

Loxley Parish Council

Loxley Parish Neighbourhood Development Plan

A report to Stratford-on-Avon District Council of the
Independent Examination of the Loxley Parish Neighbourhood
Development Plan

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Overall Finding

This is the report of the Independent Examination of the Loxley Parish Neighbourhood Development Plan. The Plan area comprises the entire administrative area of Loxley Parish Council within the Stratford-on-Avon District Council area. The Plan period is 2011-2031. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan allocates land for residential development.

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

Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a Neighbourhood Development Plan. The National Planning Policy Framework (the Framework) states that “*Neighbourhood Planning gives communities the power to develop a shared vision for their area*”¹
2. Following satisfactory completion of the necessary preparation process Neighbourhood Development Plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the Neighbourhood Development Plan, unless material considerations indicate otherwise.
3. The Loxley Parish Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Loxley Parish Council (the Parish Council). The draft Plan has been submitted by the Parish Council, a qualifying body able to prepare a Neighbourhood Plan, in respect of the Loxley Neighbourhood Area which was formally designated by Stratford-on-Avon District Council (the District Council) on 18 February 2016. The Neighbourhood Plan has been produced by the Neighbourhood Plan Steering Group made up of Parish Councillors and other volunteers from the local community.
4. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Parish Council for submission of the Plan and accompanying documents to the District Council. The District Council arranged a period of publication between 27 June 2019 and 9 August 2019 and subsequently submitted the Neighbourhood Plan to me for independent examination.

Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan.² The report makes recommendations to the District Council including a recommendation as to whether or not the

¹ Paragraph 29 National Planning Policy Framework (2019)

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

Neighbourhood Plan should proceed to a local referendum. The District Council will decide what action to take in response to the recommendations in this report.

6. The District Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version Plan. Once a Neighbourhood Plan has been independently examined, and the decision taken to put the Plan to a referendum, it must be taken into account when determining a planning application, in so far as the policies in the Plan are material to the application³.
7. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the Plan area⁴ unless the District Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a Neighbourhood Plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made Neighbourhood Plan⁵. The Framework is very clear that where a planning application conflicts with an up to date Neighbourhood Plan that forms part of the Development Plan, permission should not usually be granted⁶.
8. I have been appointed by the District Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the District Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of Neighbourhood Plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years

³ Paragraph 48 of the National Planning Policy Framework 2019 explains full weight is not given at this stage

⁴ Section 3 Neighbourhood Planning Act 2017

⁵ Section 156 Housing and Planning Act 2016

⁶ Paragraph 12 National Planning Policy Framework 2019

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

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

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

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

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.⁹ The Planning Practice Guidance (the Guidance) states *“it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.”*

12. The examiner has the ability to call a hearing for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case forward. All parties have had an opportunity to state their case. As I did not consider a hearing necessary, I proceeded on the basis of written representations and an unaccompanied visit to the Neighbourhood Plan area.

Basic Conditions and other Statutory Requirements

13. An independent examiner must consider whether a Neighbourhood Plan meets the “Basic Conditions”.¹⁰ A Neighbourhood Plan meets the Basic Conditions if:

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

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

⁹ Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

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

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Plan;
- the making of the Neighbourhood Plan contributes to the achievement of sustainable development;
- the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan for the area of the authority (or any part of that area);
- the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and
- the making of the Neighbourhood Development Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.¹¹

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

15. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.¹³ I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 (the Regulations) which are made pursuant to the powers given in those sections.

16. The Neighbourhood Plan relates to the area that was designated by the District Council as a Neighbourhood Area on 18 February 2016. A map of the Neighbourhood Plan area is included as Figure 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Loxley Parish Council boundary. The

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

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

¹³ In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

Neighbourhood Plan does not relate to more than one Neighbourhood Area,¹⁴ and no other Neighbourhood Development Plan has been made for the Neighbourhood Area.¹⁵ All requirements relating to the Plan area have been met.

17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated Neighbourhood Area;¹⁶ and the Neighbourhood Plan does not include provision about excluded development.¹⁷ I am able to confirm that I am satisfied that each of these requirements has been met.
18. A Neighbourhood Plan must also meet the requirement to specify the period to which it has effect.¹⁸ The front cover of the Submission Version Plan clearly states the Plan period to be 2011-2031.
19. The role of an independent examiner of a Neighbourhood Plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.¹⁹ It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.
20. A Neighbourhood Plan can be narrow or broad in scope. There is no requirement for a Neighbourhood Plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a Neighbourhood Plan to be formulated as, or perform the role of, a comprehensive Local Plan. The nature of Neighbourhood Plans varies according to local requirements.
21. Neighbourhood Plans are developed by local people in the localities they understand and as a result each Plan will have its own character.

¹⁴ Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

¹⁵ Section 38B (2) Planning and Compulsory Purchase Act 2004

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

¹⁷ Principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

¹⁸ Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

¹⁹ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

It is not within my role to re-interpret, restructure, or re-write a Plan to conform to a standard approach or terminology. Indeed, it is important that Neighbourhood Plans reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.

22. Apart from minor corrections and consequential adjustment of text (referred to in the Annex to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the Plan meets the Basic Conditions and the other requirements I have identified.²⁰

Documents

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

- Loxley Parish Neighbourhood Development Plan Submission Version February 2019
- Loxley Parish Neighbourhood Development Plan Consultation Statement including Appendices 1, 2, 2A, and 3 [*In this report referred to as the Consultation Statement*]
- Loxley Parish Neighbourhood Development Plan Basic Conditions Statement March 2019 [*In this report referred to as the Basic Conditions Statement*]
- Strategic Environmental Assessment and Habitats Regulations Assessment of the Loxley Neighbourhood Development Plan SEA and HRA Screening Document November 2018 Lepus Consulting
- Technical Note of Lepus Consulting regarding Habitats Regulations Assessment dated 4 November 2019 and the email of Natural England dated 7 November 2019 relating to Habitats Regulations Assessment
- Loxley Neighbourhood Plan information available on the Loxley Parish Council Neighbourhood Plan website
- Representations received during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and the District and Parish Councils, including the initial letter of the Independent Examiner dated 8 October 2019, the Parish Council response to the representations of other parties which I received on 16 October 2019 and correspondence relating to clarification of various matters raised by the Examiner
- Stratford-on-Avon District Core Strategy 2011-2031 and Policies Map (adopted July 2016)

²⁰ See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Site Allocations Plan for Stratford-on-Avon District (emerging Plan)
- National Planning Policy Framework (February 2019) [*In this report referred to as the Framework*]
- Permitted development rights for householders' technical guidance MHCLG (10 September 2019) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated - most recently on 1 November 2019) [*In this report referred to as the Guidance*]
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- The Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act 2011
- The Housing and Planning Act 2016
- The Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- The Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations*].
- The Neighbourhood Planning (General) (Amendment) Regulations 2015
- The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016.
- The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

Consultation

24. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the Plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the Submission Plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.

25. The Neighbourhood Plan Steering Group comprising Parish

Councillors and other local volunteers first met in September 2015 and continued to meet regularly throughout the Plan preparation process. A public meeting at the Fox Inn in February 2016 was attended by 75 residents. In May 2016 a community household survey was delivered to all households and a public meeting was attended by 39 people in July 2016 to discuss the results arising from the 91 responses received. A further public meeting attended by 35 people was held in January 2017 and a drop-in session was held at the School in February 2017.

26. Potential development sites including those identified through a 'call for sites' were evaluated against stated criteria. The results of this evaluation were discussed at three public meetings in November and December 2017.
27. The Parish Council consulted on the first pre-submission version of the draft Neighbourhood Plan between 24 May 2018 until 5 July 2018. This consultation included a public meeting attended by approximately 40 people. Other publicity included a notice in the Stratford Herald; posters on local notice boards; and a questionnaire delivered to households. The representations arising from the consultation are summarised in Appendix 2 of the Consultation Statement where responses and changes made to the Neighbourhood Plan, are set out. The changes that the Parish Council decided to make to the Neighbourhood Plan included the removal of two proposed site allocations, and introduction of an additional policy on flooding. Given the significance of these changes, acting on the advice of the District Council, the Parish Council resolved to undertake further consultation.
28. Additional pre-submission consultation in accordance with Regulation 14 was undertaken between 15 November 2018 and 10 January 2019. The consultation included notices in the Stratford Herald and the local Grapevine newsletter; and formal consultation with statutory and other consultees. The representations arising from the additional consultation are summarised in Appendix 2A of the Consultation Statement where responses and changes made to the Neighbourhood Plan, are set out. The suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was approved by the Parish Council, for submission to the District Council.
29. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 27 June 2019

and 9 August 2019. A total of 13 representations were submitted during the period of publication. I have been provided with copies of each of these representations. In preparing this report I have taken into consideration all of the representations submitted during the Regulation 16 period even though they may not be referred to in whole, or in part. Where representations suggest additional matters that could be included in the Neighbourhood Plan that is only a matter for my consideration where such additions are necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements that I have identified. Where representations relate to specific policies, I refer to these later in my report when considering the policy in question.

30. A substantial representation submitted by the District Council refers to aspects of several of the policies of the Neighbourhood Plan including Policies H1; H2; H5; NE1; TT1; and TT2. I refer to these representations when considering the relevant policies later in my report. The District Council Regulation 16 representation also includes a statement that *“It is noted that the Plan does not list priorities, i.e. community assets, green spaces, which the Parish may want to use CIL funding towards. A number of already adopted NDP’s have listed these.”* Commenting on the representations of other parties the Parish Council state *“Noted. A new appendix could be provided listing the projects which CIL receipts could be used on”*. Whilst I would have no objection to inclusion of such a list, I have not made a recommendation of modification in this respect as there is no requirement for the Neighbourhood Plan to include such a statement.
31. Warwickshire County Council make a general comment that the Neighbourhood Plan should not identify capital or revenue schemes that rely on funding from the County Council although no examples of this are identified. The County Council states it will assist communities in delivering infrastructure *“providing they receive any funding that may arise from S106 agreements, Community Infrastructure Levy or any other source.”* I refer to those representations of the County Council regarding flood risk matters that relate to Policy NE5 of the Neighbourhood Plan when considering that policy later in my report.
32. The Environment Agency state *“We are broadly in support of the aims and objectives of the NDP”* and make a number of comments relating to biodiversity and flood risk. I refer to those comments when considering Policies NE2 and NE5 later in my report.

33. Historic England is supportive of both the content of the Plan document and the vision and objectives set out in it and are pleased to note that the Plan evidence base is well informed by reference to the Warwickshire Historic Environment Record stating, *“The emphasis on the conservation of local distinctiveness through good design and the protection of landscape character including green spaces and important views is to be applauded. The Village Design Statement at Appendix 1 is also commendable in its detail and will no doubt prove invaluable as a context and evidence base for the current Plan and in guiding future development. Overall the Plan reads as a well-considered, concise and fit for purpose document which we consider takes a suitably proportionate approach to the historic environment of the Parish. Beyond those observations we have no further substantive comments to make on what Historic England considers is a good example of community led Planning.”*
34. Stratford Homes state unqualified support for 13 of the policies of the Neighbourhood Plan and have made representations in respect of Policies H1 and TT2. I refer to those representations when considering the relevant policies later in my report.
35. Natural England welcome the mention of the Site of Special Scientific Interest in Policy NE2. The Coal Authority; the Canal and River Trust; Highways England; and Network Rail confirm they have no specific comments on the Neighbourhood Plan. Sport England have submitted generic statements relating to Neighbourhood Plan preparation with no comment on any specific part of the Neighbourhood Plan. A representation on behalf of National Grid includes general advice, and identifies high-pressure gas transmission pipelines within the Neighbourhood area but considers these do not interact with any of the proposed development sites. These representations do not necessitate any modification of the Plan to meet the Basic Conditions.
36. The representation of an individual states *“The Loxley NDP does not meet the required standards in at least 2 respects. The village boundary delineated by the NDP is inconsistent and does not conform to the set guidelines while one of the designated Green Spaces is not properly qualified”* I consider those parts of the representation that relate to Policies H1 and LC2 later in my report when considering those policies. The representation also states *“The purpose of a Neighbourhood Development Plan is to allow the community to influence future development within its area subject to the Planning policies and guidelines in place. Personal interests are unavoidably*

evident in the Plan as originally conceived by the authors and in its amended successors drawn up after the consultation periods. But, the guidelines are there to ensure equal and consistent treatment for all parties and should only be contravened in exceptional circumstances. There are a number of instances in the submission version of the Loxley NDP where it is at variance with the relevant regulations and guidelines. The Plan does not apply these consistently and so appears, perhaps inadvertently, to be discriminatory. I request that these discrepancies are removed before the Plan is put to a referendum.” Later in my report I state I have considered the European Convention on Human Rights including Article 14 (discrimination) and Article 1 of the first Protocol (property) and seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention²¹. The representation refers to the Independent Examination of other Neighbourhood Plans but that is not a matter for my consideration.

37. The District Council provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. Whilst the District Council placed no obligation on the Parish Council to offer any comments, such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the Plan preparation process. On 16 October 2019 the Parish Council responded to the opportunity to comment by setting out a statement in respect of the Regulation 16 representations. I have taken the Parish Council response into account in preparing my report. I advised the District Council that the Regulation 16 representations and the Parish Council response should be posted on their website.

38. The Regulations state that where a qualifying body submits a Plan proposal to the Local Planning Authority it must include amongst other items a consultation statement. The Regulations state a Consultation Statement means a document which:

- a) contains details of the persons and bodies who were consulted about the proposed Neighbourhood Development Plan;
- b) explains how they were consulted;
- c) summarises the main issues and concerns raised by the persons consulted; and
- d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed Neighbourhood

²¹ The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

Development Plan.²²

39. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

The Neighbourhood Plan taken as a whole

40. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and Human Rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the Plan contributes to the achievement of sustainable development; and whether the Plan is in general conformity with the strategic policies contained in the Development Plan for the area. Each of the Plan policies is considered in turn in the section of my report that follows this. In considering all of these matters I have referred to the submission, background, and supporting documents, and copies of the representations and other material provided to me.

Consideration of Convention Rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the Neighbourhood Development Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017

41. The Basic Conditions Statement states the Neighbourhood Plan “*has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998.*” I have considered the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).²³ I have referred earlier in my report to a representation that states the Neighbourhood Plan “*appears, perhaps inadvertently, to be discriminatory*”. Development Plans by their nature will include policies

²² Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

²³ The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. Whilst there is no indication an Equality Impact Assessment has been undertaken in respect of the Neighbourhood Plan, from my own examination the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

42. The objective of EU Directive 2001/42²⁴ is *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”* The Neighbourhood Plan falls within the definition of ‘plans and programmes’²⁵ as the Local Planning Authority is obliged to ‘make’ the Plan following a positive referendum result.²⁶
43. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to Stratford-on-Avon District Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.
44. The Strategic Environmental Assessment and Habitats Regulations Assessment Screening Document November 2018 states *“This screening report has explored the potential effects of the proposed Loxley NDP with a view to determining whether an environmental assessment is required under the SEA Directive. In accordance with topics cited in Annex 1(f) of the SEA directive, significant effects on the environment are considered unlikely to occur as a result of the NDP. It is recommended that the Loxley NDP should not be screened into the SEA process.”* The Screening Report includes copies of statutory consultation responses from the Environment Agency, Historic England, and Natural England each agreeing with the conclusion

²⁴ Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

²⁵ Defined in Article 2(a) of Directive 2001/42

²⁶ Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

reached. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.

45. The Screening Document November 2018 also relates to Habitats Regulations Assessment and states at paragraph 3.2.1 *“The nearest Natura 2000 sites to Loxley Parish is Bredon Hills SAC, located approximately 28km south west. A likely significant effect of the NDP on any Natura 2000 site can therefore be objectively ruled out at this stage”* and at paragraph 4.2.1 *“It is recommended that the Loxley Neighbourhood Development Plan should not be screened into the HRA process.”* The Screening Document includes a copy of a statutory consultation response from Natural England.

46. I have earlier in my report, in Footnote 11, referred to the replacement on 28 December 2018 of the Basic Condition relating to Habitats that had previously been in place throughout much of the period of preparation of the Neighbourhood Plan. As the Screening Document is dated November 2018, I asked the District Council, following consultation with Natural England, to confirm the Neighbourhood Plan meets the new basic condition. The District Council has sent me a document dated 4 November 2019 which confirms *“The following recent/ current HRA Screening’s carried out by Lepus Consulting within the Stratford-on-Avon District are compliant with ‘The Conservation of Habitats and Species Regulations 2017’ as well as ‘The Conservation of Habitats and Species and Planning (Various Amendments) England and Wales) Regulations 2018’.”* On 8 November 2019 the District Council sent me a copy of an email received the previous day from Natural England which stated *“Natural England advises that the Loxley NDP Habitats Regulations Assessment (HRA) Screening Conclusion of no likely significant effect upon the European designated sites is compliant with the recent changes to the HRA process following People Over Wind ruling by the Court of Justice of the European Union. We agree with Lepus Consulting Ltd that the Neighbourhood Plan is compatible with European obligations.”* I am satisfied with these responses. I conclude the Neighbourhood Plan meets the requirements of the revised Basic Condition relating to Habitats Regulations.

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

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

49. The Guidance states it is the responsibility of the Local Planning Authority to ensure that all the regulations appropriate to the nature and scope of a draft Neighbourhood Plan submitted to it have been met in order for the draft Neighbourhood Plan to progress. The District Council as Local Planning Authority must decide whether the draft Neighbourhood Plan is compatible with EU obligations:

- when it takes the decision on whether the Neighbourhood Plan should proceed to referendum; and
- when it takes the decision on whether or not to make the Neighbourhood Plan (which brings it into legal force).²⁷

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

50. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the Plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans²⁸ which requires plans to be “*consistent with national policy*”.

51. Lord Goldsmith has provided guidance²⁹ that ‘*have regard to*’ means “*such matters should be considered*.” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a

²⁷ Planning Practice Guidance paragraph 031 Reference ID: 11-031-20150209 revision 09 02 2015

²⁸ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

²⁹ The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the House of Lords Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

Neighbourhood Plan “*must not constrain the delivery of important national policy objectives.*”

52. The most recent National Planning Policy Framework published on 19 February 2019 sets out the government’s planning policies for England and how these are expected to be applied. In my initial letter published by the District Council I confirmed that I would undertake this Independent Examination of the Neighbourhood Plan in the context of the Framework published in February 2019 and the Planning Practice Guidance most recently updated on 1 October 2019. The Guidance has subsequently been updated on 1 November 2019. Clearly parts of the Guidance have been updated after the Neighbourhood Plan was submitted to the District Council.
53. The Basic Conditions Statement includes in paragraph 2.9 a series of tables which summarise how Neighbourhood Plan policies contribute to the sustainability objectives of the Framework and the table in paragraph 2.10 provides a matrix of the Neighbourhood Plan policies against the relevant paragraphs of the Framework. I am satisfied the Basic Conditions Statement demonstrates how the Neighbourhood Plan has regard to relevant identified components of the Framework.
54. The Neighbourhood Plan includes a positive vision for Loxley Parish that includes economic dimensions (“*grown*”; “*viability of local facilities*”; “*thriving*” and “*housing development*”) and social components (“*socially mixed*”; “*vibrant and viable community*”; “*meet local housing needs*”; “*outstanding quality of life*”) whilst also referring to environmental considerations (“*distinctive character*”; “*high quality natural environment*”; “*protecting the character and history*”; “*enhances biodiversity*”; “*minimise flood risk*”; “*mitigate climate change*”). The vision is supported by seven goals relating to: homes; landscape and built setting; local facilities; safe environment for road users and pedestrians; local distinctiveness; green spaces, landscape and nature conservation; and involvement of local people. The goals of the Neighbourhood Plan provide a framework for the policies that have been developed and presented in the context of a Strategic Objective for each of the topic areas of housing and the built environment; natural environment; local community; and traffic and transport.
55. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the Plan I am satisfied that the need to ‘*have regard to*’ national policies and advice contained in guidance issued by the Secretary of State has, in plan

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

56. At the heart of the Framework is a presumption in favour of sustainable development³⁰ which should be applied in both plan-making and decision-taking.³¹ The Guidance states, “*This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft Neighbourhood Plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft Neighbourhood Plan or order guides development to sustainable solutions*”³².
57. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the Plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative Plan would make a greater contribution to sustainable development.
58. The Framework states there are three dimensions to sustainable development: economic, social and environmental. The Basic Conditions Statement includes in Section 3 a statement demonstrating how the policies of the Neighbourhood Plan simultaneously contribute to the economic, social and environmental dimensions of sustainable development. The appraisal does not highlight any negative impacts.

³⁰ Paragraph 10 National Planning Policy Framework 2019

³¹ Paragraph 11 National Planning Policy Framework 2019

³² Planning Practice Guidance Paragraph 072 Ref ID:41-072-20190509 Revision 09 05 2019

59. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes are of an appropriate quality; will serve economic needs; will protect and enhance social facilities; and will protect important environmental features. In particular, I consider the Neighbourhood Plan seeks to:

- Establish a development boundary for the built-up area;
- Allocate three sites for housing provision;
- Establish conditional support for affordable housing development beyond, but reasonably close to the development boundary;
- Establish design criteria;
- Establish conditional support for re-use of redundant rural buildings;
- Establish criteria for replacement dwellings;
- Establish that proposals that harm the Special Landscape Area, or have an adverse effect on valued landscapes, will not be supported;
- Support biodiversity;
- Protect trees and hedgerows and require new planting;
- Conditionally support renewable energy production;
- Seeks to address flood risk;
- Avoid unnecessary loss of community assets and conditionally support proposals that improve viability of such facilities;
- Designate three Local Green Spaces;
- Protect and enhance the active travel route network
- Establish local parking provision standards; and
- Address highway safety;

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

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

61. The Framework states Neighbourhood Plans should “*support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies*”.³³ Plans should make explicit which policies are strategic policies.³⁴ “*Neighbourhood Plans must be in general conformity with the strategic policies contained in any Development Plan that covers their area*”³⁵. *Neighbourhood Plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies*”.³⁶

62. The Guidance states, “*A local planning authority should set out clearly its strategic policies in accordance with paragraph 21 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.*”³⁷

63. In this independent examination, I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan for the area of the authority (or any part of that area). The District Council has informed me that the Development Plan applying in the Loxley Neighbourhood Area and relevant to the Neighbourhood Plan is the Stratford-on-Avon District Core Strategy 2011-2031 adopted July 2016. The Policies Map illustrates geographically the application of the policies in the Development Plan. Whilst the saved policies associated with the Warwickshire Minerals Local Plan and the Warwickshire Waste Core Strategy also comprise part of the Development Plan the policies in those plans do not appear to be relevant to the Independent Examination of the Neighbourhood Plan. The District Council has confirmed that all of the policies of the Core Strategy are regarded by the Local Planning Authority as strategic policies for the purposes of Neighbourhood Planning.

64. The District Council is working to prepare a Site Allocations Plan that will form part of the Development Plan alongside the Core Strategy. The Site Allocations Plan will guide where and how potential

³³ Paragraph 13 National Planning Policy Framework 2019

³⁴ Paragraph 21 National Planning Policy Framework 2019

³⁵ Footnote 16 National Planning Policy Framework 2019

³⁶ Paragraph 29 National Planning Policy Framework 2019

³⁷ Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20190509 Revision 09 05 2019

development proposals will be built. This work has proceeded to the stage where Regulation 19 Statutory Consultation took place between 8 August and 20 September 2019.

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

- *the emerging Neighbourhood Plan*
- *the emerging Local Plan*
- *the adopted Development Plan*

with appropriate regard to national policy and guidance. The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft Neighbourhood Plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body to produce complementary Neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the Neighbourhood Plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the Development Plan. Strategic policies should set out a housing requirement figure for designated Neighbourhood areas from their overall housing requirement (paragraph 65 of the revised National Planning Policy Framework). Where this is not possible the local planning authority should provide an indicative figure, if requested to

do so by the Neighbourhood Planning body, which will need to be tested at the Neighbourhood Plan examination. Neighbourhood Plans should consider providing indicative delivery timetables and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the Neighbourhood Plan are not overridden by a new Local Plan.”³⁸

66. I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and the emerging Site Allocations Plan when it is adopted; the matter will be resolved in favour of the Plan most recently becoming part of the Development Plan unless the latter Plan states otherwise; however, the Guidance is clear in that potential conflicts should be minimised.

67. In order to satisfy the Basic Conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The emerging Site Allocations Plan is not part of the Development Plan and this requirement does not apply in respect of that. Emerging planning policy is subject to change as Plan preparation work proceeds. The Guidance states *“Neighbourhood Plans, when brought into force, become part of the Development Plan for the Neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan”³⁹*. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted Development Plan as a whole.

68. In considering a now-repealed provision that *“a Local Plan shall be in general conformity with the Structure Plan”* the Court of Appeal stated *“the adjective ‘general’ is there to introduce a degree of flexibility.”⁴⁰* The use of ‘general’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for Neighbourhood Plans refers to the strategic policies of the Development Plan rather than the Development Plan as a whole.

³⁸ Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

³⁹ Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

⁴⁰ *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

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

- *whether the Neighbourhood Plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;*
- *the degree, if any, of conflict between the draft Neighbourhood Plan policy or development proposal and the strategic policy;*
- *whether the draft Neighbourhood Plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;*
- *the rationale for the approach taken in the draft Neighbourhood Plan or Order and the evidence to justify that approach.”⁴¹*

My approach to the examination of the Neighbourhood Plan Policies has been in accordance with this guidance.

70. Consideration as to whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan for the area of the authority (or any part of that area) has been addressed through examination of the Plan as a whole and each of the Plan policies below. This consideration has been informed by Section 4 of the Basic Conditions Statement which includes at paragraph 4.6 a table that indicates the relationship between the Neighbourhood Plan policies and the Core Strategy policies. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

The Neighbourhood Plan Policies

71. The Neighbourhood Plan includes 15 policies as follows:

Policy H1 Housing Growth

Policy H2 Local Housing Needs

Policy H3 Design and Character

Policy H4 Re-use of Rural Buildings

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

Policy H5 Replacement Dwellings

Policy NE1 Protection of SLA and Valued Landscapes

Policy NE2 Biodiversity

Policy NE3 Trees and Hedgerows

Policy NE4 Renewable and Low Carbon Energy

Policy NE5 Flooding

Policy LC1 Community Assets

Policy LC2 Designated Local Green Spaces

Policy LC3 Encouraging the Use of Public Routes

Policy TT1 Local Parking Standard

Policy TT2 Highways Safety

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

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

74. Paragraph 16 of the Framework states *“Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and*

unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).

75. The Guidance states “A policy in a Neighbourhood Plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific Neighbourhood area for which it has been prepared.”⁴²

76. “While there are prescribed documents that must be submitted with a Neighbourhood Plan ... there is no ‘tick box’ list of evidence required for Neighbourhood Planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft Neighbourhood Plan”.⁴³

77. A Neighbourhood Plan should contain policies for the development and use of land. “This is because, if successful at examination and referendum (or where the Neighbourhood Plan is updated by way of making a material modification to the Plan and completes the relevant process), the Neighbourhood Plan becomes part of the statutory Development Plan. Applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”⁴⁴

78. “Neighbourhood Plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.”⁴⁵ “A Neighbourhood Plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of

⁴² Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306 Revision 06 03 2014

⁴³ Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

⁴⁴ Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20190509 Revision 09 05 2019

⁴⁵ Planning Practice Guidance Paragraph 040 Reference ID 41-040-20160211 Revision 11 02 2016

individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.”⁴⁶

79. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the Plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is ‘made’ they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn. I have considered any inter-relationships between policies where these are relevant to my remit. I have considered the issue of meeting housing needs initially as this issue is relevant to more than one policy of the Neighbourhood Plan.

Meeting Housing Needs

80. The Guidance states “*The National Planning Policy Framework expects most strategic policy-making authorities to set housing requirement figures for designated Neighbourhood areas as part of their strategic policies. While there is no set method for doing this, the general policy making process already undertaken by local authorities can continue to be used to direct development requirements and balance needs and protections by taking into consideration relevant policies such as the spatial strategy, evidence such as the Housing and economic land availability assessment, and the characteristics of the Neighbourhood area, including its population and role in providing services. In setting requirements for housing in designated Neighbourhood areas, plan-making authorities should consider the areas or assets of particular importance (as set out in paragraph 11, footnote 6), which may restrict the scale, type or distribution of development in a Neighbourhood Plan area.*”⁴⁷

81. “*Neighbourhood Plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.*”⁴⁸

⁴⁶ Planning Practice Guidance Paragraph 042 Reference ID 41-042-20170728 Revision 28 07 2017

⁴⁷ Planning Practice Guidance Paragraph: 101 Reference ID: 41-101-20190509 Revision date: 09 05 2019

⁴⁸ Planning Practice Guidance Paragraph: 040 Reference ID: 41-040-20160211 Revision date: 11 02 2016

82. *“Where neighbourhood planning bodies have decided to make provision for housing in their Plan, the housing requirement figure and its origin are expected to be set out in the Neighbourhood Plan as a basis for their housing policies and any allocations that they wish to make. Neighbourhood planning bodies are encouraged to plan to meet their housing requirement, and where possible to exceed it. A sustainable choice of sites to accommodate housing will provide flexibility if circumstances change, and allows plans to remain up to date over a longer time scale. Where neighbourhood planning bodies intend to exceed their housing requirement figure, proactive engagement with their local planning authority can help to assess whether the scale of additional housing numbers is considered to be in general conformity with the strategic policies. For example, whether the scale of proposed increase has a detrimental impact on the strategic spatial strategy, or whether sufficient infrastructure is proposed to support the scale of development and whether it has a realistic prospect of being delivered in accordance with Development Plan policies on viability. Any Neighbourhood Plan policies on the size or type of housing required will need to be informed by the evidence prepared to support relevant strategic policies, supplemented where necessary by locally-produced information.”⁴⁹*

83. *“The scope of Neighbourhood Plans is up to the neighbourhood planning body. Where strategic policies set out a housing requirement figure for a designated Neighbourhood area, the neighbourhood planning body does not have to make specific provision for housing, or seek to allocate sites to accommodate the requirement (which may have already been done through the strategic policies or through non-strategic policies produced by the local planning authority). The strategic policies will, however, have established the scale of housing expected to take place in the Neighbourhood area. Housing requirement figures for Neighbourhood Plan areas are not binding as neighbourhood planning groups are not required to plan for housing. However, there is an expectation that housing requirement figures will be set in strategic policies, or an indicative figure provided on request. Where the figure is set in strategic policies, this figure will not need retesting at examination of the Neighbourhood Plan. Where it is set as an indicative figure, it will need to be tested at examination.”⁵⁰*

⁴⁹ Planning Practice Guidance Paragraph: 103 Reference ID: 41-103-20190509 Revision date: 09 05 2019

⁵⁰ Planning Practice Guidance Paragraph: 104 Reference ID: 41-104-20190509 Revision date: 09 05 2019

84. *“Where an indicative housing requirement figure is requested by a neighbourhood planning body, the local planning authority can follow a similar process to that for providing a housing requirement figure. They can use the authority’s local housing need as a starting point, taking into consideration relevant policies such as an existing or emerging spatial strategy, alongside the characteristics of the Neighbourhood Plan Area. Proactive engagement with neighbourhood plan-making bodies is important as part of this process, in order for them to understand how the figures are reached. This is important to avoid disagreements at Neighbourhood Plan or Local Plan examinations, and minimise the risk of Neighbourhood Plan figures being superseded when new strategic policies are adopted”.*⁵¹
85. *“Where strategic policies do not already set out a requirement figure, the National Planning Policy Framework expects an indicative figure to be provided to neighbourhood planning bodies on request. However, if a local planning authority is unable to do this, then the neighbourhood planning body may exceptionally need to determine a housing requirement figure themselves, taking account of relevant policies, the existing and emerging spatial strategy, and characteristics of the Neighbourhood area. The Neighbourhood planning toolkit on housing needs assessment may be used for this purpose. Neighbourhood planning bodies will need to work proactively with the local planning authority through this process, and the figure will need to be tested at examination of the Neighbourhood Plan, as Neighbourhood Plans must be in general conformity with strategic policies of the Development Plan to meet the Basic Conditions.”*⁵²
86. *“If a local planning authority is also intending to allocate sites in the same Neighbourhood area the local planning authority should avoid duplicating planning processes that will apply to the Neighbourhood area. It should work constructively with a qualifying body to enable a Neighbourhood Plan to make timely progress. A local planning authority should share evidence with those preparing the Neighbourhood Plan, in order for example, that every effort can be made to meet identified local need through the Neighbourhood Planning process.”*⁵³

⁵¹ Planning Practice Guidance Paragraph: 102 Reference ID: 41-102-20190509 Revision date: 09 05 2019

⁵² Planning Practice Guidance Paragraph: 105 Reference ID: 41-105-20190509 Revision date: 09 05 2019

⁵³ Planning Practice Guidance Paragraph: 043 Reference ID: 41-043-20140306 Revision date: 06 03 2014

87. *“Although a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the Basic Conditions against which a Neighbourhood Plan is tested. For example, up-to-date housing need evidence is relevant to the question of whether a housing supply policy in a Neighbourhood Plan or Order contributes to the achievement of sustainable development. Where a Neighbourhood Plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*

- the emerging Neighbourhood Plan*
- the emerging Local Plan (or spatial development strategy)*
- the adopted Development Plan*

with appropriate regard to national policy and guidance.

The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft Neighbourhood Plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body so that complementary Neighbourhood and Local Plan policies are produced. It is important to minimise any conflicts between policies in the Neighbourhood Plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the Development Plan. Strategic policies should set out a housing requirement figure for designated Neighbourhood areas from their overall housing requirement (paragraph 65 of the revised National Planning Policy Framework). Where this is not possible the local Planning authority should provide an indicative figure, if requested to do so by the Neighbourhood Planning body, which will need to be tested at the Neighbourhood Plan examination. Neighbourhood Plans should consider providing indicative delivery timetables, and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the Neighbourhood Plan are not overridden by a new Local Plan.”⁵⁴

⁵⁴ Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision date: 09 05 2019

88. *“A Neighbourhood Plan can allocate additional sites to those identified in an adopted plan so long as the Neighbourhood Plan meets the Basic Conditions.”⁵⁵ and “A Neighbourhood Plan can allocate additional sites to those in a Local Plan (or spatial development strategy) where this is supported by evidence to demonstrate need above that identified in the Local Plan or spatial development strategy. Neighbourhood Plans should not re-allocate sites that are already allocated through these strategic plans. A Neighbourhood Plan can also propose allocating alternative sites to those in a Local Plan (or spatial development strategy), where alternative proposals for inclusion in the Neighbourhood Plan are not strategic, but a qualifying body should discuss with the local planning authority why it considers the allocations set out in the strategic policies are no longer appropriate. The resulting draft Neighbourhood Plan must meet the Basic Conditions if it is to proceed. National Planning policy states that it should support the strategic development needs set out in strategic policies for the area, plan positively to support local development and should not promote less development than set out in the strategic policies (see paragraph 13 and paragraph 29 of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the Local Plan or spatial development strategy. Should there be a conflict between a policy in a Neighbourhood Plan and a policy in a Local Plan or spatial development strategy, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the Development Plan.”⁵⁶*

89. Whilst it is not within my role to test the soundness of the Neighbourhood Plan it is necessary to consider whether the Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies, as required by paragraph 29 of the Framework; and meets the requirements set out in the Guidance. Several policies of the Neighbourhood Plan, in particular Policies H1; H2; H4; and H5 are relevant to housing supply. The Vision of the Neighbourhood Plan includes the meeting of local housing needs. Paragraph 4.2 of the Neighbourhood Plan confirms the Neighbourhood Plan *“seeks a positive approach to housing growth through natural*

⁵⁵ Planning Practice Guidance Paragraph: 009 Reference ID: 67-009-20190722 Revision date: 22 07 2019

⁵⁶ Planning Practice Guidance Paragraph: 044 Reference ID: 41-044-20190509 Revision date: 09 05 2019

organic limited infilling within the development boundary and three allocations as shown on Figure 2". The Core Strategy identifies Loxley as a Category 4 Local Service Village stating "A wide range of villages fall into this category, in accordance with the level of local services available. The status of an individual settlement could alter if the availability of services changes. The scale of housing development that is appropriate in each village is specified in Policy CS.16 Housing Development. Development will take place: □ on sites identified in a Neighbourhood Plan; and □ through small-scale schemes on unidentified but suitable sites within their Built-Up Area Boundaries (where defined) or otherwise within their physical confines." Core Strategy Policy CS.16. identifies a housing requirement of approximately 400 homes in total in all Category 4 villages of which no more than around 8% should be provided in any individual settlement. On this basis "no more than" 32 dwellings should be provided in Loxley by 2031. The Core Strategy does not include any minimum level of provision in Loxley.

90. The emerging Site Allocations Plan (Regulation 19 Proposed Submission Consultation Version July 2019) includes on page 68 a map identifying two reserve housing sites in Loxley. One of those sites appears to correspond to the Neighbourhood Plan housing allocation Site A – Land adjacent to Clematis Cottage Stratford Road, and the other includes Neighbourhood Plan housing allocation Site C - Land adjacent to the recreation ground Goldicote Road along with other adjacent land. There is clearly a degree of consistency between the emerging plans. I have explained earlier in my report that although the Neighbourhood Plan is not tested against the policies in the emerging Site Allocations Plan the reasoning and evidence informing the preparation process of the latter Plan is likely to be relevant to the consideration of the Basic Conditions against which a Neighbourhood Plan is tested.
91. The District Council has not provided a housing target at Neighbourhood area level and the Parish Council have not requested an indicative housing requirement figure. The revisions to the Guidance relating to these matters were published in May 2019 when the Neighbourhood Plan was at an advanced stage of preparation.
92. The Neighbourhood Plan states at paragraph 4.3 that "*all possible development sites located in the village*" have been assessed against a range of appropriate factors. Paragraph 4.4 of the Neighbourhood Plan refers to the views of the local community and paragraph 4.5

identifies the significance of the Loxley Village Design Statement. The approach to providing for new housing provision in preparing the Neighbourhood Plan does not result in a housing target or housing requirement figure but reflects an assessment of deliverable and developable sites and responds to local circumstances. The Neighbourhood Plan allocates three sites for housing development that will together accommodate approximately 10 to 13 dwellings. Whilst there is no dedicated report setting out the rationale for the housing numbers that the Neighbourhood Plan provides for, there is evidence of consideration of: demographics; local housing needs; the limited role of the Neighbourhood Area in providing services; and past completion rates. In this latter respect, Paragraph 4.6 of the Neighbourhood Plan identifies four sites that have received planning permission since 2011, of which three had been developed at the time of plan preparation.

93. Policy H1 defines a development boundary within which new infill housing development will be supported. The Neighbourhood Plan places no cap or limit on the number of homes that can be provided within the development boundary. Outside the development boundary new housing is limited to specified circumstances. It is reasonable to assume there will be further windfall supply during the remainder of the plan period up to 2031. Neighbourhood Plan Policy H2 specifically supports affordable housing on rural exception sites outside the development boundary. Policy H2 does not place any cap or limit on the number of homes that can be provided in accordance with that policy. Allocated, committed, and future windfall housing provision together will significantly boost the supply of homes in the Neighbourhood Plan area. The level of provision will accommodate flexibility in the timing of delivery of any specific site and obviates any pressing need for the Neighbourhood Plan to identify reserve sites additional to the housing site allocations. I am satisfied the approach adopted to address housing need in the Neighbourhood Area is appropriate for the purpose of Neighbourhood Plan preparation for Loxley and provides the necessary justification that those policies that are relevant to housing supply will result in local housing needs being met. The Neighbourhood Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.

Policy H1 Housing Growth

94. This policy seeks to establish a development boundary to define the built-up area of Loxley and supports infill housing development within that boundary provided it accords with the principles and parameters of the Village Design Statement. The policy defines all areas outside the development boundary as countryside, where new housing will be limited to defined types. The policy also allocates three sites for housing development where proposals should have regard for the Village Design Statement.
95. Paragraph 79 of the Framework states *“Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply: a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside; b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; c) the development would re-use redundant or disused buildings and enhance its immediate setting; d) the development would involve the subdivision of an existing residential dwelling; or e) the design is of exceptional quality, in that it: - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.”*
96. The term *“in principle”* introduces uncertainty. The terms *“will be limited to”*, *“potentially suitable”* and *“should have regard to”* do not provide a basis for the determination of planning proposals. I have recommended a modification in these respects so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
97. In the previous section of my report I have concluded the Neighbourhood Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies. Policy H1 has regard for national policy relating to the development of isolated homes in the countryside as set out in paragraph 79 of the Framework and is in general conformity with strategic policy CS.16 relating to housing development within Category 4 Local Service Villages. I now consider

those aspects of Policy H1 that relate to housing site allocations and the precise alignment of the development boundary.

Housing site allocations

98. *The District Council states “Whilst it appears that a site assessment has been carried out and is published on the website it is unclear as to why some specific sites have been rejected or included. For example, sites I, G and M which have good potential have not been included within the plan.”* When commenting on the representations of other parties the Parish Council state *“All sites have been assessed and publically consulted upon during public events and Reg 14. The sites were ruled out for a mixture of reasons including technical site assessment and public responses.”*
99. The Policy allocates three sites for housing development. The Guidance states *“A sustainable choice of sites to accommodate housing will provide flexibility if circumstances change, and allows plans to remain up to date over a longer time scale.”*⁵⁷
100. The Guidance states *“A Neighbourhood Plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.”*⁵⁸ The explanation that follows Policy H1 briefly sets out the method of residential development site assessment and the selection criteria used. This explanation is supported by the site assessment information, including the Site Assessment Matrix July 2017, presented commencing on page 26 of Appendix 1 of the Neighbourhood Plan Consultation Statement. It is evident an appropriate range of factors has been considered in the site selection process including: status of land; highway safety; topography; impact on landscape setting; flooding and drainage; accessibility to local services; impact on natural heritage; and impact on heritage assets. I have seen nothing to suggest the residential allocations in the Neighbourhood Plan do not have the potential to be viable. The achievement of community objectives has been an important consideration in the site assessment and selection process. Such an approach is not inconsistent with meeting the Basic Conditions. I am satisfied the method of site selection and assessment deployed is appropriate to preparation of the Neighbourhood Plan and provides

⁵⁷ Planning Practice Guidance Paragraph 103 Reference ID: 41-103-20190509 Revision 09 05 2019

⁵⁸ Planning Practice Guidance Paragraph: 2 Reference ID: 41-042-20170728 Revision date: 28 07 2017

sufficient evidence to support the residential allocations of the Neighbourhood Plan.

101. The District Council states *“It is noted that there is a note contained within the policy with regards to housing numbers and that this has been amended. However, the density figure for a number of the proposed allocations sites is very low. The Plan seems to be promoting smaller (2-bed) dwellings, and also acknowledges the need to meet sustainability standards. Together, these objectives could lead to higher density development than being promoted through Policy H1.* The emerging Site Allocations Plan in Annex 1 sets out a schedule of proposed reserve housing sites including dwelling capacities based on 30 and 35 dwellings per hectare that would indicate the relevant Neighbourhood Plan housing allocations could accommodate a greater number of dwellings than indicated in Policy H1. When commenting on the representations of other parties the Parish Council state *“The density of the village is very low and therefore the figures specified in the allocations reflects the local character. To impose higher densities would create a development significantly more dense than the established character of the village.”* The Village Design Statement identifies the area as being low density. I am satisfied Policy H1, through use of the word *“approximately”* and the note *“that higher densities may be appropriate”* includes sufficient flexibility to ensure that any proposals that are found to represent sustainable development can be supported.

102. The District Council refer to a public footpath within allocation Site A. At the fact checking stage of preparation of my report the Parish Council and District Council have agreed that a public footpath runs along the western boundary of Site A. It is appropriate to draw the attention of potential developers to the existence of the public footpath in question so that pedestrian movement can be addressed in accordance with paragraph 110 of the Framework. I consider this is best achieved through inclusion of an additional note within Policy H1. I have made a recommendation of modification in this respect.

Alignment of the Development Boundary

103. In a representation the District Council states *“SDC’s comment made at Reg 14 was as follows: The policy makes reference to ‘Village boundary’. The village boundary is a built-up area boundary with three large (ish) rear gardens excluded...with no explanation on the rationale behind this decision. The exclusion of only these 3 gardens is considered inconsistent in how the remainder of the ‘line’ has been*

drawn (and presumably been assessed/evidenced?). Paragraph 2 of policy H1 states that 'all areas outside the Development Boundary are classed as countryside'. SDC has made a further comment as below: It would appear that (Figure 2) still excludes three back gardens. There is a lack of methodology of how the land is being included and excluded within the Development Boundary. E.g. is residential land being included/excluded? Due to there being an unclear methodology there would appear to be an inconsistency in the approach in that entire curtilages are being included in the village but elsewhere the garden land is being deliberately severed without any clear justification. The Site Allocations Plan (SAP) which has recently gone out for consultation makes reference to a Built up Area Boundary for Loxley and this differs to the boundary identified in Loxley's Neighbourhood Plan. The Built up Area Boundary in the SAP is based on SDC's own methodology (Appendix 1)." Appendix 1 of the Site Allocations Plan states "Dwellings and areas of residential curtilage (excluding areas of land that are clearly paddocks or orchards or land more appropriately defined as 'non-urban')" are land to be included within settlement boundaries.

104. The representation of an individual includes *"In 2017, SDC compiled a draft version: of the built-up area boundary for Loxley (now called the village boundary) without involvement from councillors, developers or landowners etc... and which was based solely on the applicable guidance. The NDP alters this by cutting out parts of some village gardens while at the same time adding a large area around Loxley Hall in addition to the sites designated for new development. When asked to justify these changes Loxley Parish Council responded thus – "In defining the Village Boundary the working group has relied on the guidance provided by an independent planning consultant. While the NDP Village Boundary differs from the SDC proposed BUAB it has been carefully conceived. Part of the changes are necessary to include the site allocations within the boundary. Where the boundary has been drawn more tightly to that proposed by SDC, it has been done deliberately to exclude large gardens on the edge of the village. The NDP proposes a Village Boundary whereas SDC propose a Built-up Area Boundary. The NDP is entitled to draw its own development boundary even if this differs from the Council's own proposed boundary. This was confirmed in the recent Examiners report for the Claverdon NDP where the Examiner accepted a different (tighter) boundary in the NDP to that proposed by SDC. The NDP insists that it is entitled to define its own boundary and justifies its actions by claiming that it is merely removing large gardens on the edge of the*

village in line with its policy. This explanation does not fit the facts and SDC has described the exclusion of the 3 gardens within the village as perverse. These gardens are not situated on the outskirts of the village, and the boundary which has been drawn through them is inconsistent with the rest of the boundary. It is also totally arbitrary. It ignores curtilage and established practice and is unidentifiable on the ground as it is not marked by any physical features such as fences or hedges. The inconsistency is most vividly illustrated by the different treatment given to 2 contiguous plots. The NDP brings Site B within the village boundary to allow 2 rows of new homes to be built. Immediately adjacent to Site B, and to the north, the garden of Loxley House and 2 others have been cut back to prevent the building of 'houses behind houses'. Apparently, the obligation to preserve the linear characteristic of the village does not apply to one plot but is sacrosanct for the next. Again, at Hillside the children's swings are designated to be outside its curtilage, while at Orchard House the boundary is purported to run through the middle of a flowerbed a few metres from the back door. Two other gardens have also been excised. Those at Loxley Barn and Pedders Way may be said to be on the northern periphery of the settlement but are certainly not large. It is difficult to understand the necessity or the rationale behind these adjustments which are similarly arbitrary and without justification. Placing the village boundary in the position shown in the NDP unfairly and unreasonably hinders the potential to develop these gardens with small scale infill development. While suggesting that it draws a tighter village boundary than SDC the NDP in fact envisages a very much larger area by bringing in a tract of land and buildings around Loxley Hall. This enlargement does not relate to land which has been allocated as a site for development but is made without any elucidation – even the independent consultant escapes mention. However, the arbitrary lines which have been drawn to indicate the revised village boundary are indefensible. As one example, the wooded area along the road past the church does not qualify for inclusion under any interpretation. It lies beyond the old stable yard and buildings well away from Loxley Hall itself, and is clearly not part of its curtilage.”

105. In a representation Stratford Homes state “The Avon Planning site appraisal for Site A suggests up to 6 dwellings. Our own studies show similar potential. Policy H1 suggests 2-3 dwellings, which would appear to have arisen from a desire to maintain the village’s linear nature (NDP outcomes 06/02/2018). However, adjacent sites for Peddler’s Way and Loxley Barn have deeper curtilages and are set back further from the road in non-linear arrangements. A Courtyard

style development, as suggested in Avon Planning's appraisal, may be appropriate for the site and would enable safer access arrangements, with turning space within the courtyard rather than direct road frontage. We would ask for more of the site to be included in the BUAB to allow potential for more dwellings, safer access, and also to provide space within the site for landscape buffering. The "right" solution may still be a linear development, but alternative options should not be precluded at this level; all proposals will still be assessed on their own merit." Commenting on this representation the Parish Council state *"The BUAB as drawn will allow sufficient space to enable a linear form of development with a safe mean of access so does not need to be enlarged"* and *"There is no evidence to suggest that the size of the site as indicated in the NDP will not provide for sufficient space to enable vehicles to enter and leave in a forward gear."*

106. Commenting on the representations of other parties the Parish Council state *"The QB maintains that it is entitled to draw a BUAB around the village in which it sees fit. There are countless examples of where an NDP has defined a different development boundary or BUAB than the host planning authority. A recent example is the Claverdon NDP.... The Claverdon NDP passed examination with a different BUAB to the one Stratford District Council had drawn up. The gardens refer to in this communication are very large and clearly outside the settlement pattern of linear development in that part of the village. The gardens have been deliberately excluded to ensure that inadvertently, large areas of 'white land' within the development boundary is not created where the principle of potentially harmful development is supported under policy H1"* and *"The Alveston case is not comparable to Loxley, where planning permission now exists for development which was originally excluded from the draft BUAB of Alveston"* and *"The 3 gardens excluded are exceptionally large (whereas other gardens included are comparatively very small) so the QB does not consider its approach to drawing a relatively tight boundary around existing development is inconsistent. Whilst SDC's BUAB may indicate the extent of the built-up area of the village, which they consider to include gardens, the proposed village boundary in Policy H1 is not intended to represent the built up area but moreover, it is intended to represent a development boundary where the principle of development is acceptable"* and *"The SAP was produced by SDC without consultation with the QB or any regard to the local evidence base underpinning it. The SAP has in effect ignored an advanced NDP. The SAP is draft and carried limited weight. It has not been examined and there are outstanding objections to it."*

107. A development boundary is used in the Neighbourhood Plan as a policy tool to define where Plan policies are to apply, and in particular where new housing development proposals will be supported, and where support is limited to dwellings of specified types.

108. I have earlier in my report noted the District Council is preparing a Site Allocations Plan that will form part of the Development Plan. The emerging Site Allocations Plan (Regulation 19 Proposed Submission Consultation Version July 2019)⁵⁹ includes as part of Policy SAP.6 a Built-up Area Boundary for Loxley, identified on page 111. The SAP states *“The Council believes that it is appropriate to draw settlement boundaries as an effective means of managing development. It is also the Council’s view that settlement boundaries are not incompatible with the NPPF where they are included in an up-to-date plan since the plan defines sustainable development in the context of Stratford-on-Avon District. Policy CS.16 in the adopted Core Strategy has established the principle of using Built-Up Area Boundaries (BUABs) as a mechanism for managing the location of development. The wording of the policy, which was supported by the Inspector who examined the Core Strategy, confirms that the BUABs for Stratford-upon-Avon and the Main Rural Centres as defined on the Policies Map are the appropriate basis for assessing whether any revisions are justified. In his Main Modifications (MM88) to the submitted Core Strategy, he agreed that BUABs should include allocations identified in the plan but that any unallocated land on the edges of these settlements should not be included. This is reflected in paragraph 8.1.4 in the Core Strategy. Furthermore, it is appropriate to define BUABs for Local Service Villages to coincide with the physical confines of these settlements as the two are clearly meant to be interchangeable in accordance with Part D in Policy CS.16. The purpose of a BUAB is to distinguish between land inside the settlement where new development is acceptable ‘in principle’, from land outside the settlement where, subject to certain exemptions, development is generally not acceptable. Settlement boundaries therefore help prevent encroachment into the countryside. This is particularly important in the Green Belt”*.

109. Representations raise the issue whether the development boundary proposed in Policy H1 should include additional land forming part of the gardens of three residential properties. A development

⁵⁹ The period for submitting comments was from 8 August 2019 to 20 September 2019. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 27 June 2019 and 9 August 2019.

boundary can represent the dividing line between built areas and open countryside, and can follow clearly defined features such as walls, hedgerows or water courses. Extant planning permissions and allocations can be included within the development boundary. The definition of the boundary however does not have to relate to some observable land use difference or dividing feature. A development boundary does not have to include the full extent of a settlement, and a development boundary does not have to reflect land ownership boundaries or the precise curtilages of properties. Development boundaries can be used to identify the limits to future development of a settlement. One approach is to exclude curtilages of properties which have the capacity to extend the built form of a settlement in areas where this is not considered desirable. Such areas could include whole properties or parts of large residential gardens. Paragraph 4.8 of the Neighbourhood Plan sets out the basis on which the development boundary has been drawn up. Within the explanation it is specifically stated the development boundary excludes *“large gardens, paddocks and other undeveloped land in the curtilage of buildings on the edge of the settlement where they provide a transition between the surrounding countryside and the built-up areas of the village.”*

110. The development boundary proposed in the Neighbourhood Plan varies from the Built Up Area Boundary of the emerging Site Allocations Plan not only with respect to part of three gardens, but also varies in other respects, most notably by including the Neighbourhood Plan housing allocations, the Village Green, and a significant area of land around the Church of St Nicholas and Vicarage, and Loxley Hall and Lodge. I have earlier in my report explained the Neighbourhood Plan is not tested against the policies in the emerging Site Allocations Plan. The Site Allocations Plan anticipates Neighbourhood Plans may be ‘made’ with settlement boundaries that are different to those defined by the District Council. Paragraph 4.1.15 of the Site Allocations Plan states *“It is acknowledged that during the process of progressing the Plan to adoption, a number of NDPs which have not yet reached an ‘advanced stage’ will change status as they progress through the various statutory steps set out in the Neighbourhood Planning Regulations. Once ‘made’, the settlement boundary identified in a Neighbourhood Plan will prevail over the BUAB defined by the District Council.”*

111. The development boundary proposed in Policy H1 has been subject to community engagement and consultation during the Plan preparation process. Whilst consideration has been given to the

character of the settlement and its development form, the development boundary does not define the built-up area of Loxley. I am satisfied the development boundary indicates a physical limit to development over the plan period, unless otherwise provided for in the Neighbourhood Plan, and will guide development to sustainable solutions. It is beyond my role to consider whether any alternative alignment of the development boundary would offer a more sustainable solution. It is beyond my role to recommend modification of the Neighbourhood Plan where this is not necessary to meet the Basic Conditions or other requirements that I have identified.

112. The policy is in general conformity with the strategic policies included in the Stratford-on-Avon District Core Strategy 2011-2031 adopted July 2016 applying in the Loxley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

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

Recommended modification 1:

In Policy H1

- **delete “in principle”**
- **after “as countryside” insert “Support for development proposals for”**
- **replace “have been identified as potentially suitable” with “are allocated”**
- **replace “Development on the above sites should” with “To be supported development proposals must”**
- **add an additional note “Note: A public footpath runs along the western boundary of site A”**

Policy H2 Local Housing Needs

114. This policy seeks to establish conditional support for affordable housing development on rural exception sites beyond, but reasonably adjacent to, the development boundary of Loxley and includes provision relating to cross-subsidy from market housing. The Policy also refers to allocation of affordable housing.

115. In a representation the District Council states *“It would appear that larger sites are not included within the site allocations and therefore does not trigger a requirement to provide affordable housing. However, it is noted that the Parish has identified that there is a slight requirement for affordable housing which they propose to allocate through rural exception sites, however these sites have not been identified within the Plan. SDC made the following comments at Reg 14 stage: The requirements are only limited to people within the Parish or connection to. Consideration needs to be given to people in the vicinity of the Parish, especially if no-one comes forward to meet the specified requirements. Further text could be incorporated to connections within the district.*

It is essential that for any affordable housing scheme preference should be given to allocations/nominations to people with a local connection in the first instance, via a S106 Agreement, but allowing flexibility to cascade beyond if there are no bidders with a qualifying local connection. This flexibility is essential, otherwise housing associations will be unable to acceptably mitigate risk and therefore be unwilling to develop. Setting out this approach would be preferable to including detailed local connection criteria, which may change in detail over time anyway. SDC have made further comments following the Reg 16 consultation below: Paras 4.17 and 4.18 are read in a somewhat confusing manner, and may be unclear to third parties. Failure to address this matter could harm the prospects for successful delivery of ‘Local Need’ housing schemes. It is recommended that paragraphs 4.17 and 4.18 be deleted and replaced with ‘4.17 The Parish Council note numerous recent examples of community-led housing schemes that have been successfully developed within Stratford-on-Avon District. They are keen to work with all interested parties to enable the delivery of a similar scheme or schemes to meet their own local need: whether that outlined above or identified in any subsequent surveys they may commission. 4.18 In the interests of effectiveness and efficiency in connection with the implementation of Policy H2 through the drafting of the required S106 Agreement and subsequent management: (a) The tenure profile will reflect the current

identified need as closely as possible, and (b) Standard practices for regulating the occupancy of homes will be applied as follows:

- *Households who have a housing need AND a local connection to Loxley parish will be prioritised both initially and subsequently for the letting or sale of all homes.*
- *If this is impossible in respect of any individual property on any occasion, the home will be let or sold to a household with a housing need and a local connection strictly in the following order of preference (or 'cascade'):*
 - *A local connection to named adjoining parishes, followed by;*
 - *A local connection to the rest of Stratford-on-Avon District, followed by;*
 - *A local connection to a recognised strategic housing market area (if any), and finally;*
 - *A local connection to the remainder of England.*
- *A 'local connection' will be defined by reference to a standard set of criteria currently based on at least one household member satisfying any one or more of the following:*
 - *Birth;*
 - *Current residency;*
 - *Previous residency;*
 - *Current work;*
 - *Current residency of close family members”.*

116. When commenting on the representations of other parties the Parish Council state *“Policy H2 merely provides the mechanism and policy hook for support for a rural exception scheme should one come forward. Given the very small size and population of Loxley, the very small number of identified local housing need and the lack of facilities within the village it is not deemed appropriate to provide affordable housing in the village for those with a current need from outside the parish. If the village has a wider range of everyday facilities, then the local connection criteria could justifiably be widened. But this is not the case. The QB would not object to the inclusion of this paragraph if the Examiner felt it was necessary to meet the Basic Conditions. However, paragraph 4.17 in the NDP should not be replaced or rewritten in respect of the definition of local connection. The QB is happy with some aspects of this rewording but does not agree with the widening of the local connection definition to include adjoining parishes for the reason set out above.”*

117. The definition of affordable housing set out in paragraph 4.13 of the explanation that follows Policy H2 does not reflect the definition included in the Framework.
118. The requirement for assessment and verification of a development appraisal by a chartered surveyor has not been sufficiently justified.
119. The requirement that *“no other suitable and available sites exist within the Development Boundary of Loxley”* is not in general conformity with strategic policy CS.15 G which states *“Local Needs Schemes - Within and adjacent to settlements, development may include small-scale community-led schemes brought forward to meet a need identified by that community. Dwellings provided through such schemes will contribute to the overall housing requirement for the District”* and does not have sufficient regard for national policy set out in paragraph 77 of the Framework which states *“In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local Planning Authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this.”*
120. Annex 2 (Glossary) of the Framework defines rural exception sites as *“Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority’s discretion, for example where essential to enable the delivery of affordable units without grant funding.”* I have recommended a modification so that a proposed scheme must meet identified need.
121. Whilst the final paragraph of Policy H2 is appropriate having regard to the definition of rural exception sites in Annex 2 (Glossary) of the Framework it is not appropriate for explanation paragraphs 4.17 and 4.18 to seek to define a local connection in terms that are different to those proposed by the District Council. The wording included in paragraphs 4.17 and 4.18 defining a local connection has not been sufficiently justified. I have recommended a modification so that the District Council definition of local connection is included in paragraph 4.17.

122. I have recommended a modification in all of these respects so that the policy has regard for national and strategic policy, and so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
123. The District Council has proposed alternative text for paragraph 4.17. I have not recommended a modification in this respect as the text proposed is not necessary to meet the Basic Conditions. The District Council has also proposed paragraph 4.18 should include details of an order of preference (or cascade) allocation policy. This is a non-land use administrative responsibility of the District Council, which may in any case vary throughout the Neighbourhood Plan period. I have not recommended a modification to insert that wording as this is not necessary to meet the Basic Conditions.
124. As recommended to be modified the policy is in general conformity with the strategic policies included in the Stratford-on-Avon District Core Strategy 2011-2031 adopted July 2016 applying in the Loxley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
125. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes; and conserving and enhancing the natural environment the policy is appropriate to be included in a ‘made’ Neighbourhood Plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ Neighbourhood Plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 2:
In Policy H2**

- **replace part b) with “The type, size and tenure of homes proposed, and their accessibility, reflect the identified local need; and”**
- **delete “containing inputs assessed and verified by a chartered surveyor”**

Adjust explanation paragraph 4.13 in accordance with the definition of affordable housing included in Annex 2 of the Framework.

Replace the second sentence of paragraph 4.17 “A ‘local connection’ will be defined by reference to a standard set of criteria currently based on at least one household member satisfying any one or more of the following:

- **Birth;**
- **Current residency;**
- **Previous residency;**
- **Current work;**
- **Current residency of close family members”.**

Delete paragraph 4.18

Policy H3 Design and Character

126. This policy seeks to establish design principles for development proposals.

127. The Policy is without consequence and the terms “*will be required to*”, “*should comply*”, “*detrimental erosion of space*”, “*look to*” and “*conserve and not obstruct the enjoyment of*” do not provide a basis for the determination of planning applications. The policy should state the guiding principles are based on the Loxley Village Design Statement and should state that document is presented in Appendix 1 of the Neighbourhood Plan. The term “*previous*” is confusing. It is confusing and inappropriate for the policy to address issues relating to views as Policy NE1 deals with valued landscapes. It is also confusing and inappropriate for the policy to address issues of flooding which are dealt with in Policy NE5. The final sentence of the policy is imprecise and repetitive of other parts of the policy. I have recommended a modification in these respects so that the policy and Neighbourhood Plan as a whole “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework. Whilst it is usually inappropriate for a policy to refer to other documents in their entirety the reference to the Warwickshire County Council Landscape Guidelines is convenient and efficient in this instance avoiding lengthy quotation of principles.

128. Paragraphs 124 to 132 of the Framework set out a clear statement of national policy for achieving well-designed places. The Guidance regarding design process and tools was updated on 1 October 2019. The Guidance states *“Neighbourhood Plan-making is one of the key ways in which local character and design objectives can be understood and set out, and with the benefit of being a community-led process.”* The National Design Guide, which is to be read alongside the Guidance, sets out under ten headings, the characteristics of well-designed places and demonstrates what good design means in practice. As recommended to be modified Policy H3 has regard for national policy in that it seeks to promote or reinforce local distinctiveness without unnecessary prescription. The policy has regard for the Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 in that it does not introduce technical standards or requirements relating to the construction or performance of new dwellings.

129. The policy is in general conformity with the strategic policies included in the Stratford-on-Avon District Core Strategy 2011-2031 adopted July 2016 applying in the Loxley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

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

Recommended modification 3:

In Policy H3

- **commence the first and second paragraphs with “To be supported”**
- **delete “will be required to” and insert “must”**
- **delete “should” and insert “must”**
- **delete “taken from the previous” and insert “based on”**

- after “Statement” insert “presented in Appendix 1”
- replace part b) before “the open” with “retain gaps between buildings and spaces behind buildings where they contribute to”
- delete “look to”
- delete part g)
- replace points i) and j) with “i) not exacerbate foul drainage capacity problems”
- delete the final sentence

Policy H4 Re-use of Rural Buildings

131. This policy seeks to establish conditional support for the conversion of redundant buildings of stated types to housing, permanent business space, or residential tourist accommodation.
132. The term “*unacceptable*” used in parts a) and b) of the policy does not provide a basis for the determination of Planning proposals. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
133. The policy is in general conformity with the strategic policies included in the Stratford-on-Avon District Core Strategy 2011-2031 adopted July 2016 applying in the Loxley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
134. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes; building a strong competitive economy; conserving and enhancing the natural environment; and conserving and enhancing the historic environment, the policy is appropriate to be included in a ‘made’ Neighbourhood Plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ Neighbourhood Plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 4:

In Policy H4 in parts a) and b) replace “an unacceptable” with “significant adverse”

Policy H5 Replacement Dwellings

135. This policy seeks to establish criteria for support of proposals for replacement dwellings.
136. In a representation the District Council state *“It is noted that Criterion A and C have been amended slightly from the initial pre-submission consultation document in May 2018. However, the explanatory text and the policy are considered to be too restrictive. There is no requirement in law for a replacement dwelling to be constructed on a similar footprint to the original. An owner has the right to submit a revised application for a dwelling anywhere within their lawful curtilage. Each application should be assessed on its merits and if it is concluded that the new site would cause no harm to street scene, landscape character, neighbouring amenity etc, there should be no lawful reason to refuse a revised location beyond a ‘similar footprint’. Para 4.33 has been amended to say that as a guide, the Plan considers that replacement dwellings should be no more than 40% larger in volume. In the pre-submission document this number was 30%. Therefore, para 4.31 where the Plan claims it is not intending to ‘overly restrict people’s freedom of expression’ is incorrect. Overall this policy is far too restrictive and affects an individual’s ‘rights and freedoms’ to do what they want with their own property. Policy H5 should be in accordance with the policy within the Core Strategy (CS.20) for replacement dwellings. It is unclear as to what is meant by ‘locality’ within this policy. Is it referring to the ‘Built Up Area Boundary’?”*
137. The Parish Council *“The QB respectfully disagrees with SDC. The policy is sufficiently flexible but at the same time makes it clear that the new dwelling should be commensurate with the size of the plot which represents good planning. Whether there is or isn’t a law about the replacement dwelling being on the same footprint is irrelevant. There are countless examples of Development Plan policies stipulating this requirement See South Worcestershire Development Plan 2016 Policy RES18. The 40% figure is generous and a guide. Without it there will continue to be examples of very small properties being demolished and replaced with very large dwellings which over time results in the erosion of the smaller housing stock which in a district*

like Stratford means a greater affordability gap rather than a narrowing of it. With respect it should not. The NDP does not have to conform to non-strategic policies in the Core Strategy.”

138. The policy is without consequence. The terms “*of the locality*” and “*disproportionately large*” are imprecise. The term “*particular importance is placed on*” does not provide a basis for the determination of planning proposals. The requirement to consider the need for, and potential to provide, garages has not been sufficiently justified, and a requirement to “*consider*” does not provide a basis for the determination of planning proposals. Core Strategy Policy CS.20 includes the text “*Where the existing dwelling is not considered suitable for retention, the replacement dwelling will be well sited in relation to the existing site and buildings, not visually intrusive, and not significantly larger than the dwelling it replaces.*” Whilst the “*well sited*” requirement is imprecise, the “*not significantly larger than*” requirement provides some limit, and whilst open to interpretation should be acknowledged in the wording of Policy H5 so that the policy is in general conformity with strategic policy. I consider the wording of part a) of the policy seeks to address a different characteristic of potential proposals namely that they should retain a sufficient proportion of the plot not built on, so as to reflect the character of adjacent development, and so as not to significantly harm the landscape setting. This serves a clear purpose of providing an additional level of detail or distinct local approach to that set out in the strategic policy. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

139. I understand paragraph 4.33 seeks to introduce a “*guideline*” requirement that replacement dwellings should be no more than 40% larger in volume and footprint than the original dwelling. This is not a requirement to be on the same footprint. Whatever the intended interpretation, Paragraph 4.33 of the explanation seeks to introduce aspects of policy not stated in Policy H5, which it must not. Aspects of planning policy can only be introduced through the policies of the Neighbourhood Plan, not through explanatory text. I have recommended paragraph 4.33 of the explanation to Policy H5 should be deleted.

140. The policy is in general conformity with the strategic policies included in the Stratford-on-Avon District Core Strategy 2011-2031 adopted July 2016 applying in the Loxley Neighbourhood Area and

relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

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

Recommended modification 5:

In Policy H5

- **commence the policy with “To be supported”**
- **replace “the locality. Particular importance is placed on sensitive sites such as those” with “their setting including being”**
- **replace part a) with “not be significantly larger than the original dwelling, and retain a sufficient proportion of the plot ‘not built on’, so as to reflect the character of adjacent development, and so as not to significantly harm the landscape setting;”**
- **delete part b)**

Delete paragraph 4.33 of the explanation.

Policy NE1 Protection of SLA and Valued Landscapes

142. This policy seeks to establish criteria for support of development proposals in the Special Landscape Area and also establish that proposals which have an adverse impact on identified valued landscapes will not be supported.

143. In a representation the District Council state “*The designated valued landscapes need to be supported by robust, up-to-date, evidence (i.e. LVIAs). The assessment methodology ‘An Approach to Landscape Character Assessment’, confirmed by Natural England in*

2014, incorporates the assessment processes set out in the 2002 guidance note 'Landscape Character Assessment Guidance for England and Scotland'. However, it appears that the policy refers more to Important Views and therefore 2. In Policy NE1 should be altered to Important Views and Figure 3 should be renamed Important Views. There is no evidence to suggest that a Landscape and Visual Impact Assessment (LVIA) has been carried out."

144. The Parish Council "*The requirement for an LVIA is excessive. Numerous NDP's have passed examination with Valued Landscapes. The QB objects in the strongest possible terms to the amendments suggested by SDC. The policy specifically refers to Valued Landscapes NOT important views. If there is confusion due to the annotation on Figure 3 then the word View can be replaced with "Valued Landscape".*"
145. The first paragraph of the Policy is without consequence and does not provide a basis for the determination of planning applications. The first paragraph includes an imprecise description of land within the Special Landscape Area. I have recommended a modification in these respects so that the policy "*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*" as required by paragraph 16d) of the Framework.
146. "*Landscape and Visual Impact Assessment (LVIA) can be key to effective planning decisions since it helps identify the effects of new developments on views and on the landscape itself. These effects can be quite different. Some developments can have visual effects but none on landscape character and some vice versa.*"⁶⁰ An LVIA is undertaken in the context of a development proposal. In the absence of a development proposal its impact cannot be assessed.
147. Policy NE1 does not include a requirement for an LVIA but instead seeks to identify locations where a valued landscape will be a factor in the assessment of a proposal. In this context I am satisfied the "*valued landscapes*" are adequately identified on Figure 3 and in photographs and descriptions of visual attributes. Development proposals can be practically assessed as the valued landscapes are clearly identified on Figure 3 which shows the width and range of the views in question and importantly identifies the direction and viewpoint location from which views are to be looked at. Sufficient detail is provided to guide the preparation and determination of development

⁶⁰ www.landscapeinstitute.org/technical-resource/landscape-visual-impact-assessment

schemes. Paragraph 170 of the Framework states *“The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.”* I am satisfied the selection of valued landscapes has been adequately explained and their local significance has been tested through extensive consultation. Planning policy must operate in the public interest. I have recommended a modification to ensure that valued landscapes are those seen from locations to which the general public have free and unrestricted access. I have also recommended that reference to views on Figure 3 and in supporting text should be modified to refer to valued landscapes in the interests of consistency and so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

148. The policy is in general conformity with the strategic policies included in the Stratford-on-Avon District Core Strategy 2011-2031 adopted July 2016 applying in the Loxley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

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

Recommended modification 6:

In Policy NE1

- **commence the first paragraph with “To be supported”**
- **replace “which includes the majority of the village to the south of the Stratford / Wellesbourne Road” with “identified on the Figure below”**
- **replace the final paragraph with “Development proposals will not be supported where they have a significant adverse impact on:**

- **views across valued landscapes where seen from locations to which the general public have unrestricted access (identified in Figure 3); or**
- **views within Loxley Village of: the Village Green and War Memorial; Loxley SSSI; The Rectory; the Church; the Manor; or along Hillside where seen from locations to which the general public have unrestricted access”**

Insert a Figure below the policy that identifies the extent of Special Landscape Area in the Neighbourhood Area.

Insert a Figure below the policy that identifies the location of the Village Green and War Memorial; Loxley SSSI; The Rectory; the Church; the Manor; and Hillside.

Any viewpoint on Figure 3 that is on private land should be moved to the nearest point where the public have free and unrestricted access.

Policy NE2 Biodiversity

150. This policy seeks to establish development should minimise impacts on biodiversity and provide net gains wherever possible. The policy seeks to encourage the opening up of culverts and minimise provision of new culverts. The policy also seeks to retain existing ecological habitats and networks and encourage new habitats and networks. Measures to improve landscape quality, scenic beauty and tranquillity, and to reduce light pollution are also encouraged.

151. In a representation Natural England welcome the mention of the Site of Special Scientific Interest in the policy. The Environment Agency state in relation to Policy NE2 and supporting paragraph 5.12 *“We recommend additional wording to the following policies to ensure the protection and enhancement of biodiversity in line with NPPF paragraph 170: Protected buffer margins should be incorporated to protect waterbodies from development, to promote habitat connectivity within the wider landscape for both people and wildlife to use.”* Commenting on the representations of other parties the Parish Council state *“The QB has no objection to this paragraph being added to 5.12.”* Explanatory text must not introduce policy requirements that are not included in a policy. I have recommended a modification of the policy so that the Neighbourhood Plan has regard for national policy.

152. The Framework provides protection against loss of “*ancient woodland, aged or veteran trees*”. The Hedgerows Regulations 1997 establish a balanced regime to protect hedgerows in specified locations but exclude any hedgerow which is within, or borders, a domestic garden. It is appropriate for the Neighbourhood Plan to seek to introduce an additional regime of protection to apply in the context of development proposals.
153. The Policy is without consequence and the terms “*should contribute*”, “*will be encouraged*”, and “*are encouraged to*” do not provide a basis for the determination of planning applications. The term “*where appropriate*” introduces uncertainty. The term “*minimising*” is imprecise. There is a need to recognise deliverability of the policy as required by paragraph 34 of the Framework. I have recommended a modification in these respects so that the policy has regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
154. The supporting text to Policy NE2 includes a section titled “Community Aspiration”. This community aspiration supports the formulation of a Local Biodiversity Action Plan (LBAP) in consultation with the relevant authorities and amenity bodies including the Warwickshire Wildlife Trust. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on ways to improve a Neighbourhood other than through the development and use of land. It is important that those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The acknowledgement in the Neighbourhood Plan of issues raised in the plan preparation process that do not have a direct relevance to land use planning represents good practice. The Guidance states, “*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. For example, set out in a companion document or annex.*”⁶¹ I am satisfied the approach adopted in the Neighbourhood Plan presenting the non-policy matter under the heading community aspiration adequately differentiates that matter from the policies of the Plan and has sufficient regard for the Guidance.

⁶¹ Planning Practice Guidance *Paragraph: 004 Reference ID: 41-004-20190509 Revision 09 05 2019*

155. The policy is in general conformity with the strategic policies included in the Stratford-on-Avon District Core Strategy 2011-2031 adopted July 2016 applying in the Loxley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

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

**Recommended modification 7:
In Policy NE2**

- **replace the first paragraph with “To be supported, development proposals must not harm biodiversity, and must provide net gains for biodiversity through provision of new or improved green infrastructure unless it can be demonstrated this is not possible or is not viable.”**
- **in the second paragraph delete “Where appropriate”; replace “are encouraged to” with “that”; after “risk” insert “will be supported”; and replace “should be kept to a minimum” with “will not be supported unless they are demonstrated to be essential”**
- **in the third paragraph after “retained and” insert “the creation of**
- **in the third and fourth paragraphs replace “encouraged” with “supported”**
- **insert a new penultimate paragraph as follows “To be supported development proposals adjacent to waterbodies must incorporate buffer margins to protect waterbodies from development, and to promote habitat connectivity within the wider landscape for both people and wildlife to use.”**

Policy NE3 Trees and Hedgerows

157. This policy seeks to encourage protection and retention of trees and hedgerows. The policy includes provision for replacement of trees and hedgerows unavoidably lost. New native tree and hedge and tree planting is also required where necessary.
158. The Framework provides protection against loss of “*ancient woodland, aged or veteran trees*”. The Hedgerows Regulations 1997 establish a balanced regime to protect hedgerows in specified locations but exclude any hedgerow which is within, or borders, a domestic garden. It is appropriate for the Neighbourhood Plan to seek to introduce an additional regime of protection to apply in the context of development proposals.
159. The Policy is without consequence and the terms “*should encourage*” and “*will be required*” do not provide a basis for the determination of planning applications. The term “*where necessary*” introduces uncertainty. The term “*in these circumstances*” is unnecessary. There is a need to recognise deliverability of the policy as required by paragraph 34 of the Framework. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
160. The policy is in general conformity with the strategic policies included in the Stratford-on-Avon District Core Strategy 2011-2031 adopted July 2016 applying in the Loxley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
161. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment the policy is appropriate to be included in a ‘made’ Neighbourhood Plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ Neighbourhood Plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 8:

In Policy NE3

- **replace “Development should encourage the protection and retention of” with “To be supported, development proposals must retain and protect”**
- **delete “in these circumstances”**
- **replace “will be required” with “must be planted”**
- **replace the final sentence with “All development proposals must include new native hedge and tree planting as part of an integrated landscaping scheme unless it is demonstrated this is not practicable or viable.”**

Policy NE4 Renewable and Low Carbon Energy

162. This policy seeks to establish conditional support for proposals relating to renewable energy production.
163. The term “*satisfactorily integrated into*” does not provide a basis for the determination of planning applications. The term “*village and its environs*” is imprecise. The policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a lesser area is specified and justified. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
164. The policy is in general conformity with the strategic policies included in the Stratford-on-Avon District Core Strategy 2011-2031 adopted July 2016 applying in the Loxley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
165. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with meeting the challenge of climate change; conserving and enhancing the natural environment; and conserving and enhancing the historic environment the policy is appropriate to be included in a ‘made’ Neighbourhood Plan. Having regard to the Guidance the policy is

appropriate to be included in a 'made' Neighbourhood Plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 9:

In Policy NE4 in the first paragraph replace the text after “supported” with “where there are no significant adverse landscape or other visual impacts.”

Policy NE5 Flooding

166. This policy seeks to establish a series of development principles relating to flooding, and drainage aspects of proposals.

167. In a representation the Environment Agency state *“the NDP area is located in an area entirely within Flood Zone 1 on the Flood Map for Planning (Rivers and Sea). There is an Ordinary Watercourse which runs through the village, however there does not appear to be any mapped flood extents for this watercourse. No detailed assessment e.g. hydraulic modelling of the flood risk from the Ordinary Watercourse running through the village has been undertaken to determine the flood extents and therefore we would recommend any new development adjacent to the watercourse to access the potential flood risk to ensure flood risk is not increased. The Ordinary Watercourse running through the village is under the jurisdiction of the Lead Local Flood Authority, who in this area is Warwickshire County Council, and we would advise that they are also consulted on this NDP as they are responsible for managing flood risk from local sources including ordinary watercourses, groundwater and surface water. The NDP does not include any policies which refer to flood risk and we would strongly recommend including a policy for flood risk, which includes climate change and surface water drainage. All proposals for new development must demonstrate that existing flood risk will not be increased elsewhere (downstream), ideally by managing surface water on site and limiting runoff to the greenfield rate or better. The use of sustainable drainage systems and permeable surfaces will be encouraged where appropriate. Consideration should also be given to the impact of new development on both existing and future flood risk. Where appropriate, development should include measures that mitigate and adapt to climate change. In addition, new developments should seek to control and discharge all surface water runoff generated on site during the 1 in 100 year plus climate change rainfall*

event. For Greenfield development sites, the surface water runoff generated as a result of the development should not exceed the Greenfield runoff rate. For Brownfield development sites, developers are expected to deliver a substantial reduction in the existing runoff rate, and where possible, reduce the runoff to the equivalent Greenfield rate.”

168. Warwickshire County Council states: “Point C – include reference to SuDS ‘being designed in accordance with The SuDS Manual CIRIA C753 Report’. Point D – maintenance to all SuDS features should be considered in all new developments, to ensure the long-term operation and efficiency of SuDS. The policy should be developed to include the following point: The requirements set out in the following documents should also be adhered to in all cases:

- Warwickshire County Council’s Flood Risk Management Standing Advice document
- The National Planning Policy Framework (NPPF)
- DEFRA’s Non-statutory technical standards for sustainable drainage
- The Planning Practice Guidance (PPG)

Flood attenuation areas must be located outside of flood zones and surface water outlines to ensure that the full capacity is retained. On smaller development sites where the discharge rate is below 5l/s, these rates are achievable through water reuse, protected orifices, and better design.”

169. Reference to Core Strategy Policy CS.4 is unnecessary as the Development Plan should be read as a whole. Whilst representations have suggested additional matters, and references to national policy or other documents, are included in the policy, I am unable to recommend modification in these respects as such additions are not necessary to meet the Basic Conditions.

170. The Policy as a whole is without consequence and the term “*will be expected to*” does not provide a basis for the determination of planning applications. The term “*satisfactorily address*” is imprecise. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

171. Policy CS.2 of the Core Strategy includes provision regarding flood prevention and mitigation measures, including Sustainable Urban Drainage Systems (SUDS) and water efficiency measures as set out in

Policy CS.4 Water Environment and Flood Risk. Policy CS.2 also states *“Development proposals should maximise opportunities for multiple benefits of green infrastructure as an integral part of development to mitigate and adapt to the predicted effects of climate change, through the use of a range of measures, including SUDS, green spaces, allotments, street trees, landscaping, ponds and green roofs.”* Policy CS.4 of the Core Strategy sets out a comprehensive policy regime relating to the water environment and flood risk that includes provisions relating to surface water runoff and sustainable drainage systems; enhancing and protecting the water environment; and water quality. Policy CS.4 also provides for whole life management and maintenance of SUDS. Strategic Policy CS.7 includes provision relating to the role of green infrastructure in reducing the risk of flooding. Strategic Policy CS.9 includes provision relating to effective water management and flood protection. It is unnecessary and confusing for Policy NE5 to duplicate strategic policy and variation of requirements from strategic policy has not been adequately justified. I have recommended a modification in this respect.

172. As recommended to be modified the policy is in general conformity with the strategic policies included in the Stratford-on-Avon District Core Strategy 2011-2031 adopted July 2016 applying in the Loxley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

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

Recommended modification 10:

Replace Policy NE5 with “Development proposals will be supported where they utilise infiltration and above ground sustainable drainage systems including swales, ponds, and other water-based ecological systems, and demonstrate they will not

result in on-site or off-site flooding. Underground storage of water will only be supported where it is demonstrated this is necessary on grounds of viability or practicality.”

Policy LC1 Community Assets

174. This policy seeks to establish conditional support for proposals that improve the viability of identified community facilities, and establish that change of use or loss of the community facilities will not be supported except in stated circumstances.
175. The policy has sufficient regard for paragraph 92 of the Framework that requires planning policies to plan positively for the provision and use of community facilities, and *“guard against the unnecessary loss of valued facilities and services particularly where this would reduce the community’s ability to meet its day-to-day needs”*. The inclusion of potential relocation and use of the term *“is no longer viable”* provides necessary recognition of the need for attention to deliverability and viability as required by the Framework.
176. Inclusion of the term *“which requires permission”* is unnecessary and confusing as all of the policies of the Neighbourhood Plan relate to development which requires planning permission. The term *“satisfactorily relocated for the ongoing benefit of the local community”* is imprecise. I have recommended a modification in these respects so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
177. The policy is in general conformity with the strategic policies included in the Stratford-on-Avon District Core Strategy 2011-2031 adopted July 2016 applying in the Loxley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
178. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities the policy is appropriate to be included in a ‘made’ Neighbourhood Plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’

Neighbourhood Plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 11:

In Policy LC1 in the first sentence replace the text after “or that the” with “community asset will be replaced with an equal or improved facility in no less convenient location for users”

Policy LC2 Designated Local Green Spaces

179. This policy seeks to establish that three identified areas should each be designated as a Local Green Space and establish that development that will harm their openness or special character will not be supported unless there are very special circumstances. The policy also includes reference to use of Community Infrastructure Levy funds.
180. The representation of an individual includes *“When it was pointed out that in order to qualify as a Local Green Space the Pub Field must be a ‘green area which is demonstrably special to a local community’ the NDP evaded the issue by responding ‘What constitutes ‘social’ (sic) is something of a grey area. However, very few residents have pushed back on inclusion of this site. In the questionnaire Nov/Dec 2017 over 90% were in favour of this site being designated an LGS’. The issue, of course, is whether it qualifies by having the required characteristics and not whether it was supported in a questionnaire. No doubt it is seen as special by the occupants of the half dozen houses which surround it but it is inaccessible and not demonstrably special to the rest of the community. It can only be glimpsed from the road through gaps between the properties and has not been used for recreation since occasional events staged by the pub landlord in the distant past. The NDP has not offered the evidence needed to validate its case.”* Commenting on the representations of other parties the Parish Council state *“The QB submits that LGS3 meets the designation criteria in the NPPF and has significant public support.”*
181. Designation of Local Green Space can only follow precise identification of the land concerned. The proposed Local Green Spaces are presented on Figure 5 at a scale that is sufficient to identify the land proposed for Local Green Space designation. The sentence that follows the list of areas provides a partial description of

the use of the areas that does not assist decision making. I have recommended this sentence is deleted.

182. The third paragraph of the policy seeks to describe the characteristics of types of development that will not be supported within a Local Green Space. I have given consideration to the possibility of the policy including a full explanation of “*very special circumstances*”. Such circumstances may be that development is proposed that would clearly enhance the Local Green Space for the purposes for which it was designated, or proposals are made for essential infrastructure that cannot be located elsewhere. I have concluded such explanation would necessarily be incomplete and that decision makers must rely on paragraph 101 of the Framework that states “*Policies for managing development within a Local Green Space should be consistent with those for Green Belts*” and the part of the Framework that relates to ‘Protecting Green Belt land’, in particular paragraphs 143 to 147 inclusive. The wording of the policy does have adequate regard for the terms of the designation of Local Green Spaces set out in paragraph 99 of the Framework where it is stated communities will be able to protect green areas of particular importance to them.

183. Paragraph 99 of the Framework states “*Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a Plan is prepared or updated, and be capable of enduring beyond the end of the Plan period.*”

184. In respect of the areas intended for designation as Local Green Space I find the Local Green Space designations are being made when a Neighbourhood Plan is being prepared, and I have seen nothing to suggest the designations are not capable of enduring beyond the end of the Plan period. The intended designations, which are being made in the context of the adopted Core Strategy, have regard to the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. The designations will contribute to the promotion of healthy communities, and are consistent with the aim of conserving and enhancing the natural environment, as set out in the Framework.

185. The Framework states that Local Green Space designation “*should only be used:*

- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land.*⁶²

186. I find that in respect of each of other intended Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves, is local in character, and is not an extensive tract of land.

187. Local Green Space Assessments were prepared in January 2018 which identify site characteristics including ecological significance; *“special qualities and local significance”*; and provide a *“summary and suitability for designation as Local Green Space”*. I have noted one of the proposed sites, the pub field, only offers public access during organised events. The Guidance is clear that land could be considered for designation of Local Green Space *“even if there is no public access (e.g. green areas which are valued because of their wildlife, historic significance and/or beauty). Designation does not in itself confer any rights of public access over what exists at present. Any additional access would be a matter for separate negotiation with land owners, whose legal rights must be respected.”*⁶³

188. I have visited each of the three areas proposed for designation as Local Green Spaces. The Local Green Space Site Assessments provide sufficient evidence for me to conclude that each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance.

189. The Guidance states *“A Local Green Space does not need to be in public ownership. However, the local planning authority (in the case of Local Plan making) or the qualifying body (in the case of Neighbourhood Plan making) should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft Plan”*.⁶⁴ The

⁶² Paragraph 77 National Planning Policy Framework 2012

⁶³ National Planning Policy Guidance Paragraph: 017 Reference ID: 37-017-20140306

⁶⁴ Planning Practice Guidance Paragraph: 019 Reference ID: 37-019-20140306 Revision 06 03 2014

Consultation Statement confirms the method of assessment of potential Local Green Spaces adopted has included consultation with the freeholders of the Fox Inn and the adjacent field. The Site Assessments confirm the Parish Council hold the Playing Field in Trust, and the Parish Council own the Village Green which is stated to be registered as common land.

190. The Proposed Local Green Spaces are situated within a Special Landscape Area. This designation does not preclude, a designation as Local Green Space. The Guidance states *“Different types of designations are intended to achieve different purposes. If land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space”*⁶⁵. Core Strategy Policy CS.12 for Special Landscape Areas includes *“resisting development proposals that would have a harmful effect on their distinctive character and appearance which make a positive contribution to the image and enjoyment of the District”*. Development Management considerations set out below Policy CS.12 makes it clear the designation should not be seen as a complete restriction on development. The Special Landscape Area regime provides a very different approach to that arising from designation as Local Green Space which is seeking to protect green areas of particular importance to a community where inappropriate development should not be approved except in very special circumstances. Whilst the Local Green Space Assessments do not specifically consider the case for additional benefit, they do confirm that the sites proposed for designation are demonstrably special, and of particular importance, to the local community. The proposed designations have been subject to extensive public consultation. I am satisfied designation is appropriate under these circumstances.

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

192. The final paragraph of the policy refers to utilisation of CIL funds. Whilst most developer contributions are subject to strict limitations on use and are tied to specific purposes, for example through Section 106 agreements, some funds may become available during the Plan period the use of which can be locally determined, for

⁶⁵ Planning Practice Guidance Paragraph: 011 Reference ID:37-011-20140306 Revision 06 03 2014

example the Neighbourhood portion of Community Infrastructure Levy. I have recommended a modification so that this point is clarified. It is appropriate to use the Neighbourhood Plan preparation process to engage with the community to identify how any Neighbourhood determined element of development generated finance should be utilised and for the priority areas to be set out in the policy itself. I have recommended modification of the policy in this respect so that the policy has regard for national policy. The term “*where appropriate*” introduces uncertainty. I have recommended a modification in this respect so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

193. The policy is in general conformity with the strategic policies included in the Stratford-on-Avon District Core Strategy 2011-2031 adopted July 2016 applying in the Loxley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

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

Recommended modification 12:

In Policy LC2

- **delete the second paragraph commencing “The above”**
- **replace “Where appropriate, CIL funds” with “The locally determined element of expenditure of developer contributions**

Policy LC3 Encouraging the Use of Public Routes

195. This policy seeks to establish that new development should protect and enhance public rights of way, and establish that proposals

which adversely affect walking and cycling routes, or fail to encourage new opportunities, will not be supported.

196. The terms “*should be*”, “*positively utilised*” and “*fail to encourage*” do not provide a basis for the determination of planning proposals. The term “*a wealth of*” is imprecise. The term “*where possible*” introduces uncertainty. The modification to Policy LC3 I have recommended incorporates references to pedestrian and cycle routes previously included within paragraphs 4 and 6 of Policy TT1 in order to assist users of the Neighbourhood Plan. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

197. The policy is in general conformity with the strategic policies included in the Stratford-on-Avon District Core Strategy 2011-2031 adopted July 2016 applying in the Loxley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

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

Recommended modification 13

Replace Policy LC3 with “To be supported development proposals must not adversely affect any pedestrian or cycle route, including those leading to the village centre and village school. To be supported development proposals must demonstrate that opportunities to enhance the active travel network have been taken.”

Policy TT1 Local Parking Standard

199. This policy seeks to establish local parking standards for development proposals.
200. In a representation the District Council state *“It is considered unreasonable and unsustainable, to provide a parking space per bedroom. For example, a 5-bedroom house would require 5 parking spaces even though it’s for family of 4 (2 adults, 2 children). Since Loxley submitted their NDP the District Council has adopted a Development Requirements SPD within which is a section on car parking standards. Reference should be made to this document as there is currently limited robust evidence to support the NDP’s proposal to provide 1 car parking space per bedroom.”*
201. The Parish Council state *“It is disappointing that SDC are continuing to resist local car parking standards in NDP’s. The NDP is entitled to impose local standards as per para 105 of the NPPF. There is sufficient justification in the NDP for this imposition.”*
202. Policy TT1 is titled *“Local Parking Standards”* but includes reference to pedestrian and cycle routes. I have recommended these aspects of the policy are transferred to Policy LC3 which relates to *“Encouraging the Use of Public Routes”*. The reference in the policy to Warwickshire County Council has been overtaken by the adoption of the Development Requirement SPD by the District Council which includes residential and non-residential parking standards. Supplementary Planning Documents do not form part of the Development Plan. It is appropriate for a Neighbourhood Plan to set out requirements that will be part of the Development Plan. The precise requirement in Policy TT1 for one parking space per bedroom in dwellings has not been sufficiently justified. Paragraph 104 of the Framework states planning policies should provide for cycle parking. The Development Requirements Supplementary Planning Document includes cycle parking standards. I have recommended a modification in these respects so that the policy has regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
203. The policy is in general conformity with the strategic policies included in the Stratford-on-Avon District Core Strategy 2011-2031 adopted July 2016 applying in the Loxley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by

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

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

Recommended modification 14:

Replace Policy TT1 with “To be supported development proposals must demonstrate, through reference to the latest version of the Development Requirements Supplementary Planning Document, that they will not result in on-road parking. Additionally, proposals must provide secure cycle parking facilities.”

The modification of Policy LC3 that I recommended earlier in my report incorporates the references to pedestrian and cycle routes in paragraphs 4 and 6 of Policy TT1 within the Submission Version Neighbourhood Plan.

Policy TT2 Highways Safety

205. This policy seeks to establish highway safety requirements for all new development.

206. In a representation the District Council state *“This policy is considered to be too restrictive for validation/determination requirements and is too vague to be able to apply it consistently.”* In commenting on the representations of other parties the Parish Council state *“Noted. Suggest adding the words “Where necessary...” at the beginning of the policy would overcome this issue.”*

207. In a representation Stratford Homes state *“In relation to our above comments on Policy H1, Site A, we note that, to support safe vehicular access and egress to the site, direct frontage access may not be ideal; a courtyard form of layout with turning space within the*

site would be preferable.” I have referred to this representation when considering Policy H1 earlier in my report.

208. Paragraph 16b) of the Framework states Plans should be prepared positively. Paragraph 109 of the Framework states *“Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”* I have recommended modification of the policy in these respects so that the policy has regard for national policy.

209. Use of the term *“where necessary”* would introduce uncertainty. The term *“will be expected”* does not provide a basis for the determination of planning proposals, I have recommended a modification in this respect so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

210. The policy is in general conformity with the strategic policies included in the Stratford-on-Avon District Core Strategy 2011-2031 adopted July 2016 applying in the Loxley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

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

Recommended modification 15:

In Policy TT2

- **replace the text before the colon with “To be supported development proposals must demonstrate”**
- **in b) replace “demonstrable” with “severe”**
- **delete the final sentence**

Summary and Referendum

212. I have recommended 15 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

213. I am satisfied that the Neighbourhood Plan⁶⁶:

- is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the Statutory Requirements set out in paragraph 8(1) of schedule 4B of the Parish and Country Planning Act 1990 and meets the Basic Conditions:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Plan;
 - the making of the Neighbourhood Plan contributes to the achievement of sustainable development;
 - the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan for the area of the authority (or any part of that area);
 - does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
 - the making of the Neighbourhood Development Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.⁶⁷

I recommend to Stratford-on-Avon District Council that the Loxley Neighbourhood Development Plan for the Plan period up to 2031 should, subject to the modifications I have put forward, be submitted to referendum.

⁶⁶ The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

⁶⁷ This Basic Condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 (5) are amended

214. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan Area and if to be extended, the nature of that extension.⁶⁸ I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the Neighbourhood area*”⁶⁹. I have seen nothing to suggest the referendum area should be extended for any other reason. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Stratford-on-Avon District Council as a Neighbourhood Area on 18 February 2016.

Annex: Minor Corrections to the Neighbourhood Plan

215. A number of consequential modifications to the general text, and in particular the ‘reasoned justification’ of policies sections, of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies.

216. I recommend minor change only in so far as it is necessary to correct an error or where it is necessary so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

**Recommended modification 16:
Modify general text to achieve consistency with the modified policies, and to correct identified errors including those arising from updates. Renumber parts of policies arising from deletions.**

Chris Collison
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13 November 2019
REPORT ENDS

⁶⁸ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁶⁹ Planning Practice Guidance Paragraph 059 Reference ID: 41-059-20140306 Revision 06 03 2014