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# **Report on Egerton Neighbourhood Plan 2021-2040**

**An Examination undertaken for Ashford Borough Council with the support of Egerton Parish Council on the April 2021 Submission version of the Plan.**

Independent Examiner: Derek Stebbing BA (Hons) DipEP MRTPI

Date of Report: 15 November 2021

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## **Main Findings** - Executive Summary

From my examination of the Egerton Neighbourhood Plan (the Plan) and its supporting documentation including the representations made, I have concluded that subject to the modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- the Plan has been prepared and submitted for examination by a qualifying body – the Egerton Parish Council (the Parish Council);
- the Plan has been prepared for an area properly designated – the Egerton Neighbourhood Area, as identified on the map at page 7 of the Plan;
- the Plan specifies the period to which it is to take effect – from 2021 to 2040; and,
- the policies relate to the development and use of land for a designated neighbourhood plan area.

I recommend that the Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

## **1. Introduction and Background**

### *Egerton Neighbourhood Plan 2021-2040*

- 1.1 The Parish of Egerton is situated to the north-west of the Ashford urban area and covers an area of around 4.8 square miles. The main settlement of Egerton stands on a prominent Greensand ridge, from which there are long views of the Low Weald and beyond to the south-west and of the North Downs to the north-east. The smaller settlement of Egerton Forstal lies to the south-west of Egerton village, and the parish also contains a number of small hamlets. The Greensand Way, an important long-distance footpath, crosses along the northern part of the parish, and this is used by many walkers and ramblers.
- 1.2 The parish has a rich architectural heritage, with 84 Listed Buildings and structures of architectural interest. Over 50 historic farmsteads in the parish are listed in the Kent Historic Environment Record. The centre of Egerton village containing many Listed buildings was designated as a Conservation Area in 1976. In addition to the Greensand Ridge, which supports arable farming on higher ground and fruit orchards on lower, more sheltered land, the landscape of the parish contains other distinctive areas with some significant areas of woodland, including a number of

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areas of ancient woodland. There are several designated Local Wildlife Sites within the parish.

- 1.3 The parish is characterised by its network of minor roads and byways but with no major roads. This means that there is little through traffic passing through the parish, adding to the peaceful and tranquil rural nature of the area.
- 1.4 The parish has a strong sense of community, and prior to the preparation of the Plan, a Parish Design Statement had been prepared in 2005 and a Parish Plan was published in 2015. In addition to the draft policies contained in the Plan, it also includes a number of Community Aspirations some of which reflect the objectives of the Parish Plan.
- 1.5 Overall, the parish has a very rural character, supporting a largely agricultural-based economy. There has only been limited new development in recent years, with the main period of growth occurring during 1961-2011 when the population of the parish increased from 773 to 1,083. The recently adopted Ashford Local Plan 2030 contains only one site allocation (Policy reference S30) in the parish for future residential development, with an indicative capacity of 15 dwellings.

#### *The Independent Examiner*

- 1.6 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Plan by Ashford Borough Council (the Borough Council), with the agreement of the Parish Council.
- 1.7 I am a chartered town planner, with over 45 years of experience in planning. I have worked in both the public and private sectors and have experience of examining both local plans and neighbourhood plans. I have also served on a Government working group considering measures to improve the local plan system and undertaken peer reviews on behalf of the Planning Advisory Service. I therefore have the appropriate qualifications and experience to carry out this independent examination.
- 1.8 I am independent of the qualifying body and the local authority and do not have an interest in any of the land that may be affected by the Plan.

#### *The Scope of the Examination*

- 1.9 As the independent examiner, I am required to produce this report and recommend either:
  - (a) that the neighbourhood plan is submitted to a referendum without changes; or
  - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or

(c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

1.10 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:

- Whether the plan meets the Basic Conditions.
- Whether the plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
  - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
  - it sets out policies in relation to the development and use of land;
  - it specifies the period during which it has effect;
  - it does not include provisions and policies for 'excluded development'; and
  - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.
- Whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum.
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').

1.11 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

### *The Basic Conditions*

1.12 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;

- be in general conformity with the strategic policies of the development plan for the area;
- be compatible with and not breach European Union (EU) obligations (under retained EU law)<sup>1</sup>; and
- meet prescribed conditions and comply with prescribed matters.

1.13 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').<sup>2</sup>

## **2. Approach to the Examination**

### *Planning Policy Context*

- 2.1 The Development Plan for this part of Ashford Borough Council, not including documents relating to excluded minerals and waste development, is the Ashford Local Plan 2030 (ALP), which was adopted on 21 February 2019.
- 2.2 The Basic Conditions Statement (at Sections 4 and 6) provides an assessment of how each of the policies proposed in the Plan have regard to national policy (Section 4) and are in general conformity with the relevant strategic policies in the adopted Local Plan (Section 6). Having been adopted in February 2019, the Local Plan provides a relatively up-to-date strategic planning context for the Neighbourhood Plan, and this has been beneficial to the preparation of the Neighbourhood Plan and its policies. A review of the Local Plan has not yet been progressed.
- 2.3 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented. A revised NPPF was published on 20 July 2021. All references in this report are to the 2021 NPPF and its accompanying PPG.

### *Submitted Documents*

- 2.4 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:

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<sup>1</sup> The existing body of environmental regulation is retained in UK law.

<sup>2</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

- the draft Egerton Neighbourhood Plan 2021-2040 (Submission Version April 2021);
- the Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report and Determination Report (March 2021);
- the Basic Conditions Statement (undated);
- the Consultation Statement and Appendices 1-13 (undated);
- the Site Assessment Report (April 2021); and
- all the representations that have been made in accordance with the Regulation 16 consultation.<sup>3</sup>

### *Supporting Documents*

2.5 I have also considered the following supporting documents<sup>4</sup> which have informed the Plan's preparation and its policies and content:

- Egerton Parish Plan (2015)<sup>5</sup>;
- Egerton Parish Design Statement (2005)<sup>6</sup>;
- Local Green Spaces Assessment (including Revision F map) (September 2019);
- Housing Needs Survey Report (November 2018) and Summary (January 2019);
- Local Heritage Assessment and Listing (Website); and
- Views and Vistas Report (undated).

### *Preliminary Questions*

2.6 Following my appointment as the independent examiner and my initial review of the draft Plan, its supporting documents and representations made at the Regulation 16 stage, I wrote to the Borough Council and the Parish Council on 26 August 2021<sup>7</sup> seeking further clarification and information on nine matters contained in the submission Plan, as follows:

- firstly, with regard to Policy P3 (Local Green Spaces), I noted that the policy simply lists the proposed five Local Green Spaces but contains no further policy text regarding the protection of the sites and future management of development. Therefore, I invited the Parish Council to provide me with a note setting out some appropriate draft text for incorporation within the policy, which I may consider as a potential modification to the Plan. I also noted that the policy should also provide a cross-reference to the maps on Page 75 of the Plan and that maps for Sites d. (Pembles Cross) and e. (Stonebridge Green) are not included on Page 75, and I considered

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<sup>3</sup> View at: <https://www.ashford.gov.uk/planning-and-development/planning-policy/neighbourhood-plans/egerton-neighbourhood-plan/>

<sup>4</sup> Subject to footnotes 5 and 6, view at: <http://egertonnp.co.uk/>

<sup>5</sup> View at: <http://www.egerton-kent.co.uk/wp-content/uploads/2016/02/Parish-Plan.pdf>

<sup>6</sup> View at: <http://www.egerton-kent.co.uk/wp-content/uploads/2016/02/Egerton-Parish-Design-Statement.pdf>

<sup>7</sup> View at: <https://www.ashford.gov.uk/planning-and-development/planning-plans/egerton-neighbourhood-plan/>

that the site maps on pages 22 and 23 of the Local Green Spaces Assessment report should be added at Page 75. I further noted that the site map (on page 75) for the proposed Local Green Space at Site b. (Green space off Elm Close and behind Rock Hill Road) differs from that shown as Revision f to the Local Green Spaces Assessment report, and I sought confirmation which of the two maps shows the full extent of land proposed for designation as a Local Green Space.

- secondly, with regard to Policy P4 (Key Views and Vistas), I requested that the Parish Council confirm whether there is any further supporting evidence beyond the text on pages 32 and 33 (and the photographs on pages 80-82) to justify the identification of the proposed Key Views and Vistas listed in the policy.
- thirdly, with regard to Policy P5 (Non-designated Heritage Assets), I noted that Appendix 2 includes seven heritage assets that are coded "Red – No", and which from my initial assessment should not be listed within Appendix 2 (and therefore not subject to Policy P5). I requested that the Parish Council confirm whether my assessment was correct and, if so, that the seven heritage assets concerned are not being proposed as non-designated heritage assets as part of the Plan.
- fourthly, with regard to Policy P6 (Light Pollution and Dark Skies), I considered that, as drafted, some of the requirements set out with Part b) of this policy are excessively detailed (and therefore probably difficult to enforce by the Borough Council) and detract from the underlying purpose of this policy. I considered that proposals for new developments in the Plan area should, where appropriate, be required to include details of any external lighting scheme (which would include the type of detailed specification presently set out within the policy), and I invited the Parish Council to consider redrafting the policy to set out the fundamental purpose of the policy and to seek the submission of details for any proposed external lighting scheme as part of relevant planning applications for development in the Plan area.
- fifthly, with regard to Policy S1 (Community Facilities), I requested that the Borough Council and/or the Parish Council confirm that The George Public House and the Egerton Post Office and Stores are the only registered Assets of Community Value within the Plan area.
- sixthly, with regard to Policy D4 (Local Needs Affordable Housing) and paragraphs 7.26-7.29 of the supporting text, I noted that the Government had recently published details of its new 'First Homes' policy initiative. The 'First Homes' section of the PPG now requires that neighbourhood plans are expected to contain First Homes policies. However, transitional arrangements apply to draft plans already being prepared, and thus the Plan is covered by those transitional arrangements. Nevertheless, I considered that the Plan would benefit from a reference to the provision of First Homes (at a level of at least 25% of all affordable housing to be provided), possibly as an additional paragraph of text. I therefore invited both the Borough Council and the Parish Council to consider this matter, and if appropriate to provide draft text to address this point.
- seventhly, with regard to Policy D5 (Land at Orchard Nurseries, Egerton), I considered that this policy required some re-drafting, as I

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considered that it should not refer to “a *by-product of the value of the gifted site*” which would seem to relate to a future capital receipt. I therefore invited the Parish Council to consider providing re-drafted text for the policy which should not include details of any financial benefits that might arise from the development proposal. I also considered that the policy should identify the proposed vehicular access arrangements to serve the site, which was a matter also raised by Kent County Council in its representations.

- eighthly, with regard to Policy D7 (Water Supply and Drainage), I noted that this policy is entitled “Water Supply and Drainage”. However, Clause 4. of the policy (and paragraph 7.49 of the supporting text) seemed to relate to waste disposal infrastructure (as opposed to waste water drainage). I therefore requested that the Parish Council confirm that Clause 4. does relate to waste disposal, and, if so, this would fall within the category of ‘Excluded Development’ (being matters concerning Minerals and Waste) for the purposes of neighbourhood planning, and I would therefore be required to recommend the deletion of this part of the policy.
- finally, with regard to the revised NPPF published by the Government in July 2021 alongside the final version of the National Model Design Code, I requested that the Borough Council and the Qualifying Body advise me whether they consider any modifications in relation to the non-strategic matters covered by the Plan are necessary as a result of both publications and, if so, what they are.

2.7 In response to my letter of 26 August 2021, the Neighbourhood Plan Steering Group provided me with responses to the preliminary questions on 15 September 2021 and the Borough Council provided me with specific responses to the fifth, sixth and ninth questions on 16 September 2021.<sup>8</sup> I have taken full account of the additional information contained in these responses as part of my assessment of the draft Plan, alongside the documents listed at paragraphs 2.4 and 2.5 above.

2.8 I also received further correspondence via the Borough Council from a member of the public dated 9 September 2021 relating to the seventh preliminary question summarised above. I accepted that correspondence on the basis that it provided me with some additional information, but I also invited the Parish Council to make any further comments that they wished to make on that correspondence. The Neighbourhood Plan Steering Group wrote to me on 17 September 2021 with additional comments arising from that correspondence.<sup>9</sup>

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<sup>8</sup> View at: <https://www.ashford.gov.uk/planning-and-development/planning-policy/neighbourhood-plans/egerton-neighbourhood-plan/>

<sup>9</sup> View at: <https://www.ashford.gov.uk/planning-and-development/planning-policy/neighbourhood-plans/egerton-neighbourhood-plan/>

### *Site Visit*

- 2.9 I made an unaccompanied site visit to the Neighbourhood Plan Area on 18 September 2021 to familiarise myself with it and visit relevant sites and areas referenced in the Plan, evidential documents and representations.

### *Written Representations with or without Public Hearing*

- 2.10 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections and comments regarding the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum. I am satisfied that the material supplied is sufficiently comprehensive for me to be able to deal with the matters raised under the written representations procedure, and that there was not a requirement to convene a public hearing as part of this examination. In all cases, the information provided has enabled me to reach a conclusion on the matters concerned.

### *Modifications*

- 2.11 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications in full in the Appendix.

## **3. Procedural Compliance and Human Rights**

### *Qualifying Body and Neighbourhood Plan Area*

- 3.1 The Plan has been prepared and submitted for examination by the Egerton Parish Council. An application to the Borough Council for the Parish Council area to be designated a neighbourhood planning area was made on 30 March 2017 and was approved by the Borough Council on 13 July 2017, following public consultation between 24 March and 5 May 2017.
- 3.2 The designated Neighbourhood Area comprises the whole of the Parish of Egerton. The designated area is shown on the map at Appendix 1 in the Basic Conditions Statement and on the map at page 7 in the submission Plan. The Egerton Neighbourhood Plan is the only neighbourhood plan in the designated area.
- 3.3 Egerton Parish Council is the Qualifying Body for the preparation of the Plan. The preparation of the Plan has been led by a Steering Group, which was established in November 2016, initially comprising a combination of Parish Councillors and local residents.

### *Plan Period*

- 3.4 The draft Plan specifies (on the front cover) the period to which it is to take effect, which is for the period 2021 to 2040. However, I note that the Plan (at paragraph 1.7 and at various other points) states that it covers the period 2020-2040. I am satisfied that the correct Plan period is 2021-2040, as this was the basis upon which the Plan was published for statutory consultation under Regulation 16<sup>10</sup> and accordingly the date at paragraph 1.7 and elsewhere in the Plan should be amended to read 2021-2040. This is addressed by my recommended modification **PM18** which sets out amendments that are necessary to the Plan. The Plan period encompasses the remaining part of the plan period for the adopted ALP (up to 2030), with provision for review every 5 years to ensure that the strategic policies of the Development Plan may be taken into account when they are updated. I make a further recommendation in regard to the Plan's review in **PM12** (see paragraph 4.51 below) specific to housing need.

### *Neighbourhood Plan Preparation and Consultation*

- 3.5 The Consultation Statement and its Appendices sets out a comprehensive record of the Plan's preparation and its associated engagement and consultation activity during 2017-2021. The decision to undertake the preparation of the Neighbourhood Plan was taken in late-2016, following an exploratory public meeting held in October 2016. Following the designation of the Neighbourhood Area in July 2017, a series of three workshops were held in September 2017, seeking residents' views on the future development of the parish. Further community engagement continued during late 2017 and 2018 with a number of workshops and information events, such as the Parish Assembly. During this period, a Call for Sites was launched in May 2018 resulting in ten sites being put forward by landowners in the parish. The Site Assessment report (at Section 4) describes this in greater detail.
- 3.6 A Housing Needs Survey was undertaken between October 2018 and January 2019 by Action with Communities in Rural Kent (ACRK), with a survey form distributed to every household in the parish. This resulted in a 40% responses rate.
- 3.7 At the Parish Assembly held in March 2019, there was general support for the Vision and Key Objectives of the emerging Plan. This was followed later in 2019 by two workshops, the first of which considered the initial drafts of the Plan's policies and the supporting studies that had been completed. A full draft of the emerging Plan was presented at the second workshop, together with further supporting material such as the Green Space Assessment. The comments and feedback from residents attending

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<sup>10</sup> View at <https://www.ashford.gov.uk/news/latest-news/consultation-opens-on-egerton-neighbourhood-plan/>

these workshops are recorded in Appendices to the Consultation Statement.

- 3.8 Work then commenced on the preparation of the Regulation 14 draft Plan which was published for public consultation for six months between late-April and September 2020. The length of this consultation period was due to the prevailing coronavirus situation and the inability to hold public events, such as meetings, exhibitions and workshops during that period. However, the consultation was accompanied by extensive local publicity across the parish using social media, posters, public notices, the Neighbourhood Plan website and by placing copies of the draft Plan at prominent public locations. A total of 40 statutory and non-statutory consultees were contacted separately, including the Borough Council, utility companies and adjoining Parish Councils.
- 3.9 The Consultation Statement, and particularly Appendices 9-11, sets out a full record of the responses received to the Regulation 14 consultation and the subsequent actions that were taken to amend or modify the draft Plan following those responses.
- 3.10 The Parish Council duly resolved on 2 March 2021 to submit the Plan to the Borough Council for examination under Regulation 15, and the Plan was formally submitted in April 2021. Regulation 16 consultation was then held for a period of six weeks from 25 June to 6 August 2021. I have taken account of the 105 responses then received, which include signatories to a petition regarding Policy D4 in the Plan, as well as the published Consultation Statement. I am satisfied that a transparent, fair and inclusive consultation process has been followed for the Plan, that has had regard to advice in the PPG on plan preparation and is procedurally compliant in accordance with the legal requirements. I have also received a commentary on the above-mentioned petition that was published by the Neighbourhood Plan Steering Group in August 2021, but I have only considered that commentary on the basis that it sought to provide further information, and it has not affected my full consideration of the points that were raised by the petitioners.<sup>11</sup>

#### *Development and Use of Land*

- 3.11 Subject to the modification I recommend to Policy D5 (**PM14**), the draft Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

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<sup>11</sup> View at: <https://www.ashford.gov.uk/planning-and-development/planning-policy/neighbourhood-plans/egerton-neighbourhood-plan/>

### *Excluded Development*

3.12 From my review of the documents before me, the draft Plan does not include policies or proposals that relate to any of the categories of excluded development.<sup>12</sup>

### *Human Rights*

3.13 Neither the Borough Council nor any other party has raised any issues concerning a breach of, or incompatibility with Convention rights (within the meaning of the Human Rights Act 1998). From my assessment of the Plan, its accompanying supporting documents and the consultation responses made to the Plan at the Regulations 14 and 16 stages, I am satisfied that the Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998. I consider that none of the objectives and policies in the Plan will have a negative impact on groups with protected characteristics. Many will have a positive impact.

## **4. Compliance with the Basic Conditions**

### *EU Obligations*

- 4.1 The Borough Council first issued a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Report in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 ('the SEA Regulations') in September 2020, and this was subsequently updated in March 2021. This Screening Report is submitted alongside the draft Plan and concludes (at paragraph 4.8) that the policies in the draft Plan will not have significant negative effects on the environment, and therefore an SEA is not considered to be required. The Screening Report was the subject of consultation with the Environment Agency, Natural England and Historic England between 21 May and 2 July 2020 (as set out at Appendix 2 in the Screening Report). Notwithstanding the overall conclusion that an SEA is not required, I have given careful consideration to the responses from each of the statutory bodies, including a further response from Natural England dated 11 January 2021 (see also below).
- 4.2 I have considered the SEA methodology set out in the Screening Report (at Section 4) and process by which the Plan was duly screened to determine whether the Plan is likely to have significant environmental effects, bearing in mind also that the policies in the adopted ALP, were subject to sustainability appraisal at the relevant stages, most recently in 2016/17. Overall, I am satisfied that a proportionate approach has been taken and that the Plan was screened to take full account of any potential

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<sup>12</sup> The meaning of 'excluded development' is set out in s.61K of the 1990 Act.  
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effects upon interests of environmental, landscape, historic and heritage importance.

- 4.3 The Plan was also screened by the Borough Council in order to establish whether the Plan required HRA under the Habitats Regulations. There are six sites of European importance within 20 kilometres of the Plan area boundary, comprising the North Downs Woodlands, the Wye & Crundale Downs and the Queendown Warren Special Areas of Conservation (SACs); The Swale Special Protection Area (SPA); and the Dungeness, Romney Marsh and Rye Bay and The Swale Ramsar sites. The HRA Screening Assessment, which is also contained within the Screening Report, concluded (at paragraphs 5.9 and 5.10) that the draft Plan does not include any proposals that would be likely to adversely affect the integrity of the European sites or in combination with other projects and plans and that a full HRA Appropriate Assessment of the Plan is not required. I have noted that Natural England's further response, dated 11 January 2021, has not raised any concerns regarding the necessity for an HRA, which reflects an updated position from that set out in a previous response dated 15 July 2020.
- 4.4 Therefore, I consider that on the basis of the information provided and my independent consideration of the SEA/HRA Screening Report and the Plan itself, I am satisfied that the Plan is compatible with EU obligations under retained EU law.
- 4.5 The Plan at paragraph 1.9 refers to the SEA/HRA Screening Report dated September 2020. This paragraph should be updated to now refer to the March 2021 report prepared by the Borough Council and to reflect the conclusions of that report, and this is a further matter addressed by recommended modification **PM18**.

#### *Main Assessment*

- 4.6 The NPPF states (at paragraph 29) that "*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, by influencing local planning decisions as part of the statutory development plan*" and also that "*Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies*". The NPPF (at paragraph 11) also sets out the presumption in favour of sustainable development. It goes on to state (at paragraph 13) that neighbourhood plans should support the delivery of strategic policies contained in local plans; and should shape and direct development that is outside of these strategic policies.
- 4.7 Having considered above whether the Plan complies with various legal and procedural requirements, it is now necessary to deal with the question of whether it complies with the remaining Basic Conditions (see paragraph 1.12 of this report), particularly the regard it pays to national policy and

guidance, the contribution it makes to sustainable development and whether it is in general conformity with strategic development plan policies.

- 4.8 I test the Plan against the Basic Conditions by considering specific issues of compliance of the Plan's 17 policies, which address the following themes: Protecting and Conserving Egerton's Original Character and Environment; Ensuring a Sustainable Future for Egerton; and, Development to Meet Current and Future Need. As part of that assessment, I consider whether the policies in the Plan are sufficiently clear and unambiguous, having regard to advice in the PPG. A policy 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.<sup>13</sup> I recommend some modifications as a result.

### *Overview*

- 4.9 The Plan is addressing a period up to 2040 and seeks to provide a clear planning framework to guide residents, businesses, the Borough Council and developers as to how the community wish to shape the development and growth of the parish during that period. Sections 5-7 of the Plan contain specific policies in respect of each of the themes listed above.
- 4.10 Section 1 of the Plan provides an introduction to the Plan following the designation of the parish as a Neighbourhood Area in July 2017 and includes a map of the designated area (on page 7). It provides a brief synopsis of the Neighbourhood Plan process, and the key issues facing Egerton Parish. It states that the Plan provides an opportunity to protect the individual character and environment of Egerton, ensure a sustainable future for the village, improve the health and wellbeing of all residents, facilitate the development of housing to meet the needs of local people and contribute to the local architectural character.
- 4.11 Section 2 provides a brief description of how the Plan has been prepared since 2017. It notes that, following extensive consultation during the course of the Plan's preparation, it has been the majority view from the many consultation responses that has prevailed in the final submission Plan which is the subject of this examination.
- 4.12 Section 3 is entitled 'Egerton Now' and provides a description of the key landscape characteristics, the settlement pattern, economic activities and community facilities within the parish.
- 4.13 The parish covers an area of about 1,130 hectares, of which less than 3% is developed with buildings and roads. The population of the parish was 1,075 persons in 2013, with the largest concentrations of people living in the main settlements of Egerton village and Egerton Forstal, as well as in

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<sup>13</sup> PPG Reference ID: 41-041-20140306.

the smaller hamlets of Mundy Bois, Newland Green, Pemples Cross and Stonebridge Green. A characteristic of the parish is that it does not contain any major roads but instead is crossed by many minor roads and byways. There are around 40 Public Rights of Way within the parish, the most important of which is the Greensand Way, and this makes it an attractive area for walkers and ramblers. All businesses within the parish are small and locally-based and increasingly residents are choosing to work from home. The principal community facilities are located in Egerton village, notably the Millennium Hall (completed in 1999) which provides a focus for many community events. There is a Primary School within Egerton, but children attending secondary school travel by bus or car to Ashford, Lenham and Tenterden. A Pre-School is presently based at the Millennium Hall. There are 84 Listed Buildings and structures of architectural interest in the parish, and the centre of Egerton village is a designated Conservation Area containing 23 Listed Buildings.

- 4.14 Section 4 sets out the Vision and Key Objectives for the Plan. The Vision for the future of Egerton combines the need to protect and conserve the quality of community life and the parish environment as identified by its residents; to ensure that there is a sustainable future for the people who live and work in the parish including access to housing, infrastructure, business and leisure/community facilities; and, to develop housing and supporting infrastructure that is sensitive to the distinctive character of the parish and meets the needs of local people.
- 4.15 The Plan contains four Key Objectives, as follows:
- to protect the local environment;
  - to maximise the opportunities of the Public Rights of Way network and the Rights of Way Improvement Plan (RoWIP) for health and wellbeing, tourism and local sustainable transport;
  - to ensure a sustainable social and economic future for all residents; and
  - to develop appropriate housing to meet local needs.
- 4.16 The Basic Conditions Statement (at Sections 4 and 7) describes how the Plan, and its objectives and policies, has regard to national policies contained in the NPPF and contributes to the achievement of sustainable development. Section 6 sets out how the Plan, its Vision and its policies, contributes to the achievement of sustainable development. Sections 5 and 7 set out how each of the Plan's 17 policies are in general conformity with the strategic policies in the adopted ALP 2030.
- 4.17 I consider that overall, subject to the detailed modifications I recommend to specific policies below, that individually and collectively the Plan's policies will contribute to the achievement of sustainable patterns of development. There are also a number of detailed matters which require amendment to ensure that the policies have the necessary regard to national policy and are in general conformity with the strategic policies of



the Borough Council. Accordingly, I recommend modifications in this report in order to address these matters.

### *Specific Issues of Compliance*

4.18 I turn now to consider each of the proposed policies in the draft Plan, which are contained in Sections 5-7 of the Plan, and I take into account, where appropriate, the representations that have been made concerning the policies.

### Protecting and Conserving Egerton's Individual Character and Environment

4.19 Section 5 addresses the theme of Protecting and Conserving Egerton's Individual Character and Environment in the Plan area and contains six policies (Policies P1-P6).

4.20 Policy P1 (Distinctive Landscape Character and Biodiversity) seeks to ensure that all new development is sensitive to the individual character and richness of Egerton's landscape, preserving and enhancing specified distinctive features and biodiversity.

4.21 In my assessment, the policy reflects a key objective of the Plan to protect the local environment, which is well described in paragraphs 5.1-5.10. However, as drafted, I consider that the policy is not entirely consistent with current national policy and advice in that Clause 3. of the policy states that development proposals should offer a net biodiversity gain. Whilst the Environment Act has recently received royal assent (10 November 2021), the mechanisms which may be employed to achieve the legislative aims (for example off site provision of gains, the purchase of 'credits' and the application of the 'biodiversity metric') are yet to be refined'.<sup>14</sup> Accordingly, I consider that this clause does require amendment to ensure that it is consistent with national policy and advice. Furthermore, I note that Clause 5. of the policy relates to the provision of sustainable drainage systems but is not referenced in the supporting justification to the policy. I consider that this drainage requirement should be more appropriately placed within Policy D7 (Water Supply and Drainage). Additionally, I note that previous advice from the Borough Council to include a map within the Plan showing the location of the distinctive character areas and sunken lanes referenced in clauses 1 and 2 of the policy has not been taken forward. I consider that such a map is necessary for users of the Plan to be able to interpret whether the requirements of this policy affect prospective development proposals. Therefore, I recommend modification **PM1** to encompass the necessary revisions to this policy and the inclusion of a suitable map in the Plan.

4.22 Policy P2 (Trees, Hedges and Woodland) seeks to ensure that ancient woodland, individually important trees and hedgerows in the Plan area are protected. The policy also requires that new developments should include

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<sup>14</sup> View progress at: [Environment Bill - Parliamentary Bills - UK Parliament](#)  
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tree and/or hedge planting with native species and should seek to enhance the biodiversity of development sites. I am satisfied that the policy is appropriately drafted and fully reflects the justification set out in paragraphs 5.11-5.20. A minor correction is needed to Clause 1. of the policy for accuracy, and this is addressed by recommended modification **PM2**.

4.23 Policy P3 (Local Green Spaces) seeks to designate five areas of green space in the parish as Local Green Spaces. The proposed designation of the Local Green Spaces is supported by a Local Green Spaces Assessment report (September 2019), prepared by the South Downs National Park Specialist Advisory Service. This report sets out the policy and guidance relevant to the designation of Local Green Spaces and evaluates a total of 24 potential sites against these. The report assesses the sites against the NPPF criteria (contained in NPPF paragraph 102) which states that the Local Green Space designation should only be used where the green space is:

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

The sites were also assessed in the context of two further criteria:

- public access – this criterion was added to assist in identifying where public access is necessary in order to fulfil the criterion for recreational value.<sup>15</sup>
- layers of designation – PPG notes that, where there are already protective designations on a site, consideration is given to the additional benefit Local Green Space designation would offer.<sup>16</sup>

4.24 The five proposed Local Green Spaces set out the policy comprise three sites (The Glebe, Green space off Elm Road and Lower Recreation Ground) which were evaluated in the report as meeting the above criteria in full, and two additional sites (Pembles Cross and Stonebridge Green) which were proposed following public consultation, and particularly in recognition of their historic and amenity value. Maps of three of the sites are shown as part of Map 4 on page 75 of the Plan, but maps for the sites at Pembles Cross and Stonebridge Green are presently omitted. I visited each of the proposed sites during the course of my site visit.

4.25 The proposed Local Green Space described as The Glebe, The Street is a small area of land within the centre of Egerton village. It is owned and managed by the Parish Council. In my assessment, it is a very attractive area of green space which provides an important area for informal

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<sup>15</sup> Note: public access is not always a prerequisite. See PPG Reference ID: 37-017-20140306.

<sup>16</sup> PPG Reference ID: 37-011-20140306.

recreation and contributes significantly to the setting of the village as a whole. I observed that it is clearly well used and maintained, and that it provides a focal point for the community. I consider that its designation as a Local Green Space is fully justified, and it is important that it be protected for the Plan period and for future generations in Egerton

- 4.26 The proposed Local Green Space described as the green space off Elm Close and behind Rock Hill Road, but also known as the Upper Recreation Ground, is a relatively large site and is the main recreation ground for the village. It contains a number of elements (cricket pitch, football pitch, skate park and children's play facilities) but also occupies an elevated area of ground with panoramic views over the Low Weald. It is well located for residents being adjacent to The Millennium Hall. I observed that it is well used for both formal and informal recreation and that it clearly constitutes an important recreational asset for the community. I consider that its designation as a Local Green Space is fully justified.
- 4.27 The proposed Local Green Space described as the Lower Recreation Ground Site, Rock Hill Road directly adjoins the above-mentioned site, but occupies lower ground to its south-west. The site is located further from the centre of the village but nevertheless is well used for informal recreation purposes. The site is managed for both informal recreation and grazing and contains areas of recent tree planting. In my assessment, it is an important area for informal recreation and I consider that its designation as a Local Green Space is fully justified, in view of that importance.
- 4.28 The proposed Local Green Space at Pemples Cross, which is a hamlet in the west of the parish, is a small area of land at the junction of three roads. Its principal feature is a large Ash tree which occupies a significant part of the site. There is also a small stream crossing the site. The site contains an oak bench and it is clearly used primarily as a resting spot for walkers and cyclists within the area. It represents a focal point for those users. In that context, I consider that the site is worthy of designation as a Local Green Space and I recognise that it is regarded as a site that is demonstrably special to the local community.
- 4.29 The proposed Local Green Space at Stonebridge Green, which is a hamlet north-east of Egerton village, is a small area of land at the junction of Stonebridge Green Road and two minor roads. Its principal features are a listed K6 telephone kiosk which is maintained by the local community and a traditional cast iron signpost, and these features do give the site an important historical value. However, as presently managed, the site has limited value for recreational purposes, although I do consider that it could be an attractive focal point for local residents and for walkers and cyclists in the area. Its designation as a Local Green Space could provide the impetus to enhance the attractiveness of the site for informal recreation. I recognise that the site has particular local significance because of its historical features, and it is that factor that leads me to the conclusion that its designation as a Local Green Space is justified.

- 4.30 After my initial assessment of this policy, I raised a number of detailed points concerning the policy text and its accompanying mapping as one of the matters where I sought additional information and clarification from the Parish Council, as set out at paragraph 2.6 above. I have taken account of the Neighbourhood Plan Steering Group's response to me on those matters.
- 4.31 With regard to the policy text, and specifically in relation to managing development within a Local Green Space, this should be consistent with those for Green Belts (NPPF paragraph 103), and development should not be approved except in very special circumstances. Therefore, I recommend that the policy text be modified to reflect that requirement. It is my conclusion that, having regard to NPPF paragraphs 101-102 and the guidance in the PPG, the five sites identified within the policy should be designated as Local Green Spaces and that the policy (as proposed to be modified) meets the Basic Conditions. I further recommend that the necessary revisions to the mapping of the Local Green Spaces, as set out in the Steering Group's response dated 15 September 2021, be made. Modification **PM3** addresses the necessary amendments to the policy and to Map 4 to give effect to my recommendations.
- 4.32 Policy P4 (Key Views and Vistas) seeks to protect, and, where possible enhance, eight key views and vistas from viewpoints within the Plan area. These views and vistas are described at paragraph 5.29 in the supporting justification for the policy. The policy further states that the Grade I listed parish church of St. James is a focus for many key views and that any new development should be sensitive to this landmark.
- 4.33 After my initial assessment of this policy, I requested, as part of the matters upon which I sought further information and clarification, that the Parish Council confirm whether there is any further supporting evidence for the policy beyond that which is set out at pages 32 and 33 in the Plan and the photographs on pages 80-82 to justify the identification of the key views and vistas listed in the policy. In their response to me, the Neighbourhood Plan Steering Group stated that an assessment had been undertaken on the basis of advice provided by Historic England. In total, an assessment had been made of 23 potential key views within the Plan area and only those views which were of topographical significance, of green and/or architectural significance and of unique/focal significance were taken forward for identification in the policy. The Steering Group provided me with a copy of the assessment outcomes as part of their response.
- 4.34 I am satisfied that a robust assessment has been undertaken of the key views and vistas identified in this policy, in the context of advice provided by Historic England. I recommend two minor amendments to the text of the policy to provide improved clarity for users of the Plan, and these are addressed by recommended modification **PM4**.
- 4.35 Policy P5 (Local Non-designated Heritage Assets) states that new

development in accordance with the Plan should preserve or enhance the local non-designated heritage assets of historic or social significance to the community. The proposed non-designated heritage assets to be subject to this policy are listed at Appendix 2 to the Plan.

- 4.36 I noted that, as part of my initial assessment of the Plan, that Appendix 2 includes seven assets that do not meet the criteria contained in the advice from Historic England. Accordingly, I raised this point as one of the matters upon which I sought further clarification from the Parish Council in my letter of 26 August 2021. The Neighbourhood Plan Steering Group has confirmed that those seven assets are not being proposed as non-designated heritage assets. I therefore recommend modification **PM5** to amend the content of Appendix 2 accordingly. I also consider that the title of the policy and its text should be amended, in view of the fact that it also refers to Listed Buildings and Scheduled Monuments, and these matters are also addressed by modification **PM5**. Accordingly, the listed sites (as proposed to be modified) at Appendix 2 are confirmed as non-designated heritage assets.
- 4.37 Policy P6 (Light Pollution and Dark Skies) sets out measures which are intended to protect, as far as possible, Egerton's current dark skies from further light pollution. As part of my initial assessment of the Plan, I considered that the measures and requirements set out within this policy are excessively detailed, and therefore probably difficult to enforce by the Borough Council. I also considered that they serve to detract from the underlying purpose of the policy. I therefore invited the Parish Council, as one of the matters that I raised in my letter of 26 August 2021 to consider redrafting the policy to set out the fundamental purpose of the policy and to seek the submission of details for any proposed external lighting scheme as part of relevant planning applications for development in the Plan area. In response to that invitation, the Neighbourhood Plan Steering Group has proposed redrafted text for this policy which I have carefully considered. Overall, I consider that the proposed replacement text does represent an improvement upon that contained in the submission Plan, but that it should be further amended in order to ensure its clarity for users of the Plan. I therefore recommend modification **PM6** to replace the text of the policy with revised text.
- 4.38 With recommended modifications PM1-PM6, I consider that the draft Plan's section on Protecting and Conserving Egerton's Individual Character and Environment and its accompanying policies (P1-P6) is in general conformity with the strategic policies of the ALP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

### Ensuring a Sustainable Future for Egerton

- 4.39 Section 6 of the Plan addresses the theme of ensuring a sustainable future for Egerton and contains three policies (Policies S1-S3). It covers the topics of local services and businesses, education, the rural economy,

community facilities and open spaces and Public Rights of Way. The introduction to this section notes that whilst Egerton is a village of small, scattered communities in a relatively inaccessible location, village life has continued to thrive and to support a primary school and pre-school, a shop and post office, a public house and garage, alongside other local businesses.

- 4.40 Policy S1 (Community Facilities) states that proposals for new development will be supported where they comply with the relevant ALP policies to protect the local heritage environment and biodiversity, meet community needs and have no adverse impact on the Conservation Area. The four principal community facilities within the parish are listed in the policy
- 4.41 Paragraph 6.7 identifies the registered Assets of Community Value in the Plan area, and in response to one of the matters that I raised following my initial assessment of the Plan, the Neighbourhood Plan Steering Group has confirmed that the registration of the Egerton Post Office and Stores expired in early-2021. This will necessitate an amendment to that paragraph.
- 4.42 I also consider that the text of the policy should be amended in order to provide greater clarity for users of the Plan, and I therefore recommend modification **PM7** in order to address amendments to both the policy and paragraph 6.7.
- 4.43 Policy S2 (Community Open Space at Egerton Forstal) is a succinct policy which states that any new development of 5 or more new homes in or close to Egerton Forstal should make provision for new public open space to serve the locality. Whilst the purpose of the policy is to secure the provision of new public open space in Egerton Forstal, which currently has no such provision, I consider that, as drafted, the policy is potentially defective with regard to national policy guidance and will not assist to any great extent in achieving its purpose. Accordingly, I recommend revised text for this policy in recognition of the deficiency in public open space provision at Egerton Forstal, and this is addressed by modification **PM8**.
- 4.44 Policy S3 (Public Rights of Way) states that new development in the Parish shall protect and improve footpaths, byways and other Public Rights of Way, and shall either construct or provide contributions towards improvements to the network. I also consider that this policy, as drafted, is potentially defective with regard to national policy, specifically in relation to the tests for planning obligations. I therefore recommend revised text for this policy, which is addressed by modification **PM9**. Additionally, Kent County Council have advised that paragraph 6.27 contains a factual error, and a recommended correction is also addressed by modification **PM9**.
- 4.45 With recommended modifications PM7-PM9, I consider that the draft Plan's section on Ensuring a Sustainable Future for Egerton and its

accompanying policies (S1-S3) is in general conformity with the strategic policies of the ALP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

#### Development to Meet Current and Future Need

- 4.46 Section 7 of the Plan is addressing the theme of development to meet current and future need in the Plan area and contains eight policies (Policies D1-D8). The introduction to this section notes that the Plan provides an opportunity:
- to locate development in the best possible positions geographically, socially and environmentally;
  - to facilitate the development of housing that meets the needs of local people;
  - to contribute to the local architectural character, with sympathetic layout and design; and
  - to provide open green spaces and opportunities for outdoor recreation.
- 4.47 Policy D1 (Development Principles) sets out key planning and design principles which seek to ensure that all development in the Plan area is of the highest design quality and which reflects and respects the local character of Egerton. I am satisfied that the policy provides clear and succinct guidance to assist in the planning of new developments in the Plan area, subject to amendments to Clause 1. to ensure its clarity for future users of the Plan and Clauses 2. and 3. to have regard to national policy. This is addressed by modification **PM10**.
- 4.48 Policy D2 (Application of the Parish Design Statement) is a lengthy policy which seeks to ensure that all relevant development proposals incorporate the principles and guidelines of the Parish Design Statement, which was published in 2005. I consider that it is an important policy as it sets out a number of detailed design criteria, which reflect the guidelines contained in the Egerton Design Statement, and I am satisfied that such criteria are clear and appropriately justified. However, I also consider that the policy should make a reference to other relevant Policies in the Plan which will affect the formulation of proposals for new development, and this addition is addressed by recommended modification **PM11**.
- 4.49 Policy D3 (Housing Policy) sets out a series of policy statements regarding the provision of new housing in the Plan area over the Plan period. Paragraph 7.18 and Table 1 explain how Egerton's housing need for 27 new dwellings over the period 2018-2023 has been calculated, with the principal evidence comprising the Housing Needs Survey prepared in 2018 by ACRK. The site allocation (Policy S30) contained in the adopted ALP for the development of an estimated 15 dwellings at New Road, Egerton is taken into account (in Table 1) in the Plan's proposed development of 34 new homes over the first 10 years of the Plan period (2021-2030), with proposed sites at Gale Field, Egerton Forstal (Policy D4) and Orchard

Nurseries, Egerton (Policy D5) providing 11 new homes and 8 new homes respectively.

- 4.50 Paragraph 7.20 states that any additional housing requirement beyond the five year period covered by the 2018 Housing Needs Survey will be subject to future review every 5-7 years both for affordable local needs and for open market housing. It goes on to state that it is anticipated that any additional requirement for open market housing up to 2040 will be met by a combination of the conversion of redundant farm buildings to residential use, the release of eight larger homes by residents moving to older people's accommodation at the Orchard Nurseries site and by windfall development. I am satisfied that these anticipated additions to the housing stock over the period between 2031 and 2040 are all valid considerations, but account will also need to be taken of any proposals that might be included in a future review of the Ashford Local Plan covering the period beyond 2030.
- 4.51 On the basis of my own assessment of the evidence that supports the policy, I am satisfied that it sets out an appropriate and justified strategy for meeting housing need in the Plan area up to 2030. However, I consider that the policy should include a reference to the need to undertake a future review of housing need for the period beyond 2030 and up to the end of the Plan period in 2040. I also consider that some other amendments are necessary to the text of the policy, for the purpose of improving its clarity. Furthermore, paragraph 7.21 is incomplete and an amendment is therefore necessary to rectify that paragraph. These matters are all addressed by recommended modification **PM12**.
- 4.52 Policy D4 (Local Needs Affordable Housing) proposes the allocation of land at Gale Field, Crockenhill Road, Egerton Forstal for the development of 6-8 local needs affordable homes with access to the site from Crockenhill Road. An indicative layout for new homes on part of the Gale Field site is shown on page 59, but an inset map on the same page shows the full extent of Gale Field, which extends to some 2.1 hectares in size.
- 4.53 This policy has attracted a significant number of representations including a petition opposing the development proposal. In summary, the representations cite an increase in traffic, highway safety, drainage and sewerage capacity, pressure on other utilities such as water supply, the loss of wildlife habitats and a lack of local amenities as the principal reasons for opposing the proposal.
- 4.54 The land was put forward by its owners as a result of the Parish Council's call for sites in 2018. At that stage, the site was offered for up to 10 affordable dwellings, with a mix of 1, 2 and 3 bedroom properties. The site (with reference ENP4) was then subject to assessment as part of the Site Assessment process, and this is fully described in the Site Assessment report (April 2021). Paragraph 9.1 of that report states that the site should be included in the Plan *"as the only available site for local needs housing to meet NPPF guidelines, Local Plan policies for rural*



*exception sites and the requirements for local needs, affordable, rentable housing identified in the Egerton Housing Needs Survey (2018)".*

- 4.55 I have given very careful consideration to this policy and its supporting evidence, the Site Assessment process and its conclusions and to the representations that have been made concerning the policy. I have also taken particular note of the point raised by the Borough Council on whether the proposal represents a 'site allocation policy' or whether it is being proposed as an 'exception to policy' (i.e. a rural exceptions housing site in the context of national policy advice). Although the policy (within Clause 1.) refers to the site as having been identified as a rural exception site, I consider that the inclusion of the plans on page 59, and particularly the inset map showing and defining the entire Gale Field site, means that the policy can be interpreted as a formal site allocation policy with potential for a larger residential development than that envisaged.
- 4.56 I am also concerned that the Plan is inconsistent in its estimates of residential capacity at the site. Table 1 (page 55) refers to 11 dwellings, of which ten dwellings are affordable homes and one dwelling is an open-market home. Paragraph 7.27 and the policy itself refer to 6-8 dwellings, but the indicative site layout on page 59 clearly shows more than 8 dwellings. The Site Assessment report refers to 6-10 dwellings, and I note that the indicative layout shown in that report differs from that on page 59 of the Plan.
- 4.57 It is my conclusion that the policy and its supporting justification, as drafted, is flawed and should be redrafted to reflect both national policy guidance and strategic policies in the ALP regarding rural exception sites. However, I do acknowledge that the site at Gale Field does represent a realistic opportunity to secure a rural exception housing scheme to meet an identified local need, but this must be viewed in the context that other suitable sites may come forward during the Plan period. I therefore consider that new paragraph 7.29 can make appropriate reference to the Gale Field site. Recommended modification **PM13** addresses amendments to the policy and to its supporting justification. Additionally, it also addresses a matter that I raised as one of the issues identified as part of my initial assessment of the Plan concerning the Government's recently announced First Homes policy initiative.
- 4.58 Policy D5 (Land at Orchard Nurseries, Egerton) states that land at the former Orchard Nurseries site in Egerton will be developed for up to eight dwellings for older residents in the parish. Paragraph 7.30 describes the development as a rural exception site, but I am satisfied that the policy text and the specific purpose of the proposal to provide new accommodation for older persons constitutes a formal housing site allocation in the Plan, notwithstanding the fact that the site is beyond the Egerton Village Confines as defined on Map 7.
- 4.59 The site is owned by the Parish Council and the principal constraint to its development concerns the necessity to secure suitable access to the site.

Initially, the Parish Council's preferred option was to secure access via the adjacent development of land at New Road, Egerton which is a site allocation (Policy S30) within the adopted ALP. Policy S30 makes no provision for such access, and a resolution to grant full planning permission (ref. 20/01600/AS) was made by the Borough Council on 13 October 2021 for the development of 15 dwellings on that site, without including potential access to the land covered by Policy D5.

- 4.60 As noted at paragraph 2.6, I raised the issue of access to the land at the former Orchard Nurseries as one of the matters where I sought further information and clarification from the Parish Council. I have given careful consideration to the response from the Neighbourhood Plan Steering Group and to the subsequent correspondence that I also received on this specific issue (see paragraph 2.8).
- 4.61 From everything that I have read, and from my own observations during the site visit, I am satisfied that suitable access to the site for vehicles and pedestrians can be achieved. I am also satisfied that the Parish Council is actively pursuing negotiations with relevant landowners to secure such access, and that there is every prospect that this will be achieved.
- 4.62 However, the policy requires amendment to state that the development of the site can only proceed subject to the provision of suitable access, and the policy should also not include any reference to the financial benefits to the Parish Council that might arise from the development of the site. This is not a land use planning consideration and has not had any relevance to my examination of the Plan. Accordingly, I recommend modification **PM14** to address the necessary amendments to the policy and to paragraph 7.30 of the supporting justification.
- 4.63 Policy D6 (Re-use of Redundant Farm Buildings) supports the redevelopment of redundant farm buildings for local business use as well as for residential development where that might be appropriate. I am satisfied that the policy is consistent with national policy advice and the strategic policies of the ALP. However, I consider that Clause 1. of the text of the policy should be amended to provide greater clarity for users of the Plan, and I recommend modification **PM15** to address that matter.
- 4.64 Policy D7 (Water Supply and Drainage) seeks to address current difficulties in the Plan area in relation to water supply and drainage. I have given careful consideration to the representations made by the Borough Council, Kent County Council (as Lead Local Flood Authority), the Environment Agency, South East Water and Southern Water as part of my assessment of this policy. I consider that the policy requires a series of amendments in light of those representations, and these are addressed by modification **PM16**. Additionally, I take account of my assessment set out at paragraph 4.21 and related modification **PM1** concerning the addition of Clause 5. from Policy P1 within this policy. I also take account of the response from the Neighbourhood Plan Steering Group to the matter that I raised regarding this policy following my initial assessment of the Plan.

- 4.65 Policy D8 (Renewable Energy and Climate Change Mitigation) sets out a series of seven measures to promote the development of energy efficient buildings, encourage the use of renewable energy systems, promote water efficiency and encourage the provision of charging points for electric vehicles. These measures seek to ensure long-term sustainability and effective climate mitigation for the Parish. They are consistent with Government policy and conform with the relevant strategic policies in the ALP. I consider that a number of amendments are necessary to reflect representations that were made and for accuracy. These are addressed by modification **PM17**.
- 4.66 With recommended modifications PM10-PM17, I consider that the draft Plan's section on Development to Meet Current and Future Need and its accompanying policies (Policies D1-D8) is in general conformity with the strategic policies of the ALP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

#### *Other Matters*

- 4.67 There is the likelihood that there will be a need to formally review the Plan during the Plan period, particularly following the first review of the adopted ALP. Paragraph 1.7 of the Plan states that it is intended that the Plan will be subject to review at five yearly intervals to ensure that its policies are still compliant with national and local policy, are responsive to climate and other environmental changes and are meeting the overall strategic vision for the future of Egerton. I am satisfied that this adequately addresses the matter of future reviews of the Plan.
- 4.68 The Plan presently contains a number of minor inaccuracies with regard to cross-references to other parts of the Plan. Two examples are that paragraph 3.5 contains a reference to Map 3 on page 73, which should correctly be to page 74, whilst paragraph 7.25 contains a reference to Map 2 on page 72, which should correctly be to page 73. In addition, the Plan contains a number of references to the NPPF (2019), some of which are identified in **PM18**. Further revised references to the NPPF (2021) should be made where appropriate and these could be undertaken as minor, non-material changes.<sup>17</sup> As an advisory comment, when the Plan is being redrafted to take account of the recommended modifications in this report, it should be re-checked for any typographical errors and any other consequential changes, etc. such as those mentioned above.

#### *Concluding Remarks*

- 4.69 I conclude that, with the recommended modifications to the Plan as summarised above and set out in full in the accompanying Appendix, the Egerton Neighbourhood Plan 2021-2040 meets the Basic Conditions for neighbourhood plans.

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<sup>17</sup> PPG Reference ID: 41-106-20190509.

## 5. Conclusions

### *Summary*

- 5.1 The Egerton Neighbourhood Plan 2021-2040 has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard to all the responses made following consultation on the Plan, and the supporting documents submitted with the Plan together with the Parish and Borough Councils' responses to my preliminary questions.
- 5.2 I have made recommendations to modify certain policies and other matters to ensure that the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

### *The Referendum and its Area*

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. I conclude that the Egerton Neighbourhood Plan 2020-2040, as modified, has no policy or proposal which I consider to be significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond that boundary. I therefore recommend that the boundary for the purposes of any future referendum on the Plan, should be the boundary of the designated Neighbourhood Plan Area.

### *Overview*

- 5.4 It is clear that the Egerton Neighbourhood Plan is the product of much hard work undertaken since 2017 by the Parish Council, its Neighbourhood Plan Steering Group and the many individuals and stakeholders who have contributed to the preparation and development of the Plan. In my assessment, the Plan reflects the land use aspirations and objectives of the Egerton community for the future planning of their Parish up to 2040. The output is a Plan which should help guide the area's development over that period, making a positive contribution to informing decision-making on planning applications by Ashford Borough Council.

*Derek Stebbing*

Examiner

## Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Page 26	<p><u>Policy P1 – Distinctive Landscape Character and Biodiversity</u></p> <p>Clause 1. – Amend 2<sup>nd</sup> sentence of text to read:  <b>“Egerton areas of distinctive character have been identified as follows and are shown on Map 10 on page --:”</b></p> <p>Clause 2. – Amend 2<sup>nd</sup> sentence of text to read:  <b>“These have been identified as the sunken lanes listed below which are shown on Map 10 on page --:”</b></p> <p>Clause 3. – Delete existing text in full and replace with:  <b>“Development proposals should seek to include measures which will promote and enhance biodiversity, for example by safeguarding existing habitats, by including appropriate landscaping schemes and by maintaining wildlife corridors.”</b></p> <p>Clause 5. – Delete this clause, and place the text of this clause, without amendment, as new Clause 5. within Policy D7 on Page 66 (see also PM16).</p> <p>Include an additional map at an appropriate scale, to be numbered Map 10 (and to follow Maps 1-9 on pages 72-82) showing the location of the distinctive character areas and sunken lanes referenced in Clauses 1 and 2 of the policy.</p>
PM2	Page 29	<p><u>Policy P2 – Trees, Hedges and Woodland Space</u></p> <p>Clause 1. – Amend “Conservation area trees” in the 3<sup>rd</sup> sentence to read <b>“Conservation Area trees”</b>.</p>
PM3	Pages 31 and 75	<p><u>Policy P3 – Local Green Spaces</u></p>

		<p>Delete existing text in full and replace with:</p> <p><b>“The following sites are designated as Local Green Spaces as defined on the inset maps contained at Map 4 on page 75:</b></p> <ul style="list-style-type: none"> <li><b>a. The Glebe, The Street</b></li> <li><b>b. Green Space off Elm Close and behind Rock Hill Road</b></li> <li><b>c. Lower Recreation Ground, Rock Hill Road</b></li> <li><b>d. Pemples Cross</b></li> <li><b>e. Stonebridge Green</b></li> </ul> <p><b>Proposals for development at the sites identified on the inset maps at Map 4 as designated Local Green Spaces will be considered in line with national planning policy on Green Belts. Proposals which would result in the loss of all or part of any designated Local Green Space will not be supported.”</b></p> <p>Add inset maps for Sites d. (Pemples Cross) and e. (Stonebridge Green) to the suite of maps at Map 4 on Page 75 (as contained in the Neighbourhood Plan Steering Groups response dated 15 September 2021).<sup>18</sup></p> <p>Delete existing inset map for Site b. (Green space off Elm Close and behind Rock Hill Road) at Map 4 on Page 75 and replace with the map at Revision f. to the Local Green Spaces Assessment report.</p>
PM4	Page 33	<p><u>Policy P4 – Key Views and Vistas</u></p> <p>Add new sentence to Clause 1. of the text of the policy (to follow the list of views and vistas a)-h)), as follows:</p> <p><b>“These views and vistas are shown on the photographs and inset maps at Map 9 at pages 80-82.”</b></p> <p>Amend the first sentence of Clause 2. of the policy text to read:</p>

<sup>18</sup> View at <https://www.ashford.gov.uk/media/rc0lmv3j/epc-response-to-examiner-s-questions-website-version.pdf>

		<b>“The Grade I Listed Parish Church of St. James is a focus for many key views towards and within the village.”</b>
PM5	Pages 35 and 84	<p><u>Policy P5 – Local Non-designated Heritage Assets</u></p> <p>Amend the title of the policy to read <b>“Local Heritage Assets”</b>.</p> <p>Delete existing text in full and replace with:</p> <p><b>“Proposals for new development in the Plan area should preserve or enhance the existing designated heritage assets and their settings.</b></p> <p><b>Such proposals should also preserve or enhance the non-designated heritage assets which are listed at Appendix 2 at page 84 and, where appropriate, the setting of those assets.”</b></p> <p><u>Appendix 2 – Non-designated Heritage Assets</u></p> <p>Delete Assets numbered HS07, HS14-HS18 and HS23 from the listing in this Appendix, and re-number Assets HS08-HS13/HS19-22 as <b>Assets HS07-HS16</b>.</p>
PM6	Page 37	<p><u>Policy P6 – Light Pollution and Dark Skies</u></p> <p>Delete existing text in full and replace with:</p> <p><b>“1. Proposals for new development in the Plan area should be accompanied by a proposed lighting scheme which meets the requirements set out in Policy ENV4 of the adopted Ashford Local Plan and the guidance contained in the Borough Council’s ‘Dark Skies’ SPD.</b></p> <p><b>2. Development proposals in the main settlement areas of Egerton and Egerton Forstal should seek to avoid the use of external lighting unless it is required for security and health and safety reasons, in order to avoid increased light pollution and a further reduction in the dark skies in those areas. Where external lighting is necessary for the reasons stated, lamps should be of 500 lumens or less for</b></p>

		<p>domestic purposes and are installed at the lowest possible height to achieve the necessary level of lighting.</p> <p><b>3. In all other parts of the Plan area, external lighting schemes should only include lamps of 500 lumens or less for domestic purposes and only use lamps above that level where required for agricultural use or security and where they are installed in suitable fixtures which prevent the upward spillage of light. All external lighting should be installed at the lowest possible height to achieve the necessary level of light."</b></p>
PM7	Pages 39 and 43	<p><u>Policy S1 – Community Facilities</u></p> <p>Amend Clause 1. of the text of the policy to read:</p> <p><b>"Proposals for the development of new community facilities in the Plan area will be supported where they comply with the relevant policies in the adopted Ashford Local Plan for the protection of the environment, biodiversity and heritage assets and where the development is designed to meet community needs in accordance with Policy COM1 of the adopted Local Plan."</b></p> <p>Amend Clause 2. of the text of the policy to read:</p> <p><b>"The principal existing community facilities in the Plan area are:</b></p> <p><b>The Millennium Hall</b></p> <p><b>The Games Barn</b></p> <p><b>The Sports Pavilion</b></p> <p><b>The Barrow House (formerly The George Public House) – a registered Asset of Community Value"</b></p> <p>Paragraph 6.7 – delete the final sentence of this paragraph.</p>



PM8	Page 44	<p><u>Policy S2 – Community Open Space at Egerton Forstal</u></p> <p>Delete existing text in full and replace with:</p> <p><b>“Proposals for new residential development within or adjacent to the defined Village Confines of Egerton Forstal, as shown on Map 8, will be supported where such proposals include provision of suitable accessible public open space for use by the community as a whole.”</b></p>
PM9	Pages 46 and 47	<p><u>Policy S3 – Public Rights of Way</u></p> <p>Delete existing text in full and replace with:</p> <p><b>“Proposals for new development in the Plan area should seek to protect and, where appropriate, provide improvements to the network of Public Rights of Way in the Parish.</b></p> <p><b>The Parish Council will work in partnership with Kent County Council to secure improvements to the network of Public Rights of Way, through the County Council’s Rights of Way Improvement Plan. Where appropriate, contributions will be sought from new developments towards the implementation of such improvements.”</b></p> <p>Paragraph 6.27 - delete the words “have included it in their PRow Improvement Plan” in the final sentence.</p> <p>Paragraph 6.27 – amend “AW68” to read <b>“AW368”</b> in the final sentence.</p>
PM10	Page 51	<p><u>Policy D1 – Development Principles</u></p> <p>Amend Clause 1. of the policy text to read:</p> <p><b>“Proposals for new development in the Plan area should seek to achieve a high quality of design, as defined in Policy SP6 of the adopted Ashford Local Plan, and to make a positive contribution to the local character and environment of Egerton (see also Policies P4 and D2 in this Plan).</b></p>

		<p>Delete the words “innovative and” from the second sentence of Clause 2.</p> <p>Add to the end of Clause 3.:</p> <p><b>“New developments should also take account of the National Design Guide and National Model Design Code.”</b></p>
PM11	Page 52	<p><u>Policy D2 – Application of the Parish Design Statement</u></p> <p>Add new Clause 3. to the text of the policy to read as follows:</p> <p><b>“3. Development proposals should also take into account all other relevant policies in this Plan.”</b></p>
PM12	Page 57	<p><u>Policy D3 – Housing Policy</u></p> <p>Clause 3. – Delete existing text and replace with:</p> <p><b>“3. Where there is a mix of affordable and open market housing provided on a development site, the affordable housing should be appropriately integrated with open market housing in the site layout.”</b></p> <p>Clause 4. – Delete existing text in full and replace with:</p> <p><b>“4. Proposals for new residential development should take into account all other relevant policies in this Plan.”</b></p> <p>Add new Clause 5. as follows:</p> <p><b>“5. Housing need in the parish for the period 2031-2040 will be subject to future review in light of an updated Housing Needs Survey and a review of the adopted Ashford Local Plan.”</b></p> <p>Paragraph 7.21 – add the word “<b>Plan.</b>” to the end of the existing text.</p>
PM13	Pages 55, 58-60	<p><u>Policy D4 – Local Needs Affordable Housing</u></p> <p>Delete existing text in full and replace with:</p> <p><b>“1. The Parish Council will support the development of a rural exception site for</b></p>

		<p><b>local needs affordable housing in order to meet an identified need for such housing. Proposals should comply with national policy and the relevant policies of the adopted Local Plan concerning rural exception housing schemes.</b></p> <p><b>2. The Parish Council will work in partnership with landowners and affordable housing providers to identify opportunities for rural exception sites to meet the local needs identified in the Housing Needs Survey (2018) and any subsequent reviews of local housing need.”</b></p> <p>Insert new Paragraph 7.26 as follows:</p> <p><b>“7.26 The Government’s recently published guidance on First Homes recognises the need for lower cost (entry level) market housing for first time buyers, at a level of at least 25% of all affordable housing units delivered by developers through planning obligations. First Homes must be offered at a minimum of 30% discount against market value, with a maximum price after discount of £250,000. On first sale, a restriction on the title of properties sold as First Homes, will ensure that the discount is passed on to any subsequent eligible owners. In due course, a number of new homes in the Plan area may be built as First Homes, thereby contributing to the provision of affordable housing.”</b></p> <p>Re-number existing Paragraph 7.26 as <b>7.27</b>, and add the following text at the end of the first sentence:</p> <p><b>“who wish to stay in the village because of their family links and commitments, such as children attending the local school or employment in local farms and businesses.”</b></p> <p>Re-number existing paragraph 7.27 as <b>7.28</b>.</p> <p>Delete paragraphs 7.28 and 7.29 in full.</p>
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PM14	Pages 60 and 61	<p><u>Policy D5 – Land at Orchard Nurseries, Egerton</u></p> <p>Delete existing text in full and replace with:</p> <p><b>“1. Land at the former Orchard Nurseries, Egerton, as shown on the inset plan on page 61, is proposed for the development of up to eight dwellings suitable for occupation by older persons presently living in less suitable homes within the community. The development of these dwellings will be restricted to occupation by older persons.</b></p>

		<p><b>2. The development of the site will only proceed when arrangements for suitable access to the site have been secured, and which meet the requirements of Kent County Council as Highways Authority.”</b></p> <p>Paragraph 7.30 - 3<sup>rd</sup> sentence: delete all text after the word “Chairman”.</p>
PM15	Page 64	<p><u>Policy D6 – Re-use of Redundant Farm Buildings</u></p> <p>Clause 1. – delete existing text and replace with:</p> <p><b>“The conversion or redevelopment of redundant farm buildings to provide small-scale business units (up to a maximum of 10 single units or on a footprint equivalent to the floorspace of the redundant buildings) will be supported. The conversion or redevelopment of such buildings to provide residential or visitor accommodation will also be supported, where such proposals conform to all other relevant Policies in this Plan and the adopted Local Plan, and where suitable sustainable transport connections, such as for walking and cycling, can be achieved.”</b></p>
PM16	Page 66	<p><u>Policy D7 – Water Supply and Drainage</u></p> <p>Delete existing text in full and replace with:</p> <p><b>“1. All proposals for development in the Plan area must demonstrate to the satisfaction of the relevant statutory undertakers that adequate capacity is available within the sewerage, drainage and water supply network to meet the requirements of the development proposed and that the development will not lead to any increase in flood risk.</b></p> <p><b>2. In situations where it is not possible to make a connection to the sewerage network, proposals for new development should provide an on-site solution to manage drainage and sewage which does not lead to any adverse impacts upon the</b></p>

		<p><b>local community or to the natural environment.</b></p> <p><b>3. All proposals for new development within Flood Zones 2 and 3 in the Plan area must be supported by a site-specific Flood Risk Assessment*.</b></p> <p><b>4. Development proposals should retain and protect the local drainage network and adopt a sustainable drainage (SuDS) approach to protect capacity and water quality in the Plan area.”</b></p> <p>*Retain existing footnote to this policy.</p>
PM17	Page 70	<p><u>Policy D8 – Renewable Energy and Climate Change Mitigation</u></p> <p>Clause 2. – amend “Passive House” to read <b>“Passivhaus”</b> (correct spelling).</p> <p>Clause 3. – Add the following text:</p> <p><b>“Water efficiency measures should be included in all new residential developments – with a maximum usage of 110 litres per person.”</b></p> <p>Clause 4. – amend the second sentence to read:</p> <p><b>“More effective land drainage will be promoted by the Parish Council through a collaborative approach with property owners and landowners and with Kent County Council as Highways Authority and Lead Local Flood Authority, to help mitigate the effects of climate change.”</b></p>
PM18	Various	<p>The following minor amendments are necessary:</p> <p>Page 7 – paragraph 1.7 – amend “2020-2040” to read <b>“2021-2040”</b>.</p> <p>Page 8 – paragraph 1.9 –delete existing text in full, and replace with:</p> <p><b>“Ashford Borough Council undertook full assessments and presented their report (Egerton Neighbourhood Plan Environmental Assessment (SEA)</b></p>

		<p><b>Screening Report and Habitats Regulations Assessment (HRA) Screening Report) in March 2021.</b></p> <p><b>The Screening Assessment concluded that:</b></p> <ul style="list-style-type: none"> <li>• <b>The assessment finds that no significant negative effects will occur as a result of the Egerton Neighbourhood Plan. It is therefore concluded that a full SEA is not required at this time.</b></li> </ul> <p><b>The Habitats Regulation Assessment screening concluded that:</b></p> <ul style="list-style-type: none"> <li>• <b>In respect of six designated Natura 2000 sites there is unlikely to be significant environmental effects on these sites.</b></li> <li>• <b>Based on the latest communication from Natural England (January 2021) there is no longer the potential for a likely significant effect to result to the Stodmarsh Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar Site and the Stodmarsh Site of Special Scientific Interest. Consequently, a full Appropriate Assessment of the Plan is not required."</b></li> </ul> <p>Page 48 – amend "Key Aims for Development 2020-2040" title to read "<b>Key Aims for Development 2021-2040</b>"</p> <p>Paragraphs 1.4, 5.24, 6.1, 7.1 and 7.38 should all refer to "<b>the National Planning Policy Framework 2021</b>".</p>
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