

# **CRUDWELL NEIGHBOURHOOD PLAN**

Crudwell Neighbourhood Plan Examination  
A Report to Wiltshire Council

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December 2020



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## **1. Summary**

- 1 Subject to the recommendations within this Report, made in respect of enabling the Crudwell Neighbourhood Plan to meet the basic conditions, I confirm that:
  - 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 (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
  - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.
  
- 2 Taking the above into account, I find that the Crudwell Neighbourhood Plan meets the basic conditions<sup>1</sup> and I recommend to Wiltshire Council that, subject to modifications, it should proceed to Referendum.

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<sup>1</sup> It is confirmed in Chapter 3 of this Report that the Crudwell Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

## **2. Introduction**

### **The Neighbourhood Plan**

- 3 This Report provides the findings of the examination into the Crudwell Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by the Crudwell Neighbourhood Plan Steering Group on behalf of Crudwell Parish Council.
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. At Referendum, should more than 50% of votes be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by Wiltshire Council.
- 5 The Neighbourhood Plan would then form part of the development plan and as such, it would be used to determine planning applications and guide planning decisions in the Crudwell Neighbourhood Area.
- 6 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

*“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can shape, direct and help to deliver sustainable development.”*

(Paragraph 29, National Planning Policy Framework)

- 7 As confirmed in Paragraph 1.2.2 on page 4 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Crudwell Parish Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan.
- 8 Paragraph 1.2.8 on page 5 of the Basic Conditions Statement confirms that the Neighbourhood Plan relates only to the designated Crudwell Neighbourhood Area and that there is no other neighbourhood plan in place in the Crudwell Neighbourhood Area.

- 9 The above meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2019) and Planning Practice Guidance (2014).

#### Role of the Independent Examiner

- 10 I was appointed by Wiltshire Council, with the consent of the Qualifying Body, to conduct the examination of the Crudwell Neighbourhood Plan and to provide this Report.
- 11 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the Local Authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 12 I am a chartered town planner and have eight years' direct experience as an Independent Examiner of Neighbourhood Plans and Orders. I also have thirty years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 13 As the Independent Examiner, I must make one of the following recommendations:
- that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
  - that the Neighbourhood Plan, as modified, should proceed to Referendum;
  - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 14 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Crudwell Neighbourhood Area to which the Plan relates.
- 15 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

### Neighbourhood Plan Period

- 16 A neighbourhood plan must specify the period during which it is to have effect.
- 17 The title page of the Neighbourhood Plan does not refer to the plan period, but simply states "May 2020," which was the month during which the submission documents were published.
- 18 However, Paragraph 1.4 of the Neighbourhood Plan states that:  
  
*"Wiltshire Council's Core Strategy includes a series of strategic policies that cover the whole of Wiltshire, or large parts of it. The Core Strategy runs up to 2026, so this Neighbourhood Plan does too."*
- 19 In addition, Paragraph 1.4 of the Basic Conditions Statement submitted alongside the Neighbourhood Plan states that:  
  
*"The draft Plan identifies the period to which it relates as up to 2026. The period has been chosen to align with the plan period of the adopted Wiltshire Core Strategy."*
- 21 Taking the above into account, the Neighbourhood Plan meets the requirement in respect of specifying the period during which it is to have effect.

### Public Hearing

- 22 According to the legislation, it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 23 However, it is also the case that *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.

## Crudwell Neighbourhood Plan Examiner's Report

- 24 Further to consideration of the information submitted, I determined not to hold a public hearing as part of the examination of the Crudwell Neighbourhood Plan.
- 25 I note that the Qualifying Body had the opportunity to consider representations made during the submission consultation period and that the Qualifying Body's response to these has been taken into account during the course of this examination.

### **3. Basic Conditions and Development Plan Status**

#### **Basic Conditions**

- 26 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “*basic conditions*.” These were *set out in law*<sup>2</sup> following the Localism Act 2011.
- 27 Effectively, the basic conditions provide the rock or foundation upon which neighbourhood plans are created. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the 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 (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
  - 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.
- 28 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 and referred to above. Of these, the following basic condition, brought into effect on 28<sup>th</sup> December 2018, applies to neighbourhood plans:
- 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.<sup>3</sup>

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<sup>2</sup> Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

<sup>3</sup> *ibid* (same as above).



- 29 In examining the Plan, I am also required, as set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act), to check 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 (under Section 61G of the Town and Country Planning Act 1990 (as amended));
  - 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 in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004.
- 30 An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>4</sup>
- 31 I note that, in line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan and this sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

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<sup>4</sup> The Convention rights has the same meaning as in the Human Rights Act 1998.

European Convention on Human Rights (ECHR) Obligations

- 32 I am satisfied, in the absence of any substantive evidence to the contrary, that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998.
- 33 In the above regard, information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. A Consultation Statement was submitted alongside the Neighbourhood Plan and the role of public consultation in the plan-making process is considered later in this Report.

European Union (EU) Obligations

- 34 In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment. In this regard, national advice states:
- “Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”*  
(Planning Practice Guidance<sup>5</sup>)
- 35 This process is often referred to as “screening”<sup>6</sup>. If likely environmental effects are identified, an environmental report must be prepared.

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<sup>5</sup> Planning Guidance, Paragraph 027, Ref: 11-027-20150209,.

<sup>6</sup> The requirements for a screening assessment are set out in in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.

- 36 Wiltshire Council carried out a Strategic Environmental Assessment (SEA) screening report of the Neighbourhood Plan. This concluded that:

*"The Council considers that the Crudwell Neighbourhood Plan...does not require SEA."*

- 37 The statutory bodies, Historic England, Natural England and the Environment Agency were all consulted in respect of the screening report and its conclusions. The Environment Agency agreed with Wiltshire Council's conclusion and similarly, Natural England stated that:

*"We welcome the production of this SEA Screening Report. Natural England notes and concurs with the screening outcome i.e. that **no SEA** is required."*

- 38 Further, Historic England wrote to confirm:

*"...that we have no objection to the views that a full SEA is not required..."*

- 39 This followed on from earlier submissions by Historic England in respect of the possible impact on heritage assets resulting from the allocation of the Tuners Lane site in the Neighbourhood Plan of a site for development. This was a matter duly considered by Wiltshire Council, resulting in Historic England expressing its satisfaction with Wiltshire Council's informed conclusion that:

*"...development can take place without causing harm to heritage assets..."*

- 40 The Tuners Lane allocation is considered against the basic conditions later in this Report.

- 41 In addition to SEA, a Habitats Regulations Assessment identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans and projects. This Assessment must determine whether significant effects on a European site can be ruled out on the basis of objective information<sup>7</sup>. If it is concluded that there is likely to be a significant effect on a European site, then an appropriate assessment of the implications of the plan for the site must be undertaken.

- 42 In this regard, the Basic Conditions Statement submitted alongside the Neighbourhood Plan did not identify the North Meadow and Clattinger Farm Special Area of Conservation (SAC), which comprises a relevant European site upon which the policies of the Neighbourhood Plan have the potential to give rise to significant effects.

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<sup>7</sup> Planning Guidance Paragraph 047 Reference ID: 11-047-20150209.

- 43 However, Wiltshire Council's rigorous approach in respect of European environmental requirements ensured that the potential for the Neighbourhood Plan and in particular, the allocation of land at Tuners Lane for development in Policy DD1, to give rise to significant effects on the North Meadow and Clattinger Farm SAC was considered as part of the Habitats Regulations Assessment screening process.
- 44 I also note that, in April 2018, in the case *People Over Wind & Sweetman v Coillte Teoranta ("People over Wind")*, the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means that if a likely significant effect is identified at the screening stage of a habitats assessment, an *Appropriate Assessment* of those effects must be undertaken.
- 45 In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.
- 46 The changes to regulations allow neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an Appropriate Assessment to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or a planning application. These changes came into force on 28<sup>th</sup> December 2018.
- 47 Appropriate assessment of the implications of the Neighbourhood Plan for the Tuners Lane site, under the provisions of the Habitats Regulations, set out recommendations which, subject to their implementation, enabled Wiltshire Council to arrive at the conclusion that:

*"...the development that would come forward as a result of the policies within the Crudwell NP would not adversely affect the integrity of the North Meadow and Clattinger Farm SAC or its qualifying features either alone or in-combination with other plans and projects."*

- 48 Each of the statutory bodies have been consulted and all are satisfied with the screening process and the conclusions of Wiltshire Council in this regard. In particular, Natural England stated:

*“Natural England notes the screening process applied to this Neighbourhood Plan. We have agreed with the Council’s conclusion of no likely significant effect upon the named European designated sites in our response dated 21<sup>st</sup> September: North Meadow and Clattinger Farm SAC.”*

- 49 The recommendations pertaining to the above involve amendments to the wording of Neighbourhood Plan Policy DD1 to include a provision stating that any planning application for development at the allocated site will be subject to an Appropriate Assessment and that mitigation will be required and must be agreed before the application is submitted. This would likely comprise either a stand-alone mitigation scheme or contribution to such a scheme, or contribution to a strategic scheme, and the advice of Natural England should be sought and taken into consideration.

- 50 This is taken into account in consideration of Policy DD1 against the basic conditions (see Section 7, later in this Report).

- 51 Further to all of the above, national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

*“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations (including obligations under the Strategic Environmental Assessment Directive)”* (Planning Practice Guidance<sup>8</sup>).

- 52 Having completed the work that it has and subject to the implementation of the recommendations made, Wiltshire Council has no outstanding concerns in respect of the Neighbourhood Plan’s compatibility with EU obligations.

- 53 Taking this and the recommendations contained in this Report into account, I am satisfied that the Neighbourhood Plan is compatible with European obligations.

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<sup>8</sup> ibid, Paragraph 031 Reference ID: 11-031-20150209.

#### **4. Background Documents and the Crudwell Neighbourhood Area**

##### Background Documents

- 54 In completing this examination, I have considered various information in addition to the Crudwell Neighbourhood Plan.
- 55 Information considered as part of this examination has included (but has not been limited to) the following main documents and information:
- National Planning Policy Framework (referred to in this Report as "*the Framework*") (2019)
  - Planning Practice Guidance (2014, as updated)
  - Town and Country Planning Act 1990 (as amended)
  - The Localism Act (2011)
  - The Neighbourhood Plan Regulations (2012) (as amended)
  - Wiltshire Core Strategy (2015)
  - North Wiltshire Local Plan (2011. Saved policies)
  - Wiltshire Housing Sites Allocations Plan (2020)
  - Basic Conditions Statement
  - Consultation Statement
  - Representations received
  - Strategic Environmental Assessment and Habitat Regulations Assessment Screening (as updated)
  - Sustainability Appraisal and Evidence Base
- 56 In addition, I spent an unaccompanied day visiting the Crudwell Neighbourhood Area.

Crudwell Neighbourhood Area

- 57 The boundary of the Crudwell Neighbourhood Area is identified on a plan provided on page 8 of the Neighbourhood Plan. This plan appears blurred and lacks appropriate clarity for inclusion in a statutory planning document. I recommend:
- **Replace the plan on page 8 with a plan that clearly identifies the boundary of the Crudwell Neighbourhood Area**
- 58 Wiltshire Council designated the Crudwell Neighbourhood Area on 20<sup>th</sup> March 2015.
- 59 This satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

## **5. Public Consultation**

### **Introduction**

- 60 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 61 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

### **Crudwell Neighbourhood Plan Consultation**

- 62 A Consultation Statement was submitted to Wiltshire Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *Regulations*<sup>9</sup>.
- 63 On behalf of Crudwell Parish Council, a Neighbourhood Plan steering group, comprising representatives of the Parish Council and the local community, was created and met regularly from July 2017 onwards.
- 64 A public meeting in September 2017 was followed by the distribution of a leaflet and questionnaire to members of the public; and a letter to businesses, seeking initial views, feedback and inviting people to get involved in the plan-making process.
- 65 A further public meeting in March 2018 was followed by workshops, questionnaires and a public drop-in session to consider topics progressed by the focus groups.

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<sup>9</sup> Neighbourhood Planning (General) Regulations 2012.



- 66 The draft plan was published in December 2018 and the consultation period, during December 2018 and January 2019, was supported by three separate public drop-in sessions and meetings with site promoters to discuss the site allocations policy amongst other matters.
- 67 The Consultation Statement sets out, in detail, representations that were made during consultation, together with the response of plan-makers. This demonstrates how matters raised were taken into consideration and helped to inform the plan-making process.
- 68 As well as making use of the Crudwell Parish Council website, a dedicated area of the "My-Crudwell" website and Facebook pages, public consultation was supported via the Parish newsletter, door-drops, Parish notice boards and the local press.
- 69 The Consultation Statement provides evidence to demonstrate that public consultation formed an important part of the plan-making process. There were plentiful opportunities for anyone who wanted to have a say, to have a say. Consultation was well-publicised and matters raised were duly considered.
- 70 Taking all of the above into account, I am satisfied that the Crudwell Neighbourhood Plan was supported by a thorough and robust consultation process. This complied with the neighbourhood planning regulations referred to above.

## **6. The Neighbourhood Plan – Introductory Section**

- 71 Paragraph 2.6 of the Neighbourhood Plan appears as an isolated statement. For clarity, I recommend:
- **Page 7, end of para 2.6, add (after the bullet points) “*The objectives of the Neighbourhood Plan, as set out in Section 7, have emerged from these four topic areas.*”**
- 72 Paragraph 3.19 has been overtaken by events and I recommend:
- **Page 11, delete para 3.19**
- 73 A Consultation Statement was submitted alongside the Neighbourhood Plan in accordance with the Regulations<sup>10</sup>. Section 5 of the Neighbourhood Plan briefly refers to the Consultation Statement and for clarity, I recommend:
- **Page 16, change para 5.2 to “*The community engagement undertaken was detailed in the Consultation Statement produced and submitted in support of the Neighbourhood Plan.*”**
- 74 Section 6 presents the vision for the Neighbourhood Plan. Whilst this is generally clear, the use of the word “*ensures*” results in a vision that appears to go beyond the ability of plan-makers to control. I recommend:
- **Page 17, change line 7 to “*The parish will have sought to ensure that facilities and infrastructure are in place to enable...*”**
  - **Change line 11 to “*New residential development will have sought to meet the needs...*”**
  - **Delete inverted commas at end of line 15**
  - **Change line 16 to “*The parish will have sought to improve public transport connections...station, as well as the safety of road...*”**

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<sup>10</sup> Neighbourhood Planning (General) Regulations 2012.

75 Similar to the above, two of the Objectives in Section 7 run the risk of going beyond the abilities of the Neighbourhood Plan in respect of delivery and I recommend:

- **Page 18 change second bullet point to “To seek to ensure...”**
- **Change third bullet point under Infrastructure and Transport to “To seek to ensure that any...”**

76 As set out, information pertaining to the Policies is provided before the Policies themselves. Whilst this in itself is not an issue, I note that the information set out in respect of Policy DD1 establishes a number of “Requirements.”

77 These “Requirements” have no Policy status but, whilst they are intended to provide detail relating directly to Policy DD1, they appear as Policy requirements. In effect, as presented, the Neighbourhood Plan seeks to establish Policy requirements outside of the relevant Policy and does so even before the relevant Policy has been set out.

78 Consequently, it is not clear how such “Requirements” should be treated by a decision maker. This detracts significantly from the clarity of the Neighbourhood Plan and presents a confusing approach, contrary to Paragraph 16 of the Framework, which states that plans should:

*“...contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals.”*

79 Taking this into account, I recommend:

- **Present each Policy after general introductory text but before corresponding explanatory information, as follows:**

**Policy DD1 to appear after para 9.10**

**Policy DD2 to appear after para 9.55**

**Policy IT1 to appear after para 10.13**

**Policy IT2 to appear after (bullet points in) para 10.22**

**Policy CL1 to appear after para 11.8**

## **7. The Neighbourhood Plan – Neighbourhood Plan Policies**

### Design and Development

#### **Policy DD1: Tuners Lane**

- 80 There is no requirement for a Neighbourhood Plan to allocate land for development. However, it is within the power of plan-makers to seek to do so - Paragraph 28 of the Framework establishes that neighbourhood planning policies can be used by communities to allocate sites.
- 81 Crudwell Parish Council decided to allocate land for residential development further to a Parish housing needs assessment which identified a need for eight affordable dwellings in the Neighbourhood Area.
- 82 Paragraph 29 of the Framework states that:
- “Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.”*
- 83 There is no outstanding strategic housing land requirement that needs to be met in the Neighbourhood Area, but the allocation of land in Crudwell will contribute to:
- “...the Government’s objective of significantly boosting the supply of homes...”*  
(Paragraph 59, the Framework)
- 84 Wiltshire Core Strategy Core Policy 43 (“*Providing affordable homes*”) requires the provision of 40% affordable housing. This is applicable on sites of ten or more dwellings. Plan-makers have calculated that applying the requirements of Policy 43 to a site of between 20 and 25 dwellings will meet the Neighbourhood Area’s identified affordable housing requirement noted above.

- 85 Policy DD1 identifies land at Tuners Lane for the development of these 20-25 dwellings. This site was selected further to the consideration of three options in respect of whether the Neighbourhood Plan should provide for *“fewer than 20 dwellings...20-25 dwellings...more than 25 dwellings.”*<sup>11</sup>
- 86 These three options were considered and ranked against *“Sustainability Appraisal themes.”* The chosen option of 20-25 dwellings was preferred because it was considered to provide a good balance between the provision of new housing and potential harm arising from development.
- 87 Plan-makers then carried out a call for sites and ten alternative sites were identified. Each of these was assessed and this process resulted in eight of the ten sites being found to be unsuitable. The remaining two sites were subjected to further assessment, including meetings with the sites' promoters and consideration of detailed information. The assessment process concluded with plan-makers determining that Tuners Lane provided the most suitable location for the allocation.
- 88 The site identification and assessment process was carried out in an open and transparent manner and as noted earlier in this Report, the Neighbourhood Plan has emerged through robust public consultation. These are important factors, as site assessments can, by their very nature, involve subjective matters.
- 89 Given the above, I am satisfied that the Tuners Lane allocation has emerged through an appropriate process. Whilst I note that a number of concerns have been raised in respect of highway safety, there are no fundamental objections to the allocation from Wiltshire Council in its capacities as Local Planning Authority and Highway Authority.
- 90 As above, the Neighbourhood Plan does not need to allocate land for development, but plan-makers have chosen to do so and this results in a contribution to the housing supply. In the light of this, I note that there is no requirement for the Neighbourhood Plan to allocate any other sites for residential development.
- 91 Policy DD1 sets out detailed Policy requirements aimed at ensuring that the Tuners Lane site is planned and developed in a manner that meets the needs, aims and aspirations of the community.

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<sup>11</sup> Reference: Paragraph 6.16 Crudwell Neighbourhood Plan Sustainability Appraisal and Evidence Base.

- 92 The developer of the Tuners Lane site has committed to work together with the community and this has regard to the Framework<sup>12</sup>, which recognises collaborative working between developers and the community as good practice that should be encouraged. However, whilst Wiltshire Council supports Policy DD1's "requirement" for the developer to work with the community, there is no basis for any such a requirement to form part of a statutory land use planning policy in this case and this is a matter addressed in the recommendations below.
- 93 Policy DD1 refers to the Policies Map. Whilst the plan on page 20 of the Neighbourhood Plan provides a general indication of the location of the Tuners Lane site, it fails to clearly distinguish precise site boundaries. As such, it is inappropriate for Policy DD1 to rely on this plan and I recommend below that a more detailed plan, with clearly identifiable site boundaries, is provided in the same section as the Policy itself.
- 94 The Policy states that development "must" and goes on to set out a long list of requirements. There is no evidence to demonstrate that all of the requirements listed are deliverable and I note that some of the requirements are, for example, vague or unclear, such as "and to bus stops for secondary school pupils and others;" and "appropriate mitigation measures."
- 95 This part of the Policy is contrary to national planning guidance<sup>13</sup>, which requires a neighbourhood planning policy to 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."*
- 96 In general terms, the issues raised above can be resolved through a clearer, more accurate and appropriately flexible introduction, based around "Development proposals should..." and this is addressed in the recommendations below.
- 97 In addition to the above, the Policy states that the development both "must" and "should" provide smaller, lower cost market housing. The words must and should are very different to one another in land use planning policy terms. *Must* is a requirement, whilst *should* provides the flexibility to take account of relevant circumstances.

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<sup>12</sup> Reference: Paragraph 40, the Framework.

<sup>13</sup> Planning Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

98 I also note, in respect of this criterion of Policy DD1, that no indication is provided of what a home should be “*lower cost*” than or “*smaller*” than – smaller than a castle or smaller than a caravan?

99 Chapter 5 of the Framework, “*Delivering a sufficient supply of homes,*” requires land to come forward to meet the needs of groups with specific housing requirements. In this regard, national policy states that:

*“...the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes.”*

(Paragraph 61, the Framework)

100 Whilst Policy DD1 is ambiguous in this regard, the supporting information suggests that the housing mix at Tuners Lane should reflect local housing needs and that the sizes and types of housing will emerge from “*discussion between the developer and the Community Liaison Group.*” Policy DD1 should therefore provide for this, having regard to national policy.

101 I note earlier in this Report that the presentation of supporting text including “*Requirements*” ahead of Policy DD1 is confusing and inappropriate. Whilst the use of the word “*Requirements*” outside of the Policy is inappropriate, the text contained in the supporting text provides important detailed information relating to the criteria set out in Policy DD1.

102 Consequently, I recommend below that clear reference is made to this supporting information in the Policy itself.

103 Wiltshire Council has proposed an addition to the second criterion of Policy DD1 in respect of seeking to ensure that native hedgerow trees are included where hedgerows are replanted. This has regard to the aims of national policy as set out in Chapter 15 of the Framework, “*Conserving and enhancing the natural environment,*” in respect of the requirement to minimise impacts on and enhance biodiversity.

- 104 The Tuners Lane site is within the setting of the Crudwell Conservation Area. Criterion c) of Policy DD1 requires development to “*protect and enhance*” heritage assets and their settings.
- 105 Such a requirement fails to have regard to the requirements of national policy, as set out in Chapter 16 of the Framework, “*Conserving and enhancing the historic environment.*”
- 106 There is no statutory requirement for all development to enhance the setting of a Conservation Area nor, in any case, is there any substantive evidence to demonstrate that any such a requirement would, in this instance, be deliverable.
- 107 Heritage policy is generally concerned with “*conserving*” rather than “*protecting*” and further, it is not apparent why it is relevant for development at Tuners Lane to conserve heritage assets, given there is no evidence that any such assets are present within the site. This is a matter addressed in the recommendations below.
- 108 The Policy's requirement for “*funding*” a “*more substantial*” teenager's play facility appears ambiguous and does not have regard to the Framework, which sets out the tests for planning obligations<sup>14</sup> and requires:
- “...plans to set out the contributions expected from development, where these are required.”*  
(Paragraph 34, the Framework)
- 109 In this regard, I also note Wiltshire Council's comment that there is no evidence in respect of the need for the facility. However, taking the supporting information submitted alongside the Neighbourhood Plan into account, I make a recommendation below to ensure that reference to the provision of facilities for local teenagers is not lost.
- 110 Whilst it is recognised that it is essential to ensure that development does not increase flood risk either at the Tuners Lane site or elsewhere, the wording of this part of Policy DD1 sets out requirements not supported by substantive deliverability evidence and I recommend the replacement of this part of the Policy with the clear and unambiguous wording proposed by Wiltshire Council.

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<sup>14</sup> Reference: Paragraph 56 of the Framework.



- 111 The Crudwell Design Guide provides a useful tool to help understand local character. However, it does not comprise adopted planning policy. It provides guidance rather than Policy requirements that development is required to *"be in accordance with."*
- 112 The provision of fibre-optic superfast broadband is in general conformity with Wiltshire Core Strategy Core Policy 3 (*"Infrastructure Requirements"*). However, in the absence of detailed information, it is not clear why Policy DD1 seeks to restrict any provision to compliance with *"section 7 of PAS2016:2010."* Communications technology does not stand still and as set out, the Policy does not have regard to Chapter 10 of the Framework, *"Supporting high quality communications,"* which requires plans to provide for digital infrastructure to be upgraded over time.
- 113 In the absence of any detail, it is not clear which of the *"green/sustainable technologies"* mentioned are requirements for every dwelling and/or for the *"design of the development."* Policy DD1 is ambiguous in this respect.
- 114 Also, education contributions are a matter between the Education Authority and the developer. Notwithstanding that the vague reference to this in Policy DD1 does not have regard to the national policy test for planning obligations, this is not a matter for determination by the Parish Council through the Neighbourhood Plan.
- 115 Earlier in this Report, in Section 3, I noted that, following on from consultation related to the HRA screening process, it was determined that any planning application for development at the Tuners Lane site must be subject to an Appropriate Assessment and that mitigation would be required and must be agreed before the application is submitted. This is taken into account in the recommendations below.
- 116 Taking all of the above into account, I recommend:
- **Provide a new plan of the Tuners Lane site, clearly identifying all boundaries against a clear Ordnance Survey (or equivalent) base.**
  - **Change the opening paragraph of Policy DD1 to *"...identified on the plan below and on the policies map...dwellings, 40% of which will be affordable. Development of the Tuners Lane site should:"***
  - **Change criterion a) to *"...village facilities including bus stops. In particular..."***

- Change last sentence of criterion b) to ***"...splays, it must be replanted immediately outside the splay and incorporate occasional native hedgerow trees;"***
- Change criterion c) to ***"Conserve the setting of any heritage assets upon which the development of Tuners Lane may have an effect, including Crudwell Conservation Area;"***
- Change criterion e) to ***"...play area on site;"*** (delete rest of sentence)
- Change criterion f) to ***"The mix of housing types and sizes should meet identified local needs."***
- Replace criterion g) with Wiltshire Council's suggestion ***"Ensure that the site does not flood from any source of flooding and that the surface water drainage scheme provides betterment over existing runoff rates and volumes, without increasing flood risk elsewhere. Incorporate sustainable drainage systems that provide multifunctional benefits (water quantity, water quality, amenity and biodiversity);"***
- Change criterion h) to ***"Ensure that the design is in keeping with Crudwell's character, having regard to the Crudwell Design Guide;"***
- Delete second sentence of criterion i) (***"Internal...PAS2016:2010"***)
- Change criterion j) to ***"...individual dwellings. This could include rainwater harvesting...charging and/or high..."***
- Delete criterion k)
- Add new paragraph to Policy DD1 below the bullet points: ***"Any planning application for development at the allocated site will be subject to an Appropriate Assessment. Mitigation will be required and must be agreed before the application is submitted. This will likely comprise either a stand-alone mitigation scheme or contribution to such a scheme, or contribution to a strategic scheme, and the advice of Natural England should be sought and taken into consideration as part of the process."***

- Delete final paragraph and replace with *“Further details in respect of the requirements of this Policy are set out below. The Parish Council will seek to work closely with the developer in respect of the successful implementation of this Policy through the creation of a Community Liaison Group. Collaborative working with the community will be strongly supported.”*
- As noted earlier in this Report, position Policy after Para 9.10
- Delete Para 9.12
- Change Para 9.13 to *“The developer of the Tuners Lane site has agreed to work together with the local community during the planning application and development delivery process. In agreement with the developer, the Parish Council will nominate a Community Liaison Group to support this process.”*
- Delete Para 9.16 and replace with *“The following information provides further details in respect of the requirements of Policy DD1.”*
- Delete **“Requirement (number)”** at the start of each paragraph in bold. For clarity, the paragraphs in bold should simply repeat the relevant criterion AS REVISED IN THE RECOMMENDATIONS ABOVE from Policy DD1 and not be headed as **“Requirements.”** This is supporting text, not Policy.
- 9.17 delete **“requirement”** and change first and third bullet points to **“To seek to ensure...”**
- 9.18, change to **“...Lane site, the implementation of Policy DD1 will require the delivery of the footway...”** Delete last sentence (**“This...a.)”**)
- Para 9.21 delete **“requirement”**
- Para 9.26 delete **“requirement,”** change first bullet point to **“To seek to ensure...”** and delete **“, especially for teenagers”** from third bullet point

- **Para 9.29 change to “...on site. *The Parish Council and local community is also concerned that there are insufficient play facilities for local teenagers. The Parish Council will seek to work with the developer to see if any such facilities can be provided, to the benefit of the local community, through the delivery of the development. The precise...*”**
- **Para 9.30 delete “requirement”**
- **Para 9.31, delete last sentence (“This...f).”**
- **Para 9.33 delete “requirement” and change first bullet point to “To seek to ensure...”**
- **Delete Para 9.35**
- **Para 9.37 delete “requirement”**
- **Delete Paras 9.38 and change Para 9.39 to “*The Parish Council will seek to work with the developer through the Community Liaison Group with the aim of ensuring that the proposals result in a development that respects the attractive and distinctive character of Crudwell, having regard to the Crudwell Design Guide.*”**
- **Para 9.40 delete “requirement” and change first bullet point to “To seek to ensure...”**
- **Para 9.44 replace “must’ with “should”**
- **Para 9.45 delete “requirement”**
- **Delete Paras 9.49 to 9.53 (and associated heading)**
- **Add new Para: “*Due to residential development being allocated on the Tuners Lane site and the site being located within the potential zone of influence around the North Meadow and Clattinger Farm Special Area of Conservation (SAC), the allocation may result in additional visitor pressure on the SAC. It is therefore essential that an Appropriate Assessment is carried out and mitigation is agreed prior to any planning application at the site. The Community Liaison Group will seek to support the developer in this regard. It is also noted that it is essential that liaison takes place with Natural England and Wiltshire Council as part of this process.*”**

**Policy DD2 – Design**

117 National planning policy recognises that:

*“Good design is a key aspect of sustainable development, creating better places in which to live and work and helps make development acceptable to communities.”*

(Paragraph 124, the Framework)

118 Core Strategy Core Policy 57 (*“Ensuring High Quality Design and Place Shaping”*), requires all development to have a high standard of design and to help create a strong sense of place by drawing on local context and being complementary to the locality.

119 As noted earlier in this Report, the Crudwell Design Guide provides an important and helpful guide. It identifies those elements that help make up Crudwell's local character and distinctive sense of place. However, whilst the Crudwell Design Guide provides guidance, it does not comprise an adopted land use planning document.

120 Consequently, it is beyond the scope of the Neighbourhood Plan to require the guidance to be *“met”* by all development, or for it to comprise the tool against which all development will be *“judged.”*

121 I recommend:

- **As noted earlier in this Report, position Policy DD2 after Para 9.55**
- **Change Policy DD2 to *“...Crudwell Parish, having regard to the Crudwell Design Guide (Appendix 1).”***
- **Change Para 9.56 (which is supporting text and not a Policy) to *“Policy DD2 recognises the essential role that good design has to play in retaining and enhancing Crudwell's attractive qualities. The Crudwell Design Guide provides detailed information to guide and support the delivery of high quality design that respects the area's local vernacular.”***
- **Delete Para 9.58**
- **Change Para 9.59 to *“Policy DD2 is aimed at meeting the following objectives:”***

Infrastructure and Transport

**Policy IT1 – Surface Water and Foul Drainage**

122 In general terms, Policy IT1 seeks to ensure that development should not exacerbate the risk of flooding and should be informed by a flood risk assessment. This has regard to Chapter 14 of the Framework, *“Meeting the challenge of climate change, flooding and coastal change,”* which requires all plans to:

*“...apply a sequential, risk-based approach to the location of development...so as to avoid, where possible, flood risk to people and property.”*

(Paragraph 157, the Framework)

123 In this way, Policy IT1 is also in general conformity with Core Strategy Core Policy 67 (*“Flood Risk”*), which promotes sustainable urban drainage.

124 As set out, the Policy includes a vague reference to *“where appropriate,”* without providing any detail as to what will or will not be appropriate and consequently, this part of the Policy is ambiguous. Further, it is not the role of Neighbourhood Plans to repeat national or local policy and the reference to national and local policy in Policy IT1 is superfluous.

125 Wiltshire Council has recommended additions to Policy IT1 which add to the clarity of the Policy and these have regard to Paragraph 16 of the Framework, which states that plans should:

*“...contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals.”*

126 The Neighbourhood Plan cannot impose requirements upon other bodies, such as statutory undertakers. In this regard, I also note that the Qualifying Body is not the Local Planning Authority and cannot dictate planning application requirements.

127 Taking all of the above factors into account, I recommend:

- **As noted earlier in this Report, position Policy after Para 10.13**
- **Change start of Policy IT1 to “Proposals for development in areas at risk of flooding must be...assessment and a drainage...”**
- **Change third para of Policy IT1 to: “...betterment over greenfield runoff rates for greenfield sites, and post development discharges to be as close as reasonably practicable to greenfield runoff for brownfield sites.”**
- **Add new para to Policy IT1, to follow fourth para, “Sustainable drainage systems should provide multifunctional benefits (water quantity, water quality, amenity and biodiversity). Surface water drainage strategies should be developed in accordance with the surface water disposal hierarchy - 1st Re-use, 2<sup>nd</sup> infiltration, 3rd watercourse/surface water body, 4th surface water sewer, 5th combined sewer. Flood risk assessments and drainage strategies should take account of the likely effects of climate change (this is in line with Environment Agency guidance).”**
- **Delete last paragraph of Policy IT1 (“Where developments discharge...appropriate.”)**
- **Para 10.14, change to “...Council and it seeks to ensure that, when...situation. The development of the Tuners Lane site should improve the current situation.”**
- **Change Para 10.15 to “Most development will discharge to the existing public sewer. Matters relating to the public sewer are the responsibility of the statutory undertaker, Wessex Water.”**
- **Delete Para 10.16**

**Policy IT2 – Highway Safety**

- 128 Policy DD1 requires development at Tuners Lane to improve pedestrian access to the school and local facilities and the supporting information provides detail in this regard.
- 129 Policy IT2 attempts to require all development to “*demonstrate how pedestrians and cyclists from the development will safely access the parish’s facilities.*”
- 130 Policy IT2 is unnecessary in respect of the Tuners Lane site, as that site is already considered in Policy DD1. Further, there is no substantive evidence to demonstrate that the requirements set out in Policy IT2 would be deliverable – or even relevant – to any other development.
- 131 Most development proposals in the Neighbourhood Area are likely to be small scale, comprising for example, household applications for residential extensions and taking this into account, there is nothing to suggest that Policy IT2 has regard to the national test for planning obligations:

*“Planning obligations must only be sought where they meet all of the following tests:*

- a) necessary to make the development acceptable in planning terms;*
  - b) directly related to the development; and*
  - c) fairly and reasonably related in scale and kind to the development.”*
- (Paragraph 56, the Framework)

- 132 Policy IT2 does not have regard to national policy.

- 133 Paragraph 98 of the Framework states that planning policies:

*“...should protect and enhance public rights of way and access, taking opportunities to provide better facilities for users...”*

- 134 Taking this and the above into account, I recommend:

- **Change Policy IT2 to “*The maintenance and enhancement of public rights of way will be supported.*”**



- **Replace Para 10.18 with *“The Parish Council recognises that highway safety is a significant concern in the Parish. Whilst this Neighbourhood Plan has no control over Highway Authority matters, the Parish Council will seek to encourage improvements to highway safety throughout the Neighbourhood Area.”***
- **Delete Paras 10.23 and 10.24 and replace with *“Policy IT2 encourages improvements to the public rights of way network, to encourage safe movement for pedestrians and cyclists.”***

Community and Leisure

**Policy CL1 – Crudwell Primary School**

- 135 Policy CL1 aims to protect the primary school from being redeveloped.
- 136 The Parish Council is not the Local Education Authority and the long term future of Crudwell Primary School is not something that the Neighbourhood Plan has any control over.
- 137 However, Core Strategy Core Policy 49, "*Protection of rural services and community facilities,*" provides protection against the loss of a community facility where it can be demonstrated that no alternative community use is viable.
- 138 Subject to the recommendations below, the overall aim of Policy CL1 – to add a layer of protection to an important community facility - is in general conformity with the Core Strategy. However, as worded, the Policy could harm the potential for a community facility to be retained at the site should the school use ever fall away and this would not be in general conformity with adopted local strategic policy.
- 139 I recommend:
- **Change Policy CL1 to "*...is safeguarded for community use. Any proposals to redevelop any part of the school site for non-community uses will not be supported.*"**
  - **Para 11.3, change last sentence to "The *current* capacity of..."**
  - **Delete para 11.6, which makes little sense – for example, replacing the school with a more attractive building might enhance the Conservation Area and there is no evidence to the contrary**
  - **Delete second sentence of Para 11.8 ("The list...importance.")**

- Part of para 11.9 appears to be a note to plan-makers and if the school requires more buildings, it is not clear why “long term viability” would need to be demonstrated, or who would judge this and on what basis. Change Para 11.9 to “...if it needs to do so. *It is noted that any such changes should conserve the character and appearance of the Conservation Area.*” (delete rest of Para)

## **8. The Neighbourhood Plan: Other Matters**

140 The recommendations made in this Report will have a subsequent impact on Contents, including Policy, Figure, paragraph and page numbering.

141 I recommend:

- **Update the Contents and where necessary, Policy, Figure, paragraph and page numbering, to take into account the recommendations contained in this Report**

## 9. Referendum

142 I recommend to Wiltshire Council that, subject to the recommended modifications, **the Crudwell Neighbourhood Plan should proceed to a Referendum.**

### Referendum Area

143 I am required to consider whether the Referendum Area should be extended beyond the Crudwell Neighbourhood Area.

144 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

145 Consequently, I recommend that the Plan should proceed to a Referendum based on the Crudwell Neighbourhood Area approved by Wiltshire Council on the 20<sup>th</sup> March 2015.

**Nigel McGurk, December 2020**  
**Erimax – Land, Planning and Communities**



EST. 2011