

Ombersley and Doverdale Parish Council

Ombersley and Doverdale Neighbourhood Development Plan

A report to Wychavon District Council of the Independent Examination of the Ombersley and Doverdale Neighbourhood Development Plan

Independent Examiner Christopher Edward Collison

Christopher Edward Collison

BA (Hons) MBA MRTPI MIED MCMi IHBC

Planning and Management Ltd

collisonchris@aol.com

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Summary of Main Findings

This is the report of the Independent Examination of the Ombersley and Doverdale Neighbourhood Development Plan. The plan area is the whole of the Parish of Ombersley and Doverdale being also the administrative area of Ombersley and Doverdale Parish Council within the Wychavon District Council area. The plan period is 2020-2030. 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.*”¹
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 Ombersley and Doverdale Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Ombersley and Doverdale 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 Ombersley and Doverdale Neighbourhood Area which was formally designated by Wychavon District Council (the District Council) on 29 August 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 26 February 2021 to 16 April 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.² 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

¹ Paragraph 29 National Planning Policy Framework (2019)

² 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 application³.
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 area⁴ 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 plan⁵. 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 granted⁶.
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; a Member of the Chartered Management Institute; and a Member of the

³ Paragraph 48 of the National Planning Policy Framework 2019 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

⁴ Section 3 Neighbourhood Planning Act 2017

⁵ Section 156 Housing and Planning Act 2016

⁶ Paragraph 12 National Planning Policy Framework 2019

Institute of Historic Building Conservation. I have forty 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,⁷ 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.⁸

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.⁹ 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 13 May 2021, partly by car and partly on foot.

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

⁸ Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

⁹ 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”.¹⁰ 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 2017.¹¹

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.¹² All of these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’¹³ 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

¹⁰ Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

¹¹ 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”.

¹² The Convention Rights has the same meaning as in the Human Rights Act 1998

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

and Compulsory Purchase Act 2004.¹⁴ 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 29 August 2017. A map of the Neighbourhood Plan boundary is included as Plan 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Parish of Ombersley and Doverdale boundaries, being also the administrative area of Ombersley and Doverdale Parish Council. The Neighbourhood Plan does not relate to more than one neighbourhood area,¹⁵ and no other neighbourhood development plan has been made for the neighbourhood area.¹⁶ 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;¹⁷ and the Neighbourhood Plan does not include provision about excluded development.¹⁸ 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.¹⁹ The front cover of the Submission Draft Plan document clearly confirms the plan period to be 2020-2030.
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.²⁰ 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

¹⁴ 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)).

¹⁵ Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

¹⁶ Section 38B (2) Planning and Compulsory Purchase Act 2004

¹⁷ Section 38A (2) Planning and Compulsory Purchase Act 2004

¹⁸ 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

¹⁹ Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

²⁰ 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

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.²¹ 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:
 - Ombersley and Doverdale Neighbourhood Development Plan 2020-2030 Submission Draft February 2021
 - Ombersley and Doverdale Neighbourhood Development Plan 2020-2030 Consultation Statement February 2021 [*In this report referred to as the Consultation Statement*]
 - Ombersley and Doverdale Neighbourhood Development Plan 2020-2030 Basic Conditions Statement February 2021 [*In this report referred to as the Basic Conditions Statement*]

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

- Ombersley and Doverdale Neighbourhood Plan Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Opinion September 2020
- Evidence and other background documents and information published on the District Council, Parish Council, and the dedicated Neighbourhood Plan websites, including the Ombersley and Doverdale Housing Needs Assessment (HNA) February 2019
- 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 12 May 2021; the Parish Council comments on Regulation 16 representations dated 22 May 2021; the letter of the Independent Examiner seeking clarification of various matters dated 12 June 2021; and the response of the Parish Council and the District Council dated 18 June 2021
- South Worcestershire Development Plan adopted 25 February 2016
- Strategic Policies for the purposes of Neighbourhood Planning, South Worcestershire Councils
- National Planning Policy Framework (February 2019) and subsequently updated [*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. An inaugural public meeting was publicised through flyers to all households, a banner, an article in the Parish magazine, and emails. This meeting held in November 2017 was attended by more than 200 residents. Two further drop-in sessions were attended by over 100 people. Those initial meetings surfaced opinions about what people liked about the area and what they would like to see changed as well as local concerns and desires.
26. A Steering Group comprising Parish Councillors and other local volunteers was established in February 2018 and topic subgroups were formed. An information stand was staffed at the Church/School fete in June 2018. Web based surveys were undertaken regarding preferences, open spaces, and vistas. A hand-delivered household survey resulted in a response rate of 63% with more than 600 completed questionnaires. Results were reported through a dedicated website and two well-publicised drop-in events. A survey was also posted to almost 200 businesses which resulted in more than 50 responses. A web-based survey and drop-in session was held in May 2019 to seek views on five housing sites selected from those known to be available and those that featured in the SWDP review taking place at that time. This consultation was publicised through the Parish magazine, websites, emails to those on the contact list, and posters and a banner. Following consideration of responses, discussions with landowners, and consideration of access and other constraints the Parish Council resolved in May 2020 to prepare the Neighbourhood Plan without a new site allocation.
27. Pre-submission consultation in accordance with Regulation 14 was undertaken between 5 October 2020 and 30 November 2020 which was promoted through: the Parish Council website and a dedicated Neighbourhood Plan website; social media; leaflets delivered to households and businesses; posters; a display banner; the Parish

magazine; emails to contacts and statutory consultees; and a press release to local newspapers. Paper copies of the Plan document and comment form were available on request. An opportunity to discuss any queries with two councillors by telephone call was offered. This consultation generated responses from the District Council and from more than 50 other individuals and organisations. The representations arising from the consultation are summarised in appendix 2 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.

28. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 26 February 2021 to 16 April 2021. Representations from 14 different parties were submitted during the period of publication. The District Council Officer comments state the Neighbourhood Plan is well written and the policies reflect the vision and objectives for Ombersley and Doverdale. It is also stated the Council's Regulation 14 representation has been taken account of and no further comments are made.
29. The representation of an individual states additional property numbers should be carefully considered in terms of impact on the beauty and feel of the village and additional usage of public rights of way. The representation of another individual endorses all parts of the Plan. Historic England state support for the Neighbourhood Plan and compliment the heritage related content. Natural England and the Environment Agency confirm they have no specific comments. National Grid identify a transmission line route from Bishops Wood to Kitwell and an electrical substation at the former location. West Mercia Police welcome and support Policy TOAD1; Policy TOAD9; paragraph 8.7; and bullet points added to the objectives for the built environment.
30. The County Council support the heritage and sustainability components of the Neighbourhood Plan and offer transport policy requirements. The County Council representation and some other representations include suggestions for additions to the Neighbourhood Plan, but these are not a matter for my consideration unless the addition is necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements I have identified.
31. The Lloyds Educational Foundation object to the designation of the

Longheadland allotments as Local Green Space in Policy TOAD8. The representation on behalf of Ombersley Conservation Trust states consideration should have been made to allocating suitable land for housing to support the community. I refer to this matter when considering the Neighbourhood Plan as a whole later in my report. The representation on behalf of Ombersley Conservation Trust; the representation on behalf of Spitfire Homes; and the representation of an individual make comments relevant to housing mix in Policy TOAD2. Another individual supports improved bus links and extension of the Conservation Area. Severn Trent has provided generic guidance and commented specifically on Policy TOAD3; Policy TOAD8; and Policy TOAD9. 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.²² 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 referred to in whole, or in part.

32. 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 submitted comments on several representations. I requested the District Council to publish the Regulation 16 representations and the Parish Council comments on its website.

33. 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

²² *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)

and, where relevant, addressed in the proposed neighbourhood development plan.²³

34. 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

35. 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 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

36. The Basic Conditions Statement states *“the NDP is fully compatible with the European Convention on Human Rights”* 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).²⁴ Development Plans by their nature will include policies

²³ Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

²⁴ 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.

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.

37. The objective of EU Directive 2001/42²⁵ 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 environment.”* The Neighbourhood Plan falls within the definition of ‘plans and programmes’²⁶ as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.²⁷
38. 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.
39. In September 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 Ombersley and Doverdale Neighbourhood Plan in its current form. In general, the policies contained within the draft Ombersley and Doverdale Neighbourhood Plan are in-line with the strategy and policies of the adopted SWDP, which has been subject to a Sustainability Appraisal incorporating a Strategic Environmental*

²⁵ Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

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

²⁷ Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

Assessment. The policies of the Draft Ombersley and Doverdale 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 Ombersley and Doverdale 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. In addition, the draft Ombersley and Doverdale Neighbourhood Plan does not deviate from the land allocations which are contained within the adopted SWDP. Pending the responses of the consultation and the formal views of the statutory environmental bodies, the draft Ombersley and Doverdale Neighbourhood Plan is unlikely to require a full Strategic Environmental Assessment.” 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.

40. The Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Opinion issued by the District Council in September 2020 concludes *“As a result of the above assessment, it is considered that the policies of the draft Ombersley and Doverdale Neighbourhood Plan are in general conformity with those contained in the SWDP. It is therefore concluded that the draft Ombersley and Doverdale 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.
41. 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.
42. 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.

43. 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).²⁸

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

44. 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 Local Plans²⁹ which requires plans to be “*consistent with national policy*”.

45. Lord Goldsmith has provided guidance³⁰ 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.*”

46. The most recent National Planning Policy Framework was published on 19 June 2019. The Planning Practice Guidance was most recently updated in respect of Neighbourhood Planning on 25 September 2020.

²⁸ Planning Practice Guidance paragraph 080 Reference ID: 41-080-20150209

²⁹ 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

³⁰ 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)

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.

47. I am satisfied paragraphs 3.1 to 3.6 and Table 1 of the Basic Conditions Statement together, demonstrate the Neighbourhood Plan has regard to relevant identified components of the Framework.

48. The Neighbourhood Plan includes a positive vision statement for the Neighbourhood Area by 2030. The Vision and the explanation set out in paragraph 4.4 of the Neighbourhood Plan refer to economic factors (*“greater provision of housing”; “small scale business, agriculture and tourism will be encouraged to thrive”; “home working and new technology”*); social factors (*“lively and inclusive community”, “improved facilities, services, recreational and sporting provision for different age groups”, “affordable homes and homes for the elderly”*); and environmental factors (*“farmed landscape protected”, “open vistas”, “distinctiveness and character”, “wildlife habitat and species conserved and enhanced”, “Conservation Areas and heritage”, “climate change”*). Sixteen topic-based objectives are identified which help describe how the vision will be achieved and which establish a context within which the policies of the Neighbourhood Plan will operate. Sections 5 to 9 of the Neighbourhood Plan set out policies arranged by topic.

49. The representation on behalf of the Ombersley Conservation Trust states consideration should have been made to allocating suitable land for housing to support the community, and states disappointment that the Neighbourhood Plan does not make a housing allocation given the abundance of potentially suitable sites. In commenting on this representation, the Parish Council state *“The availability and suitability of land for new housing was the subject of in-depth investigation for the NDP, with a view to pursuing a joint approach to this matter in the period up to 2041 with the on-going SWDP Review (this will roll the SWDP forward from 2030 to 2041). In the event, it was not possible to identify a suitable site for allocation. The QB does not accept the reference in this representation to an “abundance” of such sites. The site referred to in the representation, land off Sandys Road, has featured in the SWDP Review so far, but is understood to have access issues which will need to be further considered as the plan process*

continues. Other candidate sites were also found to be constrained by access and traffic management issues. It was decided to restrict the NDP to an end-date of 2030 and leave the matter of site allocations to be determined in the SWDP Review, noting the national guidance that neighbourhood plans are not obliged to contain policies addressing all types of development (PPG paragraph: 040 Reference ID: 41-040-20160211)."

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."*³¹ *"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"*³²
52. 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 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 59 dwellings in the Neighbourhood Area including

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

³² Planning Practice Guidance Paragraph: 101 Reference ID: 41-101-20190509 Revision date: 09 05 2019

25 dwellings on land north of Woodhall Lane referred to in Policy TOAD3.

53. Ombersley is identified as a Category 1 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. The SWDP includes two housing allocations: SWDP59/25 The Racks Ombersley; and SWDP59/26 Land north of Woodhall Lane, Ombersley. These allocations total 59 units. The SWDP also sets a development boundary for Ombersley which the Neighbourhood Plan does not seek to amend. Policy SWDP2 establishes that infill development is acceptable in principle within this defined boundary. 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 boundary established by the SWDP. The Neighbourhood Plan places no cap or limit on the number of homes that can be provided within the development boundary. I have earlier in my report referred to the consultation 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 69 of the Framework. Strategic policies provide for further residential development outside the development boundary (dwellings for rural workers 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.

54. 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. The contribution arising from the strategic allocated site north of Woodhall Lane referred to in Policy TOAD3 amounts to a significant boost to the supply of housing in the Neighbourhood Area.

55. 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 Ombersley and Doverdale 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.

56. In addition to the policies, the Neighbourhood Plan includes a number of community actions that are set out in Table 2 under paragraph 10.5. 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. 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”*.³³ I am satisfied the approach adopted in the Neighbourhood Plan presenting the community actions in plain typeface in Table 2 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.

57. 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.”*

58. At the heart of the Framework is a presumption in favour of sustainable development³⁴ which should be applied in both plan-

³³ Planning Practice Guidance *Paragraph: 004 Reference ID: 41-004-20190509 Revision 09 05 2019*

³⁴ Paragraph 10 National Planning Policy Framework 2019

making and decision-taking³⁵. 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 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*”³⁶.

59. 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.

60. The Framework states there are three dimensions to sustainable development: economic, social and environmental. The Basic Conditions Statement sets out in paragraphs 4.1 to 4.6 and includes Table 2 which together provide an explanation of how the Neighbourhood Plan will contribute to the achievement of sustainable development. Table 2 identifies policies of the Neighbourhood Plan that seek sustainability benefits in the economic, social, and environmental dimensions. The Table does not highlight any negative impacts on sustainability objectives.

61. 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:

³⁵ Paragraph 11 National Planning Policy Framework 2019

³⁶ Planning Practice Guidance Paragraph 072 Ref ID:41-072-20190509 Revision 09 05 2019

- Establish support for sustainable development;
- Ensure housing developments of 5 or more units meet local housing needs;
- Establish principles for development of land north of Woodhall Lane;
- Support new or expanded retail and service facilities and establish circumstances where loss of identified community facilities will be supported;
- Ensure new development protects or enhances local landscape and secures biodiversity gain;
- Avoid substantial harm to identified important vistas;
- Designate seven Local Green Spaces;
- Establish development design principles;
- Establish criteria for support of proposals in Conservation Areas;
- Establish criteria for support of small-scale business development, farm and other land-based businesses, and rural tourism, craft and leisure uses; and
- Establish requirements and conditions for support of stand-alone renewable and low carbon energy projects.

62. 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)

63. 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*”.³⁷ Plans should make explicit which policies are strategic policies.³⁸ “*Neighbourhood plans must be in general conformity with the strategic policies contained in any*

³⁷ Paragraph 13 National Planning Policy Framework 2019

³⁸ Paragraph 21 National Planning Policy Framework 2019

development plan that covers their area³⁹. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies”⁴⁰.

64. 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 Ombersley and Doverdale 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.”⁴¹ 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.

65. 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

³⁹ Footnote 16 National Planning Policy Framework 2019

⁴⁰ Paragraph 29 National Planning Policy Framework 2019

⁴¹ Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20190509 Revision 09 05 2019

- SWDP14 Market Housing Mix
- SWDP15 Meeting Affordable Housing Needs
- SWDP17 Travellers and Travelling Showpeople
- SWDP21 Design
- SWDP22 Biodiversity and Geodiversity
- 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

66. 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.

67. 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.”⁴²

68. 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.

69. 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

⁴² Planning Practice Guidance Paragraph: 009 Reference ID: 41-009- 20190509 Revision 09 05 2019

*“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”*⁴³. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (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.

70. 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.”*⁴⁴ 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.

71. 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.”*⁴⁵

My approach to the examination of the Neighbourhood Plan Policies has been in accordance with this guidance. I have taken into consideration Table 3, presented at paragraph 5.2 of the Basic Conditions Statement that demonstrates how each of the policies of the Neighbourhood Plan is in general conformity with relevant strategic policies.

⁴³ Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

⁴⁴ *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P & CR 31

⁴⁵ Planning Practice Guidance Paragraph 074 ID ref: 41-074 20140306 Revision 06 03 2014

72. 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 conformity with the strategic policies contained in the Development Plan.

The Neighbourhood Plan Policies

73. The Neighbourhood Plan includes 14 policies as follows:

Policy TOAD1: Sustainable development

Policy TOAD2: Housing mix

Policy TOAD3: Land north of Woodhall Lane, Ombersley

Policy TOAD4: Community facilities

Policy TOAD5: Local retail and other services

Policy TOAD6: Landscape and biodiversity

Policy TOAD7: Landscape vistas

Policy TOAD8: Local Green Spaces

Policy TOAD9: Design

Policy TOAD10: Development affecting Conservation Areas

Policy TOAD11: Small-scale business development

Policy TOAD12: Tourism and leisure

Policy TOAD13: Farm diversification

Policy TOAD14: Stand-alone renewable and low carbon energy projects

74. 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.”

75. 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.”*

76. 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).”*

77. 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.”⁴⁶*

78. *“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*

⁴⁶ Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306 Revision 06 03 2014

should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan".⁴⁷

79. 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).*"⁴⁸
80. 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 TOAD1: Sustainable development

81. This policy seeks to establish support for development proposals that contribute to the sustainable development of the Neighbourhood Area. The policy identifies considerations that will inform the assessment of proposals.
82. In a representation West Mercia Police welcome and support the policy.
83. Although expressed in general terms, the policy establishes broad considerations that will assist parties in preparing development proposals and which will provide guidance to decision makers when determining proposals.
84. 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 SWDP 1, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

⁴⁷ Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

⁴⁸ Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20190509 Revision 09 05 2019

85. 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; building a strong competitive economy; promoting health and safe communities; achieving well-designed places; conserving and enhancing the natural environment; and conserving and enhancing 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. This policy meets the Basic Conditions.

Policy TOAD2: Housing mix

86. This policy seeks to establish that to be supported all new housing development proposals must demonstrate, subject to viability considerations, that they provide a mix of dwellings to meet community needs. The policy identifies types of housing for which there is a particular need, and requires a specified housing mix on schemes of five or more units, unless up to date evidence on local need or viability suggests otherwise. The policy also specifies a requirement regarding the type of any affordable homes proposed unless up to date evidence on local need or viability suggests otherwise.

87. The representation of an individual states the locality is more suited to older people and established families who have an appreciation of outdoor activities rather than single and young people who require more social facilities and better transport links. The representation states to facilitate this more 2 and 3-bedroom houses and bungalows rather than 1 bedroom and multi-occupancy units would better suit the environment.

88. A representation on behalf of Spitfire Homes and a representation on behalf of the Ombersley Conservation Trust state the policy does not take account of the latest District-level evidence on housing mix, and state there is a notable difference between the requirement of Policy TOAD2 and the latest Strategic Housing Market Assessment (SMHA September 2019). The representation on behalf of Ombersley Conservation Trust states it is not particularly realistic to base a target housing mix on evidence at a parish level and that SHMA provides a more comprehensive method and more robust approach. This

representation acknowledges the policy allows variation based on viability but refers to viability assessments as costly and time consuming. The representation on behalf of Spitfire Homes also acknowledges the policy is subject to viability but states assessment will cause delay and would be unnecessary if the latest SMHA information had been used. The Parish Housing Needs Survey from 2017 is described as outdated. The representation on behalf of Spitfire Homes also states downsizing of older people is not guaranteed and is not a sound basis on which to provide adequate housing.

89. In commenting on the representations of other parties the Parish Council state *“Policy TOAD2 has been prepared taking into account the local HNA undertaken for the NDP together with consultation feedback in the questionnaire survey, particularly responses to question 9. The QB considers that it is important for the long-term health of the community that all age groups who wish to live in Ombersley and Doverdale are supported. An earlier version of the policy in the draft plan was the subject of comments by WDC which included reference to the latest SHMA of September 2019. Whilst in this respect it was considered that the local HNA with its parish-level analysis was to be preferred, other changes were made to the policy in response to the WDC comments. The Regulation 16 representation by WDC confirms that their earlier comments have been taken account of and that they have no further comments to make. The QB considers that the policy provides a clear statement of housing requirements relevant to the specific requirements of the Neighbourhood Area, as distinct from the District-level analysis in the 2019 SHMA, and has appropriate flexibility to allow new information to be taken into account.”*

90. Paragraph 59 of the Framework includes the statement it is important that the needs of groups with specific housing requirements are addressed. Paragraph 61 of the Framework requires that within the context of paragraph 60 the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. Paragraph 77 of the Framework states *“in rural areas, planning policies should be responsive to local circumstances and support housing developments that reflect local needs.”* Paragraph 16 of the Framework states plans should be deliverable. Paragraph 11 of the Framework states plans should be sufficiently flexible to adapt to rapid change. Strategic Policy SWDP14 part A provides that all new residential developments of five or more units, having regard to location, site size and scheme viability, should

contain a mix of types and sizes of market housing, and that housing mix will be informed by latest SMHA and/or other local data. Neighbourhood Plans are specifically referred to as an example of local data.

91. The Ombersley and Doverdale Housing Needs Assessment (HNA) February 2019 provides a well-researched and thorough analysis of housing needs within the Neighbourhood Area. I am satisfied the Neighbourhood Plan preparation process has included appropriate means to identify local housing needs and that the intention of Policy TOAD2 is adequately justified. The identification of particular types of housing need at the time of plan preparation will guide the preparation of development schemes. The policy acknowledges the need to consider changes in housing need throughout the plan period and specifies how changes should be assessed. The policy accommodates possible changes in viability considerations, referred to in paragraph 57 of the Framework.
92. The second sentence of Policy TOAD2, including bullet points, are presented as a statement which in large part is without consequence. The bullet points are not clearly written in that they include an uneasy mix of listing particular needs, and establishing a requirement for a mix of properties with stated numbers of bedrooms. 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.
93. 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 SWDP 14, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
94. 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 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 1:

Replace Policy TOAD2 before the final paragraph with:

“To be supported proposals for the development of five or more homes must demonstrate, subject to viability considerations, that they provide a mix of dwellings that meet the latest assessment of local needs. Proposals must demonstrate consideration of local needs for:

- **homes with one-or-two bedrooms;**
- **homes designed to meet the needs of older people including bungalows;**
- **homes to rent; and**
- **starter homes and other affordable routes to home ownership.**

To be supported market homes in proposed housing developments of five or more units should provide approximately:

- **50% one-or-two-bedroom properties;**
- **40% three-bedroom properties; and**
- **10% four-or-more bedroom properties**

unless the latest assessment of local needs or viability considerations are demonstrated to require an alternative mix.”

Policy TOAD3: Land north of Woodhall Lane, Ombersley

95. This policy seeks to establish requirements for support of development proposals in respect of land north of Woodhall Lane Ombersley.

96. In a representation Severn Trent state support for mention of SuDS in subsection 4 of the policy and recommend the following wording regarding the drainage hierarchy to support this: *“All applications for new development shall demonstrate that all surface water discharges have been carried out in accordance with the principles laid out within the drainage hierarchy, in such that a discharge to the public sewerage systems are avoided, where possible.”* The representation states justification for this wording is found in paragraph 80 of the Guidance. In commenting on this representation and on the representation of Severn Trent in respect of Policy TOAD9 the Parish council state *“The QB does not consider these additional policy references to be needed given that provision is already made in PPG (by the paragraph referenced in the representation). Sustainable drainage is also covered by SWDP 29. However, if a reference is thought to be*

required, it is suggested this be limited to an addition to TOAD9. This is because TOAD3 already includes a cross-reference to TOAD9, so this policy will be automatically applied to proposals for the development of the Woodhall Lane site.” No modification of the policy in this respect is necessary to meet the basic conditions or other requirements.

97. It can be confusing for a policy to refer to other policies as all of the policies of the Neighbourhood Plan apply throughout the plan area unless a smaller area is specified. However, as policy TOAD3 relates to the development of a specific site it is convenient to draw together the guiding requirements in order to assist parties preparing proposals and to assist decision makers when determining proposals. 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.
98. 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, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
99. 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, achieving well-designed places, promoting sustainable transport, 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. This policy meets the Basic Conditions.

Policy TOAD4: Community facilities

100. This policy seeks to establish that development proposals that would result in the loss of identified existing community facilities will only be supported if the criteria in Policy SWDP37B or its successor can be shown to be met.

101. Paragraph 92 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 TOAD4 has sufficient regard for national policy in these respects. I am also satisfied the references to strategic policy is necessary and adequate but the term “(or its successor)”, which is applied inconsistently, is confusing and unnecessary. 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.

102. 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 SWDP 37, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

103. 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 2:
In Policy TOAD4 delete “or its successor”**

Policy TOAD5: Local retail and other services

104. This policy seeks to establish that proposals for new or expanded convenience retail or other similar services to meet day-to-day needs will be supported provided they meet specified requirements. The policy states a preference for use of sites within or physically well related to Ombersley and of existing buildings and previously developed land rather than new development on greenfield sites.

105. Paragraph 92 of the Framework states planning policies should plan positively for the provision and use of community facilities and other local services. Paragraphs 102 and 104 of the Framework promote active travel. Paragraph 83 includes reference to enabling accessible local services and community facilities.

106. In response to my request for clarification regarding the intention of the final sentence of the policy the Parish Council state *“the last sentence in policy TOAD5 reflects the final sentence of paragraph 84 of the National Planning Policy Framework. This encourages the use of previously developed land and of sites that are physically well-related to existing settlements in meeting local business and community needs – whilst also accepting that sites may have to be found beyond existing settlements [emphases added]. Policy TOAD5 adds local detail to this national approach by indicating that Ombersley is the appropriate such settlement “wherever possible”, because it is a Category 1 village in the South Worcestershire Development Plan where new housing is proposed. However, the QB recognises that the parish is geographically extensive and is crossed by two A roads, alongside which there are already a number of facilities which cater in part for local needs. An example is the convenience store at Holt Fleet on the A4133. In these circumstances the QB considers that it would not be appropriate to seek to restrict new or extended local retail or service facilities to Ombersley village alone, particularly given the wording of national policy which only extends to encouraging (as opposed to requiring) such a locational focus. If the final sentence of the policy continues to give concern notwithstanding the above clarification, an alternative would be for the Examiner to recommend its deletion, leaving these issues to be addressed through national policy. For the avoidance of doubt, a modification to this effect is not sought by the QB.”*

107. Paragraph 118 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 84 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 84 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.

108. The term “*wherever possible*” introduces uncertainty and 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.
109. 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 SWDP 10, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
110. 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 TOAD5 replace “Wherever possible” with “Where practical and viable”

Policy TOAD6: Landscape and biodiversity

111. This policy seeks to establish that development proposals should protect, conserve and enhance landscape character and contribute to securing net gains for biodiversity by stated means.
112. Paragraph 170 of the Framework states planning policies should contribute to and enhance the local environment.
113. 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

Policies SWDP 22 and SWDP 25, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

114. 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. This policy meets the Basic Conditions.

Policy TOAD7: Landscape vistas

115. This policy seeks to establish that to be supported development proposals must not substantially harm identified landscape vistas.

116. Plan 5 identifies the location from which 14 landscape vistas are seen and the direction of view from those points. Table 1 provides an OS grid reference and a description of direction of view. An image of each view is presented on pages 34 and 35 of the Neighbourhood Plan. I am satisfied the landscape vistas are sufficiently well defined. I am also satisfied the landscape vistas have been defined such that the requirement to demonstrate proposals will not substantially harm those vistas does not result in a disproportionate burden on development within the Neighbourhood Area as a whole, and the approach adopted has been sufficiently justified.

117. Paragraphs 7.10 and 7.11 of the Neighbourhood Plan set out a clear explanation how the important views have been identified. The list of identified vistas has been the subject of considerable public consultation. Policy TOAD7 does not seek to establish valued landscapes, as referred to in paragraph 170 of the Framework, which would require a more rigorous and objective justification that identifies physical attributes, beyond 'ordinary', that make the landscape valued.⁴⁹ In order to avoid any misunderstanding in this respect I have recommended Paragraph 7.11 of the Neighbourhood Plan should states the identified vistas are locally admired. I am satisfied the

⁴⁹ Stroud District Council vs. SSCLG [2015] EWHC 488 (Admin) and Forest of Dean DC v. SSCLG [2016] EWHC 2429 (Admin)

approach adopted in the Neighbourhood Plan in these respects has sufficient regard for national policy.

118. Planning policy must operate in the public interest. Plan 5 appears to indicate some vistas are viewed from private land. In response to my request for clarification the Parish Council state *“the QB can confirm that all of the vistas identified in the policy on landscape vistas (which is TOAD7) are from publicly-accessible locations, despite what may be implied by some of the given names which reflect local usage. For example, “Malvern from Bill Arnold’s Field, Uphampton” (LV3) is from a public footpath.”* I have recommended a modification that clarifies the policy applies to the identified landscape vistas when each is viewed from the nearest location that is freely accessible to members of the general public. 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.

119. 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 SWDP 25, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

120. 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:

Continue Policy TOAD7 with “when each is viewed from the nearest location that is freely accessible to members of the general public”

In paragraph 7.11 replace “valued” with “admired”

Policy TOAD8: Local Green Spaces

121. This policy seeks to designate 7 Local Green Spaces.
122. In a representation the Lloyds Educational Foundation object to the designation of the Longheadland allotments as Local Green Space in the policy. The representation states the designation would restrict flexibility in future decision making regarding this privately owned land the income from which supports educational opportunities for local school children. The representation also states this is an extensive plot of 3.2 hectares when measured against the other sites.
123. When commenting on the representations of other parties the Parish Council state *“The QB considers that the Lloyds Allotments meets the NPPF requirements for the use of the Local Green Space designation, for the reasons set out at Appendix B of the NDP and which are not disputed by this representation. Regarding the size of the site, NPPF paragraph 100 requires that Local Green Spaces are local in character and not extensive tracts of land. PPG confirms that there are no hard and fast rules about how big a Local Green Space should be and that a degree of judgement will inevitably be needed (paragraph: 015 Reference ID: 37-015-20140306). In the local context, the site has clear boundaries and a single, distinctive use; these attributes and its close, functional relationship to nearby areas of housing ensures it is appropriately local in character and is not an extensive tract of land.”*
124. In a representation Severn Trent state local green spaces can provide suitable locations for schemes like flood alleviation to be delivered without adversely impacting on the primary function of the open space. The representation recommends additional wording for Policy TOAD8 to recognise this.
125. In commenting on the representations of other parties the Parish Council state *“The QB considers this addition is not required. Development in Local Green Spaces is to be managed as per Green Belt (NPPF paragraph 101), and national policy already sets out the exceptional circumstances in which such development may proceed (NPPF paragraphs 145 and 146, the latter including reference to engineering operations). Adding to these provisions at the local level, as suggested in the representation, is unnecessary and could be confusing. Moreover, none of the proposed Local Green Spaces are at risk of flooding or close to any areas of flood risk, so the practical relevance of this representation is limited.”*

126. Designation of Local Green Space can only follow precise identification of the land concerned. The proposed Local Green Spaces are presented on Plan 6 and Plan 7 at a scale that is sufficient to identify the land proposed for Local Green Space designation.
127. The final paragraph of the policy seeks to describe the characteristics of types of development that will not 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*” including the suitability for flood alleviation point made by Severn Trent. 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 101 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 143 to 147 inclusive. I have recommended a modification in this respect. The wording of the first sentence of the policy does not have adequate regard for the terms of the designation of Local Green Spaces set out in paragraph 99 of the Framework where it is stated communities will be able to protect green areas of particular importance to them.
128. Paragraph 99 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.*”
129. 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

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

130. 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.”⁵⁰*

131. 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. The representation of the Lloyds Educational Foundation has stated proposed Local Green Space 2 Lloyds Allotments is an extensive plot of 3.2 hectares. I consider LGS2 Lloyds Allotments, which is the third largest area to be proposed for designation, to be a discrete identifiable contained area of land that is not an extensive tract of land and that the area of land in question is appropriate in scale for designation as Local Green Space.

132. Appendix B of the Neighbourhood Plan provides sufficient evidence for me to conclude that each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance.

133. I find that the areas proposed as Local Green Space are suitable for designation and have regard for paragraphs 99 and 100 of the Framework concerned with the identification and designation of Local Green Space.

134. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan (adopted February 2016) applying in the Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an

⁵⁰ Paragraph 77 National Planning Policy Framework 2012

additional level of detail or distinct local approach to that set out in the strategic policies.

135. 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 TOAD8 delete the final sentence**

Policy TOAD9: Design

136. This policy seeks to establish that development proposals should maintain and enhance local distinctiveness, achieve a high quality of sustainable design, and support local resilience to climate change by stated means.
137. In a representation West Mercia Police welcome and support the policy. The representation of an individual states' property design should be high standard beyond what mass builders believe is the vernacular of the area. The representation also states access to existing properties should not be compromised by any new development.
138. In a representation Severn Trent state support for the policy in particular subsections 4 and 5 and recommend wording regarding the drainage hierarchy to support this. The representation states properties should be built to the optional requirement in Building Regulations of 110 litres of water per person per day. In commenting on this representation, the Parish Council state "*This is already included in policy TOAD9 criterion 4 and SWDP 30.*" Additional wording regarding the drainage hierarchy is not necessary to meet the basic conditions. Part 4 of the policy seeks to introduce requirements for development proposals to provide for energy and water

conservation and the generation of renewable energy. Part 4 also refers to standards of energy conservation and water consumption.

139. 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.⁵¹ 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”*. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.

140. Paragraph 126 of the Framework states *“To provide maximum clarity about design expectations at an early stage, plans or supplementary planning documents should use visual tools such as design guides and codes. These provide a framework for creating distinctive places, with a consistent and high-quality standard of design. However, their level of detail and degree of prescription should be tailored to the circumstances in each place, and should allow a suitable degree of variety where this would be justified”*. Paragraph 127 of the Framework states *“Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear*

⁵¹ <https://www.gov.uk/guidance/housing-optional-technical-standards>

of crime, do not undermine the quality of life or community cohesion and resilience.” Paragraph 104 of the Framework states planning policies should provide for high-quality walking and cycling networks. Paragraph 91 of the Framework states planning policies should aim to achieve healthy, inclusive and safe places which promote social interaction, are safe and accessible, and enable and support healthy lifestyles. I am satisfied the approach adopted in the Neighbourhood Plan, as recommended to be modified, in these respects has sufficient regard for national policy.

141. 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 SWDP 21, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

142. 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 6:
In Policy TOAD9 delete part 4**

Policy TOAD10: Development affecting Conservation Areas

143. This policy seeks to establish that development proposals should preserve or enhance the character or appearance of the three Conservation Areas within the plan area having regard to their significance and special interest. The policy includes criteria for support of proposals and requires regard for the relevant Conservation Area Appraisal and the Ombersley and Doverdale Design Guidelines.

144. The representation of an individual recommends the Ombersley Conservation Area should be extended however this is not a matter that can be achieved through the neighbourhood plan preparation process.

145. The term “*preserve*” does not have sufficient regard for national policy regarding heritage assets set out in the Framework. Part 2 of the policy does not have sufficient regard for the more balanced approach to demolition set out in the Framework. 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.

146. 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 SWDP 24, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

147. 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 7:

In Policy TOAD10

- **replace “*preserve*” with “*conserve*” in the first sentence and in parts 1 and 8**
- **delete part 2**

Policy TOAD11: Small-scale business development

148. This policy seeks to establish conditional support for new or expanded business enterprises. The policy includes locational and building/site preferences.

149. Paragraph 83 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. I am satisfied Policy TOAD11 will not conflict with Policies TOAD5, TOAD12, and TOAD13 which all apply to certain types of businesses.

150. Paragraph 118 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 84 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 84 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.
151. The term “*wherever possible*” introduces uncertainty and 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.
152. 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 SWDP 12, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
153. 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 8:

In Policy TOAD11 replace “Wherever possible” with “Where practical and viable”

Policy TOAD12: Tourism and leisure

154. This policy seeks to establish that proposals which promote rural tourism, craft and leisure (with stated exclusions) will be supported subject to stated circumstances. The policy also seeks to establish that proposals for new buildings in the countryside should provide ancillary facilities to an existing tourist business at that location, or re-use redundant rural buildings.
155. The final sentence of the policy does not have sufficient regard for national policy. Paragraph 83 of the Framework states planning policies should enable sustainable rural tourism and leisure developments which respect the character of the countryside. The more restrictive approach proposed in Policy TOAD12 has not been sufficiently justified. 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.
156. 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 SWDP 12, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
157. 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 9:

In Policy TOAD12 delete the final sentence relating to proposals for new buildings in the countryside

Policy TOAD13: Farm diversification

158. This policy seeks to establish that proposals to develop and diversify farm, horticultural and other land-based rural businesses to provide employment, tourism, leisure and recreational uses will be supported where stated circumstances apply.
159. Paragraph 83 of the Framework refers to the conversion of existing buildings and well-designed new buildings. Paragraph 84 of the Framework refers to encouragement of use of previously developed land. The term “*wherever possible*” introduces uncertainty and does not provide a basis for the determination of development proposals. The reference to hours of operation is not sufficiently justified. 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.
160. 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 SWDP 12, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
161. 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 10:

In Policy TOAD13

- **in part 2 delete “hours of operation,”**
- **in part 3 replace “wherever possible” with “where practical and viable”**

Policy TOAD14: Stand-alone renewable and low carbon energy projects

162. This policy seeks to establish that proposals for renewable energy projects will be supported subject to stated requirements.
163. Paragraph 151 of the Framework includes *“to help the use and supply of renewable and low carbon energy and heat, plans should provide a positive strategy for energy from these sources, that maximises potential for suitable development, while ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts)”*.
164. Paragraph 170 includes a statement that planning policies *“should recognise the economic and other benefits of the best and most versatile agricultural land”*. The requirement of the policy that any proposed use of agricultural land has been shown to be necessary does not have adequate regard for national policy. The term *“or likely to affect”* is unacceptable as the Neighbourhood Plan can only relate to the Neighbourhood Area. 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.
165. 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 SWDP 27, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
166. 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 11: In Policy TOAD14

- **delete “or likely to affect”**

- **replace part 1 before the second comma with “It is demonstrated any use of best and most versatile agricultural land cannot be avoided”**

Conclusion and Referendum

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

168. I am satisfied that the Neighbourhood Plan⁵²:

- 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
 - 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 2017.⁵³

⁵² The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

I recommend to Wychavon District Council that the Ombersley and Doverdale Neighbourhood Development Plan for the plan period up to 2030 should, subject to the modifications I have put forward, be submitted to referendum.

169. 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.⁵⁴ I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”⁵⁵. 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 29 August 2017.

Annex: Minor Corrections to the Neighbourhood Plan

170. 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.

171. I am able to recommend modification of the Neighbourhood Plan in order to correct errors.⁵⁶ 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.

**Recommended modification 12:
Modify general text, figures or images to achieve consistency with the modified policies, to correct identified errors, and so it is**

⁵³ 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

⁵⁴ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁵⁵ Planning Practice Guidance Reference ID: 41-059-20140306

⁵⁶ Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

evident how a decision maker should react to development proposals

172. In commenting on the representation of Worcestershire County Council the Parish Council state *“The QB agrees that suitable references to the Worcestershire Streetscape Design Guide and the Planning for Health in South Worcestershire Supplementary Planning Document would be useful for applicants and decision makers. This could be by way of an addition to NDP paragraph 8.1 after the final sentence which refers to SWDP 21.”* The suggestions for change are not necessary to meet the Basic Conditions or Convention Rights, nor necessary to correct errors. I would have no objection to the changes being made, however, I cannot recommend modifications of the Neighbourhood Plan in these respects as this would be beyond my remit.

Chris Collison
Planning and Management Ltd
collisonchris@aol.com
28 June 2021
REPORT ENDS