

**Norton-juxta-Kempsey Parish Council**

# **Norton-juxta-Kempsey Neighbourhood Development Plan**

A report to Wychavon District Council of the Independent Examination of the Norton-juxta-Kempsey Neighbourhood Development Plan

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## Summary of Main Findings

This is the report of the Independent Examination of the Norton-juxta-Kempsey Neighbourhood Development Plan. The plan area is the whole of the Parish of Norton-juxta-Kempsey being also the administrative area of Norton-juxta-Kempsey Parish Council within the Wychavon District Council area. The plan period runs to 2030. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for development.

This report finds that subject to specified modifications the Neighbourhood Plan meets the Basic Conditions and other requirements. It is recommended the Neighbourhood Plan should proceed to a local referendum based on the plan area.

## Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities the power to develop a shared vision for their area.*”<sup>1</sup>
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Norton-juxta-Kempsey Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Norton-juxta-Kempsey Parish Council (the Parish Council). The draft plan has been submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Norton-juxta-Kempsey Neighbourhood Area which was formally designated by Wychavon District Council (the District Council) on 11 January 2017. The Neighbourhood Plan has been produced by the Neighbourhood Plan Steering Group made up of Parish Councillors and other volunteers.
4. The submission draft of the Neighbourhood Plan including the Basic Conditions Statement, along with the Consultation Statement, have been approved by the Parish Council for submission of the plan and accompanying documents to the District Council. The District Council arranged a period of publication between 21 May 2021 to 2 July 2021 and subsequently submitted the Neighbourhood Plan to me for independent examination.

## Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan.<sup>2</sup> The report makes recommendations to the District Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The

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<sup>1</sup> Paragraph 29 National Planning Policy Framework (2021)

<sup>2</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

District Council will decide what action to take in response to the recommendations in this report.

6. The District Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and a decision statement is issued by the Local Planning Authority outlining their intention to hold a neighbourhood plan referendum, it must be taken into account and can be given significant weight when determining a planning application, in so far as the plan is material to the application<sup>3</sup>.
7. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area<sup>4</sup> unless the District Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan<sup>5</sup>. The Framework is very clear that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted<sup>6</sup>.
8. I have been appointed by the District Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the District Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of Neighbourhood Plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; and a Member of the Institute of Historic Building Conservation. I have forty

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<sup>3</sup> Paragraph 48 of the National Planning Policy Framework 2021 explains full weight is not given at this stage. Also see Planning Practice Guidance paragraph: 107 Reference ID: 41-107-20200407 Revision date: 07 04 2020 for changes in response to the coronavirus (COVID-19) pandemic

<sup>4</sup> Section 3 Neighbourhood Planning Act 2017

<sup>5</sup> Section 156 Housing and Planning Act 2016

<sup>6</sup> Paragraph 12 National Planning Policy Framework 2021

years professional planning experience and have held national positions and local authority Chief Planning Officer posts.

9. As independent examiner, I am required to produce this report and must recommend either:

- that the Neighbourhood Plan is submitted to a referendum, or
- that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
- that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.

10. I make my recommendation in this respect and in respect to any extension to the referendum area,<sup>7</sup> in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.<sup>8</sup>

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>9</sup> The Planning Practice Guidance (the Guidance) states “*it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing*”. The examiner has the ability to call a hearing for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had the opportunity to state their case and I am satisfied the representations have all been expressed in terms that are sufficiently clear. The Regulation 16 responses clearly set out any representations relevant to my consideration whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements. As I did not consider a hearing necessary, I proceeded on the basis of examination of documents including written representations, and an unaccompanied visit to the Neighbourhood Plan area undertaken on 6 July 2021, partly by car and partly on foot. I made a second visit to the plan area on 29 July 2021.

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<sup>7</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>8</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>9</sup> Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

## Basic Conditions and other Statutory Requirements

12. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.<sup>10</sup> A neighbourhood plan meets the Basic Conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- 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.<sup>11</sup>

13. As the final basic condition, on 28 December 2018, replaced a different basic condition that had previously been in place throughout part of the period of preparation of the Neighbourhood Plan there is a need to confirm the Neighbourhood Plan meets the revised basic condition. I refer to this matter later in my report.

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights.<sup>12</sup> All of these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’<sup>13</sup> and ‘The Neighbourhood Plan Policies’.

15. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning

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<sup>10</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

<sup>11</sup> This Basic Condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 are amended. This basic condition replaced a basic condition “the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects”.

<sup>12</sup> The Convention Rights has the same meaning as in the Human Rights Act 1998

<sup>13</sup> Where I am required to consider the whole Neighbourhood Plan, I have borne it all in mind

and Compulsory Purchase Act 2004.<sup>14</sup> I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 (the Regulations) which are made pursuant to the powers given in those sections.

16. The Neighbourhood Plan relates to the area that was designated by the District Council as a neighbourhood area on 11 January 2017. A map of the Neighbourhood Plan boundary is included as Figure 2 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Parish of Norton-juxta-Kempsey boundaries, being also the administrative area of Norton-juxta-Kempsey Parish Council. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>15</sup> and no other neighbourhood development plan has been made for the neighbourhood area.<sup>16</sup> All requirements relating to the plan area have been met.
17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;<sup>17</sup> and the Neighbourhood Plan does not include provision about excluded development.<sup>18</sup> I am able to confirm that I am satisfied that each of these requirements has been met.
18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.<sup>19</sup> Paragraph 1.4 of the Submission Draft Plan document confirms the plan period is intended to last until 2030.
19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.<sup>20</sup> It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets

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<sup>14</sup> In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

<sup>15</sup> Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

<sup>16</sup> Section 38B (2) Planning and Compulsory Purchase Act 2004

<sup>17</sup> Section 38A (2) Planning and Compulsory Purchase Act 2004

<sup>18</sup> Principally minerals, waste disposal, development automatically requiring Environmental Impact assessment and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

<sup>19</sup> Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

<sup>20</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2021

the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.

20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.<sup>21</sup> I refer to the matter of minor corrections and other adjustments of general text in the Annex to my report.

## Documents

23. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:

- Norton-juxta-Kempsey Neighbourhood Plan Submission Draft March 2021
- Norton-juxta-Kempsey Neighbourhood Plan 2020-2030 Consultation Statement March 2021 [*In this report referred to as the Consultation Statement*]
- Norton-juxta-Kempsey Neighbourhood Plan Basic Conditions Statement March 2021 [*In this report referred to as the Basic Conditions Statement*]

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<sup>21</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Norton-juxta-Kempsey Neighbourhood Plan Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Opinion November 2020
- Evidence and other background documents and information published on the District Council, Parish Council, and the dedicated Neighbourhood Plan websites, including the Norton-juxta-Kempsey Neighbourhood Plan Green Space Background Paper March 2021
- Representations submitted during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and the District and Parish Councils including the initial letter of the Independent Examiner dated 9 July 2021
- South Worcestershire Development Plan adopted 25 February 2016
- Strategic Policies for the purposes of Neighbourhood Planning, South Worcestershire Councils
- National Planning Policy Framework (2021) [*In this report referred to as the Framework*]
- Permitted development rights for householders' technical guidance MHCLG (10 September 2019) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated) [*In this report referred to as the Guidance*]
- Town and Country Planning (Use Classes) Order 1987 (as amended)
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Equality Act 2010
- Localism Act 2011
- Housing and Planning Act 2016
- Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations*]
- Neighbourhood Planning (General) (Amendment) Regulations 2015
- Neighbourhood Planning (General) incorporating Development Control Procedure (Amendment) Regulations 2016
- Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

## Consultation

24. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the Submission Plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.
25. In April 2018 a questionnaire delivered to every address in the parish generated 216 responses which were important in the identification of key policy areas. A business questionnaire issued in April 2019 resulted in 7 responses from businesses which together employed more than 400 people of which more than 60 lived within the neighbourhood area. A Neighbourhood Plan website was developed in late 2019. This website and the Parish Newsletter were important mechanisms to keep the community informed about the plan preparation process. A range of methods were used to maintain awareness including liaison with the school, posters, sandwich boards, and postings on social media. The landowners of sites shortlisted for Local Green Space designations were written to early in February 2020. Public events were held at the Parish Hall in Littleworth and at St Peter's Garden Centre on 21 and 22 February 2020 respectively. These events were attended by a total of 120 people.
26. Pre-submission consultation in accordance with Regulation 14 was undertaken between 19 October 2020 and 30 November 2020 which was promoted through delivery of a summary booklet including response form to every household. Post boxes for return of responses were established at three locations although Government directives relating to the Covid-19 pandemic necessitated alternative arrangements for return of physical responses forms. The full consultation plan document was published online on the neighbourhood plan website and hard copies could be requested from the Parish Council clerk. In addition to stakeholder consultations by email publicity was achieved through social media; posters on noticeboards; and a feature in the South Worcestershire Voice Magazine. A total of 100 responses were received. The representations arising from the consultation are summarised in appendix 6 of the Consultation Statement, and responses and amendments made to the Neighbourhood Plan, are set out. The

suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was approved by the Parish Council, for submission to the District Council.

27. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 21 May 2021 to 2 July 2021. Representations from 11 different parties were submitted during the period of publication. Natural England and the Environment Agency confirmed they have no specific comments. Worcestershire County Council suggest additional policy content. The comments of Worcestershire County Council and Network Rail do not necessitate any modification of the Neighbourhood Plan. The Coal Authority confirmed there is no need to consult that authority. Historic England confirmed support for elements of the Neighbourhood Plan relating to the historic environment. Whittington Parish Council confirmed support and has no objections. The District Council Officer comments relate to Policies NJK1; NJK2; NJK3; NJK4; NJK6; NJK7, NJK9; and NJK10. In addition to general comments the representation on behalf of St Modwen relates to the vision and objectives of the Neighbourhood Plan and to Policies NJK1; NJK2; NJK3; NJK5; NJK6; NJK7; NJK8; and NJK10. A representation on behalf of IM Land relates to Policies NJK1; NJK2; NJK3; NJK4; NJK5; and NJK10 and promotes the residential development of land at Pound House Farm, Norton. A representation on behalf of Spetchley Estate and Hallam Land Management relates to their land interest within the Neighbourhood Area that is currently being promoted for development as part of a wider proposal for a new settlement centred on the new Worcestershire Parkway railway station and refers to Section 3 of the Neighbourhood Plan and to Policies NJK1; NJK2; NJK3; and NJK4.

28. It would be beyond my remit to recommend modifications to insert additional policy and other content where that is not necessary to meet the basic conditions and other requirements of neighbourhood plans that I have identified. Where representations raise concerns or state comments or objections in relation to specific policies, I refer to these later in my report when considering the policy in question where they are relevant to the reasons for my recommendations.<sup>22</sup> I have been provided with copies of each of all of the representations. In preparing this report I have taken into consideration all of the representations where they are relevant to my role even though they may not be

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<sup>22</sup> *Bewley Homes Plc v Waverley District Council* [2017] EWHC 1776 (Admin) Lang J, 18 July 2017 and Town and Country Planning Act Schedule 4B paragraph 10(6)

referred to in whole, or in part.

29. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. I placed no obligation on the Parish Council to offer any comments but such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. The Parish Council did not submit comments on the representations of other parties. I requested the District Council to publish the Regulation 16 representations on its website.
30. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:
- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
  - b) explains how they were consulted;
  - c) summarises the main issues and concerns raised by the persons consulted; and
  - d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.<sup>23</sup>
31. The Consultation Statement and appendices do include information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. In addition, sufficient regard has been paid to the advice regarding plan preparation and engagement contained within the Guidance. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

## **The Neighbourhood Plan taken as a whole**

32. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and Human Rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and

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<sup>23</sup> Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

whether the plan is in general conformity with the strategic policies contained in the development plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this. In considering all of these matters I have referred to the submission, background, and supporting documents, and copies of the representations and other material provided to me.

Consideration of Convention Rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and 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

33. The Basic Conditions Statement states *“The Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act”* and includes supporting statements. I have considered the European Convention on Human Rights and in particular Article 6 (1) (fairness); Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).<sup>24</sup> Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. I am satisfied the Neighbourhood Plan has been prepared in accordance with the obligations for Parish Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010. Whilst no Equality Impact Assessment has been undertaken in respect of the Neighbourhood Plan, from my own examination, the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

34. The objective of EU Directive 2001/42<sup>25</sup> is *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the*

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<sup>24</sup> The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

<sup>25</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

*environment.*” The Neighbourhood Plan falls within the definition of ‘plans and programmes’<sup>26</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>27</sup>

35. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to Wychavon District Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.
36. In November 2020 the District Council issued a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Opinion which states *“Table 2 assesses the likelihood of significant environmental effects arising from the draft Norton-juxta-Kempsey Neighbourhood Plan in its current form. The policies in the draft Norton-juxta-Kempsey Neighbourhood Plan are in-line with the strategy of the adopted SWDP, which has been subject to a Sustainability Appraisal incorporating a Strategic Environmental Assessment. The policies of the Draft Norton-juxta-Kempsey Neighbourhood Plan seek to avoid or minimise environmental effects through the provision of guidance on issues which are specific to the neighbourhood area. It is therefore likely that the draft Norton-juxta-Kempsey Neighbourhood Plan will have, both directly and indirectly, a positive environmental impact rather than negative, by setting out guidance addressing how developers can minimise impacts on a number of environmental receptors. As such, it is concluded that a full SEA is unlikely to be required in the preparation of the Norton-juxta-Kempsey Neighbourhood Plan.”* The Screening Opinion includes in Appendix 1 consultation responses from the Statutory Bodies and the conclusion of the Screening Opinion confirms that all three statutory bodies agreed that a full SEA is not necessary. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.
37. The Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Opinion issued by the District Council in November 2020 concludes *“As a result of the above assessment, it is considered that the policies of the draft Norton-juxta-Kempsey Neighbourhood Plan are in general conformity with those contained in the SWDP. It is therefore concluded that the draft Norton-*

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<sup>26</sup> Defined in Article 2(a) of Directive 2001/42

<sup>27</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

*juxta-Kempsey Neighbourhood Plan is unlikely to have a negative impact on any internationally designated wildlife sites and as such, the recommendation is made that a full AA is not required.*” The Screening Opinion document states that Natural England concurs with this view. I conclude the Neighbourhood Plan meets the requirements of the revised Basic Condition relating to Habitats Regulations.

38. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.

39. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

40. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The District Council as local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations:

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).<sup>28</sup>

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

41. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of

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<sup>28</sup> Planning Practice Guidance paragraph 080 Reference ID: 41-080-20150209

Local Plans<sup>29</sup> which requires plans to be “*consistent with national policy*”.

42. Lord Goldsmith has provided guidance<sup>30</sup> that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”
43. The most recent National Planning Policy Framework published on 21 July 2021 sets out the Government’s planning policies for England and how these are expected to be applied. The Planning Practice Guidance was most recently updated in respect of Neighbourhood Planning on 25 September 2020. As a point of clarification, I confirm I have undertaken the Independent Examination in the context of the most recent National Planning Policy Framework and Planning Practice Guidance. Whilst the Guidance has been updated on 24 May 2021 with respect to First Homes, transitional arrangements apply in the case of the Neighbourhood Plan which was submitted for independent examination before 28 June 2021.
44. I am satisfied Section 3 of the Basic Conditions Statement including Table 2 demonstrates the Neighbourhood Plan has regard to relevant identified components of the Framework.
45. The Neighbourhood Plan includes a positive vision statement for the Neighbourhood Area by 2030. The vision refers to economic matters (“*appropriate development*”), social matters (“*the community’s needs*”), and environmental matters (“*rural character within separate settlements*”). The vision is then developed to present five objectives relating to: natural environment; traffic impact; local facilities; local economy; and housing. The Neighbourhood Plan sets out policies arranged by reference to the objectives.
46. The representation on behalf of St Modwen states the Traffic impact objective should be reworded to reflect the NPPF policy on highways. I agree the objective does not have sufficient regard for national policy,

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<sup>29</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

<sup>30</sup> The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the House of Lords Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

in particular paragraphs 84 and 109 of the Framework. I have recommended a modification in this respect.

**Recommended modification 1:**

**In paragraph 5.5 Traffic Impact Objective replace “with minimum” with “without unacceptable”**

47. The representation on behalf of St Modwen also states clarification is required as to what would constitute appropriate development referred to in the Local Economy Objective. It is the policies, not the objectives, of the Neighbourhood Plan that will be referred to in the determination of development proposals. I am satisfied the wording of Policy NJK8, as I recommend it should be modified, provides sufficient guidance to parties formulating and determining development proposals and that the wording of the Local Economy Objective is fit for purpose. No modification is necessary to meet the basic conditions or other requirements of a neighbourhood plan that I have identified.
48. The representation on behalf of Spetchley Estate and Hallam Land Management refers to Section 3 of the Neighbourhood Plan suggesting the sub-title “*Development Pressures*” should be replaced with “*Future Development*” “*with the text and subsequent policies responding positively to the framing of future housing and employment needs, including the delivery of critical infrastructure in accordance with the draft NP’s Vision at Section 5.*” Paragraph 3.10 of the Neighbourhood Plan refers to the Worcester South urban extension as being identified in the adopted SWDP. No modification is necessary to meet the Basic Conditions, or other requirements of a neighbourhood plan, that I have identified.
49. A representation on behalf of IM Land states that in the context of the emerging SWDPR “*Should a higher level of housing need be identified the Parish Council should reconsider the need to allocate further housing within the draft plan*” and “*in the context of the draft Plan, given the emerging plans for Worcester Parkway (via the SWDPR) are meeting a strategic need, this should not be used as a reason to not provide further housing allocations.*” The representation on behalf of IM Land states “*The Parish Council have not released the WDC calculation of housing need and, in the interests of transparency, this information should be made publicly available. This is an important matter, which relates to a fundamental issue under NPPF (paragraphs 65-66) and thus Basic Condition 8(2)(a). It is noted that the calculation was provided in 2019; the continued validity of the calculation should*

*be reviewed in light of any changed circumstances since then and made publicly available. Should a higher level of housing need be identified, the Parish Council should reconsider the need to allocate further housing within the draft Plan. It is noted that within the SWDPR Preferred Options (November 2019) consultation document (at paragraph 2.8) it states that where requested housing requirements for Neighbourhood Areas will be provided based on the overall housing number, the draft spatial development strategy and taking account of existing allocations within the SWDPR and allocations in made or submitted neighbourhood plans. The housing numbers exclude strategic site allocations as these will be set out within the SWDPR and cannot be amended through a neighbourhood plan. In the context of the draft Plan, given the emerging plans for Worcester Parkway (via the SWDPR) are meeting a strategic need, this should not be used as a reason to not provide further housing allocations. As set out above, IM Land are promoting land within Norton which provides an opportunity for a sensitively designed development to be brought forward that provides much needed housing as well as other benefits such as green space. A Vision Statement showing how the Site could be brought forwards, and the benefits, is provided at Appendix 3.”*

50. Paragraph 29 of the Framework states “*Neighbourhood Plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.*” Whilst it is not within my role to test the soundness of the Neighbourhood Plan it is necessary to consider whether the Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies, as required by paragraph 29 of the Framework; and meets the requirements set out in the Guidance.

51. The Guidance states “*The scope of neighbourhood plans is up to the neighbourhood planning body. Where strategic policies set out a housing requirement figure for a designated neighbourhood area, the neighbourhood planning body does not have to make specific provision for housing, or seek to allocate sites to accommodate the requirement (which may have already been done through the strategic policies or through non-strategic policies produced by the local planning authority). The strategic policies will, however, have established the scale of housing expected to take place in the neighbourhood area. Housing requirement figures for neighbourhood*

*plan areas are not binding as neighbourhood planning groups are not required to plan for housing.”<sup>31</sup>*

52. *“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.”<sup>32</sup>*

53. *“Where neighbourhood planning bodies have decided to make provision for housing in their plan, the housing requirement figure and its origin are expected to be set out in the neighbourhood plan as a basis for their housing policies and any allocations that they wish to make. Neighbourhood planning bodies are encouraged to plan to meet their housing requirement, and where possible to exceed it.”<sup>33</sup>*

54. *“The National Planning Policy Framework expects most strategic policy-making authorities to set housing requirement figures for designated neighbourhood areas as part of their strategic policies”<sup>34</sup>*

55. *“Where strategic policies do not already set out a requirement figure, the National Planning Policy Framework expects an indicative figure to be provided to neighbourhood planning bodies on request.”<sup>35</sup>*

56. The Guidance states *“If a local planning authority is also intending to allocate sites in the same neighbourhood area the local planning authority should avoid duplicating planning processes that will apply to the neighbourhood area. It should work constructively with a qualifying body to enable a neighbourhood plan to make timely progress. A local planning authority should share evidence with those preparing the neighbourhood plan, in order for example, that every effort can be made to meet identified local need through the neighbourhood planning process.”<sup>36</sup>*

57. *“Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan the reasoning and evidence informing the local plan process is likely to be relevant to the*

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<sup>31</sup> Planning Practice Guidance Paragraph: 104 Reference ID: 41-104-20190509 Revision date: 09 05 2019

<sup>32</sup> Planning Practice Guidance Paragraph: 040 Reference ID: 41-040-20160211 Revision date: 11 02 2016

<sup>33</sup> Planning Practice Guidance Paragraph: 103 Reference ID: 41-103-20190509 Revision date: 09 05 2019

<sup>34</sup> Planning Practice Guidance Paragraph: 101 Reference ID: 41-101-20190509 Revision date: 09 05 2019

<sup>35</sup> Planning Practice Guidance Paragraph: 105 Reference ID: 41-105-20190509 Revision date: 09 05 2019

<sup>36</sup> Planning Practice Guidance Paragraph: 043 Reference ID: 41-043-20140306 Revision date: 06 03 2014

*consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing need evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date local plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*

- the emerging neighbourhood plan*
- the emerging local plan (or spatial development strategy)*
- the adopted development plan*

*with appropriate regard to national policy and guidance.”*

58. *“The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body so that complementary neighbourhood and local plan policies are produced. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. Strategic policies should set out a housing requirement figure for designated neighbourhood areas from their overall housing requirement (paragraph 65 of the revised National Planning Policy Framework). Where this is not possible the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body, which will need to be tested at the neighbourhood plan examination. Neighbourhood plans should consider providing indicative delivery timetables, and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new local plan.”<sup>37</sup>*

59. The South Worcestershire Development Plan through Policy SWDP 2 seeks to establish a development strategy and settlement hierarchy. New housing development is to be focussed on Worcester City and

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<sup>37</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision date: 09 05 2019

the other urban areas. The housing requirement to 2030 in South Worcestershire is 28,370 dwellings. The South Worcestershire Development Plan makes provision for around 28,400 dwellings to meet this need, with part of the Worcester South urban extension (Policy SWDP 45/1) within the Neighbourhood Area. No SWDP village hierarchy housing allocation is made in the Neighbourhood Area. Paragraph 6.64 of the Neighbourhood Plan states that in response to a request by the Parish Council in 2019 the District Council provided an indicative housing requirement for the parish of two dwellings up to 2030. The District and Parish Councils have confirmed the indicative requirement was in fact one dwelling. I refer to the correction of this error in the Annex to my report.

60. Policy SWDP 2 identifies Norton-juxta-Kempsey as a Category 3 village. Category 1, 2 and 3 villages are stated to have a role predominately aimed at meeting locally identified housing and employment needs and are suited to accommodate market and affordable housing needs alongside limited employment for local needs. Infill development within the defined development boundaries of Category 1, 2 and 3 villages is acceptable in principle subject to the more detailed plan policies. The SWDP sets a development boundary for Hatfield; Littleworth; Norton; and Brockhill which the Neighbourhood Plan does not seek to amend. Policy SWDP2 establishes that infill development is acceptable in principle within these defined boundaries. Whilst no total figure can be assumed there is undoubtedly some limited potential for dwellings to be provided on infill plots or possibly through the redevelopment of sites within the development boundaries established by the SWDP. The Neighbourhood Plan places no cap or limit on the number of homes that can be provided within the development boundaries. I have recommended a modification of Policy NJK10 to ensure there is no ambiguity regarding this point. I have earlier in my report referred to the resident's questionnaire consultation in April 2018 undertaken in respect of potential housing allocations. On this basis I am satisfied that in preparation of the Neighbourhood Plan consideration has been given to opportunities for allocating small and medium-sized sites suitable for housing in the Neighbourhood Area in accordance with paragraph 70 of the Framework. In addition to the major allocation made by Policy SWDP45/1 (the Worcester South urban extension) strategic policies provide for further residential development outside the development boundaries (dwellings for rural workers Policy SWDP19, rural exception sites Policy SWDP16), and paragraph 79 of

the Framework identifies circumstances where homes in isolated locations in rural areas may be appropriate.

61. In this policy context it is reasonable to assume there will be some windfall supply of dwellings during the Plan period up to 2030 which will boost the supply of homes in the Neighbourhood Area. The approach taken and the choices made in the Neighbourhood Plan regarding housing provision are sufficiently evidenced and justified and have regard for the Guidance. The contribution arising from the strategic allocated South Worcester urban extension amounts to a significant boost to the supply of housing in the Neighbourhood Area.
62. The Regulation 16 representation on behalf of IM Land refers to their promotion of development of land for 60-70 new homes on land at Pound House Farm, Norton. The Regulation 16 representation on behalf of St Modwen refers to their development partner, Merton College, owner of land which includes Wood Hall Farm estate which forms part of the proposed Worcestershire Parkway New Settlement strategic allocation of the emerging SWDP Review. The Regulation 16 representation on behalf of Spetchley Estate and Hallam Land Management includes reference to other land currently being promoted for development as part of the wider proposal for a new settlement centred on the new Worcestershire Parkway railway station. It is not within my role to consider the merits of development proposals, or the relative merits of alternative development proposals, including those supported or promoted in Regulation 16 representations, nor is it within my role to balance those merits against any inherent detriments or shortcomings that the proposals may have. I have earlier in my report explained that my role is to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified.
63. I am satisfied the approach adopted to address the quantity of housing need in the Neighbourhood Area is appropriate for the purpose of neighbourhood plan preparation for Norton-juxta-Kempsey parish and provides the necessary justification that those policies (after recommended modification) that are relevant to housing supply will result in local housing needs being met. The Neighbourhood Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, and will not undermine those strategic policies.
64. Section 7 of the Neighbourhood Plan identifies a list of potential infrastructure projects that is described as not exhaustive and subject

to review. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on ways to improve a neighbourhood other than through the development and use of land as expressed in the policies of the Neighbourhood Plan. It is important that those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning policy represents good practice. The Guidance states, *“Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan”*.<sup>38</sup> I am satisfied the approach adopted in the Neighbourhood Plan presenting the potential infrastructure projects in plain typeface in Section 7 not in background shaded text boxes and including a clear descriptive title and explanation differentiates the community aspirations from the policies of the Plan and has sufficient regard for the Guidance.

65. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to *‘have regard to’* national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition *“having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.”*

66. At the heart of the Framework is a presumption in favour of sustainable development<sup>39</sup> which should be applied in both plan-making and decision-taking<sup>40</sup>. The Guidance states, *“This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential*

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<sup>38</sup> Planning Practice Guidance *Paragraph: 004 Reference ID: 41-004-20190509 Revision 09 05 2019*

<sup>39</sup> Paragraph 10 National Planning Policy Framework 2021

<sup>40</sup> Paragraph 11 National Planning Policy Framework 2021

*adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions”<sup>41</sup>.*

67. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

68. The Framework states there are three dimensions to sustainable development: economic, social and environmental. Table 4 in Section 5 of the Basic Conditions Statement sets out an assessment of how each policy of the Neighbourhood Plan impacts on each of the economic, social, and environmental dimensions. Each policy is assessed to have a positive impact in at least one dimension. The Table does not highlight any negative impacts on sustainability objectives.

69. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, when modified as I have recommended, will, contribute to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes will protect local distinctiveness; will serve economic needs; will protect and enhance social facilities; and will protect important environmental features. In particular, I consider the Neighbourhood Plan policies seek to:

- Establish built and natural landscape criteria for support of new development;
- Establish criteria relating to trees and hedgerows for support of development;
- Ensure new development will protect and improve green spaces and corridors;
- Designate 18 Local Green Spaces;

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<sup>41</sup> Planning Practice Guidance Paragraph 072 Ref ID:41-072-20190509 Revision 09 05 2019

- Support enhancement and improvement of non-vehicular travel routes and establish accessibility and biodiversity criteria for support of development;
- Avoid adverse impacts of heavy goods traffic;
- Establish conditional support for new or improved community facilities, and establish criteria for support of proposals that will result in loss of amenity of community facilities;
- Support new employment development in identified locations, establish criteria for intensification or expansion of employment sites, and establish criteria for support of loss of employment sites;
- Establish conditional support for small business, recreation, or tourism use of agricultural buildings and conditional support for home-based enterprise; and
- Establish support for new infill housing development within designated development boundaries.

70. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan, will, when modified as I have recommended, contribute to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

71. The Framework states neighbourhood plans should “*support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies*”.<sup>42</sup> Plans should make explicit which policies are strategic policies.<sup>43</sup> “*Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area*”<sup>44</sup>. “*Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies*”.<sup>45</sup>

<sup>42</sup> Paragraph 13 National Planning Policy Framework 2021

<sup>43</sup> Paragraph 21 National Planning Policy Framework 2021

<sup>44</sup> Footnote 18 National Planning Policy Framework 2021

<sup>45</sup> Paragraph 29 National Planning Policy Framework 2021

72. In this independent examination, I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). The District Council has confirmed the Development Plan applying in the Norton-juxta-Kempsey Neighbourhood Area and relevant to the Neighbourhood Plan comprises the South Worcestershire Development Plan adopted 25 February 2016. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”<sup>46</sup> The District Council has provided me with a document that identifies what are regarded by the Local Planning Authority as strategic policies for the purposes of neighbourhood planning.

73. I agree that the policies identified by the District Council as strategic are indeed strategic but I regard Policy SWDP25 Landscape Character to also be strategic as this requires all development proposals to be appropriate and integrate with the character of their landscape setting. I have proceeded with my independent examination of the Neighbourhood Plan on the basis that the Development Plan strategic policies relevant to the Neighbourhood Plan are:

- SWDP1 Overarching Sustainable Development Principles
- SWDP2 Development Strategy and Settlement Hierarchy
- SWDP3 Employment, Housing and Retail Provision Requirement and Delivery
- SWDP4 Moving Around South Worcestershire
- SWDP5 Green Infrastructure
- SWDP6 Historic Environment
- SWDP7 Infrastructure
- SWDP8 Providing the Right Land and Buildings for Jobs
- SWDP9 Creating and Sustaining Vibrant Centres
- SWDP10 Protection and Promotion of Centres and Local Shops
- SWDP12 Employment in Rural Areas
- SWDP13 Effective Use of Land
- SWDP14 Market Housing Mix
- SWDP15 Meeting Affordable Housing Needs
- SWDP17 Travellers and Travelling Showpeople
- SWDP21 Design
- SWDP22 Biodiversity and Geodiversity

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<sup>46</sup> Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20190509 Revision 09 05 2019

- SWDP23 The Cotswolds and Wychavon Areas of Outstanding Natural Beauty (AONB)
- SWDP25 Landscape Character
- SWDP27 Renewable and Low Carbon Energy
- SWDP28 Management of Flood Risk
- SWDP59 New Housing for Villages

74. Wychavon District Council is working with Worcester City Council and Malvern Hills District Council to prepare a South Worcestershire Development Plan Review. This work began in 2017 and has proceeded to the stage where Preferred Options have been prepared in November 2019. This is in line with new Government requirements that local plans should be updated every five years, and therefore a revised SWDP is required by 2021. The review will provide an updated plan period to the year 2041. The plan will update the existing SWDP and where necessary its Vision, Objectives, Spatial Strategy and policies for the future development of the South Worcestershire area. The second part of the plan includes site allocations, policies and policy designations that will provide for the development needs of the area up to 2041.

75. The Neighbourhood Plan can proceed ahead of preparation of the South Worcestershire Development Plan Review. The Guidance states: *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan. A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. Although a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*

- *the emerging neighbourhood plan;*
- *the emerging Local Plan;*
- *the adopted development plan;*

*with appropriate regard to national policy and guidance. The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan. Neighbourhood plans should consider providing indicative delivery timetables and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan.”<sup>47</sup>*

76. The approach of the District Council and the Parish Council has been consistent with that stated in the Guidance *“It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies.”* I am content that should there ultimately be any conflict between the Neighbourhood Plan, and the SWDP Review (or any further future reviews) when it is adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan. I am content the Neighbourhood Plan indicates the latest position regarding the SWDP review.

77. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The emerging South Worcestershire Development Plan Review is not part of the Development Plan and this requirement does not apply in respect of that. Emerging planning policy is subject to change as plan preparation work proceeds. The Guidance states *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan”<sup>48</sup>*. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC [2014] EWHC1470*

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<sup>47</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009- 20190509 Revision 09 05 2019

<sup>48</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

(Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.

78. In considering a now-repealed provision that “*a local plan shall be in general conformity with the structure plan*” the Court of Appeal stated “*the adjective ‘general’ is there to introduce a degree of flexibility.*”<sup>49</sup> The use of ‘*general*’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

79. The Guidance states, “*When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:*

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.*”<sup>50</sup>

My approach to the examination of the Neighbourhood Plan Policies has been in accordance with this guidance. I have taken into consideration Table 3 in Section 4 of the Basic Conditions Statement that demonstrates how each of the policies of the Neighbourhood Plan is in general conformity with relevant strategic policies.

80. Consideration as to whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and each of the plan policies below. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general

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<sup>49</sup> Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P &CR 31

<sup>50</sup> Planning Practice Guidance Paragraph 074 ID ref: 41-074 20140306 Revision 06 03 2014

conformity with the strategic policies contained in the Development Plan.

## The Neighbourhood Plan Policies

81. The Neighbourhood Plan includes 10 policies as follows:

Policy NJK1: Built and Natural Landscape Policy

Policy NJK2: Trees and Hedgerows Policy

Policy NJK3: Green Infrastructure Policy

Policy NJK4: Local Green Space Policy

Policy NJK5: Footways, Footpaths, Cycle Paths and Bridleways Policy

Policy NJK6: Heavy Goods Traffic Policy

Policy NJK7: Community Facilities Policy

Policy NJK8: Existing and Allocated Employment Sites Policy

Policy NJK9: Agricultural Buildings and Rural Employment Policy

Policy NJK10: Housing Development Policy

82. Paragraph 29 of the Framework states *“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies”*. Footnote 16 of the Framework states *“Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”*

83. Paragraph 15 of the Framework states *“The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”*

84. Paragraph 16 of the Framework states *“Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”*
85. The Guidance states *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*<sup>51</sup>
86. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.*<sup>52</sup>
87. A neighbourhood plan should contain policies for the development and use of land. *“This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”*<sup>53</sup>

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<sup>51</sup> Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306 Revision 06 03 2014

<sup>52</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

<sup>53</sup> Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20190509 Revision 09 05 2019

88. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is 'made' they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn. I have considered any inter-relationships between policies where these are relevant to my remit.

### **Policy NJK1: Built and Natural Landscape Policy**

89. This policy seeks to establish built and natural landscape criteria for support of new development.

90. The District Council Officer comments state "*Criterion D – not sure how an application could demonstrate that it had incorporated references to the historical home of the Worcestershire Regiment? Criterion F – this criterion talks about maintaining views and vistas but there is no identification of specific views and vistas which this criteria should apply to in the Neighbourhood Plan? Notwithstanding this, suggest rewording of this criteria as follows: F. Demonstrates that the local landscape quality has been considered and informed by the most up to date Landscape Character Assessment guidance document FOOTNOTE and ensures views and vistas are maintained wherever possible. FOOTNOTE - Appendix 3 of the Neighbourhood Plan.*"

91. A representation on behalf of St Modwen repeated a Regulation 14 comment that a landscape buffer around Woodbury Park is not justified. The representation also states criteria G lacks the necessary supporting evidence and is unclear.

92. A representation on behalf of IM Land states the policy is unduly restrictive and in particular the final sentence should be deleted. The representation also states reference in criterion D to street naming is inappropriate and criteria E and F should also be deleted. It is stated criterion E is not adequately evidenced nor justified and criterion F is unclear and unworkable, and again not sufficiently justified.

93. A representation on behalf of Spetchley Estate and Hallam Land Management states criterion F is unjustified and should be removed so as not to predetermine the masterplan exercise relating to the emerging Worcestershire Parkway new settlement. The representation suggests alternative wording if the criterion is retained.

94. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are

required. However, Neighbourhood Plans may not be used to apply these.<sup>54</sup> The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*. Whilst Policy NJK1 relates to all types of development, new dwellings are likely to be the most frequently occurring form of development. I have recommended a modification to delete part G of the policy in this respect so that the policy has sufficient regard for national policy.

95. The requirement of part C of the policy has not been sufficiently justified and does not have sufficient regard for paragraph 130 c) of the Framework. The reference to street naming in part D of the policy is inappropriate as it is reliant on a third party for realisation. Part D does not provide sufficient guidance to parties preparing development schemes. Part E has not been sufficiently justified in that development may be possible that does not visually erode the predominantly undeveloped gaps between the named settlements. Part F is imprecise and does not provide a basis for the determination of development proposals. The final sentence includes the term *“not be permitted”*. This term is inappropriate as paragraph 2 of the Framework states applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations will not be known until the time of determination. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is *“clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
96. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP21, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
97. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their

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<sup>54</sup> <https://www.gov.uk/guidance/housing-optional-technical-standards>

community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment and the historic environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

### **Recommended modification 2:**

#### **In Policy NJK1**

- **in part C replace “reflect” with “is sympathetic to”**
- **delete part D**
- **in part E after “not” insert “visually”**
- **replace part F with “Demonstrates that the local landscape quality has been considered and informed by the most up to date Landscape Character Assessment guidance document FOOTNOTE and ensures views and vistas are maintained wherever possible. FOOTNOTE - Appendix 3 of the Neighbourhood Plan.”**
- **delete part G**
- **delete the final sentence**

#### **Policy NJK2: Trees and Hedgerows Policy**

98. This policy seeks to establish criteria relating to trees and hedgerows for support of development.

99. The District Council Officer comments state “*Criterion C – minor typo “to” needs removing. Criterion D – concern that native species might not always be the most appropriate or desirable, for example in applications relating to domestic properties – where native trees might be too large at maturity or ornamental species might be more appropriate (these too can have biodiversity benefits, as well as native species). Suggest more appropriate wording would be as follows: D. Any replacement tree and hedgerow planting shall be of species appropriate to the local setting. It would then be down to the LPA, in determining planning applications and associated landscape schemes, to consider what would be appropriate in each case. It may also be worth highlighting that native species planting suggestions are contained within the Worcestershire Landscape Type Information Sheets perhaps by a Footnote to the following webpage: <https://www.worcestershire.gov.uk/downloads/download/808/worcester>*”

*shire\_landscape\_type\_profiles Criterion E – this criterion prescribes the number of new trees that shall be planted in new developments – both residential and non-residential. There is a caveat saying that where it is not possible to secure the planting within the site, the trees should be planted at a suitable location outside the site. Whilst this is aspirational, there is concern as to whether thought has been given to where those off-site trees might be planted and whether there is adequate scope for this in the long term? If trees have to be provided to comply with the policy but, over time, there are too few places available to accommodate the trees within the parish off-site, then this could cause problems.”*

100. A representation on behalf of St Modwen states part A is not justified and is ambiguous, and requests part C is revised to state “Category A, B, and C trees that cannot be retained as a result of the development are replaced, as agreed with the local planning authority.” The representation also requests part D is revised to state “any replacement trees and hedgerows are planted with locally occurring native species or other suitable species, as agreed with the local planning authority as part of a detailed landscape strategy” and part E is revised to state “additional new trees shall be planted where appropriate as part of a landscape strategy to be agreed with the local planning authority. This may include off-site tree planting if considered appropriate.”
101. A representation on behalf of IM Land states the term ‘unacceptable’ in criterion A is not defined and that tree removal can be acceptable in certain circumstances and that mitigation can offer a solution. The representation states criterion B is unreasonable; criteria C-E are not supported by any evidence; criterion F is vague and unworkable; and criteria E-G do not have regard for national policy.
102. A representation on behalf of Spetchley Estate and Hallam Land Management states criterion C is unnecessary given the requirements of criterion B, and criterion E is too prescriptive, and criterion F is imprecise.
103. This term “*permission for*” is inappropriate as paragraph 2 of the Framework states applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations will not be known until the time of determination. The term “*unacceptable*” in part A of the policy is imprecise and does not provide a basis for the determination of development proposals. Paragraph 131 of the

Framework states existing trees should be retained wherever possible. I have recommended this word is replaced by the word “unnecessary” which is capable of being tested. Some loss of trees and hedgerows may be necessary, for example to form a safe access that cannot be achieved elsewhere. I am also satisfied the second sentence of part B has sufficient regard for the “*retained wherever possible*” approach of national policy. The requirement for locally occurring native species in part D has not been justified. The level of provision in part E has not been sufficiently justified and off-site planting may be reliant on a third party which the policy must not be. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework. I am satisfied the first sentence of part B is necessary to ensure decisions are sufficiently informed to have regard for national policy. Part F of the policy has sufficient regard for the part of paragraph 131 of the Framework which states “*appropriate measures are in place to secure the long-term maintenance of newly-planted trees.*”

104. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP21, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
105. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

### **Recommended modification 3:**

#### **In Policy NJK2**

- **delete “Permission for”**
- **in part A replace “unacceptable” with “unnecessary”**
- **in part C delete “to”**

- replace part D with “Any replacement tree and hedgerow planting shall be of species appropriate to the local setting.”
- replace part E with “Additional new trees shall be planted in the context of a landscaping strategy for the site.”

### **Policy NJK3: Green Infrastructure Policy**

106. This policy seeks to ensure new development will protect and improve green spaces and corridors.
107. The District Council Officer comments state *“The requirement for all new development to require a GI plan seems to be too onerous. It is suggested it should apply to only certain development through a set criterion on size or number of units. Therefore, it is suggested that the policy is reworded slightly at the beginning to read as follows: A Green Infrastructure Plan should be provided for [specified types] new development to show how the development can protect ... Further, instead of: “green infrastructure provision should:” suggest reword to read “The Green Infrastructure Plan should:” There needs to be a distinction made between a plan which provides for the how the area that includes GI provision may be developed and used, and the actual provision of GI itself. This policy is clearly more to do with the former (how these areas will be developed and used) rather than the latter (new planting, restoration of hedgerows etc.)”*
108. A representation on behalf of St Modwen states the term key views or visual relationships is imprecise and request a reference to change to key views arising from the Worcestershire Parkway new settlement allocation should be included in the reasoned justification. The representation suggests wording to allow greater flexibility of species in planting schemes.
109. A representation on behalf of IM Land states the policy does not recognise strategic policy and makes provision for contributions where on site provision of green space is impracticable or inappropriate.
110. A representation on behalf of Spetchley Estate and Hallam Land Management states the requirement of criterion A is not evidenced or explained, and in respect of criterion G, SuDS are not always the most appropriate drainage solution.
111. Policy NJK3 does not limit green infrastructure contributions to on-site provision. Reference to the impact of the Worcestershire

Parkway new settlement allocation in the reasoned justification is not necessary to meet the basic conditions. Policy SWDP5 refers to housing development although a green infrastructure plan may also be appropriate in respect of major employment development. Paragraph 16 of the Framework states plans should be deliverable. I have recommended the requirement for a Green Infrastructure Plan should be limited to major new development schemes which is defined in Annex 2: Glossary of the Framework. Policy NJK3 does not seek to establish valued landscapes, as referred to in paragraph 174 of the Framework, which would require a rigorous and objective justification that identifies physical attributes, beyond 'ordinary', that make the landscape valued.<sup>55</sup> I have recommended the reference to key views or visual relationships should include the word "any" to make it clear these are currently not defined. I have recommended part C should be consistent with part D of Policy NJK2 as recommended to be modified. I have recommended part G should acknowledge SuDS may not always be appropriate. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is *"clearly written and unambiguous, so it is evident how a decision maker should react to development proposals"* as required by paragraph 16d) of the Framework.

112. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP5, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

113. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 4: In Policy NJK3**

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<sup>55</sup> Stroud District Council vs. SSCLG [2015] EWHC 488 (Admin) and Forest of Dean DC v. SSCLG [2016] EWHC 2429 (Admin)

- replace the text before “to show” with “A Green Infrastructure Plan should be provided for all major new development schemes”
- replace “can” with “will”
- replace “Green infrastructure provision should” with “The Green Infrastructure Plan should”
- in part A insert “any” before “key”
- in part C replace “locally occurring native species” with “species appropriate to the local setting”
- in part G before “necessary” insert “appropriate and”

A note should be added to state major development is defined in Annex 2: Glossary of the Framework.

#### **Policy NJK4: Local Green Space Policy**

114. This policy seeks to designate 18 Local Green Spaces.
115. The District Council Officer comments state *“Suggest renumbering of Local Green Spaces as LGS1, LGS2, LGS3 etc. with site location and map reference to follow. Suggest rewording of final sentence of policy as follows: Development that would result in the loss or partial loss of a designated Local Green Spaces will not be supported unless very special circumstances arise which outweigh the need for protection.”*
116. A representation on behalf of IM Land states the policy wording is not compatible with the Framework, and the site map reference 12 – wide verge to the east of Wadborough Road has not been shown to be demonstrably special to the local community and does not hold a particular local significance, nor does the site display any of the characteristics set out in the examples in the Framework.
117. A representation on behalf of Spetchley Estate and Hallam Land Management states LGS site map reference 7 - Green Space at High Park does not meet the demonstrably special test and is of minimal significance so does not qualify as a Local Green Space.
118. Designation of Local Green Space can only follow precise identification of the land concerned. The proposed Local Green Spaces are presented on maps in Appendix 4 of the Neighbourhood Plan at a scale that is sufficient to identify the land proposed for Local Green Space designation.

119. The final paragraph of the policy seeks to describe the circumstances when development will be supported within a Local Green Space. I have given consideration to the possibility of the policy including a full explanation of “*very special circumstances*”. Very special circumstances may be that development is proposed that would clearly enhance the Local Green Space for the purposes for which it was designated, or proposals are made for essential infrastructure that cannot be located elsewhere. I have concluded such explanation would necessarily be incomplete and that decision makers must rely on paragraph 103 of the Framework that states “*Policies for managing development within a Local Green Space should be consistent with those for Green Belts*” and the part of the Framework that relates to ‘Protecting Green Belt land’, in particular paragraphs 147 to 151 inclusive. The policy seeks to introduce a more restrictive approach to development proposals than apply in Green Belt without sufficient justification, which it may not.<sup>56</sup> I have recommended a modification so that the policy has sufficient regard for national policy. The wording of the first sentence of the policy does have adequate regard for the terms of the designation of Local Green Spaces set out in paragraph 101 of the Framework where it is stated communities will be able to protect green areas of particular importance to them.

120. Paragraph 101 of the Framework states “*Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.*”

121. In respect of the areas intended for designation as Local Green Space I find the Local Green Space designations are being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designations are not capable of enduring beyond the end of the plan period. The intended designations, which are being made in the context of the adopted South Worcestershire Development Plan, have regard to the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. The designations will contribute to the promotion of healthy communities, and are consistent with the aim of

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<sup>56</sup> *R on the Application of Lochailort Investments Limited v Mendip District Council. Case Number: C1/2020/0812*

conserving and enhancing the natural environment, as set out in the Framework.

122. The Framework states that Local Green Space designation *“should only be used: where the green space is in reasonably close proximity to the community it serves; where the green area is 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 where the green area concerned is local in character and is not an extensive tract of land.”*<sup>57</sup>
123. I have visited each of the areas proposed for designation as Local Green Spaces. I find that in respect of each of the intended Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves, and is local in character.
124. The Green Space Background Paper prepared in March 2021 is a comprehensive document that explains in detail the method used to identify the sites proposed as Local Green Space and the consultation that has been undertaken. I have considered the representation on behalf of IM Land regarding site map reference 12 – wide verge to the east of Wadborough Road. The Green Space Background Paper states *“This site was reassessed as it was considered that some of the important views from the site and the local significance of the site had not been fully understood until the consultation event. The amends to the assessment are highlighted in green on the assessment form in Appendix 4. The site is an important resting place between the settlements of Norton and Littleworth and affords a good view of Bredon Hill to the south east as it is located on higher ground. The site is well used by walkers and acts as an important entry point to the settlement of Littleworth. Therefore, it is considered appropriate designate the site as Local Green Space.”* I note the completed site assessment form commencing at page 49 of the Green Space Background Paper refers to a few trees and hedgerow at field boundary providing a habitat for a range of species although insufficient information is provided in this respect for that to be a determinative factor. At the time of my visit, I noted people were resting on the area, although this cannot be taken to indicate regularity of use throughout the year. The green area presents an attractive and well-maintained appearance with trees, a footpath and bench, and

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<sup>57</sup> Paragraph 102 National Planning Policy Framework 2021

affording pleasing extended views to the south-east. The area is clearly capable of functioning as a resting place between the two settlements of Norton and Littleworth and between the public house and Littleworth, and does act as a green open entry point to the settlement of Littleworth, as described in the site assessment commencing on page 49 of the Green Space Background Paper. As a matter of planning judgement, I conclude this green area is demonstrably special to a local community and holds a particular local significance. I have also considered the representation on behalf of Spetchley Estate and Hallam Land Management regarding site map reference 7 - Green Space at High Park. The Green Space Background Paper states *“This site provides an important buffer to residents of High Park. It preserves the rural feel for residents in this street by providing screening, a pleasant outlook and a noise barrier from traffic on the busy B4084. It is important that this area of green space is maintained as enhances the residents of High Park quality of life and is not an extensive tract of land. Therefore, the group consider it is appropriate to designate as Local Green Space.”* I note the completed site assessment form commencing at page 41 of the Green Space Background Paper refers to the provision of a habitat for a range of species although insufficient information is provided in this respect for that to be a determinative factor. Reference to the location of a notice board confirms a function of value to the local community but this is not shown to be demonstrably special and holding a particular significance. When visiting the site, I noted the function of the vegetation on the green area in forming an attractive and effective visual barrier, and partially effective noise barrier, between the main B4084 road and the group of residential properties to the north. The trees and hedgerow on the site contribute greatly to the rural character of the location. As a matter of planning judgement, I conclude this prominent heavily vegetated area is demonstrably special to a local community and holds a particular local significance.

125. The Green Space Background Paper provides sufficient evidence for me to conclude that site reference 12, and site reference 7, and each of the other sixteen areas proposed for designation as Local Green Space are demonstrably special to a local community and holds a particular local significance.

126. I find that the areas proposed as Local Green Space are suitable for designation and have regard for paragraphs 101 and 102 of the Framework concerned with the identification and designation of Local Green Space.

127. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan (adopted 25 February 2016) applying in the Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
128. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, and conserving and enhancing the natural environment the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 5:  
In Policy NJK4 delete the final sentence**

**Policy NJK5: Footways, Footpaths, Cycle Paths and Bridleways  
Policy**

129. This policy supports enhancement and improvement of non-vehicular travel routes and seeks to establish accessibility and biodiversity criteria for support of development.
130. A representation on behalf of St Modwen recommends the policy is reworded to enable development proposals to accord with only the criteria appropriate to the proposal. The representation also states further clarification is necessary regarding hard surfacing requirements. I do not consider any modification is necessary in these respects to meet the basic conditions.
131. A representation on behalf of IM Land states, regarding part C, re-provision of planting may also be appropriate in some circumstances in order to allow for flexibility. I have recommended a modification in this respect so that the policy is not too prescriptive. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and *"is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals"* as required by paragraph 16d) of the

Framework. I have noted differences of coverage between the policy title and the first sentence of the policy but do not consider any modification necessary to meet the Basic Conditions or other requirements.

132. Paragraph 106 of the Framework states planning policies should “*provide for attractive and well-designed walking and cycling networks.*”
133. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP4, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
134. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting sustainable transport the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 6:**

**In Policy NJK5 in part C delete “where possible” and after “enhanced” insert “wherever possible”**

**Policy NJK6: Heavy Goods Traffic Policy**

135. This policy seeks to avoid adverse impacts of heavy goods traffic.
136. The District Council Officer comments state “*Policy title is not included within the green background box, which should be addressed for consistency. Typo in Reasoned Justification Paragraph 2 – “safely” should be “safety”.*”
137. A representation on behalf of St Modwen suggests a revised wording for the policy taking into account paragraph 109 of the Framework. I have recommended a modification of Policy NJK6 on this basis (now paragraph 111 of the Framework 2021)

138. The Neighbourhood Plan preparation process has highlighted concerns within the local community relating to the movement of HGV vehicles. In some areas of the country Highway Authorities have reviewed road classifications and introduced Traffic Regulation Orders putting in place weight or width restriction limits, and/or left and right turn bans at junctions, with exemptions for local access and essential vehicles. These actions are usually supported by detailed evidence and analysis within the context of any general growth of traffic levels. The Neighbourhood Plan pursues an alternative approach, namely a land use policy that seeks to establish that development proposals for change of use of land that will result in HGV movements must demonstrate with the assistance of a Transport Statement that they will not have an unacceptable traffic impact within the parish.
139. The Framework seeks to promote sustainable transport and includes at paragraph 104 *“Transport issues should be considered from the earliest stages of plan-making and development proposals, so that: a) the potential impacts of development on transport networks can be addressed; ...e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places”*. Paragraph 105 of the Framework includes *“the planning system should actively manage patterns of growth in support of these objectives.”* Paragraph 130 of the Framework states planning policies should ensure developments function well and add to the overall quality of the area and create places that are safe.
140. Paragraph 85 of the Framework states *“Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.”* Whilst paragraph 85 of the Framework makes reference to unacceptable impact on local roads this is in the circumstances that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served

by public transport. The Neighbourhood Plan does not seek to identify sites to meet local business and community needs.

141. Paragraph 84 of the Framework states *“Planning policies and decisions should enable: a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; b) the development and diversification of agricultural and other land-based rural businesses; c) sustainable rural tourism and leisure developments which respect the character of the countryside; and d) 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.”*

142. Paragraph 113 of the Framework requires that *“All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or assessment so that likely impacts of the proposal can be assessed.”* The Guidance states *“Transport Assessments and Transport Statements primarily focus on evaluating the potential transport impacts of a development proposal. (They may consider those impacts net of any reductions likely to arise from the implementation of a Travel Plan, though producing a Travel Plan is not always required.) The Transport Assessment or Transport Statement may propose mitigation measures where these are necessary to avoid unacceptable or “severe” impacts. Travel Plans can play an effective role in taking forward those mitigation measures which relate to on-going occupation and operation of the development. Transport Assessments and Statements can be used to establish whether the residual transport impacts of a proposed development are likely to be “severe”, which may be a reason for refusal, in accordance with the National Planning Policy Framework.”*<sup>58</sup>

143. Paragraph 111 of the Framework states *“Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”* I have recommended a modification on this basis. As modified Policy NJK6 will allow consideration of development proposals, their impacts and any proposed mitigation. It is unnecessary and confusing for a policy to state application to land *“in the parish”* as all the policies of the

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<sup>58</sup> Planning Policy Guidance Paragraph: 005 Reference ID: 42-005-20140306 Revision date: 06 03 2014

Neighbourhood Plan apply throughout the Neighbourhood Area unless a lesser area is specified. The policy title should be included within the green background box to achieve consistency throughout the Neighbourhood Plan thus avoiding confusion. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

144. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP4, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

145. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting sustainable transport the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 7:**

##### **In Policy NJK6**

- **delete “in the parish”**
- **replace “have an unacceptable traffic impact within the parish” with “result in an unacceptable impact on highway safety or severe residual cumulative impacts on the road network”**

**Include the policy title within the green background box.**

#### **Policy NJK7: Community Facilities Policy**

146. This policy seeks to establish conditional support for new or improved community facilities, and establish criteria for support of proposals that will result in loss of amenity of community facilities.

147. The District Council Officer comments state *“Recommend defined list of community facilities are included within the policy itself. Criterion E – current wording comes across as negative; could reword to: E. Demonstrates that the existing or proposed use would have, or would retain, sufficient vehicular and cycle parking to serve the use.”* A representation on behalf of St Modwen states criteria D does not have regard for paragraph 109 of the Framework, and clarification is required regarding an appropriate scale of development referred to in part F of the policy. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

148. Paragraph 93 of the Framework states planning policies should guard against the unnecessary loss of valued facilities and services, and should plan positively for the provision and use of shared spaces, community facilities and other local services. I am satisfied the approach adopted in Policy NJK7 has sufficient regard for national policy in these respects.

149. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP37 and policy SWDP38, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

150. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 8:**

##### **In Policy NJK7**

- **delete “(see list after Reasoned justification)” and insert “listed below”**
- **after part C insert the list of community facilities**

- replace part D with “Will not result in an unacceptable impact on highway safety or severe residual cumulative impacts on the road network, and will not result in any unacceptable impacts on residential amenity;”
- replace part E with “Demonstrates that the existing or proposed use would have, or would retain, sufficient vehicular and cycle parking to serve the use; and”
- in part F replace “appropriate to the needs of the locality” with “to serve needs arising in the neighbourhood area

### **Policy NJK8: Existing and Allocated Employment Sites Policy**

151. This policy seeks to support new employment development in identified locations, establish criteria for intensification or expansion of employment sites, and establish criteria for support of loss of employment sites.

152. A representation on behalf of St Modwen states the policy should clarify that future employment provision may also come forward via strategic mixed-use allocations and not just employment allocations. I have recommended a modification to incorporate this suggestion.

153. Paragraph 84 of the Framework states planning policies should enable the sustainable growth and expansion of all types of businesses in rural areas both through the conversion of existing buildings and well-designed new buildings; agricultural and other land based rural businesses; rural tourism and leisure developments; as well as services and facilities. Paragraph 120 of the Framework states planning policies should give substantial weight to the value of using suitable brownfield land and promote and support the development of under-utilised land and buildings. Paragraph 85 of the Framework states planning policies “*should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements.*” Whilst this may require use of greenfield sites Paragraph 85 of the Framework also states “*The use of previously developed land, and sites that are well-related to existing settlements, should be encouraged where suitable opportunities exist.*” I am satisfied the policy has sufficient regard for national policy in these respects.

154. The terms “*preferred*” and “*welcomed*” do not provide a basis for the determination of development proposals. I have recommended a

modification in this respect so that the policy has sufficient regard for national policy and is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

155. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP8 and Policy SWDP12, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

156. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong competitive economy the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 9:**

##### **In Policy NJK8**

- **replace “and employment sites allocated in the SWDP” with “, and within strategic employment and mixed-use allocations”**
- **replace “preferred” with “supported”**
- **delete “welcomed and”**

#### **Policy NJK9: Agricultural Buildings and Rural Employment Policy**

157. This policy seeks to establish conditional support for small business, recreation, or tourism use of agricultural buildings and conditional support for home-based enterprise.

158. The District Council Officer comments state “*Criteria C – suggest addition of text at the end of the criterion as follows: C. The development proposed will not have an adverse impact on any archaeological, architectural, historic or environmental features, and where appropriate provides mitigation; Criteria F – suggest addition of text at the end of the criterion as follows: Electric vehicle charging facilities are provided on site that meet the standards in the most up to*

*date version of the Worcestershire Streetscape Design Guide. Development proposals that exceed the minimum standards will be looked upon favourably.*” I have recommended modifications based on these points so that the policy has sufficient regard for national policy.

159. Paragraph 84 of the Framework refers to the conversion of existing buildings and well-designed new buildings and enabling the development and diversification of agricultural and other land-based rural businesses, and enabling sustainable rural tourism and leisure developments which respect the character of the countryside. Paragraph 85 of the Framework refers to encouragement of use of previously developed land.

160. The term “*encouraged*” does not provide a basis for the determination of development proposals. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

161. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP12 and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

162. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong competitive economy the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 10:**

##### **In Policy NJK9**

- **continue part C with “, and where appropriate provides mitigation”**
- **continue part F with “that meet the standards in the most up to date version of the Worcestershire Streetscape**

**Design Guide. Development proposals that exceed the minimum standards will be supported”**

- **replace “encouraged” with “supported”**

**Policy NJK10: Housing Development Policy**

163. This policy seeks to establish support for new infill housing development within designated development boundaries.

164. A representation on behalf of St Modwen states the policy should also recognise new housing will come forward in the parish to meet the wider housing need of South Worcestershire and will be delivered through strategic allocations in the adopted SWDP and emerging SWDPR. An alternative wording of the policy is suggested. In order to meet the Basic Conditions and other requirements it is not necessary for the policy to refer to existing strategic housing allocations in the SWDP and not necessary to refer to any future strategic housing allocations in the emerging SWDPR. The title of Policy NJK10 is however misleading as to its contents. I have recommended the policy title is modified in this respect. The term “*to meet the parish’s indicative housing requirement of two dwellings until 2031*” introduces uncertainty whether or not support is limited to the development of two dwellings. No evidence has been produced to support any cap on the number of dwellings that should be developed within the designated development boundaries. I have recommended a modification in these respects so that the policy is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework. I have earlier in my report stated the District and Parish Councils have confirmed the indicative housing requirement was in fact one dwelling and not two. I refer to the correction of this error in the Annex to my report. The modification I have recommended resolves this issue with respect to Policy NJK10.

165. A representation on behalf of IM Land states “*given the emerging plans for Worcester Parkway (via the SWDPR) are meeting a strategic need, this should not be used as a reason to not provide further housing allocations. As set out above, IM Land are promoting land within Norton which provides an opportunity for a sensitively designed development to be brought forward that provides much needed housing as well as other benefits such as green space. A Vision Statement showing how the Site could be brought forwards, and the benefits, is provided at Appendix 3.*” I have, earlier in my report

stated it is not within my role to consider the merits of development proposals, or the relative merits of alternative development proposals, including those supported or promoted in Regulation 16 representations, nor is it within my role to balance those merits against any inherent detriments or shortcomings that the proposals may have. I have earlier in my report explained that my role is to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have, earlier in my report, found the approach taken and the choices made in the Neighbourhood Plan regarding housing provision are sufficiently evidenced and justified.

166. The District Council Officer comments state “*Given the Development Boundaries are subject to review as part of the wider South Worcestershire Development Plan Review process, suggest removal of “in the adopted South Worcestershire Development Plan” or addition of “or as amended in the subsequent South Worcestershire Development Plan Review”.*” Such an approach has regard for the Guidance which states “*The local planning authority should work with the qualifying body so that complementary neighbourhood and local plan policies are produced.*”<sup>59</sup> I have recommended a modification in this respect so that the policy has sufficient regard for national policy and is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

167. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP2, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

168. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes, and conserving and enhancing the natural environment the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject

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<sup>59</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision date: 09 05 2019

to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 11:**

**In Policy NJK10 replace the text after “Plan” with “, or as amended in the subsequent South Worcestershire Development Plan Review, will be supported.”**

**Modify the policy title to “Infill Housing Development Policy”**

## **Conclusion and Referendum**

169. I have recommended 11 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

170. I am satisfied that the Neighbourhood Plan<sup>60</sup>:

- is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the Statutory Requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and meets the Basic Conditions:
  - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and

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<sup>60</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

- 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.<sup>61</sup>

**I recommend to Wychavon District Council that the Norton-juxta-Kempsey Neighbourhood Development Plan for the plan period up to 2030 should, subject to the modifications I have put forward, be submitted to referendum.**

171. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.<sup>62</sup> I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”<sup>63</sup>. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Wychavon District Council as a Neighbourhood Area on 11 January 2017.**

#### Annex: Minor Corrections to the Neighbourhood Plan

172. A number of consequential modifications to the general text, and in particular the ‘reasoned justification’ and other general text of policies sections, of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies. Reasoned justification and other supporting text must not introduce any element of policy that is not contained within the Neighbourhood Plan policies.

173. I am able to recommend modification of the Neighbourhood Plan in order to correct errors.<sup>64</sup> I recommend minor change only in so far as it is necessary to correct an error, or where it is necessary so that the Neighbourhood Plan provides a practical framework which makes it evident how a decision maker should react to development proposals as required by paragraph 16 of the Framework. Identified errors are:

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<sup>61</sup> This basic condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 (5) are amended

<sup>62</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>63</sup> Planning Practice Guidance Reference ID: 41-059-20140306

<sup>64</sup> Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

- the reference to “*nineteen*” sites in paragraph 4 of the reasoned justification to Policy NJK4. I understand this should be a reference to eighteen sites.
- replace “*safely*” with safety in paragraph 2 of the reasoned justification to Policy NJK6
- I have earlier in my report stated the District and Parish Councils have confirmed the indicative housing requirement for the period 2021-2030 provided by the District Council to the Parish Council was in fact one dwelling and not two. The reference to “*two dwellings*” in Paragraph 6.64 should be corrected to “one dwelling”.

**Recommended modification 12:**

**Modify general text, figures or images to achieve consistency with the modified policies, to correct identified errors, and so it is evident how a decision maker should react to development proposals**

The District Council; has suggested the sites proposed for designation as Local Green Space in Policy NJK4 should be renumbered as sites 1-18. Whilst I understand the Neighbourhood Plan has retained original site numbers to avoid confusion as the plan has emerged through the stages of plan preparation it would be appropriate to adopt a consecutive numbering approach for the referendum version plan and potential “*made*” plan. I am however unable to recommend this modification as it is not necessary for the plan to meet the Basic Conditions or other requirements.

Chris Collison  
Planning and Management Ltd  
9 August 2021  
REPORT ENDS