

Cranleigh Neighbourhood Plan Examination

Note of Interim Findings from the Examiner to the Parish Council and Waverley Borough Council

Having completed my initial assessment of the Neighbourhood Plan (the Plan), I am writing to the Parish Council (PC) and Waverley Borough Council (WBC) to set out my interim findings. Unfortunately I have identified what I consider to be a fatal flaw alongside a number of other matters which I consider will significantly change the Plan as produced by the PC of behalf of the local community. I apologise for the delay in contacting you about these matters; this has been due to the unprecedented circumstances we all find ourselves in.

The main issues

Strategic Environment Assessment

One of the basic conditions the Plan must meet in order for it to be put to a referendum is that the making of the Plan does not breach, and is otherwise compatible with, European Union (EU) obligations.

Planning Practice Guidance (PPG) advises us that in some limited circumstances, where a Plan is likely to have significant environmental effects, it may require a Strategic Environment Assessment (SEA).

A screening opinion in 2016 indicated that the Plan would require SEA. This was revisited in 2018 and reaffirmed.

Whilst there is no legal requirement for a Plan to have a sustainability appraisal, a Sustainability Report (SR), incorporating SEA, was prepared to support the pre-submission Plan. This underwent a period of consultation alongside the pre-submission version of the Plan. A final version of the SR accompanies the submission version of the Plan. I have taken this to be the Environmental Report required in line with paragraphs 2 and 3 of regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR).

Where it has been determined that SEA is required, an Environmental Report must be prepared in line with the above regulation.

Unfortunately the SR does not satisfactorily meet these requirements. There are a number of concerns:

- Lack of clarity about the environmental designations of relevance to the Plan area
- No clear assessment of the Plan against key environmental designations such as the Area of Outstanding Natural Beauty (AONB) or why such designations are not of relevance
- The report does not identify, describe and evaluate the likely significant effects on the environment of implementing the Plan in a satisfactory manner
- No consideration of 'reasonable alternatives' apart from a 'do nothing' scenario
- No reference to monitoring measures
- No non-technical summary is provided

Habitats Regulations Assessment

The screening opinion in 2016 indicated that a habitats regulation assessment (HRA) would not be needed. This was based on two premises; firstly that there were no European sites within what the SR describes as an “influencing distance” and secondly, as the Plan has to be in general conformity with the Local Plan (LP) and the amount and location of development is proposed to be in line with the LP, the AA conducted for the LP “contains a sufficient policy framework to avoid adverse effects”. Natural England concurred with this conclusion.

However, although the screening opinion on SEA was revisited in 2018, it does not appear that the screening opinion on HRA was similarly reviewed. This is important because the screening opinion on SEA which was considered again points out changes in the Plan including site allocations.

Therefore, I consider that the HRA is not as robust as it might be. It should be reviewed to see whether a HRA is needed in the light of the most up to date version of the Plan.

I am concerned that land designated as Thursley, Ash, Pirbright and Chobham Special Area of Conservation (SAC) and Thursley, Hankley and Frensham Commons Special Protection Area (SPA) are about 8.5km from the western boundary of the Plan area. There is insufficient information based on the currently available information to ascertain that any European sites of relevance can be discounted based on their proximity and/or characteristics.

Additionally, the LP underwent an AA. There is little information to review and assess whether this is suitable as a benchmark, particularly given the recent European Court of Justices cases which do not allow mitigation to be considered during the screening stages.

Conclusion on the main issues

I therefore cannot conclude the Plan meets the basic conditions in respect of European Union obligations. In particular, the SEA does not meet the requirements in my view and the HRA is not up to date and has insufficient information in it.

This means that work needs to be done on the SEA and on the HRA. This would result in the need for a further period of consultation, firstly with the statutory consultees and then secondly with the public and other consultees.

Given the current situation with the Coronavirus (Covid 19) pandemic, there may be significant delays to undertaking such consultation, but this would need to be discussed and agreed with WBC.

I understand this will be disappointing news to those involved in the production of the Plan. I therefore wanted to ensure that I present a rounded picture of other matters at the same time. This has been done to help the PC and LPA make an informed judgement as to how best to progress the Plan.

Other issues

During the course of an examination, it is not unusual for me to have a number of questions of clarification. This sometimes relate to an update on the status of a planning application referred

to in the Plan or in a representation, a new map of an area designated as Local Green Space so that the area is clear and so on. They are usually queries of a fairly factual nature which can be readily dealt with by an exchange of correspondence.

At this stage, it is apparent there are a number of key areas in the Plan which would go beyond clarification and may result in modifications that would significantly change a policy or supporting text or even result in its deletion.

The key areas are:

1. Policy CRAN1 has a number of tensions with the National Planning Policy Framework (NPPF). Clause E refers to an undeveloped gap between Cranleigh and Rowly, but this is not shown on a map and is without sufficient evidence given the land is also Green Belt. Therefore much of this policy would be likely to be changed or perhaps deleted.
2. The Plan seeks to amend the Green Belt boundary in several places. Whilst the NPPF permits detailed amendments to boundaries to be made through non-strategic policies in neighbourhood plans, it only does so “where a need for changes to Green Belt boundaries has been established through strategic policies” (para 136). There appears to be no strategic policy which establishes this need in the Parish and therefore the Plan cannot amend the Green Belt boundary in the way sought. This then is likely to be deleted.

Even if the proposed changes were retained, only one of the proposed amendments is shown on a map leaving room for interpretation as to the other proposed boundary changes as well as some doubt on whether landowners would have been clear during the consultation period as to whether their land was in or out of the Green Belt with the resultant implications for proper consultation.

Policy CRAN2 then seeks to define some of the terminology used in the NPPF. For example, it introduces a 40% over the original dwelling threshold for extensions to usually be considered disproportionate. Whilst these figures may in themselves be appropriate, and appear in an emerging policy in the Local Plan Part 2, there is no apparent explanation or evidence for them in the Plan. The remainder of the policy repeats the NPPF. Therefore this policy would be likely to be deleted.

3. The next section of the Plan is housing and design. It is welcome that the Plan seeks to accommodate housing growth, but in so doing must ensure it accommodates the housing growth numbers on suitable sites and does not impose any maximum figure.

Questions which often arise are i) are the dwelling numbers outlined correct? ii) how have the housing numbers have been arrived at? iii) how has the number of windfalls been estimated? iv) should a buffer of 20% be applied? v) is there ‘double counting’ as a representation suggests? vi) have the figures for the schools sites already been included in the LP Part 1 Land Availability Assessment?

A number of representations point out apparent anomalies in the site assessment process.

Three sites have been put forward for allocation in Policies CRAN3, CRAN4 and CRAN5. I understand there are planning applications on the school sites and that permission has been refused. Where does this leave the housing strategy of the Plan? Are the sites

available for development and deliverable? What evidence is there to ensure that the new school will come forward and be delivered within an appropriate framework? Are there any issues yet to be resolved with the new schools site?

I would need to be updated on any other planning applications, for example a site at Amlets Lane (2019/1552) referred to in a representation.

It may be that the housing strategy element of the Plan cannot be retained.

4. The supporting text to the policies include other requirements which are not then included in the policies. This leads to false expectations and confusion as to what the actual requirements sought by the Plan are. An example of this are comments on access points in the site allocations which are not followed through in the policy.
5. Policy CRAN6 refers to self-build and custom build housing. There is a comment in the supporting text, but not in the policy about restricting such plots to within the settlement boundary. A large number of plots have been identified as needed. Questions which I might pose are does this meet the Government's criteria / definition and how will they be accommodated? What work has been done to show this? Should they be specifically allocated?
6. Policy CRAN8 refers to a number of views. What evidence is there to support the identification of the views?
7. The Plan seeks to amend the boundaries of an Area of Strategic Visual Importance (ASVI). However, there is no policy to support this amendment. WBC also point out an inaccuracy in the mapping. This element of the plan would be likely to be deleted or a new policy added (which would require further consultation as a significant change). There is also a representation which refers to a planning application on part of the ASVI and the implications (if any) of this would need to be considered.
8. Policy CRAN17 seeks to identify a large number of Local Green Spaces (LGS). It is likely that some would be recommended for deletion as either not meeting the criteria in the NPPF, being protected adequately through other designations or effectively duplicating Green Belt policy. In addition some areas consist of numerous smaller pieces of land in the same vicinity including some very small areas of verge or areas under hedges or similar. Some seem to include private gardens. Therefore the extent of some of the areas would need to be clarified.
9. Thames Water has put forward suggested new text for Policies CRAN19 and CRAN23.

In addition other policies are likely to be subject to modifications which may be considered to alter their intent and application as originally envisaged by the PC or may be subject to more minor modifications to help with clarity for example.

Conclusion on the other issues

It will be apparent that there are a number of other matters in the Plan which, in my view, will require modifications that could be regarded as significant changes. This in itself may mean that further consultation would need to be carried out.

In making this statement, I have kept in mind the guidance in the NPIERS Guidance to service users and examiners which indicates that “Examiners will not generally refer back to parties on these detailed revisions. But where the modification may necessitate a change which in the opinion of an examiner would be significant, there is a reasonable expectation that a description of the intended modification will be publicised on the local planning authority’s website, seeking comments, prior to recommending the change. Significant changes may typically require further work to be undertaken, particularly in relation to Strategic Environmental Assessment.” (paragraph 2.12.6).

I am conscious that the Guidance indicates that what might constitute a significant change will be for me to determine in the context of the Plan examined, but that such changes can lead to concerns over community ownership of the Plan.

It is also important to recognise that I must ensure I am not rewriting the Plan (and indeed would not wish to do so) in making modifications.

Overall conclusion and possible courses of action to consider

Unfortunately, it would not be possible for me to conclude at the present time, based on the Plan and its supporting documents, particularly the SEA, that the Plan meets the basic conditions and can proceed to referendum. I understand this will come as a disappointment to those working on the Plan.

However, there is a remedy to this issue. This is to redo the SEA and review the HRA undertaking any necessary work on that, consult on any revised documents, both with the statutory consultees and then with the public. This will obviously take some time, first of all to do the work on the SEA and HRA, but then also to go through the proper consultations.

However, I wanted to ensure that the PC in particular were aware of a number of other issues of concern with the Plan and its policies before any decision to embark on the work needed on the SEA and HRA is taken. As I have set out in some detail above, I have a number of concerns about some of the key policies in the Plan. As a number of policies are likely to be modified or even deleted either wholly or in part, I wanted to ensure the PC had an opportunity to consider the best way forward with this information to hand.

It may be that the preference is for the Plan to be withdrawn from examination and work progressed to ensure that the Plan and its policies serve the purpose intended and expected in some of the key areas of the Plan such as its housing strategy, gap, Green Belt and ASVI.

I have considered whether to hold an exploratory meeting or hearing to consider these issues. Whilst some further information may aid some areas, as outlined above there are fundamental concerns. I therefore see no immediate benefit to any party in holding a meeting or hearing at the present time. I have set out the issues as I see them in detail above.

There are therefore a number of ***possible courses of action*** to consider:

- A. I carry on with the examination. This is likely to result in a report that recommends the Plan does not proceed to referendum. This is not a scenario which I would welcome.

- B. The examination is suspended to allow further work to be undertaken on the SEA and HRA only alongside the necessary consultation. This is likely to result in a report that recommends the Plan can proceed to referendum but also recommends a number of modifications that I consider may be regarded to significantly change the intent and nature of the Plan's contents. A further shorter period of consultation would therefore probably be needed on these significant changes.

There may also be a considerable delay associated due to the feasibility of undertaking the work and running any consultations at the moment because of the Coronavirus (Covid 19) pandemic. However, a timetable would be needed to set out expected milestones for the work and consultations to be completed.

- C. The examination is suspended to allow further work to be undertaken on the Plan and its supporting documents. This would allow the PC to review and re-evaluate the Plan and its policies as well as undertake a new or updated SEA and HRA on the revised Plan. Consultation would be necessary and may be delayed because of the pandemic. A timetable would need to be agreed for this work and consultations to be completed.
- D. The Plan is withdrawn from examination and no further work is carried out by me on the examination. Once and if the Plan was to be (re)submitted to WBC in a revised form with revised supporting documentation at some point in the future, I could be appointed again to undertake the new examination (with the agreement of all parties including me) or another examiner could be appointed as preferred. No timescales would be needed.

In the light of the above, I would like to give the PC the opportunity to consider whether it wishes to withdraw the Plan from examination or pursue one of the other courses of action outlined above.

At this point in time I am not asking the PC or WBC to address the queries posed above. They are simply there to illustrate the concerns about some aspects of the Plan to enable the PC to make an informed choice.

I am also not seeking, and will not accept, any representations from other parties regarding this matter at this stage.

I realise this will be an important consideration for the local community. Once the PC has had a chance to consider the options moving forward, including holding any discussions with WBC, please let me know how you wish to proceed. Please respond by **Wednesday 29 April**. If a little further time is required, for example to coincide with a Parish meeting, please let me know.

This note will be a matter of public record and should be placed on the relevant websites.

With many thanks,

Ann Skippers MRTPI
Independent Examiner
16 April 2020