

Kineton Parish Council

# **Kineton Neighbourhood Development Plan to 2031**

## **Independent Examiner's Report**

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## Summary

I have been appointed as the independent examiner of the Kineton Neighbourhood Development Plan.

The preparation of a neighbourhood plan is a major undertaking. This Plan has been prepared against a backdrop of some uncertainty as the District Council prepares its Core Strategy which is now at examination. The Core Strategy makes provision for a large amount of development and Kineton is identified as one of eight Main Rural Centres where a significant amount of development is likely to take place. Accordingly the Parish Council has sought to manage this growth by allocating four sites within the Parish and safeguarding a further two. This is proactive and it is important for the Plan to acknowledge the strategic needs of the District.

The Plan rightly seeks to protect and enhance the key features of the area. As well as two Conservation Areas and a host of listed buildings, the historic Edgehill Battlefield is an important national asset. Ensuring that development respects these assets and the topography and landscape of the Parish is a key theme running throughout the Plan.

In places though there is a limited amount of evidence for the policies and there are a number of instances when the supporting text could be construed as introducing policy. There are elements of the Plan that could have been sharpened up or included as policy, but regrettably the opportunity to include these elements has not been taken. As a result it has been necessary for me to suggest a large number of modifications to ensure that the Plan sets out a positive vision for the future of Kineton and provides a set of policies that plan positively to ensure that the basic conditions are met satisfactorily and that the Plan is clear and consistent to enable it to provide a practical framework for decision-making.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend that the Kineton Neighbourhood Development Plan go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers  
Ann Skippers Planning  
11 January 2016

Ann Skippers Planning is an independent planning consultancy that provides professional support and training for local authorities, the private sector and community groups and specialises in troubleshooting, appeal work and neighbourhood planning.

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## 1.0 Introduction

This is the report of the independent examiner into the Kineton Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

Kineton Parish has two main settlements, Kineton and Little Kineton, and lies about 12km from Stratford-upon-Avon. The Parish has a population of about 2300. As well as offering a range of amenities the two villages each boast a Conservation Area. There are two scheduled monuments within the Parish; King John's Castle and the medieval settlement at Brookhampton. A registered battlefield, the location for the 1642 Battle of Edgehill, falls within the Parish. The River Dene is the main watercourse.

## 2.0 Appointment of the independent examiner

I have been appointed by Stratford-upon-Avon District Council (SDC) with the agreement of Kineton Parish Council, to undertake this independent examination. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over twenty-five years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

## 3.0 The role of the independent examiner

The examiner is required to check<sup>1</sup> whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation

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<sup>1</sup> Set out in paragraph 8 (1) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The basic conditions<sup>2</sup> are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood 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
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two basic conditions in addition to those set out in primary legislation and referred to in the paragraph above. These are:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site<sup>3</sup> or a European offshore marine site<sup>4</sup> either alone or in combination with other plans or projects, and
- Having regard to all material considerations, it is appropriate that the neighbourhood development order is made where the development described in an order proposal is Environmental Impact Assessment development (this is not applicable to this examination as it refers to orders).

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

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<sup>2</sup> Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

<sup>3</sup> As defined in the Conservation of Habitats and Species Regulations 2012

<sup>4</sup> As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case Stratford on Avon District Council. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

## **4.0 Compliance with matters other than the basic conditions**

I now check the various matters set out above in section 3.0 of this report that relate primarily to process.

### **Qualifying body**

Kineton Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This is also confirmed in the Basic Conditions Statement.

### **Plan area**

The Plan area, shown on a map on page 5 of the Plan, is coterminous with the Kineton Parish Council administrative boundary. Stratford on Avon District Council approved the designation of the area on 20 May 2013. The Basic Conditions Statement helpfully confirms that the Plan relates to this area and does not relate to more than one neighbourhood area.

### **Plan period**

The Plan states in the introductory pages that it covers a 17-year period from 2015 to 2031; the front cover indicates that the Plan is "to 2031" and the Basic Conditions Statement confirms that the Plan period is 2015 to 2031. There is no compulsion for the Plan to cover the same time period as the Local Plan or any emerging plan at District level. This requirement is satisfactorily met.

### **Excluded development**

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement.

### **Development and use of land**

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the

community's priorities for the future of their local area, but are not related to the development and use of land. Where I consider a policy or proposal to fall within this category, I have recommended it be moved to a clearly differentiated and separate section or annex of the Plan or contained in a separate document. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but non-land use matters should be clearly identifiable.<sup>5</sup> Subject to any such recommendations, this requirement can be satisfactorily met.

## 5.0 The examination process

It is useful to bear in mind that the examination of a neighbourhood plan is very different to the examination of a local plan. I am not examining the Plan against the tests of soundness used for Local Plans,<sup>6</sup> but rather the submitted Plan meets the basic conditions, Convention rights and the other statutory requirements.

The general rule of thumb is that the examination will take the form of written representations.<sup>7</sup> However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case.

I am satisfied from the documentation that has been submitted to me, and with the help of the clarification that I have received from the Parish and District Councils in response to some factual queries, that the examination can be carried out satisfactorily on the basis of written representations and that a hearing is not necessary.

I undertook an unaccompanied site visit to Kineton and its environs on 2 December 2015.

I have also specifically referred to some representations and sometimes identified the person or organisation making that representation. However, I have not necessarily referred to each and every representation in my report. Nevertheless each one has been considered carefully and I reassure everyone that I have taken all the representations received into account during the examination.

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<sup>5</sup> PPG para 004

<sup>6</sup> NPPF para 182

<sup>7</sup> Schedule 4B (9) of the Town and Country Planning Act 1990

## 6.0 Consultation

The Parish Council has submitted a Consultation Statement which provides details of who was consulted and how, together with the outcome of that engagement process.

The Plan builds on an earlier Village Plan of 2003. A Working Group was formed in May 2012. It is clear that a variety of activities have been undertaken ranging from a Village Survey early on in the process to open days and stakeholder meetings throughout the process. Innovatively, a Developers Forum was held with three developers taking up the mantle and over 120 people attended.

Communication has primarily be achieved through the use of the Parish magazine and the local newspaper, but a website, Facebook and Twitter have also been used.

Pre-submission (Regulation 14) consultation took place between 7 December 2014 and 18 January 2015. The draft Plan was publicised using a mixture of online and paper mediums. After this period had ended, it became apparent that the housing figures put forward in SDC's emerging Core Strategy would increase. As a result a further targeted consultation was carried out between 3 April and 15 May 2015. The Consultation Statement describes this as being for "additional sites". At the very least this demonstrates the Plan makers have responded to changing circumstances.

The Consultation Statement highlights the continuous dialogue which has been held with SDC throughout the process and this is to be commended.

Submission (Regulation 16) consultation was carried out between 23 July and 4 September 2015.

Some representations query the transparency and fairness of the process; others suggest the Plan could have gone further in its coverage or included other policies. This latter point is largely a matter for the qualifying body and should the Plan be reviewed I feel sure the Parish Council will bear these points in mind. Whilst more can always be done, the Plan has emerged as a result of seeking, and taking into account, the views of the community and other bodies.

## 7.0 The basic conditions

### National policy and advice

The main document that sets out national planning policy is the National Planning Policy Framework (NPPF) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively

to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.<sup>8</sup>

The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.<sup>9</sup>

On 6 March 2014, the Government published a suite of planning guidance. This is an online resource available at [www.planningguidance.planningportal.gov.uk](http://www.planningguidance.planningportal.gov.uk). The planning guidance contains a wealth of information relating to neighbourhood planning and I have had regard to this in preparing this report. This is referred to in this report as Planning Practice Guidance (PPG).

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.<sup>10</sup>

PPG indicates that a policy should be clear and unambiguous<sup>11</sup> to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.<sup>12</sup> It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.<sup>13</sup>

The Basic Conditions Statement considers each of the 12 core planning principles in turn and offers a useful commentary on how the neighbourhood plan policies relate to each of the relevant subsections of the NPPF.

## **Sustainable development**

A qualifying body must demonstrate how a neighbourhood plan contributes to the achievement of sustainable development. The NPPF as a whole<sup>14</sup> constitutes the

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<sup>8</sup> NPPF paras 14, 16

<sup>9</sup> *Ibid* para 184

<sup>10</sup> *Ibid* para 17

<sup>11</sup> PPG para 041 ref id 41-041-20140306

<sup>12</sup> *Ibid* para 040 ref id 41-040-20140306

<sup>13</sup> *Ibid*

<sup>14</sup> NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

Government's view of what sustainable development means in practice for planning. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.<sup>15</sup>

The Basic Conditions Statement offers a helpful explanation of how this particular Plan contributes to the achievement of sustainable development. It focuses on the specifics of the Plan which is to be welcomed rather than taking a more generalised approach.

### **The development plan and emerging planning policy context**

The relevant basic condition only refers to the development plan. In this case, the development plan consists of the Stratford on Avon District Local Plan Review 1996 - 2011 (LP) adopted in 2006.

The LP identifies a settlement hierarchy; Stratford-upon-Avon as the main town, Main Rural Centres (MRC), Local Centre Villages and all other settlements. Kineton is identified as one of eight MRCs and was newly identified as such in that LP. It is described as supporting a good range of services serving a local catchment area including a secondary school and an established industrial estate. The LP in making such a designation sought to promote and enhance the role of Kineton including satisfying housing and employment needs, supporting rural diversification, tourism and leisure. It seeks to "underpin the retail and commercial sector...to ensure public services are retained, to support existing businesses and attract new ones, to promote environmental enhancement and to improve public transport links with neighbouring villages".<sup>16</sup>

The Basic Conditions Statement also refers to the emerging Stratford on Avon District Core Strategy Proposed Submission June 2014 (CS). It details each of the relevant policies in the development plan and the emerging CS and notes that subsequent modifications to the emerging CS endorsed by SDC for formal consideration by the CS Inspector and adopted on an interim basis for development management purposes will not impact on the Plan. The hearing sessions into the CS resume in January 2016.

Whilst this examination does not consider this Plan against the CS, the Plan has usefully taken account of the emerging planning context. In the emerging CS, Kineton continues to be identified as a MRC. The MRCs are regarded as suitable locations for growth and they also serve as 'hubs' for the wider area. Little Kineton is a separate settlement. It is not defined as a Local Service Village in the emerging CS.

I have not referred to each and every policy of relevance in this report, particularly in those instances where the more recent NPPF should have more emphasis, but I consider the Plan as a whole can be said to be in general conformity with the strategic direction and policies of the LP.

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<sup>15</sup> NPPF para 7

<sup>16</sup> LP page 88

Some representations contend that the (neighbourhood) Plan should not proceed until there is an up to date adopted development plan on which the Plan can be based or tested against. Based on advice in PPG<sup>17</sup> and a judgment handed down in a judicial review,<sup>18</sup> it is widely accepted that a neighbourhood plan can be developed before or at the same time as the production of a local plan. I accept though that both the LPA and the qualifying body should work proactively together to minimise any conflicts.<sup>19</sup>

### **European Union Obligations**

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant.

### **Strategic Environmental Assessment**

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004.

A screening exercise has been carried out by Lepus Consulting who have also carried out sustainability appraisal work on the emerging Core Strategy. This screening opinion, dated June 2015, concludes that an environmental assessment is not required.

The screening assessment has been considered by Natural England, Historic England and the Environment Agency. None of the three statutory consultees disagree with the conclusion of the screening report. In addition SDC has also considered whether a SEA is needed (as the Screening Document by Lepus Consulting was prepared on behalf of the Neighbourhood Plan Steering Group) and concurs with the view that a SEA is not required.

SDC confirms that the Regulations have been complied with and I am satisfied that the Plan does not require a SEA to be carried out.

### **Habitats Regulations Assessment**

There are no European sites within the Plan area. The SEA Screening Document confirms that there are no internationally designated nature conservation sites within 10km of the Plan area.

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<sup>17</sup> PPG para ref id 41-009-20140306

<sup>18</sup> Gladman Developments Ltd v Aylesbury Vale District Council [2014] EWHC 4323 (Admin)

<sup>19</sup> PPG para ref id 41-009-20140306

## European Convention on Human Rights (ECHR)

The Basic Conditions Statement contains a short statement that the Plan has had regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998. There is nothing in the Plan that leads me to conclude there is any breach of the Convention or that the Plan is otherwise incompatible with it.

## Other Directives

I am not aware of any other European Directives which apply to this particular neighbourhood plan and in the absence of any substantive evidence to the contrary, I am satisfied that the Plan is compatible with EU obligations.

## 8.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. Where I recommend modifications in this report they appear in **bold text**. Where I have suggested specific changes to the wording of the policies they appear in ***bold italics***.

The Plan starts off with a very helpful contents page.

### 1 Introduction

The introductory pages indicate that the Plan covers the period from 2015 to 2031.

SDC make the point that the CS covers the period from 2011 – 2031 and not 2015 – 2031 as indicated in paragraph 1.1. It is sensible that the Plan extends to the same period as the Core Strategy. A minor change is therefore recommended on this point.

Paragraph 1.5 refers to the “very significant weight” the Plan will have once made in relation to the determination of planning applications. Whilst on a fair reading this phraseology would not generally be of concern, the amount of weight to be given to a planning policy is a matter for the decision maker. Therefore to avoid any confusion a modification is recommended to this paragraph.

This section contains the vision for Kineton building on work brought forward from the Village Plan produced in 2003. This states that:

“...the community wants Kineton Parish to continue to thrive as a vibrant and distinctive village, to continue to respect and reflect the views of its community, to evolve and expand whilst retaining its unique and distinctive character and to provide an outstanding quality of life for current and future generations of residents.”

This vision is articulated well and is underpinned by a number of bullet points indicating how this might be achieved and by a number of objectives in paragraphs 1.7 and 1.8 respectively which provide the framework for the policies in the Plan. The only bullet points where there is some concern is the third one in paragraph 1.7 and the first one in paragraph 1.8; both refer to the housing needs of the Parish which could be interpreted as being overly restrictive and therefore not help to achieve sustainable development. A modification is therefore suggested to deal with this concern.

The Parish boundary is shown on page 5. It is useful to include this map early on in the document. This is the same as the area covered by the Plan. It is important that the area the Plan covers is clearly identified and so two minor modifications are recommended to ensure that it is clear the Parish boundary is synonymous with the Plan area and to ensure that the boundary stands out more; I found the thin black line quite hard to distinguish so it might be useful to make this a different colour or bolder perhaps. These recommendations are made in the interests of clarity.

- **Change “2015 to 2031” to “2011 to 2031” in paragraph 1.1**
- **Reword the last sentence in paragraph 1.5 to read: *“Once the Plan is made it will become part of the development plan for the area and will be an important consideration in the determination of planning applications as these must be determined in accordance with the development plan unless material considerations indicate otherwise.”***
- **Add *“and strategic”* after “...to meet local...” and before “...requirement” in the third bullet point in paragraph 1.7**
- **Reword the first bullet point in paragraph 1.8 to read: *“Delivery of a housing growth strategy that reflects both the needs of the Parish and wider area and is tailored to the context of Kineton Parish”* or similar**
- **Change or add to the map title on page 5 to make it clear that the map shows the Plan area**
- **Make the Plan area boundary on this map more distinctive and easier to read**

## 2 The Neighbourhood Development Plan

This is a useful section that sets out how the Plan fits into the wider planning framework.

Paragraph 2.1 uses the phrase “...the Plan must be used in law to determine planning applications in Kineton.” I understand what this phrase seeks to do, but it is oddly phrased and could be deemed to be a little misleading. Therefore I suggest it is altered to better reflect the legal position.

The last sentence on page 6 indicates that the map referred to in the previous section appears “on page 5 opposite”. Again this just needs a minor amendment which should be made in the interests of clarity.

- **Change the sentence in paragraph 2.1 which reads “...the Plan must be used in law to determine planning applications in Kineton.” to “...as the Plan will then become part of the development plan for the area and the determination of planning applications must then be made in accordance with the development plan unless other material considerations indicate otherwise.”**
- **Ensure paragraph 2.4 on page 6 ties up with the structure and layout of the Plan**

### 3 Kineton – History and Future

Whilst this section is interesting much of the early text at least bears resemblance to that in the emerging CS.<sup>20</sup>

Paragraph 3.8 contains the phrase “putting property at risk in the village”. SDC comments that it is not clear which properties are at risk and that this seems to be contradicted later on in the section. I would urge the Parish Council to consider the use and effect of such phrases, to ensure they are accurate and clear and substantiated by evidence.

Paragraph 3.12 has a sentence about the inclusion of pedestrian and cycle links to schools and shops from new development. Whilst this is a worthy aim, it is not appropriate to introduce what are in effect statements of policy in the supporting text as this does not provide the practical framework national policy and guidance seek and could be construed as misleading. If an issue is of particular import it should have been included in the policy. This is however not a modification I can reasonably make as it would change the status of the requirement which has not been consulted upon as a policy. The paragraph also refers to measures to limit the impact of vehicles in the village and traffic management schemes. This principle can of course be supported, but without substantive evidence it is difficult to determine in general terms what such schemes might look like. To help ensure the Plan retains sufficient flexibility and to address the concern outlined above, modifications are recommended.

Paragraph 3.14 contains a sentence that could be interpreted as preventing any development to the south or south east of the village. Whilst this area includes the River Dene valley and the Battle of Edgehill Historic Battlefield and the openness of this land contributes to the separation between Kineton and Little Kineton, as previously indicated it is not appropriate to introduce statements of policy in the supporting text. Whilst I have recommended deletion of the sentence in question, a representation<sup>21</sup> suggests an alternative form of wording which would also be acceptable.

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<sup>20</sup> CS page 149 and following

<sup>21</sup> Framptons on behalf of the Rosconn Group

Paragraph 3.15 refers to a Landscape Sensitivity Study 2011 (LSS). The LSS has been commissioned by SDC as part of the evidence base underpinning the preparation of the emerging CS. The LSS was extended in 2012 to cover a range of smaller settlements. The main aim of the LSS is to examine the degree to which landscape within and on the edge of settlements is sensitive to change that would arise from housing or commercial development. The LSS took its lead from earlier work on a County Landscape Assessment. Representations have alluded to the lack of evidence for the Plan indicating the LSS is one of the few documents referred to. As a general comment I agree that if reliance is placed on any document it is necessary to ensure that any quotes or references are accurately portrayed. Again the text introduces a policy statement that retains the industrial estates and existing level of employment in the area.

This section also contains a number of “core principles” in paragraph 3.17. I asked for clarification about these and their relationship to the vision and objectives found earlier in the Plan and the vision statements that follow in the next section of the Plan.

The Parish Council helpfully explained that the overarching vision in paragraph 1.6 is brought forward from the 2003 Parish Plan (incidentally referred to as the Village Plan in that paragraph and so this should be consistent whichever it is in the interests of accuracy) and that the objectives in paragraph 1.7 provide the framework for the Plan.

The core planning principles take these “one step further” I am advised, but are not policy. The vision statements in the next section of the Plan provides more topic based visions. Despite the advice from the Parish Council, I have found it quite confusing not to mention repetitive to have a series of visions and objectives; not least because then each policy topic section is also preceded by further strategic objectives. I have commented on each of these as separate entities as I go along, but it is essential for the presentation of the Plan to be much clearer around the vision and objectives. In addition some read as policy, others do not have a policy sitting alongside them and some do not relate to development and use of land matters. Many appear to duplicate principles in the emerging CS;<sup>22</sup> this is not in itself an issue as the CS might not survive in its current format. For the avoidance of any doubt, none of the core principles have the status of planning policy.

So looking first at paragraph 3.17 onwards, the first bullet point refers to an Area of Restraint; I understand that this is a proposal at District level in the emerging CS. Apart from a further reference to this area in paragraph 4.10, the Plan contains no policies about it. My understanding is that the LP does not designate an Area of Restraint for Kinton. Therefore given it is a proposed designation and one that will be put forward by SDC, it might have been preferable for the Plan to put forward its own Area of Restraint. However the Plan does not do this and so given there are no policies relating to such an area, it would be clearer to delete any references to it.

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<sup>22</sup> CS Policy AS.5 (page 151)

Bullet point two under (b) Social refers to an emerging CS policy. Given that the stage the emerging CS is at and that policy numbers and contents may change it would be preferable to remove such references so the Plan does not become out of date quickly.

References to specific sites at Brookhampton Lane and Land East of Southam Road in effect set out policy for these sites. It is inappropriate for any site to be singled out in core principles given that these sites are not subject to site-specific policies in the Plan and in the light of the modifications recommended to policies that may affect these sites.

The penultimate bullet point on page 11 of the Plan refers to the construction of a link road. I sought clarification from the Parish Council about this. I understand that a main concern of the community concerns traffic and whilst accepting some development the community is keen to take the opportunity to provide some form of mitigation. Whilst there have been some difficulties in providing specialist input, an outline application<sup>23</sup> in the village allows for this concept to be taken forward. Nevertheless this is a broad core principle and references to the link road are to be found throughout the Plan. There is some support from the development industry for this whilst others dispute the need, but either way the Plan itself does not put forward robust evidence either for its need or its delivery and therefore this can only be regarded as a community aspiration. This then needs to be in a separate appendix or document.

**The following modifications are therefore recommended:**

- **Consider the vision and objectives, core planning principles, vision statements and strategic objectives again with a view to amalgamating them into one section (perhaps section four?) and ensure that they are clear, relate to development and use of land matters, relate to the policies in the Plan or are clearly indicated as community aspirations**
- **Amend the sentence “Any new developments should include pedestrian and cycle links to the schools and shops.” in paragraph 3.12 to “*New development should consider the provision of appropriate pedestrian and cycle links to facilities and services.*”**
- **Add the word “*Appropriate*” at the start of the third sentence in paragraph 3.12**
- **Delete the sentence “These constraints make development to the south and south east unsuitable allowing a green space to be retained.” from paragraph 3.14**

**(continued on next page)**

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<sup>23</sup> Ref 15/03101/OUT

- Check the reference to the LSS in paragraph 3.15 is portrayed accurately and insert the words “*try and*” after “...it is important...” and before “...retain the already established industrial estates...”
- Delete the first bullet point under (a) Environmental on page 10 or at least remove the reference to the proposed Area of Restraint
- Remove the reference to Policy CS.24 from the second bullet point under (b) Social on page 10
- Delete the first bullet point under (c) Economic on page 10 or at least remove references to the retention of the industrial estate at Brookhampton Lane and support for a proposed scheme at Land East of Southam Road
- Delete the reference to a link road from the core principles and include it, if desired, in the Plan but clearly labeled as a community aspiration and in a separate section of the Plan or another document

#### 4 Kineton Vision Statement

I have already mentioned the need for greater clarity between the vision, objectives, core principles and vision statements. I had assumed that the vision articulated on page 3 was the vision for this Plan, but here in paragraph 4.1 another (well worded) vision is put forward. This is then followed by a number of “vision statements” for education, health, housing, business/services, conservation, leisure, tourism, transport and infrastructure. It is apparent from this comprehensive list that this section offers a very much more detailed vision than the previously articulated vision and objectives found on pages 3 and 4 of the Plan or the core principles on pages 10 and 11.

The vision statements read almost as if they are planning or other policies (as some deal with non development and land use matters); some detail what will or will not be permitted and as previously stated it is not appropriate to introduce policy (intentionally or unintentionally) in this way. Others provide useful background information for instance about the Conservation Areas.

Paragraph 4.4 refers to housing; SDC comment that the preference expressed here for “smaller developments” could be seen to be at odds with the proposed allocations and I agree there could be some confusion. In any case there is no policy in the Plan that follows this through. I suggest a phrase which hopefully deals with this issue. Once again there is reference to meeting local needs and whilst I understand this does not necessarily prevent wider needs being addressed it reads as a restriction and should be removed.

Paragraph 4.8 refers to the two Conservation Areas (CA) of Kineton and Little Kineton. It refers to the protection and where possible enhancement of the character of both CAs. This phrase could better reflect the statutory provisions which refer to

preservation or enhancement of the character or appearance of CAs. This paragraph also indicates that the Plan will recommend boundary changes to each CA and encourage Article 4 directions as well as seeking to improve the CAs through planning applications. It is not appropriate to seek to do these through a neighbourhood plan.

Paragraph 4.9 again introduces a policy by stating that “development will not be allowed to climb Pittern Hill, in order to safeguard the setting of the village.” If this was sought, then this should have been in a policy with appropriate evidence to support this. As it stands it should be removed.

Paragraph 4.10 refers to a proposed Area of Restraint which I have already discussed in the preceding section. This reference should be deleted in the interests of clarity.

Paragraph 4.12 refers to an “identified need” for more playing fields, but there is little evidence for this statement and so this should be removed.

Paragraphs 4.13, 4.14 and 4.15 read particularly well, but it is regrettable there are no policies that follow through some of these ideas.

Paragraph 4.17 refers to the link road. As discussed earlier, it should be made clear that this is a community aspiration.

A representation<sup>24</sup> suggest that it would be helpful to refer to the separation of surface water as well as highway drainage from the foul system and whilst this is not a matter I need to modify in relation to my role and remit, I feel sure the Parish Council will wish to incorporate this helpful suggestion.

**The following modifications are therefore recommended:**

- **Delete the words “smaller developments” from paragraph 4.4 and replace them with “*developments of an appropriate size and with an appropriate density of houses.*”**
- **Delete the last sentence in paragraph 4.4 which reads “The provision of housing should meet the identified needs of the neighbourhood area.”**
- **Spelling of medieval in paragraph 4.6 should be corrected**
- **Revise paragraph 4.8 to reflect CA statutory provisions, remove references to CA boundary changes and Article 4 Directions or make it clear that this is an aspiration rather than an aim of the Plan and remove the reference to “controls”**

**(continued on next page)**

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<sup>24</sup> Warwickshire County Council

- Delete the sentence “...and development will not be allowed to climb Pittern Hill, in order to safeguard the setting of the village.” from paragraph 4.9
- Delete paragraph 4.10
- Delete the reference to “an identified need” from paragraph 4.12 changing it to “there is *a desire to have* more playing fields...and additional tennis courts.”

## 5 Neighbourhood Plan Policies

### 5.1 Housing

The housing section starts with a strategic objective. However, I am not clear what it means; in particular the phrase “without breaking down existing structures” is not clear to me. In addition the strategic objective seems to suggest that only “local demands” will be met. Given that Kineton is a MRC and indeed as a subsequent paragraph, 5.1.2, in the Plan acknowledges, paragraphs 5.1.1 and 5.1.2 require amendment to bring them in line with national policy and guidance, to generally conform with Kineton’s position in the District’s settlement hierarchy and to help achieve sustainable development.

- **Reword paragraphs 5.1.1 and 5.1.2 to read “*To meet the economic, social and environmental needs of Kineton and its contribution to the overall housing requirements of the District through sustainable growth.*” as the strategic objective for this section**

### Policy H1 Housing Supply

This policy seeks to do a number of things; it sets a target of “around 200 new dwellings” in the Plan period within the settlement boundary; it suggests that a 100 new dwellings are therefore required as 100 dwellings already have permission; it requires affordable housing in line with the District’s emerging CS Policy CS.17 and refers to four sites allocated in other policies of the Plan.

Given that it is widely recognised there is a need to boost housing supply and that planning should be plan-led, it is welcome that new growth is accepted. However, a number of issues and concerns arise with this policy.

First of all the policy refers to “continuous but controlled growth” and I am not sure what this means.

Secondly, the policy refers to “principles”. It is appropriate for the policy to indicate a number of dwellings and it seems that the 200 ‘target’ is based on housing figures, and a study undertaken by the District Council of the capacity of villages to accommodate growth and the emerging CS, which of course is yet to be adopted. Yet the Plan seeks

to plan positively for growth reflecting Kineton's designation as a Main Rural Centre although of course some representations indicate this figure is too low and perhaps should take account of the Jaguar Land Rover and Aston Martin sites whilst others consider it to be too high. SDC do not offer any comment on the figure of "around 200 new dwellings".

Whilst reference is made to the 100 or so units that already are completed or committed and so a simple calculation suggests a 100 or so more new dwellings are needed, in order to plan positively for growth it is important that the overall figure is not capped.

Criterion c) simply refers to a CS policy and given the stage the CS has reached there is some element of risk in cross-referencing and relying upon such policies. In any case, Policy H3 also deals with affordable housing and so there seems little merit in repeating the requirement here.

As other policies in the Plan propose the allocation of the sites referred to in criterion d) there is little value in repeating that here albeit these sites will accommodate more than the 100 or so dwellings this policy considers will be needed. Policy H2 'stands on its own two feet' and so again cross-referencing seems superfluous.

Finally, the policy restricts housing development outside the settlement boundary unless that development would be supported by another policy. This is unnecessary as the Plan will be read as a whole and does not provide for the necessary flexibility in responding to changing circumstances.

Turning now to the supporting text, there is some confusion between references to "this Plan" which one might reasonably take to mean the neighbourhood plan and references to the CS.

The supporting text also seeks to prevent (additional) large-scale greenfield development (other than on two of the proposed allocations) or any uplift in housing numbers in paragraphs 5.1.4 and 5.1.5 respectively. In addition it refers to two of the proposed allocations as being "previously used (currently waste) sites" and again it is not clear to me what this phrase means.

There are therefore a number of shortcomings with this policy.

The policy refers to the settlement boundary. I asked for clarification about this issue. The Parish Council confirm that the Plan seeks to change the existing settlement boundary for Kineton and introduce a new one for Little Kineton. Essentially the new boundary for Kineton includes the proposed allocations and reflects a new development which is currently under construction. It is important for a policy to sit alongside these new designations. Whilst there seems to be little opportunity for much other than windfall sites in Kineton, this cannot also be said of the new settlement boundary for Little Kineton.

In order to meet the basic conditions, including the need to avoid duplication and to provide a practical framework, **a number of modifications are therefore recommended:**

- **Reword Policy H1 as follows:**

***“The Plan designates settlement boundaries for Kineton and Little Kineton and these are shown on the map entitled “Settlement Boundaries”. Within these settlement boundaries the development and reuse of land and buildings for housing will generally be supported.***

***In the Plan period the provision of a minimum of 200 dwellings is supported to meet the District’s overall housing supply up to 2031.”***

- **Change the title of the policy to “Housing Development and Supply”**
- **Change the title of the map to “Settlement Boundaries for Kineton and Little Kineton” and consider including it within the main body of the Plan**
- **Consequential amendments to the supporting text will be required**

## **Policy H2 Prioritising the Use of Brownfield Land**

This policy supports the redevelopment of brownfield land chiming with a core planning principle in the NPPF to encourage the effective reuse of previously developed land. However, neither the policy nor the supporting text recognises that previously developed land can be of high environmental value and sometimes that value might exceed that of a greenfield site. The assumption that brownfield is ‘better’ to develop than greenfield articulated in paragraph 5.1.7 is a common misconception.

The policy sets out a number of criteria. The first and second criteria relate to the compatibility of the use with surrounding uses and the need for remedial works to remove any contamination from the sites and introduce suitable safeguards. The third criterion seeks an enhancement to the character and appearance of the site and should be expanded to include the NPPF’s recognition<sup>25</sup> that sometimes such land will have a high environmental value. The final criterion refers to other policies in the Plan and is unnecessary as the Plan will be read as whole anyway.

The final paragraph of the policy introduces a presumption against the development of greenfield land requiring exceptional circumstances to be shown in order for development to be regarded favourably. This goes against the grain of the presumption in favour of sustainable development in the NPPF and as a result does not have regard to national policy and will not help to achieve sustainable development.

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<sup>25</sup> NPPF para 111

The supporting text will also need substantial amendment to recognise that brownfield land can be of high environmental value, to remove the prioritisation given to previously developed land and reference to other policies in paragraph 5.1.7 and to alter paragraph 5.1.8 to bring it in line with the modifications recommended. More generally other revisions might also be needed including the replacement of “previously undeveloped land” referred to in paragraph 5.1.7 with a more suitably phrase such as greenfield and the removal of the word “linear” as suggested by SDC.

A representation<sup>26</sup> suggests that it should be clear this policy relates to housing development. This is not an unreasonable suggestion given the policy appears in the housing section of the Plan and would help with clarity.

Therefore in order for this policy to meet the basic conditions, **the following modifications need to be undertaken:**

- **Remove the word “Prioritising” from the title of the policy**
- **Insert the words “*to create new homes*” after “...brownfield land...” and before “...will be supported...” in the first sentence of the policy**
- **Add at the end of criterion c) ...”*would not result in the loss of any land of high environmental value.*”**
- **Delete criterion d)**
- **Delete the final paragraph of Policy H2 which begins “Unless specifically allocated...” to end**
- **Consequential amendments to the supporting text will be needed**

### **Policy H3 Affordable Housing**

This policy seeks to secure provision of affordable housing in line with (emerging) Core Strategy Policy CS.17 and through S106 legal agreements. It introduces criteria for local occupancy set out in a Housing Needs Survey 2013.

A representation<sup>27</sup> queries the need for the policy if it duplicates SDC policies and suggests that references to CS Policy CS.17 of the emerging Local Plan would be better as a generic reference given the uncertainty with the emerging Plan. This is a sensible suggestion.

- **Remove any references to specific policies in the emerging Core Strategy  
(continued on next page)**

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<sup>26</sup> Gladman Developments Ltd

<sup>27</sup> Gladman Developments Ltd

- **Change the first sentence in the second paragraph in the policy to read “Affordable housing will be secured in perpetuity through planning obligations or other appropriate mechanisms.”**
- **Add the word “generally” after “...will not...” and before “...be supported.” in the third paragraph of the policy**

#### **Policy H4 Use of Garden Land**

The only bullet point that is not appropriate to retain is the last one which refers to Policy H1. This is because I have recommended modifications to Policy H1. Otherwise the policy accords with the basic conditions. Therefore in order to ensure that Policy H4 is clearer **the following modification is recommended:**

- **Delete last bullet point of Policy H4 that reads “are in accordance with Policy H1 of this Plan”**

#### **Policy H5 Housing Mix**

Whilst this policy is titled housing mix, it is about tenure as well as size of property. It seeks to ensure that the type of housing needed is provided. National policy seeks the delivery of a wide choice of high quality homes and encourages a mix to be provided.<sup>28</sup> This will help to widen housing opportunities and create sustainable and mixed communities.

The policy sets a threshold of ten or more units before it applies, but it is not clear to me why the threshold has been set at this figure and the implication for doing so, but this does take its lead from LP Policy COM.14 which refers to a mix of dwelling types and has some consistency with the NPPF.

The policy refers to evidence for its requirements in the Strategic Housing Market Assessment or the Housing Needs Survey and requirements set out in Table 1 in the Plan which seem to be taken from the emerging CS Policy CS.18, but do not tie up exactly given that the situation has changed at District level in the intervening months. Given that the CS is an emerging document, it is difficult to rely on this and in any case the table offers little flexibility given the explanation and aims of the Plan.

The supporting text explains the issue for the Parish and I feel rightly tries to drill down to meeting the needs of the neighbourhood as well as the wider needs of the District. However, given the intent of the policy, the need for flexibility and the oft-changing circumstances across a long Plan period that will be based on local needs but also the

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<sup>28</sup> NPPF para 50

needs at a wider District level, some amendments are necessary for the policy to accord with the basic conditions.

Paragraphs 5.1.15 and 5.1.18 also explain that tenure mix should be integrated throughout developments and what happens on developments of less than ten units. Both of these paragraphs as currently worded could be confused for policy and so require some amendment.

- **Reword Policy H5 to read:**

- “Developments of 10 or more units should meet the housing mix, including size and type, and tenure requirements identified by up to date evidence informed by the Strategic Housing Market Assessment, local Housing Needs Surveys or other sources of evidence. Consideration should be given to changing demographic trends, market trends and the needs of different groups in the community.”*

- **Reword paragraph 5.1.15 to read: “It is important to ensure that different tenures are integrated throughout the layout and for that reason integration will be strongly encouraged and concentrations of tenure discouraged, particularly in areas of poorer environmental quality.”**

- **Reword paragraph 5.1.18 to read: “Whilst smaller scale developments of less than ten units are not covered by Policy H5, encouragement will be given to those schemes which contribute to meeting tenure needs.”**

## Policy H6 Safeguarded Land

Two sites; a) Land west of Southam Road and b) land east of Lighthorne Road are safeguarded by this policy for future development if there is an identified local housing need for their release. The sites are identified on a map entitled “Potential Housing Sites”. This map should be renamed to better reflect its contents.

It is notable that the policy does not actually mention housing, but it is clear from the map and supporting text that this is its intention.

Whilst some representations suggest these sites are allocated rather than safeguarded or should be allocated instead of the sites proposed for allocation in Little Kineton, a site assessment has been carried out. The supporting text explains the rationale for the safeguarded sites and given the level of uncertainty with the emerging Core Strategy this seems a sensible way forward to express the community’s preferences for the development of certain sites.

The release of these sites is dependent on the four proposed allocations being brought forward (criterion h) of the policy. Whilst I understand that this is designed to ensure

that the four allocations are implemented first, there are a multitude of reasons why this might not take place and therefore this criterion may hinder the achievement of sustainable development. Given the tenor of the policy centres upon an identified need for release, I consider this is sufficient. However, the identified need restricts this to a “local housing need” and this should be altered to include the strategic development needs of the District in line with national policy and guidance.

There is a long list of requirements in the policy. Whilst some of the requirements are in line with good planning principles such as high quality design and landscape, I am concerned that some set a very high bar that may affect the viability and deliverability of these sites. These include the requirement to use the most up to date technologies in building construction and a link road. Whilst I recognise the ambition for high quality development should not be thwarted and it is not necessary for a detailed site-by-site assessment to have been done at this stage, it is nonetheless important to ensure that sustainable development can be delivered. To this end a modification is recommended recognising the issue of viability. I have already discussed the link road.

The last paragraph of the policy is superfluous.

Paragraph 5.1.21 indicates that the two sites will be released in order of appearance; presumably meaning H6a before H6b. There appears to be no reason or justification for this and so this statement should be deleted.

A representation<sup>29</sup> states that the ‘safeguarded’ site H6a does not accurately reflect the ownership of the two parcels of land as part of H6a is under H6b’s ownership. The representation includes a plan showing the boundaries. It does differ in extent from the sites shown on the accompanying map. As well as ensuring that the title of this map more accurately reflects its contents, any drafting errors should be corrected.

Therefore this policy meets the basic conditions subject to the following modifications:

- **Add the words “residential-led” before “development” in the first paragraph**
- **Delete “local” from the second paragraph which begins “The above sites...”**
- **Change “Development on these sites will only be permitted providing the following requirements are met:” to “Development on these sites will be expected to comply with all the following requirements subject to a rigorous viability assessment:”**
- **Delete “...utilising the most up to date technologies in building construction and renewable energy technology...” from criterion a)**
- **Delete criterion b)**

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<sup>29</sup> Richborough Estates

- Delete criterion h)
- Delete the last paragraph of Policy H6 which begins “All development proposals...”
- Consequential amendments to the supporting text will be needed including the deletion of the sentence “If such a need is established then the sites will be released for housing development in order of appearance, depending on the level of need.” from paragraph 5.1.21
- Rename the map “*Site Allocations and Safeguarded Land*” adding the relevant policy numbers
- Amend the extent of the two parcels of safeguarded land H6a and H6b to correct any errors made in relation to land ownership on the two sites

## 5.2 Jobs

Paragraphs 5.2.1 and 5.2.2 set the scene well for the next two policies.

### Policy J1 Employment Sites

Policy J1 supports new employment sites and the growth of local employment. It also resists the loss of existing employment land from change of use or redevelopment subject to a number of clearly worded criteria. The NPPF indicates that economic growth should be supported in rural areas and that the sustainable growth and expansion of all types of businesses and enterprise should be supported.<sup>30</sup> It also advises against the long-term protection of employment sites where there is no reasonable prospect of a site being used for that purpose.<sup>31</sup> This policy strikes an appropriate balance between flexibility and support for employment with its five criteria providing applicants with an opportunity to demonstrate why there is no reasonable prospect of a site being used for employment purposes in line with the NPPF. However, the first and second criteria of the policy are interdependent and this would lead to the potential stagnation of some sites based on an overall supply requirement. For that reason the “and” at the end of the first criterion should become an “or” and criterion b) modified to bring it in line with the NPPF.

Once again the reference to other policies of the Plan is not needed. Subject to these modifications, the policy meets the basic conditions.

- Delete “...consistent with other policies in this Plan and...” from paragraph one of the policy (continued on next page)

<sup>30</sup> NPPF para 28

<sup>31</sup> *Ibid* para 22

- **Replace the word “and” at the end of criterion a) with the word “or”**
- **Add the words “*or where there is no reasonable prospect of the site being used for employment uses*” at the end of criterion b) before the “or”**
- **Add at the end of the policy as a new paragraph “*Where there is no reasonable prospect of a site being used for the allocated employment use, planning applications for alternative uses will be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.*”**

## Policy J2 Home Working

Home working is an increasing phenomena and this policy supports the provision of flexible space within new dwellings to accommodate home working and cabling to support broadband. I consider the space suggested could be the ability to convert a room to an office, a loft extension or space within a garden and so together with a change to giving encouragement rather than requirement, the policy is flexible rather than being overly prescriptive. As a representation<sup>32</sup> points out sometimes cabling is not necessary and so I suggest a modification to ensure the policy has sufficient flexibility.

The second element of the policy supports live work units subject to a number of criteria. Whilst some of the criteria are detailed, the supporting text explains that this is a form of sustainable development that otherwise would not be supported in rural locations. I am also mindful that the NPPF supports flexible working practices such as the integration of residential and commercial uses within the same unit<sup>33</sup> and that this policy takes its lead from LP Policy COM.18 which has some consistency with the NPPF. Therefore given that this element of the policy takes a proactive stance, I consider that, on balance, it meets the basic conditions. I do however agree with SDC that criteria f) is confused and as a result it should be deleted.

**The following modifications are therefore recommended:**

- **Replace the words “must include” in the first sentence with “*are encouraged to provide*”**
- **Add “*where appropriate*” after “and” and before “incorporate cabling...” in the first paragraph**
- **Delete criteria f)**

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<sup>32</sup> Gladman Developments Ltd

<sup>33</sup> NPPF para 21

I also note that a representation<sup>34</sup> suggests that the policy could usefully be divided into two separate ones; whilst this is not a modification needed in relation to the basic conditions, it is a helpful suggestion worthy of consideration.

### 5.3 Design

The next section of the Plan considers design through a suite of policies aimed at ensuring development in the Plan area is of a high quality.

#### Policy D1 Design and Character

This is a simple and well-worded policy that seeks to ensure that development is of a high quality and inclusive. This reflects the stance in the NPPF and will help to achieve sustainable development. As a result it complies with the basic conditions and no modifications are recommended although I am at a loss to understand why this policy might only apply to the rural areas.

#### Policy D2 Responding to Local Character

This policy seeks to ensure that new development respects local character. The policy and its supporting text recognise there is a need to ensure that innovative design is not stifled, but that local distinctiveness and character be respected. This is in line with the general thrust of the NPPF and will help to achieve sustainable development.

In considering the details of the policy, it requires a demonstration of “how local character has been taken into account...in accordance with the following principles...”. These principles are expressed as criteria and are wide ranging covering density, heritage assets and surface water amongst other things as well as open green spaces and views. Whilst some of the principles such as tranquility and dark skies may be less tangible features to assess they are recognised planning matters and important characteristics, particularly of more rural areas.

Therefore whilst I recognise there is some overlap with other legislation or policies, the policy accords with the basic conditions apart from some changes necessary to bring it in line with existing legislation in relation to Conservation Areas and national policy and guidance.

Criterion a) refers to the retention of open green spaces in the settlement. Whilst this is a reasonable aim, there is no flexibility and it is not recognised that on occasion development of a green space can then result in enhanced provision elsewhere. Given

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<sup>34</sup> Gladman Developments Ltd

the policy is about local character, I suggest a modification that addresses my concern in this respect.

Criterion e) refers to the conservation of views, skylines and sweeping views. This needs some modification to ensure that it does not stifle development.

Paragraph 5.3.4 indicates that development at odds with local character will be “treated cautiously”. I am not sure what this means as surely such development should be resisted.

**The following modifications are therefore recommended:**

- **Add to the end of the sentence “Existing open green spaces within the settlement should be retained.” the words “*where they make an important contribution to the character and local distinctiveness of the area.*” in criterion a)**
- **Change the phrase “preserve and enhance heritage assets...” to “*preserve or enhance heritage assets...*” in criterion c)**
- **Change the phrase “protect and enhance landscape and biodiversity...” to “*protect or enhance landscape and biodiversity...*” in criterion d)**
- **Change criterion e) to read “*Key features of views to and from higher slopes, skylines and across the wider landscape can continue to be enjoyed;*”**
- **Replace the words “treated cautiously” at the end of paragraph 5.3.4 to “*resisted.*”**

### **Policy D3 Use of Design Codes and Master Planning**

Reading the policy and the supporting text together, Policy D3 first of all relates to large scale developments defined as ten or more dwellings or 1000 square metres or more of non-residential floor space, requiring appropriate use of design codes. As the policy does not include this threshold it is not particularly clear when this part of the policy would apply. I have therefore recommended a modification that seeks to remedy this concern.

The second element of Policy D3 relates (only) to developments of ten or more dwellings and requires such schemes to be accompanied by a master plan or a contextual plan as well as a Transport Assessment.

Masterplanning can help to raise the standards of urban design and create quality places through taking a structured approach. Whilst it might be argued that the threshold of ten or more dwellings is low for a masterplan, they do not have to become

an undue burden and if done well and appropriately can promote sustainable development.

The use of design codes is supported by the NPPF<sup>35</sup> where this would help to deliver high quality outcomes, but unnecessary prescription should be avoided. PPG advises that a design code is a type of detailed design guidance that is often useful for complex scenarios, but that they can apply to all types of developments and often connect to master plans. They can be helpful in building consensus about what kind of place everyone wants to create. It reminds us that some of the best and most effective codes are very short.<sup>36</sup> This element of the policy is in line with national policy and guidance.

It is clear that the policy seeks to take a holistic approach to ensure that new development is appropriate and of a high quality. However it is, as a number of representations point out, difficult to predict what might happen in the future. Therefore a modification is suggested that aims to offer a balance between the intent of the policy and the concerns expressed.

The NPPF also very clearly indicates all developments that generate significant amounts of movement should be supported by either a transport statement or a transport assessment.<sup>37</sup> Both of these terms are defined in the NPPF's glossary. It therefore may be the case that some developments caught by this policy would not require the submission of a transport assessment. It would also be onerous to expect that a master plan would "ameliorate" the additional demand; I consider the word "mitigate"<sup>38</sup> would be more precise.

Therefore **I recommend the following modifications** to ensure that the policy provides a practical framework and includes more flexibility to ensure that its requirements are appropriate based on the scale of development and its particular effects:

- **Make the definition of "large-scale development" in the first element of the policy clearer by including the definition found in paragraph 5.3.12 in the policy itself**
- **Change the phrase "The master plan/contextual plan must take account of recent and potential future development in the area so as to provide a degree of future-proofing." in the second paragraph to "*The master plan/contextual plan should include consideration of existing or proposed developments in the area to enable a holistic approach to be developed wherever possible.*"**
- **Replace the word "ameliorate" with "mitigate" in the second paragraph**
- **Delete "through a Transport Assessment" in the third paragraph**

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<sup>35</sup> NPPF para 59

<sup>36</sup> PPG para 036 ref id 26-036-20140306

<sup>37</sup> *Ibid* para 32

<sup>38</sup> as suggested by a representation from Barwood

## Policy D4 Replacement Dwellings

Policy D4 supports the replacement of lawful dwellings as long as issues such as the effect on character and appearance and the living conditions of neighbours are acceptable. It takes its lead from LP Policy COM.12 which has some consistency with the NPPF.

The only element of the policy which now does not comply with national policy and guidance is the reference to the Code for Sustainable Homes and the desire to see standards of construction exceed the operative building regulations if the Code is withdrawn. The Government has now withdrawn the Code as part of its new approach to setting technical standards for new housing development. A Written Ministerial Statement (WMS)<sup>39</sup> made it clear that neighbourhood plans cannot set out any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. Optional new technical standards can now only be required through Local Plan policies. As a result this element of the policy does not accord with national policy and guidance and I can only recommend deletion of this part of the policy.

- **Delete paragraph three of Policy D4**

## Policy D5 Designing Out Crime

This is a clearly and flexibly worded policy aimed at ensuring that crime and the fear of crime is addressed in new developments. It chimes with the NPPF's<sup>40</sup> aim of creating safe and accessible environments and will help to achieve sustainable development.

There is however a mismatch between the words of the policy and the supporting text; paragraph 5.3.16 refers to CABE's Safer Places and "requires" all development proposal to demonstrate how the seven characteristics in the paper have been incorporated into the design whereas the policy, rightly I think, takes the approach of "expected, where necessary, to demonstrate". This mismatch should be addressed through revisions to the supporting text to ensure that it aligns with the policy so that the Plan is clear.

- **Amend the wording in paragraph 5.3.16 to read "CABE's comprehensive...a safe community. All development proposals will be *expected, where necessary, to demonstrate how these characteristics...proposed design.*"**

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<sup>39</sup> Written Ministerial Statement of 25 March 2015 (and aside from legacy cases)

<sup>40</sup> NPPF paras 58 and 69

## Policy D6 Reuse of Buildings

This policy supports the conversion of buildings to residential, employment or tourist accommodation subject to a number of criteria. The NPPF supports the sustainable growth and expansion of business and enterprise in rural areas including through the conversion of existing buildings.<sup>41</sup> The NPPF<sup>42</sup> also recognises that residential development is an appropriate reuse of redundant or disused buildings where such reuse would lead to the enhancement to the immediate setting. This policy provides an appropriate balance between supporting conversions and safeguarding amenity. It meets the basic conditions and no modifications are recommended.

## Policy D7 Environmental Sustainability

As mentioned earlier, the Government has created a new approach to setting technical standards for new housing development. The WMS<sup>43</sup> made it clear that neighbourhood plans cannot set out any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. Optional new technical standards can now only be required through Local Plan policies.

The inclusion of a planning policy that seeks high levels of sustainability in construction and use therefore no longer accords with national policy and guidance. This could perhaps be retained as an aspiration of the community in a clearly differentiated and separate non-planning section of the Plan or in a separate document.

However, one element of the policy, sustainable drainage systems (SuDs) can be retained. SuDs help to control surface water run off close to where it falls and to reduce the causes and impacts of flooding. However, they are not appropriate for all types of new development and its location. The Government has issued a WMS<sup>44</sup> that indicates that sustainable drainage systems for the management of run-off are put in place unless it is demonstrated to be inappropriate. However, this applies to developments of 10 or more dwellings and to major commercial development. Therefore to bring the policy in line with national policy and guidance, it requires amendment. The following modification is therefore recommended.

- **Reword Policy D7 to read as follows:**

***“New developments of ten or more dwellings and major commercial development will be expected to provide and incorporate sustainable drainage systems unless it is demonstrated that this would be inappropriate.”***

**(continued on next page)**

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<sup>41</sup> NPPF para 28

<sup>42</sup> NPPF para 55

<sup>43</sup> Written Ministerial Statement of 25 March 2015

<sup>44</sup> Written Ministerial Statement of 18 December 2014

- **Consequential amendments to the supporting text will be needed**

### **Policy D8 Parking Provision**

Although this policy is titled “Parking Provision” it also covers the provision of cycle parking and pedestrian and cycle routes to schools and the village centre. In the interests of clarity the title to the policy should be amended to reflect its wider coverage.

The policy seeks a minimum of two car parking spaces for dwellings of two or more bedrooms citing the high levels of car ownership in Kineton and congestion. There is little other evidence provided for setting the parking standard at this level and it seems to me that the first sentence of the policy deals with the community’s concerns, but would allow flexibility on some sites where perhaps not so much parking is required given the type of property or bearing in mind location or what a design-led solution might realise. It excludes garages from this calculation, but not car ports and it is not clear to me why this might be. Therefore these overly prescriptive elements should be deleted and the policy given more flexibility.

The final paragraph of the policy requires new developments to “develop easy pedestrian and cycle routes” to the village centre and schools. This is an appropriate objective, but the wording needs to be more flexible so that it does not apply to all development which might include a minor residential extension and clearer so that “easy” does not invoke long arguments about whether a path might meet that definition.

Subject to these modifications, the policy meets the basic conditions.

- **Change or amend title of Policy D8 to fully reflect the contents and coverage of the policy**
- **Delete the sentence beginning “Dwellings comprising two or more bedrooms...(excluding garages but including car ports).” from Policy D8**
- **Reword the final paragraph of Policy D8 to read “*New developments, where appropriate, should take any available opportunities to provide new, or enhance existing, accessible and safe pedestrian and cycle routes from the development to the village centre and schools.*”**

### **Policy D9 Effective and Efficient Use of Land**

This policy has some overlap with Policy H2 in that that policy sought to prioritise the use of brownfield land and to introduce a presumption against the development of

greenfield land and Policy D2 insofar it refers to density. However, the three policies do not appear to contradict each other.

In relation to density, subject of criterion a) of the policy, paragraph 5.3.24 again seems to introduce a density range whereas the policy itself and Policy D2 focus on the context of the site. As well as being inconsistent, as previously explained it is inappropriate to introduce what might reasonably be construed as policy in the supporting text.

In addition it is unclear to me what “commensurate with a viable scheme and infrastructure capacity” means in relation to density.

Given the overlap with Policy D2 and the lack of clarity with this criterion, it should be deleted as the point is covered satisfactorily elsewhere.

Criterion b) introduces priority to reusing previously developed land over greenfield land. This issue has already been discussed under Policy H2. The criterion should be deleted.

The last paragraph of the policy seeks a gradual ‘transition’ between built-up areas and the surrounding countryside with higher density and building heights directed towards the village centre with lower heights and densities on the edge to achieve this ‘transition’. This approach could help to ensure development reinforces and promotes local distinctiveness, but might inadvertently reduce the ability of new development to integrate satisfactorily with existing development and diverge from a design-led approach to new development. The policy should be flexible enough to consider each site on its merits and a modification is recommended to help achieve this. I am also not convinced that this sits comfortably with a policy titled “Effective and Efficient Use of Land” and it may be worth considering a different title given the other modifications to the policy.

Paragraph 5.3.26 seeks to secure internal space standards which is not an appropriate task for neighbourhood plans as previously explained.

**The following modifications are therefore recommended:**

- **Delete criterion a)**
- **Delete criterion b)**
- **Consequential amendments to the policy to take account of the deletion of criteria a) and b) will be needed**
- **Add at the end of the policy “to help integrate new development and to reflect the site’s setting and reinforce local distinctiveness, but a site-by-site approach will be encouraged.”**  
(continued on next page)

- Delete the sentence “Densities would not normally be above 25 – 30 dwellings per hectare.” from paragraph 5.3.24
- Delete the words “internal and” from paragraph 5.3.26

## Policy D10 Heritage Assets

Policy D10 covers a wide range of heritage assets including the two Conservation Areas that fall within the Plan area, listed buildings and the registered battlefield. The general thrust of the policy accords with national policy and guidance and will help to achieve sustainable development subject to some wording changes.

As the policy refers to designated heritage assets, a representation from Historic England who support the policy, suggest titling the policy “Designated Heritage Assets” and I agree this would give additional clarity.

- Delete the words “as a minimum” from the third paragraph of the policy
- Change the phrase “a negative impact” in the fourth paragraph of the policy to “*an effect*”
- Delete the word “minimise” from paragraph five of the policy and replace with the words “*have a satisfactory*”
- Change the title of the policy to “*Designated Heritage Assets*”

## 5.4 Environment

The strategic objective for this section introduces what might be regarded as policy in paragraph 5.4.2; “new development must conform to past forms and patterns, mass, scale, and building materials although the function of the building can be modern.” This is at odds with other policies in the Plan which do not seek to stifle innovation and might well have unintended consequences. It also seems better placed in the design section.

- Delete the sentence “New development must conform to past forms and patterns, mass, scale, and building materials although the function of the building can be modern.” from paragraph 5.4.2

## Policy E1 Agricultural Land

The NPPF supports a prosperous rural economy and promotes the development and diversification of agricultural and other land based rural businesses. It also indicates that whilst the economic and other benefits of the best and most versatile agricultural land should be taken into account, if significant development of agricultural land is necessary then areas of poorer quality land should be sought to be used in preference to land of a higher quality.<sup>45</sup>

The wording of this policy does not reflect the NPPF sufficiently as it adds a requirement about the need for exceptional circumstances to outweigh the loss of the best and most versatile agricultural land. Nevertheless the sentiments expressed in the policy and the supporting text would help to achieve sustainable development and with suitable rewording the policy can be retained.

Paragraph 5.4.6 again introduces a protection akin to policy in the supporting text and as a result requires some amendment.

**The following modifications are therefore recommended:**

- **Reword Policy E1 as follows:**

***“Development of the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) will normally be resisted unless it can be demonstrated that significant development of agricultural land is necessary and no other land of a poorer agricultural quality is available.”***

- **Replace the word “must” in the last sentence of paragraph 5.4.6 with the word “should”**

## Policy E2 Landscapes, Vistas and Skylines

This policy seeks to protect all prominent views, vistas and skylines are maintained and safeguarded, particularly where they relate to heritage assets, landmark buildings, gateway sites and settlement boundaries. The second paragraph suggests that large-scale development should show that such landscape, vistas and skylines have been preserved.

There is an inherent confusion in this policy to my mind as it seems to cover views, vistas and skylines and landscape. I realise that some of the important views will be of the landscape, but the second paragraph seems to introduce another requirement

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<sup>45</sup> NPPF paras 28 and 112

about landscape and landscape-led design. The explanatory text seems to support my thinking that the policy does include landscape as well as views of the landscape.

In addition there is wording that might cause some ambiguity, for instance the reference to “existing landmark buildings”; this phrase will have a different meaning over the life of the Plan. I am also unclear on what “gateway sites” might be.

A map titled “The Natural Environment” shows immediate views and distant peripheral views as well as green fingers. The map is clear, but could be renamed to align better with this policy. However, I cannot find any reference in the Plan to “green fingers”. As a result this notation should be deleted from the map.

The two types of views identified on the map have been identified by the community as being of importance. I also saw on my site visit that these views and the setting of the two villages are important to the unique character and topography of the settlements. The plan is not referred to in the policy and it would be helpful for a cross-reference to be made so that it is clear the policy applies to these identified views.

However, it is important that such a policy does not preclude any new development, but seeks instead to ensure that any new development would respect those views. I therefore suggest a different form of words to try and achieve an appropriate balance between the presumption of sustainable development and the protection of local distinctiveness which also takes into account comments from SDC.

Paragraphs 5.4.7 and 5.4.8 read as policy rather than as supporting text. If they are to be retained as supporting text then they should be reworded to ensure that they do not appear as statements of policy. I have suggested modifications in this regard in order to be helpful.

Paragraph 5.4.10 indicates that land to the north and east of Walton Fields and any land to the north of existing Banbury properties will be protected from future building. This is another example of the supporting text introducing a policy and is inappropriate and therefore should be deleted.

**The following modifications are therefore recommended:**

- **Reword Policy E2 to read:**

***“Development proposals must ensure that key features of the views identified on the plan titled “Important Views” can continue to be enjoyed including distinct buildings, heritage assets, areas of landscape and the juxtaposition of village edges and the open countryside.”***

***Large scale proposals should submit a landscape and visual impact assessment to help to demonstrate this.”*** (continued on next page)

- **Change the name of the map currently titled “The Natural Environment” to “Important Views” and add the relevant policy number to it (Policy E2)**
- **Delete green fingers from the map**
- **Replace the words “will not be permitted” which appear in two instances in paragraph 5.4.7 and one in paragraph 5.4.8 with “will not be encouraged”**
- **Delete paragraph 5.4.10 in its entirety**
- **Consequential amendments to the text will be needed**

### Policy E3 Minimising Pollution

It is clear from the Plan that pollution and particularly noise and light pollution is a key issue for the community given the topography of the area. As the supporting text rightly points out pollution is a planning consideration and the NPPF<sup>46</sup> is clear that policies and decisions should ensure that new development is appropriate for its location. The policy also chimes with LP Policy PR.8.

However, this policy takes a blanket approach requiring all new development to provide a written statement about measures to reduce the impact of pollution. There are two issues here. Firstly, the blanket ‘catch all’ which would mean that for minor development of say a householder nature this becomes an onerous and often unnecessary requirement. Secondly, the wording of the policy itself. All that is required is a statement to say that measures have been considered; this means there is no requirement on the applicant to actually implement any measures. In addition the required statement would need to be assessed by the determining authority in this case SDC. The policy therefore imposes an additional onus on the local planning authority.

Therefore whilst the ambition and intent of the policy can be supported, it needs some reworking to ensure that it provides the practical framework national policy and guidance seeks.

In addition paragraph 5.4.14 introduces policy about helipads and airstrips or similar. Given the suggested modified wording to this policy, the policy should now be sufficient to resist unacceptable proposals and so given that it is not appropriate for policy to be introduced in the supporting text, this sentence should be deleted.

Therefore in order to meet the basic conditions, **the following modifications are recommended:**

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<sup>46</sup> NPPF para 120

- **Reword the first paragraph of Policy E3 as follows (for the avoidance of doubt the second paragraph can be retained as is):**

***“Development proposals which would give, or potentially give, rise to pollution because of its type or its location will only be supported if they are accompanied by evidence that demonstrates any harmful impacts particularly arising from noise, light or traffic generation, including details of any measures to be taken to deal with the anticipated impacts of the proposal, are satisfactory.”***

- **Delete the second sentence in paragraph 5.4.14 which begins “Helipads or airstrips...”**

### **Policy E4 Renewable and Low Carbon Energy Generation**

This is a clearly worded policy that supports renewable energy schemes as long as there is an acceptable impact on character and appearance. This will help to support the delivery of such schemes which is central to the achievement of sustainable development and in line with national policy and guidance whilst achieving an appropriate balance between protection of the environment and addressing the concerns of the local community. No modifications are recommended.

### **Policy E5 Streamside Development**

Policy E5 requires all development proposals within the flood plain to be accompanied by a hydrological survey. The supporting text explains that there is a particular concern about surface water flooding.

There is little doubt that consideration of flood risk will proactively help to meet one of the challenges of climate change. The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.<sup>47</sup> It advocates a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property.<sup>48</sup> The NPPF sets out the circumstances in which a site-specific flood risk assessment will be required.<sup>49</sup> PPG advises that the general approach and requirements for site-specific flood risk assessments should be applied to developments in areas at risk from flooding. Given the prescriptive requirements of national policy, Policy E5 should align with national policy in order for it to meet the basic conditions.

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<sup>47</sup> NPPF para 100

<sup>48</sup> *Ibid*

<sup>49</sup> *Ibid* para 103

SuD's are also encouraged in the policy and have been discussed earlier in this report in relation to Policy D7. Unless Policy D7 is not retained, there is no need to specifically mention them again in this policy. I do recognise that SuD's are mentioned 'in passing' here as an example of an appropriate way of mitigating any impacts. The recommendation deals with this issue to ensure that the policy is clear and internally consistent.

Please also see the discussion that follows on Policy E7.

**The following modification is therefore recommended:**

- **Reword Policy E5 as follows:**

***“Development should not increase flood risk. Planning applications for development within the Plan area must be accompanied by a site-specific flood risk assessment in line with the requirements of national policy and advice, but may also be required on a site-by-site basis based on locally available evidence. All proposals must demonstrate that flood risk will not be increased elsewhere and that the proposed development is appropriately flood resilient and resistant.***

***Information accompanying the application should demonstrate how any mitigation measures will be satisfactorily integrated into the design and layout of the development.***

***The use of sustainable urban drainage systems and permeable surfaces will be encouraged where appropriate.”***

## **Policy E6 Trees and Hedgerows**

Policy E6 seeks to protect healthy and mature trees and hedges, but allows for their replacement when this is not possible. Large-scale developments should also be landscape-led in their design and evolution.

Although the policy is clearly worded and an approach of mitigation is fairly standard practice across the industry, this policy is quite permissive and potentially would allow the removal of trees and hedgerows of value simply because it was not “possible” to retain them. Therefore the policy should be reworded to ensure that every effort is made to retain trees and hedgerows of value before mitigation is considered.

In addition, it would be useful to define “large-scale” development in the supporting text to avoid any ambiguity.

Paragraph 5.4.20 also refers to “exceptional agricultural reasons” and this is too restrictive as there may be other reasons why hedgerows cannot be retained in certain circumstances.

Therefore I recommend the policy be reworded to ensure its intent is clear and that it provides the practical framework for decision-making the NPPF seeks together with some revisions to the accompanying paragraphs.

- **Reword the first paragraph of Policy E6 as follows (for the avoidance of doubt the second and third paragraphs of the policy are retained):**

***“Development should retain and protect existing trees and hedgerows which are important for their historic, visual or biodiversity value unless the need for, and the benefits of, the development in that location clearly outweigh any loss. Where it is not possible or feasible to retain such trees or hedgerows in these circumstances replacement trees or hedgerows of an equivalent or better standard will be required in an appropriate location on the site.”***

- **Add a definition of “large scale development” to the supporting text which would usually be 10 or more dwellings, but can also cover non-residential development ensuring that thresholds are in line with accepted definitions**
- **Remove the word “agricultural” from paragraph 5.4.20**

## **Policy E7 Flooding and Surface Water Drainage**

This policy deals with flooding and drainage. The suggested modification to Policy E5 discusses this issue and suggests a rewording of that policy which would largely duplicate this policy. Therefore Policy E5 or E7 should be deleted and replaced by the suggested rewording given earlier in this report for Policy E5. Consideration should also be given to the title of the policy as the title for this policy seems to me to better describe the contents of the policy.

This policy also refers to the reuse and recycling of water within development. This element of the policy has laudable aims, but the encouragement of rainwater and water recycling falls within the performance of new dwellings. This element of the policy then does not have regard to national policy and guidance and does not meet the basic conditions.

The explanation in paragraphs 5.4.22 and 5.4.23 do not seem to reflect the wording of the policy as they deal with different matters. Both the measures to increase capacity and the management of the water ponds could be retained in the Plan as community aspirations if so desired, but consideration should be given to the representation from Warwickshire County Council in this respect and if paragraph 5.4.22 is retained as a

community aspiration then the modeling referred to in this representation could be usefully included.

**The following modifications are therefore recommended:**

- **Delete either Policy E5 or E7 and replace the retained policy with the suggested wording given for Policy E5 earlier in this report**
- **Consider retaining the contents of paragraphs 5.4.22 and 5.4.23 as community aspirations in a clearly differentiated section or separate document and take the representation from Warwickshire County Council into account**
- **Consequential amendments to the Plan will of course be needed**

### **Policy E8 Foul Drainage**

This policy aims to ensure that necessary infrastructure is in place to serve new development. Modifications are recommended to enhance clarity and based on representations from Warwickshire County Council. I note that SDC welcomes this policy.

- **Ensure that the policy's title reflects its contents so consider changing the title to "Foul Drainage *and Water Supply*" or similar**
- **Replace "in" in the first sentence of paragraph three with "*and its separation from the surface water / highway drainage systems within...*"**

### **Policy E9 Neighbourhood Area Biodiversity Action Plan**

Two issues are covered in this policy; the first is the preparation of a Neighbourhood Biodiversity Action Plan (BAP) and the second is that all proposals should take account of the Local Biodiversity Action Plan.

It is not possible for a planning policy to set out the aspiration to prepare a Neighbourhood BAP as the policy must relate to the development and use of land. However, this element of the policy could be retained as a community aspiration and be placed in a separate appendix or another document. I note that Natural England support the development of such a BAP.

The second element of the policy refers to the Local BAP which seems to already exist or perhaps it is the future BAP. So some confusion here; even if a Neighbourhood BAP is undertaken at some point in the future, the policy as currently worded would not refer to that anyway. It seems to me that it would be better for the policy to simply

refer to biodiversity and reflect national policy and guidance rather than any specific document and this is particularly so when there is some confusion about which documents might be considered.

So in order for the policy to meet the basic conditions, **the following modifications are suggested:**

- **Reword Policy E9 as follows:**

*“Development should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity wherever possible. Existing ecological networks should be retained and new ecological habitats and networks are particularly encouraged. Measures to improve landscape quality, scenic beauty and tranquility and to reduce light pollution are encouraged.”*

- **Consider retitling the policy to something along the lines of “Biodiversity” or similar**
- **Consequential amendments to the supporting text will be needed to give more explanation about the more generalised nature of the policy, but the references to the BAPs can be retained although may need some editing/reordering etc. for clarity**
- **The reference to the proposal to prepare a BAP should be moved as an aspiration to a separate appendix or document and clearly labeled as such**

## 5.5 Infrastructure

This section of the Plan begins with, in common with other sections, a strategic objective. The objective is worded well, but only deals with a desire to ensure that the existing situation is not exacerbated by new development. This in itself is a good objective but it could go further by positively planning to ensure that new development and infrastructure align. This would be in accordance with PPG<sup>50</sup> which confirms that infrastructure is needed to support development and to ensure that a neighbourhood can grow in a sustainable way. Therefore to reflect national policy and guidance and to help achieve sustainable development **the following modification to the strategic objective is recommended:**

- **Amend / replace the strategic objective in paragraph 5.5.1 as follows:**

*“Infrastructure is needed to support development and to help ensure that development can be delivered in a sustainable way. In addition to ensuring that proper account is taken of existing resource limitations and the capacity of*

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<sup>50</sup> PPG para 045 ref id 41-045-20140306

*existing services, it is necessary to ensure that any additional infrastructure needed to enable development to be delivered in a sustainable and viable way is considered.”*

## **Policy IN1 Infrastructure Criteria**

The existing strategic objective identifies the particular concerns of the community as sewage, foul water and land drainage run off, power, broadband and traffic congestion.

Policy IN1 focuses on these issues for developments over five dwellings. It is not clear why this particular threshold has been selected. In addition the requirements for a hydrological survey, SuDs, energy efficiency measures and parking have already been considered in this report. The requirement for an agreement with Severn Trent Water however desirable, is not something a planning policy would usually seek. As a result this policy largely overlaps with others in the Plan and those requirements and policies have been subject to suggested modifications. Other criteria c) and f) are prescriptive and inflexible although I recognise the NPPF supports high quality communications structure and seeks to meet the challenge of climate change and flooding.

Therefore I am left with little option but to recommend the deletion of the policy’s third paragraph and its associated criteria a) to f).

I now turn to the two remaining paragraphs (one and two). It seems to me that the first paragraph is self-evident as development that is not acceptable would not be permitted. The second paragraph is rather ambiguously worded and open to interpretation as I am not sure what “where practical self-sufficient” means. Therefore both paragraphs do not provide the practical framework required and should be deleted.

The explanation for the policy also focuses on water and drainage. It would be possible for elements of paragraphs 5.5.2, 5.5.3 and 5.5.4 to be moved to other parts of the Plan as appropriate. The representation from Warwickshire County Council should be taken into account in this regard.

**The following modifications are therefore recommended:**

- **Delete Policy IN1 in its entirety**
- **Insert paragraphs 5.5.2, 5.5.3 and 5.5.4 elsewhere in the Plan as appropriate taking account of the representation from Warwickshire County Council**
- **Consequential amendments will be needed**

## Policy IN2 Community Facilities

Policy IN2 supports the retention of community facilities where appropriate and promotes new community facilities. The supporting text points out local services and community facilities promote social wellbeing and they provide places to meet and for social interaction. The policy is succinct and clear in what it seeks to achieve and its aims are in line with national policy and will help to achieve sustainable development. No modifications are therefore recommended as the policy meets the basic conditions.

However, paragraphs 5.5.7 and 5.5.8 introduce policy requirements and should be deleted.

- **Delete paragraphs 5.5.7 and 5.5.8 in their entirety**

## Policy IN3 Encouraging Safe Walking and Cycling

This policy aims to ensure that development is well connected. Its aims meet the basic conditions as it promotes walking and cycling, sustainable forms of transport, promotes healthy lifestyles and recreation opportunities and will help to increase the connectivity and integration of new development, all of which will contribute to achieving sustainable development. However, as currently worded it applies to all development which could be regarded as unduly onerous.

Paragraph 5.5.11 refers to speed limits in the village centre. This is not generally regarded as a planning matter and so the supporting explanation should make it clear that this is a community aspiration rather than part of the planning policy. If this is something the community wishes to pursue the pursuit of particular speed limits can be included in any separate community aspiration section of the Plan or other document. Although the policy is titled “walking and cycling”, the supporting text in paragraph 5.5.12 makes it clear, rightly in my view, that routes include rivers and bridleways as well. Consideration should then be given to amending the policy’s title to reflect its remit.

**The following modifications are therefore recommended:**

- **Replace the words “All new development...” at the start of the policy with “As appropriate, development...”**
- **Make it clear that speed limits are a community aspiration and not planning policy in paragraph 5.5.11 and place in a separately identified appendix or document**
- **Consider altering the title of the policy to better reflect its scope as described in paragraph 5.5.12**

## Policy IN4 Protecting and Enhancing Existing Green Open Spaces

This policy's title refers to "existing green open spaces", but there is no need to include the word "existing" as this is self-evident and will change over time and it may well be in the future that more green open spaces will exist as a result of new development perhaps.

The policy seeks to protect and enhance green open spaces recognising their importance for both residents and visitors and reflects thrust of LP Policy COM.6.

The second and third paragraphs of the policy refer to Local Green Space (LGS). This designation has been introduced via the NPPF.<sup>51</sup> The NPPF explains that these are green areas of particular importance to local communities. The effect of such a designation is that new development will be ruled out other than in very special circumstances. Identifying such areas should be consistent with local planning of sustainable development and complement investment. The NPPF makes it clear that this designation will not be appropriate for most green areas or open space. Further guidance about Local Green Spaces is given in PPG.

However, the Plan does not seem to identify the areas that the community wish to designate as LGSs other than a reference in the policy to "important local pockets of green space" identified in the "Development Constraints" map which does not then refer to this phrase or any LGS. The explanatory text at paragraphs 5.5.16 and 5.5.17 do not help me in this regard. I therefore sought clarification on this matter. The Parish Council inform me that it was the intention to designate LGSs and that these are intended to be both the Areas of Landscape Significance and the Areas of Landscape Significance (public open space) identified on the "Development Constraints" map.

Whilst many of these Areas may well meet the criteria in the NPPF for designation as LGSs, others may not. There is no evidence to support any such designations. Moreover, whilst some areas were small patches of green open space on street corners or verges, other areas are more significant in size. Furthermore if it was not clear to me whether the Plan sought to designate LGSs, and this is affirmed by some representations as well, it would not be clear to the landowners who may have decided to comment had they realised this was the intention. Therefore I have little option but to delete the second and third paragraphs of the policy in the interests of fairness and a lack of evidence.

**The following modifications are therefore recommended:**

- **Remove the word "existing" from the title of Policy IN4 and the first paragraph of Policy IN4 and paragraph 5.5.15**

**(continued on next page)**

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<sup>51</sup> NPPF paras 76 and 77

- **Delete the second and third paragraphs of the policy**
- **Consequential amendments to the supporting text will be needed**

## **Policy IN5 Highway Safety and Transport**

This policy seeks to ensure that new development does not exacerbate any existing highway issues and contains a number of criteria that new development must adhere to. It takes its lead from LP Policy DEV.4.

It should be noted that Policy D8 referred in the policy has been subject to modification and so the reference should be checked again for sense and compatibility.

Turning now to the final paragraph of the policy, it is clear that proposals which would increase off-street parking near the village centre will be regarded favourably. This is a helpful position to set out.

The last element refers to a link road between Warwick Road and Southam Road indicating that it “will be pursued”. This has already been discussed.

Paragraph 5.5.18 refers to the “serious vehicular congestion and safety issues”; this may be the case, but unless there is evidence to support these claims they are probably best expressed as a perception or opinion. For instance the paragraph could be rephrased to indicate that “the community feels...” or similar.

Paragraph 5.5.23 refers to a potential one-way system and the desirability of surveys on this to be carried out before any new development is permitted. This is clearly a community aspiration and should be moved to a separate section of the Plan and identified as such. The requirement for this to occur before any new development is permitted must be removed as this element is a development and land use related matter.

### **The following modifications are therefore recommended:**

- **Check the cross-reference to Policy D8 to ensure it is still relevant as Policy D8 has been recommended for modifications**
- **Delete the references in the policy and the supporting text to the link road and include this as a community aspiration in a clearly differentiated section or separate document**
- **Make it clear in paragraph 5.5.18 that the claims about congestion and safety are opinions or add in the evidence which supports these claims**

**(continued on next page)**

- **Remove paragraph 5.5.23 from the Plan, but include this as a community aspiration in a clearly differentiated section or separate document if desired and provided the restriction on new development is removed**
- **Consequential amendments will be required**

## 5.6 Site Specific Briefs

The title of this section could potentially lead to some confusion as four policies that allocate land follow; therefore in the interests of clarity the title should be changed to better reflect the scope of the section.

The strategic objective rightly explains that the emerging Core Strategy identifies Kineton as a Main Rural Centre (as does the LP). As previously indicated given there is a level of uncertainty about the CS, it would be preferable not to rely on the emerging document. Four site-specific policies then follow which allocate land for housing.

All four policies allocates sites which are clearly shown on a map that is referred to in the policy's title as the "Proposals Map". There is no map of that name. However, the four sites are clearly shown on a map entitled "Potential Housing Sites". I have already suggested a change in the title of the map and the policies should refer to this amended title.

PPG<sup>52</sup> confirms that a Plan can allocate sites for development. It says that an appraisal of options should be carried out together with an assessment of individual sites against clearly defined criteria. The assessment should be thorough, but proportionate and existing information sources can be used to good effect.

A number of representations express concern that the Plan is not predicated on robust evidence and that the processes, for example of site selection, have not been transparent. Further concerns are expressed about the use of the Landscape Sensitivity Study (LSS) including that the sites included in the Plan run contrary to the District Council's evidence base and that no further evidence has been done to justify any departure from that evidence base. Others, including SDC, express concern that Little Kineton is not a sustainable location for development.

I accept that the site assessment is arguably rudimentary, but given that it is widely recognised there is a need to boost housing supply and given Kineton's status as a MRC, it is to be welcomed that the Plan accepts new growth and seeks to ensure the community's wishes are achieved over where this new growth might occur. Nine sites were assessed individually and also compared in a matrix; I am advised by the Parish Council that all were put forward by landowners during SDC's 'Call for Sites' exercise. Other sites appear to have become available at a later stage in the Plan-making process,

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<sup>52</sup> PPG para 042 ref id 41-042-20140306

but I accept that at some point there needs to be a cut off in drafting a document like the Plan.

With regard to the sustainability of Little Kineton, one of the site assessment considerations was the accessibility of the sites to Kineton’s services and facilities and the sites put forward in Little Kineton show they are a reasonable walk to the village’s amenities. It is important that the Plan reflects the thinking and aspiration within the local community and whilst some might reach a different conclusion on the sites to be allocated in this Plan, the assessment has appraised the sites against clearly identified criteria. In any case the allocations do not in themselves preclude development on other sites coming forward.

Following on from a query, as these considerations did not form part of the site assessment matrix, the Parish Council have confirmed to me that all the proposed sites are considered to be available and deliverable during the Plan period.

The suggested modifications to this suite of policies together with the modifications to other policies relating to housing supply will together ensure that the Plan meets the basic conditions.

- **Change title of this section to “Site Specific Policies”**
- **Remove references to the emerging Core Strategy**
- **Ensure that all policies refer to the amended titled map**

### **Policy SSB1 Housing Allocation**

#### **Land to the north of Warwick Road shown as Site 1 on the Proposals Map**

The policy permits up to 78 dwellings on this site. It then imposes a cap on the amount of development which is not appropriate for neighbourhood plans to do as this would not allow for the flexibility the NPPF seeks in responding to changing conditions or necessarily ensure the best use of land.

A representation<sup>53</sup> indicates that this site is subject to a current planning application.<sup>54</sup> The representation also points out that a larger site area is likely to be required to gain access off Warwick Road. Whilst I appreciate that this land might well ensure the site is deliverable from the developer’s point of view, I consider it difficult to recommend a modification in this respect given that the larger site has not been subject to consultation through the neighbourhood plan process. This would also create a potential internal conflict with the “immediate views” indicated on “The Natural Environment” map and subject to Policy E2. I note however that the application site is not coterminous with the site shown on the map “Potential Housing Sites”. Therefore it

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<sup>53</sup> Gladman Developments Ltd

<sup>54</sup> Application ref 15/03101/OUT

may be the case that if this site is not deliverable without this additional land, reconsideration of either the site allocation or Policy E2 will be needed. In response to my query the deliverability of this site has been confirmed by the Parish Council.

Part of the proposed allocation falls within what is shown as an “Area of Landscape Significance” on the “Development Constraints” map. A representation from Natural England indicates that the proposed development will directly and indirectly impact on a locally designated site which may include an area of priority habitat. Natural England suggest the inclusion of a criterion to retain and wherever possible enhance the habitat. The recommended modifications to Policy E9 satisfactorily cover this point, but should the modifications to that policy not be accepted it will be important to incorporate a specific criterion to this policy to address the point Natural England makes.

Now considering the policy in detail, criterion b) is unnecessary given the overlap with Policy E6 (as modified).

Criterion c) requires this site to deliver a link road between Warwick Road and Lighthorne Road. A link road has been referred to in various parts of the Plan. Even though the developers indicate their willingness to undertake further technical work and have helpfully suggested a revised form of words for criterion c) there is little evidence in the Plan to consider this as anything other than a community aspiration. However, that does not negate the desirability of the link road being pursued.

There is no need to cross-reference other policies in the Plan as the Plan will be read as a whole.

**The following modifications are therefore recommended:**

- **Replace the words “up to” in the first paragraph of the policy with the word “*approximately*”**
- **Delete criterion b)**
- **Delete criterion c)**
- **Delete the final sentence of the policy which reads “Proposals which fail to demonstrate compliance with the above criteria or conflict with other Policies within this Plan will not be permitted.”**
- **Check the deliverability of the site as defined on the map and take action as needed**

### **Policy SSB2 Housing Allocation**

#### **Land to the south of Banbury Road shown as Site 2 on the Proposals Map**

This allocation is for up to eight dwellings provided that mature trees and hedgerows are retained and that access is taken from Banbury Road. It seems to partly coincide with a proposal in the RLP “KIN.C”. The Parish Council have confirmed that the proposed site is considered to be available and deliverable during the Plan period.

Once again there should be no maximum figure imposed and there is no need for cross-references to other policies of the Plan. There is no evidence to establish what impact the retention of mature trees and hedges would have on the deliverability of this site and in any case this point is satisfactorily covered by Policy E6. There is little evidence to suggest why only access from Banbury Road would be acceptable.

#### **The following modifications are therefore suggested:**

- **Replace the words “up to” in the first paragraph of the policy with the word “*approximately*”**
- **Delete criterion a)**
- **Delete criterion b)**
- **Delete the final sentence of the policy which reads “Proposals which fail to demonstrate compliance with the above criteria or conflict with other Policies within this Plan will not be permitted.”**
- **Other consequential amendments to the policy will be needed**

### **Policy SSB3 Housing Allocation**

#### **Land to the north east of Little Kington shown as Site 3 on the Proposals Map**

This allocation is supported by the landowners<sup>55</sup> for up to 15 dwellings and associated works who confirm that the site is available. However, there has been considerable correspondence about this site including representation from interested parties that I have been copied into. As I understand the situation the long and short of it is that the site indicated in the Plan and on the associated maps is shown incorrectly. There are also legal agreements on part of the land that at the very least create some uncertainty about the developable area. These are matters that, in my view, need resolution before a proposed allocation is made in any case and particularly as the site adjoins the historic battlefield and a Conservation Area. Based on the information before me I have little option but to recommend deletion of the proposed allocation. This is not to say that

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<sup>55</sup> Representation on behalf of Linfoot Country Homes Ltd

the site is not developable in the future; it simply means that at the present time I cannot be confident that the policy meets the basic conditions.

This of course does have some implications for the overall housing figures the Plan puts forward and how they might be achieved, but I am satisfied that with the modifications recommended to the other relevant policies for housing supply, overall the Plan retains its ability to plan positively for the growth identified.

- **Delete Policy SSB3 and all associated references**
- **Other consequential amendments to the Plan and maps will be needed**

### **Policy SSB4 Housing Allocation**

#### **Land adjacent to Walnut House, Little Kineton shown as Site 4 on the Proposals Map**

This allocation is up to ten dwellings provided that a landscape buffer zone is provided and mature trees and hedgerows are retained. This site is adjacent to the Little Kineton Conservation Area. I am informed by the Parish Council there is a current planning application on part of this site.<sup>56</sup> Given the proposed settlement boundary, it is clear the proposed allocation site could accommodate more than ten dwellings. In line with the other site allocations policies in order to meet the basic conditions, the following modifications are recommended:

- **Replace the words “up to” in the first paragraph of the policy with the word “*approximately*”**
- **Delete criterion b)**
- **Delete the final sentence of the policy which reads “Proposals which fail to demonstrate compliance with the above criteria or conflict with other Policies within this Plan will not be permitted.”**

### **Appendices**

Three appendices are included with the Plan. Warwickshire County Council make a number of suggestions in their representation in relation to Appendix 3 which refers to Sustainable Urban Drainage and Sustainable Urban Drainage Approval Body. Given the nature of the comments made it would be sensible for these suggested amendments to be undertaken.

It would be helpful if the appendices were part of the Plan document in my view to minimise the likelihood of someone not realising they form part of the document.

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<sup>56</sup> Planning application ref 15/03064/OUT

**The following modifications are therefore recommended:**

- **Undertake the amendments suggested by Warwickshire County Council in their representation**
- **Bind the appendices into the Plan**

## **Maps**

Four maps are included with the Plan. I have made a number of recommendations in this report to help with their clarity. It again would be useful for the maps to sit within the Plan rather than be separate entities.

- **Bind the maps into the Plan**

## **9.0 Conclusions and Recommendations**

I am pleased to recommend to Stratford on Avon District Council that, subject to the modifications proposed in this report, the Kineton Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Kineton Neighbourhood Plan area.

I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion. I therefore consider that the referendum area be based on the Kineton Neighbourhood Plan area approved by Stratford on Avon District Council on 20 May 2013.

Ann Skippers  
Ann Skippers Planning  
11 January 2016

## Appendix 1 List of Key Documents specific to this Examination

Kineton Neighbourhood Plan to 2031 Submission Draft

Kineton Neighbourhood Plan Appendices

Kineton Neighbourhood Plan Maps

Kineton Neighbourhood Plan Basic Conditions Statement

Kineton Neighbourhood Plan Consultation Statement and Appendices

SEA Screening Document dated June 2015 (Lepus Consulting) and associated responses from the Environment Agency, Historic England and Natural England and letter from SDC

Individual Site Assessments and Site Assessments Matrix March 2015

Housing Needs Survey

Other evidence based documents on Kineton Parish Council website including consultation event documentation

Stratford on Avon District Local Plan Review 1996 - 2011

Core Strategy Proposed Submission Version June 2014

Core Strategy as submitted September 2014 showing subsequent proposed modifications dated June 2015 (Interim Adopted Core Strategy)

Core Strategy Proposed Modifications in response to Inspector's Interim Conclusions dated August 2015

Landscape Sensitivity Study 2011 and Landscape Sensitivity Assessment for Villages dated June 2012

Additional Information from SDC and Kineton Parish Council in response to my questions of clarification (see Appendix 2)

**List ends**

## Appendix 2 Questions of Clarification

### Kineton Neighbourhood Plan Examination

#### Questions of clarification from the Examiner to Kineton PC and SDC

Having completed an initial review of the Neighbourhood Plan (the Plan) and the evidence submitted in support of it, I would be grateful if the Parish and District Councils could kindly assist me in answering the following questions which either relate to matters of fact or are areas in which I seek clarification or further information.

1. The Plan contains a vision on page 3, objectives on page 4, core principles on pages 10 and 11 and then a number of topic-by-topic vision statements on pages 12 – 15. Please could the relationship between these different statements be clarified?
2. Policy E2 refers to landscapes, vistas and skylines. Reference is made in the supporting text (paragraph 5.4.11) to a map entitled “The Natural Environment”. Please could you confirm whether the views, vistas and skylines referred to in the policy are those identified on this map as either immediate or distant peripheral views (or not)?
3. Policy E6 refers to “large-scale development”. Does the Plan contain a definition of this phrase and if so please indicate where I might find that and if not would the PC like to briefly indicate what was in mind?
4. Policy IN4 refers to existing green open spaces, Local Green Spaces and important local pockets of green space identified on the “Development Constraints” map. However this map does not contain any notations that reflect these three terms. Please clarify whether it was the intention that this map should show the open spaces, Local Green Spaces and local pockets subject to Policy IN4 and if so indicate which spaces are which. A further map might be needed to assist with this query (?).
5. A link road is mentioned in various places throughout the Plan and particularly in Policies H6 and IN5. Please could you give me some further brief factual information about the link road and what is intended.
6. SDC has forwarded me correspondence from Mr. Hudson about the site subject of Policy SSB3. Please could you update me on the factual position with this site? I particularly would like to know whether consultation has been carried out with the landowner(s) and whether there are any material change in circumstances including whether the site boundaries can be retained as shown on the map accompanying the policy as a result of this correspondence.
7. Has a new or altered settlement boundary for Kineton been included in the Plan? If so please tell me where in the Plan this information is and tell me what the differences are between any currently adopted boundaries in SDC’s Local Plan

Review and the proposed boundary in the (Neighbourhood) Plan. A map may perhaps usefully assist here (?).

8. There are no comments or representation from SDC included in my bundle of documents. Please confirm whether SDC have submitted comments and if so where I might find these (it looks as though there are comments on the PC website?) confirming that I should indeed take any comments into account.
9. In relation to the four sites allocated, please provide me with any supporting document or other information that forms part of the published evidence base that might support these policies or comprise an assessment of sites and/or the site selection process.
10. Policy H6 refers to safeguarded land. Please confirm whether the two sites identified on the map titled "Potential Housing Sites" are accurately shown and are the sites referred to in the policy (H6a and H6b). If there are any anomalies or the map is found to be inaccurate please supply another map showing the sites accurately.

It may be the case that on receipt of your anticipated assistance on these matters that I may need to ask for further clarification or that further queries will crop up.

With many thanks.

Ann Skippers  
7 December 2015