

Whatfield Neighbourhood Plan 2018 - 2037

**Report by Independent Examiner to Babergh District
Council**

Janet L Cheesley BA (Hons) DipTP MRTPI

CHEC Planning Ltd

27 April 2021

Contents	Page
Summary and Conclusion	3
Introduction	3
Legislative Background	3
EU Obligations, Strategic Environmental Assessment (SEA) and Habitat Regulation Assessment (HRA)	5
Policy Background	6
The Neighbourhood Plan Preparation	7
The Whatfield Neighbourhood Plan	8
Community and Amenity Policies	9
WHAT1 Landscape Setting & Natural Features	9
WHAT2 Protection of Existing Community Facilities & Amenities	12
WHAT3 Local Green Spaces	12
Housing and the Built Environment Policies	15
WHAT4 New Housing	15
WHAT5 Housing Mix	18
WHAT6 Whatfield Design Guide	20
Referendum & the Whatfield Neighbourhood Plan Area	22
Appendix 1 Background Documents	23

Summary and Conclusion

1. The Whatfield Neighbourhood Plan has a clear vision for the Parish, which is supported by five objectives.
2. The Plan does not allocate specific sites within the Parish for new development, nor seek to accommodate a specific number of dwellings. Instead the Plan has sought to define environmental and physical criteria against which applications for new housing development of single dwellings or groups up to five dwellings will be judged.
3. I have recommended modification to some of the policies in the Plan. My reasons with regard to all suggested modifications are set out in detail below. None of these significantly or substantially alters the intention or nature of the Plan.
4. **Whilst I have set out my reasoning under individual policies, my overall conclusion is that, subject to my recommendations, the Plan meets the Basic Conditions. It is appropriate to make the Plan. Subject to my recommendations being accepted, I consider that the Whatfield Neighbourhood Plan will provide a strong practical framework against which decisions on development can be made. I am pleased to recommend that the Whatfield Neighbourhood Plan, as modified by my recommendations, should proceed to Referendum.**

Introduction

5. On 18 July 2018 Babergh District Council (BDC) approved that the Whatfield Neighbourhood Area be designated in accordance with the Neighbourhood Planning (General) Regulations 2012. The Area covers the whole of the Parish of Whatfield.
6. The qualifying body is Whatfield Parish Council. The Plan has been prepared by the Whatfield Neighbourhood Plan Working Group on behalf of the Parish Council. The Plan covers the period 2018 to 2037.
7. I was appointed as an independent Examiner for the Whatfield Neighbourhood Plan in March 2021. I confirm that I am independent from the Parish Council and BDC. I have no interest in any of the land affected by the Plan and I have appropriate experience to undertake this examination. As part of my examination, I have visited the Plan area.

Legislative Background

8. As an independent Examiner, I am required to determine, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether:

- the policies in the Plan relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- the Plan meets the requirements of Section 38B of the 2004 PCPA where the plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area; and
- that the Plan has been prepared for an area that has been designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.

9. I am obliged to determine whether the Plan complies with the Basic Conditions. The Basic Conditions 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 of the authority; and
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations and human rights requirements.

10. *The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018* came into force on 28 December 2018. They state:

Amendment to the Neighbourhood Planning (General) Regulations 2012.

3.—(1) The Neighbourhood Planning (General) Regulations 2012(5) are amended as follows.

(2) In Schedule 2 (Habitats), for paragraph 1 substitute:

“Neighbourhood development plans

1. In relation to the examination of neighbourhood development plans the following basic condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act(6)—

The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(7).”

11. Since 28 December 2018, A neighbourhood plan is required to be examined against this extra Basic Condition. I will make further reference to this matter under EU Obligations.
12. Subject to the modifications I have recommended in this report, I am content that these requirements have been satisfied.

EU Obligations

13. Directive 2001/42/EC and the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended) (EA Regulations) set out various legal requirements and stages in the production of a Strategic Environmental Assessment (SEA).
14. The *Whatfield Neighbourhood Development Plan SEA Screening Opinion* was prepared by Land Use Consultants in August 2020. It concludes that the Plan will not have significant environmental effects and that SEA is therefore not required. Historic England concurred with this opinion. Natural England was not able to fully assess the potential impacts of this proposal on statutory nature conservation sites or protected landscapes or, provide detailed advice on the application. Natural England placed the onus on the District Council to identify significant risks.
15. BDC prepared a *Whatfield Neighbourhood Plan Strategic Environmental Assessment (SEA) Screening Determination* in September 2020. It states: *In the light of the SEA Screening Report prepared by Land Use Consultant and the responses to this from the two statutory bodies it is determined that the Whatfield Neighbourhood Plan does not require a Strategic Environmental Assessment in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004.*
16. Based on the screening determination and consultee responses, I consider that it was not necessary for the Plan to require a full SEA Assessment. The SEA screening accords with the provisions of the European Directive 2001/42/EC.
17. As regards Habitats Regulations Assessment (HRA), the *Whatfield Neighbourhood Plan 2018-2036: Habitats Regulations Assessment (HRA): Screening Report* was prepared by Place Services in August 2020. It concludes: *Subject to Natural England's review, this HRA Screening Report concludes that the draft Whatfield Neighbourhood Plan is not predicted to have any Likely Significant Effect on any Habitats site, either alone or in combination with other plans and projects. The content of the draft Whatfield Neighbourhood Development Plan has therefore been **screened out** for any further assessment and Babergh DC can demonstrate its compliance with the Conservation of Habitats and Species Regulations 2017 (as amended).*

18. Natural England was not able to fully assess the potential impacts of this proposal on statutory nature conservation sites or protected landscapes or, provide detailed advice on the application. Natural England placed the onus on the District Council to identify significant risks.
19. BDC prepared a *Habitats Regulations Screening Determination* in September 2020. The determination concludes: *In the light of the Screening Report prepared by Place Services and information contained in the response from Natural England, it is determined that the draft Whatfield Neighbourhood Plan does not require further assessment under the Habitats Regulations 2017.*
20. Based on the screening determination and consultee response, I consider that the Plan does not require a full HRA under Articles 6 or 7 of the Habitats Directive. I am satisfied that the Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(7).
21. A Neighbourhood Plan must be compatible with European Union obligations, as incorporated into UK law, in order to be legally compliant. I am satisfied that the Plan is compatible with EU obligations and does not breach the European Convention on Human Rights obligations.

Policy Background

22. The *National Planning Policy Framework* (NPPF) (2019) sets out the Government's planning policies for England and how these are expected to be applied. The *Planning Practice Guidance* (2014) (PPG) provides Government guidance on planning policy.
23. At the heart of the NPPF is the presumption in favour of sustainable development. Paragraph 8 sets out the three overarching objectives which are interdependent and need to be pursued in mutually supportive ways. The three overarching objectives are:
 - a) *an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
 - b) *a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*

c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

24. Whatfield Parish is within the local authority area of Babergh District Council (BDC). The development plan for the Whatfield Neighbourhood Plan Area comprises the saved policies in the Babergh Local Plan Alteration No. 2 (2006) and The Babergh Local Plan 2011 – 2031 Core Strategy and Policies (2014).
25. The strategic policies in the development plan include policies regarding housing provision and the conservation and enhancement of the natural environment.
26. BDC with Mid Suffolk District Council published a new Joint Local Plan Pre-Submission (Regulation 19) Consultation Document for public consultation in November 2020. This covers the period to 2037. It was formally submitted to the Secretary of State for Housing, Communities and Local Government for independent Examination on 31 March 2021.

The Neighbourhood Plan Preparation

27. I am required under The Localism Act 2011 to check the consultation process that has led to the production of the plan. The requirements are set out in Regulation 14 in The Neighbourhood Planning (General) Regulations 2012.
28. The initial consultation process began with a Questionnaire Launch Event held at the Village Hall on 7 June 2019. The purpose of the launch was to publicise the questionnaire, promote the neighbourhood concept and answer any questions from the public. A meeting was held with landowners in January 2020 to explain the timetable and process.
29. Three separate drop in exhibition sessions were planned in March and April 2020 but were cancelled due to the COVID pandemic. Instead copies of the plan were emailed around to residents during May and comments were sought.
30. There is a dedicated Neighbourhood Plan web page which contains details of the progress of the Neighbourhood Plan, notes from Working Group meetings and details of consultation stages. There are also contact details on the website for anyone wishing to receive direct updates on the progress of the Neighbourhood Plan. The website has been updated regularly to provide information to residents about the process and as well as advance notice of any consultations or events and any write ups from those events.

31. Details of the consultation events were also published in the Parish newsletter as well as regular updates on the progress of the Neighbourhood Plan. An update for the Parish Council on the Neighbourhood Plan progress was presented at every meeting. In addition, there were regular articles and updates in the Parish Magazine.
32. The consultation period on the pre-submission draft of the Plan ran from 5 August 2020 to 7 October 2020. The draft Plan was available on-line and in hard copy by request. The Parish Newsletter publicised the consultation twice and posters and flyers were put up around the village.
33. I am satisfied that the pre-submission consultation and publicity has met the requirements of Regulation 14 in The Neighbourhood Planning (General) Regulations 2012. The consultation and publicity went well beyond the requirements and it is clear that the qualifying body went to considerable lengths to ensure that local residents and landowners were able to engage in the production of the Plan. I congratulate them on their efforts. In particular, I congratulate them on their ability to continue with the consultation period and make changes to the Plan following the pre-submission consultation, during the challenging pandemic restrictions.
34. BDC publicised the submission Plan for comment during the publicity period between 18 January 2021 and 5 March 2021 in line with Regulation 16 in The Neighbourhood Planning (General) Regulations 2012. A total of 17 responses were received. I am satisfied that all these responses can be assessed without the need for a public hearing.
35. Some responses suggest additions and amendments to policies. My remit is to determine whether the Plan meets the Basic Conditions. Where I find that policies do meet the Basic Conditions, it is not necessary for me to consider if further suggested additions or amendments are required. Whilst I have not made reference to all the responses in my report, I have taken them into consideration. I gave the Parish Council the opportunity to comment on the Regulation 16 representations. I have taken their comments into consideration. Their comments have been placed on the BDC web site.

The Whatfield Neighbourhood Plan

36. Background information is provided throughout the Plan and in accompanying appendices. A clear vision for the Parish has been established and is supported by five objectives. The Vision states: *The Whatfield Neighbourhood Plan will deliver a sustainable and enduring environmental, affordable and high quality built legacy for our future generations.*
37. Policies in a neighbourhood plan can only be for the development and use of land.

38. Paragraph 16 in the NPPF requires plans to be prepared positively, in a way that is aspirational but deliverable; and serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area. In addition, paragraph 16 in the NPPF requires plans to contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals.
39. PPG states: *A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.* (Paragraph: 041 Reference ID: 41-041-20140306).
40. I do refer to clarity and precision with regard to some recommendations to modifications to the Plan. Where I do so, I have in mind the need for clear and unambiguous policies, thus ensuring that the Plan has regard to national policy in this respect.
41. It is not for me to re-write the Plan. Where I have found editing errors, I have identified them as minor editing matters and highlighted these as such. These have no bearing on whether the Plan meets the Basic Conditions.
42. For ease of reference, I have used the same policy titles as those in the Plan. I have briefly explained national policy and summarised main strategic policies where relevant to each neighbourhood plan policy. I have tried not to repeat myself. Where I have not specifically referred to other relevant strategic policy, I have considered all strategic policy in my examination of the Plan.

Community and Amenity Policies

WHAT1 Landscape Setting & Natural Features

43. The NPPF, in Paragraph 170 requires the planning system to contribute to and enhance the natural and local environment. This includes protecting and enhancing valued landscapes, minimising impacts on and providing net gains for biodiversity. One of the principles to protect and enhance biodiversity in Paragraph 175 states: *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.*
44. Core Strategy Policy CS14 seeks to protect and enhance existing green infrastructure. Core Strategy Policy CS15 seeks to ensure that the

landscape and historic views are respected. In addition, Core Strategy Policy CS15 seeks to ensure that proposals for development ensure adequate protection, enhancement, compensation and/or mitigation, as appropriate are given to distinctive local features which characterise the landscape and heritage assets of Babergh's natural environment within both designated and non-designated areas.

45. The Landscape section in Policy WHAT1 seeks to protect the visual scenic value of the landscape and countryside and identifies an Area of Local Landscape Sensitivity. Development is required to conserve or enhance its special qualities and be sympathetic to the scenic beauty. This is the same area as that identified as a Special Landscape Area in the saved Policy CR04 in the Local Plan. That policy seeks to maintain or enhance the special landscape qualities and ensure that development harmonises with the landscape setting. The emerging Joint Local Plan does not continue to identify such areas.
46. I have visited this area and recognise the importance of this landscape to the local community. I am satisfied that the definition of this area as an Area of Local Landscape Sensitivity is justified.
47. The Important Views section in Policy WHAT1 seek to conserve and enhance two important public local views. View b) is actually towards the south east, rather than towards the south west and thus the policy should be modified accordingly.
48. I have visited the viewpoints and understand their importance to the local community. I am satisfied that the protection of the views identified by the local community is justified.
49. The Views should be numbered on Map B and the Policies Map to correspond with the numbering in Policy WHAT1. **I see these as minor editing matters.**
50. The Natural Features section in Policy WHAT1 seeks to protect and enhance existing natural features. It recognises the need for mitigation where losses or harm are unavoidable.
51. As this is specifically a Natural Features section, landscape policy is unnecessarily being repeated in this section. In the interest of precision, I have suggested revised wording for the first paragraph of this section.
52. Policy WHAT1 states that where loss or damage is unavoidable, the benefits of the development proposals must be demonstrated to clearly outweigh any impacts. In Paragraph 175 b) in the NPPF, this test is only relevant for development on land within or outside a Site of Special Scientific Interest. I have no evidence before me to indicate why this test should be relevant for all loss or damage to biodiversity features in the Parish. Therefore, I have recommended deletion of this reference.

53. Policy WHAT1 protects Hunty's Vale from development that would have an adverse impact on its landscape or nature conservation value. I have visited this area during my visit to the Parish. This is an area under conservation management, considered as important for its local wildlife value.
54. Subject to the above modifications, Policy WHAT1 has regard to national policy, contributes towards sustainable development, particularly the environmental objective and is in general conformity with strategic policy. Modified Policy WHAT1 meets the Basic Conditions.
55. There is a grammatical error in paragraph 6.11. **I see this as a minor editing matter.**
56. **Recommendation: to meet the Basic Conditions, I recommend modification to the Important Views and Natural Features sections in Policy WHAT1 to read as follows:**

Important Views

Outside of the Area of Local Landscape Sensitivity the following views and vistas as shown on Map B and the Policies Map are identified as important public local views which shall be conserved and enhanced:

- a) Views towards the village from the south east from Whatfield Road**
- b) View from Wheatfields away from the village towards the south east.**

Natural Features

Development proposals will be expected to protect and enhance existing ecological networks and wildlife corridors and retain existing features of biodiversity value, where possible to do so, (including ponds, trees, woodland, hedgerows and verges).

Development proposals will be supported where they provide a net gain in biodiversity through, for example:

- a) the creation of new natural habitats.**
- b) the planting of additional trees and hedgerows and restoring and repairing fragmented biodiversity networks.**

Where loss or damage is unavoidable, the development shall provide for appropriate replacement planting or appropriate natural features on site together with a method statement for the ongoing care and maintenance of that planting. Where development proposals cause damage to identified natural features, wildlife corridors around the interruption will be constructed.

Development that would result in an adverse impact upon the landscape or nature conservation value of the following site (as shown on Map C and the Policies Map) will not be supported:

a) Hunty's Vale (Area under Conservation Management).

WHAT2 Protection of Existing Community Facilities and Amenities

57. Paragraph 92 in the NPPF seeks *to guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.*
58. Whatfield is identified as a Hinterland Village in the Core Strategy. Policy CS11 seeks to safeguard services and facilities that provide the needs of the local communities.
59. Policy WHAT2 seeks to guard against the unnecessary loss of existing village facilities. As such, Policy WHAT2 has regard to national policy, contributes towards sustainable development, particularly the social objective and is in general conformity with strategic policy. Policy WHAT2 meets the Basic Conditions.
60. Policy WHAT2 refers to Map D. That map, together with Map E and the Policies Map Inner identify the settlement boundary. Paragraph 3.6 clearly states that the Plan adopts the settlement boundary as defined in the Joint Local Plan Pre-Submission (Regulation 19) Consultation Document (November 2020). However, these Maps show the settlement boundary proposed in the previous Preferred Options Joint Local Plan of July 2019, rather than the revised document. Whilst I appreciate that the emerging Local Plan may be subject to future amendment, in the interest of precision, the settlement boundary identified on these maps should be that identified in the Joint Local Plan Pre-Submission (Regulation 19) Consultation Document (November 2020). This is clearly the intention as stated in paragraph 3.6 of this neighbourhood plan and confirmed by the Parish Council in its response to the Regulation 16 representations.
61. There has been objection to the proposed settlement boundary line, primarily in relation to the promotion of a site for development. I will refer to this proposal under Policy WHAT4.
62. **Recommendation: to meet the Basic Conditions I recommend that the settlement boundary identified on Map D, Map E and the Policies Map Inner accords with that identified in the Joint Local Plan Pre-Submission (Regulation 19) Consultation Document (November 2020).**

WHAT3 Local Green Spaces

63. The NPPF in paragraphs 99 - 101 states: *the designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local*

planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.

The Local Green Space designation should only be used where the green space is:

- a) in reasonably close proximity to the community it serves;*
- b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- c) local in character and is not an extensive tract of land.*

Policies for managing development within a Local Green Space should be consistent with those for Green Belts.

64. The choice of LGS in Policy WHAT3 is supported by background evidence in Appendix B of the Plan. I have seen the proposed LGS during my visit to the Parish. My comments on each site are set out below. I have no evidence to suggest that these LGS are not capable of enduring beyond the end of the plan period.
65. *a) The playing field adjacent to the School.* This playing field is in reasonably close proximity to the local community. It is demonstrably special to the local community and holds a particular local significance, primarily due to its recreational value. It is local in character and is not an extensive tract of land. This site meets the criteria for designation as LGS.
66. *b) Churchyard of the Church of St Margaret of Antioch.* The churchyard clearly meets the criteria for designation as LGS. This churchyard is in reasonably close proximity to the local community. It is demonstrably special to the local community and holds a particular local significance, primarily due to tranquillity. It is local in character and is not an extensive tract of land. The designation covers both the churchyard and the church building. Whilst the designation of LGS does not preclude the inclusion of buildings, these are usually ancillary buildings, such as club houses on recreation grounds. The inclusion of the Church as a LGS does not meet the criteria for designation as part of the LGS. Therefore, I recommend the deletion of the Church building from the LGS designation.
67. *c) Allotments off Semer Road.* These allotments are in reasonably close proximity to the local community. They are demonstrably special to the local community and hold a particular local significance, primarily due to their recreational value. They are local in character and are not an extensive tract of land. This site meets the criteria for designation as LGS.

68. The Parish Council in its response to representations made by BDC has stated that the allotment site should follow the boundaries as indicated in the Joint Local Plan Pre-Submission (Regulation 19) Consultation Document (November 2020), rather than the smaller part of the allotment site identified on Map E in this neighbourhood plan. The extent of the area identified as LGS on Map E is the area that the local community has had the opportunity to make representations on. Whilst the Parish Council would be happy to extend the area to that identified in the Joint Local Plan, this is not necessary to meet the Basic Conditions and I am wary that to do so at this late stage would not give the local community an opportunity to make representations. Therefore, I am not recommending extending this LGS. This is a different scenario to the line of the settlement boundary, where the text in the Plan clearly differs from the line of the settlement boundary drawn on the maps.
69. *d) Church Farm Place Green.* This area is in reasonably close proximity to the local community. It is demonstrably special to the local community and holds a particular local significance, primarily due to its use as informal open space. It is local in character and is not an extensive tract of land. This site meets the criteria for designation as LGS.
70. Following a recent Court of Appeal case with regard to the lawfulness of a LGS policy in a neighbourhood plan: (*Lochailort Investments Limited v. Mendip District Council and Norton St Philip Parish Council*, [2020] EWCA Civ 1259), I consider it necessary to delete the last two paragraphs in Policy WHAT3 and reference to special protection in the first sentence of the policy. This will ensure that there can be absolutely no doubt regarding the lawfulness of the policy. The restrictions on development with regard to LGS designation will continue to apply through the NPPF. This will ensure that policies for managing development within a LGS are consistent with those for Green Belts. This ensures that the policy meets the Basic Conditions.
71. Subject to the above modifications, Policy WHAT3 has regard to national policy, contributes towards sustainable development, particularly the environmental objective and is in general conformity with strategic policy. Modified Policy WHAT3 meets the Basic Conditions.
72. BDC has pointed out that paragraph 6.19 should be updated to refer to the two areas of green space for protection identified in the Joint Local Plan Pre-Submission (Regulation 19) Consultation Document (November 2020). **I see this as a minor editing matter.**
73. **Recommendation: to meet the Basic Conditions I recommend:**

1)modification to Policy WHAT3 to read as follows:

Policy WHAT3: Local Green Spaces

The following areas are designated as Local Green Spaces (as shown on Map E and on the Policies Map).

- a) The playing field adjacent to the School
- b) Churchyard of the Church of St Margaret of Antioch
- c) Allotments off Semer Road
- d) Church Farm Place Green.

2) modification to Map E and the Proposal Map by the deletion of the church from the Churchyard of the Church of St Margaret of Antioch LGS designation.

Housing and the Built Environment Policies

WHAT4 New Housing

- 74. Paragraph 59 in the NPPF states: *to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.*
- 75. This is relevant to both Policies WHAT4 and WHAT5.
- 76. Core Strategy Policy CS2 identifies Whatfield as a Hinterland Village. Hinterland Villages will accommodate some development to help meet the needs within them. All proposals will be assessed against Policy CS11.
- 77. Core Strategy Policy CS11 states that development in Hinterland Villages will be approved where proposals are able to demonstrate a close functional relationship to the existing settlement on sites subject to a list of criteria, including being adjacent to or well related to the existing pattern of development for that settlement. Policy CS11 intentionally provides greater flexibility for appropriate development beyond the developed area for identified Hinterland villages subject to specified criteria. Core Strategy, Amongst this list of criteria, Policy CS11 seeks to ensure that new development supports local services.
- 78. Core Strategy Policy CS15 requires new development to respect the local context and character.
- 79. The BDC *Rural Development and Core Strategy Policy CS11 Supplementary Planning Document: (SPD) (August 2014)* provides guidance on the interpretation and application of Core Strategy Policy CS11. This document states that a judgement will need to be made on the size and scale of development based on the size and character of the village, the services and facilities available and the capacity to accommodate further development. Proposals for hinterland villages will need to be proportionate

to the size of the existing settlement and take into account the type and number of facilities in the village, local opportunities and needs.

80. Core Strategy Policy CS3 is a strategy for growth and development. Emerging Policy in the emerging Joint Local Plan continues to identify Whatfield as a Hinterland Village. The emerging Joint Local Plan minimum housing requirement figure in emerging Policy SP04 and accompanying Table 4 seeks a minimum of only one additional dwelling in the Parish during the Plan period. From the evidence before me, I consider the indicative housing figure provides me with the best guidance on total housing numbers for the Whatfield Parish area. I note that a dwelling has subsequently been constructed, which meets this minimum requirement.
81. Policy WHAT4 does not allocate sites for housing. It does not seek to determine the overall amount of houses to be built during the plan period. Instead, its emphasis is on influencing how housing will be delivered.
82. To prevent community division it has been decided not to allocate specific sites for development, nor seek to accommodate a specific number of dwellings. Instead, Policy WHAT4 has sought to define environmental and physical criteria against which applications for new housing development of single dwellings or groups up to five dwellings will be judged. I consider this to be proportionate to the size of the existing settlement, having regard to guidance in the SPD. Whilst I realise that such small scale development cannot require a contribution of affordable housing, this does not prevent the development of small scale affordable housing schemes.
83. I can see that there is a justified reasoning for the approach to prefer smaller developments, particularly based on the scale of the village and the emerging Local Plan minimum housing requirement figure. I consider such approach will contribute to the achievement of sustainable development.
84. Land to the North of The Street, predominately outside the settlement boundary, is being promoted for residential development. My remit is to determine whether the Plan meets the Basic Conditions and other legal requirements. I do not consider it to be necessary to allocate this site to meet the Basic Conditions. This is primarily due to there not being a requirement for any land to be allocated for housing in this Plan to meet the emerging Local Plan strategic requirement. It follows, that I do not consider it necessary to amend the settlement boundary to incorporate all of the promoted site within the boundary.
85. I consider the approach to housing development in the Plan contributes to the achievement of sustainable development notwithstanding that further growth is being promoted and that the emerging Local Plan in the future might propose additional growth.
86. The Neighbourhood Plan examination process does not require a rigorous examination of district wide housing land requirements. This is the role of the examination of the emerging Local Plan. It is not my role to determine

whether the Neighbourhood Plan would be inconsistent with the adopted version of the emerging Local Plan if it were to be subject to future amendments to accommodate further growth.

87. In reaching my conclusion on this matter, I consider it relevant to refer to the High Court Judgment of *Gladman Developments Limited v Aylesbury Vale District Council & Winslow Town Council [2014] EWHC 4323 (Admin)* on 18 December 2014.
88. The following is an extract of paragraph 58 of that judgment: *In my judgment, a neighbourhood development plan may include policies dealing with the use and development of land for housing, including policies dealing with the location of a proposed number of new dwellings, even where there is at present no development plan document setting out strategic policies for housing. The examiner was therefore entitled in the present case to conclude that the Neighbourhood Plan satisfied basic condition 8(2) (e) of Schedule 4B to the 1990 Act as it was in conformity with such strategic policies as were contained in development plan documents notwithstanding the fact that the local planning authority had not yet adopted a development plan document containing strategic policies for housing. Further, the examiner was entitled to conclude that condition 8(2) (d) of Schedule 4B to the 1990 Act was satisfied. That condition requires that the making of the neighbourhood development plan “will contribute to the achievement of sustainable development”. The examiner was entitled to conclude that a neighbourhood plan that would provide for an additional 455 dwellings, in locations considered to be consistent with sustainable development, did contribute to the achievement of sustainable development notwithstanding that others wanted more growth and development plan documents in future might provide for additional growth. Similarly, the examiner was entitled to conclude that having regard to national guidance and advice, including the Framework, it was appropriate to make the neighbourhood plan even though there might, in future, be a need for further growth.*
89. Policy WHAT4 is divided between criteria for new dwellings inside and outside the settlement boundary. As there is a requirement for developments within the settlement boundary to ensure services and facilities are available, it follows that this criterion must also be relevant for developments outside the settlement boundary. In the interest of precision, I have suggested revised wording accordingly.
90. Subject to the above modification, Policy WHAT4 has regard to national policy, contributes towards sustainable development, and is in general conformity with strategic policy. Modified Policy WHAT4 meets the Basic Conditions.
91. Suffolk County Council has suggested the deletion of ‘adverse’ from criterion b). **I see this as a minor editing matter.**

92. **Recommendation: to meet the Basic Conditions, I recommend that the following criterion is added to the list of criteria for new housing development outside the defined settlement boundary in Policy WHAT4:**

The scale and nature of all schemes must ensure an appropriate level of services, facilities and infrastructure, including primary school capacity, are available or can be provided to serve the proposed development.

WHAT5 Housing Mix

93. Core Strategy Policy CS18 states that residential development that provides for the needs of the District's population, particularly the needs of older people will be supported where such local needs exist, and at a scale appropriate to the size of the development. The mix, type and size of the housing development will be expected to reflect established needs in the Babergh district.
94. Policy WHAT5 seeks a mix of housing in line with the latest available evidence of need.
95. PPG, (at Paragraph: 001 Reference ID: 56-001-20150327), makes it clear through a link to a Written Ministerial Statement of 25 March 2015 that it is not appropriate to refer to any additional local technical standards or requirements relating to the construction or performance of new dwellings in neighbourhood plans. Therefore, reference to M4(2) standards should be deleted from criterion f) in Policy WHAT5.
96. Figure 17 is a diagram showing results from the community questionnaire regarding types of housing. The title refers to affordable housing policy. Whilst BDC affordable housing policy requires affordable housing where there is a net gain involved, more recent Government policy in the NPPF only requires such contributions for major developments in this Parish. Major developments are defined as 10 or more homes or a site of 0.5 hectares or more. Whilst this Plan precludes developments over 5 dwellings in size, it does not preclude developments of 0.5 hectares or more. In the interest of precision, I suggest a paragraph is added explaining that the questionnaire did not explain to the community the NPPF policy. In addition, to have regard to national policy, I suggest the inclusion of reference to major development at the end of Policy WHAT5.
97. Subject to the above modifications, Policy WHAT5 has regard to national policy, contributes towards sustainable development, and is in general conformity with strategic policy. Modified Policy WHAT5 meets the Basic Conditions.

98. The last sentences of paragraphs 7.22 and 7.23 are basically the same. I suggest that one is deleted. I see this as a minor editing matter.

99. **Recommendation: to meet the Basic Conditions, I recommend**

1) modification to Policy WHAT5 to read as follows:

Policy WHAT5

Housing Mix

Development proposals that enable a mixed and inclusive community and reflect the aspirations of the local population will be supported.

In line with the latest available evidence of need, the mix of housing should include:

a) Family Housing – semi-detached and detached houses

b) Homes for first time buyers (e.g. 1-2 bed homes)

c) Housing for older people in the form of bungalows

d) Affordable Housing

e) Housing for Key Workers e.g. agricultural workers, and public/private sector employees providing an essential service.

f) Smaller 2 and 3 bedroomed homes that are adaptable in order to meet the needs of the aging population, without excluding the needs of the younger buyers and families are encouraged.

Where affordable housing is proposed it should be identical in external form, quality and character to open market housing. In order to encourage integration within the development the affordable housing should be ‘pepper potted’ around the site and not grouped in clusters.

It should be noted that not all of the above housing types may be accommodated on every site and an affordable housing contribution can only be required for major development.

2) the addition of the following paragraph after Figure 17:

Whilst Babergh District Council’s affordable housing policy requires affordable housing where there is a net gain involved, more recent Government policy in the NPPF only requires such contributions for major developments in this Parish. This was not explained in the questionnaire.

WHAT6 Whatfield Design Guide

100. Paragraph 124 in the NPPF states: *the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.*
101. Paragraph 125 in the NPPF states: *plans should, at the most appropriate level, set out a clear design vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable. Design policies should be developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area's defining characteristics. Neighbourhood plans can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development.*
102. Core Strategy Policy CS15 requires proposals for development to respect the local context and character of the different parts of the district.
103. Policy WHAT6 is a design guide for the Parish. This policy comprises a trio of separate, but interrelated sub - policies. This has been informed by a detailed photographic study and community engagement. It provides a comprehensive guide to the high quality of design that is expected in future development. I refer to each sub - policy below.
104. The Style sub - policy refers to features that provide a positive contribution as identified in the Photographic Study. In the interest of precision, this should refer to the Photographic Study in Appendix C.
105. The Materials sub - policy seeks to encourage the use of high quality materials. As mentioned under Policy WHAT5, it is not appropriate to refer to any additional local technical standards or requirements relating to the construction or performance of new dwellings in neighbourhood plans. Therefore, the requirement for rainwater harvesting and grey water recycling should be deleted.
106. The Layout and Amenity sub - policy seeks a high standard of amenity.
107. In this rural area where there is only likely to be small scale development, I cannot foresee many instances where it will be viable to include new or improved Public Rights of Way routes as part of development. Thus, in the interest of clarity, I suggest that 'where appropriate' is included at the end of criterion n).
108. Paragraph 7.60 has a requirement for landowners and developers to be expected to liaise with the village on design aspects prior to any proposed

planning application. There is no doubt that such involvement is desirable. However, paragraph 40 in the NPPF clearly indicates that local planning authorities cannot require that a developer engages with them at the pre-application stage and can only encourage developers to engage with the local community before submitting their applications. It is therefore evident to me that this requirement in paragraph 7.60 does not comply with the basic conditions because of this clear conflict with the NPPF. Therefore, I recommend that this paragraph is modified to 'encourage' such liaison. **I have suggested revised wording.**

109. Subject to the above modifications, Policy WHAT6 has regard to national policy, contributes towards sustainable development, particularly the environmental objective, and is in general conformity with strategic policy. Modified Policy WHAT6 meets the Basic Conditions.
110. Suffolk County Council has suggested revised wording for criterion h) in the Parking section, which the Parish Council has stated is acceptable. Criterion h) would now read as follows: Provision for Garages and parking in line with Suffolk Guidance for Parking (2019), including, where appropriate a proportion of well - designed and integrated on-street parking provisions which avoids obstructions within any new developments; garages should not be counted as contributing towards outdoor or garden space. **I see this as a minor editing matter.**

111. **Recommendation: to meet the Basic Conditions, I recommend**

1) modification to Policy WHAT6 as follows:

The second paragraph to read:

All proposals for new development should respect the scale and character of the existing and surrounding buildings. Proposals should be well-landscaped, reinforce local development patterns, include local architectural details and be compatible with the form, scale, massing, and character of adjacent properties, where these have been identified in the Photographic Study in Appendix C as providing a positive contribution to the local environment.

The deletion of the first sentence in the fourth paragraph.

The inclusion of 'where appropriate' at the end of criterion n).

2) modification to paragraph 7.60 to read as follows:

Effective engagement between applicants, communities and local planning authorities are essential. Landowners and developers will be encouraged to liaise with the village, via the Parish Council and the Neighbourhood Plan Working Group (or its successor) regarding key aspects of design including materials, styles, density, layout etc, before submitting a site for planning consideration.

Referendum and the Whatfield Neighbourhood Plan Area

112. I am required to make one of the following recommendations:
- the Plan should proceed to Referendum, on the basis that it meets all legal requirements; or
 - the Plan as modified by my recommendations should proceed to Referendum; or
 - the Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
113. **I am pleased to recommend that the Whatfield Neighbourhood Plan as modified by my recommendations should proceed to Referendum.**
114. I am required to consider whether or not the Referendum Area should extend beyond the Whatfield Neighbourhood Plan Area. I see no reason to alter or extend the Neighbourhood Plan Area for the purpose of holding a referendum.

Minor Modifications

115. The Plan is a well-written document, which is easy to read. Where I have found errors, I have identified them above. It is not for me to re-write the Plan. If other minor amendments are required as a result of my proposed modifications, I see these as minor editing matters which can be dealt with as minor modifications to the Plan. In particular the preface and introduction now need updating. The Glossary includes terms not referred to in the Plan. These should be omitted.

Janet Cheesley

Date 27 April 2021

Appendix 1 Background Documents

The background documents include:

The National Planning Policy Framework (The Framework) (2019)
The Planning and Compulsory Purchase Act 2004
The Localism Act (2011)
The Neighbourhood Planning (General) Regulations (2012)
The Neighbourhood Planning (General) (Amendment) Regulations (2015)
The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations (2016)
The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations (2017)
The Neighbourhood Planning Act (2017)
The Planning Practice Guidance (2014)
The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018
The Babergh Local Plan Alteration No. 2 (2006)
The Babergh Local Plan 2011 – 2031 Core Strategy and Policies (2014).
Babergh & Mid Suffolk Joint Local Plan Pre-Submission (Regulation 19) Consultation Document
Examination Correspondence (On the BDC web site)
Regulation 16 representations.
Parish Council response to Regulation 16 representations.
The Joint Babergh and Mid Suffolk District Council Landscape Guidance (2015)
BDC Rural Development and Core Strategy Policy CS11 Supplementary Planning Document (2014)