Earls Barton Neighbourhood Plan 2011-2031

The Report by the Independent Examiner

Richard High BA MA MRTPI

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Summary

The Earls Barton Neighbourhood Plan has clearly been driven by a strong desire to protect the very special character of the village and to provide for the needs of its residents. It has been prepared in a difficult strategic context in the absence of an up to date local plan. However there has been effective co-operation between the qualifying body and the local planning authority to try to align the neighbourhood plan with the strategic direction of the emerging plan. This examination has not been straightforward because of the emergence of late documentation regarding the need for SEA and the process for the selection of the major allocation for new housing. Both of these issues have necessitated further consultation and required detailed consideration which has delayed the completion of the examination.

There has been thorough engagement with the community throughout the process and the Plan reflects a strong consensus within the community about the main issues to be addressed and the policies which have been developed in response to them.

I am satisfied that the Plan has been positively prepared in accordance with the legislation in order to “shape and direct development in the area”. I have found it necessary to suggest some modifications to meet the basic conditions, and subject to these modifications I am satisfied that the Plan:

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

I am therefore pleased to recommend that the Earls Barton Neighbourhood Plan should proceed to a referendum subject to the modifications that I have recommended.

I am also required to consider whether or not the Referendum Area should extend beyond the Neighbourhood Plan Area. The Plan relates to the whole of the parish of Earls Barton which includes a substantial area of countryside surrounding the village. I have seen no evidence to suggest that this area should be extended for the Referendum.
Introduction

1. The Localism Act 2011 has provided local communities with the opportunity to have a stronger say in their future by preparing neighbourhood plans which contain policies relating to the development and use of land.

2. Earls Barton is a large village with a population of just over 5,400 people. Earls Barton Neighbourhood Plan (which I shall refer to as the EBNP or the Plan) has been prepared by a project group (the NPPG) set up by Earls Barton Parish Council consisting of community volunteers and members of the Parish Council. The Plan covers the whole of the parish area. If, following a recommendation from this examination, the Plan proceeds to a local referendum and receives the support of over 50% of those voting, it can be made and form part of the statutory development plan. It will then be an important consideration in the determination of planning applications, as these must be determined in accordance with development plan policies unless material considerations indicate otherwise.

Appointment of the Independent Examiner

3. I have been appointed by the Borough Council of Wellingborough, with the consent of Earls Barton Parish Council, to carry out the independent examination of the EBNP. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

4. I confirm that I am independent of the Parish Council and the Local Planning Authority and have no interest in any land within the parish of Earls Barton.

5. I am a Chartered Town Planner with over 30 years' experience in local government, working in a wide range of planning related roles, including 15 years as a chief officer. Since 2006 I have been an independent planning and regeneration consultant. I have completed the independent examination of six neighbourhood plans and carried out three health checks on emerging neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this examination.

The Scope of the Examination

6. The nature of the independent examination is set out in Sections 8-10 of Schedule 4B to the Town and Country Planning Act 1990.
7. I must:

   a) decide whether the Plan complies with the provisions of Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004. These requirements relate primarily, but not exclusively, to the process of preparing the Plan and I shall deal with these first.

   b) decide whether the Neighbourhood Development Plan meets the basic conditions contained in Schedule 4B paragraph 8(2) of the Town and Country Planning Act 1990.

   c) make a recommendation as to whether the Plan should be submitted to a referendum, with or without modifications, and whether the area for the referendum should extend beyond the neighbourhood plan area.

8. The Plan meets the basic conditions if:

   a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the Plan;

   b) the making of the Plan contributes to sustainable development;

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

   d) the making of the Plan does not breach, and is otherwise compatible with, EU obligations.

9. Paragraph 9 of Schedule 4B indicates that as a general rule the examination should be carried out on the basis of written representations unless a hearing is necessary to allow adequate consideration of an issue or to allow a person a fair chance to put a case. From the documents submitted to me it was evident that both the scale and location of residential development are contentious issues. Moreover a document was produced after the regulation 16 consultation entitled Earls Barton Neighbourhood Plan Site Selection Process and clearly interested parties had not had an opportunity to comment on this. A further document was also produced in January 2015 qualifying the status of the SEA determination made by the Borough Council of Wellingborough in January 2014. Again interested parties had not had the opportunity of commenting on the significance of this. I therefore decided that a
hearing was necessary to allow proper consideration of both these issues and to allow the parties who have concerns about these issues a fair chance to put their case. A hearing was held on 29 April 2015 at The Grange.

10. The main documents which I have referred to in the examination are:

- The application by Earls Barton Parish Council to the Borough Council of Wellingborough for the designation of a Neighbourhood Plan Area dated 2 April 2012 and the decision notice to make this designation dated 28 June 2012.
- Earls Barton Neighbourhood Plan Basic Conditions Statement June 2014.
- Earls Barton Neighbourhood Plan Consultation Statement June 2014.
- Earls Barton Neighbourhood Plan Final Sustainability Appraisal June 2014.
- Earls Barton Neighbourhood Plan Equality Assessment.
- Earls Barton Neighbourhood Plan Determining a Housing Target.
- Earls Barton Rural Housing Survey Borough Council of Wellingborough October 2012.
- Interim Rural Housing Targets for Wellingborough’s Principal Villages
- Earls Barton Neighbourhood Plan On Street Parking Survey
- Earls Barton Neighbourhood Plan Local Green Space
- Strategic Environmental Assessment Screening Report, James Wilson Associates October 2013 together with: letter to and responses from the consultation bodies, letter from the Borough Council of Wellingborough on the determination of the need for a formal Sustainability Appraisal dated January 2014 and a further letter from the Borough Council of Wellingborough to Earls Barton Parish Council dated 22 January 2015 qualifying the status of this opinion.
- Notification of and responses to publicity of the Earls Barton Neighbourhood Development Plan under regulation 16 of the Neighbourhood Planning (General) Regulations 2012 (the regulations).
• Earls Barton Neighbourhood Plan Housing Site Selection Process (unattributed and undated)

• Housing LDF Background Evidence, Borough Council of Wellingborough October 2010.

• North Northamptonshire Strategic Housing Land Availability Assessment (SHLAA), North Northamptonshire Joint Planning Unit, May 2013.

• The National Planning Policy Framework 2012, Department of Communities and Local Government. (the Framework)

• Planning Practice Guidance, Department of Communities and Local Government. (PPG).


• North Northamptonshire Core Spatial Strategy June 2008, North Northamptonshire Joint Planning Unit.

• North Northamptonshire Joint Core Strategy 2011-2031 pre-submission plan January 2015.

• Documents received in addition to those received on my appointment relating to:
  i) The documents published by Earls Barton Parish Council on “The Site Selection Process” and the letter from the Borough Council of Wellingborough dated 22 January 2015 regarding SEA;

  ii) Representations following the hearing relating to the significance of the Pre-Submission North Northamptonshire Joint Core Strategy published for consultation in January 2015;

  iii) Representations received in relation to the joint determination of the Borough Council of Wellingborough regarding the need for an SEA.

   All the documents related to sub-sections i), ii) and iii) are listed in the attached Appendix.

These documents include all those that are required to be supplied to me under Regulation 17 of the Regulations.

11. I made an unaccompanied visit to Earls Barton on 16 March 2015, when I spent most of the day walking round the village and looking at all the sites which are the subject of policies in the plan or of representations.
The Preparation of the Plan

12. Earls Barton Parish Council is a “relevant body” under Section 61G (2) of the Town and Country Planning Act 1990 (inserted by paragraph 2 of Schedule 9 to the Localism Act 2011). The neighbourhood area includes the whole of the parish of Earls Barton and is therefore in accordance with Section 61G (3) of the 1990 Act.

13. Earls Barton Parish Council made an application to the Borough Council of Wellingborough on 2 April 2012 for the designation of the whole of the parish as a Neighbourhood Area in accordance with regulation 5 of The Regulations. Consultation on the proposed designation was carried out from 19 April 2012 to 1 June 2012. A notice confirming the designation was issued on 28th June and was publicised on the Council’s website in accordance with regulation 7.

14. Section 38B (1) (a) of the Planning and Compulsory Purchase Act 2004 requires that a neighbourhood plan must specify the period for which it is to have effect. The cover of the Plan clearly specifies that it relates to the period 2011-2031.

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

Public Consultation

16. The Consultation Statement and its appendices set out clearly and in detail all the stages of consultation that were carried out in order to engage the community of Earls Barton in the process of preparing the Plan and to comply with the regulations.

17. The aim of the approach to consultation was to ‘front-load’ the consultation so as to ensure that its preparation was informed by the views of local people and other stakeholders from the earliest stage. The process also sought to ensure that as wide a range of people as possible were involved in the process and used a variety of techniques to achieve this. It was also a guiding principle that the outcome of consultation was communicated regularly and promptly.

18. The consultation process started with a launch event in April 2012 backed up by an exhibition in the library in April/May and followed by an issues survey distributed to all households in May and June from which over 400 responses were received. This
first phase of consultation also included a call for sites from local landowners in July 2012 and a Housing Needs Survey carried out in collaboration with the Borough Council in August and September 2012. The wide ranging nature of this first phase of consultation is to be commended in creating an awareness of the plan process and allowing people to identify issues rather than simply respond to proposals. The engagement of landowners and developers at this early stage is good practice.

19. On the basis of these early stages, a draft vision, objectives and 3 strategic options were generated and these were the subject of the second stage of consultation in December 2012/January 2013. All of the 4 main objectives were strongly supported. Opinion was more divided in relation to the strategic options and they are considered in more detail in relation to the site selection process in paragraphs 74-76. The attempt at this stage to secure a consensus on the strategic way forward before developing the detail of the plan is to be commended. However, the options which were presented combined the two main issues of the scale and location of growth. This made it difficult for respondents to, for example, express support for medium scale development to the south or large scale development to the north. The summary of the responses given suggests that for the most part they related to the scale of growth rather than the planning considerations related to the location of growth. While the use of option of suggesting an alternative strategy was clearly open to respondents, it could be argued that the range of options offered tended to lead respondents in the direction of option 2 which emerged as the preferred option.

20. The responses to the vision, objectives and strategic options consultations led to the development of the preferred option in dialogue with the landowner and preferred developer (David Wilson Homes). This provided for a combination of up to 250 dwellings, the provision of improved community and recreational facilities and additional employment land. In September 2013 David Wilson Homes carried out consultation on their proposals and in October 2013 the NPPG distributed a leaflet indicating that development on these lines was its preferred option. The consultation also included questions relating to the provision of business space, the village centre, housing density, parking and pedestrian and cycle routes. 88% of respondents supported the preferred option at this stage and 459 responses were received. This is a very clear and unusually positive response to a substantial development proposal. It does suggest that the community clearly recognise the need for the village to accommodate new development and demonstrates the strong consensus that was developed around the preferred strategy.
21. The pre-submission plan was drafted following the preferred option consultation and there was close consultation with the Borough Council of Wellingborough. Pre-submission consultation in accordance with regulation 14 was carried out in March and April 2014. The consultation involved the circulation of a letter to all resident dwellings and businesses directing people to online or hard copies of the Plan and individuals could request a copy. The Plan was also sent to a very long list of consultees and a drop in session was held towards the end of the consultation. 189 responses were received from members of the public or businesses. Overall the response was strongly in support of the Plan proposals. The Consultation Report summarises the comments and sets out the response of the NPPG and any changes to the Plan as a result of the comments in accordance with regulation 15.

22. The approach to public consultation during the preparation of the Plan has been very thorough and wide ranging. It is evident that during the various stages of consultation a strong consensus developed around the main issues and policies to the extent that the submitted plan clearly reflects the wishes of the community to a very large extent. One of the main purposes of neighbourhood plans is to give communities a sense of ownership over plans for their area and in this respect the consultation carried out has been impressive and greatly exceeds the requirements of the regulations.

23. The submitted EBNP was publicised in accordance with Regulation 16 between 14 July and 29 August 2014. Relatively few responses were received, primarily from statutory bodies and developers. All of these responses have been taken into account, though not all have been directly referred to in this report.

The Development Plan

24. The statutory development plan is made up of the North Northamptonshire Core Spatial Strategy 2008, the saved policies of the Borough Council of Wellingborough Local Plan (1999 plus alteration 2004) and the Northamptonshire Minerals and Waste Plan adopted in October 2014. The adopted Core Spatial Strategy sets out strategic policies for the period up to 2021 and thus does not cover the whole period of the EBNP which extends to 2031. It will in due course be replaced by the emerging North Northamptonshire Joint Core Strategy 2011-2031. The pre-submission version of this plan was published in January 2015. Similarly the saved policies of the Local Plan will be replaced by the Plan for the Borough of Wellingborough which will form part 2 of the Local Plan, within the context of the
emerging Core Strategy; this plan is at a very early stage of preparation as the Issues and Options report was published in January 2015. The EBNP has had regard to both the adopted and emerging plans. It is good practice for there to be close co-operation between the Parish and Borough Councils to achieve conformity between the Neighbourhood and Local Plans, as the EBNP could well quickly become out of date if it did not comply with the strategic policies of the Core Strategy and Local Plan when they are adopted. However, it is important to emphasise that the basic conditions to which I must have regard require conformity with the adopted development plan and a failure to comply with the strategic policies of the emerging plan would not amount to a breach of the basic conditions. Where, as in this case, the development plan is out of date, particular focus must be placed on consistency with the Framework.

**The Basic Conditions Test**

25. The Basic Conditions Statement which has been submitted with the EBNP aims to demonstrate that the Plan complies with both the legal requirements and the basic conditions.

26. The statement provides an extensive description of how the EBNP relates to the Framework and the link below each policy linking it to relevant paragraphs of the Framework is very helpful. However it would also have been helpful for the document to have related the Plan to PPG in relation to neighbourhood plans. The first of the basic conditions refers to “national policies and advice contained in guidance issued by the Secretary of State...” The PPG was only published fairly late in the plan preparation process and in my examination of the EBNP against the basic conditions I shall have regard to it.

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

**European Union Obligations**

28. *Strategic Environmental Assessment* A formal sustainability appraisal is not a legal requirement for neighbourhood plans, though PPG suggests that it can be a useful way of meeting the requirement to demonstrate that a neighbourhood plan
contributes to sustainable development. In the case of the EBNP a Sustainability Appraisal has been submitted. It is not unusual for a Sustainability Appraisal to be prepared in such a way that it also meets the requirements for a strategic environmental assessment. The submitted Sustainability Appraisal does not fully meet the requirements of the environmental report that is required from a SEA. However, it does look in some detail at the environmental effects, both positive and negative, of the EBNP when considered against a set of environmental criteria developed on the basis of environmental baseline information and having regard to European, national and local policies.

29. In some circumstances, where a neighbourhood plan is likely to have significant environmental effects, a strategic environmental assessment (SEA) may be required in order to comply with the legal requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 which enact the requirements of EU Directive 2001/42 into UK law. To determine whether a plan is likely to have significant environmental effects it must be assessed in accordance with Regulation 9 of the EAPPR. If it is determined that there is no need for a SEA a statement giving the reasons for the determination must be prepared in accordance with regulation 9 (3) of the EAPPR and submitted to the examiner.

30. Regulation 11 (1) of the EAPPR requires that where a determination is made under regulation 9 (1), within 28 days the responsible authority should send it to the consultation bodies and where the determination is that an environmental assessment is not required the determination should be accompanied by a statement of reasons for the determination. Regulation 11 (2) requires that at the same time the responsible authority should make the determination and the statement of reasons available for inspection and take such steps as it considers necessary to bring the determination to the attention of the public.

31. The representations of Gladman Developments and Redrow Homes argue that the approach to the need for a SEA fails to meet the basic conditions both in respect of the procedure that has been followed and the conclusions that have been reached. I shall address the procedure first and then the substance of the conclusions.

32. A Strategic Environmental Assessment Screening Report was prepared by James Wilson Associates on behalf of Earls Barton Parish Council in October 2013 and

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1 PPG paragraph 026 Reference ID:11-026-20140306
2 PPG Paragraph 028 Reference ID: 11-028-20150209
concluded that it was unlikely that there would be any significant environmental effects arising from the EBNP. This was at the same time as consultation on the preferred option was carried out. The Screening Assessment was submitted to the Borough Council of Wellingborough who consulted the consultation bodies in accordance with regulation 9 (2) (b) of the EAPPR. All of the consultation bodies responded agreeing with the conclusion that a SEA was not necessary. On 30 January 2014 the Borough Council wrote to James Wilson Associates setting out its determination that a SEA was not required, but qualified the statement by indicating that if substantive changes were made to the Plan following consultation under regulation 14 consultation would be necessary to establish whether the determination in the letter remained valid. At the same time the letter encouraged the preparation of “a proportionate assessment of sustainability” to demonstrate that the Plan would contribute to sustainable development.

33. The EBNP was submitted to the local planning authority in June 2014 and the submission was accompanied by the Sustainability Appraisal, the letter dated 30 January 2014 from the Borough Council and the screening assessment. On 22 January 2015 the Borough Council of Wellingborough wrote to Earls Barton Parish Council to qualify the view it had given in January 2014. It indicated that the earlier letter could not be taken as a formal determination because at the time the Council was not the ‘responsible authority’ referred to in the regulations. However the Council confirmed that it remained its informal view that a SEA was not required albeit that its reasoning differed from that given in the Strategic Environmental Assessment Screening Report prepared by James Wilson Associates in October 2013. Regulation 16 publicity of the submitted plan took place in July and August 2014 and interested parties had thus not had the opportunity to comment on the implications of this statement. I therefore requested that a period of 6 weeks should be allowed for comments on the document. The issues raised by it were one of the reasons for my decision to hold a hearing.

34. The initial screening report prepared by James Wilson Associates followed the process recommended in the Practical Guide to be used in association with the EAPPR. It is somewhat cursory in its assessment of whether the EBNP would have significant environmental effects, simply stating that “the effects of development as assessed against Annex II are not deemed to be significant”, without any specific consideration about what these would be, other than additional traffic on the A45. At the hearing it was clarified that this conclusion was reached on the basis of the
responses of the consultation bodies. The assessment of the environmental effects of the Plan in the Sustainability Appraisal also confirms this view.

35. Appendix A to the letter of 22 January 2015 from the Borough Council sets out the local planning authority’s screening assessment. This assesses the environmental impact against the criteria in Annex II of the Practical Guide more explicitly and states that the assessment takes account of the earlier responses from the consultation bodies. Because the view expressed by the Council is “informal” it does not amount to a determination. However, Appendix A covers the ground that might be expected to be covered in the statement of reasons which should accompany a determination.

36. The screening process that has been undertaken has been confused because of a change in the understanding of who is the responsible body for the purposes of the regulations between the initial screening and the end of the regulation 16 consultation. This change has arisen partly on the basis of legal advice provided to the Borough Council and has been reinforced by changes to the PPG issued in February 2015. The Parish Council has submitted the letter of 30 January 2014 confirming that an SEA was not required along with the screening opinion which had been prepared, in accordance with the PPG at the time. The latest guidance was issued after the January 22 2015 letter from the Borough Council and makes it clear that the time for the local planning authority to decide whether the neighbourhood plan is compatible with EU obligations is “when it takes the decision on whether a neighbourhood plan should proceed to referendum; and when it takes the decision on whether or not to make the neighbourhood plan”. The guidance also makes it clear that where it is determined that the plan is unlikely to have significant environmental effects, a statement of reasons for the determination should be prepared. A copy of the statement must be submitted with the neighbourhood plan proposal and made available to the independent examiner. This requirement is now also included in amendments to the Neighbourhood Planning Regulations 2012 which came into force in February 2015.\[6\]

\[3\]PPG reference ID 11-028-20150209 (now superceded) “Where the local planning authority determines that the plan is unlikely to have significant environmental effects (and accordingly does not require an environmental assessment), it should prepare a statement of its reasons for the determination. Where a statement of reasons is provided in respect of a neighbourhood plan a copy of the statement should be provided to the qualifying body in order that the statement can be made available to the independent examiner. For example by including it in the basic conditions statement”

\[4\] PPG reference ID 11-031-20150209

\[5\] PPG Reference ID 11-028-20150209

\[6\] Neighbourhood Planning(General)(Amendment)Regulation 2015 paragraph 2(4)
At the time the Plan was submitted the Parish Council was entitled to take the view that the local planning authority had made a determination in accordance with regulation 9 of the EAPPR. The PPG at the time suggested that it was the role of the local planning authority to make such determinations and the first sentence of the letter refers to consultation “to allow us to determine the need for a formal Strategic Environmental Assessment”. The Parish Council duly submitted the relevant documentation in accordance with the PPG. The Parish Council did post the letter on the EBNP website but did not formally notify the consultation bodies in accordance with regulation 11 (1) as it did not understand this to be its role. Moreover in many other neighbourhood plans examined before the modified PPG was issued in February 2015 determinations of the need for SEA made by local planning authorities had been accepted as meeting the regulations.

The letter from the Borough Council of 22 January 2015 stated that the 31 January 2014 letter should not be considered a formal determination of the need for SEA. It also provided an amplified statement of reasons in support of the view still held by the Council on why SEA is not necessary. However as this letter was explicitly an informal view and not a determination it did not fulfil the requirements of Regulations 9 and 11 of the EAPPR. My decision that this letter and appendix should be the subject of publicity in accordance with regulation 16 of the Neighbourhood Plan Regulations gave the consultation bodies the opportunity to comment and in some ways met the aims of regulation 11, as it made the consultation bodies and other interested parties aware of the conclusion that SEA was not required and gave them the opportunity to respond under regulation 16. However, after very careful consideration I concluded that regulations 9 and 11 had not been met as no clear determination under regulation 9 had been made and it had therefore not been possible to take the steps to publicise the determination outlined in regulation 11 (1) and (2). This also means that the requirements of Regulation 15(1) (d) of the amended Neighbourhood Planning Regulations have not been met.

I therefore decided that it would be appropriate to delay the completion of my examination to allow the Parish Council the opportunity to fully comply with regulations 9 and 11 of the EAPPR. This decision was conveyed in an e mail to Maxine Simmons of Wellingborough Council on 20 May 2015, which is attached as Appendix 2. I shall return to the implications of this after considering the conclusions of both the initial screening report and Appendix A to the letter of 22 January 2015.
40. Earls Barton Parish Council subsequently made a determination under regulation 9 of the EAPPR, that a SEA was not required, on 8th June 2015. The determination was publicised in accordance with regulation 11 and the consultation bodies were notified. It was also publicised in accordance with regulation 16 of the Neighbourhood Planning Regulations from 8 June 2015 to 24 July 2015.

41. I acknowledge that regulation 8 of the EAPPR requires that “a plan…..in respect of which a determination under regulation 9(1) is required shall not be adopted or submitted to the legislative procedure for the purpose of its adoption…before the determination has been made under regulation 9(1).” At the time the Plan was submitted, the accountable body had a statement that a determination had been made and included in their submission the documentation required. Only several months after the submission and after the regulation 16 publicity period was over were they informed that the letter of 30 January 2014 could not be regarded as a determination. In this context I concluded that it was appropriate to allow a determination to be made so that the Plan “does not breach and is otherwise compatible with European regulations”. An important input to this conclusion was the clear evidence that the local planning authority and the statutory consultation bodies were quite satisfied that the Plan was not likely to have significant environmental effects. However, extensive representations from Pegasus Planning representing Redrow Homes both at the hearing and in response to the later consultation argued that a SEA was necessary and these must be addressed.

42. There is no doubt that the EBNP falls within the category of plans where a SEA may be required as it falls within regulation 5 (4) (b) as a plan that sets the framework for future development consent of projects. Also The Plan allocates a significant area of land for development and in many cases this may necessitate a SEA. However the critical factor is whether the Plan is likely to have significant environmental effects. The screening process that has been undertaken has involved consultation with the consultation bodies and the results of it have been made public. The consultation bodies have had a further opportunity to express a view on the informal opinion issued by the local planning authority. The only response that has been received is from English Nature and this corroborates the conclusion that a SEA is not required.

43. The representatives of Redrow Homes argue that the Plan would have significant environmental effects because the inclusion in the plan of a settlement boundary would have far reaching effects. They argue that the imposition of a settlement boundary is in effect determining the use of all of the land within the parish area and
that the Plan is not simply determining the use of a small area at a local level. They also contend that the interpretation of “significant environmental effects” in the screening assessment was too narrow and should have taken a much wider range of possible effects into account such as the effect on the supply of housing of having a settlement boundary, and the consequent effects on other settlements because of the need for new housing to be allocated elsewhere in the emerging North Northamptonshire Joint Core Strategy and the Plan for the Borough of Wellingborough.

44. A SEA is likely to be necessary where a plan is likely to have significant environmental effects. These effects may be either positive or negative. However it appears to me that a significant environmental effect means a significant change from the current position. The imposition of a settlement boundary, thereby determining that the land outside it is likely, with relatively few exceptions, to remain in its present use does not mean that it would have significant environmental effects because it would result in little change from the status quo in these areas.

45. I have looked carefully at the scope of the ‘Information for Environmental Reports’ set out in Schedule 2 of the EAPPR. It is clear to me that these relate very definitely to matters related to the natural and built environment and not to wider socio-economic factors which may be addressed in a full sustainability appraisal. It follows that the assessment of the need for SEA should be based on whether the Plan would have significant environmental effects having regard to the matters to be addressed in a SEA. Given the consensus between the consultation bodies regarding the likely scale of the environmental impact of the Plan, and the assessment of environmental impact in the Sustainability Appraisal, notwithstanding the fairly large allocation of land, I can find no reason to question the conclusion that a SEA is not necessary. The Plan relates to a relatively small area, its policies are non-strategic in nature. They are set within the strategic framework of the adopted NNCSS. While this document is out of date the Plan also takes account of the strategic direction of the emerging Core Strategy. In the absence of an up to date Local Plan it can do no more and there is evidence of joint work between the Borough Council and the NPPG to assist the alignment of the neighbourhood plan with the emerging Local Plan.

7 EAPPR Schedule 2 paragraph 6
In my view it is not correct to argue that the neighbourhood plan is influencing the emerging Core Strategy and this will affect the level of allocations elsewhere in the Borough. The level of co-operation between the Borough Council and the NPPG is good practice and reflects the requirement that “The ambition of the neighbourhood plan should be aligned with the strategic needs and priorities of the wider local area”. It does not follow that the neighbourhood plan is effectively the tail wagging the dog. Even if this argument had any validity it would be quite unrealistic for a neighbourhood plan to be required to prepare an environmental report which effectively assessed the environmental impact of the Core Strategy. I shall consider the scale of development proposed by the EBNP later in my report (paras 60-65) but at this stage it is sufficient to say that as the EBNP is a plan which will lie below the emerging Core Strategy and Part 2 Local Plan, it should only be concerned with its own environmental impact. If the eventual form of these documents conflicts with the EBNP, the latter will become out of date. It is not for a Strategic Environmental Screening Assessment to speculate on this outcome.

Having taken these representations into account I find no reason to question the conclusions of the Statement of Reasons that has been submitted with the formal determination that has been carried out. This determination has complied with regulations 9 and 11 of the EAPPR. Although the status of the determination that was issued before the submission of the Plan was subsequently changed, necessitating a new determination with a fuller statement of reasons, I am satisfied that it is clear that a SEA is not required.

Habitats Regulation Assessment. A Habitats Regulation Assessment Screening for Appropriate Assessment was prepared by James Wilson Associates in December 2013. It identified that the Upper Nene Valley Gravel Pits is designated as a Special Protection Area and RAMSAR site and as such is a European Site subject to protection under European Community Directive 92/43/EEC. The screening report identifies the main characteristics of the Special Protection Area and describes the potential impacts of the proposals of the EBNP. It concludes that, while there could be some impact from the proposals in the Plan the effect is unlikely to be significant and therefore a further Appropriate Assessment is not necessary. The Borough Council of Wellingborough consulted Natural England on these findings. As a result of these consultations some changes to the draft plan were recommended to limit the

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8 PPG Reference ID: 41-009-20140306
9 NPPF Para 184
effects of additional recreational pressure on the Special Protection Area. Subject to these changes it was confirmed in a letter of 6 February 2014 that no further Appropriate Assessment would be necessary.

49. The Findings of the screening report were based on the preferred options for development of development being concentrated to the north of the village, and thus well separated from the Special Protection Area. The determination from the Borough Council pointed out that any substantive changes to the plan would require further consideration in consultation with the Borough Council to establish whether these findings remained valid. I am satisfied that no further Appropriate Assessment is required under the Habitats Directive.

50. **Human Rights.** I am also satisfied that nothing in the Plan is in conflict with the European Convention on Human Rights.

51. I therefore conclude that the Plan is compatible with and does not breach European Union obligations.

**Vision and Objectives**

52. The vision and objectives for The Plan provide have been important in shaping its policies and were identified at a fairly early stage in the preparation of the Plan. They were derived from early consultation on issues and were the subject of consultation alongside strategic options for the village. The wording of both the vision and objectives has been amended slightly in response to consultation but, with the exception of objective 3, have changed little from that early stage. It is evident that they clearly reflect the wishes of the community.

53. Although the vision and objectives will not be development plan policies if the Plan is made, they are so fundamental to its direction and purpose that they need to be considered against the basic conditions.

54. The vision that “Earls Barton will be a thriving community delivering greater access to local facilities and services for a growing population while maintaining its rural village character” is consistent with sustainable development and the requirement to plan positively for development. At the same time it reflects the important role of Earls Barton as a service centre and the desire of residents to protect its character. The second and 4th bullet points explaining how the vision will be achieved refer to the scale of housing development being sufficient to meet local needs and this is
consistent with the strategic approach of both the adopted NNCSS and the pre-submission NNJCS.

55. The first objective which seeks to improve the quality of life by improving the facilities and services within Earls Barton is entirely consistent with the basic conditions.

56. The second objective refers to “limited housing and commercial development to meet local needs …while providing some degree of expansion”. Both Gladman Developments and Redrow Homes have suggested that the aim of limiting residential development is inconsistent with the presumption in favour of sustainable development. The issue of the scale of development is considered in more detail later, but it is important to establish that the presumption in favour of sustainable development does not require an open ended approach to development. It aims to promote a plan led system and one of the main purposes of plans is to define the scale and location of development. By defining where development should go plans may also indicate where it should not go and in this way they may limit the scale of development. The main requirement of the Framework regarding the scale of growth is that neighbourhood plans should not provide for less development than is set out in the Local Plan. In this objective, the reference to limited housing development is accompanied by the reference to some degree of expansion and I find this approach entirely consistent with the Framework taken as a whole. The third objective aims to protect, conserve and enhance the natural and built environment. Its wording has been extended to reflect the comments of English Heritage. It fully reflects the guidance of the Framework and is consistent with the basic conditions.

57. The fourth objective relates to accessibility and transport and together with the supporting bullet points expresses several general intentions which are consistent with sustainable development. The first bullet point goes somewhat further and is in effect a policy, or a specific criterion for the location of new development. If it was retained I consider that it should be within a policy rather than an objective, but it is too prescriptive to be consistent with the presumption in favour of sustainable development. It may well be possible to locate development in such a way that although access to main roads is not direct it would not result in congestion.

**Recommendation:** on page 15 in the first bullet point below the objective headed Access delete “direct” and insert “good”.
The Policies of the Earls Barton Neighbourhood Plan.

58. In considering the policies of the EBNP it is important to clarify the restricted nature of my role. I may only suggest modifications to the policies where they are necessary: to comply with the basic conditions set out in paragraph 8, to be compatible with the European Convention on Human Rights or to correct errors.\(^\text{10}\)

The purpose of the policies, as set out in paragraph 183 of the Framework, is to guide decisions on planning applications, and PPG sets out the requirements for policies which include the need to be “clear and unambiguous” and “drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining applications”\(^\text{11}\). Some of the amendments I have suggested are to clarify the wording of the policy for this purpose.

Policy EB.G1

59. This policy, which allocates land between ‘the Grange’ and Earls Barton Industrial Estate for mixed use development including 280 dwellings, sports and leisure development, community facilities and employment development is a very major component of the Plan as it is the only large scale allocation for development. It is underpinned by some important principles and before considering the detailed wording of the policy it is important to address these.

The Scale of Development

60. The scale of new development in neighbourhood plans should not be less than in the Local Plan or undermine its strategic policies. Policy 10 of the NNCSS adopted in 2008 provides the only strategic context for the scale of development in the development plan. It aims to focus new housing at the three Growth Towns, Kettering, Corby and Wellingborough, with modest growth at the Smaller Towns and Rural Service Centres and limited development in the villages. Earls Barton is within the villages category and the policy provides for 1210 new dwellings in rural areas in the Borough of Wellingborough between 2001 and 2021. By April 2013 951 dwellings had been completed and there were commitments for a further 181 leaving just 71 to be located. No more detailed provision is given on the scale of

\(^{10}\) Schedule 4B to the Town and Country Planning Act 1990 Paragraphs 10 (3) (a) and (b)

\(^{11}\) Planning Policy Guidance Reference ID:41-041-20140306
development in Earls Barton and, as the period for the neighbourhood plan is 2011-2031, the NNCSS only covers less than half of the plan period of the EBNP. The NNCSS thus provides a clear direction of policy but no specific strategic context for the EBNP in terms of the required scale of development.

61. The emerging North Northamptonshire Joint Core Strategy 2011-2031 (NNJCS) is more explicit. As this plan is not yet adopted, general conformity with its policy is not a requirement under the basic conditions; however, it is good practice for the EBNP to have regard to the emerging policy as, if The Plan was in conflict with the NNJCS when it is adopted, it would quickly become out of date. As the NNJCS is at a fairly advanced stage of preparation it is particularly appropriate for the EBNP to have regard to its emerging policies. Policy 9 of the pre-submission plan published in January 2015 relates to the distribution of new homes and proposes 250 new houses in Earls Barton. This provision takes account of the fact that Earls Barton, as a relatively large and accessible village is one of the most sustainable villages, as only four existing villages are named for specific allocations within the whole area for the Joint Core Strategy Area and this is the largest suggested allocation for a village.

62. Equally important is the strategic approach to the distribution of development. There is a high level of continuity between the NNCSS and the emerging NNJCS in this regard. The aim to concentrate growth in the Growth Towns and Market Towns is maintained and in the villages “other than small scale infilling (Policy 11) or rural exceptions schemes (Policy 13), levels of housing in excess of the identified requirements for the named Villages and Rural Areas will only be permitted where tested and supported through Part 2 Local Plans or Neighbourhood Plans”. Thus it would be open to the neighbourhood plan to propose a somewhat higher level of growth but there is clearly no requirement for it to do so. I accept that this emerging policy has yet to be tested by examination and that some doubt has been placed in appeal decisions on the ability of the reliance on urban extensions to deliver housing at the required rate. However, it is not my role to examine the justification for the policies of the emerging plan and neither the existing nor the emerging plans place significant reliance on the villages in meeting their housing needs.

63. Gladman Developments Ltd suggest that the EBNP should not be progressed until the adoption of the NNJCS provides clear strategic policies. High Court decisions\textsuperscript{12}

\textsuperscript{12} R (Gladman Developments Ltd) v Aylesbury Vale District Council (CO/3104/2014) 22 July 2014 and BDW Trading Ltd v Chester West And Chester Borough Council (2014)
have confirmed, since this objection was made, that neighbourhood plans may be progressed in the absence of an up to date Local Plan and that they cannot be required to comply with the housing requirements of non-existent plans. PPG makes this clear and encourages local planning authorities and qualifying bodies to cooperate in order to resolve any issues and ensure that the neighbourhood plan has the best chance of success at independent examination\textsuperscript{13}. In the absence of a clear strategic requirement for new housing the Parish Council has worked with the Borough Council in order to define a housing target. The Borough Council applied 6 different scenarios which identified housing requirements ranging from 182 to 674. The highest figures associated with scenarios b) and c) were not considered to be consistent with the strategy of focussing growth in urban areas. The adopted figure of 250 dwellings is based on a range of factors including: a balance between the outcome of the various scenarios, the preference in the consultation in the neighbourhood plan for medium growth to the north of the village and specific local factors such as the need to maintain a separate identity for Earls Barton.

At the same time a housing needs survey was conducted in the village on the basis of the Borough’s normal methodology for such assessments. An extrapolation of the identified need for the first 5 years over the plan period produced a requirement for 256 dwellings. This survey needs to be used with caution as it simply represents a snapshot of individual needs within the village. On one hand it takes no account of any need to contribute to wider housing need, on the other it does not take into account the contribution to need made by vacancies that may arise from people moving out of the village or other reasons.

Policy EB.G1 proposes the development of up to 280 houses and policies EB.GD1 and EB.GD2 provide for infill development within the village boundary and for the development of exception sites outside the village boundary where a need for affordable housing can be demonstrated. Together with completions and existing planning permissions there is provision for approximately 400 new dwellings in the plan period. In addition there is the potential for additional infill development and the development of rural exception sites. All 3 policies will be considered in detail later, but purely in terms of the overall scale of development, in the absence of a clear up to date strategic context, I find that the scale of development proposed complies with the basic conditions. It is evident that the strategy for development in the NNCSS

\textsuperscript{13} PPG Reference ID 41-009-20140306
aims to limit the scale of development in rural areas and concentrate development in towns and it seems likely that it will be retained in the NNJCS. If this approach is changed when the NNJCS is adopted, possibly because of the record of under delivery on urban extension sites, there may well be a need to revisit the level of housing provision in Earls Barton. As things stand the level of growth envisaged exceeds the indicative target at this stage.

66. Reference is made by both Gladman Developments and Redrow Homes to the absence of a 5 year supply of housing land in Wellingborough and to paragraph 49 of The Framework which states that relevant policies for the supply of housing land should not be considered up-to-date in the absence of a demonstrable 5 year supply of housing land. It is clear that policies relating to the amount and location of housing development in a neighbourhood plan fall within the ambit of paragraph 49 of the Framework. However, because the assessment of the 5 year supply is across a whole local authority area and the neighbourhood plan relates only to a small part of this area it is unrealistic to suppose that neighbourhood plan policies would be capable of overcoming the lack of a 5 year supply. Thus any policy relating to the supply of housing risks being out of date and therefore not carrying full weight until a 5 year supply of housing land can be demonstrated. That does not mean that the neighbourhood plan should not include policies for the supply of housing. That in itself may run counter to the thrust of the Framework. It does, however, mean that policies should be in general conformity with the direction of national policy and this means they should have an appropriately positive approach to development.

67. The housing land supply situation can change rapidly and it is possible that a neighbourhood plan policy that would have to be considered not up to date having regard to paragraph 49 of the framework would become up to date when a 5 year supply of housing land could be demonstrated. I do not accept the view that the approach set out in the EBNP has the potential to undermine the sustainability of the strategic plan making process. If the latter results in strategic policies that conflict with the neighbourhood plan, the neighbourhood plan will become out of date. However, the NPPG has taken all reasonable steps to work with the Borough Council to ensure an appropriate approach.

68. The EBNP, if it is made, will become an important material consideration in the determination of planning applications. If there is still not a five year supply of housing land at that time that will be another material consideration that would require decision makers on planning applications to consider the weight that should
be attached to the policies in the neighbourhood plan. It does not however at this stage require a more open ended approach to the scale of development envisaged in the Plan.

The Site Selection Process

69. PPG suggests that “a qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria.” This guidance was issued in March 2014, late in the preparation of the EBNP. Regulation 14 consultation started in Mid-March 2014 and the guidance was only issued on 6 March, though it had been available in draft form prior to that. The guidance provides a link to more detailed guidance on how an assessment of sites should be undertaken. This guidance is drafted in the context of the preparation of Local Plans and provides a very detailed methodology which is geared to the selection of sites for a whole local planning authority area and to the test of soundness against which Local Plans are examined. While this guidance is evidently useful for neighbourhood plans a somewhat simplified approach is to be expected, while having regard to the main principles. I have also had regard to the emergence of this guidance fairly late in the process of plan preparation at Earls Barton.

70. The process of selecting the site at ‘The Grange’ for residential development did not follow the specific steps outlined in the guidance in every respect, as it took account of earlier work undertaken by the Borough Council to evaluate possible development sites. The process is described in the document entitled Earls Barton Neighbourhood Plan Site Selection Process, which was produced in January 2015, after the submission of the Plan, by the NPPG.

71. A long list of sites was identified early in the plan preparation process. There were three sources for these sites
   1. The Strategic Housing Land Availability Assessment prepared on behalf of the North Northamptonshire Joint Planning Unit in 2009 and updated in 2011.
   2. The Wellingborough Rural Housing Allocation Methodology and Site Selection (2010) which was prepared as an input to the Site specific Proposals DPD, which reached a preferred options stage in 2010 but was not completed when work started on the preparation of the NNJCS.
   3. A call for sites by the neighbourhood plan project group.
Most of the key sites were identified in all three ways.
72. The North Northamptonshire Strategic Housing Land Availability Assessment identified the sites which make up the allocation at The Grange as a category 3 site which offers longer term potential but have significant constraints that need to be overcome. The site at Station Road being promoted by Redrow Homes is classified as a category 2 site which may be suitable for development dependent on individual circumstances and measures to overcome constraints.

73. The Wellingborough Rural Housing Allocation Methodology and Site Selection included an evaluation of all of the sites it identified against a list of sustainability criteria and then ranked sites within different categories. While this did not clearly determine the selection of sites it did inform the neighbourhood plan process as it identified the constraints that applied to alternative sites. The site allocated at The Grange is made up of two sites, EB15 and EB22, while EB16 has been allocated for employment purposes. Site EB15 is ranked 2nd referring to some issues regarding integration with the village, while Site EB22 is ranked 13th because of constraints identified in relation to archaeology and integration with the village. Site EB6 in Station Road is ranked 4th and the main constraint identified is the limited capacity of Station Road as the main access.

74. In parallel with the initial assessment of sites there was a focus on the scale of development envisaged which I have already addressed. The information on possible sites was considered alongside the work on the scale of proposed development and any new information on the extent to which previously identified constraints could be overcome. This was a particularly crucial phase in the development of the Plan as it led to the identification of three strategic options as a basis for consultation. The process of developing the strategic options from the long list of sites is not explicit and the evaluation of the sites against explicit criteria does not form part of the documentation for the neighbourhood plan. It is entirely appropriate for the NPPG to have made use of existing evidence but it would certainly have been helpful to have made the process more explicit. It is also certainly the case that other strategic options could have been evaluated.

75. The development of the strategic options looked at the fit between the scale of the development required and the size and nature of the sites available. The location and scale of the development proposed to the north of the village clearly took account of the relationship of sites to the road network and to recreational facilities and the absence of any major constraints.
76. The strategic options offered the choice between dispersed development within the village, medium scale development to the north of the village and large scale development to the south. The opportunity to put forward another option was also offered. This process effectively merged options regarding the scale and location of development. It was not, for instance, possible to opt for large scale development to the north or medium scale development to the south without putting forward a 4th option. It is evident that option 2 for medium scale development to the north of the village The Plan attracted substantially more support than the other options, 38% with 29% for option 1 and 14% for option 2.

77. The next stage was the selection of the preferred option and this appears to have been based primarily on the outcome of the strategic options consultation. An indication of the reasoning that underlies this is in Appendix 6 of the Consultation Statement which summarises the feedback on the strategic options and in particular identifies the issues that underpinned the preferences expressed.

78. It is evident from the documentation that the selection of the allocated site for residential, recreation, community and employment uses involved a process of an emerging consensus about community preference regarding both the scale and location of development. While the process of site selection clearly did not fully comply with the approach that PPG now recommends, it was clearly informed by an objective evaluation of sites against clear criteria and this had been published earlier exercise which did this. It is clear that there were important and genuine planning criteria influencing the opinions expressed and the choice that was made. These are identified in both the response to consultation on the strategic options and in the justification for Policy EB.G1. The maintenance of the compact form of the village, the potential to secure improvements to recreation and community facilities and release employment land and the good access to the A4500 were all significant factors which have been identified. Moreover, it was established that the constraints to the development of the preferred site that had been identified earlier in terms of archaeology and access could be overcome.

79. It is clear to me that a process of site selection should not just involve a simple evaluation of sites against criteria and the allocation of sites accordingly. The concept of strategic options which link an overall view of the appropriate direction and pattern of development with site specific criteria is a legitimate approach that can quite reasonably lead to the allocation of sites which are broadly similar in terms of site specific criteria to sites which are not allocated. However, it is certainly the case
that in focussing on the emerging strategy the process failed to be as explicit as the
guidance suggests in dealing with the reasons for not selecting other sites.

80. While the preparation of the neighbourhood plan has been proceeding, an outline
application for the development of the preferred site has been submitted and
approved.

81. There are sound reasons for the selection of the site in terms of sustainable
development and I have seen no representations in response to the regulation 16
publicity which suggest that there are reasons in terms of the basic conditions which
suggest that the allocation of the site is inappropriate. Moreover the submission and
approval of an outline planning application has effectively confirmed the selection of
the site.

82. I am satisfied that the outcome of the site selection process is an allocation that is
consistent with the achievement of sustainable development and in general
conformity with the strategic policies contained in the development plan and I have
already considered the compatibility of the plan with EU obligations. However I must
focus in a little more detail on whether “having regard to national policies and advice
contained in guidance issued by the Secretary of State it is appropriate to make the
plan”.

83. The site selection process in the neighbourhood plan has clearly not exactly followed
the steps set out in the PPG. However, it took place before PPG on this matter was
published and the outcome of the process has clearly commanded the very strong
support of the community. Moreover it clearly took account of an assessment of
potential sites against clear criteria that had been conducted earlier by the Borough
Council.

84. There is a clear difference between guidance, legal requirements and policy.
Guidance is what it says, an indication of good practice and not a procedural
requirement. In this context the distinction between the test of soundness that is
required of a local plan and the basic conditions test that is applied to a
neighbourhood plan is important. It is for the examiner to have regard to the
guidance issued by the Secretary of State in deciding whether it is appropriate to
make the plan. The test that is put is not whether the plan complies in all respects
with national policies and advice contained in guidance issued by the Secretary of
State. The wording of the basic condition allows some discretion in deciding whether
any departure is such that the plan should not be made. I do not accept that in the absence of an up to date local plan the test to be applied to a neighbourhood plan should be that applied to a local plan. It is quite clear to me that the purpose of the guidance that the Secretary of State has issued is to assist qualifying bodies to prepare plans that are consistent with sustainable development. In determining whether it is appropriate to make the Plan my task is to determine not only whether the guidance has been followed but what the consequences of any departures from the guidance have been. In my judgement there have been no consequences in terms of site selection which suggest that the basic conditions have not been met. The main site selected for residential development provides for sustainable development and commands the support of the majority of the community. It may well be that other sites could have been chosen, but I have seen no conclusive evidence to suggest that any other approach to the evaluation of sites would necessarily have led to the allocation of a different site or additional sites. In any event, the test which I am asked to apply is not whether the best site has been allocated but whether the allocation meets the basic conditions.

85. I conclude that while the site selection process could clearly have been more explicit, the output from it has been consistent with the basic conditions.

86. I shall now consider the detail of policy EB.G1 which provides for the development of 19.29 hectares of land between ‘The Grange’ and Earls Barton Industrial Estate for mixed use development subject to several criteria. I find the policy consistent with the basic conditions subject to a few relatively minor amendments to the criteria.

87. The first criterion provides for up to 280 dwellings. The imposition of a rigid upper limit to the number of dwellings is not consistent with the presumption in favour of sustainable development. An original estimate of the capacity of the site was 250 dwellings and this was increased to 280 on the basis of an outline application which was submitted and it would be unduly rigid to view this as an absolute upper limit. It is also unclear whether the intention is that the applicant is required to prepare an up to date Housing Needs Survey. This would be an unreasonably onerous requirement but it would be appropriate to seek a statement demonstrating that the proposed

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14 This view is supported by the judgement in R(BDW Trading Ltd) v Cheshire West and Chester Council [2014] paragraph 84
dwelling mix is in accordance with the latest published Strategic Housing Market Assessment or Housing Needs Survey.

88. Similarly the provision of 5.94 hectares of land for sport and leisure in the second criterion and 0.64 hectares of employment land is inappropriately precise for a plan policy. In the third criterion the wording is insufficiently precise to be clearly enforceable.

89. In the penultimate criterion the meaning of the phrase “the local traffic situation” is unclear. Clearly the proposed development will increase the amount of traffic on the A4500 and the potential harmful effects that need to be minimised are to road safety and levels of congestion. An amendment to clarify this is necessary.

Recommendations

The following amendments to the criteria in Policy EBG1 are necessary to be consistent with the presumption in favour of sustainable development:

Reword the first criterion to read “approximately 280 dwellings with an affordable housing contribution in line with policies elsewhere within the development plan and a range of house types in accordance with the needs identified in the latest published Housing Needs Survey or Strategic Housing Market Assessment;

Reword the beginning of the second criterion to read “approximately 6 ha of land for sports and leisure facilities…”

Reword the first part of the penultimate criterion to read “The provision of vehicular access that will not result in unacceptable harm in terms of highway safety or increased congestion along the A4500 at peak times and…”

90. Redrow Homes have argued that a site off Station Road, which has been the subject of a planning application, should also be allocated for the construction of 85 dwellings on the grounds that the site is suitable for development, is in a sustainable location and would help to improve the supply of housing and that the Inspector in a recent appeal decision found no reason to reject development on the site. I could only make such an allocation if it was clear to me that it is necessary to enable the Plan to meet the basic conditions. The Plan makes provision for residential development at a scale that I have found to be consistent with the basic conditions. I am unable therefore to require the allocation of an additional site. Moreover it is evident from the Habitat Screening Assessment that any substantive change to the Plan would require further consideration of the need for an Appropriate Assessment under the Habitats Directive.
91. As application for the development of this site is currently the subject of a Section 288 Appeal against a decision of the Secretary of State to refuse the application contrary to the recommendation of the Inspector to which I have already referred. During the examination the Borough Council forwarded to me a request from Redrow Homes to defer the completion of my report until the Secretary of State had clarified his position in relation to this appeal. I considered this to be an inappropriate request and replied through the Local Planning Authority that I would complete the examination as soon as I was able to do so. My e-mail to this effect is attached as Appendix 4.

Policy EB.GD1

92. This policy provides for infill development within the village boundary, including redevelopment, subject to several criteria.

93. A number of objectors, notably Gladman Developments Limited and Redrow Homes have questioned whether the identification of a village boundary is compatible with the policies in the Framework and in particular the presumption in favour of sustainable development and it is important to deal with this first.

94. Both Gladman Developments and Redrow Homes refer to the Examiner’s Report on the Tattenhall Neighbourhood Plan and the High court judgement in R (BDW Trading Ltd) v Cheshire West and Chester Council [2014] in support of the case against a development boundary. However the circumstances in Tattenhall were very different from those in the EBNP. In both cases neighbourhood plans were prepared in the absence of up to date development plans. However in Tattenhall the neighbourhood plan did not make any allocations for residential development but included a criteria based policy for new developments of up to 30 dwellings each. The examiner placed weight on the absence of an overall limit on the amount of housing in the context of a policy which sought to limit the size of any individual development. In Earls Barton the plan does make a very substantial allocation and provides for infill development within the village boundary. While the Plan estimates that this will provide for 400 dwellings, it does not set a policy limit on the number of dwellings and also makes some provision for exception sites in Policy EB.GD2.

95. In Tattenhall the Examiner deleted a policy which sought “to maintain the overall shape of Tattenhall village”, because he saw this as a contradiction to the policy

15 Appeal Reference APP/H2835/A/14/2213617
which provided for developments of up to 30 dwellings. Again the presence of a substantial allocation, in association with a village boundary in Earl’s Barton, is not a comparable situation. Both neighbourhood plans seek to “ensure that they get the right types of development for their community”\(^{16}\) but they do so in very different ways. Tattenhall provides for an undefined number of small developments and Earls Barton provides for a substantial allocation, infill development within the village boundary and the small scale development of exception sites beyond the village boundary which may include an element of market housing. Earls Barton does this in the context of an extant, though not up to date Core Strategy and the deletion of Policy EB.GD1 could be regarded as in conflict with the adopted Core Strategy which provides for “limited development in the villages and restricted development in the open countryside”.\(^{17}\) I find no conflict between the inclusion of a village boundary to define where countryside policies should take effect and the presumption in favour of sustainable development in the Framework, given the provision in other policies for residential development. Again, a substantive change of this nature which could substantially change the potential scale of development envisaged would raise the need for further consideration of the need for both SEA and an Appropriate Habitats Regulation Assessment. Thus, if I considered a change of this nature necessary, the Plan would fail the examination. However, for the reasons I have given I do not accept the arguments in favour of such a change.

96. I accept that if the local planning authority is unable to demonstrate that there is a 5 year supply of housing land, the policy may be considered out of date and therefore carry less weight having regard to paragraphs 14 and 49 of the Framework. However, as I have already argued, I do not accept that policies in a neighbourhood plan applying to a village should be conditioned by the availability of a 5 year supply over the whole local planning authority area at a specific point in time. Clearly if the policy for the distribution of housing in the NNJCS differs from that in the NNCSS the neighbourhood plan may become out of date. However in the present strategic context I am satisfied that the definition of a village boundary is appropriate.

97. Policy EB.GD1 sets out criteria for the development of infill sites within the village boundary. I am satisfied that the criteria are straightforward and consistent with the basic conditions subject to the minor amendments suggested in the following recommendations. The first and third amendments are to correct grammatical errors

\(^{16}\) The Framework para 184

\(^{17}\) NNCSS Policy 10 page 51
and the second is to clarify that developers are not required to produce their own assessment of housing need, which would be an unreasonably onerous condition that would be inconsistent with paragraph 193 of the Framework.

**Recommendations**

The policy refers to “any proposals” (plural) but the criteria refer to “it” (singular). This reads awkwardly and would be resolved by the insertion of “in each case” after “provided that…”

In the 5th bullet point reword the last part to read “…in accordance with the needs identified by most up to date published Strategic Housing Market Assessment or Housing Needs Survey;”.

Reword the last bullet point to read “development that does not meet these criteria will not be supported.”

98. A particular issue in relation to the village boundary was raised with respect to the site of New Lodge on Northampton Road. Following representations made during the regulation 14 consultation it was agreed that boundary should be amended to “include New Lodge and new Lodge Vineyard property within the boundary line but to exclude the extended garden area and vineyard”. However this amendment was not made on the Key Diagram. It is agreed by the qualifying body that this omission was an error.

99. Representations in response to regulation 16 publicity have drawn attention to this and made the case for the whole of the extended garden area and vineyard to be included within the village boundary, because of the absence of any clear natural boundary dividing this area from the area accepted by the NPPG. The representation also sought the deletion of criterion D from section 6.1 of the plan which sets out the criteria which were used to define the village boundary. Criterion D provided for the “inclusion of the curtilages of dwellings unless the land has the potential to extend the built form of the village”.

100. With the exception of the inclusion of the proposed area for mixed use development at The Grange, the village boundary essentially encompasses the built up area of the village. New Lodge and New Lodge Vineyard are not the only properties where part of the curtilage has been excluded because of criterion D.

101. Following the hearing I visited the site. It was apparent to me that the inclusion of the whole of the curtilage of New Lodge and New Lodge Vineyard would include a substantial open area within the village boundary and this would clearly be contrary to criterion D. The only reason for the inclusion of the whole curtilage could be to
provide for the potential for infill development in accordance with Policy EB.GD1. While there is no strong boundary feature along the line used in the drawing prepared by the NPPG dated 18 March 2014, there is an intermittent line of hedge and planting which divides the area which was proposed to be included within the village boundary from that outside it. The reference to the significance of natural boundaries in the PPG\(^{18}\) made at the hearing relates to the definition of a neighbourhood area and not a village boundary. An amendment to the Key Diagram to correct the error of omitting the properties of New Lodge and New Lodge Vineyard would be appropriate but I can find no need to suggest any further amendment to the boundary or to delete criterion D in paragraph 6.1 to meet the basic conditions.

102. This amendment was made in a revised Key Diagram submitted by the Parish Council on 18\(^{th}\) March. This picked up a total of four changes that had been agreed by the Parish Council following the regulation 14 consultation and it is convenient to pick all of these up here. In addition to the inclusion of part of the curtilage of New Lodge and New Lodge Vineyard within the village boundary, it also amends the village boundary to include the development under construction at Compton Way, shows the extent of the Earls Barton Conservation Area and defines pedestrian and cycle routes between the proposed new development at The Grange and the rest of the village.

**Recommendation**

To correct omissions by error, replace the Earls Barton Neighbourhood Plan Key Diagram with the amended version submitted on 18\(^{th}\) March 2015 and attached as Appendix 3 (subject to further modifications in respect of Policy EB.OS1).

**Policy EB.GD2**

103. The policy supports proposals for exception sites outside but abutting the village boundary where a need for affordable housing can be demonstrated, subject to criteria. This approach is consistent with paragraph 54 of the Framework.

104. This policy provides an important element of flexibility in terms of the overall scale of development in the village. While the intention is that the bulk of new development will be concentrated in one major new allocation, this provision for an indefinite number of smaller developments where the focus is on affordable housing, but which

\(^{18}\) PPG reference ID 41-033-20140306
may also include some market housing does offer the potential to accommodate additional growth.

105. The policy and criteria are consistent with the basic conditions subject to one exception. The last criterion does not provide a clear framework for decision making or clear guidance for applicants it its present form. There is no apparent reason why sites that meet the other criteria should be rejected and there is no indication of the criteria that will be used to determine whether a proposal is supported by the Parish Council or to define “the most appropriate site”. The criterion is therefore inconsistent with the presumption in favour of sustainable development. The supporting text suggests that Policy EB.GD2 should only be applied in exceptional circumstances. The policy itself does not say this but simply defines criteria to be met by proposals for small scale development. As the supporting text is phrased as a policy an amendment is necessary.

Recommendation
Delete the last criterion in Policy EB.GD2
In the last sentence of the supporting text at the bottom of page 22 delete “in exceptional circumstances”.

Policy EB.D1

106. This policy is to ensure a high standard of design in new development and sets out criteria to be met in all cases. The criteria are consistent with the basic conditions with the following minor exceptions. In the second criterion it is unreasonable and unrealistic to expect all developments to “demonstrably protect, conserve and enhance the setting of All Saints Church as well as other designated and non-designated heritage assets” (my emphasis). Developments which have no impact cannot enhance the setting of these assets but it would be contrary to the presumption in favour of sustainable development to resist them for failure to do so.

Recommendation
Reword the second criterion of policy EB.D1 to read “demonstrably protect, conserve or enhance...”

The fourth criterion relates to the Code for Sustainable Homes. The ministerial statement of 25 March 2015 effectively withdrew the Code for Sustainable Homes and introduced national standards for the construction of new homes. It precluded the inclusion of policies relating to the Code from the date of royal assent for the Deregulation Act which was 26 March 2015.
Recommendation
Delete the 4th bullet point in policy EB.D1

Policy EB.OS1

107. The policy relates to open space and seeks to designate 11 areas of open space as Local Green Spaces. Paragraphs 76 and 77 of the Framework relate to the designation allocation of Local Green Spaces and paragraph 77 sets out the criteria which must be met by such designations. It explicitly states the designation will not be appropriate for most areas of green or open space and thus sets the bar at a high level in the application of the criteria. The supporting paper on Local Green Space considers the proposed spaces against the criteria and I will take this into account in my consideration of the proposed sites.

108. The land surrounding All Saints Church including the recreation ground and the square in front of the Church lies in a prominent position at the heart of the village and is one of the most important features in defining the character of the village. It is demonstrably special in terms of its visual appeal, its historic significance and its recreational value and it is quite clear that it meets the criteria for a Local Green Space.

109. The playing fields surrounding Earls Barton Infant and Junior Schools also lie close to the heart of the village and play an important role as facility for local events. I accept that this space meets the criteria.

110. The sports and leisure pitches around the Grange are an important leisure facility for the village as a whole and will be even more important following the development of land at the Grange. This space therefore meets the criteria for designation.

111. The cemetery land to the west of Wellingborough Road is an attractively laid out and publicly accessible area. Its tranquillity in a location close to an industrial area and a main road is a defining quality. However its role as a cemetery affords it protection and I am not persuaded that it is demonstrably special. Similarly the allotment areas to either side of it are clearly useful facilities to their owners, but they enjoy protection through their status as allotments and I am not satisfied that they have any special characteristics to justify designation as Local Green Spaces. For the same reason I do not consider that the allotment land off Station Road meets the criteria.
112. The areas numbered 07, 08 and 09 are all amenity spaces in predominantly residential areas, but they differ significantly in character. The land at the end of Compton Way is an area of amenity grassland within a residential development. While it is undoubtedly an important amenity space, it has no special characteristics which mark it out from similar areas to be found in large residential areas. I therefore do not consider that it meets the requirements for a Local Green Space.

113. The land at the Knoll between Corden Crescent and Dowthorpe Hill is at first sight an irregularly shaped area of rough grassland, somewhat nondescript in character. However it is a site of historic significance as part of a former overhead trolley way from an open cast quarry, it provides an important amenity function in a strongly built up area and commands impressive views from an elevated position over the Nene valley. It is therefore appropriate for designation as a Local Green Space.

114. The small area on the corner of Elizabeth Way and Manor Road contains several attractive mature trees which lend it a special character which distinguishes it from most small amenity areas and means that it meets the criteria.

115. The land between High Street and Churchill Road is a finger of countryside reaching into the built up area of the village. It is rough grassland which is not publicly accessible except for a public footpath which crosses the site. It is not a particularly attractive area and I am not persuaded that it has any characteristics that are sufficiently special to justify designation as a Local Green Space.

116. Earls Barton Pocket Park is a small area of Local Green Space to the south of the A45. It is attractively laid out as a picnic site and easily accessible from the village on foot. It is thus in reasonable proximity to the village. This is clearly an area in which the village takes pride and I am satisfied that it meets the criteria for designation.

117. I recognise that the exclusion of several of the proposed Local Green Spaces will be a disappointment to some people in the village. However, all of them are effectively protected from development by their current status and are likely to remain in their present use for the foreseeable future. Moreover, as I said at the outset, it is clear that Local Green Space designation is not applicable to most open spaces. While all the spaces are marked on the Key Diagram there is nothing to identify which space is which for users of the Plan who may not be familiar with the village. In the interests of clarity it would be helpful to remedy this by numbering the spaces on the plan.
118. The policy for managing development in Local Green Spaces should be consistent with Green Belts. However Policy EB.S1, in limiting development except in very special circumstances is rather more restrictive than Green Belt policy which provides for some forms of development which are considered “not inappropriate”.

Recommendations:
In Policy EB.OS1 in the second line insert after “…protected from development” “that is not consistent with their function as Local Green Spaces” and continue with the remaining existing wording.
Delete the spaces numbered O4, O5, O6, O7 and O10.
On the Key Diagram delete the spaces which will not be designated as Local Green Spaces and number the remaining ones to identify them.

Policy EB. LB1

119. This policy provides for development within the village centre to enhance the range of shops and services available to residents. The policy is generally consistent with the positive approach to economic development in rural areas, particularly in established centres, contained in the Framework. The criteria to be met by new proposals are entirely consistent with the basic conditions with the exception of the third one relating to off-street parking. This implies that all proposals will need to provide off-street parking which would be unrealistic and unduly onerous for small retail and service uses in a centre where there is publicly available off street parking. It is also unlikely to lead to a sustainable form of development as it could result in a plethora of accesses to the narrow roads around the centre of the village. However, the intention is that where access and off street parking are provided it should not be harmful to the amenity of neighbours is consistent with sustainable development.

Recommendation:
Reword the third criterion to read “where off-street vehicular access or parking is provided it would not have a harmful effect on adjoining residential or non-residential uses.

Policy EB.E1

120. The policy provides for the allocation of 1 hectare of employment land adjacent to the existing industrial estate. The policy is consistent with the basic conditions.
Policy EB.E2

121. Provision is made under this policy for the development of a small business centre either on the land allocated for employment development under Policy EB.G1 or on another appropriate site within the settlement area. The policy, together with the traffic generation and parking criterion associated with it, is consistent with the basic conditions.

Policy EB.T1

122. This policy aims to ensure that new developments on the narrow approaches to the village centre which are referred to as Areas of Constrained Access do not create additional requirements for on street parking. These streets are close to and include much of the centre of the village and there is a tension between this policy and Policy EB.LB1 encouraging the development of retail and services in the village centre. There is clearly a very difficult balance to be struck between the need to encourage a vibrant village centre with a range of retail outlets and other services to serve a growing population and the narrow street pattern around the centre. Achieving this balance will require the use of on street parking restrictions as well as planning controls. The On Street Parking Survey June 2014 clearly demonstrates the pressure for parking in the Areas of Constrained Access. It is evident that the provision of more public off street parking is a desirable long term solution that would be consistent with paragraph 43 of the Framework and the recognition of this in Policy DB.DC1 d) is helpful.

123. Meanwhile, for the reasons I have outlined in relation to Policy EB.LB1 I do not consider that a policy requiring any new traffic generating use to provide its own off street parking can be justified. It could effectively act as a bar to the establishment of new small retail and service uses that could undermine the vitality of the centre. It would also conflict with Paragraph 32 of the Framework which indicates that “Development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe”. The evidence of the On-Street Survey shows that while there is real pressure on parking spaces, on average about 20% of spaces were vacant and thus some additional demand for spaces could be accommodated. At the same time, new developments that generate the need for substantial amounts of parking would cause significant problems. I have therefore recommended a modification which is intended to strike a more appropriate
balance between these pressures. I realise that the “substantial” lacks precision, but
this will allow some discretion and thus avoid being too restrictive.

**Recommendation**

Reword Policy EB.T1 to read “Proposals within the ‘areas of constrained
access” both listed below and identified on the Key Diagram that would
generate a substantial requirement for parking will only be permitted where
they can demonstrate that adequate provision has been made for off-street
parking.

**Policy DB.DC1**

124. The policy sets out priorities for the provision of infrastructure and community
facilities through S106 agreements and the Community Infrastructure Levy (CIL) and
the justification helpfully recognises the tests that should be met by planning
obligations. The potential benefit to the community of income from the CIL is a major
benefit of neighbourhood plans and the definition of a clear list of priorities for the
village is very helpful. I am satisfied that the policy is consistent with the basic
requirements.

**Summary and Referendum**

125. The Earls Barton Neighbourhood Plan has clearly been driven by a strong desire to
protect the very special character of the village and to provide for the needs of its
residents. It has been prepared in a difficult strategic context in the absence of an up
to date local plan. However there has been effective co-operation between the
qualifying body and the local planning authority to try to align the neighbourhood plan
with the strategic direction of the emerging plan. This examination has not been
straightforward because of the emergence of late documentation regarding the need
for SEA and the process for the selection of the major allocation for new housing.
Both of these issues have necessitated further consultation and required detailed
consideration which has delayed the completion of the examination.

126. There has been thorough engagement with the community throughout the process
and the Plan reflects a strong consensus within the community about the main issues
to be addressed and the policies which have been developed in response to them.
127. I am satisfied that the Plan has been positively prepared in accordance with the legislation in order to “shape and direct development in the area”. I have found it necessary to suggest some modifications to meet the basic conditions, and subject to these modifications I am satisfied that the Plan:

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

I am therefore pleased to recommend that the Earls Barton Neighbourhood Plan should proceed to a referendum subject to the modifications that I have recommended.

128. I am also required to consider whether or not the Referendum Area should extend beyond the Neighbourhood Plan Area. The Plan relates to the whole of the parish of Earls Barton which includes a substantial area of countryside surrounding the village. I have seen no evidence to suggest that this area should be extended for the Referendum.

Richard High  August 2015
Appendix 1 Documents received in addition to those sent to me on appointment

Pegasus Group on behalf of Redrow Homes letter to Borough Council of Wellingborough dated 27 February 2015 in relation to publication post submission of Site Selection Process and qualification of earlier determination by Borough Council of need for SEA.

Borough Council of Wellingborough 11th March 2015 Notification of additional regulation 16 consultation on SEA and Site Selection Process: Notice for website, letter to consultation bodies and press release Letter from Department for Communities and Local government 19 March 2015. Appeal Decision on application ref WP/2013/0457/OM.

Borough Council of Wellingborough 13 March 2015 Notification of hearing letter sent to all Regulation 14 and 16 consultees and respondents.

James Wilson on behalf of Earls Barton Parish Council e mail 18 March 2015 setting out errors in the submitted plan in the form of changes to the draft pan that had been agreed but not made in the submitted version.

Borough Council of Wellingborough List of people invited to speak at the hearing, 20 March 2015.


Natural England Response to regulation 16 Consultation on SEA and Site Selection Process 8 April 2015.

Paul White: Response to regulation 16 consultation on SEA and Site Selection Process 13 April 2015.

Historic England Response to regulation 16 Consultation on SEA and Site Selection Process 22 April 2015.

Bletsoes on Behalf of Mrs JM Beatty and Mrs I Clarke: Regulation 16 Consultation 20 April 2015

Pegasus Group on behalf of Redrow Homes: response to regulation 16 consultation on SEA and Site Selection Process plus appendices April 2015.

Deloittes on behalf of Mr Michael Coulton and Mrs Sarah Hanna: response to regulation 16 consultation on SEA and Site Selection Process 24 April 2015.


Borough council of Wellingborough: website notice of opportunity to comment on the implications of the North Northamptonshire Joint Core Strategy Pre-Submission Plan 30 April 2015.

Borough Council of Wellingborough: letter sent to hearing participants inviting comments on the implications of the North Northamptonshire Joint Core Strategy Pre-Submission Plan 30 April 2015


Pegasus Group on behalf of Redrow Homes: Response (plus appendices) to consultation on implications of North Northamptonshire Joint Core Strategy pre-submission plan plus appendices 15 May 2015.
Pegasus Group on behalf of Redrow Homes: Letter dated 19 May with attached legal submissions requesting that Examiner’s report is only issued after Secretary of State has confirmed his position in relation to Section 288 Appeal plus appendices on that case.

Anglian Water: e mail to Borough Council of Wellingborough dated 3 June in response to consultation on implications of North Northamptonshire Joint Core Strategy pre-submission plan.


Anglian Water e mail dated 25 June to Wellingborough Council in response to consultation on SEA Matters

NHS Hertfordshire e mail dated 25 June to Wellingborough Council in response to consultation on SEA matters.

Anglian Water e mail to Borough Council 25 June in response to Regulation 16 Consultation on SEA matters

Natural England Letter from Roslyn Deeming to Borough Council of Wellingborough dated 6th July in response to consultation on SEA matters.

Pegasus Group on behalf of Redrow Homes: Regulation 16 Consultation July 2015 Consultation on SEA matters
Dear Ms Simmons

Following the hearing which was held on 29 April, I have given very careful consideration to the procedures which have been followed regarding the possible need for a Strategic Environmental Assessment. I have reached the conclusion that while the intentions of the Environmental Assessment of Plans Regulations 2004 (EAPPR) have been followed to a very large extent, in the screening report carried out in October 2013 and amplified in Appendix A to the Council’s letter of 22 January 2015, the procedure that has been followed has not fully complied with the regulations.

It is evident from these documents that the Parish Council and the Borough Council are of the opinion that the Earls Barton Neighbourhood Plan would not have significant environmental effects and do not consider that a Strategic Environmental Assessment is necessary. The consultation bodies have also not questioned this conclusion. However, neither council has made a formal determination to this effect in accordance with regulation 9. It follows that the requirements for publicity for any determination in regulation 11 of the EAPPR have not been followed.

Additions introduced in February 2015 to the Neighbourhood Planning (General) Regulations 2012 require that either

(i) An environmental report prepared in accordance with paragraphs (2) and (3) of regulation 12 of the Environmental Assessment of Plans Regulations 2004 or
(ii) statement of reasons for a determination under regulation 9(1) of the Environmental Assessment of Plans Regulations 2004 that the proposal is unlikely to have significant environmental effects must be included with a neighbourhood plan proposal when it is submitted to the local planning authority.

Appendix A to the Council’s letter of 22 January 2015 effectively covers the material required for a statement of reasons in accordance with (ii) above. However it is issued in association with an informal opinion rather than a formal determination and therefore does not fully meet the requirements of the PPG.

I have also taken account of the context in which the Earls Barton Neighbourhood Plan was prepared. At the time that the Strategic Environmental Assessment Screening Report of October 2013 was prepared there was very little guidance available on how the EAPPR should be applied to neighbourhood plans. The PPG published in March 2014 suggested that “where a Local Planning Authority determines that the plan is unlikely to have significant environmental effects (and accordingly does not require an environmental assessment) it should prepare a statement of the reasons for its determination.” Both the Borough Council’s letter and the Screening Report of October 2013 were placed on the Earls Barton Neighbourhood Plan website and the Parish Council had reason to believe that it had received a determination from the Borough Council and that the requirements of Regulation 11 were being followed. Also, prior to the recent amendments to the guidance, many other neighbourhood plans were successful at on the basis of determinations made by local planning authorities. Only the amendments to the Neighbourhood Plan regulations and the PPG of February 2015, after the end of the Regulation 16 publicity on the Earls Barton Neighbourhood Plan, clarified the distinction between the roles of the responsible authority and the local planning authority.

I have considerable sympathy with the Parish Council regarding the confusing legal and procedural context on the matter of Strategic Environmental Assessment while the plan was being prepared. In particular the letter from the Borough Council of 22 January 2015 placed the Parish Council in a very awkward situation when it was unable to address the issues raised in that letter. I have therefore concluded that the failure
to comply fully with the procedures in the EAPPR does not require me to refuse the plan. However, the plan would not comply with the basic conditions if regulations 9 and 11 of the EAPPR have not been followed. I have therefore decided to suspend my examination of the Earls Barton Neighbourhood Plan to allow the responsible body to make a determination in accordance with regulation 9 of the EAPPR and, depending on the nature of that determination to comply as required with the other regulations of the EAPPR. As the determination and any other documents associated with it are in the list of documents to be submitted to the examiner under regulation 15 of the Neighbourhood Plan Regulations they should first be published in accordance with regulation 16 for a minimum period of 6 weeks.

When I have received these documents I shall resume my examination and complete it as soon as possible. I am sure that this further delay will be a disappointment to you and the Parish Council but I have concluded after very careful consideration that this is the right way to proceed.

The comments made in this e-mail are without prejudice to my conclusions on any other issue which I must consider.

Regards

Richard High
Appendix 3  Revised Key Diagram

Attached as PDF

Appendix 4  E mail dated 9 June in response to letter and legal submissions dated 19 May from Pegasus Planning on behalf of Redrow Homes.

Dear Ms Simmons

I have given some thought to the request which you conveyed to me from Pegasus Planning to delay the issue of my report until the Secretary of State has clarified his position on the s288 appeal lodged by Redrow Homes.

I do not think it is appropriate for me to be in direct communication with Pegasus Planning and I should therefore be grateful if you could pass on my response to their request.

I am unable to accede to the request to delay the issue of my report until the Secretary of State has clarified his position in relation to the S288 appeal.

I am sure that Redrow Homes are aware of the very restricted nature of a neighbourhood plan examination and my sole remit is to consider the neighbourhood plan in accordance with the requirements of section 8 of Schedule 4b to the Town and Country Planning Act 1990. It is an inevitable part of the planning process that decisions on individual proposals are being made during this process but I must focus on the very specific issues before me and the clearly defined documentation that relates to them.

Redrow Homes and other interested parties will be aware that completion of my examination has been delayed by the need for a formal determination regarding the need for SEA but I will complete my examination as soon as I am able to do so.

Yours Sincerely

Richard High
Earls Barton Neighbourhood Plan

Built Environment


Cities Revealed
Aerial Photography copyright: GetMapping PLC 1999

Potential Location of Community Hall Facility
Areas of Constrained Access
Pedestrian & Cycle Routes
Village Boundary
Scheduled Ancient Monument
Village Centre - Retail/Business Area
Existing Employment Area
Mixed Use Development - Site Specific Allocation
Reserved Employment Site
Local Green Space
Conservation Areas