditions of residents.**

5.150 Policy PP27 which seeks protection of employment sites conforms to the guidance in the NPPF 2012, at paragraphs 18, 21 and 28 according to the BCS. The policy also conforms to the adopted Core Strategy, Policies CE1 – Centres and Employment Classification and Hierarchy, CE2c – Local Centres; Development Policies DPD, Policy DP5: Appropriate Employment Uses and Protection of Employment Land and Existing Businesses and Policy DP7: Local Centres and Individual Shops.



- 5.151 There is no evidence in the supporting statement for this policy in the WBNP.
- 5.152 In the Report of Surveys, part of the evidence base for the WBNP, it is clear from the Survey of Businesses in 2013 that business which responded to the survey reported general buoyant conditions and expectations for future business expansion. I appreciate that trading conditions may change over time, but nationally, the economy is currently active with record low unemployment levels. At the time of my visit to West Bergholt on May 2nd, the commercial enterprises in the village were trading and there was no apparent evidence that commercial activities were declining. To the extent that land use protection may be required, which may prove necessary for retail activities, there is already protection afforded by DP7 and further for other commercial land uses across the Borough by Policy DP5.
- 5.153 In the absence of any evidence which might suggest the need for or justify a protective land use policy specific to West Bergholt in the neighbourhood plan, I recommend that this policy be deleted.

Policy PP28: Farm Diversification

Development proposals for the diversification of farms will be supported where this enables production from the land to continue and where:

- a. **There are no significant negative effects upon the landscape.**
 - b. **It does not result in significant increased traffic by way of Heavy Goods Vehicles on rural roads.**
 - c. **There is sustained or increased local employment.**
- 5.154 The BCS advises that this policy conforms to the NPPF, paragraphs 17, 28, 56, 58. It also conforms to Core Strategy Policy CE3 – Employment Zones; ENV2 – Rural Communities (Revised July 2014); Development Policies DPD, Policy DP5: Appropriate Employment Uses and Protection of Employment Land and Existing , Businesses, Policy DP8: Agricultural Development and Diversification.
- 5.155 The supporting statement explains how commercial and business activities evolved in the neighbourhood area evolved as spin-off activities from agricultural production many years ago. The supporting statement to the WBNP also confirms that Farm diversification sites will be supported as a means of improving employment opportunities in the more rural areas of the Plan. This would be generally consistent with Policy DP8. There is some evidence of support for farm diversification in the Report of Survey and I believe that these comments should be regarded as sufficient to justify the policy intent. It would be helpful if the supporting statement in section 16.3.5 were to be extended to provide indications of this support and the Policy cross



referenced to Policy DP8, in order to indicate that the farm diversification policy is supplemental to DP8 within West Bergholt.

- 5.156 Subject to the amendments to the supporting statement as noted above, I recommend that this policy be amended as indicated by the tracked changes as shown in Appendix 2 and as shown incorporating those changes in Appendix 3. In order to meet the objectives of this section of the WBNP, it should be sufficient to demonstrate retention of local employment, although an increase would be generally desirable.

Policy PP29: Rural Businesses

Proposals for new rural businesses, including the provision of tourism-related facilities, attractions & accommodation, and homeworking will be encouraged when they meet the following criteria:

- a. **They do not have a significant adverse impact on residential amenity; and**
- b. **They do not have a significant adverse impact on the landscape, tranquility or the Green Infrastructure network of the Parish;**
- c. **and they provide suitable access and appropriate car parking.**

- 5.157 The BCS advises that this policy conforms to the national planning guidance in the NPPF 2012 in paragraphs 17, 21, 23 and 28 and at the local level through strategic policies in the Core Strategy, CE3 – Employment Zones ENV2 – Rural Communities (Revised July 2014) and in the Development Policies DPD in Policy DP5: Appropriate Employment Uses and Protection of Employment Land and Existing Businesses Policy DP9: Employment Uses in the Countryside Policy DP10: Tourism, Leisure and Culture.

- 5.158 Although the Report on Surveys provides some support for rural business activity subject to the impact on the environment and traffic being acceptable, the neighbourhood plan's policy for rural businesses differs from adopted local policy in Core Strategy Policy ENV2 and adopted Development Policies DPD. The strategic policy base in the Core Strategy and DPD makes a clear distinction between development activity in towns and villages and countryside. Strategic rural planning policies relate to development in the countryside, not within towns and villages. In the context of West Bergholt, this essentially means that rural activity would relate to development beyond the village settlement boundary. However, WBNP Policy PP29 relates to development across the whole parish, including land within the settlement boundary. By the qualification in the draft policy that development of rural business should not generate a significant adverse impact on *residential* amenity, that the intention is that this policy should apply to the entire parish. This, "rural business" policy would be more coherent if it applied to development beyond the settlement boundary of West Bergholt. This distinction is important as Policy DP9 in the DPD is more stringent and therefore offers a greater degree of



environmental protection than would be offered by Policy PP29. This could give rise to confusion and ambiguity in relation to determining planning applications for rural business development.

- 5.159 Accordingly, I conclude that Policy PP29 does not conform to adopted strategic planning policy and would not meet the Basic Conditions test and therefore should be deleted.

Sport and Recreation Planning Policies

- 5.160 The objectives defined in the WBNP concerning Sport and Recreation are as follows:
- Promote increased opportunities to get active and participate in sport and informal recreation.
 - To develop our recreational facilities to meet the needs of an expanding population.
 - To tailor facilities to the needs of all ages.
 - To make best use of our sports and recreational facilities.
 - To consider the need for new areas of land for organised sports.

Policy PP30: New Sports Facilities

Land to accommodate new sports facilities will be provided adjacent to the cricket club as indicated on Map PP13/2 as part of the development of Site B.

Consideration will be given to the need to accommodate adult and junior football, rugby, other team sports, practice facilities and teenage play facilities. The site can be developed for sport in phases to meet evolving demand. The applicant will be expected to demonstrate how the proposal meets existing demand. Early discussions with Sport England and the Parish Council are encouraged.

- 5.161 The BCS advises that Policy PP30 conforms to paragraphs 69, 70, 73 and 75 of the NPPF 2012. It also notes that the policy conforms to strategic adopted guidance in Core Strategy Policy SD2 – Delivering Facilities and Infrastructure (Revised July 2014), Policy SD3 – Community Facilities (Revised July 2014), Table PR1 – Open Space and Recreation Facilities and Development Policies DPD, Policy DP4: Community Facilities.
- 5.162 The proposed policy attracted consultation comment from the Pegasus Group on behalf of Hopkins & Moore complaining that an obligation for Site B to deliver sports facilities adjacent to the existing cricket pitch is too onerous, exceeding any requirements generated by residential element of this site allocation, adversely affecting viability and delivery of the proposed housing on Site B. A further complaint was that it is inappropriate to reserve significant areas of land for



Public Open Space/ Recreational Use, where those areas are also demonstrably and evidentially suitable for residential development. Nonetheless, Pegasus helpfully volunteered a modified policy covering new sports facilities.

- 5.163 It is clear from both the draft policy and its supporting statement that although there is support for the provision of modern sports facilities for the benefit of the community, the precise form that these might take and what these might comprise remains to be determined. In the light of this lack of clarity over the scope of the sports facilities sought which the Steering Group acknowledges needs further refinement through further assessment, consequently it is not clear that a developer could emphatically conclude at this point that the draft policy expectation is too onerous.
- 5.164 Also, I do not accept that where potential sports and recreation land is capable of being for other land uses, including residential, this should mean that sports and recreational use should be precluded. There is no evidence or suggestion that there is a shortage of potentially developable housing land, that might signal that land comprising part of the site allocations north of Colchester Road should be allocated solely for residential use.
- 5.165 I consider that Policy PP30 should be modified to read as shown by tracked changes in Appendix 2 and as amended in Appendix 3 if the Plan is to be taken forward to a referendum. In making this recommendation I have had regard to the earlier recommendations in relation to Policy PP13, which if accepted would read; “The provision of land for a cemetery and land to accommodate sports facilities adjacent to the cricket ground, shown for illustrative purposes on Map PP13/2 will be supported.”
- 5.166 If slightly modified to be more discursive, parts of the section of the submission draft Policy PP30 which reads; “*Consideration will be given to the need to accommodate adult and junior football, rugby, other team sports, practice facilities and teenage play facilities. The site can be developed for sport in phases to meet evolving demand. The applicant will be expected to demonstrate how the proposal meets existing demand. Early discussions with Sport England and the Parish Council are encouraged,*” could be usefully incorporated into the supporting text to this policy in section 17.5 to provide additional context.
- 5.167 It would be highly desirable to include reference in the explanatory text that when considering proposals for the development of Site B, consideration should be given to facilitating subsequent development by ensuring that the layout of development should not fetter future development of adjoining land within area WB014, including the opportunity to deliver adequate access to it in the future.

Community Safety Planning Policies

5.168 The objectives as indicated in the submission version of the Plan at 18.1 are:

- To create an environment which promotes a feeling of safety where the perception and incidence of crime is low, by ensuring new developments are designed so as to reduce the incidences of crime and fear of crime.
- To see the traffic circulation and parking environment managed to minimise the chance of being the victim of a traffic-related accident.
- To help protect vulnerable members of the community from harm in and around the home and from inclement weather.

Policy PP31: Designing Out Crime

All areas of new development are to be designed so as to reduce the incidences of crime and fear of crime.

5.169 The BCS states that this policy conforms to the NPPF 2012, paragraphs 58 and 69 and in relation to local adopted strategic planning policy it conforms to Policy UR 2 – Built Design and Character and Development Policies DPD, Policy DP1: Design and Amenity (Revised July 2014).

5.170 The policy raised comment from Gladman that as currently drafted the policy may not be applied on a consistent basis by decision makers, since neither the policy nor the supporting text identify how this policy can be implemented or measured.

5.171 Since proposals for changes of use do not necessitate physical alteration, the policy would not apply to all development. Nonetheless the design of proposals that reduce the incidence and fear of crime is a valid planning endeavour endorsed by the NPPF and advice is available how this can be achieved, through for example, “Designing out Crime”⁶. It would be helpful if the supporting statement referred to this and similar guidance and for proposals to incorporate confirmation in Design and Access Statements indicating how this issue has been addressed in preparing development proposals where appropriate.

⁶ “Designing out Crime”, A designer’s guide 2011, Design Council, 34 Bow Street, London WC2E 7DL United Kingdom www.designcouncil.org.uk



- 5.172 I recommend this policy be modified as shown in Appendix 2, by way of tracked changes and as modified in Appendix 3. I encourage the Steering Group to provide further guidance to designing out crime and fear of crime in the supporting statement to the Plan as indicated in this examination report above.

Policy PP32: New Road Layouts

Design of new road layouts that discourages indiscriminate parking and promotes a safe pedestrian and cycling environment will be supported.

- 5.173 The BCS advises that this policy conforms to the NPPF, paragraphs 58 and 69 and in relation to local adopted strategic planning policy it conforms to Policy UR 2 – Built Design and Character, Policy PR2 - People-friendly Streets and Policy TA1 – Accessibility and Changing Travel Behaviour.
- 5.174 No comments were received in relation to this policy during the Regulation 16 consultation. Strong local support for safe vehicular, pedestrian and cycle journeys within the neighbourhood area is evidenced in the Report of Surveys.
- 5.175 The NPPF at paragraph 35, in promoting safe and sustainable transport points to the benefits in relation to this policy, advising that Plans should protect and exploit opportunities for the use of sustainable transport. Amongst other considerations the NPPF advises that developments should be located and designed where practical to:
- give priority to pedestrian and cycle movements, and have access to high quality public transport facilities; and
 - create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
- 5.176 Accordingly, I consider that the policy would assist in delivering sustainable development within West Bergholt, subject to the recommended minor modification as shown in Appendix 2 and as modified in Appendix 3. No alteration to the supporting statement is necessary.

Communication Planning Policies

- 5.177 As an aside, please note that the objectives as currently drafted perform no land use planning function and are not related to development. For coherence, the Steering Group may wish to redraft the objectives to include land use planning considerations in this section of the Plan to provide greater policy coherence within the WBNP. Consideration of the objectives within neighbourhood plan examinations however is not part of this assessment relating to whether the Plan meets the Basic Conditions.

Policy PP33: Communications Network

Development of new, high-speed broadband infrastructure to serve the Parish will be supported.

Proposals for new developments must demonstrate how they will contribute to and be compatible with, local fibre optic networks or high-speed internet connectivity. This could be demonstrated through a “Connectivity Statement” accompanying a planning application. Such statements should consider land use and the anticipated connectivity requirements, known public broadband infrastructure and their speed (fixed copper, 3G, 4G, fibre, satellite etc.) and a realistic assessment of connection potential or contribution to the expansion of any such networks.

Where no high-speed internet connectivity is available, as a minimum and subject to viability, suitable ducting that can accept low-cost upgrade for Fibre to the Home or other cabling should be provided to the public highway, a community led local access network or another suitable location.

Where possible additional ducting should be provided that contributes to a local access network for the wider community. The costs associated with this can be considered alongside any other requirements and be subject to viability testing.

- 5.178 The BCS advises that this policy conforms to the NPPF 2012, paragraphs 20, 42, 99 and 100. In relation to strategic local planning policy, the BCS notes that Policy 33 conforms to Core Strategy Policy SD2 – Delivering Facilities and Infrastructure (Revised July 2014). In relation to the policies cited in the NPPF only paragraph 42 specifically relates to broadband although paragraph 20 is indirectly relevant in terms of meeting business needs. Paragraphs 99 and 100 are not related to development and communications technology. Core Strategy Policy SD2 – Delivering Facilities and Infrastructure (Revised July 2014), does not expressly refer to the provision of broadband. Given the importance of broadband, it is important to give weight to the emerging Local Plan, where Policy SS15 – West Bergholt, point (v) which states:

“The Neighbourhood Plan will also set out the policy framework to guide the delivery of any infrastructure and community facilities required to support the development, including the provision of SuDS for managing surface water runoff in individual developments”.

- 5.179 For more than 2 years British Telecom has been offering free connections for developments of over 30 dwellings to Ultrafast broadband to developers to increase connectivity. Within West Bergholt this would mean that such infrastructure provision should not be a cost burden for developers to provide this connectivity to each dwelling on the allocated housing sites. Where



development is for at least two dwellings but less than 30, as I understand matters BT will provide access to BT's existing or planned fibre infrastructure, either funded entirely by Openreach or with the help of developer co-funding where that is needed.

5.180 Policy PP33 may be construed to be seeking to fix existing network deficiencies through planning policy. It would not be appropriate to burden new developments in the village with the cost of remedying existing network deficiencies. For this reason, the last paragraph of the policy should be deleted.

5.181 In order to ensure that a minimum, new development is provided with the internet infrastructure that is currently available, I recommend that a policy similar to that recently adopted in the rural community of South Lakeland District concerning the provision of telecommunications and broadband services associated with new development (Policy DM8⁷). The proposed policy amendments are shown in Appendix 2 and as made in Appendix 3.

Transport Planning Policies

5.182 The WBNP transport policy objectives are as follows:

- To make getting around the parish and elsewhere by foot, bicycle, car and bus simple, more convenient and safer.
- To ensure critical infrastructure is provided for new developments.
- To enable wider transport infrastructure to be improved upon, especially to calm traffic, control parking and improve walking and cycling.

Policy PP34: Access

Developers must demonstrate that developments are safely located with regard to vehicular and pedestrian access, ensuring adequate visibility.

5.183 The BCS notes that Policy PP34 conforms to the NPPF 2012, paragraphs 35, 51 and 61 and to the adopted Core Strategy strategic policies, Policy SD3 – Community Facilities (Revised July 2014), PR2 - People-friendly Streets, Policy TA1 – Accessibility and Changing Travel Behaviour and Development Policies DPD, Policy DP17 – Accessibility and Access.

⁷ South Lakeland Development Management Policies Development Plan Document, Adopted Version, 28 March 2019 <https://www.southlakeland.gov.uk/media/6466/final-dm-dpd-adoption-accessible.pdf>

- 5.184 No Regulation 16 comments were received in relation to this policy.
- 5.185 The supporting evidence to the WBNP demonstrates local concern for highway safety. To be effective for development management and control, Policy PP34 should relate to development proposals submitted for approval to CBC. I recommend that this policy should be amended as shown in Appendix 2 and as modified in Appendix 3. No alteration is necessary to the supporting text.

Policy PP35: Traffic Congestion

Where development would add to traffic congestion in the village or encourage through or additional traffic on rural lanes, proposals should be brought forward to mitigate any traffic impact or contribute funding towards village transport safety schemes.

- 5.186 The BCS confirms that this policy conforms to the NPPF 2012 at paragraphs 34 and 35. The Policy conforms to the Core Strategy Policy TA1 – Accessibility and Changing Travel Behaviour and Policy TA4 – Roads and Traffic.
- 5.187 The supporting text to Policy PP35 recognises the need to encourage sustainable modes of transport. The Strategic policies cited to which the policy is said to conform place a greater emphasis on promoting more sustainable approaches to travel, such as through travel plans. It is not entirely clear what might be included within village transport safety schemes; these may include travel plan for example, but an express confirmation in the policy that sustainable schemes would be supported would erase doubt. I therefore recommend the policy modifications in Appendix 2 and shown as made in Appendix 3. No amendment to the supporting text is necessary.

Policy PP36: Cycle Storage

Development proposals for new developments should provide secure cycle storage and storage for mobility scooters where appropriate, minimising their visual impact through good design.

- 5.188 The BCS confirms that Policy PP36 conforms to national guidance in NPPF 2012 at paragraphs 17, 35 and 56. The BCS similarly advises that the policy conforms to Core Strategy Policy UR 2 – Built Design and Character and Policy TA1 – Accessibility and Changing Travel Behaviour.
- 5.189 I recommend that the policy be amended to help deliver sustainable transport solutions related to development within the neighbourhood area, as shown in Appendix 2 and as amended in Appendix 3. No alteration to the supporting policy text in the Plan is necessary.

Policy PP37: Sustainable Transport Connections

Existing footpaths, cycleways and bridleways provide a high level of amenity value and will be protected. New development should take every opportunity to enhance existing networks, create connections and provide new networks wherever possible.

- 5.190 The BCS explains that Policy PP37 conforms to national planning policy in the NPPF at paragraphs 17, 29, 56 and locally in relation to adopted Core Strategy Policy PR2 - People-friendly Streets, Policy TA1 – Accessibility and Changing Travel Behaviour, Policy TA2 – Walking and Cycling and Development Policies DPD Policy DP17: Accessibility and Access.
- 5.191 I recommend that the policy should be amended to reflect the fact that the Qualifying Body will not be the decision maker, as shown in Appendix 2 and as amended in Appendix 3, if the Plan is to be taken forward to referendum. No alteration to the supporting text is necessary.

Summary of findings

- 6.1 I set out the summary of my findings below.
- 6.2 Only a draft neighbourhood Plan that meets each of a set of basic conditions can be put to a referendum and be made. These basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:
- 6.3 *a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).*
- 6.4 Subject to the recommended modifications in this examination report, the WBNP conforms to condition a. through supporting the delivery of strategic policies contained in the adopted Core Strategy and strategic policies within the Development Policies DPD, in accordance with guidance in the NPPF 2012 at paragraph 184, by not promoting less development than set out in the strategic policies for the area, or by undermining those strategic policies.
- 6.5 *b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. (This applies only to Orders.)*



- 6.6 *c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders.*
- 6.7 *d. the making of the neighbourhood plan contributes to the achievement of sustainable development.*
- 6.8 The WBNP will contribute to the delivery of sustainable development within the Parish as indicated in this examination report in so far as the policy recommendations in this examination report confirm that policies are supported by sufficient and proportionate evidence. Consideration of these to development proposals will assist in delivering sustainable solutions in the neighbourhood area.
- 6.9 *e. the making of the order (or neighbourhood 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).*
- 6.10 As demonstrated by the consideration of the draft policies in the submission draft version of the WBNP by reference to the Basic Conditions Statement and consideration in this examination, subject to the recommended policy changes being incorporated, and if made, the WBNP will be in general conformity with the strategic policies contained in the development plan for the area and will not undermine those policies.
- 6.11 *f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.*
- 6.12 As demonstrated in this examination report, the supporting assessments made by CBC in relation to the submission version of the WBNP, under unusual circumstances as outlined in the examination report and the assessments indicate that the policies in the WBNP are compatible with European Union obligations, as incorporated into UK law, and appear legally compliant. The relevant Directives are:
- Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment. (The Strategic Environmental Assessment (SEA) Directive); and
- Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (The Habitats Directive).
- 6.13 Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) prescribes a further basic conditions in addition to those set out in the primary legislation, that



in the making of the neighbourhood plan, the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (which sets out the habitat regulation assessment process for land use plans, includes consideration of the effect on habitats sites) will not be breached. This is confirmed in the analyses undertaken in CBC's recent AAR and SEA. As outlined in this examination report, having regard to the provisions of Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (as amended), in relation to the examination of neighbourhood development plans.

- 6.14 In addition to conforming to its EU obligations, I am content that the Plan does not breach, and is not otherwise incompatible with the European Convention on Human Rights.
- 6.15 *g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).*
- 6.16 In accordance with the Town and Country Planning Act, 1990 Schedule 4B, Paragraph 5, I am satisfied that the submission plan proposal is not a 'repeat' proposal (i.e. the Borough Council has not refused a submission under paragraph 12 or Section 61E and it has not failed a referendum).
- 6.17 I am satisfied that West Bergholt Parish Council is the body who submitted the Plan and is a qualifying body for the purposes of making a neighbourhood development plan. The Designation of the West Bergholt Neighbourhood Area was approved in accordance with the Neighbourhood Planning (General) Regulations 2012 and with section 61G of the Town and Country Planning Act 1990 as amended for the purposes of Neighbourhood Planning. It was formally designated on 29th July 2013 by CBC, the 'Neighbourhood Area', approved being contiguous with the boundary of West Bergholt Parish.
- 6.18 As required by the Planning and Compulsory Purchase Act 2005, Section 38B (1) (c), I am also satisfied that the WBNP does not relate to more than one neighbourhood area and that there is no other Neighbourhood Development Plan in place within this neighbourhood area.
- 6.19 Concerning the requirement to comply with the requirements of the Town and Country Planning Act, 1990 Schedule 4B, Paragraph 6 (2) (c) and the Neighbourhood Planning (General) Regulations (as amended) – Regulation 15, I confirm that CBC has submitted the following in a satisfactory form:
- (i) A map identifying the area to which the Plan relates;
 - (ii) A consultation statement (which contains details of those consulted, how they were consulted, summarises the main issues or concerns raised and how these



- have been considered and where relevant addressed in the proposed neighbourhood development plan under Regulation 15 (2) (a);
- (iii) The proposed neighbourhood development plan; and
 - (iv) A statement explaining how the neighbourhood development plan meets the 'Basic Conditions' requirements of paragraph 8 (2) of Schedule 4b to the 1990 Act;
- 6.5 As to public consultation, the process and management of the community consultation has been satisfactory and I am confident that the Consultation Statement outlining the terms of reference and actions of West Bergholt Parish Council, the supporting evidence from the surveys, events, workshops, consultation correspondence and feedback leading to the formulation of draft policies and subsequent pre-submission and submission plan consultation on the draft Plan policies, adequately fulfils Section 15 (2) of Part 5 of the Neighbourhood Planning Regulations 2012 and Section 16 of these Regulation in relation to publicising the consultation opportunities during the preparation of the WBNP.
- 6.6 The Plan has been examined against national policies in the NPPF (2012), with appropriate consideration given to the NPPF 2019 (February revisions) where appropriate, in addition the adopted planning policy of Colchester Borough Council. A Basic Conditions Statement in a satisfactory form has been prepared which meets the 'Basic Conditions' requirements of paragraph 8 (2) of Schedule 4b to the 1990 Act;
- 6.7 The WBNP meets the definition of a 'Neighbourhood Development Plan' in that it sets out policies in relation to the development and use of land in the neighbourhood area and therefore complies with the requirement of the Planning and Compulsory Purchase Act 2005, Section 38A (2).
- 6.8 The 'Neighbourhood Development Plan' (as defined under Section 38A), specifies the time period for which it is to have effect in paragraph 1.1 of the Introduction to the Plan, as being from 2018 - 2033 thereby satisfying the requirement of the Planning and Compulsory Purchase Act 2005, Section 38B (1) (a).
- 6.9 I confirm that the WBNP does not include any policies relating to excluded development, including minerals, waste or nationally significant infrastructure projects, as defined s61K of the Town & Country Planning Act 1990 (as amended). Thus, the requirement of the Planning and Compulsory Purchase Act 2005, Section 38B (1) (b) is also satisfied.

Conclusions and Recommendations

- 7.1 I conclude that the WBNP policies, subject to my recommended alterations being accepted as set out in this examination report, would meet the Basic Conditions as defined in the Localism Act 2011, Schedule 10 and Schedule 4B, 8 (2) of the Town and Country Planning Act 1990, which a neighbourhood plan is required to satisfy before proceeding to a referendum.
- 7.2 If the changes to the WBNP policies recommended in this examination report are accepted, I believe that the Plan will make a positive contribution to sustainable development, promoting economic growth, supporting social wellbeing, whilst conserving the natural and historic environment within the designated area and meet the neighbourhood planning, “basic conditions.”
- 7.3 I therefore recommend that in accordance with Schedule 4B to the Town and Country Planning Act 1990, paragraph 10 (2), b) that the modifications specified in this examination report are made to the submission draft WBNP and that the Plan as modified is submitted to a referendum.

Referendum Area

- 7.4 It is the independent examiner’s role to consider the referendum area appropriate if the Qualifying Body wishes to proceed to the referendum stage. If West Bergholt Parish Council wishes to proceed to a referendum with this Plan, I consider that the referendum area should extend to those persons entitled to vote who are resident in the Designated Plan Area.

Jeremy Edge BSc FRICS MRTPI

26th May 2019

Appendix 1

Background Documents

In examining the WBNP I have had regard to the following documents:

Regulation 16 Consultation Documents provided by West Bergholt Parish Council to CBC as part of the Parish Council's neighbourhood submission prior to Regulation 16 consultation submission:

Documents supplied by CBC and the Parish Council

1. Submission Draft Neighbourhood Plan.
2. List of Planning Policies;
3. Schedule of Local Green Spaces;
4. Photos of views related to Map PP12;
5. Deliverability letters relating to Sites A & B;
6. Consultation Report on Surveys carried out at key stages of WB Neighbourhood Plan;
7. CBC West Bergholt HRA Screening v2;
8. CBC West Bergholt SEA Screening v3;
9. Sports Site Analysis;
10. Action Plan & List of Community Ambitions v3;
11. Infrastructure List;
12. CBC Settlement Boundary Review final June 2017;
13. Report on the Assessment of Potential Housing Sites;
14. West Bergholt Village Appraisal 1995;
15. Parish Plan 2008 v2.2;
16. Village Design Statement Dec 2011 v1.0;
17. RCCE Community Profile of West Bergholt;
18. RCCE Housing Needs Survey 2015;
19. West Bergholt Position Statement;
20. WBNP Consultation Statement v2;
21. Responses to Regulation 14 Consultation;
22. West Bergholt Basic Conditions Statement December 2018;
23. West Bergholt Neighbourhood Plan Strategic Environmental Assessment Report, January 2019;
24. West Bergholt Neighbourhood Plan Appropriate Assessment Report, January 2019.

Maps

- 25. Local Green Spaces;
- 26. Character Area;
- 27. Area of Separation;
- 28. Key Views;
- 29. Settlement Boundary;
- 30. Proposed Development Allocations;
- 31. Coalescence.

Other documents

- 32. Regulation 16 consultation responses
- 33. The Chief Planning Officer's letter of 15th January 2019 to Chief Planning Officers relating to Habitats Regulations Assessments and the making of Neighbourhood Plans.
- 34. Town and Country Planning Act 1990 (as amended)
- 35. The Planning and Compulsory Purchase Act 2004 (as amended)
- 36. Planning (Listed Buildings and Conservation Areas) Act 1990
- 37. The Community Infrastructure Levy Regulations 2010
- 38. Localism Act 2011
- 39. Neighbourhood Planning (General) Regulations 2012
- 40. National Planning Policy Framework 2012
- 41. National Planning Policy Framework 2019 (9th May version)
- 42. Planning practice guidance - GOV.UK
- 43. The Chief Planning Officer's letter of 15th January 2019 to Chief Planning Officers relating to Habitats Regulations Assessments and the making of Neighbourhood Plans.
- 44. Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018
- 45. Oxford Character Assessment Toolkit, Oxford City Council, in association with the Oxford Preservation Trust and English Heritage.
- 46. Building for Life 12, 2018, David Birkbeck and Stefan Kruczkowski
- 47. Summary and Conclusions of Colchester Assessment of Open Countryside, July 2009 Chris Blandford Associates.
- 48. Designing out Crime", A designer's guide 2011, Design Council, 34 Bow Street, London WC2E 7DL United Kingdom
- 49. South Lakeland Development Management Policies Development Plan Document, Adopted Version, 28 March 2019

Appendix 2

Recommended Revised Policies (Tracked changes)

(Delete policy but retain the supporting text)

Policy No. PP1: Sustainable Development

- ~~1. Our Neighbourhood Plan will take a positive approach to development where this brings forward a balance of housing, employment, retail and community development to ensure West Bergholt remains an attractive and vibrant place. Development located as specified in this Plan will be supported if it enhances the environmental assets in and around West Bergholt and improves access to the countryside and open spaces for residents and visitors wherever possible.~~
- ~~2. Development will be supported where it can be shown that such proposals would support the continued sustainability of West Bergholt by meeting at least one of these criteria:
 - ~~a. new homes in locations allocated in the Plan of a size, type and tenure to meet local requirements; or~~
 - ~~b. affordable housing of size and tenure to meet the objectively assessed need; or~~
 - ~~c. housing that meets the local housing needs of the parish; or~~
 - ~~d. infrastructure associated with leisure, recreational pursuits and social and community activities within the parish; or~~
 - ~~e. new and expanded business premises within existing commercial locations.~~~~
- ~~3. All development shall be designed and located having regard to the principles and advice set out in this Neighbourhood Plan and shall be located to ensure that the development does not adversely affect the
 - ~~a. amenities of nearby residents; and~~
 - ~~b. the character and appearance of that part of the village in which it is located; and~~
 - ~~c. the social, built, heritage, cultural and natural assets of the parish.~~~~
- ~~4.1. All planning policies are considered necessary to make Developments sustainable and acceptable, relate directly to the Development and fairly and reasonably relate to its setting.~~

Policy PP2: Protection of Community Facilities

All development proposals must ensure that they do not give rise to adverse impacts on the quality of life and wellbeing of the local community and provide enhancements wherever possible. ~~All development must demonstrate an enhancement to the quality of life and wellbeing of the local community and~~ and, where appropriate, promote diversity and enhance community cohesion through the provision of new multiuse facilities or contributions to existing facilities.

The loss of existing community buildings will be resisted unless it can be demonstrated through a combined Marketing Assessment and Viability Report demonstrating that the property has been marketed for not less than 12 months and confirming that there is no longer an effective demand for the existing use within the locality and there is no viable alternative community use for the site meeting the needs of the local area. ~~for the facility no longer exists or suitable alternative provision is made elsewhere.~~

Policy PP3: New Community Facilities

Proposals that improve the quality and/or range of community facilities, particularly those for younger and older age groups, will be supported provided that the development is of a scale appropriate to the needs of the locality and is conveniently accessible for residents of the village. Provision for a parish office/community hub will be supported.

Policy PP4: Open Spaces

~~All~~ Development proposals that should ensure new open spaces are intrinsic to their proposals and not designated as single purpose use but deliver multiple functions and benefits, which link to the green infrastructure network, through green corridors, cycle or footpaths and demonstrate environmental gains will be supported.

~~Development that results in the loss of open spaces or that results in any harm to their character, setting, accessibility or appearance, general quality or to amenity value will only be supported if the community would gain equivalent benefit from provision of a suitable replacement space.~~

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Modify Policy PP5, amend the supporting text in the submission draft Plan at 14.3.6 and amend Map PP5.

Policy PP5: Local Green Spaces

The following areas designated as Local Green Space, are shown on Proposals Map PP5:

~~LGS1 - Hillhouse Wood~~ Lorkin Daniell Field

~~LGS2 - Lorkin Daniell Field~~ Poor's Land

~~LGS3 - Poor's Land~~

~~LGS4 - Heath/Village Green~~

~~LGS5 - Allotments~~

~~LGS6 - Mumford Close Oak Tree~~

~~LGS7 - Churchyard: St Mary the Virgin Church~~

~~LGS8 - Churchyard: Old St Mary's Church~~

~~LGS9 - Pocket Park - Maltings~~

~~LGS10 - Erle Havard Park - Pirie Road~~

~~LGS11 - Queen's Road Pond~~

~~LGS12 - Lexden Road Pond~~

~~LGS13 - Hall Road Pond~~

~~LGS14 - Village Sign/Beacon Area~~

Proposals for any development on Local Green Spaces will be resisted other than in very special circumstances.

Amend the supporting text in the submission draft Plan at 14.3.6 as indicated below:

".....~~Consistent with advice in the~~ Following advice from the National Planning Policy Framework, the Local Green Spaces ~~will only be formally~~ designated in this Plan comprise where the green space which is:

- in reasonably close proximity to the village;
- demonstrably special to the village and holds a particular local significance;
- local in character and is not an extensive tract of land.

The sites ~~to be~~ designated as Local Green Space, referenced as LGS, are as listed below and as shown on Map PP5:

~~LGS1 - Hillhouse Wood~~ Lorkin Daniell Field

~~LGS2 - Lorkin Daniell Field~~ Poor's Land....."

~~LGS3 - Poor's Land~~

~~LGS4 - Heath/Village Green~~

~~LGS5 - Allotments~~

~~LGS6 - Mumford Close Oak Tree~~

~~LGS7 - Churchyard: St Mary the Virgin Church~~

~~LGS8 – Churchyard: Old St Mary’s Church~~
~~LGS9 – Pocket Park – Maltings~~
~~LGS10 – Erle Havard Park – Pirie Road~~
~~LGS11 – Queen’s Road Pond~~
~~LGS12 – Lexden Road Pond~~
~~LGS13 – Hall Road Pond~~
~~LGS14 – Village Sign/Beacon Area~~

Policy PP6: Character Area

~~The~~**A** “Character Area” ~~in the village has been~~ designated ~~as shown~~ on Map PP6, ~~this area,~~ which reflects the built local distinctiveness of Essex’s heritage, will be protected from degradation. Development proposals will be expected to respect its features and character in relation to the scale, design and setting of any development.

Amend supporting text at section 14.3.3 - Urban character

Policy PP7: Heritage Assets

~~Any changes to heritage assets will be expected to be carried out sympathetically so that their character and appearance is preserved or enhanced proportionally.~~

No amendment to the supporting text is necessary.

Policy PP8: Trees and Hedgerows

~~Development proposals which conserve trees and/or hedgerows will be supported. Any development that would result in the loss of trees or hedgerows of arboricultural and amenity value will not normally be supported. The retention of trees and hedgerows in situ will always be preferable. Where development proposals would necessitate the loss of such features, appropriate mitigation will be supported, subject to there being no protective designations in place. is unavoidable, replacement provision should be of a commensurate value to that which is lost.~~

Policy PP9: Natural Environment

~~All~~**D**evelopment ~~proposals which provide should protection~~ –and where appropriate enhance biodiversity by:

- a) Protecting designated sites, protected species and ancient and species-rich hedgerows, grasslands and woodlands; and



- b) Preserving ecological networks, and the migration and transit of flora and fauna; and
- c) Protecting ancient trees or trees of arboricultural value, or ancient woodlands; and
- d) Promoting the mitigation, preservation, restoration and recreation of wildlife habitats, and the protection and recovery of priority species; and
- e) Providing a net gain in flora and fauna; and
- f) Adopting best practice in sustainable urban drainage with development proposals incorporating the provision of Sustainable Drainage Systems (SuDS) unless it can be demonstrated to be technically unfeasible~~Adopting best practice in sustainable urban drainage, will be supported.~~
- g) ~~Proposals which must demonstrate that ecological considerations have been properly assessed in relation to likely impacts and where appropriate proportionate mitigation measures are agreed, will be supported~~the application site and those adjacent to it. Where necessary mitigation measures must be carried out.

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Policy PP10: Recreational disturbance Avoidance & Mitigation Strategy (RAMS)

All residential development within the zones of influence of Habitat Sites will be required to make a financial contribution towards mitigation measures, as detailed in the Essex Coast RAMS, to avoid adverse in-combination recreational disturbance effects on Habitat Sites. In the interim period, before the Essex Coast RAMS is completed, all residential development within the zones of influence will need to deliver all measures identified (including strategic measures) through project level HRAs, or otherwise, to mitigate any recreational disturbance impacts in compliance with the Habitat Regulations and Habitats Directive.

Delete policy and associated plan.

~~Policy PP11: Area of Separation~~

~~An "Area of Separation" is designated for the part of the parish, as shown centred on Map PP11. Changes in land use and development that adversely affect the key landscape and visual characteristics of the area will be resisted.~~

Delete policy and associated plan.

~~Policy PP12: Key Views~~

~~The views indicated on Map PP12 will be protected and wherever possible enhanced. Any development or alteration to an area within these views must ensure that the key features of the views can continue to be enjoyed including distant buildings, areas of landscape and the juxtaposition of village edges and open agricultural countryside~~

Modify policy and supporting text at 15.4.4 as indicated in the examination report and below.

Policy PP13: Housing Sites

The settlement boundary is shown on Map PP13/1. The minimum number of dwellings to be provided over the Neighbourhood Plan period will be 120. These dwellings will be provided on Site A and Site B as shown on Map PP13/2.

~~Development on land on the North East side of Colchester Road and identified on Map PP13/2 as Sites A and B for one, two and three bedroomed dwellings suitable for first time buyers, homes for older people or small families will be supported. Development proposals on allocated housing sites should provide a mix of housing types and tenures to meet the demands of the local housing market and as appropriate the needs of West Bergholt and the wider Borough. Dwellings appropriate for first time buyers, homes for older people or small families will be supported.~~

~~The density of the development should be within the range of 20-25 per hectare on average.~~

~~A mix of housing tenure will be encouraged. It is expected that the development will include at least 30% affordable housing including affordable rent or shared ownership. Subject to the viability, development proposals will be expected to deliver a proportion of affordable housing in accordance with adopted Strategic Borough wide policy.~~

~~Satisfactory access must be provided.~~

~~A 12 metre strip of land parallel to the highway boundary of Colchester Road will be retained and integrated into the design and layout of the scheme to respect the semi-rural village aspect.~~

~~Landscaping will be an important and integral part of the design and layout of the scheme, including appropriate public open space. Principal roads will be designed to ensure that they are appropriate to the character of the area and to provide safe access for vehicles and pedestrian movement. Development proposals for Sites A and B with layouts designed to accommodate capacity for roads and utility services to contiguous backland to facilitate development beyond the Plan period will be supported.~~



~~It is expected that all principal roads will incorporate a minimum 1 metre wide green verge to each side and the development should include an appropriate amount of public open space.~~

~~In order to ensure that a stock of smaller dwellings is retained to meet the village's needs, permitted development rights will usually be withdrawn for extensions through the imposition of conditions on any grant of planning permission.~~

The provision of land for a cemetery and land to accommodate sports facilities adjacent to the cricket ground, shown for illustrative purposes indicated on Map PP13/2 will be supported.

~~The provision of land to accommodate sports facilities adjacent to the cricket club as indicated on Map PP13/2 will be a requirement of the developer of this site.~~

Amend the supporting text in section 15.4.4 of the Plan to read:

“15.4.4 Details of the Housing Sites

~~A 12 metre strip of land parallel to the highway boundary of Colchester Road will be retained and integrated into. The design and layout of the housing proposals should scheme to~~ respect the semi-rural nature of the village in this location.

The site boundaries will generally follow the topography of the field boundaries.

The density of the development ~~should will average about be within the range of 20-25 dwellings per hectare on average, with the desirability of to~~ maintaining the Parish's prevailing character and setting (including residential gardens), ~~noting the importance of securing by delivering~~ well-designed, attractive and healthy places to live in:.....”

Modify policy and provide further information to supporting text. Consider inclusion of Build for Life 12, 2018 in the supporting text to encourage high quality design in housing delivery.

Policy PP14: Design

All new development should be of a high-quality design and sustainable construction is encouraged. Account should be taken of the guidance and principles in the Village Design Statement, which seeks to promote or reinforce local distinctiveness. In particular new development and any additions or extensions to existing dwellings will be expected to:

- Have an acceptable visual impact on the valley sides; and
- Give careful consideration to ~~mitigating~~ the impact on views across the village; and

- ~~Provide or retain garden sizes appropriate to the size of the development and reflective of the character of the area in which the development sits; and~~
- Buildings must respect the character of and be in harmony with their surroundings in respect of plot width, layout, building lines, materials, height, proportion, ~~and~~ scale and massing; and
- Planning applications must show contextually the impact of their proposals on adjacent buildings by means of adequately detailed plans with accurate street elevations to avoid ~~and~~
- ~~There should be no~~ unacceptable adverse impact upon the amenities of the occupiers of nearby residential properties; and
- Details of ~~all~~ boundary walls, fences and gates shall reflect the character, design and materials of means of enclosure within the village to mitigate the impact of urbanisation. . around the site shall be as submitted drawing but should not lead to urbanisation

~~In addition, any infrastructure required for new development will be expected to be provided in a timely manner and before the development is substantially occupied.~~

Modify policy. Further reference to the energy hierarchy in a town planning context and how energy assessment should be undertaken and demonstrated to support planning applications in the supporting text would be helpful.

Policy PP15: Energy Hierarchy

~~Development proposals shall~~ Developers will be required to demonstrate how the ~~se y~~ have been prepared having regard to followed the energy hierarchy in reducing energy demand including the use of before implementing renewable energy and or making the most of solar gain and passive cooling through the orientation, layout and design of the development.

Delete policy. No amendment is necessary to the supporting text.

Policy PP16: Infill and Redevelopment Sites

~~Applications for residential developments on infill and redevelopment sites within West Bergholt village will only be supported subject to proposals being well designed and where such development meet all the following criteria:~~

~~a. — fills a small restricted gap in an existing frontage or on other sites within the built-up area of the village where the site is closely surrounded by buildings; and~~

~~b. — does not reduce the privacy or amenity of adjoining properties or is inconsistent with the character of the area; and~~

~~c. — where the scheme is for one dwelling, the proposal must be in keeping with its wider surroundings in relation to the historic development patterns or building/plot sizes.~~

Delete policy. No amendment is necessary to the supporting text.

~~Policy PP17: Dormers~~

~~Dormers should be used sparingly and be subservient in nature.~~

Delete policy. No amendment is necessary to the supporting text.

~~Policy PP18: New Agricultural Buildings~~

~~Any new agricultural buildings should have a high quality design and be constructed from suitable materials and be sited appropriately within their setting taking account of the surrounding landscape.~~

Delete policy. No amendment is necessary to the supporting text.

~~Policy PP19: Change of Use of Agricultural Buildings~~

~~Change of use of agricultural buildings to residential must not have any adverse effect or cause any disturbance to the occupiers of any nearby properties. Buildings must be suitable for conversion without substantial rebuilding or expansion.~~

Delete policy. No amendment is necessary to the supporting text.

~~Policy PP20: Essex Parking Standards~~

~~Compliance with Essex Parking Standards will be sought for new or altered dwellings. Designs that cannot satisfactorily show how parking cannot be accommodated on the site and which would result in spill over parking on the adjacent highway will be resisted.~~

Delete policy. No amendment is necessary to the supporting text.

Policy PP21: Rural Exception Sites

~~Proposals for affordable housing on rural exception sites will be supported if it meets all of the following criteria:~~

- ~~a. Is justified by evidence of need through a local housing needs survey for the village~~
- ~~b. Is located outside the shaded area on Map PP22~~
- ~~c. Is appropriately located and designed to respect its surroundings and does not affect open land which is of particular significance to the form and character of the settlement.~~

No amendment to Policy PP22 is recommended, but the justification for the policy must be made as identified in the examination report if the policy is to meet the Basic Conditions Test.

Policy PP22: Coalescence

Development will not be supported in the area shown on Map PP22 if individually or cumulatively it would result in increasing the coalescence between West Bergholt village and Braiswick, reducing their separate identity by reducing the separation between these two settlements.

Amendment to the policy is recommended. Justification for the policy should be made as outlined in the examination report to provide clarity. if the policy is to meet the Basic Conditions Test.

Policy PP23: Sustainable Transport

~~All new developments will provide on-site, or contribute towards, appropriate measures to assist walking, cycling, public transport use as well as other highway improvements and links to village facilities. All proposals are to include provision for electric vehicles.~~

Where appropriate and subject to viability, new development which offers contributions to encourage walking, cycling and public transport use, in mitigation commensurate with the scale and likely impact of the proposed development, will be supported.

Amendment to the policy is recommended. Appropriate justification for the policy should be made as outlined in the examination report to provide clarity at 15.4.4, if the policy is to meet the Basic Conditions Test.

Policy PP24: Highways Network

~~Proposals to develop Site A and Site B shown on Map PP13/2 Colchester Road (in the vicinity of the two development sites), will be the and subject to speed reduction measures and accessibility improvements to be funded by the developers of Site A and Site B where appropriate, will be supported. New mini roundabouts are to be installed at the junctions of the new development areas with Colchester Road, and a new zebra crossing sited to allow access to the rest of the village safely including the school and sports fields. This is to be funded by the developers of Site A and Site B.~~

Delete policy and amend the supporting statement by deleting references to Policy PP25 and provision of infrastructure improvements funded by developer contributions listed in Appendix 2.

Policy PP25: Infrastructure

~~Any planning applications for new development within the Neighbourhood Plan Area must demonstrate how they can contribute towards the delivery of infrastructure and other development projects prioritised by the community. This may be through planning conditions, via a section 106 agreement or through payment of any Community Infrastructure Levy.~~

Amendment to the policy is recommended. Additional justification for the policy should be made as outlined in the examination report to demonstrate that extensive consultation has been undertaken to establish an assessment of local attitudes and concerns regarding employment development, including an earlier survey of the business community which established the need to facilitate appropriate opportunities for business expansion in the village.

Policy PP26: Expansion of Employment Sites

Proposals to upgrade or extend existing employment sites will be supported provided that:

- the impact on the amenities enjoyed by occupants of nearby properties is acceptable; and
- they do not compromise the character of the area or openness of the countryside; and

- ~~where appropriate, they satisfactorily demonstrate expected~~ traffic impact is acceptable in terms of highway safety and ~~the amenity of nearby living conditions for residents. Proposals may be required to submit a traffic impact analysis or transport assessment which is proportionate to the development and demonstrates traffic impact and any measures which may be taken to mitigate impacts.~~

Delete Policy. No amendment necessary to the supporting statement.

Policy PP27: Protection of Employment Sites

There will be a strong presumption against the loss of commercial premises or land which provide employment and are of demonstrable benefit to the local community. Applications for a change of use to an activity that does not provide employment opportunities will only be permitted if it can be demonstrated that:

- the commercial premises or land in question have not been in active use for at least 12 months and there is little, or no prospect of the premises or land being reoccupied by an employment generating user. This must be proven through an independent sustained marketing campaign lasting for a continuous concurrent period of at least six months; and
- the new use will enhance road safety and the living conditions of residents.

Amend Policy PP28 and include further justification for the policy in the supporting statement as indicated in the examination report.

Policy PP28: Farm Diversification

Development proposals for the diversification of farms will be supported where this enables production from the land to continue and where:

- a. There are no significant negative effects upon the landscape; ~~and~~.
- b. ~~Development~~ ~~it~~ does not result in ~~unacceptable significant increased~~ traffic by way of Heavy Goods Vehicles on rural roads; ~~and~~
- c. ~~There is sustained or increased~~ local employment ~~is retained~~

Delete Policy PP29

Policy PP29: Rural Businesses

~~Proposals for new rural businesses, including the provision of tourism-related facilities, attractions & accommodation, and homeworking will be encouraged when they meet the following criteria:~~

- a. ~~They do not have a significant adverse impact on residential amenity; and~~
- b. ~~They do not have a significant adverse impact on the landscape, tranquility or the Green Infrastructure network of the Parish;~~
- c. ~~and they provide suitable access and appropriate car parking.~~

Amend Policy PP30 and supplement the explanatory text

Policy PP30: New Sports Facilities

~~Proposals for the development of Site B in accordance with Policy PP13 including~~Land to accommodate new sports facilities will be provided on land adjacent to the cricket club as illustrated indicated on Map PP13/2, subject to viability as part of the development of Site B will be supported.

~~Consideration will be given to the need to accommodate adult and junior football, rugby, other team sports, practice facilities and teenage play facilities. The site can be developed for sport in phases to meet evolving demand. The applicant will be expected to demonstrate how the proposal meets existing demand. Early discussions with Sport England and the Parish Council are encouraged.~~

Amend Policy PP31 and supplement the explanatory text

Policy PP31: Designing Out Crime

~~Where appropriate, development proposals~~All areas of new development are to be which demonstrate that they have been designed ~~so as to~~ reduce the incidences of crime and fear of crime will be supported.

Amend Policy PP32. No modification is necessary to the supporting text.

Policy PP32: New Road Layouts

~~Development proposals incorporating the~~Design of new road layouts that discourages indiscriminate parking and promotes a safe pedestrian and cycling environment, where appropriate will be supported.



Amend Policy PP33. Modify the supporting text to include the information as shown in Appendix 3.

Policy PP33: Communications Network

~~Development of new, high speed broadband infrastructure to serve the Parish will be supported.~~

~~Proposals for new developments must demonstrate how they will contribute to and be compatible with, local fibre optic networks or high speed internet connectivity. This could be demonstrated through a “Connectivity Statement” accompanying a planning application. Such statements should consider land use and the anticipated connectivity requirements, known public broadband infrastructure and their speed (fixed copper, 3G, 4G, fibre, satellite etc.) and a realistic assessment of connection potential or contribution to the expansion of any such networks. residential (sites of 2 dwellings or more) and commercial development will be supported which demonstrate how they will provide future occupiers with sufficient broadband connectivity including:~~

- ~~1. demonstration of early engagement with infrastructure providers; and~~
- ~~2. be accompanied by a ‘Broadband Statement’ that explains the current internet connectivity in the site’s locality and the potential for the site to be provided with high speed broadband, including an assessment of the feasibility of providing fibre to the premises (FTTP) infrastructure; and~~
- ~~3. make provision for new premises to be provided with high speed (superfast)⁸ broadband, or if this is not feasible at the time of the application, undertake all reasonable actions to enable a superfast connection at a future date.~~

~~Where no high speed internet connectivity is available, as a minimum and subject to viability, suitable ducting that can accept low cost upgrade for Fibre to the Home or other cabling should be provided to the public highway, a community led local access network or another suitable location.~~

~~Where possible additional ducting should be provided that contributes to a local access network for the wider community. The costs associated with this can be considered alongside any other requirements and be subject to viability testing.~~

~~The Parish Council will strongly support the provision of Fibre to the Premises (FTTP)~~

⁸ High speed or ‘superfast’ broadband is currently (at the time of this document’s publication) defined by the UK Government as 24Mbps, and by Ofcom as 30Mbps. The definition of superfast is likely to evolve over the time period of this Local Plan, and a consideration of an up to date definition of ‘superfast’ will be made at the time of a planning application based on Government/Industry guidance.

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infrastructure in all new built development on major development sites unless it can be demonstrated through the Broadband Statement that it is not feasible. The level of detail required in the Broadband Statement should be proportionate to the scale of the development proposal.

Amend Policy PP34. No modification is necessary to the supporting text.

Policy PP34: Access

Development proposals ~~Developers must~~ demonstrating designs that incorporate safe pedestrian and vehicular access and adequate sight lines will be supported. ~~e that developments are safely located with regard to vehicular and pedestrian access, ensuring adequate visibility.~~

Amend Policy PP35. No modification is necessary to the supporting text.

Policy PP35: Traffic Congestion

Where development proposals are likely to ~~would~~ add to traffic congestion in the village or encourage through or additional traffic on rural lanes causing significant harm, proposals ~~that should be brought forward to include sustainable measures to mitigate unacceptable any~~ traffic impact, or contribute funding towards appropriate sustainable village transport safety schemes, will be supported.

Amend Policy PP36. No modification is necessary to the supporting text.

Policy PP36: Cycle Storage

Development proposals for new developments incorporating designs to ~~should~~ provide secure cycle storage and storage for mobility scooters where appropriate, minimising their visual impact through good design will be supported.

Amend Policy PP37. No modification is necessary to the supporting text.

Policy PP37: Sustainable Transport Connections

Existing footpaths, cycleways and bridleways provide a high level of amenity value and will be protected. New ~~D~~development proposals which will ~~should take every opportunity to~~



enhance existing networks, create connections and provide new networks where ~~possible, appropriate, will be supported.~~ **ver**

Appendix 3

Recommended Revised Policies (Clean)

Policy PP2: Protection of Community Facilities

All development proposals must ensure that they do not give rise to adverse impacts on the quality of life and wellbeing of the local community and provide enhancements wherever possible and, where appropriate, promote diversity and enhance community cohesion through the provision of new multiuse facilities or contributions to existing facilities.

The loss of existing community buildings will be resisted unless it can be demonstrated through a combined Marketing Assessment and Viability Report demonstrating that the property has been marketed for not less than 12 months and confirming that there is no longer an effective demand for the existing use within the locality and there is no viable alternative community use for the site, meeting the needs of the local area.

Supplemental explanatory text for Policy PP2

Guidance regarding the information that should be provided within a combined Marketing Assessment and Viability Report to support proposals where a change of use of land and buildings is proposed which would result in a loss of existing community uses.

In the event that community facilities become vacant and there is no realistic prospect of the premises being occupied for the existing, or an alternative community use, planning proposals for redevelopment or development requiring a change of use will not be supported unless accompanied by a combined Marketing Assessment and Viability Report undertaken by a professional agency with acknowledged experience and competency in marketing similar facilities. The combined Marketing Assessment and Viability Report should include:

- Viability evidence, demonstrating that the premise is no longer viable in its existing use (which considers the ability of the community use to continue to trade) and evidence which considers the ability of the site to accommodate an alternative cultural or leisure use, meeting the needs of the local area.
- A survey providing details of other local community uses in the Parish to determine whether there is a need in the neighbourhood area which could reasonably be accommodated in the existing premises, including details of consultation with public and community service providers to establish their needs and accommodation requirements.
- Copies of all marketing literature and details of individuals and organisations contacted regarding the availability of the premises; and
- Expressions of interest received, with full reasons given as to why any offer was not accepted.

The combined Marketing Assessment and Viability Report should demonstrate that;

- The property has been freely exposed to the market covering a continuous period of not less than 12 months; and that
- The site has been marketed at a realistic price or rent. (The sales price/rent should reflect rates generally paid by community groups or voluntary organisations within Colchester Borough Council's administrative area).

If requested, developers should be prepared to fund the entire costs associated with a peer review of any combined Marketing Assessment and Viability Report, by an independent valuer appointed by the Borough Council, at the Council's sole discretion, to independently assess the veracity of any combined Marketing Assessment and Viability Report submitted in support of such proposals.

For replacement facilities, applicants must demonstrate these are of the same standard or better than those lost, and that the new location will be easily reached by existing users of the facility.

Policy PP3: New Community Facilities

Proposals that improve the quality and/or range of community facilities, particularly those for younger and older age groups, will be supported provided that the development is of a scale appropriate to the needs of the locality and is conveniently accessible for residents of the village. Provision for a parish office/community hub will be supported.

Policy PP4: Open Spaces

Development proposals that ensure new open spaces are intrinsic to their proposals and not designated as single purpose use but deliver multiple functions and benefits, which link to the green infrastructure network, through green corridors, cycle or footpaths and demonstrate environmental gains will be supported.

Policy PP5: Local Green Spaces

The following areas designated as Local Green Space, are shown on Proposals Map PP5:

LGS1 - Lorkin Daniell Field

LGS2 - Poor's Land

Proposals for any development on Local Green Spaces will be resisted other than in very special circumstances.

Amend supporting text in the submission draft Plan at 14.3.6 and revise Map PP5 to show LGS1 - Lorkin Daniell Field and LGS2 - Poor's Land

".....Consistent with advice in the National Planning Policy Framework, the Local Green Spaces designated in this Plan comprise green space which is:

- in reasonably close proximity to the village;
- demonstrably special to the village and holds a particular local significance;
- local in character and is not an extensive tract of land.

The sites designated as Local Green Space, referenced as LGS, are as listed below and as shown on Map PP5:

LGS1 - Lorkin Daniell Field

LGS2 - Poor's Land....."

Policy PP6: Character Area

The "Character Area" designated on Map PP6, which reflects the built local distinctiveness of Essex's heritage, will be protected from degradation. Development proposals will be expected to respect its features and character in relation to the scale, design and setting of any development.

Amend supporting text at section 14.3.3 - Urban character

Policy PP7: Heritage Assets

Delete policy

No amendment to the supporting text is necessary.

Policy PP8: Trees and Hedgerows

Development proposals which conserve trees and/or hedgerows will be supported. Where development proposals would necessitate the loss of such features, appropriate mitigation will be supported, subject to there being no protective designations in place.

No amendment to the supporting text is necessary.

Policy PP9: Natural Environment

Development proposals which provide protection and where appropriate enhance biodiversity by:

- a) Protecting designated sites, protected species and ancient and species-rich hedgerows, grasslands and woodlands; and
- b) Preserving ecological networks, and the migration and transit of flora and fauna; and
- c) Protecting ancient trees or trees of arboricultural value, or ancient woodlands; and
- d) Promoting the mitigation, preservation, restoration and recreation of wildlife habitats, and the protection and recovery of priority species; and
- e) Providing a net gain in flora and fauna; and
- f) Adopting best practice in sustainable urban drainage with development proposals incorporating the provision of Sustainable Drainage Systems (SuDS) unless it can be demonstrated to be technically unfeasible, will be supported.

Proposals which demonstrate that ecological considerations have been properly assessed in relation to likely impacts and where appropriate proportionate mitigation measures are agreed, will be supported.

Policy PP10: Recreational disturbance Avoidance & Mitigation Strategy (RAMS)

All residential development within the zones of influence of Habitat Sites will be required to make a financial contribution towards mitigation measures, as detailed in the Essex Coast RAMS, to avoid adverse in-combination recreational disturbance effects on Habitat Sites. In the interim period, before the Essex Coast RAMS is completed, all residential development within the zones of influence will need to deliver all measures identified (including strategic measures) through project level HRAs, or otherwise, to mitigate any recreational disturbance impacts in compliance with the Habitat Regulations and Habitats Directive.

Policy PP11: Area of Separation

Delete policy and associated plan.

Policy PP12: Key Views

Delete policy and associated plan.

Policy PP13: Housing Sites

The settlement boundary is shown on Map PP13/1. The minimum number of dwellings to be provided over the Neighbourhood Plan period will be 120. These dwellings will be provided on Site A and Site B as shown on Map PP13/2.

Development proposals on allocated housing sites should provide a mix of housing types and tenures to meet the demands of the local housing market and as appropriate the needs of West Bergholt and the wider Borough. Dwellings appropriate for first time buyers, homes for older people or small families will be supported.

A mix of housing tenure will be encouraged. Subject to the viability, development proposals will be expected to deliver a proportion of affordable housing in accordance with adopted Strategic Borough wide policy.

Landscaping will be an important and integral part of the design and layout of the scheme, including appropriate public open space. Principal roads will be designed to ensure that they are appropriate to the character of the area and to provide safe access for vehicles and pedestrian movement. Development proposals for Sites A and B with layouts designed to accommodate capacity for roads and utility services to contiguous backland to facilitate development beyond the Plan period will be supported.

The provision of land for a cemetery and land to accommodate sports facilities adjacent to the cricket ground, shown for illustrative purposes on Map PP13/2 will be supported.

“15.4.4 Details of the Housing Sites

The design and layout of the housing proposals should respect the semi-rural nature of the village in this location.

The site boundaries will generally follow the topography of the field boundaries.

The density of the development should average about 25 dwellings per hectare to maintain the Parish’s prevailing character and setting (including residential gardens), by delivering well-designed, attractive and healthy places to live in.....”

Modify policy and supporting text at 15.4.4 as indicated above.

Policy PP14: Design

All new development should be of a high-quality design and sustainable construction is encouraged. Account should be taken of the guidance and principles in the Village Design Statement, which seeks to promote or reinforce local distinctiveness. In particular new development and any additions or extensions to existing dwellings will be expected to:

- Have an acceptable visual impact on the valley sides; and
- Give careful consideration to mitigating the impact on views across the village; and
- Buildings must respect the character of and be in harmony with their surroundings in respect of plot width, layout, building lines, materials, height, proportion, scale and massing; and
- Planning applications must show contextually the impact of their proposals on adjacent buildings by means of adequately detailed plans with accurate street elevations to avoid unacceptable adverse impact upon the amenities of the occupiers of nearby residential properties; and
- Details of boundary walls, fences and gates shall reflect the character, design and materials of means of enclosure within the village to mitigate the impact of urbanisation.

Modify policy and provide further information to supporting text. Consider inclusion of Build for Life 12, 2018 in the supporting text to encourage high quality design in housing delivery.

Policy PP15: Energy Hierarchy

Development proposals shall demonstrate how these have been prepared having regard to the energy hierarchy in reducing energy demand including the use of renewable energy and making the most of solar gain and passive cooling through the orientation, layout and design.

Modify policy. Further reference to the energy hierarchy in a town planning context and how energy assessment should be undertaken and demonstrated to support planning applications in the supporting text would be helpful.

Policy PP16: Infill and Redevelopment Sites

Delete policy. No amendment is necessary to the supporting text.

Policy PP17: Dormers

Delete policy. No amendment is necessary to the supporting text.

Policy PP18: New Agricultural Buildings

Delete policy. No amendment is necessary to the supporting text.

Policy PP19: Change of Use of Agricultural Buildings

Delete policy. No amendment is necessary to the supporting text.

Policy PP20: Essex Parking Standards

Delete policy. No amendment is necessary to the supporting text.

Policy PP21: Rural Exception Sites

Delete policy. No amendment is necessary to the supporting text.

Policy PP22: Coalescence

Development will not be supported in the area shown on Map PP22 if individually or cumulatively it would result in increasing the coalescence between West Bergholt village and Braiswick, reducing their separate identity by reducing the separation between these two settlements.

No amendment to the policy is necessary, but the justification for the policy must be made as identified in the examination report if the policy is to meet the Basic Conditions Test.

Policy PP23: Sustainable Transport

Where appropriate and subject to viability, new development which offers contributions to encourage walking, cycling and public transport use, in mitigation commensurate with the scale and likely impact of the proposed development, will be supported.

Amendment to the policy is recommended. Justification for the policy should be made as outlined in the examination report to provide clarity. if the policy is to meet the Basic Conditions Test.

Policy PP24: Highways Network

Proposals to develop Site A and Site B shown on Map PP13/2 and subject to speed reduction measures and accessibility improvements to be funded by the developers of Site A and Site B where appropriate, will be supported.

Amendment to the policy is recommended. Appropriate justification for the policy should be made as outlined in the examination report to provide clarity at 15.4.4, if the policy is to meet the Basic Conditions Test.

Policy PP25: Infrastructure

Delete policy and amend the supporting statement by deleting references to Policy PP25 and provision of infrastructure improvements funded by developer contributions listed in Appendix 2.

Policy PP26: Expansion of Employment Sites

Proposals to upgrade or extend existing employment sites will be supported provided that:

- the impact on the amenities enjoyed by occupants of nearby properties is acceptable; and
- they do not compromise the character of the area or openness of the countryside; and
- where appropriate, they satisfactorily demonstrate expected traffic impact is acceptable in terms of highway safety and the amenity of nearby residents.

Amendment to Policy PP26 is recommended. Additional justification for the policy should be made as outlined in the examination report to demonstrate that extensive consultation has been undertaken to establish an assessment of local attitudes and concerns regarding employment development, including an earlier survey of the business community which established the need to facilitate appropriate opportunities for business expansion in the village.

Policy PP27: Protection of Employment Sites

Delete Policy. No amendment necessary to the supporting statement.

Policy PP28: Farm Diversification

Development proposals for the diversification of farms will be supported where this enables production from the land to continue and where:

- a. There are no significant negative effects upon the landscape; and
- b. Development does not result in unacceptable traffic by way of Heavy Goods Vehicles on rural roads; and
- c. Local employment is retained

Amend Policy PP28 and include further justification for the policy in the supporting statement as indicated in the examination report.

Policy PP29: Rural Businesses

Delete Policy PP29.

Policy PP30: New Sports Facilities

Proposals for the development of Site B in accordance with Policy PP13 including sports facilities on land adjacent to the cricket club as illustrated on Map PP13/2, subject to viability will be supported.

Amend Policy PP30 and include further justification for the policy in the supporting statement as indicated in the examination report.

Policy PP31: Designing Out Crime

Where appropriate, development proposals which demonstrate that they have been designed to reduce the incidence of crime and fear of crime will be supported.

Amend Policy PP31 and supplement the explanatory text

Policy PP32: New Road Layouts

Development proposals incorporating the design of new road layouts that discourages indiscriminate parking and promotes a safe pedestrian and cycling environment, where appropriate will be supported.

Amend Policy PP32. No modification is necessary to the supporting text.

Policy PP33: Communications Network

Proposals for new residential (sites of 2 dwellings or more) and commercial development will be supported which demonstrate how they will provide future occupiers with sufficient broadband connectivity including:

1. demonstration of early engagement with infrastructure providers; and
2. be accompanied by a 'Broadband Statement' that explains the current internet connectivity in the site's locality and the potential for the site to be provided with high speed broadband, including an assessment of the feasibility of providing fibre



to the premises (FTTP) infrastructure; and

3. make provision for new premises to be provided with high speed (superfast)⁹ broadband, or if this is not feasible at the time of the application, undertake all reasonable actions to enable a superfast connection at a future date.

The Parish Council will strongly support the provision of Fibre to the Premises (FTTP) infrastructure in all new built development on major development sites unless it can be demonstrated through the Broadband Statement that it is not feasible. The level of detail required in the Broadband Statement should be proportionate to the scale of the development proposal.

Amend Policy PP33. Modify the supporting text to include the information as shown below.

The supporting text to the policy should include reference to the need to ensure that digital connectivity is considered at the earliest possible opportunity when preparing development proposals to maximise the chances of new properties being connected to the high speed broadband network by encouraging developers to engage early with network providers, and specifically to take up Openreach's free service of providing a connectivity assessment prior to submitting a planning application. Openreach's connectivity assessment service is an optional service. It is desirable that developers take up this service in West Bergholt to optimise the delivery of broadband infrastructure. On sites less likely to be served by an adequate Openreach fibre network, developers will be encouraged to investigate other broadband provision such as satellite broadband or community-led schemes as part of their assessment. Applicants will be expected to submit a Broadband Statement with their planning application summarising the outcome of their early engagement with network providers and explaining how they intend to ensure satisfactory broadband provision in light of the findings, including a "connectivity assessment" (provided at no cost by Openreach) of the anticipated broadband speeds and connectivity to a site at least 9 months before the first occupancy of the site to avoid the default to copper wire connectivity. The connectivity assessment will show:

- 1) if the development will be covered by the existing fibre broadband infrastructure,
- 2) if a developer contribution charge is applicable, and how much,
- 3) the forecasted range of ADSL (copper broadband) speed irrespective of Superfast fibre infrastructure availability, and

⁹ High speed or 'superfast' broadband is currently (at the time of this document's publication) defined by the UK Government as 24Mbps, and by Ofcom as 30Mbps. The definition of superfast is likely to evolve over the time period of this Local Plan, and a consideration of an up to date definition of 'superfast' will be made at the time of a planning application based on Government/Industry guidance.

4) the lead-time to deliver fibre infrastructure if in exceptional cases this is greater than nine months.

The Parish Council will not expect the provision of superfast broadband where the costs would be disproportionate in relation to the development proposal. It may be in some cases that ducting or other equipment could be provided to make properties 'ready' for future improvements to the network if it is cost prohibitive for improvements to be made at the time of the planning application.

This policy will support and work in connection with the new Building Regulations (Part R – Electronic Communications) that came into effect in January 2017. The new regulations require in-building physical infrastructure to enable copper or fibre-optic cables or wireless devices capable of delivering broadband speeds greater than 30Mbps to be installed in new dwellings.

Policy PP34: Access

Development proposals demonstrating designs that incorporate safe pedestrian and vehicular access and adequate sight lines will be supported.

Amend Policy PP34. No modification is necessary to the supporting text.

Policy PP35: Traffic Congestion

Where development proposals are likely to add to traffic congestion in the village or encourage through or additional traffic on rural lanes causing significant harm, proposals that include sustainable measures to mitigate unacceptable traffic impact, or contribute funding towards appropriate sustainable village transport safety schemes, will be supported.

Amend Policy PP35. No modification is necessary to the supporting text.

Policy PP36: Cycle Storage

Development proposals for new developments incorporating designs to provide secure cycle storage and storage for mobility scooters where appropriate, minimising their visual impact through good design will be supported.

Amend Policy PP36. No modification is necessary to the supporting text.

Policy PP37: Sustainable Transport Connections

Existing footpaths, cycleways and bridleways provide a high level of amenity value and will be protected. Development proposals which will enhance existing networks, create connections and provide new networks where appropriate, will be supported.

Amend Policy PP37. No modification is necessary to the supporting text.