

Kineton Neighbourhood Plan

Comments on pre-submission draft NDP

Introduction (p.3)

Paragraph 1 – you state there will be a review of the plan every 5 years. Whilst this is to be commended and encouraged, there is nothing in the neighbourhood plan guidance/legislation that I have discovered which would allow for a ‘review’. Should changes wish to be made, it appears that the entire process would need to be replicated.

Paragraph 3 – Is the ‘village plan’ the same as the ‘village statement’? consistent terminology required. I’m not sure what the final sentence of this paragraph means, or is trying to achieve. To what are you specifically referring? What ‘features’ have been included? For what purpose? Where is the evidence?

General – Whilst the plan states that it is based on extensive research and robust engagement with the local community, there is little detail included in the way of published evidence or reference to details surrounding public consultation/engagement throughout the process.

Future Development Issues (p.8)

Paragraph 1 – Which properties are at risk of flooding? This statement appears (on the face of it) to contradict the content of the first full paragraph on p.9, which seems to refer to the village not at risk of flood...It indicates that measures to improve the capacity of the river channel were planned for 2014. Were these carried out? This will need updating.

Paragraph 5 – first sentence. Should this be linked to the Core Strategy, and specifically to the projected housing figures? How has it been concluded that the existing shops and services in the village are ‘comparatively modest’? What does this actually mean? Matters such as footpaths, cycle links are the responsibility of the Highway Authority and will be beyond the remit of the Parish Council to enforce.

Paragraph 6 – You state that there is ‘no identified need for further retail floorspace in Kineton’. However, Core Strategy Policy CS.22 looks to actively encourage new retail provision. Where is the evidence to indicate that the current level of provision is adequate and that no additional services are required in the village?

p.9 (second full paragraph) – Is this listed from the Landscape Sensitivity Study? If so, I think it would be worth confirming this. Would it be of benefit to include this data spatially, or at least indicate where the maps can be viewed (if there are copyright issues)? This will take away guesswork (both in terms of where the physical boundaries are and where the information can be found, if necessary). This paragraph tackles the issue of commercial development. However, the Landscape Sensitivity Study has a separate ‘rating’ for the different ‘zones’ around the village for housing development. I think these different findings/categorisations need to be addressed in the NP, especially since the emphasis of the plan is on housing matters, rather than commercial development.

p.9 (fifth paragraph) relates to ‘the policy’. To which policy are you referring? This may need explanation or re-drafting for clarification.

Whilst the NP has not provided any evidence to contradict the findings of the Landscape Sensitivity Study, sites within the higher sensitivity zones have been advocated over lower sensitive sites/locations. I am concerned that this does not comply with the NPPF of NPPG guidance. Additionally, it could be seen as ‘flying in the face’ of the Landscape Sensitivity Study, one of the few evidence documents the NP refers to.

(a) Environmental

First bullet point – I assume this is the proposed AoR mentioned at point 6.5.16 on p.143 of the Core Strategy (CS). Without quoting reference to the CS here, it could be assumed by readers that the new AoR is proposed through the neighbourhood planning process. This may need re-drafting.

Final bullet point – I do not consider this statement to be consistent with local or national policy, in that it is trying to put a stop to any further development without additional infrastructure provision being implemented. I do not think this point, as drafted is appropriate, or acceptable. It is trying to force the hand of a statutory undertaker, who in any case has a responsibility to ensure that the necessary infrastructure is in place for any new development. CS Policy CS.4 adequately covers this particular issue.

Vision Statements p.11

I note there are 9 statements listed in the plan. Whilst there are associated policies relating to certain specific visions, there are

other visions which do not have relevant policies set out in the plan. Some examples of this are:

Health – the vision looks to protect and improve health facilities, but there is no policy on this.

Leisure – the vision indicates an identified need for additional playing fields etc. If there is evidence for this, there is no policy to attempt to achieve this.

Tourism – the vision states (in the final paragraph) that the NP will propose siting a new Battle of Edgehill museum. However, there does not appear to be a policy in the plan to achieve this.

Vision Statement (Housing) p.11

In order to be consistent with Policy D2 of the NP, I would recommend changing the phrase 'low density' to 'appropriate density'.

Q: What does the sentence 'inappropriate in-filling within existing developments in the village should be avoided' mean? I think this needs clarifying or expanding upon.

I have commented on the issue relating to the next sentence (i.e. resolving limitations of current infrastructure prior to any further development) elsewhere. Suffice to say it is not the role of new development to fix existing problems. Statutory undertakers have a legal duty to provide proper infrastructure for development and I do not consider a 'positively made plan' can include such restrictions on development. However, it would be appropriate to indicate that any new development proposals must demonstrate that they will not exacerbate existing deficiencies and also look to offset any perceived harm for the development itself.

Vision Statement (Conservation) p.12

Paragraph 3 – delete the words 'be to' in the first line?

Paragraph 3 (cont'd) – Article 4 directions are one of the tools available to local planning authorities in responding to the particular needs of their areas. They do this by allowing authorities to withdraw the 'permitted development' rights that would otherwise apply by virtue of the Town and Country Planning (General Permitted Development) Order 1995 as amended (the 'GPDO'). An article 4 direction does not prevent the development to which it

applies, but instead requires that planning permission is first obtained from the local planning authority for that development.

Local planning authorities should consider making article 4 directions only in those exceptional circumstances where evidence suggests that the exercise of permitted development rights would harm local amenity or the proper planning of the area.

In deciding whether an article 4 direction would be appropriate, local planning authorities should identify clearly the potential harm that the direction is intended to address.

For householders, commonly used permitted developments within the garden of houses and bungalows include many small extensions and outbuildings, drives, patios, satellite dishes, fences and walls. All of these are subject to detailed criteria.

Therefore, I have the following comments on the content of this paragraph of the NP:

- Article 4 directions are administered by the LPA. I can find no changes to legislation to indicate that this function/role will be given to local communities through the neighbourhood plan process – where is your evidence to state this can be done?
- How will the NP ‘correct deficiencies...by recommending adjustments to boundaries’? You cannot use the NP process to try and ‘right previous wrongs’
- What controls are to be recommended to retain historic boundary treatments? How are you classifying historic boundary treatments? If they are within the Conservation Area or associated with a listed building or adjacent to a highway, existing ‘old’ boundaries will be ‘protected’ in some way already given that planning permission would be required to alter them
- Without being able to introduce Article 4 directions, how would the NP control ‘non-conforming treatments’, many of which will be permitted development and would not be deemed necessary to be covered by such a process?
- Policy D10 (Heritage Assets) makes no reference of any of this. How was the NP going to carry out these considerations if they were not covered in the policy?

Paragraph 4 – states that ‘the Conservation policy would extend...’ Is this referring to Policy D10? If so, the wording of the vision and associated policy do not tie up. There is no mention of important green spaces within policy D10, for example.

Paragraph 5 – This is covered under ‘future development issues’ in the Core Strategy. However, if it is to be proposed, should it also be policy in the NP?

Vision Statement (Tourism) p.13

Paragraph 4 – Battle of Edgehill Museum – the NP proposes the siting of a museum, but there is no further mention of it within the document. Is there a policy missing?

Policy H1 – Housing Supply (p.15)

- a) Map listed as ‘Potential Developments Sites Map in the policy, but the map itself has a key of ‘Potential Housing Sites’. One or other need amending for consistency.
- b) See J. Gordon comments. The 4 allocated sights add up to 95 dwellings, not 100 as quoted here.
- c) See Sarah B-T comments
- d) There is no section 7 of Policy CS.16. What does this refer to? What evidence/reasoning is there for a 50 dwelling limit?
- e) How were these sites chosen? Where is the evidence to indicate how these sites have been reached? Was there a consultation process in respect of a large list of sites and these were the 4 most popular? I would be grateful if you could provide further details on this issue since I consider the NP will need to demonstrate how this position was reached in order to meet the basic conditions test at examination.

Policy H1 – Explanation (p.16)

Paragraph 1 on p.16 – the final sentence suggests that there are 2 no. greenfield and 2 no. brownfield sites put forward in the NP. However, I would argue that all 4 sites are greenfield. The only one which might *possibly* be brownfield would be site 2 off Banbury Road. However, I consider evidence of its use over recent years would need to be analysed to see if it could be defined as ‘previously used land’ as set out in the NPPF.

Paragraph 4 – public transport – there is no mention of Little Kineton.

Paragraph 7 - the text makes reference to ‘small developments...within the settlement boundary...’. Is this commensurate with the policy stance in the NP? The smallest site is for 15 dwellings. Is this ‘small’ or ‘gradual and piecemeal’ development?

Policy H2 – Prioritising the use of Brownfield land (p.16)

The policy advocates prioritising previously used land, but the NP does not actually promote any brownfield sites for future development. There appears to be contradiction here. Please show evidence of process to arrive at wording of this policy and the choice of the allocated sites.

Policy H2 – Explanation (p.17)

I am concerned that, as currently drafted, the Policy is not compliant with the NPPF. Para's 115 and 116 of the NPPF indicate that *major* developments in areas of high landscape value such as Green Belt and Areas of Outstanding natural Beauty should be refused except in exceptional circumstances. However, such strong wording is not used when discussing the use of greenfield land.

Paragraph 1 – states that the development of previously undeveloped land is not supported by parish residents unless it can be demonstrated that there is no available brownfield land. Has it been checked whether there is no available brownfield land? Have you carried out an urban capacity study or a 'call for sites' exercise? Is there any evidence of a 'sequential test' type strategy to inform the NP?

Same paragraph – I agree with John and Sarah that the village could not be classified as having a 'linear' character.

Paragraph 3 – Why have you included the words 'within the village envelope'? This is not NPPF compliant. The NP covers the entire Parish and must take account of the wider areas. Which village are you referring to? If it is to be included, should it not cover both Kineton and Little Kineton? Why have you added the words 'no longer in active use'? This is not NPPF compliant. Please refer to NPPF definition of brownfield land and amend accordingly.

Paragraph 4 – Issues brought up previously...no brownfield sites and title of sites map is incorrectly written in NP.

Paragraph 5 – If you remove 'in addition' and re-word the sentence as follows:

"Small residential developments on in-fill sites within the settlement boundary of Kineton will be supported where such development:"

Could this (together with associated points a and b) be added to Policy H1 or be a stand-alone, complimentary policy?

Policy H3 – Affordable Housing (p.17)

Please see comments from John Gordon.

Policy H3 – Explanation (p.18)

First line – should H4 read H3?

Policy H5 – Housing Mix (p.18)

Please see comments from John Gordon and Sarah Brooke-Taylor.

Policy J1 – Existing and Proposed Employment Sites (p.20)

Ensure wording of the Policy is consistent with paragraph 22 of the NPPF, especially taking into account the matter of planning applications for alternative uses of land or buildings being treated on their merits having regard to market signals and the need for different land uses to support sustainable communities. Case law shows that seeking to justify the long-term protection of sites where there is no evidence to demonstrate there is a reasonable prospect of those uses is not lawful.

Policy J1 – Explanation (p.20)

The explanatory note talks about reduced car travel balancing the age structure of the community...I don't understand what this means or what it is attempting to say?

Policy J2 – Home Working (p.21)

Criteria d) What is meant by '...to service facilities by means other than a private vehicle'?

Criteria f) What does this mean and what is it trying to achieve?

Policy D1 – Creating a Strong Sense of Place (p.22)

The Policy specifically refers to large scale developments. What about small-scale developments? Do they not need to demonstrate a high standard of design?

You refer to the parameters of 'large-scale developments' within the Policy.

The Town and Country Planning (Development Management Procedure) (England) Order 2010 defines 'major developments' as being:

- (a) the winning and working of minerals or the use of land for mineral-working deposits;
- (b) waste development;
- (c) the provision of dwellinghouses where —
 - (i) the number of dwellinghouses to be provided is 10 or more; or
 - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (e) development carried out on a site having an area of 1 hectare or more;

Is this definition where you have derived the parameters of Policy D2? If so, would it not be better to include all parts of the definition and/or add a note to the explanation of the Policy to confirm this is the case?

Policy D2 – Responding to Local Character (p.22)

Criteria a) is this sufficiently flexible so as to not stifle innovative design? Please also see comment from John Gordon.

Criteria f) Why are these areas identified as 'green fingers'? What will be achieved by protecting these areas of land? What evidence is there to indicate that an assessment has been made as to the importance of these areas of land/views? Are they all of equal status (there are a large number of them, for example)? What is their actual function? Why is site SSB1 not a green finger?

Criteria i) is this required in a 'design' policy?

Policy D3 – Use of Design Codes and master planning (p.23)

I consider the use of design codes and master planning for the scale of schemes being promoted through the NP to be disproportionate. I do not consider this requirement to be compliant with national and local checklists for validating planning applications. Additionally, I do not see how it is possible for any such document (regardless of title) to be able to take account of potential future development.

The issue of 'unreasonable demands' for scale of development also relate to documents such as Transport Assessments and other environmental assessments.

Should the word 'permitted' in the final sentence be replaced with 'supported'?

The heading 'Explanation' has been omitted.

I consider the explanatory text would need to be amended to reflect the final wording of a re-worded policy, given that design codes and master plans would not be appropriate.

Policy D4 – Replacement dwellings (p.24)

Second paragraph of policy – what do you mean by 'too dominant'? What is this trying to achieve or protect? I consider this may require re-drafting to be more prescriptive.

Third paragraph of policy re: Code for Sustainable Homes:

Strategic Objective 4 of the Core Strategy states:

"To help mitigate and adapt to climate change, all residential development will have achieved as a minimum water and energy efficiency Code for Sustainable Homes Level 4. From 2019, all non-residential development will have achieved water and energy efficiency BREEAM 'Good' standard".

Policy CS.2 B (Residential Development) states:

"New homes will achieve Level 4 of the Code for Sustainable Homes, until such time as these are superseded".

The changes to Building Regulations for 2013-19 have not yet been defined. In the interim, the Council will continue to use the alternative standards provided by the Code for Sustainable Homes to demonstrate the energy and water performance of development. The Council considers it would not be compatible with its Allowable Solutions policy to require standards beyond Code for Sustainable Homes Level 4.

As such, I consider Code 5 as stated in the NP is too onerous and should be reduced to level 4 to be compatible with the Core Strategy. Consideration should also be given to the Code being 'phased out' over the next few years and as such the policy should make reference to future use of Building Regulations...

Policy D4 – Explanation (p.25)

I feel uncomfortable with the sentence relating to good quality dwellings not being demolished to meet a personal preference or desire. This is stifling personal choice. Where does it state in National or Local policy that you cannot replace a dwelling, just because it is in good condition?

Policy D5 – Designing out Crime (p.25)

Using the term 'all development...' captures house extensions and replacement dwellings. I consider this is too onerous. I would link it to the final sentence of the policy in which it talks about being linked to developments of 10 or more dwellings only.

Policy D6 – Re-use of Buildings (p.25)

Criteria f) – do you mean any *proposed* outbuilding and boundary treatments...?

Policy D7 – Environmental Sustainability (p.26)

What is this policy trying to achieve over and above Core Strategy policies CS.2, CS.3 and CS.4? I consider there needs to be 'added value' for it to be included.

Policy D9 – Effective and Efficient Use of Land (p.27)

Criteria b) – the policy talks about prioritising previously developed land. However, the NP does not appear to advocate this, when you take account of the allocated sites...

Final paragraph of policy (beginning 'the built-up areas should...'): This appears to be a design policy, not a re-use of land policy. Is it in the correct place? Would site SSB1 conform to this 'design' element of the policy? I consider it would be quite high density and would be located within a high/medium sensitive landscape on the periphery of the village...Additionally, there are no sites located close to the village centre.

Policy D9 – Explanation (p.27)

First sentence talks about paragraph 47 of the NPPF relating to housing density. Are you quoting the correct paragraph? 47 appears to be talking specifically about overall housing supply trajectories.

Policy E1 – Agricultural Land (p.29)

As worded, I do not consider this policy is compliant with paragraph 112 of the NPPF, since E1 talks about 'exceptional circumstances'.

Policy E2 – Landscapes, vistas and skylines (p.30)

The first paragraph is looking to maintain and protect 'all prominent views of the landscape'. Is this views of the outlying countryside from the assets listed? Which prominent views are they? Is there a list or a map? Is it the 'immediate views' arrows on The Natural Environment map? I think this needs tightening up, so all readers of the document will understand how it should be interpreted.

The requirement to submit a 'landscape led design' for all development seems on the face of it to be too onerous. Should this be for major developments only?

Policy E2 – Explanation (p.30)

Paragraph 3 – what is the important aspect of the Kineton landscape deemed to be present in the list of sites alluded to in the first sentence? What is this paragraph attempting to say, achieve or protect? I disagree with the wording of the final sentence relating to the Landscape Sensitivity Study. I do not consider the LSS says that under *no circumstances* should there be any development north of Walton Fields. When you look at the Housing map associated with the LSS, a further tract of land north of the Walton Fields site has been assessed as 'medium sensitivity' to housing development. Therefore, I think the wording needs to be amended to reflect exactly what the LSS is saying about the potential for development in this area of the village.

Paragraph 4 – why are the 'green fingers' a *unique* feature of Kineton? Long Compton talks about 'green fingers' of land and there are a number of other villages with similar profiles.

Policy E3 – Minimising Pollution (p.31)

Using the term 'all development...' captures house extensions and replacement dwellings. I consider it is too onerous to ask small-scale development to demonstrate this. In the second sentence you list the types of pollution, but you do not list light pollution, to which you refer in the Explanation text.

How would such measures be demonstrated – what are you looking for/trying to achieve?

What mitigation measures would you be looking to achieve?

Policy E3 – Explanation (p.31)

At paragraphs 2 and 3 you talk about light pollution and ‘dark sky sites’. Are there any such designations in the Parish? Could you write a specific ‘Dark Sky’ policy to protect these sites?

Policy E4 – Green Energy Generation (p.31)

Consider changing heading to ‘Renewable and Low Carbon Energy Generation’

Paragraph 1 – change the word ‘green’ to ‘renewable’

Paragraph 2 – after the word ‘character’, add ‘...and appearance of the local area’

Policy E5 – Streamside Development (p.32)

The Policy states that development proposals within 40 metres of a stream or brook must be accompanied by a hydrological survey. Where has this distance come from? Is there any basis for quoting this figure in any other documentation (i.e. from the Environment Agency)? Some evidence base will be required here.

In terms of the requirement for a hydrological survey, previous comments I have made relating to the national and local validation planning application checklists are also relevant here (i.e. is it appropriate, based on scale of development?).

Should the policy talk about the neighbourhood area or the village of Kineton? (it seems a little onerous to cover the entire parish).

Should the alignment of the streams and water courses running through the village be added to a map and should the existence of such a map be referred to in the explanatory text, for clarification purposes? The reason being, should the 40 metre ‘buffer zone’ be agreed, it may not be obvious from site visits that a stream is within this zone, since 40 metres is quite a long way and could well be running the other side of a neighbouring property, well out of view. Without some visual reference, this will be very difficult for officers to adhere to when carrying out site visits.

Policy E7 – Flooding and Surface Water Drainage (p.33)

Chapter 12 of the NPPF and Policy CS.4 of the Core Strategy are very clear on flooding and drainage matters. What 'added value' does this policy bring? Is it required?

Policy E8 – Foul Drainage (p.33)

Policy CS.4 of the Core Strategy is very clear on drainage matters. What 'added value' does this policy bring? Is it required?

Policy E8 – Explanation (p.34)

Paragraph 3 – The lead local flood authority is WCC. Should they be included?

Paragraph 4 – should the word 'consists' be replaced by 'contests' or 'considers'?

Policy IN1 – Infrastructure Criteria (p.36)

The issues relating to drainage (criteria a and b) are covered by the Core Strategy (CS.4). The Core Strategy talks of 10 or more dwellings for certain SUDS requirements and it would make sense for the NP to follow suit, not 3 or more dwellings, which is both non-compliant and too onerous.

Have Severn Trent been consulted in the production of the NP?

Criteria c) falls outside the realms of planning and should not be in the NP

Criteria d) as criteria c).

Policy IN4 – Protecting and Enhancing Existing Green Open Spaces

Where are the existing green spaces for protection? Should they be identified on a map so it is understood what sites are being referred to?

Policy IN5 – Highway Safety and Transport (p.38)

Matters of this nature are covered by alternative legislation and administered by WCC as Highway Authority. I am not sure this policy is required, given there is no need to duplicate policy in the NP.

Site Specific Briefs

The paragraph under the heading 'Strategic Objective' states that the NP will provide up to 200 dwellings. Is this correct? Where has this figure come from?

Policy SSB1 – Site at Warwick Road (p.40)

The area to the northwest of the village was discounted for future development within the SHLAA Review 2012 due to the potential harm on the landscape. The land is listed as high/medium sensitivity in the LSS. These are 2 large pieces of evidence based work produced on behalf of SDC suggesting the site is not appropriate for development. The NP does not provide any evidence to state how any why this site was chosen as an allocation contrary to other existing evidence.

Why would development be limited to 50 dwellings? Has this been based on a density exercise? Would this make the best use of the land? Could more dwellings be situated on there? What if it transpires only 30 dwellings could be constructed on the site, for any reason? Where is the evidence to show this has been checked?

In terms of criteria c (access), has the suitability of the existing field access off Warwick Road been assessed by WCC? If not, I would strongly recommend getting some advice on this issue as a matter of urgency. If it transpires the access cannot be brought up to standard to serve a development of this size, given there is no alternative access location, the site will need to be removed from the NP.

Policy SSB2 – Site at Banbury Road (p.41)

The land is listed as high/medium sensitivity in the LSS and was not considered as a suitable location for growth as part of the SHLAA Review 2012, although it is acknowledged that the site has a logic to it, given surrounding development. Again, similar to site 1, there is no evidence to state how any why this site was chosen as an allocation contrary to other existing evidence.

Why is it deemed necessary to have a 5 metre wide landscape buffer zone? That seems rather excessive. Additionally, it appears you may have listed the wrong boundary for any treatment. The western one is shared with the adjacent dwelling. Did you mean the east (or, indeed, the south?).

Is the site capable of accommodating 15 dwellings? Has this been analysed to ensure it doesn't impact on overall delivery?

Policy SSB3 – site N/E of Little Kineton (p.42)

As with site 4, the LSS did not cover this area. However, given its periphery to zones K08 and K09, one may assume the site could be classified as high/medium sensitivity... However, it is adjacent to other built form (but also adjacent to the edge of the Battlefield site designation to the east).

Whilst Little Kineton is divorced from the shops and services associated with the MRC of Kineton, the two settlements are linked by a footpath along Bridge Street and the distance to the village shops would be similar from Little Kineton as from sites at other peripheral parts of Kineton itself. From this perspective, some flexibility in including Little Kineton in the overall delivery of sustainable development through the NP is acceptable, in principle.

Vehicular access to the site would not appear to be as obvious an issue as site 1, but I consider it would still be worth discussing it with WCC to ensure there are no hidden issues which could mean the site was not deliverable.

Why is it deemed necessary to have a 5 metre wide landscape buffer zone? That seems rather excessive. Additionally, it appears you may have listed the wrong boundary for any treatment. The western and southern boundaries are shared with adjacent dwellings. Are you looking to protect the eastern boundary?

Criteria e – Is this required? The site boundary as set out is clearly outside the boundary of the battlefield site.

Policy SSB4 – Land adjacent Walnut House (p.44)

Similar comments to SSB3 in terms of landscape sensitivity, sustainability, access and boundary treatments.

At criteria a) Appendix 1 is listed. I have not received a copy of Appendix 1 to comment on.

Some final thoughts/comments

I have not visited the sites or made any site assessment as to acceptability of development on these 4 sites.

There is no evidence of any assessment of alternative sites having been undertaken. What were the criteria for site selection? Please submit details relating to all sites that were considered through the NP process and explain how these final 4 sites were chosen and why.

There is no policy relating to the provision of Battle of Edgehill Museum, although this is discussed within the NP.