

Three Rivers District Council

**Croxley Green  
Neighbourhood Plan  
2017 - 2032**

**Independent Examiner's Report**

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21 September 2018

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## Summary

I have been appointed as the independent examiner of the Croxley Green Neighbourhood Development Plan.

Croxley Green is a desirable place to live, but has been subject to change. Although surrounded by the Green Belt, some significant sites for development and the proposed Metropolitan Line Extension had caused the community to be concerned that the assets so highly valued by them would be taken for granted.

As a result, and building on earlier work carried out for a Community Plan, the Plan sets out what a sustainable future for Croxley Green might mean with high level aspirations and objectives supported by 17 policies and a number of community aspirations.

One of the most innovative elements of the Plan is the identification of 12 Character Areas, eight urban, four rural of distinct identity and the policies and guidance written to support this fundamental principle of the Plan. This means that the Plan is locally distinctive because of this work.

During the course of the examination I requested that further work and consultation was undertaken in relation to Strategic Environmental Assessment and Habitats Regulation Assessment.

I have recommended a number of modifications to both the policies and their supporting text that are intended to ensure that the basic conditions are met satisfactorily and that the Plan is a workable document that provides a practical and clear framework for decision-making. My reasoning is set out in detail in this report.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend to Three Rivers District Council that the Croxley Green Parish Neighbourhood Development Plan, as modified by my recommendations, can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI  
Ann Skippers Planning  
21 September 2018



## 1.0 Introduction

This is the report of the independent examiner into the Croxley Green Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by Three Rivers District Council (TRDC) with the agreement of Croxley Green Parish Council, to undertake this independent examination.

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over twenty-five years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

## 2.0 The role of the independent examiner

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The basic conditions<sup>1</sup> are:

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

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation

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<sup>1</sup> Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

and referred to in the paragraph above. Only one is applicable to neighbourhood plans and is:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site<sup>2</sup> or a European offshore marine site<sup>3</sup> either alone or in combination with other plans or projects.

The examiner is also required to check<sup>4</sup> whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.<sup>5</sup>

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case Three Rivers District Council. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

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<sup>2</sup> As defined in the Conservation of Habitats and Species Regulations 2012

<sup>3</sup> As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

<sup>4</sup> Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

<sup>5</sup> The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

### 3.0 Neighbourhood plan preparation

A Consultation Statement has been submitted which meets the requirements of Regulation 15(2) of the Neighbourhood Planning (General) Regulations 2012.

Work began on a Community Plan in mid 2011. As part of this, every household in the Parish was surveyed in 2012 on a wide range of topics including health and the environment and asked to 'rank' their top five priorities from a list of 20. A response rate of about 28% was achieved meaning that some 4,500 comments were made. Initial analysis was published in June 2013 and given to every household and a summary reported in the Parish newsletter "the Parish Pump". In October 2013, it was decided to pursue a neighbourhood plan.

An open meeting was held in November 2014 after the appointment of professional support and following meetings with TRDC. 71 people attended and an opportunity was also given to anyone missing the meeting to send comments.

A 'progress report' was given at the annual Parish meeting in April 2015 whilst regular feedback was given in editions of the Parish newsletter and another monthly newsletter. A display was held at the annual Croxley Revels in June 2015. A meeting aimed at local businesses took place in September 2015. During this time other meetings with various stakeholders as well as ongoing dialogue with TRDC took place as well as regular feedback to the community.

Informal consultation took place on a draft of the Plan in early 2016.

Pre-submission (Regulation 14) consultation took place between 28 June – 19 August 2016. The period was subsequently extended to 9 September 2016. Copies of the Plan were available to view online and as hard copy. Newsletter articles encouraged responses. An unmanned exhibition stand was also located in the library with copies of the Plan to take away available. A stand at Croxley Revels in June 2016 also advertised the consultation and had copies of the Plan available.

A letter was sent to nearly 90 local organisations and other bodies requesting responses by 19 August (a three week period) but subsequently extended to 9 September.

Annex I of the Consultation Statement details the comments received and how they have been addressed.

An independent review of the Plan was also undertaken, commissioned by TRDC. I have been sent copies of this report. The Consultation Statement explains how the reviewer's comments have been addressed.

The Consultation Statement explains that the Plan was submitted to TRDC on 24 January 2017. It was however subsequently withdrawn to allow for further amendments to be made to the Plan following a second independent review of the Plan

commissioned by TRDC after the Plan was formally submitted. Annex J of the Consultation Statement considers the comments made by the independent reviewer and explains how the Plan was modified in response to those comments. It also considers representations made from the County Council, the Education Funding Agency and TRDC received after the first formal submission.

The Plan was then resubmitted on 6 April 2017.

I consider there has been sustained and satisfactory engagement with, and feedback to, the community throughout the process.

Submission (Regulation 16) consultation was carried out between 21 April – 2 June 2017.

The Regulation 16 stage attracted 77 representations from different people or organisations. I have on occasion referred to a specific representation, but not others; this simply depends on the nature of the comments made. Whether or not I refer to a specific representation, I have taken them all into account in preparing my report.

## 4.0 The examination process

I have set out my remit earlier in this report. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).<sup>6</sup> Planning Practice Guidance (PPG) confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.<sup>7</sup> Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further amendments or additions are required.

Some representations put forward comments that add text or content to the Plan or otherwise improve and enhance the document. The Parish Council may wish to consider these suggestions in the final version of the Plan or when the Plan is reviewed as appropriate, but they are not modifications I need to make in respect of my role and remit. PPG confirms that neighbourhood plans are not obliged to contain policies addressing all types of development.<sup>8</sup>

Where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in ***bold italics***. As a result of some modifications consequential amendments may be required. These can include changing section headings, amending the contents page,

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<sup>6</sup> PPG para 055 ref id 41-055-20180222

<sup>7</sup> *Ibid*

<sup>8</sup> *Ibid* para 040 ref id 41-040-20160211

renumbering paragraphs or pages, ensuring that supporting appendices and other documents align with the final version of the Plan and so on. I regard these as primarily matters of final presentation and do not specifically refer to such modifications, but have an expectation that a common sense approach will be taken and such editing carried out.

PPG<sup>9</sup> explains that it is expected that the examination will not include a public hearing. Rather the examiner should reach a view by considering written representations. Where an examiner considers it necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case, then a hearing must be held.<sup>10</sup>

I have sought clarification on a number of matters from the Parish Council and TRDC.

In particular I noted that the representation from TRDC stated that “...the Council considers the...Plan to fail to meet the basic conditions and supports the recommendations made in the POSe Ltd ‘health check’.” I was therefore about to ask for further information from TRDC on this when I received an email from TRDC of 26 July which did just that. A further email from TRDC of 14 August updated the outstanding concerns from a TRDC perspective. I requested that these emails with further comments should be shared with the Parish Council and that the Parish Council be given an opportunity to respond to those comments should they wish to do so. The Parish Council responded with comments on 29 August 2017; also responding to comments made on Policy PR02 from the Danes Education Trust, the Education Funding Agency, Hertfordshire County Council and from individuals.

In addition I identified some issues in relation to the Plan’s ability to meet two of the basic conditions; namely the making of the plan does not breach, and is otherwise compatible with, EU obligations and the making of the plan is not likely to have a significant effect on a European site either alone or in combination with other plans or projects.

This correspondence is attached to this report at Appendices 2 and 3. It is detailed further in the section in this report on EU obligations. In summary, further work on SEA and HRA were carried out resulting in the production of SEA and HRA Screening Reports. Consultation with the three statutory consultees (Environment Agency, Historic England and Natural England) was undertaken. A further, focused, six week period of public consultation was carried out between 8 June – 20 July 2018 on the SEA and HRA Screening Reports. This resulted in 12 representations. The Parish Council were also given an opportunity to comment on these representations and did so by letter of 6 August 2018.

For the avoidance of any doubt, the previous representations made at the submission (Regulation 16) stage were rolled forward.

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<sup>9</sup> PPG para 056 ref id 41-056-20180222

<sup>10</sup> *Ibid*



As a result of the additional work on SEA and HRA, the examination was suspended on 6 September 2017. It recommenced on 30 July 2018.

After consideration of all the original documentation, the additional work on SEA and HRA and all the representations received, together with the responses received to my queries, I decided that it was not necessary to hold a hearing as these responses and the additional work carried out have enabled me to examine the Plan without the need for a hearing.

Additionally, NPIERS, the Neighbourhood Planning Independent Examiner Referral Service, published guidance to service users and examiners earlier this year. Although I have not been appointed via NPIERS to undertake this examination, I am a member of the NPIERS Panel and consider it appropriate for me to take account of this guidance.

Amongst other matters, the guidance indicates that the qualifying body, in this case, Croxley Green Parish Council, will normally be given an opportunity to comment upon any representations made by other parties at the Regulation 16 consultation stage should they wish to do so. There is no obligation for the Parish Council to make any comments; it is only if they wish to do so. If a qualifying body wishes to make comments, the guidance indicates that any such comments should be made within two weeks after close of the Regulation 16 stage.

I therefore wrote to ask whether the Parish Council wished to make any comments on any or all of the representations received at Regulation 16 stage and asked for any comments by 12 September 2018. The Parish Council confirmed that they did not wish to submit any further comments.

I am very grateful to both Councils for the assistance given to me during the course of the examination and for ensuring that it ran smoothly.

I made an unaccompanied site visit to Croxley Green and the neighbourhood plan area on 23 July 2017.

## **5.0 Compliance with matters other than the basic conditions**

I now check the various matters set out in section 2.0 of this report.

### **Qualifying body**

The Basic Conditions Statement (BCS) confirms that Croxley Green Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is met.

## **Plan area**

The Plan area is coterminous with the Parish Council administrative boundary. The District Council approved the designation of the area on 27 January 2014. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with the necessary requirements. The Plan does not include a map of the Plan area and I suggest a modification to remedy this.

- **Add a plan which shows the Parish/Plan area to the Plan itself**

## **Plan period**

The Plan covers the period 2017– 2032. This is clearly stated on the Plan’s front cover and confirmed in the Plan itself and in the BCS.

## **Excluded development**

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also usefully confirmed in BCS.

## **Development and use of land**

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community’s priorities for the future of their local area, but are not related to the development and use of land. If I consider a policy or proposal to fall within this category, I will recommend it be clearly differentiated. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.<sup>11</sup>

I note that the Plan already makes this distinction by identifying Parish Council aims. Paragraph 3.1.1 on page 24 of the Plan sets out the distinction. However, throughout the Plan, policies and aims are consequentially numbered and appear in the same font style, size and colour. I consider it would be clearer and avoid any potential confusion amongst users of the Plan if the policies and aims were more obviously differentiated so that the document provides a practical framework for decision making.

In addition the aims appear under the section title of “The Development Management Policies”. As a result the section heading should be changed.

With these modifications, I consider this to be sufficient differentiation for the style of the Plan presented.

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<sup>11</sup> PPG para 004 ref id 41-004-20170728

- **Incorporate a different numbering or identification system for the policies and the aims such as Policy CA1, CA2 and Aim A, B or similar throughout the Plan**
- **Place each policy in the Plan into a coloured wash box (that differs from the objectives and importance of the objectives which appear in dark and light green boxes respectively) so that the policies are clearly identifiable and distinguishable from the aims**
- **Change the section heading “The Development Management Policies” to “The Development Management Policies *and Aims*”**

## 6.0 The basic conditions

### Regard to national policy and advice

The Government published a National Planning Policy Framework (NPPF) in 2012. On 24 July 2018, a revised NPPF was published. Paragraph 214 in Annex 1 of that document explains that:

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

Footnote 69 explains that for neighbourhood plans “submission” means where a qualifying body submits a plan proposal to the local planning authority in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012.

It is therefore clear that it is the previous NPPF published in 2012 that is relevant to this particular examination. Any references to the NPPF in this report refer to the NPPF published in 2012.

The NPPF is the main document that sets out national planning policy. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.<sup>12</sup>

The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood

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<sup>12</sup> NPPF paras 14, 16

plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.<sup>13</sup>

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.<sup>14</sup>

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at [planningguidance.communities.gov.uk](http://planningguidance.communities.gov.uk) which is regularly updated. The planning guidance contains a wealth of information relating to neighbourhood planning. I have also had regard to PPG in preparing this report.

PPG indicates that a policy should be clear and unambiguous<sup>15</sup> to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.<sup>16</sup>

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.<sup>17</sup> It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.<sup>18</sup>

The Basic Conditions Statement sets out how the Plan has responded to national policy and guidance through a discussion of each of the 12 core planning principles in the NPPF in relation to the Plan and by detailing each policy in relation to the NPPF's core planning principles and sub headings in its Annex A. Whilst Annex A is not wholly accurate in that some of the wording of the policies has been revised and some policies are now aims, it is clear that a thorough analysis has taken place and this has been useful for my own assessment.

### **Contribute to the achievement of sustainable development**

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole<sup>19</sup> constitutes the Government's view of what sustainable development means in practice

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<sup>13</sup> NPPF para 184

<sup>14</sup> *Ibid* para 17

<sup>15</sup> PPG para 041 ref id 41-041-20140306

<sup>16</sup> *Ibid*

<sup>17</sup> *Ibid* para 040 ref id 41-040-20160211

<sup>18</sup> *Ibid*

<sup>19</sup> NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

for planning. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.<sup>20</sup>

Whilst this has formed part of my own assessment, the Basic Conditions Statement contains a section that discusses how the Plan has addressed these three dimensions.

### **General conformity with the strategic policies in the development plan**

The development plan consists of a number of different documents.

The Three Rivers Core Strategy 2011 – 2026 (CS) covers the whole of the District and sets out in broad terms how future development will be planned for as well as promoting more sustainable development in general. It was adopted on 17 October 2011.

The Development Management Policies (DMP) sets out the criteria against which all planning applications within the District will be considered, alongside those set out in the adopted Core Strategy. It was adopted on 26 July 2013.

The Site Allocations Local Development Document (SALDD) supports the delivery of the Core Strategy and allocates specific sites to meet needs for housing, employment, education, shopping and open spaces. As part of this, changes are made to the Green Belt boundary. It was adopted on the 25 November 2014.

In addition to the above documents, the Hertfordshire Minerals Local Plan 2002 – 2016 and Waste Core Strategy and Development Management Policies 2011-2026 and Waste Site Allocations Development Plan Document 2011-2026 covering the whole County and produced by Hertfordshire County Council relate to minerals and waste form part of the development plan.

Croxley Green is identified as a Key Centre in the CS's settlement hierarchy. New development is directed towards previously developed land and appropriate infilling opportunities within Rickmansworth and the Key Centres. The CS recognises that a review of Green Belt boundaries at the edge of settlements will be needed.

The Key Centres are described in the CS as being "fairly self-contained"<sup>21</sup> providing a range of services and facilities that primarily serve the local population and that public transport is generally good. CS Policy PSP2 sets out the expectations for new development in the Key Centres.

The Basic Conditions Statement discusses the key documents and at Annex A refers to policy numbers in the CS, SALDD and DMP. This has provided a useful context for my own consideration of this basic condition.

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<sup>20</sup> NPPF para 7

<sup>21</sup> Core Strategy page 21

### ***Emerging plans at TRDC level of relevance to this examination***

The District Council is currently working on a new Local Plan for the period up to 2036 which is at a 'call for sites' stage.

### **European Union Obligations**

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant. A number of EU obligations may be of relevance including Directives 2001/42/EC (Strategic Environmental Assessment), 2011/92/EU (Environmental Impact Assessment), 92/43/EEC (Habitats), 2009/147/EC (Wild Birds), 2008/98/EC (Waste), 2008/50/EC (Air Quality) and 2000/60/EC (Water).

### ***Strategic Environmental Assessment***

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR).

The Basic Conditions Statement includes a section on SEA. It rightly identifies that a neighbourhood plan must be screened at an early stage to assess whether it might have significant environmental effects and this must be done in line with the requirements set out in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.

The Basic Conditions Statement assesses the Plan against the criteria in Schedule 1 of these Regulations as required by Regulation 9 although it does so in a limited manner. The BCS also confirms that the three consultation bodies have been consulted, again in accordance with Regulation 9. It states that "consultation with these three bodies is reported in the accompanying Consultation Statement"<sup>22</sup> and indicates none raised significant issues or objections. It was not clear to me from the Consultation Statement whether the three consultation bodies were consulted specifically on the SEA screening assessment. In addition no response seemed to have been forthcoming from either Historic England or Natural England.

On 30 July 2017, I wrote to TRDC and the Parish Council (please see Appendix 2) asking for confirmation of the following:

- a) what was consulted upon with the statutory consultees and send copies of that consultation request/invitation i.e. the letter/email that was sent

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<sup>22</sup> Basic Conditions Statement page 36

- b) the dates of the consultation with the statutory consultees
- c) provide copies of the responses received (or confirmation that there were no replies)
- d) publicity for the determination made has been undertaken in accordance with Regulation 11 of the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR)
- e) given that the work has been carried out by the Parish Council, confirmation from TRDC, as responsible authority, they are satisfied the SEA screening requirements have been carried out in accordance with the EAPPR.

The Parish Council confirmed that a letter of 28 June 2016 had been sent to various organisations including the three statutory consultees advising them of the pre-submission consultation on the draft Plan and its appendices. However, it was still unclear to me when any screening assessment had been carried out, and on what version of the Plan, whether the statutory consultees were specifically consulted on any screening assessment and whether it would have been clear to them that this was a formal consultation under the EAPPR.

The Parish Council also referred to a letter of 9 November 2016 to all consultees providing a link to the revised draft Plan following on from pre-submission consultation stage.

Although it is apparent that the Parish Council endeavoured to meet the requirements under the EAPPR and all their actions were carried out in good faith, I considered that, whilst accepting fully that the screening assessment should be carried out proportionately and without using more resources than necessary, that the level of information in the Basic Conditions Statement and the Statement of Reasons in the Basic Conditions Statement barely met the requirements. I could not be certain that the requisite consultation had been carried out.

As a result, I wrote again to TRDC and the Parish Council on 4 September 2017 to indicate my concerns suggesting further work be carried out on the SEA. This letter is attached as Appendix 3.

A Screening Report has now been produced and is dated May 2018. It concludes that a SEA is not required. It is comprehensive in its coverage. Consultation has been carried out with the three statutory consultees. All responded and concurred with the conclusions of the Screening Report that there will be no likely significant environmental effects and a SEA is not required.

In addition a further period of public consultation was carried out between 8 June – 20 July 2018 on the SEA Screening Report. This resulted in 12 representations. The Parish Council was then given a period to comment on those representations if it wished to do so and the Parish Council sent some comments by letter dated 6 August 2018.

I consider that EU obligations in respect of SEA have been satisfied.

## **Habitats Regulations Assessment**

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.<sup>23</sup> The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

A similar issue arose in relation to HRA with that of SEA. The Basic Conditions Statement included a brief statement, but my questions of clarification of 30 July 2017 indicated it was not clear to me what assessment had been carried out or whether any consultation had taken place. I recommended that a HRA screening assessment be carried out with the requisite consultation being undertaken. My letter of 4 September 2017 reiterated this view.

A Screening Report was carried out and is dated May 2018. The Screening Report confirms there are no European sites within the Plan area. It went on to consider those nearest to the Plan area. The nearest are the South West London Waterbodies Special Protection Area (SPA) some 30km away, the Chilterns Beechwoods Special Area of Conservation (SAC) some 15km away, the Burnham Beeches SAC more than 15km away and the Wormley Hoddesdonpark Woods SAC about 30km away. Four Marine Conservation Areas were also considered; the nearest of which is some 70km from the Plan area.

The Screening Report concluded that given the location of the European sites in relation to the Plan area and their nature and characteristics, the Plan would not have likely significant effect on any European sites alone or in combination with other plans and concluded that a full HRA would not be needed.

The three statutory consultees were consulted and all replied. The Environment Agency and Historic England did not comment on the HRA. Natural England agreed with the Screening Report's conclusions, stating "...that the Croxley Green Neighbourhood Plan would not be likely to result in a significant effect on any European site, either alone or in combination and therefore no further assessment work would be required".<sup>24</sup>

Alongside the additional period of public consultation on the SEA Screening Report, the HRA Screening Report was also consulted upon for six weeks between 8 June – 20 July 2018 resulting in 12 representations. The Parish Council commented on the representations by letter of 6 August 2018.

Given the nature, characteristics and distance of the European sites and the nature and contents of the Plan, I consider that a full HRA is not required and that the further basic condition set out in Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) is complied with.

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<sup>23</sup> PPG para 047 ref id 11-047-20150209

<sup>24</sup> Letter from Natural England (undated) included in Appendix 1 of the Screening Report May 2018



I have also considered any implications arising from the judgment in the case of People Over Wind, Peter Sweetman v Coillte Teoranta<sup>25</sup> and asked the local planning authority to do the same. My letter to TRDC is attached at Appendix 4. TRDC have confirmed they do not consider any further HRA work is needed. I have also independently considered this matter and consider that the Screening Opinion is legally compliant in the light of the judgment and that no further action is required as a result of this judgment in relation to this particular Plan.

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

Although there is no mention of this in the Basic Conditions Statement, there is nothing in the Plan that leads me to conclude there is any breach of the Convention or that the Plan is otherwise incompatible with it.

PPG<sup>26</sup> confirms that it is the responsibility of the local planning authority, in this case TRDC, to ensure that all the regulations appropriate to the nature and scope of the draft neighbourhood plan have been met. It is TRDC who must decide whether the draft plan is compatible with EU obligations when it takes the decision on whether the plan should proceed to referendum and when it takes the decision on whether or not to make the plan.

## **7.0 Detailed comments on the Plan and its policies**

In this section I consider the Plan and its policies against the basic conditions. Where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in ***bold italics***.

The Plan is well presented. It has a helpful contents page. It begins with a preface and an executive summary which provide a useful introduction to the Plan.

### **1 Context**

This is a clearly worded and helpful introduction to the Plan. As well as setting out the background to the Plan, it sets out the vision for Croxley Green. It explains that although much of the Parish of Croxley Green is surrounded by Green Belt, the community faces change. A proposed Metropolitan Line Extension may come to fruition and provide improved transport links to London and a new station at Cassiobridge just outside the Plan area is also proposed. With these enhanced transport links and the character of the Parish, which boasts two Conservation Areas, the Croxley Common Moor Site of Special Scientific Interest (SSSI) and a Village Green,

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<sup>25</sup> Case C-323/17

<sup>26</sup> PPG para 031 ref id 11-031-20150209

will become an even more desirable location to live. Against this background there is a concern that the area's attributes are "taken for granted".<sup>27</sup> Five aspirations have therefore been developed; all are clearly articulated and relate to the development and use of land. The aspirations are accompanied by four objectives for the Plan which are a mixture of planning and non-planning related matters. These are then reflected in the aims also contained in the Plan which are community aspirations.

## 2 About Croxley Green

This section details the context for the Plan.

Paragraph 2.1.2 refers to the restriction of new development in Flood Zones 2 and 3 and includes a footnote directing readers to an appendix. Two issues arise; firstly the text, inadvertently I suspect, introduces policy by restricting development and this restriction is not, in any case, totally in line with national policy. Secondly, footnote 9 appears to be the wrong reference. With the changes necessary to the paragraph the reference becomes superfluous.

Page 11 refers to Appendix E which recommends various trees, tree groups and hedges for tree preservation orders (TPO). A sentence should be added to ensure that it is clear that this is a community aspiration.

There is a typo on page 12 of the Plan; "mediaeval" should be "medieval".

However, despite these points, it is important to record that this section is comprehensive in its approach, thorough, well presented with text interspersed with photographs and diagrams and is well written.

- **Change the last sentence in paragraph 2.1.2 on page 10 of the Plan to read: "in addition new development *lying within Flood Zones 2 and 3 should only be permitted in accordance with national and local policy.*"**
- **Remove footnote 9 with consequent renumbering of footnotes required**
- **Add a new sentence to the end of paragraph 2.1.5 on page 11 of the Plan that reads: "*It is recognised that this will be a separate community action that does not form part of the planning policy elements of this Neighbourhood Plan.*"**
- **Correct typo on page 12 of the Plan; "mediaeval" should be "*medieval*".**

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<sup>27</sup> Page 7 of the Plan

### 3 Introduction to Policies and Aims

The introduction explains that the Plan includes development and use of land policies called “policies” and non-planning policies “aims”. I have earlier in this report, suggested two modifications to make the distinction between policies and aims clearer.

A number of topics then follow and a helpful diagram explains that each topic has its own section which starts with an objective or objectives, an explanation of the objective(s), the policy or policies themselves together with any relevant aims and then explanatory text.

### 4 Designation of Character Areas

Twelve character areas have been identified in the Parish and are shown on a figure on page 25 of the Plan. They are described in detail in Appendix B together with more detailed plans showing each area. Eight “Urban Character Areas” and four “Rural Character Areas” are defined. This is an innovative approach and is a fundamental principle that underpins many of the policies in the Plan.

### 5 The Development Management Policies

#### 5.1 Character Areas and Heritage

This section contains four policies and one aim. It has five objectives all of which relate to the development and use of land and are clearly articulated. The Plan explains that having identified twelve distinct character areas, any new development should reinforce the local distinctiveness of those areas including any special features each area contains.

#### Policy CA1 New developments

This policy seeks to ensure that the distinctive and special characteristics of each Character Area are respected and reflected by any new development.

The NPPF has a clear expectation that neighbourhood plans “should develop robust and comprehensive policies that set out the quality of development that will be expected for the area”.<sup>28</sup> It continues that such policies should be based on an understanding and evaluation of the area’s defining characteristics. CS Policy PSP2 seeks to conserve and enhance the local distinctiveness of Croxley Green in particular its historic core. CS Policy CP12 refers to the design of development and DMPLDD Policy DM1 refers to design and layout, referring applicants to Appendix 2 of the DMPLDD for more detailed design criteria.

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<sup>28</sup> NPPF para 58

The thrust and intent of this policy goes to the heart of what a neighbourhood plan policy should seek to achieve in my view as it is locally distinctive and the identification of the Character Areas has been a comprehensive piece of work to support this policy.

Although it seeks the submission of a Design and Access Statement, it does so flexibly and only when required.

The final part of the policy seeks to restrict permitted development rights, but again does so flexibly indicating this will be where plot sizes are restricted and adds the words “generally” and so the decision-taker can make a judgment on a case by case basis.

It takes account of the NPPF, generally conforms to the relevant strategic policies and will help to achieve sustainable development.

There are some minor rewording modifications that I recommend primarily to improve clarity. Modifications seek to address potential confusion between the policy’s reference to “the Council” given this is a Parish Council led document, but it will be TRDC that determines planning applications and improve the clarity of the language to ensure the policy will achieve its intent. With these modifications, the policy will meet the basic conditions.

- **Change the first sentence of the policy to read: “*New development should seek to conserve and, wherever possible, enhance the key elements of the character and appearance of the Character Areas described in Appendix B through careful design and massing of new buildings...*” [retain remainder of sentence as is]**
- **Delete the word “namely” at the end of the second paragraph of the policy and replace it with “*and pay particular attention to:*”**

### **Policy CA2 Extensions to existing buildings and conversions**

This policy seeks to ensure that extensions to residential properties are well designed. The policy cross refers to Appendix B (the Character Areas) and guidelines for extensions in Appendix C.

A second element of the policy requires parking, garden use and the social impact of the subdivision of houses into flats to be considered.

The policy will help to ensure that good design is at the heart of such development; this in turn will contribute to making places better which is a key facet of the NPPF and its identification that “good design is a key aspect of sustainable development”.<sup>29</sup> It reflects the NPPF’s stance that high quality and inclusive design goes beyond aesthetic

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<sup>29</sup> NPPF para 56

considerations.<sup>30</sup> It generally conforms to CS Policies PSP2 and CP12 and DMPLDD Policy DM1 as this refers to the subdivision of dwellings. DMPLDD Policy DM1 also refers to more detailed design criteria for extensions in Appendix 2 of that plan. It will help to achieve sustainable development.

With some modification to ensure that the policy is clearly and robustly worded and provides the practical framework sought by national policy, the policy will meet the basic conditions.

- **Change the first sentence of the policy to read: “*Domestic extensions requiring planning consent should seek to conserve and enhance the Character Areas described in Appendix B through the careful control of massing, alignment and height.*”**
- **Change the second sentence of the policy to read: “*Extensions that have an overbearing or adverse visual effect on the Character Area in which it is located will be resisted. Proposals should take account of the guidelines in Appendix C.*”**

### **Aim CA3 The use of appropriate materials in all extensions**

This aim seeks to encourage the use of suitable materials for extensions constructed under ‘permitted development’ rights. Reference is made to “the Council” and in order for the aim to be clear, this should be changed to “Parish Council”.

- **Add the word “*Parish*” before “...Council...” in the aim**

### **Policy CA4 Streets and areas with special characteristics**

This policy identifies six streets or areas that are particularly special to the community. It requires any new development to respect and “be in harmony” with the character and scale of the immediate environment.

I visited each of these areas and they are distinctive. This clearly worded policy will help to retain and achieve a strong sense of place and reinforce local distinctiveness in line with the NPPF<sup>31</sup> and CS Policy PSP2. It meets the basic conditions and no modifications are recommended.

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<sup>30</sup> NPPF para 61

<sup>31</sup> *Ibid* para 60

## Policy CA5 Landmark buildings

This policy identifies 14 buildings and structures considered to make a special contribution to the Parish. These are not listed nor are they currently identified by TRDC on a local list as available on TRDC's website at the time of writing. They have been identified from the extensive work carried out on the Character Areas and I saw each on my visit.

The policy's title requires amendment to reflect the contents of the policy.

As well as identifying these buildings, the policy sets out how development proposals affecting them will be considered. It takes a flexible approach recognising that any replacement of the buildings and structures should be of an appropriate design. However, it does not deal with any changes to them or indeed their loss. As a result some additions to the policy are needed.

The policy suggests the buildings, structures and areas could be included on a list of locally important buildings should that list be reviewed. In itself this is a useful stance to take and the identification of such buildings through the neighbourhood planning process will no doubt be welcomed by TRDC who formally identify buildings for inclusion on a local list. However, I consider that the inclusion of this statement within the policy itself leads to potential confusion and so in the interests of clarity, I recommend this part of the policy be moved to the supporting text.

Paragraph 5.1.5 refers to 12 buildings or structures, but the list in the policy refers to 14 buildings, structures or areas. A modification in the interests of accuracy is therefore proposed.

With these modifications, the policy and text will be clearly worded and will meet the basic conditions.

- **Add the words “and structures” to the policy's title**
- **Add the words “change to or” after “Any proposed...” in the last sentence of the first paragraph of the policy**
- **Add a new sentence at the end of the first paragraph of the policy that reads: “Any loss of these buildings and structures will be resisted unless the public benefits of any proposal outweigh the loss.”**
- **Remove the sentence which begins “They are not currently listed...” from the policy and move it to the supporting text at paragraph 5.1.5 on page 35 of the Plan after the sentence which ends “...are not protected at all.”**
- **Change “twelve” in paragraph 5.1.5 to “fourteen”**

## **5.2 Sustainability**

This section has seven clearly articulated objectives that relate to the development and use of land. It contains three policies and five aims.

### **Policy HO1 Satisfying local housing needs**

The NPPF seeks to significantly boost housing supply.<sup>32</sup> To ensure there is a wide choice of homes based on current and future needs, this policy identifies three priority types of housing namely those suitable for older people, starter homes and affordable housing for rent.

The policy requires major development (defined as 10 or more units) to provide at least two dwelling types, one of which should be for families.

Given national policy's stance on the provision of a mix of housing and the need of inclusive and mixed communities and the evidence presented in the Plan, I consider that this clearly worded policy provides an appropriate balance between flexibility and accommodating the needs of this community. It takes account of national policy, CS Policy CP3 and will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended.

### **Aim HO2 Accessibility of all new dwellings**

This aspiration seeks to secure the provision of accessible dwellings. It is clearly worded.

### **Policy HO3 Lifetime neighbourhoods and security**

As part of the creation of sustainable, inclusive and mixed communities, this policy seeks to ensure that the principles of lifetime neighbourhoods are considered in all new housing developments.

A second element of the policy seeks to incorporate Secured by Design principles and resists gated developments.

The policy is clearly worded. It meets the basic conditions as it seeks to create sustainable, inclusive and mixed communities and create safe and accessible environments, two facets of national policy and it will help to achieve sustainable development.

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<sup>32</sup> NPPF section 6

A minor modification is made to ensure that the policy stands the test of time as I believe the latest version of Secured by Design is dated 2016.

There is also a minor omission to be remedied so that the wording of the policy makes sense.

- **Add after ““Secured by Design, New Homes 2014”.” in the second sentence of the policy: “or any successor document.”**
- **Add the word “to” after “...contribute...” in the first sentence of the policy**

#### **Aims HO4 - HO7**

These four aims deal respectively with crime prevention, dwelling sizes, carbon footprint and energy efficiency. All aspirations are clearly worded.

#### **Policy HO8 Connections to existing footpaths and cycleways in new developments**

Policy HO8 is a short and clearly worded policy that aims to ensure that developments of 10 or more dwellings connect into the existing footpath and cycleway networks. This takes account of the NPPF’s support for the protection and enhancement of sustainable transport modes and will help to create opportunities for a healthier lifestyle. It reflects CS Policy PSP2 which, amongst other things, seeks an integrated approach to improve transport and movement into and around the Key Centres and CS Policy CP10 which promotes sustainable transport.

However, it is not clear to me why the threshold of 10 units has been incorporated. It seems to me that all developments could potentially contribute, where appropriate, to the promotion of sustainable transport and connectivity. I therefore recommend a modification that will ensure the policy helps to achieve sustainable development. With this modification it will meet the basic conditions.

- **Delete the words “housing” and “of 10 or more dwellings” from the policy**

#### **5.3 Leisure, Community, Welfare and Health**

The sole objective for this section is to support community buildings and facilities including education and health provision.



## Policy LC1 Protection of sporting, recreation, leisure, education and health facilities

Community facilities listed in Table LC1 and other buildings and “open land” which provide facilities for sport, recreation, leisure, education, health and cultural activities are protected by this policy which only permits changes of use proposals in five circumstances.

These circumstances are a) where the existing facility is relocated elsewhere in the Parish or b) there is no longer a demand for the use or c) it is no longer economically viable or d) it cannot be converted into another community use. The last criterion is that the facility is surplus to requirements.

This last criterion applies to all the circumstances outlined above. This then sets a high bar and one that would be virtually impossible to achieve particularly if the facility was relocated – and this could be to an equivalent or better facility in a suitable location. It would also prevent uneconomic facilities from being supported in change of use proposals and potentially prevent other community uses.

As a result whilst the thrust of the policy is in line with national policy’s aim of resisting the unnecessary loss of valued facilities and services,<sup>33</sup> the policy may, inadvertently, prevent the positive planning of such facilities and may hinder the achievement of sustainable development.

In addition the list of services in Table LC1 is extensive and includes schools and pubs and various clubs. This list is likely to become out of date very quickly. It therefore does not provide the practical framework for decision making sought by national policy and guidance.

Furthermore DMPLDD Policy DM12 that deals with the redevelopment or change of use of facilities and services covers similar ground, but in a more comprehensive way. There is therefore overlap between the two policies. Duplication should be avoided in the interests of providing a practical framework for decision making.

Taking these points together, the policy should be deleted as it does not meet the basic conditions. The supporting text (paragraphs 5.3.1 and 5.3.2) sit comfortably with Aim LC2 and Table LC1 can also be retained if desired.

- **Delete Policy LC1 in its entirety**

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<sup>33</sup> NPPF para 70

## **Aim LC2 Support for leisure and community facilities**

This aspiration gives support to securing the future of leisure and community facilities and is clearly worded.

### **5.4 Retail and Employment**

The retail and employment section has three policies which sit under two objectives to provide a wide range of retail facilities and employment opportunities and to support business.

#### **Policy RE1 Protection of retail uses**

The supporting text to the policy explains that there is a “village centre” in New Road and shopping parades in Scots Hill, two in Baldwins Lane and three in Watford Road and other scattered locations. The Plan explains these are highly valued facilities and there are few vacant units. As most parades are located in 1950s blocks they have rear service yards and frontage parking.

CS Policy CP1 seeks to sustain the viability and vitality of the Key Centres. The CS identifies Watford Road as a Local Centre serving local needs and New Road and Baldwins Lane (west) as Local Shops. CS Policy PSP2 seeks to maintain and enhance the Local Shopping Centre and to enable Key Centres to meet local day to day needs. CS Policy CP7 protects and enhances these designations.

The SALDD identifies other local shops as 41 – 55 and 295 – 309 Baldwins Lane and 193 – 197 Watford Road protected by CS Policy CP7. SALDD Policy SA4 supports retail development in the Watford Road and New Road Local Centres and protects and enhances Local Centres and Local Shops, encourages the retention of retail uses and encourages complementary uses.

Policy RE1 seeks to resist the loss of Use Class A uses to residential across the Parish. Use Class A uses include shops, financial services, restaurants, cafes and bars and takeaways.

The policy recognises that not all changes of use require the submission of a planning application. Use Classes A1 and A2 can change to C3 (residential) if the cumulative floorspace is below 150 square metres and is subject to prior approval and a mix of Use Class A1 and A2 and up to two flats may be permitted subject to meeting certain conditions.

It also includes flexibility regarding marketing evidence and viability testing.

The policy will help to ensure that retail and other needs are catered for locally and that there is a supply of premises for Class A uses. This takes account of national policy and guidance and the relevant development plan policies and will help to achieve sustainable development given the flexibility within the policy. The policy is worded clearly. It therefore meets the basic conditions and no modifications are recommended.

### **Policy RE2 Safeguarding employment**

Similar to Policy RE1, Policy RE2 seeks to resist changes of use from Use Class B to residential where the submission of a planning application is required. Class B uses includes offices, light industry, general industry and storage and distribution uses. The NPPF places emphasis on the need to build a strong and competitive economy and the need to create jobs.<sup>34</sup> CS Policy PSP2 seeks to maintain and enhance employment opportunities in the Key Centres and CS Policy CP6 supports employment and economic development. The policy will help to ensure that there is a supply of premises that provide jobs locally.

Again the policy has inbuilt flexibility regarding marketing evidence to demonstrate such a use would no longer be viable allaying any concerns about longer term protection of such sites.

The policy is clearly worded and meets the basic conditions. Therefore no modifications are suggested.

### **Policy RE3 Encouraging new employment**

This policy seeks to support businesses through extensions, conversions or new build where they are compatible with neighbouring residential properties. This will help to support existing and encourage new businesses supporting job creation and services provision in the Parish. The policy is clearly worded and no modifications are recommended.

## ***5.5 Recreational Open Space***

This section has one policy and two aims which sit under one objective to ensure open space is available for recreational use.

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<sup>34</sup> NPPF section 1

## **Policy RO1 Open space for new housing developments**

This policy seeks to ensure that all new housing developments provide on and off site open space in line with TRDC requirements or make a financial contribution for off site provision. This then creates a number of concerns. Firstly the policy does not add anything to TRDC policy which is contained in DMPLDD Policy DM11 and is therefore arguably unnecessary and redundant. Secondly, it allows a financial contribution for off site provision to be made in lieu of both on and off site provision and this is at odds with the District Council's policy and also may not result in the achievement of sustainable development. It should therefore be deleted as it does not meet the basic conditions.

The supporting text to this policy and the two aims that follow it refers to the former Durrants School Playing Fields and Killingdown Farm. There is a risk that such references could be inferred as policy. Therefore the relevant parts of the supporting text should be deleted in the interests of clarity.

- **Delete Policy RO1 in its entirety**
- **Delete paragraph 5.5.2 on page 46 of the Plan in its entirety**
- **Delete the words "...and part of the former Durrants playing field could be designated as allotments if there were unmet demand." from paragraph 5.5.3 on page 46 of the Plan**

## **Aim RO2 Safeguarding recreational land**

This aspiration underlines the Parish Council's commitment to work with TRDC to ensure proper maintenance of recreational land, but also goes further in seeking recreational land to be protected from future housing development. This latter element is a development and use of land issue and the aim could be misconstrued as being a planning policy despite my earlier recommendation regarding the need to differentiate more clearly between policies and aims. Therefore to avoid any confusion, this latter element should be deleted even if it is Parish Council policy.

- **Delete "and is protected from future housing development" from Aim RO2**

## **Aim RO3 Protection of allotments**

This aim seeks to protect allotments and make provision for additional allotment space. Again the aim refers to such land being "safeguarded from development" and to avoid confusion, this should be deleted.

- **Delete the words “from development” from Aim RO3**

### **5.6 Transport, Road Safety and Parking**

Three objectives start this section which contains one policy and two aims. All three objectives are clearly articulated and relate to the development and use of land.

#### **Aim TP1 Road safety and control of parking**

This aspiration promotes joint working to prepare an action plan. It is clearly worded.

#### **Policy TP2 Parking and conversions to residential use**

Policy TP2 indicates that the demand for parking will be one of the key criteria in determining applications for conversions or subdivisions of properties to residential. The policy as currently worded has little ‘bite’ as it only indicates that parking will be an issue to consider. It does not refer to any other criteria and seems to suggest that some considerations in determining applications of this sort will be “key” and others not so “key” which I consider to be unfortunate as other considerations may be of equal merit.

Of more importance is that it does not indicate what developers should provide in order to make a proposal acceptable or say what will happen if unsatisfactory parking is provided. As a result it does not provide the “practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency” which the NPPF seeks from plans<sup>35</sup> or the clarity and unambiguity sought by PPG.<sup>36</sup>

I have considered whether it is possible for me to modify the policy to enable it to meet the basic conditions, but there is little indication in the Plan as to what is being sought. Therefore the policy should be deleted.

- **Delete Policy TP2 in its entirety together with the accompanying text**

#### **Aim TP3 Safe parking**

This clearly worded aspiration encourages safe parking facilities and facilities for recharging vehicles.

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<sup>35</sup> NPPF para 17

<sup>36</sup> PPG para 041 ref id 41-041-20140306

### **5.7 Front Gardens**

This section only contains an aim to sit alongside the objective of retaining part front gardens and boundary treatments.

#### **Aim FG1 Conservation of front gardens**

Aim FG1 seeks to retain some front gardens and encourage tree planting and the use of permeable surfaces. It is clearly worded.

### **5.8 Street Furniture**

The objective of this section which has one aim, is to ensure street furniture is appropriate to each Character Area.

#### **Aim SF1 Street furniture**

This clearly worded aim will help to achieve the objective set out above.

### **5.9 Trees and Landscaping**

This section has two aims designed to conserve and enhance the character of the landscape and encourage tree planting.

#### **Aim TL1 Protection of trees on private land**

This aspiration seeks to jointly work with TRDC on identifying trees and encouraging tree planting. Although its title refers to private land, the accompanying text also refers to public land. For this reason, I suggest that the title of the aim is altered to reflect this.

- **Delete “on private land” from the title of Aim TL1**

#### **Aim TL2 Street trees**

This clearly worded aim encourages street trees through joint working with TRDC.

## **5.10 Footpaths and Public Access to the Countryside**

This section of the Plan refers to the accessibility and maintenance of footpaths and bridleways.

### **Aim FP1 Maintenance of footpaths and bridleways**

This aspiration commits the Parish Council to maintaining footpaths and bridleways within its control and ensuring they are open at all times. It is clearly worded.

The accompanying text at paragraph 5.10.2 refers to trimming and cutting back overhanging foliage. A sentence should be added to make it clear that hedge trimming can only take place outside of the nesting season.

Paragraph 5.10.3 makes a number of suggestions for enhancement of networks. It should be made clearer that these are suggestions rather than planning policy. For this reason a modification is recommended to ensure that the status of paragraph 5.10.3 is clear.

- **Add a new sentence at the end of paragraph 5.10.2 that reads: “Any work to hedges can only take place at certain times of the year, for example to avoid the bird nesting season.”**
- **Add “and consideration is encouraged to be given to the following community aspirations:” at the end of the first sentence in paragraph 5.10.3 (before the bullet points begin)**

## **5.11 Shop Fronts and Advertising**

Containing one policy, this section has the objective of ensuring shop fronts and advertisements respect the host building and street.

### **Policy SA1 Control of shopfronts and other advertising**

The policy refers to guidance contained in Appendix G of the Plan indicating that both shopfronts and advertisements should have regard to this guidance.

A second element of the policy refers to the strict control of billboards.

The NPPF is clear that “poorly placed advertisements can have a negative impact on the appearance of the built and natural environment”.<sup>37</sup> The display of advertisements is subject to a separate consent process. Advertisements are controlled only by reference

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<sup>37</sup> NPPF para 67

to their effect on amenity and public safety. There are three categories of advertisement consent; those permitted without needing deemed or express consent if certain conditions are met, those which have deemed consent if certain criteria are met and those which need express consent of the local planning authority.

PPG explains that a local plan does not have to include advertisement policies, but that if such a policy is needed to protect the unique character of an area, this should be evidenced based.<sup>38</sup>

In addition “amenity” is not defined but is usually taken to include aural and visual amenity in the immediate locality of the advertisement.

Taking these two issues together, I do not consider it appropriate that Policy SA1 includes references to advertisements and billboards. I accept that poorly placed advertisements, as the NPPF explains, can have a detrimental impact, but there is little evidence to support the inclusion of such a policy. Therefore the policy should only refer to shop fronts.

Lastly, this policy has the same number as a policy in the SALDD. To avoid confusion I consider that a different policy number should be used.

- **Change the title of the section to “Shop fronts” [removing “and advertising”]**
- **Delete “...and that advertising is appropriate in scale and colour” from the objective**
- **Change the title of Policy SA1 to “Shop fronts”**
- **Change the number of the policy from “SA1” to “SF1”**
- **Delete “and associated advertising” from the first sentence of Policy SA1**
- **Delete the second sentence of Policy SA1 which begins “Any increase in the amount of...” in its entirety**
- **Delete the second sentence in paragraph 5.11.1 which begins “The use of restraint...” in its entirety**
- **Remove the photographs of bill boards from the section**

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<sup>38</sup> PPG para 029 ref id 18b-029-20140306



## 6 Specific Project Action Plans and Other Opportunities

### 6.1 Croxley Green Centre

The objective seeks to provide a “village centre” around New Road, including a permanent home for the Parish Council.

#### Aim PRO1 Croxley Green centre

This aspiration indicates that the Parish Council will work jointly with TRDC and Hertfordshire County Council to prepare an Action Plan for the enhancement of the New Road area, identify a “village centre”, support the Library and surrounds and the Red Cross building and encourage landscaping on Community Way. This aim is clearly worded.

### 6.2 Proposed Croxley Danes School at Cassiobridge (TRDC allocation)

#### Policy PR02 Proposed Croxley Danes School Site

Seven objectives accompany Policy PR02. All are relatively specific.

The site has been allocated in Policy SA3 of the SALDD which explains that the CS identified a need for additional secondary school places.<sup>39</sup> CS Policy PSP2 specifically refers to the provision of new schools to meet identified needs in the Key Centres. CS Policy CP11 makes minor revisions to Green Belt boundaries where appropriate.

SALDD Policy SA3 explains that due to the shortage of secondary school places, two sites are allocated, one in the west and one in the east of the District. Site 5(b) is land north of Baldwins Lane; this site.

The comments in the allocation recognise that the topography of the site would constrain potential to provide the full requirement of playing fields on the site and that detached playing fields may be required to the north of the site. It seeks to retain mature trees and groups. It refers to vehicular access being achievable from Baldwins Lane subject to the diversion of Lodge Lane and replacement car parking. It is recognised that some mitigation may need to take place due to the adjacent railway. It recognises the site is highly visible from the west but that impacts could be mitigated by careful design and landscaping. The plan shows a “building zone” and “playing fields”. The SALDD also removes the Green Belt designation from the “build area” of the site.

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<sup>39</sup> Core Strategy page 4

The policy has a number of elements to it. Firstly, it requires a planning brief to be devised by TRDC. It is not possible for a policy in this Plan to require action by another body, in this case TRDC.

Secondly, it requires proposals to be “subject to the most rigorous scrutiny by TRDC in association with the Parish Council and local residents”. It indicates five issues that it wishes to particularly scrutinise. This again binds another authority to take action and it is TRDC which will be the sole determining authority. It would however of course be considered good practice for the Parish Council and local residents to be engaged with any proposal and to have the opportunity to influence any development on the site.

Thirdly, the policy requires further consideration to be given to safeguarding the northwest portion of the site designated for playing fields as open space and identifying land for additional detached playing fields.

TRDC is concerned that the policy contradicts District level policies and puts at risk the delivery of a secondary school. This position is disputed by the Parish Council.

The Plan explains that the site for the school is designated open space and is of importance as, amongst other things, it “buffers the east of the Croxley Green built-up area from the built-up area of Watford”.<sup>40</sup> Whilst the Parish Council accepts that the identification of land suitable for additional detached playing fields is controversial and would accept deletion of this element of the policy, the other requirements are considered to be reasonable.

Whilst the policy is worded flexibly, in terms of asking that consideration be given to a variety of issues including safeguarding the northwest portion of the site as open space, it is not possible for a policy in this Plan to require action by another authority, in this case in the form of a brief devised by TRDC. Therefore as a planning policy it should be deleted, but can be retained in the Plan as a community aspiration. This would set out the Parish Council’s concerns and aspirations for this site and form a basis to move discussions on. There is also a further modification needed to the supporting text which seeks to introduce policy. With these two modifications, for the avoidance of doubt, the objectives, the importance of the objectives and the remainder of the text in paragraphs 6.2.1 – 6.2.5 can be retained if desired.

- **Change Policy PR02 into an “Aim”**
- **Add the words “*therefore likely to be*” after “A thorough archaeological investigation is...” in paragraph 6.2.5 on page 56 of the Plan**

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<sup>40</sup> Page 54 of the Plan

### ***6.3 Proposed Croxley Station Development (TRDC allocation)***

#### **Policy PR03 Croxley Station**

The objective explains that the redevelopment of this site should include additional uses than those specified in the TRDC allocation.

SALDD Policy SA1 allocates this site H (13) and indicates that development may include a retail store and that parking provision for the station should be safeguarded. No mention is made of community uses. The policy is clear that sites should be developed at an overall capacity which accords with the capacity given for that site, in this case 25 dwellings. CS Policy PSP2 refers to the improvement of parking and cycling facilities at the station as well as a strategic cycle link.

Policy PR03 requires a development brief to be devised with TRDC in association with the Parish Council to ensure that community and commercial uses will be included on this redevelopment site.

There is no doubt it would be useful to discuss any proposals with the Parish Council and local residents to help ensure that the maximum potential of the site is achieved and that community support for any scheme is forthcoming. However, the requirement for a development brief to be devised jointly can only be a community aspiration as in itself this is not a development and use of land matter. In addition it requires another body, in this case TRDC, to take action. For the avoidance of doubt the objective, the importance of the objective and the supporting text can be retained if desired.

- **Change Policy PR03 into an “Aim”**

### ***6.4 Proposed Killingdown Farm Development (TRDC allocation)***

#### **Policy PR04 Killingdown Farm development site**

The objective of this section is to ensure that heritage assets are respected and that the development is a “model development” reflecting the policies and aspirations of the Plan. This site is allocated in SALDD Policy SA1 as H (10) with a capacity of 140 -180 dwellings.

This policy again requires a planning brief to be devised by TRDC in association with the Parish Council. It sets out four criteria for any scheme to meet including affordable housing, community facilities and open space and vehicular access. It is possible for the policy to be modified to remove the element that requires a planning brief but retain the other criteria where it is appropriate to do so.

In line with the representation from Historic England, I agree the wording of the first bullet point could be more precise and better take account of national policy.

The second bullet point reiterates that TRDC policy on affordable housing should be met. In addition it is not clear to me what the “sustainable features” are. Although this could be referenced to CS and DMLDD policies or other documents, this would not add any value to the criterion or policy. Therefore the second bullet point is unclear, but more importantly unnecessarily duplicates other policy and so should be deleted in the interests of providing a practical framework for decision making sought by national policy and guidance.

The third bullet point is superfluous as it is too generalised as it simply requires the provision of community facilities and open space but without indicating what is sought or how a proposal might comply with this criterion. It therefore does not provide the practical framework for decision making.

The fourth bullet point refers to the Conservation Area which is already covered by the first bullet point and the modification to it. It then refers to Little Green Lane and seeks to ensure development does not damage its character. Whilst it is apparent that there are other options for access, there is little mention of why Little Green Lane would be unsuitable as an access point or why there is a concern. Therefore this bullet point should also be deleted as it either duplicates or does not provide the evidence to support it and does not provide a practical framework for decision making.

As a result of these modifications, it is suggested that the bullet point is removed and the policy presented as prose.

With these modifications, the policy will meet the basic conditions. For the avoidance of doubt, the objective, the importance of the objective and the supporting text can be retained.

- **Delete the words “...should be the subject of a planning brief devised by TRDC in association with the Parish Council to reflect the sustainability objectives. It...” from the first two sentences of the policy**
- **Reword the first bullet point of the policy to read: “*preserves or enhances the character or appearance of the Conservation Area and the setting of listed buildings and seeks the retention of natural features.*”**
- **Delete the second bullet point**
- **Delete the third bullet point**
- **Delete the fourth bullet point**
- **Present the policy without bullet points**

## 6.5 Other Development Opportunities

Two objectives explain that the use of vacant or disused land should be optimised to meet TRDC housing growth targets without further loss of Green Belt.

### Aims PR05 – PR07

Aims PR05 and PR06 are clearly worded aspirations that commit the Parish Council to working with TRDC and other organisations.

Aim PR07 refers to the former Durrants School playing field. This aspiration indicates joint working to bring the former playing field into recreational open space for the community. I do not share TRDC's concern that the wording of the aspiration itself might adversely affect the ability to require open space on the Killingdown Farm development, but suggest a modification to the supporting text to make it clearer.

- **Change the first sentence of paragraph 6.5.3 on page 60 of the Plan to read: “The increase in population *experienced in the Parish* as a result of *developments such as the Killingdown Farm site warrants...*”**

### Other Matters

The supporting document “Appendices” to the Plan includes a glossary. In the interests of accuracy in this planning related document the definition of one of the entries should be amended to the Planning Portal's definition.

- **Alter the entry for “Infill” to “infill *development*” on page 107 of the “Appendices” document (Appendix I Glossary)**
- **Change the definition of “Infill” in the glossary in the “Appendices” document to “*The development of a relatively small gap between existing buildings*”**

## 8.0 Conclusions and recommendations

I have recommended modifications to some of the policies and their supporting text for the reasons set out in detail above. Some of these modifications will also require the updating of accompanying or supporting documents.

Even though I have recommended a number of modifications to the Plan, these do not significantly or substantially alter the intention or nature of the Plan.

I am satisfied that the Croxley Green Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to Three Rivers District Council that, subject to the modifications proposed in this report, the Croxley Green Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Croxley Green Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion. I therefore consider that the Plan should proceed to a referendum based on the Croxley Green Neighbourhood Plan area as approved by Three Rivers District Council on 27 January 2014.

*Ann Skippers* MRTPI  
Ann Skippers Planning  
21 September 2018

## **Appendix 1**

### **List of key documents specific to this examination**

Croxley Green Neighbourhood Plan 2017 - 2032 dated Final 19 January 2017 and revised 31 March 2017

Croxley Green Neighbourhood Plan 2017 - 2032 Appendices dated Final 19 January 2017

Basic Conditions Statement dated Final 19 January 2017 and revised 31 March 2017

Consultation Statement dated Final 19 January 2017 and revised 31 March 2017

Habitats Regulation Assessment Screening Report dated amended May 2018

Strategic Environmental Assessment Screening Report dated May 2018

Three Rivers District Council Core Strategy adopted 17 October 2011

Three Rivers District Council Development Management Policies Local Development Document adopted 26 July 2013

Three Rivers District Council Site Allocations Local Development Document adopted 25 November 2014

Information on

<http://www.croxleygreen-pc.gov.uk/index.php/information/planning-development/neighbourhood-plan>

**List ends**

## Appendix 2

### Questions of clarification to the Parish Council and TRDC

#### Croxley Green Neighbourhood Plan Examination

#### Questions of clarification from the Examiner to the Parish Council and TRDC and initial findings requiring remedial action

Having completed my initial review of the Neighbourhood Plan (the Plan) and visited the area, it is not uncommon for some queries to arise. I would therefore be grateful if both Councils could kindly assist me as appropriate in answering the following questions which either relate to matters of fact or are areas in which I seek clarification or further information. Please do not send or direct me to evidence that is not already publicly available. In addition I have identified issues in relation to EU obligations which I suggest are remedied.

1. Please confirm the dates of the Regulation 14 (pre-submission) stage period of consultation. It looks as if the Regulation 14 period started and was then extended so I would like to know what version of the Plan was consulted upon and when the Regulation 14 period began and ended.\*
2. It would appear that the PC submitted the Plan to TRDC, then withdrew it and resubmitted it. Please could I have a brief outline of events with dates from the point the Plan was first submitted to TRDC? This is because it seems that the Plan was revised (from Annex J in the Consultation Statement) after it was submitted?\*
3. I note that the representation from TRDC states that “the Council considers the...Plan to fail to meet the basic conditions and supports the recommendations made in the POSe Ltd ‘health check’. I was therefore about to ask for further information from TRDC on this when I received an email from TRDC of 26 July which did just that. This email should be shared with the Parish Council and I would like to give the Parish Council an opportunity to respond to those comments should they wish to do so. This period should last two weeks from when it begins. It should be noted that the Council’s email and any comments from the Parish Council will be in the public domain.
4. The Basic Conditions Statement contains a section on Strategic Environmental Assessment (SEA). Although this indicates that consultation was undertaken with the three statutory consultees, please
  - a) would you confirm what was consulted upon with the statutory consultees and send copies of that consultation request/invitation i.e. the letter/email that was sent
  - b) the dates of the consultation with the statutory consultees
  - c) provide copies of the responses received (or confirmation that there were no replies)
  - d) confirm that publicity for the determination made has been undertaken in accordance with Regulation 11 of the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR)
  - e) given that the work has been carried out by the Parish Council, confirmation from TRDC, as responsible authority, they are satisfied the SEA screening requirements have been carried out in accordance with the EAPPR.
5. Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation. Only Regulation 32 is applicable to neighbourhood plans and this states “The making of



the neighbourhood plan is not likely to have a significant effect on a European site<sup>1</sup> or a European offshore marine site<sup>2</sup> either alone or in combination with other plans or projects.” A section in the Basic Conditions Statement refers to such considerations, but it is not clear to me what assessment or consultation has been carried out in respect of this basic condition.

I consider that it would be prudent for a Habitats Regulation Assessment (HRA) screening assessment to be carried out. If one has been produced, then I apologise; I have not found it in the bundle of submitted documents and this should be sent to me without delay. However, if I am correct that one has not been produced, I would recommend this matter be remedied.

I suggest that I suspend the examination whilst the requisite HRA screening work is carried out and a period of consultation, with both the statutory consultees and the public, for six weeks is undertaken.

It should be made clear that all other representations made at the submission stage consultation period will be ‘rolled forward’. As soon as the consultation period ends, any representations received should be forwarded to me and I will recommence the examination.

I appreciate that this and the ensuing delay will come as a disappointment to you and particularly the Parish Council and others involved in the development of this Plan. Yet it is important to ensure that all the basic conditions are satisfactorily met and that the Plan, once it proceeds to its latter stages, can do so with confidence.

Given the nature of the situation in that there is a remedy to this outstanding issue, I therefore seek your further instructions as to whether you and the Parish Council wish me to suspend the examination to allow the situation to be remedied along the lines suggested above or whether you wish me to continue the examination which may unfortunately result in a report that recommends the Plan does not proceed to referendum. Once the Council has decided on the course of action it wishes to take, please let me know how you wish to proceed.

Assuming you will wish me to suspend the examination to carry out the requisite HRA work, to avoid any unnecessary delay it would also be helpful to me to indicate when the consultation period might start so I can programme the examination restart in and ensure that I can continue with the examination very promptly after the consultation period ends.

I am also mindful that I have asked some questions about SEA. Given that I find work on HRA is necessary, I suggest that before any work on the HRA or consultation on it begins, that you allow me to check whether I am satisfied in the light of your responses above that no further work needs to be done on SEA. If further work is needed on SEA, this can be carried out at the same time and a combined screening report on both SEA and HRA produced and consulted on at the same time. In many ways this would be the preferable course of action and ‘belt and braces’ these requirements. I am able to look at any SEA

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<sup>1</sup> As defined in the Conservation of Habitats and Species Regulations 2012

<sup>2</sup> As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

and/or HRA screening report before it goes out to consultation to ensure it will meet the basic conditions.

It may be the case that on receipt of your anticipated assistance on these matters that I may need to ask for further clarification or that further queries will occur as the examination progresses. Please note that this list of questions and findings on the SEA and HRA is a public document and that your answers will also be in the public domain. Both my questions and your responses should be placed on the Councils' websites as appropriate in due course.

With many thanks.  
Ann Skippers  
30 July 2017

\* These queries were sent via email to TRDC on 11 July (I have reproduced them here) and the Council kindly replied via email of 18 July. Please could the TRDC email response and its attachments of 18 July be shared with the Parish Council for checking and if correct, then these queries have been satisfactorily answered from my perspective, but will form part of the response to these questions and therefore be in the public domain.

## Appendix 3

### Letter to TRDC and the Parish Council



146 New London Road, Chelmsford, Essex CM2 0AW  
T. 07776 204651  
E. ann@annskippers.co.uk  
W. annskippers.co.uk

4 September 2017

*Dear Ms. May,*

#### **Croxley Green Neighbourhood Plan Examination**

I sent some questions of clarification to you and the Parish Council dated 30 July to which both parties have kindly and helpfully responded. This included an opportunity for the Parish Council to comment upon TRDC's comments on the Plan and I took this unusual step because the District Council had indicated that it was their view the Plan might fail to meet the basic conditions.

I have now had a chance to consider all the information sent to me and I'm writing with respect to two matters which I consider to be still outstanding. Those matters are strategic environmental assessment (SEA) and habitats regulations assessment (HRA).

As you are aware there is no legal requirement for a sustainability appraisal, but a SEA may be needed where a neighbourhood plan is likely to have significant environmental effects. In order to make this assessment neighbourhood plans should be screened in accordance with Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR). This includes consultation with the statutory consultees namely the Environment Agency, Historic England and Natural England. If likely significant effects are identified, an environmental report must be prepared in accordance with Regulation 12 of the EAPPR.

I am aware that it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of the plan proposal submitted to it have been met in order for the plan to progress and ultimately must decide whether the plan is compatible with EU obligations.

Part of my role is to see whether the making of the plan would be compatible with European Union obligations including under the SEA and Habitats Directives. From 9 February 2015 it is a requirement that either an environmental report that accords with the EAPPR is submitted or a statement of reasons for the determination that a plan is unlikely to have significant environmental effects must be submitted to the examiner.

In this case, information and a short statement of reasons on SEA have been included on page 36 of the Basic Conditions Statement. The Parish Council have carried out the screening in-house which is, in itself, acceptable. I asked a number of questions in relation to SEA in my earlier 'Questions of clarification' note referred to above. For ease, I reproduce these below:

*The Basic Conditions Statement contains a section on Strategic Environmental Assessment (SEA). Although this indicates that consultation was undertaken with the three statutory consultees, please*

- a) would you confirm what was consulted upon with the statutory consultees and send copies of that consultation request/invitation i.e. the letter/email that was sent
- b) the dates of the consultation with the statutory consultees
- c) provide copies of the responses received (or confirmation that there were no replies)
- d) confirm that publicity for the determination made has been undertaken in accordance with Regulation 11 of the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR)
- e) given that the work has been carried out by the Parish Council, confirmation from TRDC, as responsible authority, they are satisfied the SEA screening requirements have been carried out in accordance with the EAPPR.

The Parish Council has confirmed that a letter of 28 June 2016 was sent to all consultees including the three statutory consultees namely the Environment Agency, Natural England and Historic England on the draft plan and its appendices of February 2016. The period of consultation was from 28 June to 9 September 2016. Four issues remain unclear to me on this; i) when was the screening assessment carried out and ii) on what version of the Plan the screening assessment relates to, iii) whether the statutory consultees were specifically consulted on any screening assessment and if so, iv) whether it would have been clear to the consultees that this was a formal consultation under the EAPPR.

The Parish Council's letter of 15 August 2017 refers to a letter from the Environment Agency of 2 August 2016, but unfortunately this does not seem to have been attached as indicated in that letter. I'd be grateful if that could be provided.

Then a letter of 9 November 2016 to all consultees provides a link to the amended draft Plan following on from consultation. I'm afraid I disagree with the Parish Council's view that this letter covers the requisite publicity required under Regulation 11 of the EAPPR. This is because it makes no mention of seeking to fulfil this Regulation or to the statement of reasons.

In addition I am of the view that the level of information contained in the Basic Conditions Statement barely meets Regulation 9 requirements. Whilst I fully accept that such a screening determination should be carried out proportionately and without using more resources than necessary, it only contains a small amount of information. Had I been certain that the consultation requirements for the screening had been carried out fully and the statutory consultees been satisfied with it, this would have been more persuasive in accepting it.

It therefore follows from my comments above that it is my view that SEA requirements have not been satisfactorily met. At the present time then with regret it is my view that the Plan would fail the basic conditions on this point.

Turning now to HRA, my 'Questions of clarification' note made the following point:

*Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation. Only Regulation 32 is applicable to neighbourhood plans and this states "The making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site either alone or in combination with other plans or projects." A section in the Basic Conditions Statement refers to such considerations, but it is not clear to me what assessment or consultation has been carried out in respect of this basic condition.*

*I consider that it would be prudent for a Habitats Regulation Assessment (HRA) screening assessment to be carried out.*

I suggested that the examination was suspended whilst the requisite HRA screening work was carried out and a period of consultation, with both the statutory consultees and the public is undertaken. Again at this moment in time without this undertaking the Plan would, in my view, fail this basic condition.

I am now writing to ask what course of action the Parish Council would like to take in the light of my preliminary findings on SEA and HRA.

As both matters are able to be remedied, I suggest that TRDC's offer of undertaking the HRA work is welcomed and at the same time the SEA is revised to ensure it complies with Regulation 9 of the EAPPR. Often both requirements form part of one and the same document. Both screening assessments should then be sent to the statutory consultees for their comments on the screening assessments. Once their comments have been received or a period of five weeks has expired and no comments been received, then a public consultation period of a minimum of six weeks should be undertaken (assuming the statutory consultees agree that no further work on either SEA or HRA is needed) and organised by TRDC. This will allow public consultation to be undertaken on both pieces of work and also ensure compliance with Regulation 11 of the EAPPR.

It should be made clear that this additional period of public consultation is only in relation to the SEA and HRA screening reports and that all other representations made at the submission stage consultation period will be 'rolled forward'. As soon as the consultation period ends, any representations received should be forwarded to me and I will recommence the examination.

If you are agreeable to this course of action, I suggest that I suspend the examination to allow this to be carried out.

I appreciate that this and the ensuing delay will come as a disappointment to everyone concerned in the development of this Plan. Yet it is important to ensure that all the basic conditions are satisfactorily met and that the Plan, once it proceeds to its latter stages, can do so with confidence.

Given the nature of the situation in that there is a remedy to these outstanding issues, I am therefore writing to you to seek your further instructions as to whether you and the Parish Council wish me to suspend the examination to allow the situation to be remedied along the lines suggested above or whether you wish me to continue the examination which may unfortunately result in a report that recommends the Plan does not proceed to referendum.

Once the Council has decided on the course of action it wishes to take, please let me know how you wish to proceed.

Assuming you will wish me to suspend the examination to carry out the requisite SEA and HRA work, to avoid any unnecessary delay it would also be helpful to me to indicate when the consultation period might start so I can programme in the examination restart and ensure that I can continue with the examination very promptly after the consultation period ends.

The comments made in this letter are without prejudice to my conclusions on any other issue.

If you have any queries, please do not hesitate to get in touch.

Yours sincerely

*Ann Skippers*

Ann Skippers  
Director

*via email to Claire May, Principal Planning Officer (Policy & Projects), Economic & Sustainable Development, Three Rivers District Council*

## Appendix 4

### Letter to TRDC

Letter to Claire May MSc MRTPI  
Head of Planning Policy & Projects  
Economic & Sustainable Development  
Three Rivers District Council  
Three Rivers House, Northway, Rickmansworth, Herts, WD3 1RL

29 July 2018

Dear Claire,

#### **Examination of the Croxley Green Neighbourhood Plan**

I am writing to draw your attention to a recent judgment of the Court of Justice of the European Union.

In the case of *People Over Wind, Peter Sweetman v Coillte Teoranta*, the Court ruled that Article 6 (3) of the Habitats Directive must be interpreted as meaning that mitigation measures (referred to in the judgment as measures which are intended to avoid or reduce effects) should be assessed within the framework of appropriate assessment (AA) and that it is not permissible to take account of measures intended to reduce or avoid any harmful effects of a plan or project on a European site at the screening stage.

Earlier case law had established that reduction or avoidance measures could be taken into account when considering whether a plan or proposal would be likely to have a significant effect on a European site. However, the implications of the more recent judgment is that this is no longer the case.

I would therefore be grateful if the Council could consider the HRA Screening Report and advise me on whether it considers it to be legally compliant in the light of the judgment. If it is considered not to be legally compliant and to have fallen foul of the judgment, I would ask that the Council advises me of what further work would be required to rectify this, together with an indicative timescale for that work, including any further consultation.

I will clearly reach my own view on this matter as well. Once you have had an opportunity to consider what, if any, further work needs to be undertaken, I suggest that we agree a way forward for the examination of this Neighbourhood Plan.

Your early response would be appreciated. This letter is of course a matter of public record and should be placed on the relevant websites.

With many thanks,

Ann Skippers MRTPI  
Independent Examiner