

**Town and Country Planning Act 1990**  
**Neighbourhood Planning (General) Regulations 2012**

**BROADWAY NEIGHBOURHOOD DEVELOPMENT PLAN 2006-2030**

**INDEPENDENT EXAMINATION**

**Final Report to Wychavon District Council**  
**by Edward F Cousins BA, BL, LL.M, Barrister**

**May 2022**

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# **PART 1**

## **INTRODUCTION**

1. This Report comprises the findings of my examination ('the Examination') into the draft Broadway Neighbourhood Development Plan ('*the Neighbourhood Development Plan*'). As required by Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 ('*the 2012 Regulations*') the Neighbourhood Development Plan was duly submitted for consultation by Broadway Parish Council ('*the Parish Council*') to Wychavon District Council ('WDC'). Subsequently, in accordance with Regulation 16 of the 2012 Regulations the Parish Council formally submitted the Neighbourhood Development Plan to WDC. WDC then held a consultation which concluded on 3<sup>rd</sup> September 2021. I was then retained as the Examiner commencing on 25<sup>th</sup> October 2021 and the documentation was made available to me on WDC's website and by email to enable me to conduct the Examination.
  
2. I raised concerns relating to the omission of a representation made to the Regulation 14 draft Broadway Neighbourhood Development Plan by Turley on behalf of Amber Retirement Living Limited ('*Amber*') from the consultation statement ('*the Consultation Statement*'). As such, and in agreement with the Parish Council, the Neighbourhood Development Plan and associated documentation has been revised and WDC conducted a second Regulation 16 consultation for a period of six weeks commencing on Friday 7<sup>th</sup> January 2022 and concluding on Friday 18<sup>th</sup> February 2022.
  
3. As a general point, I now consider that this consultation issue has been resolved in a satisfactory manner and I would also state that the assistance provided by the Parish Council and WDC has been much appreciated. However, having regard to national policies and advice contained in guidance issued by the Secretary of State, I must still address the question as to whether it is appropriate to make the Neighbourhood Development Plan. In my view I am satisfied that the Neighbourhood Development Plan, subject to the recommended modifications, is compliant with the statutory requirements.

4. I therefore recommend that the Neighbourhood Development Plan should proceed to referendum, but in doing so, I am proposing significant modifications to the Neighbourhood Development Plan to ensure that it satisfies the basic conditions (*'the Basic Conditions'*) including the deletion of an allocation for mixed use at Kennel Lane and Church Close. The Neighbourhood Development Plan, in this respect lacks robust and appropriate evidence. The policy has not had regard to national policy and guidance, is not in conformity with the strategic policies of the SWDP, is inconsistent with other policies in the Neighbourhood Development Plan and I cannot be satisfied that it would contribute to the achievement of sustainable development. Taking this into account, Policy HD.4 does not meet the Basic Conditions.
5. I have been unable to recommend modifications which would have resolved these issues without the Policy's deletion. An alternative would have been to recommend that the Neighbourhood Development Plan did not proceed to referendum, but I have rejected this approach for the reason that overall, the Neighbourhood Development Plan meets the Basic Conditions.
6. I understand this will be disappointing for the Parish Council as I note the considerable amount of work effected by the Parish Council and the District Council in order to support the Neighbourhood Development Plan. However, the Neighbourhood Development Plan cannot proceed without satisfying the consideration of the Basic Conditions.

#### **My appointment**

7. I have been appointed by WDC to conduct an independent examination into the Neighbourhood Development Plan. I am independent of the Parish Council and of WDC. I do not have any interest in any land that may be the subject of the Neighbourhood Development Plan, and nor do I have any professional conflicts of interest.
8. I am a Barrister in practice at Radcliffe Chambers, where I also act as a Mediator. I was previously the Principal Judge of the Land Registration Division of the Property Chamber and a Chancery barrister in practice in Lincoln's Inn. I am a specialist property and planning lawyer, with particular expertise in markets and fairs, including street

trading; land registration; commons and town and village greens; manorial rights; and mines and minerals. I have wide experience examining neighbourhood development plans and conducting public hearings as part of the examination process, when necessary. I was also called to the Bar of Ireland at Trinity Term 2001, and I hold a Practising Certificate in Ireland.

## **PART 2**

### **THE LEGAL FRAMEWORK**

#### **Neighbourhood Planning**

##### **The Background**

1. Neighbourhood planning is the process introduced by Parliament as enacted by the Localism Act 2011 ('the 2011 Act'). The intellectual purpose of neighbourhood planning is to seek to enfranchise those persons living and working in a community by providing the basis through which they can play a more active role in the process of deciding the future of their neighbourhood. It has been described as the ability: -

*'to give to communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.'*

2. Thus, the 2011 Act gave powers to parish councils to involve their communities in the creation of neighbourhood development plans in order to provide them with a greater say in planning matters. Parish councils are therefore able to play a role in the establishment of general planning policies for the development and use of land in their neighbourhoods. Examples of such involvement are directed to the siting, design and construction of new homes and offices, and the designation of local green space. The neighbourhood development plan sets a vision for the future for the area concerned. It can be detailed, or general, depending on the views of local people.
3. In order to ensure that the new process is workable and effective the 2011 Act introduced the requisite amendments to the 1990 Act, and the 2004 Act.<sup>1</sup> These amendments came into force on 6<sup>th</sup> April 2012 and were supplemented by detailed procedures provided for in the 2012 Regulations.

##### **Qualifying Body**

4. I am satisfied that the Parish Council is an appropriate '*Qualifying Body*,' as defined. It is therefore entitled to initiate the process whereby it can require the local planning authority to '*make*' the Neighbourhood Development Plan.

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<sup>1</sup> The 1990 Act, ss. 61E to 61P, Sch. 4B (neighbourhood development orders); the 2004 Act, ss. 38A to 38C (neighbourhood plans), as amended by the 2011 Act.

5. The first step towards producing a neighbourhood development plan is for a parish council, or other qualifying body, to define a ‘neighbourhood area’ for which it considers that a plan should be prepared and presented.<sup>2</sup> This is part of the process which that body is entitled to initiate for the purpose of requiring the local planning authority in England to make a neighbourhood development plan for the whole or any part of its area specified in the plan.<sup>3</sup> A ‘neighbourhood development plan’ is a plan -

*‘.....which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area.’<sup>4</sup>*

6. The local planning authority will provide assistance in this process, where appropriate. The draft plan must meet what are referred to in the legislation as the Basic Conditions. This means that the draft plan must in general conformity with national and other local planning policies. It must also conform to other provisions.<sup>5</sup> It must then proceed to a public consultation.

### **Neighbourhood Plan Area**

7. I note from the evidence and Basic Conditions Statement that the Neighbourhood Development Plan Area was designated by the WDC Executive Board on 4<sup>th</sup> February 2014.
8. The Neighbourhood Development Plan states at paragraph 1.2 that the Neighbourhood Development Plan Area is the same as the Parish boundary of Broadway. A plan showing the boundary of the Neighbourhood Development Plan Area is shown on page 7 of the Neighbourhood Development Plan - Figure 1.
9. For clarity, WDC has confirmed that the date (2016) at paragraph 1.2 is incorrect. I propose modifications which correct the date when the Neighbourhood Development Plan Area was approved and by whom. The map accompanying the designation at Figure 1 includes a statement that it should only be used to identify streets. Figure 1 should be amended so that it accords with OS licensing and excludes this statement.

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<sup>2</sup> See s 38A(1).

<sup>3</sup> The 1990 Act, s. 61F(1), (2), applied by the 2004 Act, s. 38C(2)(a).

<sup>4</sup> By virtue of 38A(2).

<sup>5</sup> The 1990 Act, Sch 4B, para 8, applied by the 2004 Act, s 38A(3)..

10. ***Recommended Modifications:***

(1) Amend paragraph 1.2 to read: ‘In ~~2016~~**2014**, Wychavon District Council approved Broadway Parish Council as an appropriate qualifying body to submit a Neighbourhood Development Plan. It also approved the Neighbourhood Area which our Plan will cover **at its Executive Board on 4th February 2014**. The boundary of the Neighbourhood Area is the same as that of the Parish Boundary of Broadway (see Figure 1).

(2) Figure 1 should be amended so that it accords with OS licensing and excludes the statement – ‘should only be used to identify streets’.

**Public Consultation**

11. Regulation 14 of the 2012 Regulations sets out the requirements for pre-submission consultation, and Schedule 1 thereto makes reference to the relevant consultation bodies. The Consultation Statement sets out the aim of the consultation activities, and the design of consultation events to satisfy those aims. It is apparent that the Parish Council and the Steering Group have engaged with the local community.

12. The Consultation Statement sets out the pre- submission consultation process that took place between 4<sup>th</sup> September 2020 and 16<sup>th</sup> October 2020. This process included the following - publication on the Neighbourhood Plan website; local consultees were notified; advertisements were placed in the local Journal; flyers were sent to households; inserts placed in the local newsletter; banners were made available digitally on the Broadway Noticeboard; and hard copies were available at the Parish Council offices and library. The draft Neighbourhood Development Plan was also sent to a list of statutory consultees and others. The Regulation 14 responses, together with the Parish Council’s assessment of the main issues, is included in the Consultation Statement.

13. The Neighbourhood Development Plan, and accompanying documents, had been submitted to WDC as required under Regulation 15 of the 2012 Regulations. In accordance with Regulation 16 of the 2012 Regulations, WDC, as the relevant local planning authority, was required to publicise the Neighbourhood Development Plan proposal. The consultation period was from 23<sup>rd</sup> July 2021 to 3<sup>rd</sup> September 2021.



14. At the beginning of my commission as the Examiner, WDC raised an issue relating to the consideration of a representation made by Amber to the Regulation 14 consultation on the Neighbourhood Development Plan. The representation was not included within the list of consultation responses in the submitted Consultation Statement prepared by the Parish Council and submitted to the WDC. As a result, Amber was not included within the list of consultees notified of the subsequent Regulation 16 consultation on the Neighbourhood Development Plan.
15. Following discussions, the Examination was suspended and subsequently the Parish Council made revisions to the Neighbourhood Development Plan and associated documentation. The submission included a Statement from the Parish Council dated 30<sup>th</sup> November 2021; a Parish Council response to Examiner's at Note Point 4; an updated Consultation Statement and a statement from Kennel Lane Landowners Consortium dated November 2021. WDC then conducted a second Regulation 16 consultation for a period of six weeks commencing on 7th January 2022 and concluding on 18th February 2022.
16. The consultations generated representations at both the first and second Regulations 16 consultations stages. These have been made available to me through the WDC's website and by email. I confirm that all representations on the Neighbourhood Development Plan received at the Regulation 16 stage (including both the first and second consultations) have been considered when undertaking this examination. Where appropriate I have made specific reference to the person's or organisation's comments.
17. Representations submitted by Mr Robbins comment that the consultation did not directly seek representation from landowners on the Policy HD.6 Local Gaps and figure 15. National Planning Practice Guidance ('NPPG') - Neighbourhood Planning states that 'landowners and the development industry should, as necessary and appropriate, be involved in preparing a draft Neighbourhood Plan.' It is therefore good practice to notify landowners where a policy directly affects their interests. The Parish Council consulted landowners of Local Green Spaces. However, it is clearly disappointing that the Parish Council did not engage directly with landowners of the '*Local Gaps*' policy. It is not a statutory requirement.

18. I note that the Parish Council completed a Business Survey of members of the Broadway Business Association in February 2018. However, it appears that the consultation events do not include specific engagement with, and participation of, the existing occupiers, businesses, users, and stakeholders in developing and evaluating the allocation Site at Kennel Lane and Church Close. I do note that the NCH was a consultee and have made representations to the Regulation 14 and Regulation 16 consultations. Such engagement would have provided insights into the direct economic impacts of the redevelopment of the site; the indirect impact upon the vitality and vibrancy of the Village centre; the demands for alternative provision of business space; the impact of the relocation of the NCH, the consideration of the loss of staff and visitor parking and the viability and deliverability of the site which have been raised through the representations.
  
19. Successful public consultation enables the Neighbourhood Development Plan to reflect the needs, views and priorities of the local community and help achieve consensus. I note that the Consultation Statement includes a significant number of consultation events using a series of media. I am satisfied that the consultation process, as corrected by the submissions and second consultation conducted by the Parish Council, has satisfied the requirements for consultation on the Neighbourhood Development Plan, but I note that good practice should have included specific engagement with landowners and stakeholders on issues directly affecting land in which they have an interest.

### **Referendum**

20. The purpose of the referendum is to decide whether the draft plan should be ‘*made*,’ subject to any changes recommended by the Examiner and accepted by the planning authority. If more than 50% of those voting, vote in favour of the plan, the local planning authority then is under a statutory ‘*to make the plan*’.
  
21. Once it comes into force, a neighbourhood development plan forms part of the development plan for the area to which it relates, together with the strategic policies in the adopted local plan, the “*saved*” policies of the relevant local plan, any plans for minerals and waste disposal, and any saved policies of the relevant regional strategy. Thereafter it forms an integral part of the policy framework that guides the local

planning authority and the Planning Inspectorate, in making all planning decisions in the area.

22. Given the nature of the Policies in the submitted review of the Neighbourhood Development Plan I have concluded that it needs both Examination and a Referendum.

### **The statutory framework - the detail**

#### **Compliance with provision made by or under sections 38A and 38B of the 2004 Act**

##### ***Section 38A – Meaning of “neighbourhood development plan”***

23. Section 38A of the 2004 Act provides that any “*qualifying body*” is entitled to initiate a process for the purpose of requiring a local planning authority in England to make a neighbourhood development plan. As noted above, the Parish Council is a Qualifying Body by virtue of the provisions of 38A (12), and the WDC is a ‘*local planning authority*’, for the purpose of the 2004 Act.
24. Section 38A (2) requires the neighbourhood development plan only to contain policies relating to the development and use of land lying in the neighbourhood area. The policies are set out in Section 5 of the Neighbourhood Development Plan. I should state at this stage that I am satisfied that the Policies do relate to the use and development of land within the neighbourhood area, and not to extraneous matters.
25. By section 38(3)(c) of the 2004 Act, a neighbourhood development plan that has been made in relation to an area forms part of the statutory development plan, for the purpose of guiding town and country planning decisions. Under section 38(6) there is a presumption in favour of determining planning applications in accordance with the neighbourhood development plan unless material considerations indicate otherwise.

##### ***Section 38B***

26. Section 38B of the 2004 Act provides as follows:

*‘38B Provision that may be made by neighbourhood development plans*

*(1) A neighbourhood development plan—*

- (a) must specify the period for which it is to have effect,*
- (b) may not include provision about development that is excluded development, and*
- (c) may not relate to more than one neighbourhood area.*

*(2) Only one neighbourhood development plan may be made for each neighbourhood area.*

*(3) If to any extent a policy set out in a neighbourhood development plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy.*

*(4) Regulations made by the Secretary of State may make provision—*

- (a) restricting the provision that may be included in neighbourhood development plans about the use of land,*
- (b) requiring neighbourhood development plans to include such matters as are prescribed in the regulations, and*
- (c) prescribing the form of neighbourhood development plans.*

*(5) A local planning authority must publish each neighbourhood development plan that they make in such manner as may be prescribed by regulations made by the Secretary of State.*

*(6) Section 61K of the principal Act (meaning of “excluded development”) is to apply for the purposes of subsection (1)(b).’*

27. Section 61K provides, so far as is material, as follows: -

*‘61K Meaning of “excluded development”*

*The following development is excluded development for the purposes of section 61J—*

- (a) development that consists of a county matter within paragraph 1(1)(a) to (h) of Schedule 1,*
- (b) development that consists of the carrying out of any operation, or class of operation, prescribed under paragraph 1(j) of that Schedule (waste development) but that does not consist of development of a prescribed description,*
- (c) development that falls within Annex 1 to Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (as amended from time to time),<sup>6</sup>*
- (d) development that consists (whether wholly or partly) of a nationally significant infrastructure project (within the meaning of the Planning Act 2008).’*

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<sup>6</sup> This must now be taken to refer to codifying Directive 2011/92/EU, which repealed and re-enacted Directive 85/337/EEC and its amending instruments and states at Article 14 that references to the repealed directive are to be construed as references to the new directive, as a matter of consistent interpretation and under the principle of construction codified in relation to domestic law by s.17(2)(a) of the Interpretation Act 1978.

28. I should state at this stage that I am satisfied that the plan clearly specifies the period for which it is to have effect (2006-2030); does not include ‘excluded development’; and is the only Neighbourhood Development Plan for the area.
29. The 2012 Regulations were made under section 38B of the 2004 Act. These prescribe some detailed requirements for neighbourhood development plan proposals and how they are to be consulted upon, publicised, and submitted.
30. Further, the 2012 Regulations, at Regulation 32, and Schedule 2 thereof, prescribe a condition for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act. Paragraph 1 of Schedule 2 to the 2012 Regulations stipulates that:
- ‘[the] making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects).’*
31. The procedure for examining draft neighbourhood development plans is provided for in Schedule 4B of the 1990 Act, which is applied by section 38A (3) of the 2004 Act. This provides at paragraph 7 for the local planning authority to submit the draft plan for independent examination by a person who is independent of the qualifying body and of the authority, does not have an interest in any land that may be affected by the draft plan, and has appropriate qualifications and experience.
32. The Examiner must make a report on the draft plan pursuant to paragraph 10 of Schedule 4B, which must recommend either that the draft plan is submitted to a referendum; or that modifications be made to correct errors or secure compliance with legal requirements, and the draft plan as modified be put to a referendum; or that the proposal for the plan be refused. The examiner’s report must contain a summary of its main findings and give reasons for each of its recommendations.
33. The local planning authority is then required to publish the examiner’s report, and to consider the recommendations made. If the local planning authority considers that the statutory requirements are complied with, the draft plan must then be put to a

referendum and, if approved by the referendum, adopted as part of the neighbourhood development plan.

### **What must the Examiner examine?**

34. Paragraph 8 of Schedule 4B to the 1990 Act, as modified by section 38C (5) of the 2004 Act, requires the examiner to consider the following:

- whether the draft plan meets the Basic Conditions. These are defined at subparagraph (2);
- whether it complies with the provision made by or under sections 38A and 38B of the 2004 Act; and
- whether the area for any referendum should extend beyond the neighbourhood area to which the draft plan relates; and
- whether the draft plan is compatible with ‘*the Convention rights,*’ as defined by the Human Rights Act 1998<sup>7</sup>.

35. Paragraph 8(2) of Schedule 4B, as modified by section 38C(5)(d) of the 2004 Act provides that:

- ‘(2) A draft [plan] meets the basic conditions if—*
- (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the [plan],*
  - (b).....*
  - (c).....*
  - (d) the making of the [plan] contributes to the achievement of sustainable development,*
  - (e) the making of the [plan] is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),*
  - (f) the making of the [plan] does not breach, and is otherwise compatible with, EU obligations, and*
  - (g) prescribed conditions are met in relation to the [plan] and prescribed matters have been complied with in connection with the proposal for the [plan]”*

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<sup>7</sup> Section 1 of the 1998 Act defines these as the rights and fundamental freedoms set out in Articles 2 to 12 and 14 of the European Convention on Human Rights, Articles 1 to 3 of the First Protocol to the Convention, and Article 1 of the Thirteenth Protocol, as read with Articles 16 to 18 of the Convention.

36. Basic Conditions (b) and (c), relating to the built heritage, apply to the examination of proposed neighbourhood development orders, but not to that of neighbourhood development plans. In respect of Basic Condition (e), the South Worcestershire Councils have published a document which lists the Strategic Policies of the South Worcestershire Development Plan (*'the SWDP'*) for the purposes of Neighbourhood Planning<sup>8</sup>.
37. Regulations 32 and paragraph 1 of Schedule 2 of the General Regulations, has prescribed a further condition for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act, as follows -
- '[the] making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects).'*
38. Since 28th December 2018, the General Regulations, Schedule 2 paragraph 1, has prescribed a further Basic Condition, namely:
- 'In relation to the examination of neighbourhood development plans the following Basic Condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act—  
The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.'*
39. It is to be noted that if a proposed neighbourhood development plan it is to be submitted to a referendum it must meet all of the Basic Conditions specified in paragraph 8(2) - not just some of them.
40. Further, and importantly, the examination process is not intended to put the Examiner into the shoes of the *'qualifying body'* so as to usurp its function and re-make its decisions. The statutory remit of the Examiner is limited.
41. Thus, the examination process is less intrusive than that required in respect of a local development plan document. For instance:

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<sup>8</sup> SWDP Strategic Planning Policies for the purposes of Neighbourhood Planning – undated.

*'the remit of an examiner dealing with a neighbourhood plan does not include the requirement to consider whether that plan is 'sound' (as in section 20(5)(b) of the 2004 Act), so the requirements of 'soundness' contained in paragraph 182 of the NPPF<sup>9</sup> do not apply to a neighbourhood plan. The Examiner of a neighbourhood plan does not consider whether that plan is 'justified' in the sense used in paragraph 182 of the NPPF. In other words, the Examiner does not have to consider whether a draft policy is the 'most appropriate strategy' compared against alternatives, nor is it for him to judge whether it is supported by a 'proportionate evidence base.'*

- *Whereas under paragraph 182 of the NPPF a local plan needs to be "consistent with national policy" an examiner of a neighbourhood plan has a discretion to determine whether it is appropriate that the plan should proceed having regard to national policy.*
- *The basic condition only requires the examiner to consider whether the draft neighbourhood plan as a whole is in general conformity with the strategic policies in the adopted Development Plan taken together. I am not charged with determining in respect of each particular policy or element whether there is a tension between the local and neighbourhood plans, and if there is such tension in places, that may not be determinative of the overall question of general conformity.'*<sup>10</sup>

42. The concept of 'soundness,' referred to by Holgate J in this case refers to the text in a former edition of the NPPF. This text has now been superseded in the new edition of the NPPF published in July 2021. This retains a section now referred to as 'Examining plans' and refers to the same four requirements for 'soundness.' However, paragraph 37 of the new edition of the NPPF contains a separate reference to the examination process, notably that neighbourhood development plans must meet the Basic Conditions and other legal requirements before they can come into force which '*... are tested through an independent examination before the neighbourhood plan may proceed to referendum.*'

43. Thus, although the Examiner has a general discretion whether to recommend modification to bring the neighbourhood development plan into line with national policy if he finds points of departure, it is necessary to bear in mind that it would normally be expected that appeal decisions would follow current national policy where

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<sup>9</sup> The National Planning Policy Framework ('the NPPF').

<sup>10</sup> See *R(Maynard) v Chiltern DC* [2015] EWHC 3817 (Admin) at [13] per Holgate J.



it conflicts with a local or neighbourhood development plan. A neighbourhood development plan that is at odds with national policy is in danger of becoming otiose. Unless the Examiner considers that there is evidence demonstrating good reason to depart from national policy in the neighbourhood, he would be expected to recommend that it be followed.

44. In essence, therefore, the role of the Examiner is to assess whether the draft plan is compliant with the Basic Conditions and other legal requirements. If in the event that the draft plan does not comply with the various statutory requirements, the Examiner then is obliged to consider whether it can be modified so that it does so comply. Other legal requirements include consideration of the NPPF and the NPPG. As Part 3 of this Report draws extensively on the provisions contained in both the NPPF and the NPPG, no further reference will be made to either document at this stage.

### **The Report**

45. The Examiner then produces a report, which contains one of three possible recommendations, namely, whether:

- (a) the draft plan is to be submitted to a referendum;*
- (b) the modifications specified in the report are to be made to the draft plan, and that the draft plan as modified is submitted to a referendum; or*
- (c) the proposal for a plan is to be refused.<sup>11</sup>*

46. The recommended modifications can only be those that the Examiner feels are necessary to ensure that the draft plan complies with the Basic Conditions and the other relevant statutory requirements or are needed for the purpose of correcting errors. If the changes are substantial, then they may have to be the subject of a further round of consultation.
47. The further requirements of the Examiner, as defined in the 2012 Regulations, include considering whether the draft plan complies with the definition of a neighbourhood development plan, and the provisions that can be made by a neighbourhood development plan; and whether the draft plan is compatible with the European Convention on Human Rights. The Examiner may also make recommendations on

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<sup>11</sup> 1990 Act, Sch 4B, para 10(2), applied by the 2004 Act, s 38A(3).

whether the neighbourhood development plan area for referendum should extend beyond the neighbourhood plan boundaries.

48. In this Report, I shall first consider address the European dimension and the question of human rights. I shall then the Basic Conditions, and then formal compliance with the provisions contained within sections 38A and 38B of the 2004 Act. Finally, I shall make recommendations as to the modification or amendment of the draft Policies. The modifications or amendments do not include minor updates to the Contents and where necessary, Policy, paragraph, and page numbering. It is recommended that this is undertaken by WDC, where necessary.

### **European Law obligations**

#### ***Strategic Environmental Assessment***

49. I am still required to check that the making of the order does not breach EU obligations. This means that I must consider whether there has been compliance with the SEA Directive and SEA Regulations.
50. Directive 2001/42/EC - known as the Strategic Environmental Assessment Directive - on the assessment of the effects of certain plans and programmes on the environment ('the SEA') - provides by Article 3(2) that an environmental assessment is to be carried out for plans prepared for town and country planning or land use. These set a framework for development consent of certain projects, or which in view of the likely effect on protected sites, have been determined to require assessment under the Habitats Directive. Where a neighbourhood development plan determines the use of small areas at local level and makes minor modifications to other town and country planning or land use plans, they require such assessment only where Member States determine that they are likely to have significant environmental effects (by virtue of article 3(3)).
51. It is currently unclear whether English neighbourhood development plans always require Strategic Environmental Assessment. In case C-444/15, *Associazione Italia Nostra Onlus v Comune di Venezia*, the European Court of Justice considered the meaning in the context of legislation that precluded consideration whether the commune (city council)'s plan for 68 dwellings within the Venetian lagoon required strategic assessment. The Court ruled as follows:

*‘Article 3(3) of Directive 2001/42, read in conjunction with recital 10 of that directive, must be interpreted to the effect that the term ‘small areas at local level’ in paragraph 3 must be defined with reference to the size of the area concerned where the following conditions are fulfilled:*

- the plan or programme is prepared and/or adopted by a local authority, as opposed to a regional or national authority, and*
- that area inside the territorial jurisdiction of the local authority is small in size relative to that territorial jurisdiction.’*

52. The use of ‘and/or’ is ambiguous. It was unnecessary to decide this point in the *Venezia* case, as the plan was prepared and adopted by the same authority. However, English neighbourhood development plans are prepared by a parish and adopted by a district. The neighbourhood area in the present case the Neighbourhood Development Plan embraces the whole area of the Parish Council and so is not ‘small in size relative to that territorial jurisdiction.’ On the other hand, it may reasonably be said to be small in relation to the District.
53. The WDC undertook a screening assessment of the draft Neighbourhood Development Plan in November 2020, to determine whether the Neighbourhood Development Plan should be screened into the SEA process, informed by consultation with the statutory consultees. This assessment determined that the Neighbourhood Development Plan had potential to lead to likely significant effects on the environment, and therefore an Environmental Report has been prepared, in accordance with the SEA Directive.
54. A SEA Report of the Neighbourhood Development Plan on behalf of the WDC dated May 2021 has been prepared by Lepus Consulting. The SEA has identified both positive and negative environmental effects caused by the Neighbourhood Development Plan.
55. Minor adverse effects have been identified for two Policies pre-mitigation (HD.4 and HD.5), which primarily relate to these sites lying within open countryside (HD.5), or partly within the settlement boundary (HD.4), alongside the characteristics of the Neighbourhood Development Plan area in terms of designated landscape and heritage assets and other environmental features, and inherent uncertainties over design specifics until the planning application stage. The SEA acknowledges that protection

and conservation of the built and natural environment would also be secured through other policies within the Plan and no adverse residual effects have been identified across each of the SEA objectives with these policies in place.

56. However, through applying a suite of mitigation and enhancement measures, Lepus Consulting have concluded that it is possible to ensure that there would be no residual significant negative effects on biodiversity, cultural, heritage, landscape or water and flooding Strategic Environmental Objectives and there would be a number of positive sustainability benefits across the identified objectives particularly for those policies within the Natural Environment objective of the plan.

### ***Habitats Regulations Assessment***

57. Article 6(3) of the Habitats Directive<sup>12</sup> requires that any plan which is not directly connected with or necessary to the management of a protected site, but is likely to have a significant effect thereon (meaning that such an effect cannot be excluded beyond reasonable scientific doubt on the basis of objective information), must not be the subject of agreement unless it has been subject to an ‘*appropriate assessment of the implications for the site*’. Further it must have been ascertained that it will ‘*not adversely affect the integrity of the site concerned.*’ If a neighbourhood development plan is assessed and found to cause harm to the integrity of a protected site, Article 6(4) enumerates some conditions under which a plan may exceptionally be approved where the plan must nevertheless be carried out for imperative reasons of overriding public interest.
58. Those obligations have been transposed into national law by Regulations 102, 102A and 103 of the Conservation of Habitats and Species Regulations 2010 (‘the *Habitats Regulations*’). Regulation 102 states:
- (1) *Where a land use plan—*
- (a) *is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*
- (b) *is not directly connected with or necessary to the management of the site,*
- the plan-making authority for that plan must, before the plan is given effect, make an appropriate assessment of the*

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<sup>12</sup> Council Directive 92/43/EEC of 21 May 1992.

*implications for the site in view of that site's conservation objectives.'*

- (4) *In the light of the conclusions of the assessment, and subject to regulation 103 (considerations of overriding public interest), the plan-making authority... must give effect to the land use plan only after having ascertained that it will not adversely affect the integrity of the European site...'*

Regulation 102A states:

*'A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 102 or to enable them to determine whether that assessment is required.'*

59. Regulation 107(1) of the Habitats Regulations then sets out definitions. '*Land-use plan*' is defined to include a neighbourhood development plan. '*Plan-making authority*' is defined to mean '*the local planning authority when exercising powers under Schedule 4B to the TCPA 1990 (as applied by section 38A (3) of the 2004 Planning Act)*'. The term '*competent authority*' is not defined by Regulation 107, but by Regulation 7 it includes (but not be limited to) a '*public body of any description or person holding a public office*'. It includes local authorities and parish councils.
60. Case law establishes that plans cannot be approved in reliance upon the duty to assess the planned projects as and when they come forward, and only approve them at that stage if found not to harm any protected site.<sup>13</sup> Consequently, for instance, the fact that there may be '*boiler plate*' language in the statutory development plan stating that projects cannot be approved if they would harm a protected site, cannot itself be sufficient to enable the plan to be approved without assessment, where it allocates or encourages particular development that is liable to harm a protected site.
61. There is no requirement for any formal decision to be made under the Habitats Regulations whether or not an '*appropriate assessment*' has been required. However, the Parish Council will be in breach of Regulation 102 of the Habitats Regulations if in

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<sup>13</sup> Case C-6/04, *Commission v UK* [2006] Env. L.R. 29 at [51]-[56].

fact a plan is likely to have a significant effect on a European site and has not been assessed.

62. The SEA states that the Neighbourhood Development Plan was screened on 25<sup>th</sup> November 2020 to determine whether a Habitats Regulations Assessment (HRA) was required. It was concluded that the draft Neighbourhood Development Plan is unlikely to have a negative impact on any internationally designated wildlife sites and as such, the recommendation was made that a full Appropriate Assessment is not required.
63. Natural England were consulted in July 2021. Natural England confirms that it does not have any specific comment on the Neighbourhood Development Plan.

### **Human Rights**

64. Although not assessed in the Basic Conditions Statement, the Neighbourhood Development Plan is not likely to lead to increased inequalities or discrimination in the plan area. I have identified that some of the policies are identified as having positive impacts on people who may experience disadvantage by virtue of their age or disability.

## **PART 3**

### **THE EXAMINATION**

#### **INTRODUCTION**

1. As noted in Part 1 - Introduction, I am satisfied that subject to the adoption of the various recommended modifications and amendments, set out below, made in order to address various perceived deficiencies, the Neighbourhood Development Plan is recommended to go forward to referendum.
2. I set out below a number of recommendations directed to the modification or amendment of the draft Policies contained within the Neighbourhood Development Plan. Further, I shall make recommended changes to its content. Overall, I set out the direct modifications and the consequential changes to the substance of the plan. However, these changes may affect the paragraph and page numbering, figures, and references. These should be updated by the Parish Council and the WDC in preparing the referendum version of the Neighbourhood Development Plan. Also, a number of minor modifications will be required for the purposes of clarity and accuracy.

## **SECTIONS 1 TO 3**

### **CONTEXT**

#### **Introduction**

1. Section 1 of the Neighbourhood Development Plan sets out the role of the Neighbourhood Development Plan, the Neighbourhood Development Plan Area, and the Plan period. As detailed above, Paragraph 1.5 should be updated to reflect more appropriately the circumstances at adoption of the Neighbourhood Development Plan.

#### **The Village and Parish of Broadway**

2. The Neighbourhood Development Plan sets out a brief synopsis of the Village Character and the surrounding Parish.

#### **Village Character**

3. The Neighbourhood Development Plan seeks to elucidate what makes Broadway distinctive by describing its historical context, its landscape and rural setting within the Cotswold Area of Outstanding Natural Beauty, its cultural capital, an overview of the settlement pattern that has evolved and consideration of more contemporary developments including the impact of the bypass.
4. Each of these elements provides an important context for the Neighbourhood Development Plan, and I raise no objections to this approach. However, it is disappointing that the contextual information provides little detail in terms of the social or economic strengths, weaknesses, opportunities, or perceived threats challenging the Parish today, or in the future, and the extent to which that analysis has informed the vision and objectives set out in the Neighbourhood Development Plan. I make recommended modifications when information is included alongside Policies in the Neighbourhood Development Plan, and where it would be more appropriately located in the Village Character section.
5. ***Recommended Modifications:***  
(1) The Plan ~~must comply~~ **complies** with the District and County Councils' local plans and with the government's wider policies. ~~If adopted (made), by referendum, it will~~



~~become~~ **The Broadway Neighbourhood Development Plan forms** part of the statutory development plan for the local area, construed alongside the South Worcestershire Development Plan ('SWDP'). Having legal force, Broadway's Plan ~~will~~ ~~carry~~ **carries** great weight in planning decisions taken by the District Council.

## **SECTION 4**

### **VISION AND OBJECTIVES**

1. Section 4 of the Neighbourhood Development Plan sets out the community's Vision for a green and harmonious neighbourhood. This Vision centres around respecting and reflecting the needs of its community, retaining the historic character and natural beauty of Broadway, whilst providing an outstanding quality of life for its future generations of residents and visitors within a strong economy.
2. Historic England notes its support of the general content of the document and its Vision and Objectives.
3. I am satisfied that the Vision Statement and Strategic Objectives set out in Section 5 of the Neighbourhood Development Plan reflect the aspiration of the community as set out in the Consultation Document. Its vision and strategic objectives, taken as a whole, seek to support the sustainable growth of the Village whilst at the same time safeguarding the rural character of the Parish, the qualities of its environment and would contribute to the achievement of sustainable development. I am also satisfied that subject to the adoption of the various recommended modifications, set out below, the Vision Statement and the five Strategic Objectives will meet the Basic Conditions.
4. ***Recommended Modifications:***
  - (1) Amend Vision to: 'Broadway will continue to respect and reflect the needs of its community, ~~retain~~ **conserve, and enhance** its unique historic character and natural beauty and living in harmony with the natural environment, provide an outstanding quality of life for future generations of residents and visitors within a strong economy. The community, together with the Parish Council, will support this vision by':
  - (2) Amend bullet point 2 to read: ~~Recognising and~~ **Conserving and enhancing** the character and history of the Neighbourhood Area.
  - (3) Amend bullet point 3 to omit the word 'managed'
  - (4) Amend the Strategic Objective at section 5.1 to delete 'managed and'

## **SECTION 5**

### **THE NEIGHBOURHOOD PLAN POLICIES**

#### **Format and Content of the Neighbourhood Development Plan**

1. The structure of the Neighbourhood Development Plan is broadly logical with the earlier sections setting out the Context and Vision followed by Objectives within the Policy sections. The Policies are distinguishable from the supporting justification and give reference points to other Policy documents.
2. Additionally, issues also arise in the Neighbourhood Development Plan as to the legal requirements of neighbourhood plans. The section on Neighbourhood Planning in the NPPG states that wider community aspirations than those relating to the development and use of land, if set out as part of the Neighbourhood Development Plan, would need to be clearly identifiable. It also should be made clear in the document that these aspects will not form part of the statutory development plan. I am satisfied that the '*Community Projects*' are clearly and separately identified.
3. The Village Design Statement is included as an Appendix 1 to the Plan. Clearly, a considerably amount of resource has been engaged in developing the Design Statement and there is a clear transition from it to the Policies proposed in the Neighbourhood Development Plan. However, I conclude that the Design Statement is an evidence document that has informed the Neighbourhood Development Plan rather than forming part of the development plan document itself. It therefore should not form part of the Neighbourhood Development Plan. For clarity, I recommend a modification to make clear that it is an evidenced base to the Neighbourhood Development Plan but is not part of the development plan itself.
4. ***Recommended Modifications:***
  - (1) Amend Appendix 1 'Village Design Statement' is included as an Appendix for reference purposes only and does not form part of the Broadway Neighbourhood Development Plan.

5. I now consider each of the neighbourhood planning policies assessed in turn against the Basic Conditions in the order that they are set out in the Neighbourhood Development Plan.

**Policy HD.1 – Development Boundary and Infill**

6. This Policy supports proposals for new dwellings within development boundaries identified in Figure 3. Areas outside the development boundaries are identified as countryside where new dwellings are limited to a specific number of exceptions. Limited infill within the development boundary (*‘the Development Boundary’*) will be supported subject to three criteria. Additionally, a number of amendments are proposed to the Development Boundary at Broadway Village and the Neighbourhood Development Plan identifies two new areas (figure 4 and 5) around which new development boundaries are proposed.
7. I first turn to the definition of the Development Boundary at Broadway Village. The boundary has been updated because ‘the local community consider these built-up areas to be an important part of the local community both physically and socially.’ The plan at 5.1.10 states that the development boundaries distinguish between the extent of the built environment and the surrounding countryside.
8. The proposed extensions to the Development Boundary to the west of Springfield Lane and a further extension to the west of Leamington Road align with more recent built development since the adoption of the South Worcestershire Development Plan 2016 (SWDP) and create a dense, urban form of development which appropriately is included within the Development Boundary.
9. A further amendment to the Development Boundary is proposed to the south of the Station. Representations by the Broadway Trust have brought to my attention an appeal decision<sup>14</sup> related to this area of the Village. A representation by Nikki Harrison is also made in support of this extension as it offers a small infill plot to be brought forward for a self-build project. The representation includes a further submission seeking an extension to land to the rear of properties fronting Station Road at Melville.

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<sup>14</sup> Appeal Ref: APP/H1840/W/18/3213004 Land adjacent to Two Jays, Station Road, Broadway.

10. The appeal decision, dated 18<sup>th</sup> February 2019, notes that the proposed extension to the Development Boundary forms part of a gap at Station Road, which enables two dwellings to remain separate from the Village and maintains the open rural character of the area. The Inspector concluded that development in this location would be contrary to Policy SWDP 2 (Development Strategy and Development Hierarchy) and would fail to safeguard the countryside. However, the appeal also concluded that Plot 1 is located to the rear of a pair of semi-detached dwellings and its rear boundary is adjacent to a further rear garden. As such Plot 1 is nestled within the Village boundary and built form. It would have a negligible effect on the open countryside. I have no evidence before me which suggests that the Inspector's conclusions should be disregarded. However, the appeal decision is clear that Plot 1 and the pair of semi-detached dwellings lie within the built-up area of the Village, and not within the countryside. Therefore, the Development Boundary should be amended to include Plot 1 within the Development Boundary and would guide infill development to a sustainable location to be consistent with SWDP 2.
11. The Development Boundary to the east of Station Road is defined by a strong linear character. I note the representations by Limes Development highlighting the need to meet the identified duties under the Self Build and Custom Housebuilding Act 2015. The representation does not include details of the need within the district or any shortfall. However, in my view, the land proposed at Melville, beyond the established built-up linear character, essentially a wooded area, is part of the broader countryside rather than the built-up part of the Village. The identification of this land within the Development Boundary would not accord with the SWDP principle to focus most development on the urban areas. In this respect I am satisfied that an amendment to the Development Boundary at Melville would not meet the Basic Conditions.
12. The Neighbourhood Development Plan identifies new development boundaries at Leedons Park (Figure 4) and Smallbrook (Figure 5). Representations by the Worcester Diocesan Board of Finance highlight that defining satellite boundaries around these small areas of residential development set away from the main Village, which on their own would likely fall within Category 4 classification and below, is not deemed to be sustainable development or appropriate locations for windfall development.

Accordingly, this is in conflict with SWDP which seeks to focus most development on the urban areas. Additionally, representations submitted by WDC explain in detail why the approach is not in conformity with the SWDP. These could result in unintended consequences which would be contrary to sustainable development principles. I endorse their view and propose modifications accordingly.

13. Representations by the North Cotswold Hunt (*'NCH'*) supports the identification of a Development Boundary as a sustainable location for new development. The representation also seeks to add at the end of HD.1.2 'or as otherwise provided for by this Neighbourhood Plan' allowing for an alternative location for the NCH. In my judgment, this would be contrary to the strategic policies in the SWDP. These seek to restrict development outside the development boundaries, within the open countryside, and would not accord with the SWDP principle to focus most development on the urban areas.
14. Representations by Mr Houghton promote the inclusion of land to the east of St Michael's Church, Church Street, within the Development Boundary. I consider the land to be on the edge of, but outside of the built-up part of the Village, due to its open and undeveloped characteristics. It does not require the amendment of the Development Boundary to meet the Basic Conditions.
15. Representations by Greystoke Land seek to include two parcels of land within the Development Boundary that are additionally proposed as Local Green Spaces in the Neighbourhood Development Plan. The two sites are currently the subject of an appeal for outline consent for 9 dwellings. The sites represent two parcels of land which form green space at the edge of the built-up area of the Village. Identifying the sites within the Development Boundary would not accord with the SWDP principle to focus most development on the urban areas.
16. I now turn to the provisions within the Policy. SWDP Annex D: Hierarchy of Settlements defines Broadway as a Category 1 settlement. Policy SWDP 2 states development in the open countryside, outside the Development Boundary will be strictly controlled and will be limited by a list of exceptions.

17. I note the issues raised in representations on behalf of Amber who consider HD.1 to be unduly restrictive. I conclude that Policy HD.1 in part duplicates Policy SWDP 2 and is unduly restrictive as it does not have regard to other exceptions to allow isolated homes in the countryside permitted by the NPPF (see paragraph 80 and elsewhere.)
18. The Policy seeks to introduce a more restrictive approach than appears in the SWDP and the NPPF and I have no evidence or sufficient justification which demonstrates that the current should be further restricted. Additionally, the Neighbourhood Development Plan is to be read as a whole. It is not necessary to note that development should be compliant with other policies in this Plan nor to repeat Policy SWDP 2. The policy should be amended so that it is consistent with the SWDP 2, positively written, unambiguous and clear. I make recommended modifications collectively in respect of Policy HD.1, HD.2 and HD.3 below.

**Policy HD.2: Use of Garden Land and Policy HD.3 Use of Brownfield Land**

19. Policy HD.2 seeks to support development on garden land subject to safeguarding criteria. Policy HD.3 supports the reuse of brownfield land.
20. Representations by Severn Trent support section ‘f’ of Policy HD.2 which deals with flood risk and Policy HD.3. This addresses opportunities for surface water separation and betterment and where development should not cause new or exacerbate flood risk and abide by the drainage hierarchy.
21. Representations by WDC states that HD.2 could be incorporated into HD.1, detailing the additional criteria for which residential development on garden land must conform to. Similarly, HD.3 could be incorporated into HD.1 detailing the encouragement for development on brownfield land. NCH supports Policy HD.3.
22. There is much uncertainty and lack of clarity as to the purpose and intent of these two Policies. I consider that the Policies are misaligned with Policy SWDP 2 which permits extensions to dwellings both within the Development Boundary and in the countryside. I also consider that it is unduly restrictive particularly seeking to ensure all residential development preserves and enhances the character of the Area – this is a statement primarily used in respect of Conservation Areas. As previously discussed, the

Neighbourhood Development Plan is read as a whole and therefore it is inappropriate to duplicate other Policies. Much of the criteria in HD.2 and HD.3 also duplicates Policy HD.1 leading to a lack of clarity and increased ambiguity. I therefore recommend that policies HD.1, HD.2 and HD.3 are consolidated, as proposed below.

23. ***Recommended Modifications:***

(1) Amend Policies HD.1, HD.2 and HD.3 to read:

Policy HD.1: Development Principles

HD.1.1 Proposals for new dwellings within the development boundaries (shown in Figure 3) will be supported subject to being conformity with the Village Design Statement and the South Worcestershire Development Plan.

HD.1.2 Limited infill within the Development Boundary will be supported where it:

- a. Contributes to the character of the Village; and
- b. Is modest in the proportion to the size of the site, proportionate in mass to neighbouring properties and designed to respect the context and amenity of neighbouring properties as well as the wider Village;

HD.1.3 Development proposals for residential development on garden land within the Development Boundary will be supported where it:

- a. Has positive regard to the character of the area and the Broadway Village Design Statement;
- b. Preserves or enhances the Broadway Conservation Area Appraisal, where appropriate;
- d. Does not adversely affect the amenities of neighbouring properties;
- e. Provides satisfactory arrangements for access and parking; and
- f. Does not cause new flood risk or exacerbate any existing flood risk.

HD1.4 The redevelopment of brownfield land within the Development Boundary will be supported subject to:

- a. The new use would be compatible with the surrounding uses;



- b. Any remediation works to remove contaminants are satisfactorily dealt with;
  - c. The proposal would lead to an enhancement in the character and appearance of the site and would not result in the loss of any land of high environmental value; and
  - d. The proposal does not cause new flood risk or exacerbate any existing flood risk.
- (2) In figure 3 amend the Development Boundary map to include Plot 1 of appeal APP/H1840/W/18/3213004, land at Two Jays, and the two adjacent semidetached dwellings to the south of the Station.
- (3) Delete second and third bullet points in paragraph 5.1.5
- (4) Delete Figure 4 and Figure 5 and make consequential changes to numbering of figures (I continue to use the Figure numbers in the Neighbourhood Development Plan for clarity).
- (5) Delete second sentence of paragraph 5.1.7, delete paragraphs 5.1.8 to 5.1.10 inclusive, 5.1.15, 5.1.23, in paragraph 5.1.26 amend references to NPPF to ‘expected to comply with the NPPF.’ Finally, it will be necessary to consolidate the remaining supporting justification and references under revised Policy HD.1.

### **Broadway Housing Growth**

24. The Neighbourhood Development Plan includes a section of contextual information currently within Policy HD.1 and HD.2. This would be more logically and appropriately relocated to the introductory parts of the Neighbourhood Development Plan. However, to meet the Basic Conditions, the section also needs to be updated to reflect accurately the position on housing requirement as set out in Wychavon’s document ‘Indicative Housing Requirements for Broadway Neighbourhood Area 2021-2031 and 2031 to 2041’ and to reflect accurately the current SWDP review position highlighted in representations by the Worcester Diocesan Board of Finance. Appendix 1 to this Report sets out the approach to the Indicative Housing Requirement and I am satisfied this approach is robust, is consistent with the strategic approach set out in SWDP and takes on board the Government’s standard methodology in view of the current status of the SWDP review.

25. Additionally Figure 6 needs to be corrected to reflect the additional information provided by the Parish Council and WDC for developments at Leedons Park and Leamington Road.
26. ***Recommended Modifications:***
- 1) Relocate the section entitled Broadway Housing Growth - paragraphs 5.1.11 to Figure 11 inclusive (excluding paragraph 5.1.15 as noted above) to Section 2 – The Village and Parish of Broadway.
  - 2) Update paragraph 5.1.12 to delete the final sentence of paragraph and add: ‘Broadway Parish Council, the qualifying body for preparing the Broadway Neighbourhood Development Plan, requested an indicative housing requirement figure as a basis for preparing their Neighbourhood Development Plan. As required by the National Planning Policy Framework, the calculations take into account the latest evidence of local housing need, the most recently available planning strategy for South Worcestershire as set out in Policy SWDP 2 of the South Worcestershire Development Plan (SWDP), planning permissions and undeveloped housing allocations in the SWDP and the population of the neighbourhood area as of December 2019. The indicative housing requirement for the Parish of Broadway for the period 2021 to 2030, equates to less than 2 dwellings. The indicative housing requirement for the Parish of Broadway for the period 2031 to 2041 equates to 53 dwellings’.
  - 3) Include WDC’s ‘Indicative Housing Requirements for Broadway Neighbourhood Area 2021 to 2030 and 2031 to 2041 as an evidence base document on the Neighbourhood Development Plan website and added to the list of references below Figure 11.
  - 4) Update figure 6 to amend dwellings under construction at Leedons Park to 26 and dwellings under construction at Leamington Road to 21.

**Policy HD.4: Site Allocation – Land off Kennel Lane/Church Close**

27. Policy HD.4 Site Allocation - Land off Kennel Lane/Church Close allocates a site to the south of the settlement, within the Cotswold AONB for mixed use development comprising business (Class E) and predominantly affordable 1-bedroom and 2-bedroom dwellings. The Policy sets out a series of requirements including access provision, on-site parking for occupants, retention or relocation of retail uses within the site, conversion of kennel buildings for appropriate reuse and safeguarding conditions

given the sensitivity of the site. The Policy requires an outline application to be accompanied by a development brief or illustrative layout which demonstrates a co-ordinated redevelopment of the whole site.

28. Representations by residents, the Kennel Lane Objection Group, local business owners, landowners and other site promoters have submitted comments on the proposed allocation. I have had the opportunity to review those comments in detail and taken them into consideration in reaching my conclusions. The key issues raised by these representations are detailed in Appendix 2.
29. Policy SWDP 2 identifies Broadway as a Category 1 Settlement and is suited to accommodate market and affordable housing needs alongside limited employment for local needs. The Neighbourhood Development Plan confirms that the Village has seen a level of housing growth in excess of that which was anticipated in the SWDP for the period 2006-2030. Given the permissive policies to support development within the Development Boundary and to support appropriate development within the countryside, there is sufficient flexibility to ensure opportunities and potential for further infill development and redevelopment of sites within the Development Boundary to meet the very modest indicative housing requirement for the period to 2030.
30. NPPG states that neighbourhood planning bodies are encouraged to plan to meet their housing requirement and where possible exceed it.

*'Neighbourhood Plan can allocate additional sites to those in a local plan (or spatial development strategy) where this is supported by evidence to demonstrate need above that identified in the local plan or spatial development strategy.'* (NPPG Paragraph: 044 Reference ID: 41-044-20190509).
31. At paragraph 5.1.12, the Neighbourhood Development Plan states that the Parish Council has worked collaboratively with the WDC planning team to demonstrate that the housing requirement for Broadway can be met through the Neighbourhood Development Plan. This approach is supported by NPPG which seeks to ensure that local planning authorities take a proactive and positive approach, working collaboratively to share evidence and resolve issues to ensure the Neighbourhood

Development Plan has the greatest chance of success. In allocating the site at Kennel Lane and Church Close the Neighbourhood Development Plan is seeking to secure additional housing provision, to plan for and accelerate growth in the Plan period to 2030, to partly address its indicative housing needs that are projected beyond the plan period between 2031 and 2041.

32. A series of representations are made to promote alternative or additional sites for housing to meet future needs and to address WDC's 's five-year housing land supply position. The South Worcestershire five-year housing land supply report published in September 2021 confirms a land supply of 5.76 years. Therefore, I do not consider the strategic policies of the SWDP to be out of date.

#### Site Assessment and Evaluation

33. In respect of understanding whether the Neighbourhood Development Plan contributes to the achievement of sustainable development, it is necessary to be satisfied that the site assessment process from which the site allocation emerges is robust. NPPG requires neighbourhood development plans to '*be supported by appropriate evidence.*'<sup>15</sup>
34. In my initial questions to the Parish and WDC dated 15<sup>th</sup> November 2021, I noted, '*The reference documents included within the Broadway Neighbourhood Plan do not provide me with insight into how the sites evaluation and assessment process was completed, nor provide me with a clear and logical narrative as to how and why the identified site has been included for the particular mix of development proposed.*'
35. The Parish Council's response in December 2021 indicates that identified sites in South Worcestershire's Strategic Housing and Employment Land Availability Assessment (SHELAA) 2018 informed an assessment of reasonable alternatives as part of the Strategic Environmental Assessment (SEA) process in May 2021. I note Site Allocation HD.4 is included in the Regulation 14 version of the Neighbourhood Development Plan dated September 2020, prepared after the SWDP Preferred Options Consultation concluded in December 2019. I also note the most recent SEA, dated May 2021, states that Lepus Consulting conducted an SEA of the Broadway Neighbourhood Development Plan 2006-2030 Pre-Submission Consultation Version (dated 13th August 2020) on behalf of Broadway Parish Council.

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<sup>15</sup> NPPG Neighbourhood Planning, Paragraph: 041 Reference ID: 41-041-20140306.

36. Policy HD.4 formed part of a larger site (CFS0472) which is identified in SHELAA 2018 and allocated in the South Worcestershire Preferred Options Development Plan for car parking and employment land. The SHELAA assessment for CFS0472 concluded that the site;
- ‘could be suitable to provide a 200 space car park and 1 ha of employment. If access could be secured, could be part of a redevelopment of the Kennels on the Brownfield element of the site. Need to address Heritage / Conservation concerns.’*
37. The allocation also includes a smaller, greenfield parcel of land assessed in the SHELAA ‘land at Church Close’ (CFS0406). Site CFS406 was ruled out stating;
- ‘Size (too small) and AONB. Also concerns re TPOs and Conservation Area. Submitted for mixed use so need to consider as an employment site.’*
38. Additionally, Policy HD.4 comprises a parcel of land between these two sites which had not previously been brought forward through the call for sites, or evaluated through the SHELAA, or the SWDP Sustainability Appraisal process. The Parish Council has confirmed that the allocated site came forward after the SWDP Review Preferred Options Consultation (December 2019). WDC has also confirmed that:
- ‘Other landowners / promoters submitted updated or new sites post Preferred Options and the District Council continued to receive and assess these up until 24 September 2020 which is considered the cut-off date following Preferred Options to allow sufficient time for assessment of the sites by internal and external consultees’.*
39. The Parish Council considered that a further call for sites was unnecessary, would duplicate existing evidence and the site was determined as the preferred site through local knowledge. I note that the totality of the allocation Site HD.4, does not have the benefit of an equivalent assessment to the SHELAA, to consider whether the site is suitable, available, and achievable.
40. Also, to be noted is the additional submission by the Landowners Consortium which states that the land is unencumbered and that it is not aware of any viability issues. However, representations identify distinct issues with achieving the sustainable development of the allocation. The submission made by the NCH reports that their site is not available until a relocation opportunity is found and that residential development on the site cannot take place until that relocation is completed. NCH seeks support

through the Neighbourhood Development Plan to extend the Development Boundary to support the NCH relocation. This has been resisted by the Parish Council.

41. NPPG confirms that site assessment, such as a SHELAA, is an important source of evidence to inform plan making and should be used proportionately in Neighbourhood Planning. A SHELAA assessment considers a wider range of both minor and major criteria including an indication of the types and scale of development appropriate to a site. I consider that such an updated assessment of the whole site would have been proportionate and appropriate given the complexities of existing uses and users on the site, the breadth of uses proposed in the Neighbourhood Development Plan, including those encompassed by Use Class E, and the challenges and issues raised through the community consultation.
42. Site Allocation HD.4 is included in an ‘assessment of alternative options’ reported in the 2021 SEA. The purpose of the SEA is stated:

*‘to identify, describe and evaluate the likely significant effect of the NDP on environmental factors.’*
43. At paragraph 1.8.6 the SEA states:

*‘Other factors, for example transport / ensuring safe and suitable access, and ground conditions / contamination may form important considerations for any proposals that are brought forward in the planning process and as highlighted in the Strategic Housing and Employment Land Availability Assessment (SHELAA) appraisal of site options. This information should therefore be considered as part of the wider evidence base for the NDP / SWDPR, alongside the potential for mitigation.’*
44. At paragraph 1.8.7 the SEA states:

*‘Reasonable alternatives sites for the NDP.....were assessed for significant environment effects as part of the SEA process through an assessment of reasonable alternatives.’*
45. The SEA has considered the Allocated Site and the ‘alternatives’ against a limited set of environmental criteria relevant to the purposes of a SEA, namely: biodiversity, cultural heritage, landscape and water and flooding assessment. The SEA evidence supporting the Neighbourhood Development Plan does not address the other overarching objectives of achieving sustainable development: the social objective to

support strong, vibrant, and healthy communities and the economic objective to build a strong, responsive, and competitive economy. As such, the SEA on its own, cannot be a substitute for a balanced consideration of whether the Site Allocation contributes to the achievement of sustainable development or meets the Basic Conditions. It is reasonable to assume that other sustainable development considerations such as the vitality and vibrancy of existing businesses, the impact of the loss of a key rural enterprise, contribution to meeting local housing needs, highways issues, contamination and amenity are some of the factors that needs to be considered as part of a wider consideration of reasonable alternatives.

46. Additionally, I am concerned that the SEA's choice of alternative options is not robust. I do not have confirmation that any alternative, updated or reviewed development sites submitted as part of the SWDP Preferred Options consultation within the Neighbourhood Development Plan Area, or any sites submitted to WDC before 24<sup>th</sup> September 2020 have been robustly considered in an equitable and transparent way alongside the Site Allocation HD.4. The SEA simply states that no other alternative sites outside of the proposed allocation for HD.4 have been identified by the NDP Steering Group outside of those identified in the SWDP Review SHELAA process. As far as I am aware, and from the evidence submitted with the Neighbourhood Development Plan, the SHELAA process has not been updated to take on board the results of the Preferred Options Consultation, nor has it been updated to take on board additional sites submitted through the Neighbourhood Development Plan's own consultation. As an example, the site at the 'Burbage plots' promoted by Greystoke Land, nor the site promoted by McLoughlin to the south of Church Close, are included within the SEA assessment of alternative sites albeit both are included within the Neighbourhood Plans Consultation Report as submissions in October 2020.
47. It is a basic condition that a neighbourhood development plan must be in general conformity with the strategic policies of the SWDP.
48. SWDP Policy 1: Overarching Sustainable Development Principles requires proposals to improve the economic, social, and environmental conditions in south Worcestershire. I have requested information from WDC and the Parish Council on any assessment of the demand for business and retail development within the Parish. WDC has confirmed

that although it has prepared background evidence in support of the SWDP Review, the latest version (March 2022) of the Economic Development Needs Assessment does not provide any local level needs assessment by Village settlement. Likewise, WDC no longer collects retail monitoring data, mainly given the state of the sector resulting from on-line shopping etc. Similarly, there is no local level retail figure available for Broadway.

49. Neither the SEA nor the site assessment process has assessed the positive and negative, direct, and indirect economic impacts of the Site Allocation and its contribution to achieving sustainable development. Such impacts raised by representations include the relocation of the NCH buildings, the retention or relocation of retail uses, the loss of off-street parking for High Street employees, and the consequential impact upon the vitality and vibrancy of the centre.
50. Policy SWDP 2: Development Strategy and Settlement Hierarchy identifies Broadway as a Category 1 settlement suited to accommodate market needs alongside limited employment for local needs. Development proposals should be of an appropriate scale and type having regard to the scale of the settlement. This approach is amplified in Policies SWDP 8: Providing the Right Land for Buildings for Jobs; Policy SWDP 9: Creating and Sustaining Vibrant Centres; and Policy SWDP 10: Protection and Promotion of Centres and Local Shops. Additionally, Policy SWDP 10 states that in order to preserve the variety and vitality of local shopping opportunities, the change of use of premises from retail to other town centre uses listed will not be permitted unless it satisfies two conditions. Notably Policy LET.1 in this plan seeks to resist the loss of retail uses and the loss of off-street parking. Policy SWDP 12: Employment in rural areas seeks to protect existing employment sites (in Category 1 settlements) and supports proposals for farm diversification.
51. Development within Use Class E, detailed in Policy HD.4, includes a wide range of retail, commercial and town centre developments. I do not have robust evidence, as part of the Neighbourhood Development Plan submissions, which demonstrates that the potential scale of development and breadth of uses that fall within 'Class E' ensures that the type and scale of the development would be appropriate to the settlement, would secure the vitality and vibrancy of the centre and would not result in the loss of



employment land as required by the strategic policies. Therefore, I cannot conclude that Policy HD.4 is in conformity with the strategic policies in the SWDP and will contribute to the achievement of sustainable development.

52. Policy SWDP 4: Managing Travel Demand requires development to demonstrate that it minimises demand for travel, offers travel choices, addresses road safety and is consistent with the Local Transport Plan. Policy SWDP 21: Design requires vehicular traffic to access the highway safely and the road network should have capacity to accommodate the type and volume of traffic from the development. Representations by local residents raise concerns about the suitability of the access from Church Close to serve the development and local employees raise concerns about the loss of off-street parking and the consequential impact on other car parks and residential areas. Parking is recognised as a key ‘problem’ within Community Project 4. No information has been provided that demonstrates that the requirements of Policies SWDP 4 and SWDP 21 can be met and that in the allocation, in this respect is in conformity with SWDP. Additionally, I have no justification before me which demonstrates the need to limit vehicular access from Kennel Lane only to ‘properties with existing established rights’ or that onsite parking should be limited to ‘occupants.’
53. Policy SWDP 15: Meeting Affordable Housing Needs states that on brownfield sites in Wychavon, 40% of dwelling units should be affordable. Policy HD.4 states that the Site is allocated for ‘predominantly affordable 1- and 2-bedroom dwellings’. The Parish Council, in its response in March 2022, confirms the intention of the policy. New residential uses will be incorporated within the masterplan for ‘predominantly 1- and 2-bedroom market homes which are more affordable for local people’. However, Policy HD7.3 states that market housing in the Neighbourhood Development Plan area will be provided with a stock mix of 10% 1-bedroom units and 25% 2-bedroom units. There is a distinct inconsistency between HD7.3 and the Parish Council’s interpretation of Policy HD.4.1. This is not addressed by robust or proportionate evidence demonstrating why a different approach is needed to market housing on this allocated Site than promoted elsewhere in the Neighbourhood Development Plan Area.
54. I have also considered whether the Policy intent is to have ‘predominantly affordable housing’ and whether this would be consistent with Policy SWDP 15. Again, I have no

evidence or analysis<sup>16</sup> that demonstrates that the Neighbourhood Development Plan should depart from the strategic Policy and support more than 50% affordable housing on this allocation.

55. In respect of requiring ‘predominantly affordable 1- and 2-bedroom dwellings’ and other Policy requirement such as the retention of retail uses and the relocation of existing enterprises, NPPG ‘Viability’ is clear - planning policies should be set at a level that allows the development to be deliverable considering a viability assessment.

*‘The role for viability assessment is primarily at the plan making stage. Viability assessment should not compromise sustainable development but should be used to ensure that policies are realistic, and that the total cumulative cost of all relevant policies will not undermine deliverability of the plan.’*

56. Representations raise the distinct challenges of delivering viable development on a site, which includes brownfield land currently occupied by existing enterprises enabling the relocation of the NCH, whilst at the same securing policy compliant affordable housing. In my judgment, there is a lack of robust and proportionate evidence which supports the choices made and ensures that the policies are realistic and deliverable in accordance with national policy.

57. The evidence base for the Neighbourhood Development Plan need only be proportionate to Neighbourhood Planning. There is some evidence to support the approach to accelerate housing to meet local housing needs and opportunities for some regeneration. However, it is important that the evidence supporting the Policies is robust. In essence, despite seeking clarification at the end of last year when the issue was raised with the Parish Council and WDC as to the evaluation and assessment process of the Site, the Neighbourhood Development Plan still lacks robust and proportionate evidence.

58. Thus, the Policy has not had regard to national policy and guidance; is not in conformity with the strategic policies of the SWDP; is inconsistent with other policies in the Neighbourhood Development Plan; and does not contribute to the achievement of

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<sup>16</sup> See paragraph: 002 Reference ID: 10-002-20190509.

sustainable development. Taking this into account, Policy HD.4 does not meet the Basic Conditions.

59. Accordingly, I recommend that Policy HD.4 be deleted from the Neighbourhood Development Plan. In this regard I have considered whether it would be appropriate to make specific and detailed modifications to the Policy, via the examination, to ensure that it complies with the Basic Conditions. However, I am unable to remedy the evaluation process or the terms of the Policy to ensure it complies with the Basic Conditions.
60. In response to the Regulation 16 Consultation, a series of additional and alternative proposals have been submitted. These include housing development with supporting infrastructure and community facilities. In testing the Neighbourhood Development Plan, it is not within my remit to consider or balance the relative benefits or disbenefits of alternative development proposals. However, I am satisfied, even with the recommended modifications, the Neighbourhood Development Plan ensures opportunities and potential for residential development and redevelopment of sites within the Development Boundary to meet the very modest indicative housing requirement to 2030.
61. I appreciate that the parties have expended much time and energy on this important section of the Neighbourhood Development Plan, and I appreciate that there will be considerable disappointment manifested at my conclusions. In this regard, it is important to remember that my role as Examiner is to conduct a robust Examination which complies with all the legal requirements so as to enable to proceed to Referendum. However, I am also mindful of the fact that there is an agreement between the Parish Council and WDC to bring forward the site and further design work. These documents have not been made available to me and have not formed part of the evidence base for the Neighbourhood Development Plan. Thus, this documentation does not form part of my considerations.
62. ***Recommended modifications:***
  - (1) Delete Policy HD.4: Site Allocation – Land off Kennel Lane Church Close

- (2) Delete paragraphs 5.1.31 to 5.1.38., Figure 112 and the associated Reference Documents section.
- (3) Delete all other references to the site allocation within the Neighbourhood Development Plan including those at Figure 7, Figure 3, and reinstating the Development Boundary at Kennel Lane and Church Close on figure to accord with the SWDP Proposals map and paragraph 5.1.12.

#### **Policy HD.5: Rural Exception Housing and Affordable Homes**

63. The Policy supports rural exception housing and affordable homes where they are reasonably adjacent to the Development Boundary, subject to safeguarding criteria. Additionally, the Policy permits market housing on a rural exception scheme where it secures the viability of the proposed development. WDC in their representations state that the policy duplicates Policy SWDP 16, and if retained the Policy should replace ‘social landlord’ with ‘rural exception sites’.
64. I recognise that access to affordable housing is a significant issue, as promoted in the Broadway Parish Housing Needs Survey 2017, and evidence which demonstrates the high price of open market housing. However, in my view the Policy is a synopsis of Policy SWDP 16 and does not add any specificity or layer of distinctiveness relevant to Broadway Parish. Therefore, the Policy does not meet the Basic Conditions and simply duplicates current policy.

#### ***Recommended modifications:***

- (1) Delete Policy HD.5: Rural Exception Housing and Affordable Homes
- (2) Delete paragraphs 5.1.39 to 5.1.41., Figure 13 and the associated Reference Documents section.

#### **Policy HD.6: Local Gaps**

65. Policy HD.6 seeks to ensure that the open and undeveloped nature of countryside between Broadway and Childwickham, and that the gap between Broadway and Willersey (to the north of Sandcroft Avenue to Springfield Lane to the Parish boundary) is retained. The Policy restricts development to a limited number of ‘open’ land uses.

66. NPPF – Achieving well-designed places seeks to establish and maintain a strong sense of place and ensure development is sympathetic to the local character and history, including the surrounding built environment and landscape setting. This local character and sense of place would not be well served by the coalescence of settlements. In this respect the Policy has regard to national policy.
67. The sites identified as Local Gaps lie outside the Development Boundary where policies seek to restrict development to categories of development acceptable in the countryside as set out in Policy SWDP 2. Therefore, I disagree with the statement in paragraph 5.1.44 of the Neighbourhood Development Plan that this Policy has the same intention as SWDP 15 Meeting Affordable Housing Needs, or SWDP 16 Rural Exception Sites. It would appear to have a stronger policy intention akin to Policy SWDP 2 (d) – which seeks to ensure the retention of the open character of identified significant gaps.
68. The supporting justification sets out a broad rationale for the Local Gaps to maintain the open settings and individual characters of the distinctive settlements. Although the Policy is not supported by a Landscape or Settlement Character Assessment, I recognise that the rural gap between Childwickham and Leedons Park is limited and a policy which seeks to avoid coalescence would positively support a sense of place and retain the limited open and rural character between Childwickham and Leedon’s Park and secure Childwickham’s setting. The Policy should not be worded negatively to restrict development but require any development to retain the physical and visual separation as set out in the associated supporting justification.
69. The distance between Leedons Park and Broadway Village is considerable. There is no demonstrated evidence which suggests that there is a need to protect the setting of Leedons Park nor would the local Gap Policy appropriately address coalescence between Leedons Park and Broadway Village. For this reason, the area of land to the south of Leedon’s Park and the railway line should not be identified as a Local Gap.
70. The sites identified in Figure 15, i.e., the Local Gap between Broadway and Willersey, lie outside the Development Boundary and within the Cotswolds Area of Outstanding Natural Beauty (‘AONB’). National policy states that great weight should be given to conserving and enhancing landscape and scenic beauty and that development within the

AONB should be limited, whilst development within its setting should be sensitively located or designed to avoid or minimise adverse impacts on the designated areas. The Local Gaps areas, detailed in Figure 15, are substantial, extending across the northern built-up area of the Village between Springhead Lane, the bypass and to the district boundary. This is an issue highlighted by WDC's representations. WDC also recommend that 'should' is amended to 'is defined.' Representations by Mr John Robbins highlights the need for Neighbourhood Development Plans to have proportionate, robust evidence to support the choices made and the approach taken. The identified areas extend significantly beyond the road approaches that are described as important for Broadway's setting and needed to address the risk of erosion of distinctiveness and local character and coalescence.

71. I have not been provided with evidence or assessment work beyond that stated in the Neighbourhood Development Plan which considers the need for the extent of this Local Gap. For this reason, I consider that the 'Local Gaps' policy to be negative and overly restrictive, not had regard to national policy and inconsistent with Policy SWDP 2. Therefore, in my judgment it is not positively prepared and fails the Basic Conditions. I make recommended modifications accordingly.

72. ***Recommended modifications:***

(1) Amend HD.6.1. In order to prevent the coalescence of ~~Broadway~~ **Leedons Park** and Childswickham a ~~defined~~ local gaps ~~should be left~~ **is defined** between the two as shown in Figure 14 ~~and Figure 15~~. This **local** gap should be maintained in order to preserve the open settings and individual characters of these distinctive settlements and prevent the equivalent of 'ribbon development' between them. New development should preserve the separation of the settlements concerned and retain their individual identities.

(2) Delete Policy HD.6.2 and HD6.3.

(3) Amend paragraph 5.143 and 5.144 to refer to the rural gap between Leedon's Park and Childswickham as: **'The purpose of the local gap is to protect the rural and open setting of Childwickham and separate identity of Leedons Park, to avoid coalescence and to retain the existing settlement pattern. These settlements have the additional benefit of having open land near to where people live, conferring significant welfare benefits.'**

### **Policy HD.7: Housing Mix**

73. Policy HD.7 Housing Mix seeks to secure a greater proportion of smaller affordable homes with a limited number of four plus bedroom homes where affordable housing is provided. In relation to developments of 10 or more dwellings, market housing should be provided to meet the requirements identified by up-to-date evidence such as the Broadway Housing Needs Survey and be in general accordance with a specified stock mix.
74. I note the representations by Amber which seeks a positive approach to meeting the needs for later living accommodations. Additionally, representations outline support for a retirement Village to provide accommodation for local residents as proposed by Amber.
75. National Policy supports an approach which specifies the type of affordable housing required. The SWDP identifies the growth in demand for smaller properties, many of which need to be suitable for people of retirement age.
76. Policy SWDP 14: Housing Market Mix states that on sites with five dwellings or more, the market housing mix will be informed by the latest Housing Market Assessment and or other local data, such as neighbourhood plans, parish surveys, parish plans, and developers' assessments. The reasoning is unclear as to why the Neighbourhood Development Plan has chosen a threshold of 10 dwellings, rather than five dwellings, as stated in the strategic policy. I make recommendations so that the Policy is consistent with Policy SWDP14.
77. Policy SWDP 15 states the size, type, tenure, and distribution of affordable dwellings will be subject to negotiation, depending on recognised local housing need, specific site and location factors and development viability. The Worcestershire Strategic Housing Market Assessment advised that the waiting list data indicates that the group most frequently requiring affordable housing is family households, followed by single person households.

78. The most recent Housing Needs Survey is dated 2017 and indicates a strong unmet need for Affordable Housing for 2-bedroom units, with demand also for 3-bedroom and a limited number of 4-bedroom units. In terms of market housing, the greatest need was for 2- and 3-bedroom units. The Parish Council have highlighted that the Village has an aging population and there is a need to provide affordable homes, starter homes and homes for young families. The Neighbourhood Development Plan states that the percentages outlined in HD.7 fall within the bands in SWDP 14. Additionally, the Parish Council seeks to provide smaller homes that are more affordable. However, whilst the affordable housing stock mix recognises the need to ensure that it is in accordance with the most up to date evidence, the Policy is precise and inflexible, and it is not clear how the precise percentages in the housing bands have been derived – there are no similar bands in Policy SWDP 14 or SWDP 15. Therefore, I recommend modifications to the policy to introduce flexibility.
79. WDC in their representations state that HD7.1 appears to be in accordance with housing need but would suggest that the tenure split of 80% social and 20% intermediate is included. Policy SWDP 15 Meeting Affordable Housing Needs states that the final tenure mix of affordable housing on individual sites will be subject to negotiation. Generally, the preference will be for social rented housing, unless for example a contribution from an alternative affordable housing tenure is required to achieve scheme viability, or local need has been demonstrated for a different affordable housing tenure. The Explanatory Text could make reference to apartments as an exception to the housing mix as they are normally 1, 2 beds with some 3 beds. I am satisfied that there is no requirement to include a tenure split or further exceptions within the policy to satisfy the Basic Conditions.
80. WDC also raise the issue that there is no reference to First Homes. The Neighbourhood Development Plan has the benefit of transitional arrangements<sup>17</sup> for the Government’s First Homes policy and therefore I am satisfied there is no requirement to include First Homes provision within the policy.

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<sup>17</sup> First Homes Paragraph: 018 Reference ID: 70-018-20210524.



81. ***Recommended Modifications:***

(1) Amend HD7.1 and H.7.3 in each case to replace ~~will be provided in general accordance with the following~~ with **encouraged to provide the following:**

(2) Amend HD.7.2 New developments of ~~10~~ **5** or more dwellings should meet the requirements identified by current up-to-date evidence such as the Broadway Parish Housing Needs Survey.

**Policy HD.8: Pedestrian Access to Amenities**

82. Policy HD.8 seeks to ensure new housing has easy pedestrian and cycle access to the Village's amenities assisting a shift from vehicle use to sustainable modes of transport.

83. The NPPF is clear that planning policies should aim to achieve healthy, inclusive, and safe places by promoting social interaction for example through developments which allow easy pedestrian and cycle connections within and between neighbourhoods, are safe and accessible and enable and support healthy lifestyles. Policy HD.8 has regard to national policy and promotes sustainable development.

84. Representations by Greystoke Land support the Policy. Representations by Amber argue that the Policy should apply to all development proposals which is consistent with national policy.

85. ***Recommended Modifications:***

(1) Amend 'New housing' to 'Development proposals, as appropriate.'

**Policy BE.1: Design Principles**

86. Policy BE.1 seeks to ensure that development proposals have regard to the Village Design Statement and a series of key design principles taking into account the historic character of Broadway Conservation Area and other heritage assets.

87. Representations by Amber seeks to ensure the Policy promotes high quality design and facilitates development in sustainable locations. The representation acknowledges this is recognised in SWDP 21 – Design.

88. Representations by Historic England support the emphasis on the conservation of local distinctiveness through good building design, including through the identification of discreet character areas and the protection of national and local heritage assets, local green space, and important views, along with landscape character and biodiversity is to be applauded. Historic England also commend the Broadway Village Design Statement (2020).
89. Chapter 12 of the NPPF confirms that good design is a key aspect of sustainable development, creates better places in which to live and work and helps makes developments acceptable to communities. Plans should set out a clear design vision and expectations so that applicants have as much certainty as possible about what is likely to be acceptable. Additionally, the NPPF is clear that planning policies should contribute to and enhance the natural and local environment.
90. I am satisfied that the Policy is broadly consistent with SWDP 21. However, the Policy uses the term ‘*must*.’ The word ‘*must*’ should only be used where the requirements of the Policy are compulsory in all circumstances. Smaller scale development proposals will not necessarily have an impact upon the local character. I therefore recommend modifications in order to provide a degree of flexibility, clarity and to avoid unnecessary duplication. The supporting explanation includes a significant amount of material on engagement with the local community which is more appropriately located within the Consultation Statement. I also refer to a consequential change in respect of policy NE.2 which is dealt with later in this report.
91. ***Recommended Modifications:***
- (1) Amend first sentence in ‘BE.1.1’ ~~All new~~ Development proposals should **be of high-quality design and** have regard to ~~the key guiding design principles below and the Village Design Statement (Appendix 1) contained within the Neighbourhood Development Plan,~~
  - (2) In BE.1.1 amend ‘Proposal must demonstrate’ to ‘Proposals should, where appropriate, demonstrate’ and similarly delete ‘must’ and replace with ‘should’ in paragraph 5.2.4
  - (3) In criterion b delete ‘(see policy BE.8: Creating a Strong Sense of Place)’
  - (4) In criterion e amend to ‘maintain valued views as defined in Figure 24)’

- (5) Amend BE.1.2 from ‘deviation’ to ‘departure from policy’
- (6) Delete paragraphs 5.2.9 to 5.2.16 inclusive and insert into Consultation Report.

### **Policy BE.2: Development Briefs**

- 92. Policy BE.2 expects major developments to include a masterplan or development brief in any outline planning allocations (although this is taken to mean application) and a contextual plan when a detailed application is made. A contextual analysis will ensure there is a clear understanding of constraints and opportunities for a site to inform the masterplan or development brief process. The Policy sets out a series of detailed requirements and assessments to be made.
- 93. Policy SWDP 21: Design states that applications should demonstrate through a Design and Access Statement or other supporting evidence, how objectives identified in the policy have been addressed. Additionally, the Policy requires the applications to address a series of criteria including relationship to surroundings and other development, the settings of towns, neighbouring amenity, links, connectivity and access and appropriate facilities.
- 94. Representations by WDC comment that the Policy lacks clarity and questions whether a policy can specify what should be submitted with a planning application, as suggested by BE2.1.
- 95. As written, the Policy lacks clarity and indeed is confusing. It would appear that the Policy requires a contextual analysis which informs a development brief or masterplan at outline planning application stage on sites that are allocated. It then requires a further Contextual Analysis Plan at the detailed application stage. The following is to be noted – first, the Policy seeks to ensure the proposal demonstrates many of the criteria established in other Policies in the Neighbourhood Development Plan. This produces a considerable amount of duplication. Secondly, how the different design documents relate to each another is unclear and confusing. Finally, a policy cannot require the submission of a document with a planning application. This is within the remit of WDC and its Local Validation List. I therefore make recommended modifications which support the production of a masterplan or development brief whilst providing clarity.

96. **Recommended Modifications:**

- (1) Amend policy BE2 title to Development Briefs and Masterplans.
- (2) In policy BE.2.1 Major developments (10 units or more) or developments of a particularly sensitive nature ~~will be expected to~~ **should include prepare** a master plan or development brief ~~in any outline planning allocations, for example, the Station Road allocation in the SWDP (Figure 3), and a contextual plan when a detailed application is made. Contextual analysis will~~ **to** ensure there is a clear understanding of constraints and opportunities for a site. ~~to inform the master planning or development brief process.~~
- (3) Amend first sentence of BE.2.2 to ‘A ~~contextual analysis plan~~ **Development Brief or Masterplans must should** demonstrate how the development integrates into the existing community, both by facilitating social and design cohesion and by integration with existing patterns of buildings, landscape, and infrastructure. They ~~must~~ **should** demonstrate how the development will achieve high standards of design and layout, contribute to a strong sense of place that responds to local character and thus integrates with that of the Broadway Village.
- (4) In policies BE.2.3 and BE.2.4 replace ‘must’ with ‘should’.
- (5) In policy BE.2.3 add ‘and masterplan’ after Development Brief .
- (6) Amend final sentence in paragraph 5.2.19 to ‘For this reason, on major development sites, it is encouraged that master planning is integral to the development from concept to build.’

**Policy BE.3: Designing Out Crime**

97. Policy BE.3 seeks to ensure that developments are designed to reduce crime and the fear of crime through the incorporation of Secured by Design.
98. National policy seeks to create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
99. The Policy, in effect, rehearses national policy and SWDP Policy 21. These seek to ensure safe and secure environments and provide surveillance consistent with Secured by Design Guides. However, there is an added emphasis for proposals to demonstrate positively how the design of the development has been influenced to reduce crime and

the fear of crime. I make recommendations to ensure that the Policy BE.3 is positively worded and provides flexibility.

100. ***Recommended Modifications:***

(1) Amend BE.3.1 - Where appropriate, development proposals will be expected to demonstrate how design has been influenced by the need to plan positively to reduce crime and the fear of crime through the incorporation of **measures that are consistent with the Secured by Design Guides and set out in evidence such as Supporting Design and Access Statements.** ~~should explain how this will be achieved.~~

BE.3.2 Proposals which ~~fail~~ satisfactorily ~~to~~ create a safe and secure environment for residents of the development and for the Neighbourhood Area environment will ~~not~~ be supported.

**Policy BE.4: Heritage Assets**

101. Policy BE.4 requires any proposal which detracts from, hinders access to or causes detrimental harm to a heritage asset to include an assessment that describes the significance of the asset to the Village and what mitigating actions have been considered. The ethos of any proposal should be to maximise enhancement of the asset and minimise any harm. Proposals which lead to the loss of a designated heritage asset will not be supported unless the public benefit outweighs the harm. Proposals which result in less than substantial harm must demonstrate that public benefit outweighs the harm.

102. Representations by Rooftop Housing Group comment that the Policy is undermined by the proposed allocation at Kennel Lane and Church Close.

103. The NPPF states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Where a proposed development will lead to substantial harm, consent should be refused unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. For non-designated heritage assets, a balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset.

104. Policy BE.4.2 seeks to introduce the term ‘commensurate public benefits’ to replace ‘substantial public benefits’ as stated in the NPPF. Policy BE.4.3 further includes the expression ‘less than substantial harm’. I find these terms ambiguous, unclear and do not have regard to national policy. The Policy also introduces a series of tests where planning consent may be granted. The NPPF is clear that planning consent should be refused unless the substantial harm is necessary to achieve substantial public benefits that outweigh the harm. The list of tests is not consistent with national policy, nor do they represent public benefits.
105. Policy SWDP 6: Historic Environment states that development proposals should conserve and enhance assets of potential archaeological interest. Development proposals will be supported where they conserve and enhance the significance of heritage assets, including their setting. Policy SWDP 21: Design expects development to enhance cultural and heritage assets and their settings. Through a Design and Access Statement or other supporting evidence it should demonstrate how the proposal has addressed prominent views, vistas, and skylines, particularly where they relate to heritage assets. Policy SWDP 24: Management of the Historic Environment states that development proposals affecting heritage assets will be considered in accordance with the framework, relevant legislation, national and local guidance. Where proposals affect the significance of a heritage asset, the proposal should be accompanied by a description of the significance of the asset to enable the impacts to be addressed. The sympathetic and creative use and adaptation of historic buildings will be encouraged.
106. Policy BE.4.1 seeks to add specificity to SWDP Policy 24. This states that where proposals affect the significance of a heritage asset, the proposal should be accompanied by a description of the significance of the asset to enable the impacts to be addressed. Policy BE.4.1 seeks to only require this assessment where it visually detracts, hinders access or there is harm. This effectively negates the need for such assessment where the applicant considers there to be neutral or positive affect on the significance of the heritage asset. As written the Policy does not accord with Policy SWDP 24.
107. Policy BE.4.4 supports unequivocally the appropriate and sensitive restoration of listed buildings. Policy SWDP 6 states that proposals should conserve and enhance the

significance of the heritage assets including their setting. As written, the Policy weakens the approach taken by SWDP and does not have regard to national policy. Policy BE.4.5 excludes the need for proposals to enhance the listed building thereby enfeebling the SWDP approach and national policy. Policy BE.4.6 states that development in and adjacent to all heritage assets will be strictly controlled as recommended in Historic England's advice. I make recommended modifications to ensure the Policy has regard to national policy and is consistent with local policies.

108. ***Recommended modifications:***

(1) Amend Policy BE.4: Heritage Assets to read:

~~BE.4.1 Proposals which may visually detract from, hinder access to or in any other way cause detrimental harm to~~ affect a heritage asset will be required to include an assessment that describes the significance of the asset to the Village and what mitigating actions have been considered. This should be undertaken with regard to the impact of the proposal on the character, context and setting of the asset, on the views both to and from the asset and on its physical surroundings. ~~as recommended by Historic England (below). The ethos of any proposal should be to maximise enhancement of the asset and minimise any harm that might endanger the asset.~~

BE.4.2 Proposals which lead to substantial harm to or total loss of the significance of a designated heritage asset will not be supported unless it can be demonstrated that the substantial harm or loss ~~is necessary to achieve commensurate~~ **is outweighed by significant public benefits.** ~~that outweigh harm or loss, or that all of the following apply: a. The nature of the heritage asset prevents all reasonable use of the site; and b. No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and c. Conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and d. The harm or loss is outweighed by the benefit of bringing the site back into use.~~

~~BE.4.3 Proposals which result in less than substantial harm must demonstrate public benefit outweighing that harm.~~

~~BE.4.4~~ **BE.4.3** Proposals, including change of use, which enable the appropriate and sensitive restoration of listed buildings **where it conserves and enhances the listed building** will be supported.

~~BE.4.5 All proposals must conserve the important physical fabric and settings of listed buildings.~~

~~BE.4.46 Development within and adjacent to all heritage assets will be strictly controlled as recommended in Development Proposals are encouraged to consider Historic England's advice contained in Historic Environment Good Practice Advice in Planning Note 3, or as amended. Development which fails to conserve or enhance the character or appearance of the conservation area will not be supported.~~

**Policy BE.5 Replacement Dwellings**

109. The Policy seeks to support replacement dwellings where the development respects the character and appearance of the locality, particularly in the Conservation Area and where it affects the setting of listed buildings. Additionally, the proposal must not represent over development or affect the amenities of neighbouring dwellings. Finally, the development should comply with the Village Design Guide and avoid harm to the natural environment.
110. Policy SWDP 2 permits replacement buildings. Policy SWDP 18: Replacement Dwellings in the Open Countryside supports replacements dwellings subject to criteria which includes detailed thresholds.
111. The Policy is not specific in terms of whether it seeks to apply criteria to proposals for replacement dwellings within and outside the Development Boundary. I therefore assume that it seeks to apply to both. The Policy should be written so that it is unambiguous, clear, and positively written. The term 'overdevelopment' does not provide the clarity needed for decisions makers in reaching decisions on development proposals. The Policy uses the term '*must*.' The word '*must*' should only be used where the requirements of the Policy are compulsory in all circumstances. I therefore suggest recommended modifications to provide a degree of flexibility, for clarity and to avoid unnecessary duplication with Policy SWDP 18, Policy BE.1 and HD.1.
112. ***Recommended Modifications:***  
(1) Amend policy to read: BE.5.1 Proposals for replacement dwellings ~~must~~ **should** respect the character and appearance of the ~~locality~~ **surrounding area having Particular regard to sites such as those within** the Conservation Area or ~~affecting~~ the setting of listed buildings.



BE.5.2 Proposals for replacement dwellings ~~will be supported provided they do not over-develop the existing site and do not detract~~ **should not have a harmful impact upon** ~~from~~ the amenities of neighbouring dwellings occupiers.

BE.5.3 Replacement dwellings should, wherever possible, comply with the Village Design Statement (Appendix 1) and avoid harm ~~or damage~~ to the natural environment. This policy will only apply to lawful permanent dwellings and does not apply to caravans or mobile homes.

### **BE.6 Extension and Conversions**

113. Policy BE.6 seeks to ensure proposals for extension and conversion of an existing building complies with a series of criteria and is compatible with the South Worcestershire Design Guide Supplementary Planning Document 2018. The SPD is a comprehensive document which identifies key design issues and recommendations to secure a strong sense of place and high-quality design. It includes ‘Note 1: General Design Principles for Extensions’ and sets out good practice in designing extensions to existing dwellings. The Policy has regard to national policy to support high quality design, however, as drafted in negatively worded. I also make recommended modifications for consistency with the Design Guide and for clarity.

#### 114. ***Recommended Modifications:***

(1) In BE.6.1 amend ‘Design Guide SPD 2018’ to ‘South Worcestershire Design Guide 2018’.

(2) Amend part a. ~~Not erode~~ **Conserve and enhance** the character the Conservation Area; and part c. ~~Not alter~~ **For proposal on** frontages, including front gardens, **have a positive impact upon the** ~~detriment of the~~ street scene;

(3) Amend BE.6.2 Alterations to the façade of a building should be limited to a ~~minimum~~ **small extensions that are in keeping with the character of the existing building.**

### **Policy BE.7: Energy Efficiency and Renewable Energy**

115. Policy BE.7 encourages housing developments to comply with Home Quality Mark Principles and achieve a defined star rating – not defining which of the 5-star ratings it is seeking to achieve. Development should incorporate grey water recycling and integrate SuDS to strengthen improvements to water efficiency. Renewable energy will

be supported subject to conserving heritage assets and conserving and enhancing the AONB. Resource efficient design will be supported, and development should respect local character and residential amenity. Development will be expected to be aware of the Government target of zero emissions by 2050.

116. Representations by Severn Trent support the inclusion of grey water recycling, rainwater harvesting and SuDS. It encourages the Neighbourhood Development Plan to go further with its water efficiency policy and should recognise fuel poverty rates in the Neighbourhood Development Plan Area. Severn Trent are supportive of the use of water efficient fittings and appliances within new properties and encourage an optional higher water efficiency target of 110 Litres per person per day within part G of building regulations and propose an additional policy.
  
117. Representations made by Worcestershire County Council are supportive of proposals under BE.7 – Energy Efficiency and Renewable Energy. Additionally, the Plan could also request that energy efficiency of new homes goes beyond the standards required in building regulations which would be in line with the National Planning Policy Framework, which also links in well with the proposals to meet the HQM standard. Improving the energy efficiency standards of new homes will help to support achievement of net zero carbon targets and reduce the risk of fuel poverty for new residents. It would be encouraging to see recognition of the issue of fuel poverty within the Neighbourhood Development Plan. It notes the HQM link in the footnote on page 56 does not work. It notes the reference to Climate Change Action is to achieve zero net emissions by 2050, reaching 78% by 2035 from 1990 level highlight that the Neighbourhood Development Plan could consider additional action to improve local resilience to climate change.
  
118. Representations by Rooftop Housing support the overall approach but consider the sentence “development will be expected to achieve a defined star rating” is ambiguous in that it does not define which star rating should be achieved. It appreciates that Home Quality Mark ratings start from one star (ranging up to 5 stars) which meets a key baseline beyond minimum standards, the costs associated with achieving this rating increases substantially as the ‘star rating’ increases. As such, it has concerns over how

this policy might be implemented, and the potential viability impacts should a very high star rating be required.

119. Representations by WDC states that the Neighbourhood Development Plan is not permitted to require new development to be built to higher energy efficiency standards than those set out in Building Regulations. Although the principle of supporting climate change mitigation measures within the Neighbourhood Development Plan is supported, as things currently stand, it is assumed that current Building Regulations are to be relied upon to drive up energy efficiency. The Neighbourhood Development Plan cannot impose higher energy efficient targets than Building Regulations.
120. National policy states that new development should be planned for that avoids increased vulnerability to the range of impacts arising from climate change. National policy also states that plans should provide a positive strategy to increase the use and supply of renewable and low carbon energy. In this respect the policy has regard to national policy.
121. Current policy is set out at SWDP CC2 Planning for Renewable Energy and Low Carbon Generation. It states that proposals for new low carbon and renewable energy and low carbon generation will be supported in principle subject to a list of criteria. Policy SWDP 30: Water Resource, Efficiency and Treatment states that for housing proposals, it must be demonstrated that water use per person will not exceed 110 litres per day. The policy need not be duplicated in the Neighbourhood Development Plan and satisfies the comments by Severn Trent.
122. As currently drafted the policy is ambiguous, does not provide the clarity of advice needed for decisions makers in reaching decisions on development proposals and should consider the deliverability and viability of the policy. I make recommended modifications accordingly.
123. ***Recommended Modifications:***  
(1) BE.7.1 All new housing developments, will be encouraged to comply with Home Quality Mark principles. Development will be ~~expected~~ encouraged to achieve a defined star rating **other than where it can be demonstrated in a full financial**

**appraisal that such initiatives would make the development unviable.** ~~Opportunities should be taken~~ **Development proposals are encouraged** to achieve this level during any proposals for conversions or extensions.

(2) BE.7.4 Resource efficient design, including the use of local materials, energy efficient technologies and sustainable construction techniques, will be supported. ~~All development in the Neighbourhood Area should respect local character and residential amenity.~~

(3) BE.7.5 Development and design ~~will be expected to be aware of~~ **are encouraged to contribute towards** the Government target of zero carbon emissions by 2050.

(4) Correct link to the equality mark in footnote 10.

### **Policy BE.8: Creating a Strong Sense of Place**

124. Policy BE.8 states all development must demonstrate a high standard of design and layout. Major developments are encouraged to do this by considering 3 categories: accessibility and connection; variety and interaction; and definition and identity.
125. NPPF – Achieving well-designed places states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Plans should, at the most appropriate level, set out a clear design vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable. The NPPF seeks to establish and maintain a strong sense of place and ensure development is sympathetic to the local character and history, including the surrounding built environment and landscape setting. Specifically, planning policies should ensure developments establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming, and distinctive places to live, work and visit.
126. The SWDP includes within its social objective an objective to create a strong sense of place by strengthening the distinctive and cultural qualities of the towns and Villages. Policy SWDP 6 Historic Environment seeks to conserve and enhance Heritage Assets to sustain a sense of place. Policy SWDP 21 Design in its supporting text identifies how design quality can create a sense of place. Therefore, Policy BE.8 clearly has regard to national policy and is consistent with local plan policies.

127. The Policy uses the term ‘must.’ The word ‘must’ should only be used where the requirements of the Policy are compulsory in all circumstances. I therefore suggest recommended modifications in order to provide a degree of flexibility, clarity and to avoid unnecessary duplication.
128. ***Recommended Modifications:***
- (1) In Policy BE.8.1 amend ‘must’ to ‘should’
  - (2) Delete Policy BE.8.2

### **Built Environment Project 1 – Design Review Panel**

129. The project sets out the intention to set up a Design Review Panel. Representations made by WDC state that it supports the implementation of the Design Review Panel. However, pre-application advice is confidential and sharing this with the Parish Council is not possible.
130. Additionally, to ensure that Built Environment Project 1 is not seen as a planning policy but as a local community initiative, I recommend modifications.
131. ***Recommended Modifications:***
- (1) Retitle Built Environment Project 1: Design Review Panels to Community Project 1: Design Review Panels
  - (2) Delete final paragraph of Built Environment Project 1 – Design Review Panel and renumber other Community Projects sequentially.

### **Policy NE.1 Trees and Hedgerows**

132. Policy NE.1: Trees and Hedgerows supports proposals that protect and enhance natural features such as trees, woodland and hedgerows that characterise Broadway. Developments which result in the loss of woodlands of significant stretches of hedgerows, ancient woodlands, orchards, or remnant orchards will not be supported. Where trees and hedges are lost, replacement trees and hedges should be planted within the site or in a suitable location. New landscaping should benefit wildlife and biodiversity. Hedge or shrub planting should have regard to Code of Practice for General Landscape Operations and Trees from Nursery to Independence in the Landscape.

133. Proposals should contribute to and enhance the natural and local environment by recognising the intrinsic character of trees and woodlands. The NPPF states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists. Policy SWDP 21 seeks to secure high quality soft and hard landscaping in new developments.
134. Severn Trent comment that watercourses are also features to protect, forming a vital part of the water cycle. Watercourses should be retained in open spaces. This is noted but is outside the policy intent.
135. It is inappropriate for the Policy to assert that the Neighbourhood Development Plan will support proposals. It is for the decision maker to reach conclusions on a proposal rather than the Neighbourhood Development Plan itself.
136. It is demonstrated through the consultation and community engagement process that the natural environment including trees and hedgerows are important priorities for the community. However, the Policy as currently written is inflexible, and is somewhat ambiguous. It also may have unforeseen circumstances, such as the unnecessary retention of decaying, diseased trees, or the retention of natural features which do not contribute positively to the natural and local environment.
137. It is not clear on the current status of the orchards and remnants of orchards identified in Figure 23 which identifies broad areas and locations. The Wychavon Cotswolds AONB Environs Final Report identifies at Figure 3 – Traditional Orchards. For consistency and clarity, the Policy should refer to traditional orchards.
138. I therefore suggest recommended modifications to provide a degree of flexibility, clarity, and consistency with national policy.
139. ***Recommended Modifications:***  
(1) NE.1.1 ~~The Neighbourhood Plan will support~~ **Development** proposals will be supported that protect and enhance the rich natural features ~~provided by~~ including trees,

woodlands, and hedgerows that characterise Broadway and its environs. Developments **proposals** which would result in the loss or partial loss of **trees**, woodlands, or significant stretches of hedgerows, **which are considered to be important natural features** will not be supported unless it can be demonstrated that any loss would be replaced by **the implementation of an approved compensatory scheme, equivalent or better replacement in terms of quantity and quality in a suitable location**. ~~Removal of mature trees (defined by diameter) will not be supported.~~

NE.1.2 Development that would result in the loss or **partial loss of irreplaceable habitats such as** ancient woodlands, **ancient or veteran trees** or **traditional orchards** ~~or remnant orchards~~ will not be supported.

NE.1.3 ~~All New~~ **d**Development **proposals** will be encouraged to protect existing trees and hedges where possible, having regard to BS 5837:2012 (Trees in Relation to Design, Demolition and Construction) or as subsequently revised or replaced. Where it is not possible to protect existing trees and hedges, replacement trees and hedges should be planted ideally within the site or in a **an agreed alternative suitable** location.

NE.1.4 ~~Where possible, new development~~ **L**andscaping **schemes** should benefit wildlife and biodiversity by incorporating new native tree and hedge planting of a suitable size and species. ~~(see Woodland Trust Trees and Woodland policies12)~~

NE.1.5 New hedge or shrub planting ~~should be incorporated~~ **having schemes are encouraged to have** regard to BS 4428:1989 (Code of Practice for General Landscape Operations) and ~~any~~ new tree planting **schemes are encouraged to should** be carried out in accordance with BS 8545:2014 (Trees from Nursery to Independence in the Landscape) or as subsequently revised ~~or replaced~~.

(2) Amend figure 22 mapping, title and key to show only Local Wildlife Sites and SSSIs referred to elsewhere in the Neighbourhood Development Plan.

### **Policy NE.2 Valued Landscapes, Vistas and Skylines**

140. The Policy seeks to ensure development proposals demonstrate how they are appropriate to and integrate with the landscape setting, while conserving and enhancing the character of the landscape. Development proposals should ensure that all valued views of the landscapes are maintained and safeguarded particularly where they relate to heritage assets and Village approaches. The Policy seeks to bring important views, vistas, and skylines into a collective term ‘valued landscapes.’

141. Representations by Amber support the pragmatic approach taken to conserving and, where appropriate, enhancing the landscape character in draft Policy NE.2. Representations by Greystoke Land states their site proposal is not within any of the identified viewpoints. The Herefordshire and Worcestershire Earth Heritage Trust seek to correct the evolution of the Cotswold Escarpment so that it is clear it was created by erosion, not faulting. I make recommended modifications to ensure accuracy.
142. Representations by WDC caution against the term ‘all’ in the second sentence of the policy as it is doubtful whether all views will be maintained. It also states that reference might also be made to a Technical Guidance Note assessing Landscape Value outside National Designations. It notes para 5.3.10 seeks to define what is a valued landscape but an explanation of how the definition has been derived is required. There needs to be more distinction between valued landscapes and valued views and further explanation is required to outline how the two parts of the policy relating to landscape and valued views interrelate. WDC also suggests that Figure 24 is renamed Valued Views and Landscapes and the key Valued Landscape substituted with Valued View. WDC comment section 5.3.13 is entitled Valued Views and Landscape of the Cotswold Escarpment but is more about valued views to the escarpment and suggests an alternative wording.
143. The Parish Council has suggested that the comments made by WDC are accepted and can be addressed in the recommended modifications.
144. I am satisfied that the Policy intention to ensure that development is appropriate to, and integrated with, the character of the landscape is compliant with both national and local plan policies. Indeed, the aspiration to identify, maintain and safeguard valued views particularly where they are relevant to a heritage asset or to or from the Village also align with national and local policies. Each of the 12 ‘views’ are clearly expressed in terms of their importance to both views from the Village to the countryside and from the countryside to Broadway. However, prominent views of the landscape, and important vistas and skylines do not in themselves comprise ‘valued landscapes’ in respect of paragraph 174 of the NPPF. The introduction of this terms creates a degree of ambiguity and lack of clarity which is not evidenced by a Landscape Character Appraisal or by reference to the Technical Guidance Noted published by the Landscape



Institute. As such I make recommendations to remove this term from the policy and the supporting text.

145. Additionally, I endorse WDC's comments that all views will not be safeguarded. However, those that are identified in Figure 24 should not be adversely affected and I make recommendations to provide flexibility and ensure that the Policy is positively prepared. Again, I amend the term 'must' to 'should' for the reasons discussed previously in this report.

146. ***Recommended modifications:***

(1) Amend Policy NE.2 to 'Development proposals ~~must~~ **should, where appropriate,** demonstrate how they are appropriate to, and integrate with, the character of the landscape setting, ~~while and where necessary conserving and, where appropriate,~~ enhancing the character of the landscape, including important local features. Development proposals should ensure that ~~all prominent views of the landscape and important vistas and skylines (known collectively as valued landscapes—see identified in Figure 24)~~ **are not adversely affected** ~~safeguarded~~, particularly where they relate to heritage assets and Village approaches.

(2) Amend reference in paragraph 5.3.9 to paragraph 174a

(3) Amend references in supporting text, figures, and map keys from valued landscapes to valued views.

(4) Amend final three sentences of paragraph 5.3.13 to '**The two areas were once covered by hard, Birdlip Limestone and softer, underlying layers of the Lias Group. These layers have been stripped from the Vale in the last half million years. As the weight of rock was removed by erosion, the earth rebounded, and the limestone edges were tilted upwards. Erosion of the underlying Lias continues, undermining the rigid limestone, which eventually cracks, breaks away and slides down the steep scarp slope, creating interesting geological features. Thus, Oolitic limestone adorns the edge, whilst the Vale exposes older rocks of the Lias Group and red Mercia Mudstone.**'

### **Policy NE.3 – Local Green Spaces**

147. The NPPF at paragraph 102 sets out the circumstances in which it is appropriate to designate a Local Green Space. 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.
148. The designation of land as Local Green Space through local and neighbourhood development plans allows communities to identify and protect green areas of particular importance to them. The NPPF is clear that policies for Local Green Spaces should be consistent with those for Green Belt and be capable of enduring beyond the plan period.
149. I have reviewed individual the Local Green Space Assessments dated August 2018 prepared by Avon Planning Services. It is unfortunate that the assessment summary and suitability does not reflect the current guidance in the NPPF excluding beauty and historical significance from the summary considerations. However, sites LGS1, LGS4, LGS 5, LGS 6, LGS7, LGS8, LGS9, LGS10, LGS11, LGS12, LGS13, LGS14, LGS18 are considered to be in close proximity to the Village community, to be demonstrably special, hold a particular local significance as detailed in the site assessments, are clearly defined spaces and do not represent an extensive tract of land. I am satisfied that the designation of each of these sites as a Local Green Space is demonstrably special to the local community and consistent with the principles of sustainable development and are capable of enduring beyond the end of the plan period.
150. Representations by WDC states that designation LGS 15 (football field) would be in conflict with allocation SWDP59/19 and footnote 159 which sets out the mixed-use development on this site where up to 65 homes are to be located to the south-eastern edge of the site. As such, I am not satisfied that the Local Green Space Designation is capable of enduring beyond the end of the plan period and therefore LGS 15 should be

deleted. While LGS 18 The Broadway Gravel Pit Nature Reserve also falls within the boundary of SWDP59/19, given there will be no development on this site, LGS 18 is supported.

151. LGS 16 does not comply with the requirements of NPPF as it is not in close proximity to the community it serves. It lies 1.35km from the centre of the Village, accessed only by car. I make recommended modifications to delete LGS16.
152. LGS 17 at Badsey Brook Flood Risk Management Scheme/Broadway Flood Storage Area is recognised in the assessment as a significant area of land at 7.7 hectares and for this reason does not comply with the framework guidance. I note Regulation 16 representations submitted by Severn Trent are supportive of Local Green Spaces, but it states that it is important that planning policy does not prevent flood resilience works from being carried out if required in the future and recommend an amended policy accordingly. I make recommended modifications to delete LGS17.
153. Representations by Greystoke Land seek to delete the proposed Local Green Space designated at LGS2: Burgage Plot (Land south of Meadow Orchard) and LGS.3: Burgage Plot (Orchard south of Meadow Orchard). The representation includes comprehensive landscape and visual impact assessments, planning statements and analysis which I have had regard to in reaching conclusions on this site. Additionally, the representation states that the designation of LGS should be consistent with sustainable development, complementing investment in sufficient homes, jobs and other essential services and meeting housing need. The LGS should not be used as a mechanism to block development. The representation states that the sites are in private ownership, there is no public access to either of the sites, and albeit there is a footpath contained by stonewalls, the sites have no recreational value. It is also argued that the sites have no heritage value and are not within the Conservation Area. Ridge and furrow are abundant in the area, archaeology interests are prevalent and not limited to these sites. The Local Green Spaces are surrounded by modern and established settlement features and there are numerous detractors who weigh against its beauty. The site has low ecological value and as the open spaces are outside the Conservation Area their value is questionable. The development of the sites offers greater value providing a notable public resource.

154. Both LGS2 and LGS3 are identified in the SWDP 38 as a 'green space' which is identified for its biodiversity, the character of the area and providing a sense of openness and space. It is acknowledged that the assessment process for a green space has a different set of principles to that needed to identify a site for a Local Green Space. In this instance, there is no dispute that the sites are in close proximity to the community they serve, both plots are clearly defined by field boundaries and are not extensive tracts of land, with the Village and its built development being clearly apparent from any point around the sites. The LGS assessment suggests that the sites are valued due to their tranquillity and natural beauty and there is some remnant ridge and furrow interests. The consultation survey results recognise that the sites are held in high regard by the local community. The sites are demonstrably special as they provide a significant open gap contributing to the sense of Broadway as a rural settlement, which is described as tranquil and natural beauty in the Local Green Space Assessment and reflect the sites' historical significance. The site does not have public access or recreational value. However, public rights of way do offer local views of the site and a sense of openness which is more significant due to the adjacent urbanised context.
155. As the representation states, the designation of a Local Green Space must be compatible with the principles of sustainable development and be capable of enduring beyond the end of the plan period. As discussed in relation to the allocation HD.4. an appropriate level of housing is provided through the SWDP and its policies to meet the indicative housing requirement to the end of the plan period and therefore the Local Green Space designations support sustainable development within the plan period. For these reasons, I am satisfied that the designation of LGS2 and LGS3 meet the basic conditions.
156. Representations submitted by John Phillips Planning for NCH states that Policy NE.3 is inconsistent with NPPF and SWDP 38 as it does not set out development that would be considered inappropriate, does not recognise that the loss of a green space can be mitigated by alternative equivalent or better provision of replacement space such as for The Bowling Green. The representation argues that Policy NE.3 should include specific reference to relocation of the Local Green Space to a suitable alternative site.

157. Policy NE.3, as written, is inconsistent with NPPF's approach to development proposals on a designated Local Green Space which should reflect the approach to development in the Green Belt. The intent of the designation of a Local Green Space should reflect that the site is demonstrably special to the community, it holds particular significance and will endure beyond the plan period. A Local Green Space, unlike the designation of a green space in Policy SWDP 38, is not capable of substitution.
158. However, to avoid ambiguity, and to ensure that the difference between a green space and a Local Green Space is recognised, the reference to SWDP 38 should be deleted. Policy NE.3.2 is not clear and does not accord with the NPPF in ensuring that Local Green Spaces are capable of enduring for the plan period. I make recommend modifications accordingly.
159. The map of the Sites is not at a scale where the full extent of the boundaries of the Local Green Spaces are clear. I make recommendations to ensure that the map clarifies the extent of the Local Green Space boundaries.
160. ***Recommended Modifications:***
- (1) Amend Policy NE3.1 to 'Development on any Local Green Space (LGS) ~~that would harm its openness or special character or its significance and value to the local community~~ will not be supported (~~SWDP 38~~) unless there are ~~exceptional~~ **very special** circumstances which outweigh the harm to the Local Green Space'.
  - (2) Delete NE3.2
  - (3) Delete references to LGS15, LGS16 and LGS17 from the supporting text and maps.
  - (4) Add at beginning of para 5.3.34 add: **The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. The Neighbourhood Development Plan identifies and seeks to protect those local green spaces that are in reasonably close proximity to the community it serves; 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 local in character and is not an extensive tract of land. In doing so, the Neighbourhood Plan seeks ~~which~~ additionally to...**

(5) Add at end of 5.3.34 – **A report entitled ‘Local Green Space Assessment’ for each of the Local Green Spaces assesses each of the sites against the NPPF criteria and is available at (*insert hyperlink*)**

(6) Provide a map at a sufficient scale to clearly identify the full extent of the Local Green Space designations.

#### **Policy NE.4 Green Wedge**

161. Policy NE.4: Green Wedge states that development proposals on land identified on Figure 26 and 27 will not be supported whilst supporting proposals which maintain and or enhance the Green Wedge.
162. Representation by NCH states that the Green Wedge is contrary to national policy as acknowledged in 5.3.54. The appeal decision does not consider the land to the south of High Street and provides no justification. The policy should be deleted. Representations by London and Regional Properties Limited and Steelcase Stratfor Pension Life Assurance Scheme states the Policy is not in conformity with national or local policy, as acknowledged in 5.3.54. It provides an additional layer of landscape protection without having the correct policy basis to do so. Some of the Green Wedge is promoted as a Local Green Space and there is no policy basis for a further level of protection. The Development Boundary, AONB, Conservation Area and other local landscape designations collectively identify and provide the local landscape constraints in accordance with national policy. Representations by London and Regional Properties Limited comment that the designation covers operational land associated with the Lygon Arms. The designation is in conflict with Policy SWDP 35 which supports tourist/visitor accommodation. I note that the Consultation Statement states that the operational land would be removed from the Green Wedge and the plan should be amended in line with this action.
163. Representations by Greystoke Land states that the Policy is tantamount to an anti-development policy that does not reflect the balanced approach of the NPPF.
164. In response to my questions in February 2022, the Parish Council comment that the concept of the Green Wedge was based upon four requirements: to conserve the basic linear design of Broadway; to prevent infilling between the built areas to the east and

to the west of the existing Village; to maintain the open green spaces to the north and south; and to maximise continuity between the green spaces in order to provide a wildlife or green corridor. The Parish Council state that the Green Wedge boundaries are defined by 4 SHELAA sites, all of which lie within the AONB, and are considered to have a major negative impact upon the AONB.

165. The Parish Council also comment that a wildlife corridor is defined as an area of habitat connecting wildlife populations separated by human activities or structures. It is argued that the Green Wedge is the only central linkage between the open land to the north and south of the Village with documents revealing an abundance of wildlife in and around Broadway and reinforce the view that migration and movement of species should be protected.
166. The Parish Council has confirmed that the extent of the Green Wedge is defined by submissions to the Call for Sites and the associated SHELAA. The Green Wedge policy, in part, is a response to analysis of those submissions in the SEA which notes the major impact major development would have upon the valued landscapes. However, I note that the extent of the Green Wedge extends beyond the SHELAA submissions to include land further to the north and east. The justification for the extent of the Green Wedge boundary is not justified by a landscape character assessment nor an evaluation of the importance of the specific area as a wildlife corridor. In effect, the Green Wedge Policy, together with the proposed Local Gaps policy HD.6, would create a strong area of policy restraint between Springfield Lane, to the north and east of the Village, beyond the A44, to the district boundary.
167. The Policy effectively places the strongest policy restraint on an area of land that is identified wholly outside the Development Boundary, within the AONB, partly within the Conservation Area and includes areas of land that are also identified as Local Green Spaces within the Neighbourhood Development Plan. These policies provide a level of protection that would seek to conserve and enhance the landscape character of this part of the Village and safeguard the linear nature of the Village that are clearly identified as a feature in the appeal decision at Springfield Lane and Averill Close. The Policy is effectively stronger than Green Belt, and contrary to the principles of positive planning. Sufficient analysis or evidence has not been provided to demonstrate the justification

to resist development proposal in the Green Wedge nor the rationale for the extent of the Policy area and in doing so fails to have regard to national and local policy. For these reasons I recommend modifications to delete this Policy.

168. ***Recommended Modifications:***

- (1) Delete Policy NE.4 Green Wedge and paragraphs 5.3.52 to 5.3.56 inclusive
- (2) Amend second sentence of paragraph 5.1.2 to ‘At the heart of the village are areas of open green infrastructure which ~~collectively form a Green Wedge. This wedge is~~ **are** much valued by residents and visitors alike and plays an important role in conserving the village’s rural ambience.
- (3) Delete final sentence of paragraph 5.1.2 and other references to ‘Green Wedge’ elsewhere in the Neighbourhood Development Plan.

**NE.5 Highway Verges and Adjacent Areas**

169. The Policy seeks to protect the green verges along the principal roads identified in Figure 28. Development proposals that cause unacceptable harm to them or on their setting will not be supported unless the development is outweighed by public benefit.
170. It is clear that the green verges are a distinctive characteristic of Broadway, contributing to the historic and rural character of the settlement and extend beyond the Conservation Area. However, for clarity I recommend modifications to the Policy title

171. ***Recommended Modifications:***

- (1) Delete ‘and Adjacent areas’ from the Policy Title

**Policy NE.6: Protect and Enhance Biodiversity and the Natural Environment**

172. The Policy seeks development proposals to demonstrate how they will safeguard, protect, and enhance and/or restore the natural environment including habitats and protected species. Existing ecological networks should be retained, and new ecological networks encouraged, as will improving landscape quality, scenic beauty, and tranquillity.
173. The NPPF encourages and promotes the preservation, restoration, and enhancement of biodiversity. The NPPF seeks to minimise impacts on and providing net gains for



biodiversity and encourages plans to identify, map and safeguard components of local wildlife rich habitats and wider ecological networks. It is noted that these networks are often linear and continuous and are essential for the migration, dispersal, and genetic exchange of wild species. When determining planning applications if significant harm to biodiversity cannot be avoided or mitigated then planning permission should be refused.

174. SWDP 22 Biodiversity and Geodiversity states that wherever practicable, development should be designed to enhance biodiversity and geodiversity conservation interests as well as conserve on site biodiversity corridors/networks. Developments should also take opportunities, where practicable, to enhance biodiversity corridors / networks beyond the site boundary.
175. Representations by Herefordshire and Worcestershire Earth Heritage Trust highlight that two Local Geological Sites should be identified in the Neighbourhood Development Plan including the Broadway Cambered Gulls Local Geological Site (its geomorphology needs to be addressed separately), and the Broadway Quarry Local Geological Site. This is also a Local Wildlife Site. Representations also suggest that further consideration should be given to including Bird Net Blocks to offset habitat loss.
176. A Policy which seeks to protect and enhance biodiversity forms a key part of implementing the vision and objectives of the Neighbourhood Development Plan. Additionally, it forms part of the SEA mitigation measures and reflects the rich biodiversity of the Neighbourhood Development Plan Area. However, the Policy, as written, does not align with national policy by requiring restoration of habitats and failing to consider mitigation measures where a development proposal causes significant harm. I do not consider that specific mitigation measures should be included in the Policy as this would lead to an inflexible approach. Additionally, to align with Policy SWDP 22, the Policy should include consideration of geodiversity including specific reference to Geologically Important Spaces in the Explanation. I make recommended modifications to ensure the Policy has clarity.

177. **Recommended Modifications:**

(1) Amend NE.6.1 to read: ~~Where applicable, Development proposals should demonstrate how they will safeguard, protect, or enhance and/or restore the natural environment~~ **biodiversity and geodiversity interests** including **local wildlife rich** habitats and protected species. Where appropriate, development proposals ~~will be expected to~~ **should** demonstrate that they will:

~~b~~ a. Protect or enhance biodiversity assets and secure their long-term management and maintenance; and

~~a-b~~ Not lead to a net loss of biodiversity **or geodiversity assets unless adequately mitigated or compensated for** ~~by means of an approved ecological assessment of existing site features and development impacts;~~

~~e. Avoid negative impacts on existing biodiversity.~~

(2) NE.6.2 – Add ‘wherever practicable’ to align with SWDP 22

(3) Add at paragraph 5.3.65: The Happylands Quarry Local Wildlife Site is also designated as a Local Geological Site, as several different Jurassic rock formations are represented within it. The upper part of the Broadway Hill SSSI is also designated as the Broadway Cambered Gulls Local Geological Site. The landforms show the presence of “cambered gulls,” unusual geological features that can readily be viewed from Broadway Tower. Any land management in this area should ensure that the landforms are undisturbed.

**Policy NE.7: Flooding**

178. Policy NE.7 seeks to ensure high levels of water efficiency, incorporating sustainable drainage systems, retaining rainfall runoff, requiring site specific flood risk assessments in an area of surface water flood risk, maintaining ditching and balancing ponds and recognising and promoting the importance of sustainable drainage systems, water quality and amenity. It is clear from the Neighbourhood Development Plan and the Consultation findings that this is a significant issue for Broadway as it has suffered from significant flooding events, although a Flood Defence Scheme has now been implemented. Severn Trent support the Policy.

179. In respect of water efficiency, Policy BE.7 includes a Policy which seeks strengthened improvements in water efficiency supporting Policy SWDP 30 (c). The Policy need not

be duplicated. I recommend deleting the references to water efficiency in Policy NE.7 as this has also been addressed elsewhere in the Neighbourhood Development Plan.

180. Policy SWDP 28: Management of Flood Risk sets out a comprehensive and detailed approach to flood risk. It states that all development will ensure there is no increase in flood risk or harm to third parties. Policy NE.7 adds a distinction for pluvial flood risk to accommodate flood risk from an extreme rainfall event.
181. Policy SWDP 29: Sustainable Drainage Systems - provides detailed policy guidance on Sustainable Drainage Systems and requires proposals to demonstrate through a Water Management Statement that site drainage and runoff will be managed in a sustainable and co-ordinated way that mimics the natural drainage network. The NPPG states that the flood risk for residential development should be considered for a minimum of 100 years unless there is specific justification for considering a shorter period. Severn Trent are supportive of the inclusion of policy wording including SuDS. However, I have recommended modifications to provide flexibility and clarity.
182. Policy SWDP 29 distinguishes between greenfield and brownfield sites and the amount of post development surface run off. On a greenfield site the rate of surface water run off should not increase. Surface water run off on brownfield sites must show a reduction of 20%. The Neighbourhood Development Plan does not require such a reduction, thereby supporting a lower standard of assessment. Although SWDP 29 is not identified as a Strategic Policy, I have no evidence or rationale to depart from the existing local policy and I recommend that Policy 7.3 is deleted.
183. Policy NE.7.4 appears to be derived from government guidance which states that most developments including minor development and change of use on a site within flood Zone 2 will require a flood risk assessment regardless of its size. Policy NE.7.4 seeks to secure a requirement for a flood risk assessment only on sites within 20m of a water course and which is in excess of 1 hectare. Given the clear community concerns around the impact of flooding, I have no evidence to depart from government guidance and promote a lower threshold for flood risk assessments. I recommend a modification to delete Policy NE.7.4.

184. Policy NE.7.5 seeks to maintain mitigation measures such as ditching and balancing ponds. SWDP 29: Sustainable Drainage Systems - seeks to secure the long-term maintenance of SuDS schemes. I make recommended modifications as agreements cannot secure improvements beyond that necessary to make the development acceptable in planning terms.
185. WDC comment that within sensitive settings such as the AONB, SuDS schemes need to be visually acceptable. To accord with AONB policy and to safeguard the natural environment I recommend modifications.
186. **Recommended Modifications:**
- ~~Proposals for new~~ **Developments proposals** should ~~demonstrate high levels of water efficiency and should not increase pluvial flood risk either at the site or elsewhere, in accordance with NPPF paragraphs 14, 155 and 156.~~
- NE.7.2 ~~All~~ **Developments proposals, where appropriate,** should incorporate sustainable drainage systems to ensure run-off volumes do not exceed a 1:100-year prolonged rainfall event. Changes to such events from climate change must be ~~allowed for~~ **considered.**
- ~~NE.7.3 Rainfall run-off should be retained within the proposed development and not increase local surface water run-off.~~
- ~~NE.7.4 Where appropriate, developments within 20m of a water course should show site-specific flood risk assessments if an area of surface water flood risk is located in Flood Zones 2 or 3 and occupies more than one hectare.~~
- NE.7.5 The performance of existing mitigation measures, such as ditching, balancing ponds, should be maintained ~~and~~ **or** improved to ensure satisfactory performance.
- NE.7.6 The importance and benefits of **sensitively designed** sustainable drainage systems, water quality and amenity are recognised and should be promoted **where it safeguards the natural environment.**

### **NE.8 Foul Water Drainage Mitigation**

187. Policy NE.8 seeks to secure adequate foul drainage with detailed requirements to secure appropriate and adequate capacity. Representations by Severn Trent state that it is supportive of this Policy and specific comments are made on the sub sections.

188. Policy SWDP 30: Water Resources, Efficiency and Treatment states that where there is no mains foul drainage provision, development proposals should consider the hierarchy of drainage options set out in NPPG. Policy NE.8.1 uses the term ‘must’ in respect of all new development. The word ‘*must*’ should only be used where the requirements of the Policy are compulsory in all circumstances. Smaller scale development proposals will not necessarily have an impact upon the foul drainage system. I therefore suggest recommended modifications to provide a degree of flexibility and for clarity. Severn Trent would encourage applicants to contact them at the earliest opportunity although this statement is not required in the Neighbourhood Development Plan to satisfy the Basic Conditions.
189. Policy NE.8.2. relates to new dwellings and measures to store discharges of foul water. Severn Trent cannot support this wording in full. It is the responsibility of the sewerage undertaker to provide capacity for growth and it is not appropriate to hold developers to account if there is insufficient capacity. This emphasises the need for Policy NE.8.1 to promote a scheme to address the risks. NE.8.2 provides a more detailed mitigation measure although a degree of flexibility is required as other, alternative mitigation measures may be appropriate considering the circumstances in each case. I therefore make recommended modifications to provide flexibility.
190. Policy NE.8.3 seeks to promote grey water recycling. This is supported by Severn Trent. The policy has regard to national policy and therefore complies with the Basic Conditions.
191. Policy NE.8.4 seeks to ensure foul and surface water are separated. Severn Trent support both policy NE.8.4 and NE.8.5 although seek to incorporate additional wording to secure development in accordance with the drainage hierarchy, and discharges to the public sewerage systems are avoided. Policy SWDP 30 seeks to ensure that in areas where there are no mains foul drainage, development proposals should consider hierarchy of drainage options set out in NPPG. However, I recognise that there are benefits for clarity in including the additional policy within the Neighbourhood Development Plan.

192. ***Recommended Modifications:***

(1) NE.8.1 ~~All new development must~~ **Development proposals, where necessary, should** demonstrate adequate means of foul drainage, and evidence submitted to show sufficient capacity exists within the system to drain and process sewage **including** during and subsequent to episodes of heavy rainfall.

(2) Add new paragraph at 5.3.74 as follows: **Severn Trent under the Water Management Act provide capacity for growth. It is important in reaching conclusions on a proposal to understand the risk to the network from new development. Should there be capacity issues a scheme should be promoted to address the risks accordingly.**

(3) NE.8.2 Amend ‘should include’ to **‘will be supported that demonstrate that measures are available to’**

(4) NE8.4 – Add **All applications for new development shall demonstrate that all surface water discharges have been carried out in accordance with the principles laid out within the drainage hierarchy, in such that a discharge to the public sewerage systems are avoided, where possible.’**

(5) NE.8.5 – **Where sufficient evidence is provided to both Severn Trent and the LLFA to demonstrate that** ~~Should~~ any connections into combined systems be **are** unavoidable, the system should remain separate on site up to the point of connection.

**Policy NE.9 Polytunnels**

193. Policy NE.9 seeks to support domestic and commercial polytunnels subject to a series of criteria and although not currently a significant issue in the Parish, there is concern at the impact of a development at Evesham Road.

194. The NPPF and the economic strategy for South Worcestershire include objectives to grow and add value to existing agricultural businesses, including those in horticulture, as it remains an important part of the local economy. Policy SWDP 2 supports buildings for agriculture on land beyond the Development Boundary. Policies also seek to protect the best and most versatile agricultural land.

195. Representations by WDC confirm there is a typo in (h) – should read ‘... Area of Outstanding Natural Beauty....’ It states that polytunnels are not characteristic of this area and as such the proposed control on their introduction to avoid adverse impacts on

landscape character is supported, as well as adverse impacts on views from the elevated AONB. It suggests the '45/25-degree rule' referred to in (e) is given explanation in the supporting text.

196. Whilst I recognise the concerns, the Policy as submitted is negatively worded, inflexible, ambiguous, and duplicates other Policies. Additionally, the justification and evidence for specific distances, heights, percentages, and the sequence of applications submission is unjustified and unclear. The criteria also relate to issues that are not related to land use planning and are regulated by other public authorities including disposal of waste. To provide a clear framework for decision makers, I make recommended modifications which ensure clarity to satisfy the Basic Conditions.

197. ***Recommended modifications:***

Amend Policy NE.9 (1) Proposals for domestic and commercial polytunnels ~~requiring planning permission~~ will ~~only~~ be supported provided that:

Delete parts a, e, g, and h

Amend b) the cumulative effect of the development ~~as a whole~~, including its associated ancillary works and infrastructure does not cause **significant** ~~undue~~ harm to the landscape character, historic assets or sites, Conservation Area, valued views, residential amenity or increases the risk of flooding, ~~in the Neighbourhood Area, for example through inadequate provision for the capture and storage of rain water run-off;~~

c) ~~there is a limit imposed on the hours that lighting can be used in order to~~ **is minimised to avoid light spillage and light pollution**, and ~~there will be no appreciable increase in the amount of noise generated by the development proposal is not harmful to~~ ~~the detriment of the normal enjoyment of residential amenity;~~

d) no polytunnel is closer than ~~the minimum distance of~~ 50 metres from any residential property **dwelling, including those and an** associated with agriculture (a 'buffer zone' **is secured around the polytunnel and kept free of storage and other activities connected with the operation of the development proposal unless there are** ~~Deviations from this general safeguarding distance should only be permitted in exceptional circumstances and~~ where topography and natural screening of the site **allows minimises any adverse impact;**

f) ~~conditions are imposed to ensure that waste plastic is disposed of promptly and appropriately in accordance with WCC or Wychavon (TBC) waste regulations, that~~

~~sheeting is rolled back and safely secured outside the growing season, and the impact of increased heavy vehicular traffic developments is minimised; and~~

(2) Add at 5.3.77 **unless there are circumstances where topography and natural screening of the site minimises any adverse impact;**

### **Policy NE.10 Tranquillity and Dark Skies**

198. The Policy seeks to protect the Dark Skies and Tranquillity of the Neighbourhood Development Plan Area by minimising lighting and the impact of lighting whilst not supporting proposals that result in excessive noise or detriment to the tranquillity of the environment.
199. Representations submitted by a local resident support the Policy. Representations by Amber support the pragmatic approach taken to conserving and, where appropriate, enhancing the landscape character.
200. NPPF, in commenting on ground conditions and pollution, seeks to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. NPPG on Light Pollution sets out the consideration when assessing development proposals including the impact of lighting and light spillage and its ecological impact.
201. The Cotswolds AONB Dark Skies Policy states that the AONB has a significant and extensive area of naturally dark skies. Through a position statement (March 2019) the Board seeks to avoid and minimise light pollution. It promotes measures to increase the area of dark skies by removing and reducing sources of light pollution. Similarly, a further Position Statement on Tranquillity (June 2019) seeks to give great weight to conserving and enhancing the tranquillity of the Cotswolds AONB.
202. Whilst the Policy accords with national policy and the adopted position of the Cotswolds AONB Board, I make recommended modifications to provide a clear framework for decision makers, to ensure the Policy is unambiguous and to remove unnecessary duplication.



203. **Recommended Modifications:**

(1) NE.10.1 Lighting ~~on new development~~ should be kept to a minimum, while having regard to highway safety and to security, in order to preserve the rural character of the ~~Village area by:~~ ~~Amenity lighting of buildings should be kept to a minimum and it's~~

a) ~~the use controlled by of~~ sensors and timers ~~where possible.~~

NE.10.2 Applications for new development should

b) **demonstrating** how the dark skies environment will be protected: ~~through the submission of appropriate supporting documentation to demonstrate including, where appropriate in~~ accordance with ~~current professional guidance~~ **the Cotswolds AONB Dark Skies Policy.**

c) NE.10.3 ~~Lighting on new development should be~~ being designed and sited to help reduce light pollution and contribute to dark skies ~~as part of the Campaign to Protect Rural England's Dark Skies Policy 27.~~ NE.10.4 ~~Proposals which and would not~~ **resulting** in excessive light pollution ~~will not be supported~~

NE.10.5~~2~~ Development proposals that result in excessive noise or detriment to the tranquillity of the ~~environment~~ **area** will not be supported.

(2) Retitle Natural Environment Project 1: to Community Project 2

**Policy LET.1: Retail – Development, Redevelopment and Change of Use**

204. Policy LET 1 seeks to resist the loss of retail floorspace to other 'E Class' development (with the exception of banks or building societies) unless the use is no longer economically viable or has been marketed for at least one year. It seeks to resist further retail development outside of the Village centre. The geography of the Village centre is defined in footnote 24. Proposals for food outlets within the Village centre are supported subject to safeguarding criteria whereas hot food takeaways will be resisted. Additionally, the Policy seeks to secure adequate parking for staff and customers whilst resisting the loss of off-street parking.

205. Representations by WDC comments that it is unclear why LET.2 is referenced in the Policy as it relates to shop signage. WDC suggests reference in terms of change of use criteria, reference is made to an alternative, equivalent facility within safe walking distance to reflect SWDP 10. Suggests that the final sentence is deleted.

206. The NPPF seeks to support the role that town centres play at the heart of local communities. To support a prosperous rural economy, policies should support the retention and development of accessible local services and community facilities such as local shops. Policies should recognise that sites may need to be found adjacent to or beyond existing settlements subject to safeguarding criteria. However, I recognise the impact the new Use Classes Order has on the ability of Local Planning Authorities to control and enforce the retention and resist the loss of such retail, services, and facilities in local centres.
207. Broadway is a Category 1 Village and provides a varying range of local services and facilities meeting locally identified community and employment needs. Broadway is identified in Policy SWDP 10 as a district centre, the second tier in the hierarchy, where development that is appropriate in location and scale, and its position within the hierarchy, will be supported. A secondary shopping frontage is defined on the SWDP policies map. Within the secondary shopping frontage change of use from retail to non-retail uses in Use Classes A2, A3, A4, A5, D1 and D2 will be permitted subject to criteria. Change of use outside the secondary frontage from A1 (retail) to A2, A3, A5, D1 or D2 will not be permitted where it contravenes two tests.
208. Comprehensive changes to the Use Class Order came into force on 1<sup>st</sup> September 2020 creating three new uses classes including Class E (Commercial, business and service). The changes combine the previous Use Classes including retail (A1), financial/professional services (A2), cafés/restaurants (A3), indoor sports/fitness (D2 part), medical health facilities (D1 part), creche/nurseries and office/business uses (B1) subsumed into a new single Use Class E. As such the new Use Class E allows far greater flexibility to change uses within town centres without the need to obtain planning permission. In contrast to LET.1.1, with the exception of old use class B1 (business), Policy SWDP 10 supports the principle of change of use to such ‘town centre’ uses within Broadway’s identified secondary shopping frontage subject to safeguarding criteria.
209. Although I recognise the community aspiration to retain retail floorspace, and indeed the desire in NPPF to resist the loss of retail services, such restrictions set out in LET.1 from retail to other uses within the same Use Class E, within the secondary retail

frontage, is not consistent with Policy SWDP 10 nor does it have regard to national policy. There is an internal inconsistency currently within the Policy where LET.1.1 seeks to resist further cafés or restaurants (previously Class A3) where Policy LET.1.4 supports such uses subject to criteria. Policy LET.1.1, as drafted is ambiguous, lacks clarity, does not conform to Policy SWDP 10, and does not provide decision makers with a clear policy framework due to the internal inconsistencies within the Policy. I make recommended modifications accordingly to ensure conformity with SWDP 10 and for clarity.

210. National policy and Policy SWDP 10 permits local and neighbourhood shops away from the Village centre subject to a series of tests. As such Policy LET.1.3 has not had appropriate regard to national policy and does not conform to strategic policy SWDP 10 and therefore as written does not meet the Basic Conditions.
211. SWDP states that successful centres need a balance of uses including shops, cafes, bars, restaurants, and clubs to provide leisure opportunities. I find no evidence or community engagement responses which demonstrates justification for a restriction on proposals for hot food takeaways in a Village designated as a District Centre and therefore does the Policy does not meet the Basic Conditions.
212. The NPPF provides guidance on setting local parking standards. Maximum parking standards should be set only where there is clear and compelling justification. The SWDP refers to the Worcestershire Local Transport Plan 3 which states that in rural areas a more flexible approach to parking standards is applied based upon a site assessment and the development's location. However, Local Transport Plan 4 was adopted in November 2017 and identifies a scheme to better manage on street parking in the Village centre and an 'Active Travel Corridor'. Gloucestershire County Council note the Connecting Places Strategy for North Cotswold in the LTP 2020-2041, but which lies outside the Neighbourhood Development Plan Area. The parking standards are generic, and I consider comply with the Basic Conditions.
213. ***Recommended Modifications:***  
Amend LET.1.1 In cases where planning permission is required, proposals for redevelopment or change of use of land or buildings from retail use to other Class E

categories will ~~only~~ be **supported within the Village centre subject to Policy SWDP 10 of the Adopted South Worcestershire Development Plan**. ~~permitted if for LET1.2 below or if the. In reaching existing site is either no longer~~ **Consideration will be given to whether the site is** economically viable or has been marketed at a reasonable price for at least a year without restriction and **whether there is an alternative, equivalent facility within safe walking distance.** ~~This will maintain the availability of retail space in the Village.~~

~~LET.1.3 Out of Centre Development Proposals for retail development away from the Village centre<sup>24</sup> will not be supported.~~

(3) Amend Policy LET1.3 Proposals for retail development away from the Village centre will ~~not~~ be supported **subject to Policy SWDP 10 of the Adopted South Worcestershire Development Plan.**

(4) Delete 'only' in Policy LET1.4a and Delete Policy LET1.4 b.

### **Policy LET.2: Shop Signage**

214. Policy LET.2 seeks to ensure shop signage respects the local character of Broadway and its conservation status. The policy also seeks to resist A boards on the public highway.

215. Policy LET.2.1 seeks to amplify, albeit minimally, the design principles set out in Policy BE.1. Although there is a distinct element of duplication within the Neighbourhood Development Plan, I consider that it meets the Basic Conditions. Policy LET.2.2 seeks to resist A Board on the public highway. As detailed in paragraphs 5.4.15 and 5.4.16, such boards placed on the public highway require the consent of the Local Highways Authority who would also be responsible for enforcement. This is not a spatial issue relevant to the Neighbourhood Development Plan and as such does not meet the Basic Conditions.

216. ***Recommended modifications:***

(1) Delete policy LET.2.2

(2) Delete paragraphs 5.4.15; final sentence of paragraph 5.4.16, second sentence of paragraph 5.4.19 and delete photographs of 'excessive signage and A Boards.'

### **Policy LET.3 Rural and Agricultural Businesses**

217. Policy LET.3 seeks to support diversification and extension of rural businesses on existing farm sites subject to safeguarding criteria. Although not specified in the Policy, the supporting explanation includes a list of 15 farms. Farm shops will be supported where they do not adversely affect the vitality and vibrancy of the High Street.
218. The NPPF states that policies should enable the development and diversification of agricultural and other land based rural businesses.
219. SWDP's vision and its objectives support farm diversification opportunities. Policy SWDP 12: Employment in Rural Areas specifically supports farm diversification subject to 3 criteria which secures the existing agricultural undertaking, the scale is appropriate to the rural character of the area and finally existing buildings are used to reduce the need for additional built development.
220. Policy LET.3.1 will support for diversification and extension of rural businesses only where it would not harm the character, biodiversity of the countryside or aspects of local heritage. These issues are addressed elsewhere in the Neighbourhood Development Plan, however, for clarity, I am satisfied that the policy meets the Basic Conditions subject to modifications to ensure the policy is positively written.
221. SWDP Policy 10 states new or expanded farm shops will be permitted subject to safeguarding criteria which includes that the development should not have a significant adverse impact on the viability or vitality of any defined centre or other local shopping facilities. I note that SWDP 10 B states that any retail or leisure development proposal of over 1,000 square metres net that is located outside the defined centres listed in Table 5 (which includes Broadway) must be accompanied by a Retail Impact Assessment. I am not presented with any justification or commentary in the Neighbourhood Development Plan to demonstrate why applications for expansion of farm shops in Broadway should depart from the threshold for retail impact assessment specified in Policy SWDP 10. In this respect, Policy LET.3.2 fails to meet the Basic Conditions as it is not in conformity with the SWDP.

222. ***Recommended modifications:***

(1) Diversification and extension of rural **farm** business ~~based on existing farm sites~~ will be supported ~~only~~ where there would be no harm to the character or biodiversity of the countryside or to aspects of local heritage. Where such diversification or extension of business requires additional building, this ~~must~~ **should** be appropriate in scale to ~~the~~ **its** rural location and, if ~~necessary~~ **appropriate**, be screened by **an agreed landscaping scheme**, ~~landform or planting~~.

(2) Amend '250sqm or more' to 'over 1,000 sqm net' in second sentence of Policy LET.3.2

**Policy LET.4 Camping and Caravan Sites**

223. Policy LET.4 seeks to support new sites or extension of existing sites for caravans, tents, and log cabins subject to safeguarding criteria. Ancillary facilities must be on or immediately adjacent to the site, in existing or new buildings, in keeping with their surroundings. Applications which result in harm to features of archaeological heritage will not be supported.

224. NPPF supports sustainable rural tourism and leisure developments which respect the character of the countryside to promote a prosperous rural economy and in this respect Policy LET.4 has regard to national policy. Policy SWDP 36 is a comprehensive policy on static and touring caravans, chalets, and camping sites, albeit not identified as a Strategic Policy by the local authorities. I recommend modifications for consistency between Neighbourhood Development Plan Policy NE.6 which ensures development does not lead to a net loss biodiversity. Policy LET4.2 is ambiguous whilst Policy SWDP 36 provides an interpretation of how the 'site can conform to its surroundings' and there is no requirement to duplicate this.

225. As discussed throughout this Report, the word '*must*' should only be used where the requirements of the Policy are compulsory in all circumstances.

226. The supporting text to Policy SWDP 36 seeks to ensure that there is 'no adverse effect on the surrounding environment, wildlife, and sites of archaeological and historic interest'. This provides a degree of clarity that the Policy currently lacks, and I make recommended modifications.

***Recommended Modifications:***

- (1) Amend Policy LET4.1 - ~~‘only~~ where there would be no **significant** harm to the character **of the area**, ~~or not lead to a net loss of biodiversity of the countryside~~ and the site is effectively **well** screened by landform, trees, or planting.
- (2) Delete LET.4.2
- (3) Policy LET.4.3 - replace ‘must’ with ‘should’
- (5) Amend Policy LET.4.4 to Applications ~~that involve the removal or unacceptable harm to features of archaeological heritage~~ **should not have an adverse effect on the sites of archaeological and historic interest** ~~will not be supported.~~

**Policy LET.5 Broadband**

227. Policy LET.5 seeks to secure infrastructure to allow future connectivity at the highest speeds available. Policy SWDP 26 Telecommunications and Broadband states new development should be provided with superfast broadband or alternative solutions where appropriate and incorporated to industry standards. The Policy clearly reflects community aspirations to improve broadband access and speeds across the parish, however as drafted it is inflexible, and as with all planning applications, can only be required to make the development acceptable.
228. ***Recommended Modification:***
  - (1) Amend Policy LET.5 **Where practicable**, all new residential and commercial development ~~within the Neighbourhood Area will be expected to include~~ **should be provided with** the necessary infrastructure to allow future connectivity at the highest speeds available.

**Policy COM.1 Community Facilities and Amenities**

229. Policy COM.1 seeks to support and protect facilities that contribute to community life and wellbeing. Relocation of a community facility may be possible under ‘other exceptional circumstances’ although there is no clarity on what would be considered to be ‘an exceptional circumstance.’
230. Representations by Amber support the Policy noting community assets can be provided on private developments.

231. NPPF (para 84(d)) states policies should enable the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses, and places of worship as part of an important role in maintaining a strong and vibrant community. NPPF (para 123) also states Local Planning Authorities should make efficient use of sites that provide community services provided this maintains or improves the quality-of-service provision and access to open space.
232. Similarly, Policy SWDP 9 supports new retail, leisure, and tourism development to achieve a high-quality sustainable network of urban and rural settlements. Policy SWDP 37 supports the provision of new community facilities. Additionally, it sets out a detailed criteria against which development proposals for the proposed loss of a site or building currently or last use as a community facility will be assessed. Policy SWDP 9 is not included within the list of Reference Documents supporting this policy and would appear to have been overlooked in drafting Policy COM.1.
233. Policy COM1.1 provides a simplistic approach to assessing the loss of a community facility which would be contrary to the robust assessment approach set out in Policy SWDP 37, although it is not identified as a strategic policy. However, due to the ambiguity created between the two policies, it is not clear how decision makers can interpret the Neighbourhood Development Plan policy alongside the policy in SWDP. I recommend modifications accordingly.
234. Figure 36 of the Neighbourhood Development Plan includes a list of 28 ‘community facilities.’. This list includes those facilities that fall within the definition of community facilities set out in paragraph 82 of the SWDP. However, many are retail uses, rather than community facilities and would be addressed under Neighbourhood Development Plan policy SWDP 9 or LET.1. Other uses are transport related facilities, signage or fall outside planning control and are partial as noted by the Worcester Diocesan Board of Finance. For this reason, the list should be redefined to include community facilities only and exclude retail and business interests and the following deleted from the list - facilities 3,5,6,24,25 and 28.



235. ***Recommended Modifications:***

- (1) Delete Policy COM.1.1
- (2) Amend figure 36, list and photographs to delete retail and business interests: 3,5,6,24,25 and 28.
- (3) Delete last sentence of policy COM.1.3 - Relocations to an alternative site may also be possible under other exceptional circumstances.
- (4) Add SWDP 37, to second bullet point in Reference Documents section

**Policy COM.2: Cycling and Walking**

236. Policy COM.2 promotes cycling and walking opportunities, connecting the network of public rights of way within the Neighbourhood Development Plan Area. Proposals which adversely affect routes or do not encourage appropriate new walking will not be supported.
237. This Policy aligns with an SWDP objective to support sustainable travel which can be achieved by improvements to cycling, walking and public transport infrastructure. The policy also aligns with the NPPF where it states that policies should enable and support healthy lifestyles, especially where this would address identified local health and well-being needs.
238. Representations by Amber support the aim of the Policy but argue it should include consideration of how highway improvements and mitigation measures as part of new developments can play a role in pedestrian safety and sustainable movement within communities. The representation supports a settlement wide review of traffic, and the Policy could be expanded to wider access and highway improvements. It states that its promoted scheme includes an additional pavement network to Cheltenham Road with bus infrastructure as an integral part of promoting sustainable transport. The comments are noted, and the policies appropriately support further pedestrian networks and connectivity. Representations by a local resident seeks to pedestrianise part of the High Street. This is outside the scope of a Neighbourhood Development Plan.
239. The Policy uses the term ‘*must*.’ As discussed throughout this report, the word ‘*must*’ should only be used where the requirements of the Policy are compulsory in all circumstances. Smaller scale development proposals will not necessarily need to

address cycling and walking provision. I therefore suggest recommended modifications to provide a degree of flexibility, for clarity, to be positively written and to avoid statements which are appropriately included within the supporting justification.

240. ***Recommended Modifications:***

(1) COM.2.1 ~~The Neighbourhood Area has a wealth of public rights of way (footpaths and bridleways — see Figure 39). As appropriate, new~~ **Development proposal, where appropriate, should** ~~must~~ demonstrate how walking and cycling opportunities have been prioritised and adequate connections made to existing routes.

COM.2.2 Proposals which ~~either~~ adversely affect existing walking and cycling routes ~~or do not encourage appropriate new walking and cycling opportunities~~ will not be supported.

(2) Renumber Community Projects to sequentially follow renamed Community Projects.

**Policy COM.3: Allotment and Growing Space**

241. Policy COM.3 seeks to support the provision of allotments and growing space within the Neighbourhood Development Plan Area. The Policy aligns with NPPF to enable and support healthy lifestyles, especially where this would address identified local health and well-being needs. I am satisfied that policy COM.3 aligns with national policy and sets out appropriate safeguarding criteria.

**Appendices**

242. Appendix 1 – The Broadway Village Design Statement is an evidence document informing the preparation of the Neighbourhood Development Plan and as such it should be clear that it is not part of the Neighbourhood Development Plan.

243. ***Recommended Modifications:***

(1) Amend references to Appendix 1 - Broadway Village Design Statement to make clear it is an evidenced base to the Neighbourhood Development Plan but is not part of the development plan itself.

## **PART 4**

### **CONCLUSIONS**

1. In principle, I am satisfied, with the exception of Policies HD.4 and NE.4, the Policies set out in the draft Neighbourhood Development Plan are broadly justified by legitimate aims protection of the environment; amenity of local people; support for the local economy; conservation of landscape and local heritage. I am also satisfied that they do not strike an intrinsically unfair balance. I am further satisfied that the Policies will in general conform with the existing statutory development plan and support sustainable development.
2. In essence, subject to the adoption of the various recommended modifications and amendments, as set out above made in order to address various perceived deficiencies, I am satisfied that the draft Neighbourhood Development Plan should thereafter be compliant with the various statutory requirements. It should therefore proceed to referendum.

Edward F Cousins  
Independent Examiner

Radcliffe Chambers  
Lincoln's Inn

May 2022

## **APPENDIX 1**

### **Indicative Housing Requirement and Housing Need**

1. Neighbourhood Plan housing policies need to be underpinned by robust, objectively assessed data on local housing needs.

*'local planning authority should provide an indicative housing figure if requested to do so by the neighbourhood planning body. This figure should take into account factors such as the latest evidence of housing need, the population of the neighbourhood area and the most recently available planning strategy of the local planning authority.'* (NPPF Paragraph 67)

*'Where neighbourhood planning bodies have decided to make provision for housing in their plan, the housing requirement figure and its origins are expected to be set out in the Neighbourhood Plan as a basis for their housing policies and allocations they wish to make'* (NPPG Paragraph: 103 Reference ID: 41-103-20190509).

*'where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need'* (NPPG Paragraph: 040 Reference ID: 41-040-20160211)'

2. The Neighbourhood Development Plan does not specify the indicative housing requirement figure. In response to my questions in February 2021, WDC has submitted a paper, dated December 2019, which sets out an indicative housing requirement for Broadway Parish for two periods: 2021 to 2030 and 2031 to 2041. For the period 2021 to 2030 (as at December 2019), WDC state the indicative housing figure equates to two dwellings. For the period 2031 to 2041 the indicative housing figure equates to 53 dwellings.
3. The paper discusses the SWDP Review process which will cover the period 2021 to 2041. The level of housing need for the updated SWDP strategy will be calculated using the Government's standard methodology. In December 2019, WDC anticipated that the SWDP Review will need to make provision for approximately 14,000 additional dwellings to 2041 over and above that which have already been delivered or are likely to be delivered based on current housing commitments and completions at that time. WDC assumes that current commitments will meet most of the calculated 450 additional housing requirements to 2030. The remaining 13,550 to be delivered in the

period 2031 to 2041. The extent to which this further growth is redistributed to the Wychavon and Malvern Hills districts will depend on detailed further work. Therefore, in the meantime, the indicative housing figures provided by the WDC are based upon the current SWDP development strategy and the population of the neighbourhood area.

4. The WDC paper considers Policy SWDP 2, planning permissions and undeveloped housing allocations in the SWDP and the population of the Neighbourhood Area. For the period 2021 to 2031, 13% of the residual 450 additional homes is distributed to rural parishes of south Worcestershire in proportion to their population (a total of 58 homes). Broadway Parish equates to 3% of the total population of the rural parishes of south Worcestershire. The current planning strategy and population is therefore 3% of the 58 dwellings for Broadway, which equates to 2 dwellings. Similarly, the distribution of 13,550 additional dwellings equates to 53 dwellings for Broadway. It is noted that the standard methodology will need to be updated annually to consider the most recent affordability data, and that the planning strategy may change in the process of revising the SWDP. The indicative housing figures take account of the dwellings allocated in the SWDP including the 137 homes allocated in the SWDP (SWDP 59). Additionally, windfall development since the adoption of the SWDP could count towards meeting the housing requirement figure.
5. The overall Growth Strategy set out in Policy SWDP 2 sets out a settlement hierarchy for South Worcestershire focussing development on the main urban areas. However, the SWDP directs some growth to rural settlements that enjoy some local facilities and services such as Broadway. I am satisfied that in terms of plan making, the methodology for calculating the indicative housing requirement for the Neighbourhood Development Plan period is consistent with the strategic approach set out in SWDP2 and takes on board the government's standard methodology.
6. I am satisfied that this approach to providing an indicative housing requirement is robust in view of the current status of the SWDP review. However, as the indicative housing requirement should be stated in the Neighbourhood Development Plan, and as drafted it does not currently meet the Basic Conditions. I have made recommended modifications accordingly.

## **APPENDIX 2**

### **SUMMARY OF REPRESENTATIONS ON SITE ALLOCATION HD.4**

1. Representations by residents, the Kennel Lane Objection Group, local business owners, landowners and other site promoters have submitted comments on the proposed allocation. The key issues raised by these representations include:
  - Although recognising the need for affordable housing, the housing allocation for Broadway is satisfied and there is no case for additional housing.
  - An additional evidence base is required to provide the plan area with an up-to-date indicative housing requirement figure.
  - In February 2021, the adopted housing requirement became more than five years old such that national policy explicitly requires that the five-year land supply be now calculated by reference to the local housing need and concludes that that the current 5-year land supply is 4.59 years.
  - Alternative sites within the Neighbourhood Development Plan Area are proposed through representations to contribute to local housing needs. Such sites will relieve pressure to allow the allocated site to focus on other uses.
  - The proposed Housing Mix is not in accordance with the mix suggested elsewhere in the Neighbourhood Development Plan and is not in conformity with the SWDP, the housing needs assessment of 2017 or Policy HD.7.3. A sustainable development would provide a wider mix of housing and should not be predominantly 1-bedroom and 2-bedroom dwellings. The development brief should be prepared by WDC and the Parish Council.
  - The Site is capable of accommodating more than 25 dwellings alongside Class E development and should be increased to a capacity of 30 dwellings.
  - Brownfield sites carry additional development costs and often cannot provide policy compliant affordable housing, particularly with there is a requirement to retain retail use, limiting space for residential development. The proposal has not been subject to viability testing to ensure deliverability of the Site - this is a major concern.
  - The allocation does not take account of the SHELAA, specifically CFS406, which is identified as a prominent area with protected trees and important

boundary features confirmed in the Conservation Area Appraisal. The development would result in the loss of a valued green space important for biodiversity and should be given the same respect as other green infrastructure and it is as much a part of the Green Wedge. Concern at the impact of roads on the green space, and impact on current amenity value of the public right of way between Church Close and Kennel Lane.

- The wider site was allocated for employment and parking with access from the east. The site has outstanding objections in relation to Conservation Area and Listed Building concerns.
- Is inconsistent with the Parish Council view that more parking near the Village setting is undesirable on aesthetic and environmental grounds.
- Support for sensitive mixed-use development. Any masterplan should be subject to rigorous assessment taking into account what is stated in NPPF paragraph 172 and Conservation Area Appraisal. Do not support proposal for predominantly 1-bedroom and 2-bedroom homes as it does not make efficient use of land.
- There is lack of clarity of the type and amount of development proposed and some concern that an agreement between the Council and the Parish Council has not been fully disclosed.
- The NCH Kennels and associated land consists of kennels, ancillary buildings, 4 dwellings occupied by hunt staff, training area, fenced enclosures, paddocks, and parking area to the side of the Bowling Green. The representation by NCH highlights broad support but notes no residential development can take place without the relocation of the kennels and would only be considered deliverable if it provided sufficient funds to purchase alternative premises for relocation. The plan should extend the Development Boundary to provide for alternative provision to the south and west of the land holding.
- The Site should be extended to include the bowling green, pavilion, and ancillary buildings to provide comprehensive redevelopment of the area.
- Concern is manifested in the loss of retail use and parking. The existing site is used for High Street employees who will need to find parking elsewhere (approximately 50 - 70 spaces). This will have a consequent impact on street parking for staff and visitors including those to the Museum, pressure on

alternative car parks and the commercial viability of Broadway. Development is inconsistent with and prejudices the outcome of the Community Projects. Further consideration is needed on how and where parking can be best located. The Site should not be developed until a whole Village parking strategy has been implemented.

- The access road from Church Close is inappropriate and inadequate and will have adverse impacts on noise, air quality and congestion on nearby occupiers.
- The impact on the viability of the site from ransom issues is not clear. The proposal contains no analysis of traffic consequences on capacity, safety, and amenity. The Policy is inconsistent with Community Projects. These require a full survey of parking in the Village to assess parking needs/ a parking strategy. The Community Projects (parking strategy) make no reference to Kennel Lane or Church Close allocation.
- The Site is not a brownfield site, and it is not on the Council's brownfield register. There are clear parcels of land which are greenfield areas.
- The development of the Site is out of character with the linear pattern of the Village's built-up areas and will adversely impact Listed Buildings and the Conservation Area. The kennels are a heritage asset with significant communal and historical value to Broadway. The development of the site would be inconsistent with the objectives of the Neighbourhood Development Plan to protect green space and conserve and enhance the environment.
- Development should reduce noise pollution for the benefit of wildlife and residents in accordance with Policy NE.1. Lighting should consider the impact on bat corridors and protect other nocturnal wildlife.
- Delete policy HD.4.4
- Objection to the extension to Church Close Car park for 50 spaces and no justification is identified (noted that the proposal for a Car Park is not included within the submitted version of the Neighbourhood Development Plan).
- The Environment Agency comment that the site is within Flood Zone 1 (low risk zone) and Severn Trent seek early engagement to complete any hydraulic modelling to understand the impact upon the sewer network and encourage optional higher water efficiency targets of 110 litres per day.