

# **CRESSING NEIGHBOURHOOD PLAN 2017-2033**

## **Report to Braintree District Council of the Independent Examination**

**By Independent Examiner, Tony Burton CBE BA MPhil (Town Planning) HonFRIBA FRSA**

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# 1. Executive Summary

1. I was appointed by Braintree District Council with the support of Cressing Parish Council to carry out the independent examination of the Cressing Neighbourhood Plan.

2. I undertook the examination by reviewing the Plan documents and written representations, and by making an unaccompanied visit to the Neighbourhood Area.

3. I consider the Plan to be an adequate expression of the community's views and ambitions for Cressing. It is based on an effective programme of public consultation which has informed a Vision and 14 Objectives for the Neighbourhood Area. These are translated into planning policies dealing with issues distinct to the locality. They are supported by other aspirations which go beyond the scope of the neighbourhood plan, including an "Action Plan". The Plan is supported by a Consultation Statement, Basic Conditions Statement and a screening report for Strategic Environment Assessment and Habitats Regulations Assessment. There is supporting evidence provided on most aspects of the Plan and a Proposals Map. There is solid evidence of community support and the involvement of the local planning authority.

4. I have considered the nine representations made on the submitted Plan and addressed them in this report as appropriate.

5. Subject to the recommended modifications set out in this report I conclude that the Cressing Neighbourhood Plan meets all the necessary legal requirements, including satisfying the Basic Conditions. I make a small number of additional recommendations.

6. I recommend that the modified Plan should proceed to Referendum and that this should be held within the Neighbourhood Area.

## 2. Introduction

7. This report sets out the findings of my independent examination of the Cressing Neighbourhood Plan. The Plan was submitted to Braintree District Council by Cressing Parish Council as the Qualifying Body.

8. I was appointed as the independent examiner of the Cressing Neighbourhood Plan by Braintree District Council with the agreement of Cressing Parish Council.

9. I am independent of both Cressing Parish Council and Braintree District Council. I do not have any interest in any land that may be affected by the Plan. I possess the appropriate qualifications and experience to undertake this role.

10. My role is to examine the Neighbourhood Plan and recommend whether it should proceed to referendum. A recommendation to proceed is predicated on the Plan meeting all legal requirements as submitted or in a modified form, and on the Plan addressing the required modifications recommended in this report.

11. As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the Basic Conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State; and
- contribute to the achievement of sustainable development; and
- be in general conformity with the strategic policies of the development plan in the area; and
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations, including the Conservation of Habitats and Species Regulations 2017.

12. I am also required to make a number of other checks under paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990.

13. In undertaking this examination I have considered the following documents as the most significant in arriving at my recommendations:

- the submitted Cressing Neighbourhood Plan
- the Basic Conditions Statement
- the Consultation Statement
- the Strategic Environment Assessment and Habitats Regulations Assessment screening report
- relevant parts of the development plan for Braintree comprising Local Plan Review (2005) and the Core Strategy (2011) and the emerging Publication Draft Local Plan (2017)
- representations made on the submitted neighbourhood plan
- relevant material held on Cressing Parish Council and Braintree District Council's websites
- National Planning Policy Framework
- Planning Practice Guidance
- relevant Ministerial Statements

14. The Cressing Neighbourhood Plan was submitted in May 2019 and the National Planning Policy Framework (2018) applies for the purposes of my examination.

15. Having considered the documents provided and the representations on the submitted Plan I was satisfied that the examination could be undertaken by written representations without the need for a public hearing.

16. I carried out an unaccompanied visit to the Neighbourhood Area on a warm August day. I walked around Cressing and Tye Green and visited the proposed Open Countryside Buffer Area and the environmental and non-designated heritage assets recognised in the Plan. I noted the semi-rural character of the area and the sensitivity of this to the adjacent

urban area of Braintree. I visited the protected lanes and the two sites allocated for housing development as well as visiting other potential development sites. I found one of the housing sites had virtually completed and much of it was already occupied.

17. Throughout this report my recommended modifications are bulleted. Where modifications to policies are recommended they are highlighted in **bold** print with new wording in “speech marks”. Modifications are also recommended to some parts of the supporting text. A number of modifications are not essential for the Plan to meet the Basic Conditions and these are indicated by [square brackets].

18. Producing the Cressing Neighbourhood Plan has clearly involved significant effort over six years led by the Neighbourhood Plan Steering Group. There has been significant community involvement. There is evidence of good collaboration with Braintree District Council and this will continue to be important in ensuring delivery of the Plan. The evident commitment of all those who have worked so hard over a long period of time to prepare the Plan is to be commended and I would like to thank the officers at Braintree District Council and Cressing Parish Council who have supported this examination process.

### **3. Compliance with matters other than the Basic Conditions**

19. I am required to check compliance of the Plan with a number of matters.

#### Qualifying body

20. I am satisfied that the Plan has been prepared by a suitable Qualifying Body – Cressing Parish Council – which being a parish council is the only organisation that can prepare a neighbourhood plan for the area.

#### Neighbourhood Area

21. I am satisfied that the Plan relates to the development and use of land for a designated neighbourhood area and that this does not overlap with any other designated neighbourhood area. The Cressing Neighbourhood Area was first agreed by Braintree District Council in September 2013 and then again in September 2018. It is coincident with the parish.

22. A map of the neighbourhood area is included in both the Plan in Figure 2 and the Proposals Map. Although the parish boundary is well established these are not of sufficient quality that the location of the boundary can be determined at a scale necessary for planning purposes. An appropriately presented map is available on the neighbourhood plan website.

- [Provide a link to a higher definition map of the neighbourhood area boundary in relation to Map 2]

#### Land use issues

23. I am satisfied that the Plan's policies relate to relevant land use planning issues. It addresses a significant number of issues which do not relate directly to the development and use of land. These are readily distinguished from the Plan's policies and usually identified as being addressed through an "Action Plan". This is an appropriate response to

dealing with the range of issues raised through the preparation of the neighbourhood plan which cannot be addressed directly in planning policy.

#### Plan period

24. The period of the neighbourhood plan is stated as being from 2017 – 2033 on the cover of the Plan. This is also the length of period considered by the Plan’s Vision and its consideration of the need for new housing in section 4.5.

#### Excluded development

25. I am satisfied that the neighbourhood plan makes no provisions for excluded development (such as national infrastructure, minerals extraction or waste).



## 4. Consultation

26. I have reviewed the Statement of Community Consultation and relevant information provided on the Cressing Neighbourhood Plan website, including a significant number of appendices. This provides a clear record of the extensive consultation process undertaken in preparing the Plan since 2013.

27. The consultation process was managed by a Neighbourhood Plan Steering Group of volunteers working with Cressing Parish Council.

28. An appropriate range of “*target consultees*” was identified by the Working Group. This included different businesses and the required statutory and other consultees.

29. Public consultation on the neighbourhood plan was achieved through a range of techniques including a website, workshops, volunteer meetings, leaflets, surveys, articles in the parish magazine, exhibitions, public banners and mailings. Much of the consultation process was supported by the Rural Community Council for Essex. A survey was hand delivered to all households as part of the consultation, including a pre-paid return envelope and a raffle ticket to encourage participation. The questionnaire survey received more than 250 responses, over one third of households in the parish. The pre-submission consultation generated 50 responses. The consultation received feedback from residents, landowners, developers and statutory consultees. These represent good response rates.

30. Appendix 9 of the Statement of Community Consultation provides a summary table of the issues raised through pre-submission consultation and how these have been addressed in finalising the Plan. There is evidence of the Plan being amended in response to consultation feedback.

31. 9 representations have been made on the submitted Plan from statutory bodies, landowners, developers and other interests. These are addressed later in this report.

32. I am satisfied with the evidence of the public consultation undertaken in preparing the Plan over a long period of time. The Plan has been subject to wide public consultation at different stages in its development. The process has allowed community input to shape the Plan as it has developed and as proposals have been firmed up. The local planning authority has been engaged during the process.

## 5. General comments on the Plan's presentation

### Vision and Objectives

33. I have reviewed the Vision and the 14 Objectives which structure the 11 Policies in the Plan. The Vision takes a positive approach to development which respects the area's character and provides facilities to meet community needs. The approach is supportive of sustainable development.

34. The policies are distinguished from the rest of the Plan by the use of tinted boxes and "*Policy*" in the title. I am satisfied they are clearly differentiated from other aspects of the Plan.

### Other issues

35. The bulk of the evidence base for the Plan is provided online and it is presented together at a dedicated website. This will need to be maintained throughout the lifetime of the Plan so the evidence base and links at the time of the Plan being made are supported. Confusingly there are sections of Cressing Parish Council's main website that suggest links to the evidence base and other information that are not working and contain different information. This needs to be addressed to reduce the risk of confusion and provide a single source of information. The evidence base should contain the latest versions of relevant publications, including Sustainable Modes of Travel Strategy (ECC, January 2019).

- [Simplify links to dedicated neighbourhood plan website from Cressing Parish Council website]
- [Review and update the evidence base for the most recent versions of publications]

36. The Plan includes a number of maps and these are of varying quality. It is unclear what content is specific to the neighbourhood plan and what is derived from the Local Plan or other sources. The Proposals Map is poorly reproduced and needs to have clearer content and be linked to a higher definition version. An appropriate version is available on the neighbourhood plan website but it is differently titled as the "*Policies Map*" and located in the section of the website relating to Regulation. Both the Proposals Map and Figure 9

include a sketched impression of the future route of the A120 realignment and do not reference this clearly in the Legend. Some of the graphics are poorly reproduced (e.g. pages 14, 15 and 17). Where there are major issues of clarity this is addressed in the comments below on specific policies.

- Use high definition graphics and maps at an appropriate scale throughout the Plan
- [Provide the Proposals Map in a more appropriate and prominent location on the neighbourhood plan website]
- Provide a consistent title for the Proposals/Policies Map in the Plan and on the neighbourhood plan website
- Include a clearer indication of the preferred route of the realigned A120 in the Proposals Map and Figure 9, and include it accurately within the Legend

37. The Plan is simply structured and presented with a clear Contents and an appropriate hierarchy of headings. The Glossary largely repeats that provided by the National Planning Policy Framework. This runs the risk of future changes resulting in different definitions and it is recommended that a link to the NPPF is provided and the Glossary only includes entries not provided by the NPPF.

- [Amend the Glossary to provide a link to the NPPF and limit entries to those specific to the Plan]

38. There are a number of small errors in the body of the text including:

- [Spelling of “developments” in title of Appendix 2 in Contents and on page 105]
- [Use of “*adopted*” instead of “made” to describe when the Plan comes into force (eg. Paragraph 1.1.4)]
- [incorrect paragraph numbering at 4.5.9 and 4.5.10]
- [formatting of Table 5]
- [some headings in Glossary not in bold]

## 6. Compliance with the Basic Conditions

### National planning policy

39. The Plan is required to “*have regard*” to national planning policies and advice. This is addressed in the Basic Conditions statement. This relates the Plan to the 2012 version of the National Planning Policy Framework (NPPF) on the assumption that it was submitted on or before 24 January 2019 (page 1). The Plan was submitted in May 2019 and so has been examined in relation to the most recent version of the NPPF. I have considered whether the Basic Condition statement should be reviewed in the light of this and concluded that doing so would not serve a useful purpose. The relationship of the Plan to national planning policy is not contested on issues where there has been a significant change between the different versions of the NPPF.

40. The Basic Conditions statement assesses each of the Plan’s policies against relevant sections of the National Planning Policy Framework and Planning Practice Guidance. This concludes that all policies are “*in general conformity*” with national policy. The Basic Condition statement is confused in applying a “conformity” rather than a “have regard” test to national planning policies. My assessment, however, is that this does not make such a difference as to void the evidence presented for the purposes of meeting the Basic Conditions.

41. There are some areas where the drafting of the Plan’s policies needs to be amended in order to meet the National Planning Policy Framework’s requirement for plans to “*contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” (paragraph 16). It is also important for the Plan to address the requirement expressed in Planning Practice Guidance that “*A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been*

*prepared.*" (NPPG Paragraph: 041 Reference ID: 41-041-20140306). The Plan's policies do not always meet these requirements and a number of changes are recommended.

42. Generally, the Plan has regard to national planning policies and guidance but there are exceptions set out in my comments below. These address representations received on the Plan's regard to national planning policy and cover both conflicts with national planning policy and the need for some policies to be more clearly expressed and/or evidenced.

43. I am satisfied that the Plan meets this Basic Condition other than where identified in my detailed comments and recommendations on the Plan policies.

#### Sustainable development

44. The Plan must "*contribute to the achievement of sustainable development*". This is addressed in the Basic Conditions statement with a summary of how each policy contributes to sustainable development based on the approach set out in national planning policy. This concludes that each policy will contribute to sustainable development, often significantly.

45. Although the reviews of each policy are high level I concur with the overall conclusion of the assessments and am satisfied that the Plan meets this Basic Condition.

#### Development plan

46. The Plan must be "*in general conformity with the strategic policies of the development plan*". In response to my request Braintree District Council confirmed its view that Policies CS1 through to CS11 are strategic for the purposes of neighbourhood planning and also identified strategic policies in the Publication Draft Local Plan (2017).

47. The Basic Conditions Statement identifies the development plan policies associated with each neighbourhood plan policy and provides a simple assessment of their general conformity. This assessment concludes that every policy is in general conformity.

48. Strutt and Parker on behalf of Countryside Properties has questioned the strategic conformity with the existing development plan on the grounds that the Plan refers to

*“emerging local plan policies”*. My review concludes that the Basic Conditions statement addresses the existing development plan while making appropriate reference to emerging policies. I address other representations on the relationship with the Local Plan in my assessment of individual policies. My own assessment is that the Plan is in general conformity with the strategic policies of the development plan subject to addressing my detailed comments and recommendations on the Plan policies below.

#### Strategic Environmental Assessment

49. The Plan must be informed by a Strategic Environmental Assessment if it is likely to have significant environmental effects.

50. This requirement has been addressed as part of the Screening Report provided by Essex County Council in 2018 and updated in March 2019. This concludes that the Plan has been screened out and an SEA is not required.

51. The three statutory consultation bodies have been consulted and Historic England and Environment Agency agree with this conclusion. Natural England offers no view.

52. The Plan meets this Basic Condition.

#### Habitats Regulations Assessment

53. The Plan must be informed by a Habitats Regulations Assessment if it is likely to lead to significant negative effects on protected European sites. This requirement is addressed in the Screening Report provided by Essex County Council in 2018 and updated in March 2019. This Report also addresses the compliance of the Plan with relevant legal judgments on the application of the Habitats Regulations that have been made during its preparation.

54. The Screening Report concludes no Appropriate Assessment is required as the Plan is *“not predicted to have any Likely Significant Effect on any Habitats site”*. The updated assessment concludes that *“measures intended to avoid or reduce the harmful effects of the plan have not been relied on in order to screen out the neighbourhood plan.....and that the draft plan meets the revised Basic Condition.”*

55. The three statutory consultation bodies have been consulted and do not disagree with the conclusions.

56. The Plan meets this Basic Condition.

#### Other European obligations

57. The Plan must be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations. This is not directly addressed in the Basic Conditions Statement. I am satisfied, however, that the Plan has appropriate regard to the rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and no contrary evidence has been presented. There has been adequate opportunity for those with an interest in the Plan to make their views known and representations have been handled in an appropriate and transparent manner, with changes being made. The Plan meets this Basic Condition.



## 7. Detailed comments on the Plan policies

58. This section of the report reviews and makes recommendations on each of the Plan's policies to ensure that it meets the Basic Conditions. I provide comments on all policies in order to give clarity on whether the Plan meets the Basic Conditions. The final Policy numbering and some of the supporting text will need to be amended to take account of the recommended changes.

### Natural environment

59. **Policy 1** – This establishes the policy approach for protecting the natural environment and identifies a series of environmental features of note.

60. The Policy is supported by a map in Figure 5 which defines five important environmental features, including the three wildlife sites and two areas of common land recognised in Policy 1. Each feature is accompanied by a reference number (e.g. Bra 133) although this is not explained and not related to Figure 5 so it is not possible to relate the specific features to those identified on the map. The map is at a small scale such that the detailed boundaries cannot be determined. The evidence supporting recognition of the five environmental features is limited and there is no reference to the evidence base provided by Essex Wildlife Trust Biological Records Centre or the register of common land.

61. The Policy is unduly prescriptive in its approach to stating what development proposals "*must*" do and when development will "*only*" be permitted. National planning policy requires neighbourhood plans to be positive in approach and for planning policies to avoid being inflexible. I note Gladman's representations that Policy 1 is more restrictive than national planning policy and consider that my recommendations address this.

62. The Policy makes reference what the "*Plan*" seeks or supports whereas a neighbourhood plan policy is a means of determining planning applications and not a statement of intent.

63. Policy 1 does not meet the Basic Conditions.

- **Amend Policy 1 to**
  - Replace “*must*” with “*should*” in the first and fourth lines of 1A
  - Replace the first two lines of Policy 1B with “The following natural environment features are identified within Figure 5:”
  - Replace “*will only be permitted where*” with “*should demonstrate*” in 1B
  - Replace “*The Neighbourhood Plan supports*” with “*Development proposals which deliver*” in 1C
  - Delete “*will*” and insert “*will be supported*” after “*environment*” in 1C
  
- Include separate location maps with titles, keys and scale bars for each of the five natural environment features and the pond identified in Policy 1 in an Annex and reference this in the supporting text along with a reference to the evidence base:
  - Bra 133, Bra 123, Bra 107 – as supplied from Essex Wildlife Trust Biological Records Centre
  - Common Land near Deans Farm and at Lanham Green – as registered
  - Pond – as supplied in response to my request for further information

64. **Policy 2** – This establishes the policy approach in the two Landscape Character Areas.

65. Policy 2 is supported by evidence of the significance and location of the two landscape character areas.

66. The Policy lacks clarity in that it might be read as applying only to development proposals which straddle the boundary between the two landscape character areas. It is also unduly prescriptive in its approach to stating when development will “*only*” be permitted. As drafted the Policy relates to even the most minor development proposals and it would be unduly onerous to require these to provide the necessary evidence of impact on the Landscape Character Areas.

67. I do not share the view expressed in Gladman’s representations that Policy 2 creates a “*blanket restriction*” and I judge that the policy requirements relating to character, access and biodiversity are reasonable and consistent with national policy.

68. Policy 2 does not meet the Basic Conditions.

- **Amend Policy 2 to:**
  - **Replace “*Development proposals within the Brain River Valley and the Silver End Farmland Plateau*” with “**Development proposals likely to have a significant impact on either the Brain River Valley or the Silver End Farmland Plateau**”**
  - **Replace “*will only be permitted where it can be demonstrated*” with “**should demonstrate**”**

69. **Policy 3** – This establishes the policy approach to development outside settlement boundaries, including in an Open Countryside Buffer Area.

70. Policy 3 is supported by evidence of the pressure on the neighbourhood area as a result of its proximity to Braintree. The identification of an Open Countryside Buffer Area is supported by Braintree District Council and considered to support Publication Draft Local Plan policy LPP72 for Green Buffers. Braintree District Council has made representations that sites allocated in the draft Local Plan should not be included in the Open Countryside Buffer Area and that its boundary should be altered to reflect this.

71. I note representations from Emery Planning on behalf of the Williams Group that Policy 3 should be deleted including because it lacks justification and is a strategic issue for the Local Plan concerning the best way to accommodate Braintree’s needs which will also be impacted by improvements to the A120.

72. I am satisfied that the proposed Open Countryside Buffer Area is a proportionate response to the risk of encroachment on the land which keeps Tye Green and Cressing distinct from Braintree. It is supported by relevant evidence and this explicitly addresses the

changes to the A120. The proposed boundary is justified and aligns with existing and future features which will make it defensible. Designation of such an area is entirely appropriate to a neighbourhood plan. It will be for the Local Plan to determine the best way to accommodate Braintree's strategic needs and I agree with Braintree District Council's representations to remove areas allocated in the draft Local Plan.

73. For these reasons I do not agree with Gladman's representations that Policy 3 creates "*a lesser form of Green Belt by the back door*" and breaches the Basic Conditions, or that it is not an appropriate policy measure to be included in a neighbourhood plan. The Policy is also more permissive than Green Belt.

74. The opening sentences of Policy 3A provide a statement of purpose and intent that is more appropriate in the supporting text. It also fails to make clear that the Plan is defining the Open Countryside Buffer Area. Policy 3A seeks to apply the same policy constraints to development proposals "*adjacent to*" the proposed buffer area but provides no evidence or justification for this. The drafting of Policy 3A also limits development proposals in the buffer area to "*new strategic infrastructure*" but this is not supported by evidence or the supporting text. There is no evidence provided as to the location of "*key areas*" in Policy 3B which means the policy lacks necessary clarity.

75. Some of the wording is inflexible in stating what "*will not be supported*" and what "*will be required*" and it is not necessary to reference other Plan policies as all policies will need to be considered when determining planning applications.

76. Policy 3 does not meet the Basic Conditions.

- **Amend Policy 3A to:**
  - **replace the wording up to "*i.*" with "An Open Countryside Buffer Area is defined as identified in Figure 5. Proposals for development in the Open Countryside Buffer Area should demonstrate that they will:"**
  - **delete subsections iv. and v.**
  - **insert "and" at the end of subsection ii.**

- **Add a new section 3B “Any development in the Open Countryside Buffer Area associated with new strategic infrastructure should provide significant benefits to the wider area and seek to mitigate any detrimental impacts on the character and appearance of the Open Countryside Buffer Area.”**
  - **Re-number existing sections 3B and 3C as 3C and 3D respectively**
  - **Delete “key areas of” in renumbered section 3C**
  - **Replace “will be required to” with “should” in renumbered Section 3D**
- [Add the following to the end of paragraph 4.1.16 “To address this Policy 3 defines an Open Countryside Buffer Area to maintain the rural character and appearance of Cressing Parish and the villages of Tye Green and Cressing. The buffer provides a physical gap in development between the urban fringes of Braintree and the settlements within the Parish.”]
  - Amend the boundary of the Open Countryside Buffer Area to delete the locations identified in Braintree District Council’s representations
  - Provide a high quality, larger scale map which defines the boundary of the Open Countryside Buffer Area and reference this in the Policy

### **Historic environment**

77. **Policy 4** – This protects a wide range of heritage assets, including those included in a gazetteer of 28 non designated heritage assets and archaeological sites.

78. The Policy is supported by evidence of both designated and undesignated assets shown in Figure 6. This omits scheduled monuments which are part of the National Heritage List for England. These should either be included or their absence noted in the text. Paragraph 4.2.3 references there being three Grade I listed buildings at Cressing Temple Barns when the National Heritage List shows two.

79. Policy 4 is also supported by the *Gazetteer of Non Designated Heritage Assets in Cressing Parish*. This provides only a limited assessment of heritage significance, largely based on a photograph and the date of construction. A significant minority are identified as buildings of townscape merit in the Conservation Area. Gladman’s representations raise

similar concerns over the evidence base. The archaeological sites are supported by the Historic Environment Record. Historic England has not made representations on this aspect of the Plan. The Plan acknowledges that the heritage significance of many of the sites has not yet been fully assessed this is used as part justification for recognising them. My visit to the neighbourhood area confirmed the prima facie significance of each asset. On request I was provided with some additional evidence by Cressing Parish Council supporting the heritage value of the non-designated assets. This is helpful although the evidence supporting the non-designated assets is limited. Nevertheless, they are not explicitly referenced in Policy 4 and have prima facie value that warrants being addressed as part of any development proposals. I recommend no changes to the Policy.

80. As pointed out by Gladman, Cressing Primary School is missing from Figure 6.

81. The Protected Lanes identified in Figure 6 are supported by evidence from a report by Essex County Council's Place Services. Figure 11 of the Place Services report identifies those lanes which meet the necessary criteria. This does not exactly match the lanes identified in Figure 6 of the Plan which needs to be amended. All the Protected Lanes in the Plan need to be supported by evidence available when it was prepared. Future reviews of the Plan can address the need for additional Protected Lanes where new evidence is available.

82. Policy 4 seeks to ensure all development enhances existing heritage assets. This may not be possible in all cases and is legally required only in Conservation Areas. It includes direct reference to the "NPPF" which is not appropriate for a planning policy and by duplicating national policy it does not "serve a clear purpose" (NPPF, paragraph 16). Section D repeats parts of Section A and is unnecessary.

83. The Policy makes reference what the "Neighbourhood Plan" encourages whereas a neighbourhood plan policy is a means of determining planning applications not a statement of intent. Some of the wording is inflexible in stating what "will only be supported" and what proposals "are required to submit" and "must respect". My recommendations to

ensure appropriate flexibility address Gladman’s representations that the Policy is not consistent with national planning policy.

84. Policy 4 does not meet the Basic Conditions.

- **Amend Policy 4 to:**

- In 4A replace “*The Neighbourhood Plan will encourage the protection, and where appropriate enhancement, of*” with “**Development proposals will be supported which protect, and where appropriate enhance,**”
- In 4A delete “*only*” after “*setting will*”
- In 4Aii. add “**where possible**” after “*asset*”
- In 4C replace “*are required to*” with “**should**”
- **Delete 4D**

- Amend Figure 6 to show only those lanes which meet the criteria and threshold to qualify for protected lane status, as shown on Figure 11 of Place Services’ *Protected Lane Assessment Cressing Parish* (2017).
- Add Cressing Primary School as a non-designated heritage asset to Figure 6
- Include in the evidence base the additional information supplied for the Examination on the heritage value of the non-designated heritage assets
- [Amend paragraph 4.2.3 to reflect the National Heritage List entry for Grade I listed buildings at Cressing Temple Barns]
- [Include scheduled ancient monuments in the parish area in Figure 6 or reference that they are not included in the supporting text]

### **Infrastructure, Services and Utilities**

85. **Policy 5** – This addresses the need for development to provide for a range of community infrastructure.

86. The first part of Policy 5 is a statement of community expectations and not a planning policy. It is based on an assessment of infrastructure provision in Cressing relative

to other locations and community feedback. It comprises a set a different infrastructure requirements to be negotiated by Cressing Parish Council and to be delivered in part through developer contributions as proposed in Policy 11 and the Action Plan. Some of the issues addressed lie outside the scope of planning control. Representations from Strutt and Parker on behalf of Countryside Properties also point to Braintree District Council's Infrastructure Delivery Plan as a more appropriate way of taking these ambitions forward. The community infrastructure expectations in Policy 5 are best located in the supporting text and their delivery can partly be addressed through Policy 11.

87. The second part of Policy 5 provides an appropriate approach to ensuring adequate infrastructure capacity exists or is provided in association with development subject to drafting changes to ensure necessary clarity.

88. The last part of Policy 5 is negatively worded is identifying what is *"unlikely to be supported"*

89. Policy 5 does not meet the Basic Conditions.

- **Amend Policy 5 to:**
  - **Delete 5A and include it in the supporting text and Action Plan as appropriate**
  - **Replace the first sentence of 5B with "Development proposals should, where appropriate, demonstrate that sufficient capacity exists in local infrastructure, services and utilities to cater for the needs arising from the development or demonstrate how this capacity will be appropriately provided."**
  - **In 5C, replace "detrimental" with "positive" and delete "be unlikely to"**

### **Community Facilities and Public Open Space**

90. **Policy 6** – This identifies specific projects to be supported through developer contributions and a set of community aspirations along with specific provision for multi-use community uses and integration with green infrastructure.



91. Policy 6A is supported by an assessment of the area's community facilities and there is evidence of community support. Braintree District Council has confirmed it has *"no firm plans to produce a CIL at this time"* and so reference to CIL within the Policy is not appropriate. The potential for different ways to make developer contributions is addressed in Policy 11.

92. Policy 6B is a statement of community expectations and not a planning policy. It is based on an assessment of deficiencies and valued assets which will be negotiated by Cressing Parish Council and to be delivered in part through developer contributions as proposed in Policy 11 and the Action Plan. These expectations are best located in the supporting text and their delivery can partly be addressed through Policy 11.

93. Policy 6C is negatively worded in identifying development which will *"not be supported"*.

94. The drafting of Policy 6D can be improved to ensure it does not rule out single purpose uses where these are appropriate.

95. Policy 6 does not meet the Basic Conditions.

- **Amend Policy 6 to:**

- **Delete *"and the requirements of the CIL Regulations"* in 6A**
- **Delete 6B and include it in the supporting text and Action Plan as appropriate**
- **In 6C replace *"not be supported unless the development proposal provides"* with *"need to provide"***
- **In 6D add *"where possible"* after *"should"* and replace *"but where possible"* with *"and"***

## Housing

96. The Plan is based on an assessed need for 153 dwellings in the period 2017-2033. An evaluation of 24 different housing sites has been undertaken and subject to consultation in arriving at the two site allocations.

97. I note the representations from C Ratcliffe relating to the neighbourhood plan coming forward ahead of the Local Plan review. This is not unusual and does not affect whether the Plan meets the Basic Condition. I have also considered C Ratcliffe's representations concerning the assessment of sites other than those identified in the Plan and also Gladman's proposed site allocation. While other sites have merits I do not consider these representations raise issues that question the judgement that has brought forward CRESS 192 and CRESS 193 as site allocations.

98. **Policy 7** – This allocates two sites for housing and establishes policy criteria for other housing development within and outside settlement boundaries.

99. The two site allocations in 7A make a significant contribution to Cressing's housing needs. They have been identified through a sufficiently rigorous process and their suitability was evident from my visit to both sites. It is noted that CRESS 193 already has outline planning permission. On my visit I found CRESS 192 is at an advanced stage of development and a significant number of dwellings are occupied. It is not appropriate for an almost completed development to be included as a site allocation.

100. The Policy and the Proposals Map refer variously to the "*Town Development Boundary*", "*Village envelope*" and "*settlement boundaries*". The definitions for these are unclear and not provided in the Glossary. It is also hard to distinguish the depiction of the "*Parish Boundary*" from these in the Proposals Map or to determine the coincidence of the Braintree Town Development Boundary with the Parish Boundary.

101. The village envelope around Tye Green does not align with that in the Local Plan. Braintree District Council does not consider this to be a strategic issue. The Tye Green

village envelope also leaves the Plan's two site allocations outside the village envelope and I recommend they are included within it.

102. It is clear from the supporting text in paragraph 4.5.6 and 7B ix. that Policy 7B should apply to development within settlement boundaries but the drafting is unclear. The drafting also needs to recognise that not all the criteria will apply to every development. Criterion ix. is superfluous as a result of the recommended drafting changes.

103. I have considered representations from Gladman, Emery Planning on behalf of the Williams Group and Strutt and Parker on behalf of Countryside Properties relating to Policy 7. These include that the Policy is overly prescriptive, confused in its approach to local housing needs and that its expectation for affordable housing to be pepper-potted is a departure from national policy and inconsistent with Local Plan policy CS2. There is also a concern that the Plan should be more flexible in its approach to settlement boundaries to address future housing needs.

104. The Plan's Glossary defines "*local housing needs*" in the same way as national planning policy but it also references the Housing Needs Assessment prepared by AECOM as the prime source of evidence. As a consequence, I agree with Emery Planning's representations on behalf of the Williams Group that there is a risk of confusion. This is in part addressed by my recommendations relating to the Glossary but also requires changes to the supporting text.

105. The Local Plan establishes an expectation for affordable housing being provided on sites of 5 dwellings or more and also addresses economic viability. The drafting of Policy 7 is enabling rather than prescriptive in establishing policy expectations for new housing proposals. National planning policy is supportive of creating mixed and balanced communities. I do not, therefore, consider Policy 7 raises any issues around strategic conformity or the relationship to national planning policy and the practicality and deliverability of development on site CRESS 193 will be addressed by the development plan when the neighbourhood plan is made. I note that the 11 dwelling threshold is consistent with emerging Policy LPP 33 in the Publication Draft Local Plan (2017).

106. I am satisfied the Plan is supportive of development and in strategic conformity with the Local Plan. The settlement boundaries are consistent with this. If the Local Plan review results in a strategic change in the development requirements for the area then this can be addressed, if necessary, through a review of the neighbourhood plan.

107. Policy 7C is negatively worded and unnecessarily repeats planning policies in other parts of the development plan.

108. Policy 7D is a statement of intended action by Cressing Parish Council and should be deleted and included in the supporting text and as a potential Community Action.

109. Policy 7 does not meet the Basic Conditions.

- **Amend Policy 7 to:**
  - **Delete CRESS 192 from 7A and make consequent changes to Figure 8, the Proposals Map and the supporting text**
  - **Insert “within settlement boundaries” after “new housing” in the first line of 7B**
  - **Replace “local housing needs” with “housing needs for the parish” in 7Bi.**
  - **Delete subsection ix. of 7B**
  - **Replace “and” with “and/or” at the end of the penultimate subsection of 7B**
  - **Replace 7C with “Development proposals for new housing outside settlement boundaries should be an exception and comprise small scale self-build or custom-build schemes. They should be:**
    - **located adjacent to an existing settlement or hamlet;**
    - **contribute towards maintaining its future viability and sustainability;**
    - **sympathetic to the character of the open countryside; and**
    - **have minimal visual and environmental impact.”**
  - **Delete 7D and include it in the supporting text and Action Plan as appropriate**

- Amend the supporting text to delete references to *“local housing needs”* and replace with *“housing needs for the parish”*
- Provide a higher definition Proposals Map which enables the detail of the settlement boundaries to be identified and clearly distinguished from the parish boundary
- Provide definitions for *“Town Development Boundary”*, *“Village envelope”* and *“settlement boundaries”* in the Glossary and reference the definition in the supporting text to Policy 7

## Design

110. **Policy 8** – This established design criteria for new development and specific criteria for residential development.

111. Policy 8A is prescriptively worded in stating what development proposals *“must”* include. The requirement for the use of materials which *“preserves and enhances”* character is too sweeping and in conflict with national planning policy and the statutory requirement that applies only to Conservation Area. The range of sustainable design features included in subsection vi. may not be applicable to all developments. Essex County Council has made representations to strengthen the Policy and add a new Policy on renewable energy. These have merit but do not affect whether the Plan meets the Basic Conditions.

112. Policy 8B’s criteria for all dwellings to be *“set back from the road with front gardens”* and to *“provide a low density open character”* lack an evidence base. There are successful examples of dwellings without front gardens and there is no definition of what comprises *“low density”*. On request I was informed that the density requirement was to ensure *“new development would then blend as closely as possible with the density of the existing villages which is around 20ph to keep the character of semi-rural rather than urban development.”* This is an understandable aspiration which is supported through community consultation. It is likely to be helped by production of the Cressing Parish Design Guide referenced in paragraph 4.6.10. The intention to protect the existing character is appropriate for a revised Policy 8B.

113. Policy 8C would apply to even the smallest development proposals which would place an unjustifiable burden on applicants.

114. Policy 8D is a community aspiration which goes beyond planning policy. There is no legal requirement for pre-application consultation with the parish council or any other body.

115. Policy 8 does not meet the Basic Conditions.

- **Amend Policy 8 to:**

- **Replace “*must*” with “*should*” at the beginning of 8A**
- **Replace “*preserves and enhances*” with “*respects*” in 8A v.**
- **Delete 8B ii.**
- **Replace 8B vi. with “*respects the semi-rural character of the parish; and*”**
- **In 8C replace “*should include an assessment of*” with “*likely to have a significant impact on*”**
- **In 8C replace “*area, and demonstrate*” with “*area should demonstrate*”**
- **Delete 8D and include it in the supporting text and Action Plan as appropriate**

## **Economy**

116. **Policy 9** – This establishes policy criteria for economic development and the protection of existing employment uses and economic assets.

117. The drafting of 9A includes a superfluous “*and*” in subsection iv. and full stop in subsection v.. 9B repeats existing guidance in national planning policy (paragraph 171, NPPF) and is therefore unnecessary. 9C is negatively worded and lacks an evidence base to demonstrate the other features of the parish that are of value to tourism and so lacks necessary clarity for applicants.

118. Policy 9D is negatively worded and fails to specify a time period within which site marketing should take place. This is necessary in order for the Plan to meet the

requirement of national planning policy that it be responsive to market signals (NPPG, paragraph 31). Essex County Council recommends a period of twelve months and this aligns with the Local Plan.

119. Policy 9 does not meet the Basic Conditions.

- **Amend Policy 9 to:**
  - **Delete “and” at the end of 9A iv.**
  - **Replace the full stop at the end of 9A v. with a semi colon**
  - **Delete 9B**
  - **Replace 9C with “Development proposals which have a positive impact on tourism assets, including Cressing Temple Barns and the Essex Way footpath, will be supported.”**
  - **Delete “only” in the second line of 9D**
  - **Add “for a minimum of twelve months” after “effectively” in 9Dc.**

#### **Highway Safety, Connectivity and Sustainable Transport**

120. **Policy 10** – This identifies transport projects which would benefit the parish and sets out other expectations for transport related decisions.

121. A majority of the considerations raised in Policy 10 are not land use planning considerations and are controlled under Highways legislation. The Policy is based on an assessment of transport investment priorities in Cressing relative to other areas along with community feedback on infrastructure provision. It comprises a set a different transport infrastructure requirements to be negotiated by Cressing Parish Council and to be delivered in part through developer contributions as proposed in Policy 11 and the Action Plan. These expectations are best located in the supporting text and their delivery can partly be addressed through Policy 11.

122. It would be appropriate to include a Plan policy requiring travel plans and transport assessments to be provided by applicants as proposed in 10C but this seeks to go no further than existing local authority requirements and so is superfluous.

123. There is no detail provided of the minimum standards required by Essex County Council in respect of electric vehicle charging points and Essex County Council's representations state that it has "*no minimum standards*".

124. The intention of Cressing Parish Council to engage with Essex County Council over the realignment of the A120 is not a matter for planning policy.

125. Policy 10 does not meet the Basic Conditions.

- **Amend Policy 10 to:**
  - **Delete 10A, 10B and 10E and include it in the supporting text and Action Plan as appropriate**
  - **Delete 10C**
  - **Delete "*in accordance with minimum standards sets by ECC*" in 10D**
- Retitle the Policy as "Provision of electric vehicle charging points"

### **Developer contributions**

126. **Policy 11** – This establishes requirements and expectations for the provision of developer contributions associated with new development.

127. The Policy is supported by locally identified priorities for developer contributions derived from policies in the Plan (in Table 4) and the Neighbourhood Plan Action Plan. Table 4 includes requirements which will not be included in a modified Policy 10 although they will still be set out in the supporting text. Table 4 needs to be modified accordingly.

128. Developer contributions can be provided through financial contributions, legal agreements (e.g. s106 obligations) or the Community Infrastructure Levy. Braintree District Council does not have a Community Infrastructure Levy and while it may be introduced during the lifetime of the Plan this cannot be assumed. It should not be directly referenced in Policy 11.



129. Policy 11 should only address developer contributions relating to the Plan and not duplicate requirements established elsewhere, including the Local Plan.

130. In 11D there will be occasions where the impact of development may not require developer contributions to address it.

131. I have considered Essex County Councils representations that all the criteria in 11E should be satisfied before development is permitted and support this change.

132. Policy 11 does not meet the Basic Conditions.

- **Amend Policy 11 to:**
  - **Delete “*and the application of CIL Regulations,*” in 11A**
  - **Delete “, *in accordance with the CIL regulations*” in 11B**
  - **Delete the first and last sentences of 11C and move this to the supporting text**
  - **In 11D add “*where contributions are required*” at end**
  - **In 11E delete “*to be*” after “*evidence is*”**
  - **In 11E replace “*must*” with “*should*”**
  - **In 11Ei and 11Eii replace “*or*” with “*and*”**
  
- **Modify Table 4 to clarify the local infrastructure requirements currently relating to Policy 10 are as set out in the supporting text and not in the Plan policy**

## **8. Recommendation and Referendum Area**

133. I am satisfied the Cressing Neighbourhood Plan meets the Basic Conditions and other requirements subject to the modifications recommended in this report and that it can proceed to a referendum. I have received no information to suggest other than that I recommend the referendum area matches that of the Neighbourhood Area.