

Wilmcote Parish Council

Wilmcote and Pathlow Neighbourhood Development Plan 2031

Independent Examiner's Report

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Summary

I was appointed to undertake the examination of the Wilmcote and Pathlow Neighbourhood Development Plan last year. In October 2016, I wrote to the District Council to explain that I found that the area the Plan had been prepared for was larger than the Plan area designated. This had come about due to a Parish boundary change. As a result, the Plan was withdrawn from examination to allow the matter to be addressed. Whilst the Plan has remained unchanged since its first submission, further periods of pre-submission and submission consultation have been undertaken.

The Parish comprises two settlements, the Wilmcote village situated about four miles northwest of Stratford-upon-Avon and Pathlow. It boasts two Conservation Areas and various listed buildings including Mary Arden's House. The Parish also includes scattered properties and farmsteads. The Stratford-upon-Avon Canal and a railway line traverse the Parish. The Parish is 'washed over' by the West Midlands Green Belt.

The Plan has been subject to an extensive amount of public engagement and consultation. Its 14 policies cover a range of topics from heritage assets to green infrastructure, from transport to community facilities. Whilst no site allocations are made for housing, policies guide development to appropriate locations in line with the Parish's location in the Green Belt.

Further to consideration of the Plan and its policies I have recommended a number of modifications that are intended to ensure that the basic conditions are met satisfactorily and that the Plan is clear enabling it to provide a practical framework for decision-making as required by national policy and guidance.

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 to Stratford-on-Avon District Council that the Wilmcote and Pathlow Neighbourhood Development Plan can 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 MRTPI
Ann Skippers Planning
17 July 2017



1.0 Introduction

This is the report of the independent examiner into the Wilmcote and Pathlow 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.

I have been appointed by Stratford-on-Avon District Council (SDC) with the agreement of Wilmcote 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 in excess of 30 neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

2.0 The role of the independent examiner

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 examiner is required to check¹ 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
- 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.

¹ Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

The basic conditions² 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 additional basic conditions to those set out in primary legislation and referred to in the paragraph above. Only one is applicable to neighbourhood plans and is:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site³ or a European offshore marine site⁴ either alone or in combination with other plans or projects.

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.⁵

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.

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

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

³ As defined in the Conservation of Habitats and Species Regulations 2012

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

⁵ The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

3.0 The examination process

I was appointed last year to examine this Plan. During the course of that examination I found that a Plan area was designated by the local planning authority on 24 February 2014. However, the area which the Plan indicated was the Plan area differed from the area designated in 2014 and was larger. It transpired that in April 2015, there was a Parish boundary change which enlarged Wilmcote and Pathlow Parish to include the land which was then shown in the Plan as being the Plan area. The enlarged Parish Council area was not subject to a new neighbourhood plan area designation.

This meant that the Plan had been prepared for an area which had not been designated as a neighbourhood plan area. As a result the Plan did not comply with section 38A(2) of the Planning and Compulsory Purchase Act 2004 which states that a “neighbourhood development plan is a plan which sets out policies in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan”. Section 38A(12) indicates that the meaning of neighbourhood area is given by sections 61G and 61I(1) of the Town and Country Planning Act 1990. In turn section 61G states that “a neighbourhood area means an area within the area of a local planning authority in England which has been designated by the authority as a neighbourhood area...”.

As a result the Plan was withdrawn from examination. A new designation was applied for and approved that covered the whole of the Parish. Pre-submission consultation was undertaken and the Plan submitted to SDC in February 2017 and a submission stage of consultation carried out. Details are given in the next section of my report.

I started this examination in June of this year.

I have set out my remit earlier in this report. It is useful to bear in mind that the examiner’s role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).⁶ PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.⁷ Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further additions or amendments are required.

PPG explains⁸ the general rule of thumb is that the examination will take the form of written representations,⁹ but there are two circumstances when an examiner may

⁶ PPG para 055 ref id 41-055-20140306

⁷ *Ibid*

⁸ *Ibid* para 056 ref id 41-056-20140306

⁹ Schedule 4B (9) of the Town and Country Planning Act 1990

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. After careful consideration of all the documentation and representations, I decided that neither circumstance applied and therefore it was not necessary to hold a hearing.

I made an unaccompanied site visit to familiarise myself with the Plan area on 26 June 2017.

Where I recommend modifications in this report they appear as bullet points in **bold text**. Where I have suggested specific changes to the wording of the policies they appear in **bold italics**.

4.0 Neighbourhood plan preparation

A Consultation Statement has been submitted. Helpfully the Consultation Statement explains the situation about the designation of the Plan area.

Figure 2 on page 6 of the Consultation Statement shows that the process started with a public meeting in October 2013, interviews held with local groups and businesses during the Spring and Summer of 2014, questionnaires were sent out in the early part of 2015, open days/public meetings were held in June 2014 and June 2015 and informal consultation on the draft plan in November 2015 together with a further two public meetings.

The questionnaire was sent to 513 households and had an excellent response rate of 73%, no doubt due to members of the Steering Group and Parish Council visiting every household.

In addition updates on progress were published in the Village Vine and quarterly updates and pages on the Parish Council website and Facebook were used.

A first period of pre-submission (Regulation 14) consultation took place between 1 March – 12 April 2016. The draft Plan was available on the website and hard copies available. An open day during the period was held and updates and alerts drawing people's attention to the consultation sent. In addition various bodies were consulted. The Consultation Statement details the responses received during this period and the Parish Council response to them.

The first period of submission (Regulation 16) consultation was carried out between 30 June – 12 August 2016. I also asked for an additional two weeks of consultation to be carried out because the Regulation 16 period coincided with the adoption of the Core Strategy on 11 July 2016. This ran from 12 – 23 September 2016.

At the first examination it was established the Plan had been prepared for a larger area than the designated Plan area. As previously explained, the Plan was withdrawn to allow this matter to be addressed.

Pre-submission (Regulation 14) consultation on the submitted Plan for the new Plan area took place between 11 November 2016 – 5 January 2017. Copies of the draft Plan were available online and in hard copies. Again various bodies were contacted about the consultation and updates and alerts drew people's attention to it. Five responses were received and are detailed in the Consultation Statement together with the action taken.

I consider that the consultation and engagement carried out is satisfactory.

Submission (Regulation 16) consultation was carried out between 2 March – 14 April 2017. This resulted in six representations which I have considered and taken into account in preparing my report.

5.0 Compliance with matters other than the basic conditions

I now check the various matters set out in section 2.0 of this report.

Qualifying body

The Basic Conditions Statement (BCS) confirms that Wilmcote Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is met.

Plan area

The Plan area is coterminous with the Parish Council administrative boundary. SDC approved the designation of the area on 3 November 2016. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Plan area is shown on page 8 of the Plan.

It should be noted that SDC approved the designation of a smaller Plan area on 10 February 2014. A Plan was duly prepared for the Parish and was submitted to SDC on 20 June 2016. I was appointed to undertake the examination. I found that the area which that submission version of the Plan indicates is the Plan area differed from the area designated in 2014 as it was larger.

This had resulted from a Parish boundary change which enlarged Wilmcote Parish, but unfortunately the enlarged area was not subject to a new neighbourhood plan area designation. In these circumstances I wrote to SDC setting out the issue and it was decided to withdraw the Plan from examination to allow for the area to be designated

and for the Plan to go through the statutory consultation stages based on the newly designated Plan area.

Plan period

The BCS indicates that the Plan covers the period 2017 – 2031 to align with the CS. However, this is not stated in the Plan itself or on its front cover and for the avoidance of doubt the Plan period should be included in the Plan itself and a modification is therefore recommended.

- **Add the start date of the Plan period to the Plan on its front cover and within the document itself so that it is clear the Plan period is 2017 - 2031**

Excluded development

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also helpfully confirmed in the BCS.

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. Should I consider a policy or proposal or supporting text to fall within this category, I will recommend 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 actions dealing with non-land use matters should be clearly identifiable.¹⁰ Subject to any such recommendations, this requirement can be satisfactorily met.

6.0 The basic conditions

Regard to 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

¹⁰ PPG para 004 ref id 41-004-20140306

Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.¹¹

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.¹²

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at <https://www.gov.uk/government/collections/planning-practice-guidance>. The planning guidance contains a wealth of information relating to neighbourhood planning and I have had regard to it in preparing this report.

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.¹³

PPG indicates that a policy should be clear and unambiguous¹⁴ 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.¹⁵

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.¹⁶ It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.¹⁷

The BCS sets out where the Plan has responded to national policy and guidance by particular reference to the 12 core planning principles in the NPPF.

Contribute to the achievement of sustainable development

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole¹⁸ constitutes the Government's view of what sustainable development means in practice

¹¹ NPPF paras 14, 16

¹² *Ibid* para 184

¹³ *Ibid* para 17

¹⁴ PPG para 041 ref id 41-041-20140306

¹⁵ *Ibid*

¹⁶ *Ibid* para 040 ref id 41-040-20160211

¹⁷ *Ibid*

¹⁸ NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the 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.¹⁹

The BCS sets out how the Plan is considered to meet this basic condition.

General conformity with the strategic policies in the development plan

The development plan consists of the Stratford-on-Avon District Core Strategy 2011 to 2031 (CS). This was adopted by SDC on 11 July 2016.

The BCS offers an assessment of each policy in the Plan against the relevant CS policies.

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. A number of EU obligations may be of relevance including Directives 2001/42/EC (Strategic Environmental Assessment), 2011/92/EU (Environmental Impact Assessment), 92/43/EEC (Habitats), 2009/147/EC (Wild Birds), 2008/98/EC (Waste), 2008/50/EC (Air Quality) and 2000/60/EC (Water).

PPG indicates that it is the responsibility of local planning authorities to ensure that the Plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive) when it takes the decision on a) whether the Plan should proceed to referendum and b) whether or not to make the Plan.²⁰

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 (the Regulations).

A Screening Document dated April 2016 has been submitted. SDC concluded that a SEA was not required. The requisite consultation with the statutory consultees was undertaken. All three statutory consultees responded and concur with the conclusions of the screening assessment that there will be no likely significant environmental effects and a SEA is not required.

I have considered whether any further work should have been carried out in relation to SEA as a result of the new Plan area designation. The Screening Document considered the draft Plan at that time and that Plan was based on the larger Plan area and the

¹⁹ NPPF para 7

²⁰ PPG para 031 ref id 11-031-20150209

contents and policies of the Plan have not significantly changed in the intervening period.

The Screening Document refers to the emerging Core Strategy as well as the Stratford-on-Avon District Local Plan Review, and as time has moved on, the Core Strategy has now been adopted. The Plan therefore needs to be in general conformity with the strategic policies in the CS and so the principle remains the same and the Screening Report does not rely on the Local Plan Review.

I have also had sight of correspondence between SDC and their SEA consultant which confirms that the baseline information has been considered to see if any changes have occurred and no changes have occurred.

The Screening Document has also been available as part of both the pre-submission and submission periods of consultation which the Plan has been through in 2017 and no representations have been made in respect of SEA and Natural England has confirmed they have no comments.²¹ Therefore whilst it might have been useful for a short addendum to have been provided to the Screening Document just to reflect the updated situation, I consider that EU obligations in respect of SEA have been satisfied.

Habitats Regulations Assessment

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identified whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.²² The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

The Screening Document of April 2016 confirms there are no European sites within the Plan area itself or within 20km of it. Again the Screening Document was based on the larger Plan area now designated and the Plan which has not changed significantly since its screening. SDC has confirmed that a HRA will not be required. Natural England concurs with this assessment.

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further basic condition in addition to those set out in primary legislation as detailed in section 2.0 of this report. In my view, the Plan complies with this basic condition.

It should be recognised that SEA and HRA will need to be reassessed and updated if the contents of the Plan change from this point onwards. Given the situation outlined above and the recommended modifications, I suggest to SDC that the SEA and HRA screening is reassessed and updated in order to ensure compliance with EU obligations.

²¹ Representation from Natural England dated 20 March 2017

²² PPG para 047 ref id 11-047-20150209

European Convention on Human Rights (ECHR)

The BCS contains a statement on human rights. There is nothing in the Plan that leads me to conclude there is any breach of the fundamental rights and freedoms guaranteed under the ECHR or that the Plan is otherwise incompatible with it or does not comply with the Human Rights Act 1998.

7.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. Where modifications are recommended they appear in **bold text**. As a reminder, where I suggest specific changes to the wording of the policies or new wording these appear in ***bold italics***.

The Plan begins with a helpful contents page. It contains 14 policies and a number of supporting actions. A representation comments that the policies could be placed in a box or highlighted with some sort of shading as the blue bold text might be lost in non-coloured versions of the Plan. This is a valid point and one that I urge the Parish Council to give consideration to.

1 Introduction

This introductory section outlines some of the key characteristics of the Parish. It contains two maps; one of the Plan area and one of the Wilmcote Conservation Areas.

2 Why is the Wilmcote and Pathlow Neighbourhood Development Plan important?

A short and helpful section that explains the status of the Plan and how it will be used.

3 The neighbourhood plan process

This again is a helpful section that sets out the process for neighbourhood plans. It will of course need updating as the Plan proceeds through the various stages and, in my view, it would be useful to retain this section in the final version of the Plan so that readers can see how the Plan has come about.

4 Community consultation

This section summarises the consultation carried out and focuses on the results of the household survey.

5 Key issues for the Wilmcote NDP

Identifying the key issues for the Plan, this part of the Plan sets out the context.

Figure 5 on page 17 of the Plan shows the extent of the Green Belt in relation to the Plan area. On the figure settlements are followed by a number in brackets and it is not clear to me what this refers to. In the interests of clarity Figure 5 should be amended so that this is removed.

It would be helpful to add a little more context to paragraph 5.12 on page 19 of the Plan and I recommend wording based on a representation from SDC. Paragraph 5.13 refers to CS Policies CS.10, CS.15 and CS.16. Again in the interests of clarity some revision to its wording is necessary based on comments from SDC.

- **Remove the numbers in brackets after settlement names on Figure 5 on page 17 of the Plan**
- **Change paragraph 5.12 on page 19 of the Plan, new text to read:**

“The Core Strategy was adopted by the District Council on 11 July 2016. Policy CS.15 identifies Wilmcote as a Local Service Village. It is ‘washed over’ by the Green Belt which means that only limited infilling and redevelopment is acceptable within its boundaries.”
- **Begin paragraph 5.13 on page 19 of the Plan at “Pathlow is not covered by the infilling...” to end**

6 Vision and objectives

The clearly articulated vision for the Plan area is:

“Wilmcote and Pathlow is a strong and thriving community where history and heritage are protected and the rural setting and character are preserved and enhanced for current and future generations.”

The vision is underpinned by six objectives. All are clearly worded and relate to the development and use of land covering housing growth, the quality of development, leisure and recreation, community facilities, safety and security and natural and built assets.

7 Wilmcote and Pathlow NDP policies

Each policy is preceded by the objective(s) it relates to and is followed by a background and justification section. A glossary is included as Appendix 2.

Policy WP1 Biodiversity

The NPPF²³ is clear that the planning system should contribute to and enhance the natural environment. This includes minimising impacts on biodiversity and, where possible, providing net gains. The NPPF also advocates a hierarchical approach to the range of international, national and local sites so that protection is commensurate with their status. This policy reflects the stance taken in the NPPF to the extent that some of the language used in the NPPF is brought forward into the policy. Whilst arguably there is no need to repeat national policy, the policy does also relate to a site of scientific interest in the Plan area. The policy is clearly worded and takes account of national policy, reflects CS Policies CS.2 and CS.6 and will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended.

Policy WP2 Geodiversity

Policy WP2 seeks to ensure that the Parish' geodiversity is preserved and enhanced. The policy is a local expression reflecting CS Policy CS.6 reference to geodiversity. The CS explains that geological sites have been under pressure and that has resulted in concealment.

The second part of the policy may require surveys to be undertaken where necessary in areas of potential. Whilst this might be regarded as an onerous requirement, there is flexibility within the policy wording as it says "may be required" and I also recommend a modification to further ensure any surveys are appropriate and proportionate. With this modification, the policy will satisfactorily take account of the NPPF which states that information requirements for applications should be proportionate to the nature and scale of proposals and be relevant, necessary and material to the application in question.²⁴

- **Add the words "*appropriate and proportionate*" before "surveys" in the second paragraph of the policy**

Policy WP3 Non-designated Heritage Assets

In determining planning applications that affect the significance of non-designated heritage assets, the NPPF²⁵ is clear that a balanced judgment will be needed which takes into account the significance of the heritage asset concerned and the scale of any harm or loss.

²³ NPPF section 11

²⁴ *Ibid* para 193

²⁵ *Ibid* section 12

The policy begins with a blanket requirement that all non-designated heritage assets “should be conserved”. This does not take account of the stance taken by the NPPF or CS Policy CS.8 which indicates, in relation to non-designated heritage assets, that “proposals will be assessed having regard to the scale of any harm or loss and the significance of the heritage asset.”.

Therefore a modification to address this concern and simplify the policy is made. This makes it clear what assets are being referred to and also leads onto the remainder of the policy which sets out how planning applications which affect such assets will be determined.

In considering the remainder of the policy, there is no reference to the significance of such assets. Criterion b) introduces a similar test to that for designated heritage assets. Therefore in order to ensure that the policy takes account of the NPPF, modifications are made.

I note that a representation from Historic England considers the reference to assets in the Historic Environment Record to be narrow in scope; I do not disagree that the policy could have caught all non-designated assets and that this would help to achieve sustainable development. Therefore a modification is made to address this.

- **Delete the first sentence of the policy that begins: “Local non-designated heritage assets identified...” in its entirety**
- **Change the first and second sentences of the (existing) second paragraph to read: “Development proposals affecting *the significance of non-designated heritage* assets will only be supported in the following circumstances:”**
- **Change criterion b) to read:**

“Where a development proposal would result in the *total* loss of, or substantial harm to *the significance of a non-designated* heritage asset, such development will only be supported when the public benefit of the proposed development outweighs the *total* loss of or *substantial* harm to the *significance* of the asset and its setting. Where such development is permitted, this will be conditioned in such a way so as to ensure the proposed development takes place after *any loss or harm* has occurred and that appropriate recording of the heritage *asset* takes place prior to any loss or harm *occurring*.”

Policy WP4 Green Infrastructure

Green infrastructure plays an important role in the conservation and enhancement of the natural environment. Policy WP4 plans positively for green infrastructure and is clearly worded. It reflects national policy and guidance and CS Policies CS.2 and CS.7

and will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended.

Policy WP5 Landscape Character

This policy sets out a series of landscape design principles for new development. CS Policy CS.5 seeks to ensure that development minimises and mitigates its impact and where possible enhances the landscape. The broad thrust of the policy meets the basic conditions and the supporting text sets out the evidence for the policy.

However, criterion a) is, I feel, negatively worded and open to interpretation and it would be hard to demonstrate compliance with it. For this reason it does not provide the practical framework for decision-making required by the NPPF.²⁶ Particularly valued views are covered by Policy WP6 and the modification recommended will also encompass wider landscape and so a direct reference to views in this policy is repetitive. Therefore a modification is made to criterion a) to ensure that the policy takes account of national policy and guidance.

- **Reword criterion a) to read: “Height, scale and form of buildings should *have an acceptable impact on the landscape and visual amenity.*”**

Policy WP6 Prominent Public Views

A number of views are identified on Figure 6 on page 27 of the Plan. A separate document entitled “Landscape Character and Prominent Views - Policy WP5 Supporting Evidence” has also been produced in support of this policy. I considered each of the views at my site visit and agree all are important.

I note that CS Policy CS.9 recognises the importance of high quality design and the need for proposals to reflect the local context including “making best use of on-site assets as well as public views and vistas and not harming existing ones”.

Policy WP6 seeks to ensure that development proposals take these 24 views into consideration and helpfully cross-references Figure 6. The policy’s wording means that any harmful impacts on these views would be taken into consideration, but it does not go onto say what then should happen. It therefore does not provide the practical framework for decision-making sought by the NPPF and, as currently worded, is rather meaningless. A modification is therefore made to ensure that the policy takes account of national policy.

- **Reword the first paragraph of the policy to read:**

²⁶ NPPF para 17

“The locally prominent views listed below and shown on Figure 6 are considered special. Any development must ensure that the key features and attributes of these views can continue to be enjoyed. This should be demonstrated through appropriate and proportionate landscape appraisals and impact studies.”

Policy WP7 Protecting and Enhancing Community Facilities

Community facilities are protected by this policy. This chimes with the NPPF’s stance to promote and retain local services and community facilities.²⁷ The policy resists the loss of such facilities unless it can be demonstrated the use is no longer viable or in active use and has no prospect. It also supports the improvement of facilities where there is no conflict with the purposes of the Green Belt or harmful effects on residential amenity.

Amongst other things, CS Policy CS.25 refers to the retention of community facilities. As well as the stance taken in Policy WP7, Policy CS.25 also refers to the facility being provided effectively in an alternative manner or on a different site. I consider this would be a useful addition to the policy to ensure that it helps to achieve sustainable development.

The policy lists eight community facilities and cross-references Figure 7 which helpfully shows the location of the facilities. I saw all the facilities at my site visit.

The first of a number of supporting actions sits alongside this policy. It is clearly differentiated from the planning policy.

- **Add at the end of the second paragraph of the policy “or that an alternative but equivalent or better facility is provided elsewhere in a suitable location.”**

Policy WP8 Local Green Spaces

The NPPF explains that LGSs are green areas of particular importance to local communities.²⁸ 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 LGSs is given in PPG.

Four areas are proposed as LGSs; The Green, Field opposite Mary Arden’s Farm, Willow Play Area and Playing Field and the Glebe Playing Field. All four proposed LGSs are

²⁷ NPPF paras 28, 69 and 70

²⁸ *Ibid* paras 76, 77 and 78

clearly shown on Figure 8 and Table 1 on page 33 of the Plan gives further information about each area. I visited each area on my site visit and discuss each in turn.

The Green is an open grassed area at an important junction in the village with a feature tree with seating around it. The area is local in character and significant for its visual importance and informal recreational value.

Field opposite Mary Arden's Farm is a distinctive and self-contained area opposite Mary Arden's Farm complex and at an important central location in the village contributing to its character and appearance. With a stone wall to the roadside, it had sheep and cows grazing at the time of my visit.

The area also falls within the Conservation Area and so I have also considered whether any additional benefit is to be gained from LGS designation. I consider that it will give extra protection to an area that is at the heart of the village and is significant to the overall character and feel of the village and to its history.

Willow Playing Area and Playing Field is a triangular area of land close to residential properties and accessed in two places from the ends of the cul-de-sacs of Stone Pitts Meadow and Arden Close. As well as more informal space and seating, the area provides a well maintained and equipped play area with interesting wooden apparatus.

Glebe Playing Field is a rectangular piece of land laid to grass close to residential properties and the Scout Hut. It is well contained by hedges on three sides. In use by the local school at the time of my visit, the field is also laid out as a running track.

In my view, all of the proposed LGSs meet the criteria in the NPPF satisfactorily.

Turning now to the policy itself, the language used reflects that in the NPPF by referring to "very special circumstances", but the final sentence mirrors Green Belt policy which is confusing and unnecessary. For this reason, a modification to delete this is made.

- **Delete the final sentence from the policy that begins "That is, when the harm to the local green space..." to end**

Policy WP9 New Housing Development in Wilmcote Village

Firstly, this policy sets out the expectation for new housing in Wilmcote village. The village is 'washed over' by the Green Belt. National policy on the Green Belt explains that new buildings are regarded as inappropriate unless they are identified as exceptions in paragraph 89 of the NPPF. As Policy WP9 and its supporting text explain, one of the exceptions identified in paragraph 89 of the NPPF is limited infilling in villages and limited affordable housing for local community needs under policies set out in the

Local Plan.²⁹

CS Policy CS.10 relates to the Green Belt. It resists inappropriate development except where very special circumstances apply. It lists those forms of development which are not inappropriate; a small-scale development which meets a housing, employment or other need identified by a local community in accordance with CS Policy AS.10 provided it is not harmful to the openness of the Green Belt; small-scale extensions or alterations to buildings or replacement buildings; limited infilling or redevelopment of previously developed land subject to openness and purposes of including land within the Green Belt; new buildings as defined in national policy and limited infilling in Local Service Villages in accordance with CS Policy CS.16.

The supporting text to CS Policy CS.10 explains that built-up area boundaries will be defined in neighbourhood plans or a Site Allocations Plan to identify where infilling might be appropriate. This Plan does not take up that opportunity, but I saw at my site visit the extent of the built-up area of the village is largely discernible and clear enough for the wording of Policy WP9 to distinguish between the village and “outside the existing village” successfully particularly given the wording of criterion a).

CS Policy CS.15 refers to the distribution of development. It explains that this distribution is based on a pattern of “balanced dispersal”. Stratford-upon-Avon is identified as the principal settlement in the District. Eight Main Rural Centres are identified and are subject to individual area strategies. Local Service Villages are identified and Wilmcote falls within this category. The policy explains that development will take place on sites identified in neighbourhood plans or through small-scale schemes within the built-up area boundaries or otherwise within their physical confines.

In all other settlements, development is restricted to small-scale community-led schemes which meet a need identified by the local community. Local Needs Schemes within and adjacent to settlements are also supported. Wilmcote is identified as a Category 2 village and the Plan explains that development will reflect CS Policy CS.10 where sites are in the Green Belt.

CS Policy CS.16 provides for at least 14,600 new homes of which about 2,000 are distributed to the Local Service Villages and some 750 to other rural locations. Category 2 villages are to provide about 700 homes of which no more than around 12% should be provided in any individual settlement. For those Local Service Villages which fall in the Green Belt, housing will take place in accordance with CS Policy CS.10.

CS Policy AS.10 explains that in the countryside, proposals will be assessed against a range of criteria including impact on landscape, communities and environmental features. In principle small-scale housing, employment or community facilities needed to meet a locally identified need are acceptable within or adjacent to a village. 21 categories of housing, business and tourism and leisure development are then outlined. For proposals in the Green Belt, CS Policy CS.10 is cross-referenced.

²⁹ NPPF para 89

As well as supporting limited infill development on appropriate sites, Policy WP9 also refers to the effect on residents, introduces a car parking requirement and seeks the use of sustainable urban drainage systems (SuDs). There was community support for infilling in the survey undertaken. In addition car parking was a concern and so there is some justification for this requirement. SDC confirm that, at present, there are no adopted parking standards at District level and a case-by-case approach is being taken. SDC helpfully confirm there is no objection to the requirements set out in Policy WP9 from their point of view.

Therefore there are two criteria of concern; f) and g). Criterion f) refers to heritage assets which are either covered in national or SDC level policies or in Policy WP3. It also then refers to the visual amenity of the Green Belt. This is not the only purpose or issue to be considered in relation to Green Belt policy. Therefore this criterion is variously unnecessary, incomplete and will lead to confusion; it does not provide the practical framework sought by the NPPF. It should therefore be deleted.

Now turning to criterion g), this requires the use of SuDs principles. As it refers to principles I consider this to be in line with national policy and guidance as long as the criterion is made more flexible. A modification is made to achieve this.

Secondly, the policy supports “limited affordable housing” that meets an identified local need outside of the village. This is identified in the NPPF as being an exception as explained above. I have set out the CS policy context above. However, the wording of this paragraph refers to the need for such development to “not compromise” the purposes of the Green Belt and the need to “enhance the visual amenity of the Green Belt” and this does not fully reflect national policy on Green Belts.

The NPPF identifies this type of development as being “not inappropriate”. It is therefore usually considered that the impact on the Green Belt will already have been taken into account in the development’s identification as being “not inappropriate” and where openness is not expressly stated in paragraph 89 as a determinative factor there is no need to assess the development’s impact on it or on the purposes of including land in the Green Belt. That is not to say that such development would not be considered against policies on visual impact or character and appearance or landscape matters. A modification is made to address this point.

For the avoidance of doubt the final paragraph of the policy regarding occupancy is to be retained, but it is only appropriate that this only relates to development outside the village i.e. the second element of the policy and a modification is made to ensure this is clear. This is because limited infilling in villages is regarded as being not inappropriate development in the NPPF as explained and the NPPF does not impose any occupancy caveats on this type of development.

Finally, the title of the policy refers to the village only but the policy covers the village and outside the village. Therefore in the interests of clarity the title of the policy should be changed to better reflect the contents of the policy.

- Delete criterion f) in its entirety
- Add the words *“wherever possible”* after “...surface water” in criterion g)
- Change the second paragraph of the policy to read:

“Limited affordable housing to meet identified and demonstrated local community needs will be supported outside Wilmcote village on suitable sites that are in close proximity to local services and facilities and are in reasonable walking distance of local public transport.”
- Add the words *“outside the village”* after “...of these homes” in the third paragraph of the policy which begins “The occupancy, and future occupancy...”
- Change the title of the policy to *“New Housing Development in Wilmcote Village and Local Community Needs Housing in the Parish”*

Policy WP10 New Housing Development in Pathlow

Small-scale affordable housing is supported by this policy in Pathlow which is a small settlement ‘washed over’ by the Green Belt. Need must be established through an up to date survey. The policy is clearly worded and meets the basic conditions.

Policy WP11 Promoting Good Design

The NPPF explains that good design is indivisible from good planning and is a key aspect of sustainable development.³⁰ This policy encourages a good standard of design which both reflects and reinforces local distinctiveness. It generally conforms to CS Policy CS.9 which refers to design and distinctiveness. The CS recognises that neighbourhood plans will contain detailed policies on design and distinctiveness.

Policy WP11 is however a long, criteria based policy. Two criteria require modification. In line with my comments on Policy WP9, criterion e) requires some amendment.

The second criterion to give rise to concern is m). This is because it refers solely to the visual amenity of the Green Belt. This is not accurate or complete and therefore this criterion should be deleted to ensure the policy takes account of national policy both in relation to Green Belts and the need to provide a practical framework.

- Add the words *“wherever possible”* after “...surface water” in criterion e)

³⁰ NPPF para 56

- **Delete criterion m) in its entirety**

Policy WP12 Leisure and Recreation Development

Within the Green Belt, the provision of appropriate facilities for outdoor sport and recreation are regarded as not inappropriate as this type of development is listed as an exception in paragraph 89 of the NPPF. This policy seeks to support leisure and recreation uses in the village of Wilmcote and outside of it (and presumably this means in the Parish generally). This is not the same as the policy for Green Belts expressed in the NPPF which refers to outdoor sport and outdoor recreation facilities rather than uses.

Whilst I accept that the policy seeks to change national policy on Green Belts and it does so with Mary Arden's House in mind as the Basic Conditions Statement explains, in line with my discussion on Policy WP9, the policy should reflect the NPPF.

In relation to the second element of the policy, outdoor leisure and recreation facilities are supported outside Wilmcote village subject to four criteria. Again the wording and the criteria do not fully reflect NPPF policy on Green Belts.

Given that any modifications I recommend will only bring the policy in line with national policy expressed in the NPPF, there is little point in repeating it and therefore this policy should be deleted. Other criteria in the policy such as the reference to heritage assets and impact on amenity are variously covered in other policies or are planning considerations.

- **Delete Policy WP12 and its accompanying background/justification**

Policy WP13 Safer Travel and Traffic

Policy WP13 seeks to promote sustainable modes of transport. This aligns with the NPPF's promotion of such modes to give people a choice about how they travel.³¹ The policy is clearly worded. It meets the basic conditions and no modifications are recommended.

The supporting text refers to new car parks as being "inappropriate development" in the Green Belt and refers to the need to justify any such development under very special circumstances. The Plan specifically refers to car parking at the station and at Mary Arden's Farm. The supporting text offers support for new car parking areas. This then introduces policy through the supporting text which is not acceptable in principle. Therefore in the interests of clarity and accuracy, deletion (rather than any revision) of

³¹ NPPF section 4

the relevant supporting text is recommended.

Alongside this policy there are a number of supporting actions which are differentiated from the policy itself.

- **Delete the paragraph on page 41 of the Plan which begins “The Parish Council will, therefore, support development proposals...” in its entirety**

Policy WP14 Footpaths, Pavements and Street Lighting

The supporting text explains that this policy seeks to improve footpaths, pavements and street lighting. The thrust of the policy is in line with the provision of safe and suitable access and layouts. However, the wording of the policy could be made clearer and more precise and rather than focusing solely on safety also promote sustainable modes of transport. In addition street lighting usually falls outside planning control. Therefore in order to ensure that the policy meets the basic conditions, in particular that it takes account of national policy and guidance and helps to achieve sustainable development, a modification is recommended to the title of the policy and the policy itself.

In addition whilst the supporting text identifies two supporting actions, I consider the text contains two others which do not fall within the development and use of land. Therefore I recommend these become supporting actions.

Given the modifications I recommend to this policy, the cross-reference to it in Policy WP4 should be revisited to ensure that the Parish Council remain of the view the cross-reference is desirable.

- **Retitle the policy to “Footpaths, Cycleways and Lighting”**
- **Reword the policy to read:**

“Development proposals should provide new footpaths and cycleways where necessary and take every available opportunity to enhance existing networks. This may include the provision of appropriate lighting. Such features should be designed to ensure safe and secure layouts which are appropriate to the character and appearance of the area.”
- **Change the reference to “street lighting” in the first paragraph of the supporting text on page 41 of the Plan to “lighting”**
- **Change the second and third paragraphs of the supporting text on page 41 of the Plan to become supporting actions (and number as appropriate)**

8 Monitoring and review

A short section explains that the Plan will be monitored by the Parish Council on an annual basis. Monitoring is not a requirement for neighbourhood plans, but I consider such practice is to be welcomed.

The section does refer to updating and amending the Plan, but at the present time there is no mechanism to partially review or update parts of a plan. An existing plan can be replaced by a new one but the process for the making of the replacement plan is the same as the process for the making of the existing plan.³² Therefore this section is misleading and should be corrected in the interests of accuracy.

- **Change paragraphs 8.2 and 8.3 on page 43 of the Plan into a new paragraph 8.2 which reads:**

“At the present time it is not possible to partially review or update particular elements of the plan. Should monitoring and review reveal that significant sections of the plan have become out of date we will look to review the whole document by producing a new plan following the processes in place at that time.”

9 How to comment on this document

This would have been a helpful section of the Plan had it been completed. At this point in time the section is redundant and it should be removed from the Plan.

- **Delete section 9 from the Plan in its entirety**

Appendix 1

Appendix 1 is referred to in the main body of the Plan and lists the key communications and engagement activity during the production of the Plan. Consideration could be given to whether this appendix would now, given the stage the Plan has reached, be better as part of the Consultation Statement or as a separate document, but this is not a recommendation I need to make in relation to my role.

Appendix 2

Appendix 2 is a glossary of terms used in the Plan. All are appropriately defined.

³² PPG para 085 ref id 41-085-20160519

8.0 Conclusions and recommendations

I am satisfied that the Wilmcote and Pathlow Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to Stratford-on-Avon District Council that, subject to the modifications proposed in this report, the Wilmcote and Pathlow 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 Wilmcote and Pathlow 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 Plan should proceed to a referendum based on the Wilmcote and Pathlow Neighbourhood Plan area as approved by Stratford-on-Avon District Council on 3 November 2016.

Ann Skippers MRTPI

Ann Skippers Planning

17 July 2017

Appendix 1 List of key documents specific to this examination

Wilmcote and Pathlow Neighbourhood Development Plan 2031

Basic Conditions Statement February 2017

Consultation Statement February 2017

Strategic Environmental Assessment and Habitats Regulations Assessment Screening Document April 2016

Stratford-on-Avon District Core Strategy 2011 to 2031

Various evidence documents and other information on the Parish Council's website <http://www.wilmcotepc.co.uk/parish-council/neighbourhood-development-plan/> including:

Wilmcote Planning Policy Assessment and Evidence Base Review August 2015

WRRRC Housing Needs Survey Report for Wilmcote Parish Council November 2015

Wilmcote and Pathlow Neighbourhood Plan Survey Results 2015 Final Report

Landscape Character and Prominent Views – Policy WP5 Supporting Evidence

List ends