

Noak Bridge Neighbourhood Development Plan

Independent Examiner's Clarification Note

Context

This note sets out my initial comments on the submitted Plan. It also sets out areas where it would be helpful to have some further clarification. For the avoidance of any doubt, matters of clarification are entirely normal at this early stage of the examination process.

Initial Comments

The Plan is very well-presented. The distinction between the policies and the supporting text is clear. The Plan provides a distinctive vision for the neighbourhood area and has focused on appropriate and distinctive matters. The relationship between the objectives and the policies is also very clear and provides a clear structure for the Plan. The Plan is also underpinned by detailed documents including the Design Guide and the Character Assessment.

Points for Clarification and other comments on the policies

I have read the submitted documents and the representations made to the Plan. I have also visited the neighbourhood area. I am now able to raise matters of clarification for the Parish Council.

The comments that are made on these points will be used to assist in the preparation of my report. They will also inform any potential modifications that may be necessary to the Plan to ensure that it meets the basic conditions.

Policy NB5

Does the policy bring any added value beyond national and local policies on the Green Belt?

At the time that the Neighbourhood Plan was submitted for examination in July 2024 the emerging Basildon Local Plan had not been published. The policy context was therefore a very outdated Local Plan, and it was critical that the Neighbourhood Plan (NP) made clear the current boundaries of the Green Belt in circumstances where the adopted Local Plan might be judged to be 'out of date' in certain key respects.

The LPA only formally accepted the submission of the NP in September 2024, and then delayed the Regulation 16 consultation until 24th February 2025, some seven months after the NP was first submitted for examination. During that time the Local Planning Authority (LPA) published the first Regulation 18 draft of their new Local Plan on 18th November 2024. That Plan is not projected to be adopted until at least the end of 2026, still some time into the future.

Given that the adopted Local Plan was adopted in 1998, some 27 years ago, and the policies were then saved in 2007, 18 years ago, there remains a concern that there will continue to be a risk of a policy vacuum in relation to Green Belt policy at a local level. The March 2025 Basildon Council Compliance Review of Saved Local Plan Policies against the December 2024 NPPF makes clear that all of the saved Green Belt policies attract only partial weight, and that this weight is less than the weight attached to the NPPF.

The approach set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) states *“If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”*.

It is clear that in this context, a ‘made’ NP would be a development plan document, with which planning determinations must accord (subject to material considerations / planning balance arguments). Until such time as there is an up-to-date adopted Local Plan in place (not before end of 2026 / early 2027) the NP Green Belt policy NB5 therefore remains of critical importance in terms of providing an up-to-date policy that is NPPF compliant and with which planning decisions in Noak Bridge Parish must accord (see also the concerns expressed below in relation to the Green Belt under Policy NB10 below). This alone is clear justification for retaining the policy in the NP as drafted.

Policy NB6

This is a carefully-designed policy which is underpinned by the landscape information in the Character Appraisal. In this broader context I am minded to recommend the inclusion of a proportionate element into the first part of the policy. Does the Parish Council have any comments on this proposition?

Provided that the weight of the policy is not reduced, and the inclusion of a proportionate element in the first part of the policy does not introduce ambiguity about when the policy would apply, and when it wouldn’t apply, then the Parish Council does not object to this proposition.

This might be represented by the inclusion of the words: *“As appropriate to their scale, nature and location”* to the start of the policy, or to clarify in a new supporting paragraph prior to the policy wording, that the policy does not apply to householder development or small scale development within the built part of Noak Bridge village.

Policy NB10

I looked carefully at the proposed Local Green Spaces (LGSs) during the visit. Their selection is underpinned by the LGS Assessment. In addition, the policy itself takes the matter-of-fact approach as set out in paragraph 107 of the NPPF.

Does the proposed LGS10 (Field to the east of Martindale Avenue) bring any added value beyond its inclusion within the Green Belt?

Site LG-8 (referred to in the Local Green Space (LGS) Study as site LG10 – (field to the east of Martindale Avenue) is proposed to be retained as landscaping and public open space on the current Woolsington One Green Infrastructure Parameter Plan for the hybrid application that includes this site (dwg ref 12000-FPCR-XX-XX-DR-A-0016 rev P04):



This endorsement of the approach to designate it as a LGS is welcomed.

There is a clear possibility that this site and others currently located in the Green Belt may be released for development either by Basildon Council or on appeal in the near future. For example, a development proposal on land to the South of Wash Road and to the East of Noak Bridge (reference 23/01551/OUT) for up to 400 new dwellings is located in the Green Belt and within the NP area, yet it was resolved to be approved in January 2025 subject to signing a S106 agreement, with the officers of the LPA citing the claimed status of that site as 'Grey Belt', and a lack of a 5 year housing land supply as contributing to Very Special Circumstances existing notwithstanding significant harms identified. Furthermore the latest Housing Delivery Test results had just been published (December 2024), indicating that Basildon Borough had delivered only 35% of the necessary number of homes rather than the 95% target.

There are other cases in Basildon Borough (eg Land West of Laindon Road, Billericay) where Green Belt policy has been outweighed by housing need and other considerations in the last few months, suggesting that Green Belt policy is not necessarily sufficient protection against development where there is a poor housing land supply position.

In this context, it therefore remains critical to designate site LG-8 as a Local Green Space, because the Green Belt designation may not provide the protection alluded to in the question, given that site LG-8 forms part of a larger current planning application proposal that remains undetermined at the time of writing.

Policy NB13

I am minded to recommend the inclusion of a proportionate element into the first part of the policy. Does the Parish Council have any comments on this proposition?

Consistent with the NPPF (paragraphs 162-167), this policy is intended to apply to all development, including domestic (householder) development, and therefore it is not

considered necessary to introduce any proportionality to the policy. The bullet point list is not a list of mandatory requirements, and this becomes clear when it is read together with the preceding sentences.

The first sentence of the policy makes clear that it is the responsibility of all development proposals to mitigate the effects of climate change. That is not a controversial statement given the current Government approach to climate change and planning and building regulations requirements, and it is consistent with the Planning and Compulsory Purchase Act (PCPA) 2004 Section 19(1)(a) requirement that *“Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change”*. It does not suggest that this obligation applies only to certain types of development or uses of land, it simply refers to the development and use of land, the implication being it applies to all development and uses of land.

The second sentence in the policy simply expresses support for proposals that achieve the items in the bullet point list. It does not state that they must achieve the items listed; or that they will only be supported if they achieve all of the items in the list, so there is flexibility in the way it is drafted.

Therefore the wording of the policy is considered to fully reflect the climate change requirements in the NPPF at paragraphs 162-167 (which again do not qualify the need to mitigate climate change to only certain types of development – see para 163) and the PCPA 2004 as outline above. As a consequence it is not considered necessary to introduce a proportionality phrase to this policy.

Policy NB14

Does the policy bring any added value beyond national and local policies on Air Quality?

Yes, the policy specifically addresses locally important issues, bringing a focus upon the A127 corridor in particular, but also cross-referencing local design coding (Design Code NB.01.3) and other local guidance (see point 4 of the policy). The supporting text also provides locally relevant data for the A127.

The policy provides locally relevant clarity about the ‘Agent of Change’ principle, enshrined in paragraph 200 of the NPPF and recently re-announced by the Government as a key ‘new’ planning objective (points 1 and 2), so it is considered to add value at a local level in a way that is not captured in the now ‘out of date’ Local Plan.

The relevant saved Local Plan policies (which are identified after the NP policy text), do not specifically address air quality issues, instead covering traffic impacts or amenity impacts more generally. This means that there is a policy gap at a local level that NP policy NB14 will fill. Furthermore NPPF paragraphs 110, 198 and 199 whilst useful, are not sufficiently detailed to provide the same value as policy NB14 does, so it is respectfully suggested that this policy should be retained in the form it appears in the submission NP.

Policy NB15

This is an excellent policy which is underpinned by Design Guide. It is a very good local response to Section 12 of the NPPF. In this context I am minded to recommend the inclusion of a proportionate element into the first part of the policy. Does the Parish Council have any comments on this proposition?

The support for this policy is welcomed. This policy is intended to apply to all development, consistent with the NPPF objectives set out at paragraphs 132 and 135. In both cases the NPPF applies the principles of good design to ‘development’ rather than to ‘certain development’ or ‘applicable development’ etc so it would be inconsistent to introduce proportionality to the policy when it doesn’t occur at a national level.

The proportionality is already available through the use of the design code which provides guidance and coding to specific forms of development, or development in specific circumstances.

For example Design Code IH.01 states “*New development within the setting of listed buildings must preserve and enhance the significant of the asset.*” Code IH.02 states “*Within the Conservation Area and its setting, poor-quality and generic design proposals, which are based on ‘standard house types’ are not acceptable*”. In each case the scope of the code is explained, meaning that whilst the policy directs the applicant to consider each bullet point, the design coding makes clear whether the specific code will – or won’t – apply in each individual case.

NPPF para 132 advises that “*Neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development, both through their own plans and by engaging in the production of design policy, guidance and codes by local planning authorities and developers*” and this is key to the reasoning behind this policy and the associated design codes. Policy NB15 and the design coding seek to deliver on these national policy objectives.

Policy NB16

This is another excellent policy which is underpinned by Design Guide.

This comment is welcomed.

Policy NB17

In general terms this is a good policy. However, I am minded to recommend that the policy identifies the non-designated heritage assets (to overlap with the commentary in the supporting text). Does the Parish Council have any comments on this proposition?

If this can be done in a way that is succinct then the Parish Council has no objection to this suggestion.

The intention behind the policy was to keep the policy text brief and to direct readers to the list of 29 NDHAs at figure 39 and the Character Appraisal Appendix (iii), but if the preference is to list them in the policy then the Parish Council would not object to this.

The commentary about a review the Noak Bridge Conservation Area reads as a statement of intent rather than a land use policy. As such, I am minded to recommend that it is repositioned into the supporting text. Does the Parish Council have any comments on this proposition?

The Parish Council has no objection to this suggestion.

Policy NB18

The policy reads as a statement of fact rather than as a land use policy. As such I am minded to recommend that the policy is recast so that it becomes a land use policy. Does the Parish Council have any comments on this proposition?

The Parish Council has no objection if the intention is to retain the policy but with a more land-use planning based wording. To that end, the following wording is suggested:

“Proposals for the conversion of rural buildings should demonstrate how they have had regard to be informed by the Noak Bridge Design Code as set out in Design Code HO.09.”

Policy NB19

This is a good, technical policy. I am minded to recommend that it is recast so that it sets out requirements for development proposals rather than offering support to such proposals. This acknowledges that development proposals will be assessed against other relevant policies in the development plan. Does the Parish Council have any comments on this proposition?

The Parish Council does not object to this proposition in principle, provided that the intent of any re-drafted policy is not diluted from its current form, and provided that the criteria are maintained.

Policy NB21

The policy is a combination of policy and supporting text.

The final sentence advises that mitigation should take the form of provision of education facilities on a new site serving the development or the enhancement of existing facilities. Would the development of education facilities on a new site be practicable either in general, and given that the submitted Plan does not include any proposals for the allocation of land for residential development? In addition, does this sentence refer to the planned educational development as set out in paragraph 9.2.6 of the Plan?

Policy NB21 cross-references page 46 of the 10 Year Plan Meeting the Demand for Mainstream School Places in Essex 2023-2032, which identifies two pipeline school expansions programmes; one named as a new 2FE school at Dry Street, and the other as an (un-named) 1FE expansion of new primary education capacity. The policy is not however explicitly relying upon those two schemes which have been identified to meet (at the time anticipated) demand.

Since then the acute shortfall in housing delivery in Basildon has become apparent, leading to many speculative residential applications including some in or adjacent to the NP area, the pupil numbers associated with which will not have been accounted for in the 10 Year Plan.

Therefore it is apparent that the last sentence of the policy is all the more important given that the Primary School is at full capacity, if unsustainable school travel patterns are to be avoided. Pupils arising from new (un-planned) developments in or near the NP area will have to travel further distances to take up places in schools with capacity, unless the developments provide land or contributions (or both depending upon the scale of development) towards education capacity provision to directly mitigate the impact of this un-planned development.

The retention of the last sentence of the policy will leave developers clear as to the need to make provision for education capacity (where spaces are not available) in order to make their development acceptable, and so the preference of the Parish Council is that this sentence be retained.

Policy NB22

This is a statement of intent rather than land use policy. Please can the Parish Council advise about its thinking on this matter.

If the form of policy wording is of concern due to it appearing as a statement of intent, it could be re-organised to achieve a similar outcome in a land-use planning format, thus:

"All major residential developments should mitigate their effect on health care services. ~~be informed by d~~Developers should liaise discussions with the health authority, GP practice(s) and the local planning authority to ensure that the impact of the development on existing health care services and facilities serving the NDP are mitigated."

Policy NB23

This is a good policy which acknowledges that the use and/or viability of community facilities may change in Plan period.

This comment is welcomed.

Policy NB24

I am minded to recommend that the policy is recast so that it sets out requirements for development proposals rather than offering support to such proposals. This acknowledges that development proposals will be assessed against other relevant policies in the development plan. Does the Parish Council have any comments on this proposition?

This suggestion could be acceptable depending upon the wording, but the Parish Council would want to see reference to the list of funding priorities retained within the policy wording.

Policy NB25

I am minded to recommend that a proportionate element is included in the opening element of the policy. Does the Parish Council have any comments on this proposition?

This proposition is considered acceptable provided that the intent of the policy is not diluted. For example, it is acknowledged that the requirements in policy NB25 may not apply to householder developments or minor non-residential proposals and therefore these could be excluded from the policy requirements.

Paragraph 118 of the NPPF provides a suitable form of words which could be introduced at the start of Policy NB25 to address this issue, so it would read: “*All ~~new~~ developments that will generate significant amounts of movement will be required to.....*” etc.

Policy NB26

Is the second sentence of the second part of the policy necessary given the contents of the first part?

The second sentence of the second part of the policy was introduced as a response to issues raised by the local community to deal with an issue of concern to them – too much on-street parking on roads not designed for that purpose.

The first part of the policy cross-refers to the design coding. Reference to design code MS.07 reveals that it addresses on-street parking in a slightly different way to the approach in policy NB26 by stating that “*On-street parking should not dominate the street scene. It should be broken up with vegetation which should be place so as not to adversely affect visibility.*”

As can be seen, the coding is more concerned with the design aspects of parking, and not the safety and functional / operational aspects of on-street parking so the two paragraphs in policy NB26 perform different roles. As a result the second sentence of the second paragraph of the policy is considered to be necessary given the wording of the design coding.

Community Aspirations

The Plan includes a good range of community aspirations, and which are properly set out in a separate section of the Plan

This comment is welcomed.

Delivery, Review and Monitoring

This is a helpful section. The approach taken is best practice.

This comment is welcomed.

Representations

Does the Parish Council wish to respond to any of the representations received on the Plan?

I would find it helpful if the Parish Council responded to the comments from:

- Woolsington One Limited

Xxx

Xxx

xxx

- Essex Police Designing Out Crime Officer

Xxx

Xxx

xxx

- Bloor Homes

Xxxx

Xxx

Xxx

xxxx

Protocol for responses

I would be grateful for responses to the various questions by 15 August 2025. Please let me know if this timetable may be challenging to achieve. It reflects the factual basis of the questions raised.

If certain responses are available before others, I am happy to receive the information on a piecemeal basis. Irrespective of how the information is assembled, please can all responses be sent to me by Basildon Council and make direct reference to the policy/issue concerned.

Andrew Ashcroft

Independent Examiner

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16 July 2025