

Hook Heath Neighbourhood Forum

# Hook Heath Neighbourhood Development Plan

A Report to Woking Borough Council of the Independent  
Examination of the Hook Heath Neighbourhood Development  
Plan

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## Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.*”<sup>1</sup>
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Hook Heath Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Hook Heath Neighbourhood Forum (the Neighbourhood Forum), a qualifying body formally designated by Woking Borough Council (the Borough Council) on 24 October 2013. I have examined the Constitution of the Hook Heath Neighbourhood Forum adopted 24 April 2013 and confirm the Forum is able to lead the preparation of a neighbourhood plan.<sup>2</sup>
4. The minutes of the Neighbourhood Forum Annual General Meeting held on 19 November 2014 state more than 330 people have registered an interest in and support for the Forum. Work on the production of the plan has been progressed by volunteer members of the local community through three working groups focused on issues relating to the built environment, open spaces, and local infrastructure co-ordinated by a Steering Group (the Steering Group)
5. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Neighbourhood Forum for submission of the plan and accompanying documents to the Borough Council, which occurred on 12 December 2014. Woking Borough Council has submitted the Neighbourhood Plan to me on 22 May 2015 for independent examination.

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<sup>1</sup> Paragraph 183 National Planning Policy Framework (2012)

<sup>2</sup> Section 61F(1) Town and Country Planning Act 1990 as read with section 38C(2)(a) Planning and Compulsory Purchase Act 2004

## Independent Examination

6. This report sets out the findings of the independent examination into the Neighbourhood Plan.<sup>3</sup> The report makes recommendations to the Borough Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The Borough Council will decide what action to take in response to the recommendations in this report.
7. The Borough Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will be 'made' by the Borough Council. If 'made' the Neighbourhood Plan will come into force and subsequently be used in the determination of planning applications and decisions on planning appeals in the plan area.
8. I have been appointed by the Borough Council with the consent of the Neighbourhood Forum, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Neighbourhood Forum and the Borough Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have more than thirty-five years professional planning experience and have held national positions and local authority Chief Planning Officer posts.
9. As independent examiner I am required to produce this report and must recommend either:
  - that the Neighbourhood Plan is submitted to a referendum, or
  - that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
  - that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements

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<sup>3</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

10. I make my recommendation in this respect and in respect to any extension to the referendum area,<sup>4</sup> in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.<sup>5</sup>
11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>6</sup>
12. One representation states *“If the plan is still to be submitted for Examination we respectfully request the right to be heard by the Inspector examining the Plan to explain our concerns further both orally and in writing”*. The examiner has the ability to call a hearing for the purposes of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had opportunity to state their case. As I did not consider a hearing necessary I proceeded on the basis of written representations.

## **Basic conditions and other statutory requirements**

13. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.<sup>7</sup> A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan,
  - the making of the neighbourhood plan contributes to the achievement of sustainable development,
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations, and
  - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.<sup>8</sup>

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<sup>4</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>5</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>6</sup> Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

<sup>7</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>9</sup> All of these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’ and ‘The Neighbourhood Plan policies’.
15. In addition to the basic conditions and Convention rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.<sup>10</sup> I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 which are made pursuant to the powers given in those sections.
16. The Neighbourhood Plan relates to the area that was designated by the Borough Council as a neighbourhood area on 24 October 2013. The plan area is described in the Submission Version of the Neighbourhood Plan dated December 2014 as consisting of “*the area commonly called ‘Hook Heath’, extended on the advice of Woking Borough Council to include additional roads on the north-eastern periphery (Orchard Mains, part of Wych Hill Rise, part of Wych Hill and part of Blackbridge Road). It is bordered by railway lines to the north and east, the golf club in the west and the upper part of Hook Heath escarpment in the south.*” A map of the plan area is included as Map A of the Submission Version plan. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>11</sup> and no other neighbourhood development plan has been made for the neighbourhood area.<sup>12</sup> All requirements relating to the plan area have been met.
17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area,<sup>13</sup> and the Neighbourhood Plan does not include provision about excluded development.<sup>14</sup> I am able to confirm that I am satisfied that each of these requirements has been met.

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<sup>8</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

<sup>9</sup> The Convention rights has the same meaning as in the Human Rights Act 1998

<sup>10</sup> In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A(3)); and in the 2012 Regulations (made under sections 38A(7) and 38B(4)).

<sup>11</sup> Section 38B(1)(c) Planning and Compulsory Purchase Act 2004

<sup>12</sup> Section 38B(2) Planning and Compulsory Purchase Act 2004

<sup>13</sup> Section 38A(2) Planning and Compulsory Purchase Act 2004 See recommended modification regarding Policy 11

<sup>14</sup> Principally minerals, waste disposal, and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.<sup>15</sup> The front cover of the Submission Version clearly shows the plan period to be 2015 – 2027.
19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.<sup>16</sup> It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan. I have been appointed to examine whether the submitted Neighbourhood Plan meets the basic conditions and Convention rights, and the other statutory requirements.
20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed it is important that neighbourhood plans are a reflection of thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. Apart from consequential adjustment of text (referred to in the Annex to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the basic conditions and the other requirements I have identified.<sup>17</sup>

## Documents

23. I have given consideration to each of the following documents in so far as they have assisted me in considering whether the Neighbourhood Plan meets the basic conditions and other requirements:

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<sup>15</sup> Section 38B(1)(a) Planning and Compulsory Purchase Act 2004

<sup>16</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

<sup>17</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Hook Heath Neighbourhood Plan 2015-2027 Submission Version December 2014
- Hook Heath Neighbourhood Area Character Study December 2014
- Hook Heath Neighbourhood Plan Basic Conditions Statement December 2014
- Hook Heath Neighbourhood Area Data from 2011 Census, and derived estimates
- Hook Heath Neighbourhood Area Traffic Surveys August 2014
- Hook Heath Neighbourhood Plan 2015-2027 Consultation Statement December 2014
- Hook Heath Neighbourhood Plan 2015- 2027 Maps December 2014
- Hook Heath Neighbourhood Area Views of the Area 2014
- Hook Heath Neighbourhood Plan Strategic Environmental Assessment, Habitat Regulations Assessment and Environmental Impact Assessment Screening Report 22 August 2014
- Representations received during the Regulation 16 publicity period
- Woking Core Strategy Adopted October 2012 (known locally as Woking 2027)
- Woking Borough Local Plan 1999 Saved Policies (presented at Appendix 6 of the Core Strategy)
- National Planning Policy Framework (27 March 2012) [*In this report referred to as the Framework*]
- Technical Guidance to the National Planning Policy Framework (27 March 2012) [*In this report referred to as the Technical Guidance*]
- Department for Communities and Local Government Permitted development for householders technical guidance (April 2014) [*In this report referred to as the Permitted Development Guidance*]
- Department for Communities and Local Government Planning Practice Guidance web-based resource (first fully launched 6 March 2014) [*In this report referred to as the Guidance*]
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Localism Act 2011
- Neighbourhood Planning (General) Regulations 2012 [*In this report referred to as the Regulations*]

## Consultation

24. Community engagement in plan preparation has been extensive as evidenced by the calendar of events presented in the Consultation Statement. I highlight here a number of key stages in order to illustrate the thorough and comprehensive approach adopted.



25. Following open discussion at the Forum meeting in April 2013 three working groups (built environment, local infrastructure and open spaces) were formed. In September 2013 a questionnaire was hand delivered to all 725 properties in the plan area. The results from the 100 responses were presented at the Forum meeting in November 2013. There were additional opportunities to input to the emerging objectives and policies.
26. A widely publicised drop-in event held in March 2014 provided an opportunity to view displays of work undertaken to date including the objectives and draft policies of the plan; to discuss matters with members of the Steering Group; and to input to plan preparation through comments added to the graffiti window and response to a further questionnaire. Intense publicity for the event through: invitations delivered to all properties; Forum updates; website entries; signs; a banner and articles in local press, was rewarded by sizeable attendance and 127 completed questionnaires.
27. Pre-submission consultation including necessary statutory requirements took place between 20 October and 30 November 2014. This was well publicised beforehand through a letter in July 2014 and an abbreviated copy of the pre-submission plan in early October 2014 both hand delivered to all properties in the plan area and through Forum updates. Access to full versions of the plan was signposted and copies made available at three drop-in 'talk about the Plan' sessions held during the consultation period. Other publicity included: making copies of the plan available at Woking library; use of the Forum website; a notice board poster; and a local press article.
28. The pre-submission consultation resulted in responses from 53 residents and 8 statutory and other stakeholders. These inputs, including a detailed submission by Woking Borough Council, have been properly recorded and the requirement to detail a response has been comprehensively fulfilled.
29. The Submission Plan has been the subject of a Regulation 16 publicity period between 2 February and 16 March 2015. One representation was received after the publicity period closed and I have not taken that representation into consideration. A total of 120 representations were properly submitted during the publicity period, all of which I have taken into consideration in preparing this report, even though they may not be referred to in whole, or in part.
30. The representations are overwhelmingly positive with 70 expressing support for the Neighbourhood Plan and a further 37 registering support

and including comment. Three representations include an objection to the plan. One of those representations raising objection relates to preparation of the Neighbourhood Plan in relation to the timing of the preparation of an emerging Local Plan document. I deal with this issue when considering whether or not the Neighbourhood Plan is in general conformity with the strategic policies of the Development Plan. Where appropriate I refer to representations that relate to specific policies of the Neighbourhood Plan when considering the policy in question.

31. A number of representations including those of the Highways Information Team at Surrey County Council and Natural England include points of information, purported factual corrections, and suggestions for additions to the Neighbourhood Plan. Whilst I would have no objection to incorporation of these points I have not recommended modifications in respect of these as they are not necessary to meet the basic conditions or other requirements.
32. Consultation has clearly exceeded the requirements of the Regulations achieving appropriately wide and intensive engagement with stakeholders who have influenced the content of the Neighbourhood Plan.

## **The Neighbourhood Plan taken as a whole**

33. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and human rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the development plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this.

Consideration of Convention rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the Neighbourhood Plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

34. I have given consideration to the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14 (discrimination); and

Article 1 of the first Protocol (property).<sup>18</sup> I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. Although no equalities impact assessment has been undertaken the submission draft of the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics.

35. The objective of EU Directive 2001/42<sup>19</sup> is *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”* The Neighbourhood Plan falls within the definition of ‘plans and programmes’<sup>20</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>21</sup>
36. A representation considers *“that the draft NP has not been informed by a robust Strategic Environmental Assessment (SEA) that has adequately considered the opportunities for growth in the NP area that may arise from the ongoing Green Belt review and allocations process.”*
37. The Borough Council issued a Screening Report on 22 August 2014. The Borough Council concluded that the preliminary draft Neighbourhood Plan (July 2014) is *“not likely to have a significant environmental effect and accordingly will not require a Strategic Environmental Assessment.”* In forming the determination the Borough Council consulted the three statutory consultation bodies. I am satisfied that the requirements in respect of Strategic Environmental Assessment have been met.
38. The report issued by the Borough Council on 22 August 2014 also included a Habitats Regulations Assessment Screening Opinion. The statutory consultation requirement was satisfied and the assessment undertaken included in-combination effects<sup>22</sup>. The assessment concluded that *“no likely significant effects will occur with regards to the European sites within and around Woking Borough, due to the implementation of the Preliminary Draft Hook Heath Neighbourhood Plan. As such the HHNP does not require a full HRA to be undertaken.”* Unsurprisingly I have not

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<sup>18</sup> The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

<sup>19</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

<sup>20</sup> Defined in Article 2(a) of Directive 2001/42

<sup>21</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

<sup>22</sup> In combination with other plans or projects

seen anything that suggests the Neighbourhood Plan will have a significant effect on a European offshore marine site.

39. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.

40. I conclude that the Neighbourhood Plan:

- is compatible with the Convention rights
- does not breach, and is otherwise compatible with, EU obligations
- is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

41. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive):

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force)

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

42. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans<sup>23</sup> which requires plans to be “*consistent with national policy*”.

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<sup>23</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

43. Lord Goldsmith has provided guidance<sup>24</sup> that *'have regard to' means "such matters should be considered."* The Guidance assists in understanding *"appropriate"*. In answer to the question *"What does having regard to national policy mean?"* the Guidance states a neighbourhood plan *"must not constrain the delivery of important national policy objectives."*
44. The Basic Conditions Statement seeks to demonstrate the Neighbourhood Plan has been prepared with regard to national policies as set out in the Framework<sup>25</sup>. A statement is made as to how the Neighbourhood Plan supports or otherwise positively relates to each of the main components of the Framework. Specific paragraphs of the Framework are then identified where there is a linkage to a policy of the Neighbourhood Plan.
45. The Neighbourhood Plan states a vision. This vision relates to matters appropriate to a Neighbourhood Development Plan, is written clearly, and adopts a positive approach of seeking to enhance the distinctive and special residential character of the area and seeking to provide a safe, pleasant and sustainable environment for the community. The vision does not constrain and indeed supports the objectives of the Framework, and in particular has regard to the Framework aims of conserving and enhancing the historic environment; and of requiring good design. The introduction to the objectives of the Neighbourhood Plan recognises that development in the period to 2027 will bring more residents into the area. The Neighbourhood Plan taken as a whole seeks to shape and direct development. This is precisely the role national policy envisages for a neighbourhood plan.
46. The objectives relating to Local Infrastructure include the phrase "Reduce the number of incidents of speeding traffic". This statement may mislead a reader into thinking the Neighbourhood Plan will introduce policies that will directly contribute to the achievement of that objective. Measures normally associated with the achievement of a reduction in the number of incidents of speeding traffic would not require planning permission and would not relate to the development and use of land. I recommend this phrase is deleted.

**Recommended modification 1:**

**In the Local Infrastructure objectives delete "Reduce the number of incidents of speeding traffic"**

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<sup>24</sup> the Attorney General, (Her Majesty's Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the Lord's Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England's Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

<sup>25</sup> Including specific statements in respect of paragraphs 16, 183, 184, and 185 of the Framework

47. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that need to ‘have regard to’ national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan the Neighbourhood Plan meets the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.*”
48. At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision-taking.<sup>26</sup> The Guidance states, “*This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions*”.
49. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.
50. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. In particular I consider the Neighbourhood Plan seeks to:

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<sup>26</sup> Paragraph 14 National Planning Policy Framework 2012

- Promote high quality design of new development complementing and enhancing the character of the area, respectful to aspects of the natural environment, and taking account of the contribution of locally listed buildings;
- Ensure new development does not compromise highway safety and reduce the visual amenity of green road verges through churning as a result of on street parking of vehicles;
- Ensure continuing provision of specialist accommodation for the elderly and disabled where viable;
- Ensure the amenity value of open spaces is retained generally and to designate four areas as Local Green Space; and
- Promote sustainable modes of transport (cycle and pedestrian).

51. I note the Neighbourhood Plan includes at Section 8 a list of projects not related to planning consents that will be taken forward by members of the Hook Heath Neighbourhood Forum. The project proposals do not form part of the Neighbourhood Development Plan and as such have not been considered as part of this independent examination. The proposals would not be the subject of any referendum and would not become part of the Development Plan for the area.

52. The approach adopted avoids those non-development and land use matters, raised as important by the local community, being lost sight of. The Guidance states, *“Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements.”* The acknowledgement of projects is consistent with this guidance and represents good practice. However the Guidance states, *“Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non land use matters should be clearly identifiable. For example, set out in a companion document or annex.”* I recommend this guidance is followed.

**Recommended modification 2:**

**Projects (Section 8 of the submission plan) should be transferred to a non-statutory annex to the Neighbourhood Plan**

53. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find that the Neighbourhood Plan, taken as a whole, has regard to national

policies and advice contained in guidance issued by the Secretary of State and contributes to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

54. The Framework states that the ambition of the neighbourhood should “support the strategic development needs set out in Local Plans”.<sup>27</sup> “Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies”.<sup>28</sup>

55. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”

56. In this independent examination I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). The Borough Council has informed me that the Development Plan applying in the Hook Heath Neighbourhood area and relevant to the Neighbourhood Plan comprises<sup>29</sup>:

- Woking Core Strategy Adopted October 2012 (known locally as Woking 2027)
- Woking Borough Local Plan 1999 Saved Policies (presented at Appendix 6 of the Core Strategy)

57. The Core Strategy is a Local Plan which conforms with the Framework providing strategic planning policy up to 2027. As the Local Plan 1999 Saved Policies predates the Framework, the Framework takes precedence where there is a conflict.

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<sup>27</sup> Paragraph 16 National Planning Policy Framework 2012

<sup>28</sup> Paragraph 184 National Planning Policy Framework 2012

<sup>29</sup> The Surrey Waste Plan adopted May 2008, Surrey Minerals Plan adopted July 2011, Surrey Aggregates Recycling Joint Development Plan for the Minerals and Waste Plan 2013, and saved policy NRM6 of the South East Plan are not considered relevant



58. A representation states *“The main thrust of our representations is that the draft NP is premature and not therefore in general conformity with the Council’s emerging Site Allocations Local Plan (SALP). The emerging SALP, in accordance with the adopted Core Strategy DPD, is committed to facilitating a strategic review of the Green Belt to address strategic growth options both during and beyond the plan period. This will be achieved through both the allocation and safeguarding of land in appropriate locations.” “An independent review of the Green Belt has been undertaken, which concluded that lands south of Woking in the vicinity of the Hook Hill Lane area are part of a small number of sites considered suitable for further investigation for release from the Green Belt to accommodate growth. We support the principle of land being released from the Green Belt as informed by the Council’s review work and contend that the possible outcomes should have been given greater weight during the preparation of the NP to date.”*
59. *“The legislative, NPPF and NPPG context is clear that NPs should be aligned with the strategic needs and priorities of the wider local area and must be in general conformity with the strategic policies of the Local Plan. It should not promote less development than set out in the Local Plan or undermine its strategic policies. We maintain that it is important for the NP to flow from the Local Plan not precede it. This is particularly the case in respect of Woking Borough, as the strategic review of the Green Belt and any proposed development / infrastructure that flows from this was deferred to the subsequent Site Allocations Local Plan. As drafted we consider the NP does not meet the statutory basic conditions as it potentially predetermines and prejudices the ongoing strategic planning process at LPA Local Plan level. It is therefore not possible for the NP to be concluded to found to be in general conformity with (and not undermine) the Local Plan until such time as the strategic review of the Green Belt has been concluded and the level of growth for this area has been tested and agreed through the Local Plan process. On this basis, we request that the draft Hook Heath NP process is suspended pending completion of the Site Allocations DPD so that it can positively respond to the envisaged changes to the Green Belt designation and allocation of development land rather than predetermine and set an agenda for a no growth position.”*
60. Another representation states *“the plan only covers a narrow range of issues and should be expanded to reflect Woking Borough Council’s wider housing need, and aspirations for housing growth across the borough.” “the plan as drafted is a missed opportunity, as it only proposes six narrow policies and does not acknowledge that there is a requirement for WBC to*

*evolve and expand, if not within the Neighbourhood Area, close by. Although the Plan refers to some data regarding population statistics, it does not set out any 'projects' which would meet the needs of the existing population. This might be health services, infrastructure, or improved bus services for example. This is not currently covered."* A further representation whilst welcoming the plan and agreeing its main recommendations expresses disappointment that it does not address the risk of development adjacent to the area.

61. With respect to these representations there is no requirement for a neighbourhood plan to include particular types of development and land use policies, nor is there any requirement for a neighbourhood plan to deal with any particular development and land use issues.
62. There is however a requirement that the Neighbourhood Plan should be in general conformity with the strategic policies of the Development Plan. The emerging Local Plan is not part of the Development Plan and this requirement does not apply in respect of that. Emerging planning policy is *subject to change as plan preparation work proceeds.*<sup>30</sup> *The Guidance states "Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan".* In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.
63. In considering a now repealed provision that "*a local plan shall be in general conformity with the structure plan*" the Court of Appeal stated "*the adjective 'general' is there, "to introduce a degree of flexibility."*<sup>31</sup> The use of 'general' allows for the possibility of conflict. Obviously there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.
64. The Guidance states, "*When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:*

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<sup>30</sup> The Borough Council has work underway to prepare a future Development Management Policies Development Plan Document and a future Site Allocations Development Plan Document

<sup>31</sup> *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

- *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.”*

65. My approach to the examination of the Neighbourhood Plan policies has been in accordance with this guidance. If there were to be a conflict between a policy in a neighbourhood plan and a policy in a local plan the conflict must be resolved in favour of the policy contained in the last of those plans to become part of the Development Plan.<sup>32</sup> The Neighbourhood Plan cannot therefore prejudice the emerging Local Plan in this respect.<sup>33</sup>

66. Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and each of the plan policies below. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

## **The Neighbourhood Plan policies**

67. The Neighbourhood Plan includes 6 policies:

- BE1: Design of new developments
- BE2: Off-road parking
- BE3: Older and disabled people
- OS1: Amenity value
- OS2: Local Green Spaces
- LI1: Through traffic and road safety

<sup>32</sup> Section 38(5) Planning and Compulsory Purchase Act 2004

<sup>33</sup> See paragraph 103 of the Judgement in *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC 1470 (Admin)

68. The Guidance states *“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.” “Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.”*
69. *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*
70. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.*
71. *“A neighbourhood plan must address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan will become part of the statutory development plan once it has been made (brought into legal force) by the planning authority. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.”<sup>34</sup>*
72. If to any extent a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is made they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn.

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<sup>34</sup> See section 38(6) of the Planning and Compulsory Purchase Act 2004.

## Policy BE1: Design of new developments

73. This policy seeks to establish a framework of principles against which the design of proposed new developments should be assessed.

74. One representation opposes every element of the policy except that relating to off-street parking for a variety of reasons including being unnecessarily restrictive, too much a matter of opinion, and development should be considered on its merits. The representation sets out many disadvantages of trees and considers any requirement to keep or replace trees is “*extremely thoughtless and anti-social.*” The representation suggests additional elements of policy but it is not within my role to recommend additional policy.

75. Other representations state the following points:

- plot ratios are important
- the limitation on plot sizes to be between 5 -10 dwellings per hectare is unnecessary and overly restrictive
- new development should concentrate on houses rather than flats
- any increase in housing density must be accompanied by improvement/expansion of infrastructure and services
- the principles for development should apply to extensions also
- the quality of trees is important not just the number.

76. The policy applies to all development types and does not seek to encourage flats. The policy relates to design issues and not wider infrastructure or services issues. The policy refers to ratio of building footprints and makes reference to the size, species and importance of trees.

77. There are a small number of components of the policy that require modification as follows:

- The term “*sufficient off-street parking*” is imprecise. This matter is in any case dealt with in Policy BE2. Cross-referencing between policies is counter to the achievement of clarity for decision makers
- The term “*unique*” is not adequately explained or justified whereas the use of the description “important” would provide a basis for decision making

- “*Large house*” is an imprecise term. General application of the requirement relating to subdivision would provide clarity for decision makers

78. The policy seeks to ensure high quality design having due regard for its townscape and landscape surroundings, and enhancing the distinct identity, character and appearance of the area. The policy is in general conformity with policies CS20, CS21, and CS24 of the Core Strategy. Whilst housing density indicated in the policy is lower than that stated in CS10 of the Core Strategy it is appropriately justified in terms of the locally prevailing Arcadian form of development and is in any case expressed in terms of “*where possible*” and is not a requirement. It would be open to applicants to demonstrate that compliance is not possible. With respect to any possible conflict with a future Development Plan document, for example concerned with release of Green Belt sites for housing development, such conflict must be resolved in favour of the policy contained in the last of those plans to become part of the Development Plan.<sup>35</sup>

79. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy does not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. However the policy does properly seek to promote or reinforce local distinctiveness. The policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes; requiring good design; promoting healthy communities; meeting the challenge of climate change; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the modifications indicated this policy meets the basic conditions.

### **Recommended modification 3:**

#### **In policy BE1**

- **delete “providing sufficient off-street parking (see policy BE2) but not at the expense of” and insert “not”**
- **delete “unique” and insert “important”**
- **Paragraph 3 delete “large”**

<sup>35</sup> Section 38(5) Planning and Compulsory Purchase Act 2004

## Policy BE2: Off-road parking

80. This policy seeks to establish a requirement for development to include off-road parking provision.
81. A representation questions whether on-road parking is a serious problem in parts of Hook Heath and states there is no need to exceed Woking parking standards by specifying 3 spaces for a 4+ bedroom property.
82. The policy establishes on-site car parking standards for developments and is in general conformity with policy CS18 of the Core Strategy in particular the mitigation of environmental and safety impacts arising from development proposals.
83. This policy seeks to ensure developments are designed to accommodate day to day parking requirements within their plot. This will assist the creation of a safe and accessible environment. The Framework states that *“If setting local parking standards for residential and non-residential development, local planning authorities should take into account:*
- *the accessibility of the development;*
  - *the type, mix and use of development;*
  - *the availability of and opportunities for public transport;*
  - *local car ownership levels; and*
  - *an overall need to reduce the use of high-emission vehicles.”*
- Whilst this statement relates to the work of Local Planning Authorities and is silent with respect to neighbourhood planning it does provide an appropriate relevant framework of issues to be taken into consideration.
84. The policy is not directed at the overall national need to reduce the use of high-emission vehicles nor to influence a shift to non-car modes of transport as policy CS18 of the Core Strategy does. Justification of the standards adopted for residential properties has been stated, however the requirement to *“provide further parking space”* in the last part of the policy promotes an approach based on potentially unlimited parking provision which would be at variance to the national and district policy approach that gives weight to the achievement of a sustainable transport system. The last part of the policy also includes several imprecise phrases *“further parking space”* *“narrow”* and *“heavily trafficked”*. This part of the policy does not provide adequate guidance for decision makers and is in any case insufficiently evidenced. I recommend modification of the policy in order to require proposals to demonstrate acceptability. The justification could be extended to indicate that particular scrutiny will be applied where adjoining roads are narrow, relatively heavily trafficked or where highway safety or visual amenity issues exist, or are likely, however further detail will be required to explain these characteristics or circumstances.

85. The policy does have regard to several aspects of the component of the Framework concerned with setting local parking standards. Account has been taken of accessibility; the type, mix and use of development; public transport availability; and local car ownership levels. The policy also has regard to the component of the Framework concerned with requiring good design. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the modifications indicated this policy meets the basic conditions.

**Recommended modification 4:**

**In policy BE2**

**Delete the provision commencing “In addition” and insert “All proposals must demonstrate that development will not result in on-road parking to the detriment of highway safety or adverse impact on the character of the area”**

**Policy BE3: Older and disabled people**

86. This policy seeks to establish support for continuation of existing specialist accommodation for elderly and disabled people. Use of the phrase “shall be protected” does not provide clarity for decision makers and should be modified.

87. A representation states little can be done if a nursing home provider/owner would wish to sell up to support development. It is the case that an owner wishing to close a facility may do so immediately, without reference to the Local Planning Authority. However should the owner wish to pursue a scheme involving an alternative use that requires planning permission then the proposal should be assessed, including consideration in respect of the Development Plan. The policy introduces the need for objective assessment of viability or evidence of unsuccessful reasonable marketing.

88. The Framework identifies the need to plan for a mix of housing based on demographic and specific needs based information, and envisages that to deliver the social facilities and services the community needs, planning policies should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs. The Framework recognises that local facilities can enhance the sustainability of communities and residential environments.



89. The policy makes a potential contribution to the continuation of provision of existing specialist accommodation for older people and vulnerable groups, unless it is not needed. The policy is in general conformity with policy CS13 of the Core Strategy and provides an additional level of detail.
90. This policy seeks to shape the nature and form of development. The policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes and promoting healthy communities. Subject to the modifications indicated this policy meets the basic conditions.

**Recommended modification 5:**

**In policy BE3**

**Commence the policy with “Proposals that result in the loss of”**

**And delete “shall be protected” and insert “will not be supported”**

**Policy OS1: Amenity value**

91. This policy seeks to retain and wherever possible enhance amenity value provided by the open spaces of the plan area, with particular provision in respect of important views. Open spaces are defined to exclude built-on sites and therefore do not include land within the curtilage of a building, for example garden land.
92. This policy was specifically referred to as being of particular importance in almost 50 representations and clearly has widespread support within the community. In supporting the policy many representations comment on the importance of the break between the southern boundary of Hook Heath and Mayford Village.
93. One representation states *“Policy OS1 seeks to prevent development beyond the Neighbourhood Area on the basis of the identified views within and of the Area; however, this policy is not justified by robust landscape evidence and runs counter to the government’s overriding objective of delivering sustainable development. The second part of the policy which relates to identified local views attributes their significance to their local importance; however, this assertion is not justified by any landscape evidence and is contrary to the Council’s own landscape evidence. The supporting text to the policy states that a green corridor should be left to separate Mayford from Hook Heath to protect the views of the escarpment, to provide a route for wildlife to move, and to ensure the separation of the village from Hook Heath. This requirement is too prescriptive and would be*

*assessed independently, should housing be brought forward on the land to the south of the Plan Area at a later date.”*

94. Another representation states “*The views are not important locally.*” “*The vast majority of views in and around Hook Heath are of roads, trees and hedges fronting/concealing large houses*”. A further representation sees no reason why the area alongside the A320 (Egley Road) should not be developed sympathetically.
95. The Neighbourhood Plan does not allocate land for development and it is not within my role to consider whether any particular land, or any land at all given the absence of an allocation in the Development Plan, should be developed or not. The policy establishes the requirement that proposals must demonstrate how defined aspects of amenity value of open spaces will be retained, and wherever possible be enhanced. In this respect the policy is consistent with the Framework presumption in favour of sustainable development and is in effect seeking to shape and direct sustainable development to ensure that local people get the right type of development for their community.
96. It is appropriate for a neighbourhood plan to identify and seek to protect views that contribute to local distinctiveness. It is not within my role to consider whether particular views are of merit. I have noted the Hook Heath Character Study 2014 and the Hook Heath Neighbourhood Area Views of the Area 2014 document. These provide proportionate, robust evidence to support the choices made and the approach taken. The intention and rationale of the policy is succinctly explained and illustrated.
97. There are, however, a number of obstacles to aspects of the policy as formulated meeting the basic conditions as follows:
- A neighbourhood plan policy can only relate to land within the defined neighbourhood area.
  - Planning policy is not concerned with the maintenance of views from private land, but is relevant to protection of views from locations that are freely accessible to members of the general public. As formulated the policy does not make this distinction.
  - An approach to preserve and not detract from views in their totality is insufficiently flexible and positive to align with the presumption in favour of sustainable development
  - A neighbourhood plan policy must include sufficient detail to provide clarity for decision makers

98. The definition of a neighbourhood area is a particularly important step in the preparation of a neighbourhood plan. The neighbourhood area clearly defines the spatial extent of the area in which the policies of the neighbourhood plan are to be applied. The policies of the Neighbourhood Plan do not apply to any land outside the neighbourhood area. One of the locally important views described in the policy is “the view from outside Hook Heath of the escarpment from the south” and the footnote to the policy refers to “the benefit arising from the separation of Hook Heath from the village of Mayford, and of Woking from Guildford”. I recommend modification of these elements of the Neighbourhood Plan to make it absolutely clear that the policy only relates to those parts of the view and separation of settlements that lie within the Neighbourhood Plan area. The supporting text to the policy and the objectives presented at paragraph 4.2 should also be adjusted to ensure consistent clarity in this respect.
99. Planning policy is not an appropriate mechanism to protect views from private land. A planning policy must be formulated to be in the public interest. In respect of the issue of protection of views these must relate to vistas that can be viewed from locations that are freely accessible to members of the general public. I recommend a modification of the policy in this respect.
100. The Framework establishes a presumption in favour of sustainable development. An approach to preserve and not detract from views in their totality would potentially prohibit minor development of for example one house or even an extension to an existing house where the impact on a defined view would be insignificant. On this basis the policy is insufficiently flexible and positive to adequately align with the presumption in favour of sustainable development. I recommend a modification of the policy in this respect.
101. Where a Development Plan is to include a policy to protect one or more views it is necessary to include sufficient detail to guide decision makers in the determination of development proposals. This can be achieved through mechanisms including restriction of development or definition of a maximum permissible height of development and spatial definition of protected views on a map forming part of the policy. Clarity can be achieved by definition of a line of sight view from a specific viewpoint or viewing area. The components of the policy referring to “the view from Hook Heath to the North Downs and Guilford Cathedral” and “the green verges and hedgerows within Hook Heath” are not sufficiently precise to guide decision makers. The component “within Hook Heath, the wooded backdrop which the trees on the golf course provide particularly to Pond Road and parts of Hook Heath Road” would be sufficiently precise if it did

not include the word “particularly” which leaves in doubt the other areas concerned and the phrase “parts of” which is imprecise. I recommend modifications of the policy in these respects.

102. The policy seeks to protect open spaces from adverse development as access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. The policy is in general conformity with policies CS7, CS17, CS18, CS19, CS21, and CS24 of the Core Strategy providing greater detail to the criteria set out in the CS24. Possible future conflict with Core Strategy policy CS1 is resolved through the recommended modifications.

103. The policy has regard to the Guidance<sup>36</sup> and components of the Framework concerned with requiring good design; promoting healthy communities; and conserving and enhancing the natural environment. Subject to the modifications indicated this policy meets the basic conditions.<sup>37</sup>

**Recommended modification 6:**

**In policy OS1:**

**Delete the second paragraph and insert “Development on land within the plan area should preserve and not significantly detract from the following important views from all locations that are freely accessible to members of the general public within the Neighbourhood Plan area:**

- **Views from south of Hook Heath Road up the escarpment**
- **Views from the Hook Heath Escarpment of the North Downs and Guildford Cathedral**
- **Views from Hook Heath Road and Pond Road onto adjoining Woking Golf Course land**
- **Views of highway green verges and adjacent hedgerows”**

**In the final bullet point description of the footnote to policy OS1 after “arising from” insert “open spaces within the plan area contributing to”**

**The supporting text and the objectives presented at paragraph 4.2 should be adjusted so that it is clear the policy relates only to land within the Neighbourhood Plan area**

<sup>36</sup> As updated on 6 October 2014

<sup>37</sup> The text of Section 6.5 of the submission plan should be adjusted in order to relate to the modified policy

## Policy OS2: Local Green Spaces

104. This policy seeks to designate four defined areas as Local Green Spaces. A map with inserts at sufficient scale to identify boundaries is provided as Map J. The Highways Information Team of Surrey County Council states all of the proposed designated areas form part of the adopted highway maintainable at the public expense, apart from the middle area at the Pond Road junction which is considered to be privately maintainable, and the land at the junction of Green Lane and Hook Hill Lane which is registered as common land. Local Green Space designation does not confer with it rights to access beyond any that exist prior to designation. The only implication of Local Green Space designation is that new development is ruled out other than in very special circumstances.
105. The policy also states use of these areas for street furniture should be minimised. Whilst street furniture proposals will usually not require planning permission I do not see any harm in establishing this community preference as a means of seeking to influence decision making of the highway authority and other bodies authorised to install plant and equipment.
106. One representation states proposals 2 and 3 are verges that are not sufficiently large or special to warrant or deserve special identification as green spaces and proposal 4 could potentially interfere with future cycle track/lane proposals.
107. The Framework states *“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.”*
108. In respect to all of the 4 areas intended for designation as Local Green Space I find the Local Green Space designation is being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designation is not capable of enduring beyond the end of the plan period. The intended designations have regard to the local planning of sustainable development contributing to the promotion of healthy

communities, and conserving and enhancing the natural environment, as set out in the Framework.

109. The Framework states that: *“Local Green Space designation will not be appropriate for most green areas or open space. 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.*

I find that in respect of each of the four intended Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves; and the green area is local in character and is not an extensive tract of land.

110. The Neighbourhood Plan sets out the justification for the designations which primarily relates to their importance in establishing the character of the area. I conclude the areas are all *“demonstrably special to a local community and hold a particular local significance”*.

111. The policy is consistent with Core Strategy policy CS17, which recognises the value of open space and green infrastructure, and has regard to the components of the Framework concerned with promoting healthy communities; and conserving and enhancing the natural environment and the historic environment. This policy meets the basic conditions.

### **Policy LI1: Through traffic and road safety**

112. This policy seeks to establish that no new roads connecting the Neighbourhood area with adjoining areas will be permitted in order to limit the amount of through traffic in what is a residential area.

113. A representation states *“This policy seeks to prevent further roads being permitted in the Plan Area. The reason for this is to prevent any increase in traffic in the Area. This policy is not supported by robust transport evidence, as noted within our previous representations. We note that since the publication of the draft version of the Plan, the supporting*

*text to this policy has been modified; however, no further transport evidence has been provided and as such our position remains that as currently drafted this policy conflicts with the overarching thrust of national planning policy to deliver sustainable development. “*

114. Other representations state:

- opposition to the policy, and making a number of suggestions for new road connections
- traffic growth would be hazardous to residents, many of whom are elderly, walking on narrow roads with no pavements
- reference to the increasing use of Hook Hill Lane as a cut through between Mayford and St Johns
- a suggestion “*the railway bridge approach*” should be widened to make it safe, and reference to traffic calming being required

115. Robust transport evidence would be a focus of consideration in the assessment of the acceptability of any future proposal for a new road connection. I recommend modification of the policy to reflect this. It is not within my role to recommend new road schemes. The Framework states “*all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:*

- *The opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *Safe and suitable access to the site can be achieved by all people; and*
- *Improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impact of development are severe”.*

116. The policy relates to new roads connecting the neighbourhood area with adjoining areas only. Proposals for any new road connection will usually be associated with other development proposals. A scheme proposing a new road connection, or a scheme for a new road connection as part of a wider scheme, both amount to development. The Framework would not envisage refusal of planning permission unless the residual cumulative impact of development are severe. Additionally the policy as

drafted could prevent a sustainable development proposal contrary to the Framework which establishes a presumption in favour of sustainable development. As currently drafted the policy is at variance with Core Strategy policy CS18. Modification of the policy as recommended would bring it into general conformity with this strategic policy of the Development Plan. I recommend modification of the policy so that it meets the basic conditions.

**Recommended modification 7:**

**In policy LI1**

**After “permitted” continue “unless it is clearly demonstrated through a Transport Assessment that the proposal will not severely adversely affect highway safety or residential amenity”**

## **Summary and Referendum**

117. I have recommended the following modifications to the Submission Version Plan:

**Recommended modification 1:**

**In the Local Infrastructure objectives delete “Reduce the number of incidents of speeding traffic”**

**Recommended modification 2:**

**Projects (Section 8 of the submission plan) should be transferred to a non-statutory annex to the Neighbourhood Plan**

**Recommended modification 3:**

**In policy BE1**

- **delete “providing sufficient off-street parking (see policy BE2) but not at the expense of” and insert “not”**
- **delete “unique” and insert “important”**
- **Paragraph 3 delete “large”**

**Recommended modification 4:**

**In policy BE2**

**Delete the provision commencing “In addition” and insert “All proposals must demonstrate that development will not result in on-**



road parking to the detriment of highway safety or adverse impact on the character of the area”

**Recommended modification 5:**

**In policy BE3**

**Commence the policy with “Proposals that result in the loss of”**

**And delete “shall be protected” and insert “will not be supported”**

**Recommended modification 6:**

**In policy OS1:**

**Delete the second paragraph and insert “Development on land within the plan area should preserve and not significantly detract from the following important views from all locations that are freely accessible to members of the general public within the Neighbourhood Plan area:**

- **Views from south of Hook Heath Road up the escarpment**
- **Views from the Hook Heath Escarpment of the North Downs and Guildford Cathedral**
- **Views from Hook Heath Road and Pond Road onto adjoining Woking Golf Course land**
- **Views of highway green verges and adjacent hedgerows”**

**In the final bullet point description of the footnote to policy OS1 after “arising from” insert “open spaces within the plan area contributing to”**

**The supporting text and the objectives presented at paragraph 4.2 should be adjusted so that it is clear the policy relates only to land within the Neighbourhood Plan area**

**Recommended modification 7:**

**In policy LI1**

**After “permitted” continue “unless it is clearly demonstrated through a Transport Assessment that the proposal will not severely adversely affect highway safety or residential amenity”**

118. I also make the following recommendation in the Annex below.

**Recommended modification 8:**

**Modification of the general text of the Neighbourhood Plan will be necessary to achieve consistency with the modified policies**

119. I am satisfied that the Neighbourhood Plan<sup>38</sup>:

- is compatible with the Convention rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the statutory requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and meets the basic conditions:
  - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
  - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.<sup>39</sup>

**I recommend to Woking Borough Council that the Hook Heath Neighbourhood Development Plan for the plan period up to 2027 should, subject to the modifications I have put forward, be submitted to referendum.**

120. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.<sup>40</sup> I have seen nothing to suggest the referendum area should be extended beyond the designated Neighbourhood Area.

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<sup>38</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

<sup>39</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

<sup>40</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by the Borough Council as a Neighbourhood Area on 24 October 2013.**

Annex: Minor Corrections to the Neighbourhood Plan

I am able to recommend modification of the Neighbourhood Plan in order to correct errors.<sup>41</sup> The Neighbourhood Plan has been produced to a very high standard and appears to be free from errors that are typographical in nature.

A number of consequential modifications to the general text of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies.

**Recommended modification 8:  
Modification of the general text of the Neighbourhood Plan will be necessary to achieve consistency with the modified policies**

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28 May 2015  
REPORT ENDS

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<sup>41</sup> Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990