

**A REPORT TO STRATFORD ON AVON DISTRICT COUNCIL**  
**OF THE EXAMINATION OF**  
**THE CLIFFORD CHAMBERS & MILCOTE NEIGHBOURHOOD PLAN 2011-2031**  
**UNDERTAKEN BY**  
**Dr LOUISE BROOKE-SMITH, OBE, FRICS, MRTPI**  
**INDEPENDENT EXAMINER**

**SEPTEMBER 2020**

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## **Summary and Overall Recommendation**

*As the Independent Examiner into the Clifford Chambers & Milcote Neighbourhood Plan, I have been requested by Stratford on Avon District Council, in its capacity as the Local Planning Authority, to present my professional assessment of the Plan, in terms of its compliance with the 'Basic Conditions' as set out in extant legislation, regulations and guidance.*

*I confirm that I am independent of the Qualifying Body, namely the Clifford Chambers & Milcote Parish Council and the Local Planning Authority. Furthermore, I do not have any interest in any land or property that may be affected by the Plan.*

*I hold relevant professional qualifications and have experience of the planning regime, gained over the past 30 years in both the public and private sectors, to enable an independent judgement of the documents before me. I am also a member of the National Panel of Independent Examiners Referral Service, endorsed by the HM Gov Department of Housing, Communities and Local Government.*

*I have undertaken a thorough examination of the Clifford Chambers & Milcote Neighbourhood Plan. This has comprised a review of all documents presented to me in electronic form by the Local Planning Authority plus a review of documents available for public review on the Parish website and documents relating to the Development Plan held on the Council's website.*

*It is my considered opinion that, subject to modifications, the said Plan meets the Basic Conditions and human rights requirements, as set out in the respective legislation and guidance. My report presents some areas where I consider that specific policies should be modified, and where some text could be amended to avoid duplication, or remove ambiguity, thus making the document clearer. These modifications are **set out in bold** within the text of my report. My proposed changes have been made in such a way so as not to detract from the essence of the Plan nor its aim and ambitions, but I consider they should be taken into account before it proceeds to a Referendum.*

*Hence, subject to the recommended modifications being completed I consider that the Clifford Chambers & Milcote Neighbourhood Plan will; have regard to national policies and advice contained in current legislations and guidance; contribute to the achievement of sustainable development; be in general conformity with the strategic policies of the development plan for the area; not breach, but be compatible with European Union obligations and the European Convention of Human Rights; and not likely have a significant effect on a European Site or a European Offshore Marine Site either alone or in combination with other plans or projects.*

*I consider that, further to the recommended modifications, the Neighbourhood Plan complies with the legal requirements set out in Paragraph 8(1) and 8(2) of Schedule 4B to the Town and Country Planning Act 1990, as amended, and can proceed to a Referendum.*

*I have no concerns over the defined Plan area or the manner of its confirmation and consider that this area is appropriate as the extent of any Referendum.*

*I would like to also note that technically this is a Neighbourhood Development Plan, although many groups use the phrase 'Neighbourhood Plan'. The Clifford & Milcote QB has used the latter. As there has been consistency throughout the document I have not considered it imperative to amend this phraseology and do not feel that it detracts from the purpose of the document.*

*Finally, I refer to a number of abbreviations throughout my Report and for the avoidance of any confusion these are set out in Appendix B.*

*Dr Louise Brooke-Smith, OBE, FRICS, MRTPI,*

*September 2020*

## **1.0 INTRODUCTION**

### **1.1 NEIGHBOURHOOD PLAN REGIME**

- 1.1.1 The Neighbourhood Planning regime provides local communities with the ability to establish specific land use planning policies which can influence how future development comes forward in their area. It not only provides the opportunity for local people to shape their locality, it also provides guidance for developers and landowners when considering new proposals and for decision makers when determining planning applications.
- 1.1.2 Any Neighbourhood Plan should therefore be clear, not only in its goals and ambitions, but also in how any policies are presented. The background behind how policies have emerged should be easy to understand and robust in terms of supporting specific policy.
- 1.1.3 This Report provides the findings of an Examination into the Clifford Chambers & Milcote Neighbourhood Plan, which is hereafter referred to as the Plan, the Neighbourhood Plan or the NP.
- 1.1.4 The Plan was prepared by the Clifford Chambers & Milcote Parish Council, working in consultation with the Local Planning Authority, namely Stratford on Avon District Council and a range of interested parties, statutory bodies, community groups, landowners and their agents plus other key stakeholders.
- 1.1.5 This Report provides a recommendation as to proceeding to a Referendum. If this takes place and the Plan is endorsed by more than 50% of votes cast, then it would be 'made' by Stratford on Avon District Council and would be used to assist in the determination of any subsequent planning applications for the area concerned.

### **1.2 APPOINTMENT AND ROLE OF THE INDEPENDENT EXAMINER**

- 1.2.1 In accordance with current regulations, I was formally appointed by Stratford on Avon District Council, as the Examiner of the Neighbourhood Plan in March 2020. I was issued with the relevant documentation and formally began the examination in May 2020.
- 1.2.2 In examining the Plan, I am required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, (TCPA) to establish whether:
- *The Neighbourhood Plan has been prepared and submitted for examination by a Qualifying Body.*

- *The Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the TCPA as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (PCPA).*
- *The Neighbourhood Plan meets the requirements of Section 38B of the PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area).*
- *The policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the PCPA.*

1.2.3 My role has also been to consider whether the Plan meets the 'Basic Conditions' and human rights requirements, as set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to Neighbourhood Plans by section 38A of the Planning and Compulsory Purchase Act 2004.

1.2.4 In order to meet the Basic Conditions, the making of any Neighbourhood Plan must:

- *Have regard to national policies and advice contained in guidance issued by the Secretary of State;*
- *Contribute to the achievement of sustainable development;*
- *Be in general conformity with the strategic policies of the development plan for the area; and*
- *Not breach, and must be otherwise compatible with, European Union (EU) and European Convention on Human Rights (ECHR) obligations.*

1.2.5 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out a further basic condition for Neighbourhood Plans, in addition to those set out in primary legislation and referred to in the paragraph above;

- *The making of the Neighbourhood Plan is not likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) either alone or in combination with other plans or projects.*

1.2.6 Having examined the Plan against the Basic Conditions, as set out above, and as the Independent Examiner, I am required to make one of the following recommendations:

- a) that the Plan should proceed to Referendum, on the basis that it meets all legal requirements;*

*b) that the Plan should be subject to modification but will then meet all relevant legal requirements and should proceed to Referendum;*

*c) that the Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.*

1.2.7 If recommending that the Plan should go forward to Referendum, I am also required to consider whether or not the Referendum Area should extend beyond the defined Clifford Chambers & Milcote Neighbourhood Plan Area.

1.2.8 As noted above, the role of any Independent Examiner is to assess a Plan in terms of compliance with the Basic Conditions. While it is not to specifically comment on whether the Plan is sound, I consider that where changes can be made that would result in removing ambiguity and make the document more user friendly for all parties, this should be considered. This reflects paragraph 41 of the NPPG and the first basic condition.

1.2.9 I have adopted this approach and have suggested some modifications which the Parish and District Councils should consider and which, in my opinion, need to be addressed for the Plan to be compliant.

### 1.3 THE EXAMINATION PROCESS

1.3.1 I am aware that this examination is being undertaken during a lockdown period, under regulations associated with the Covid19 pandemic. I have had regard to the relevant amendments to the salient Neighbourhood Planning regulations, brought into effect in April 2020 by the MHCLG. (Paragraph: 107 Reference ID: 41-107-20200407)

1.3.2 These have implications for the decision-making and referendum process associated with any neighbourhood plan. The amendments to planning guidance supersedes paragraphs 007, 056, 057, 061 and 081 of the NPPG.

1.3.3 Clearly in this case, public consultation on the submission version of the NP was completed before the Covid19 social distancing rules were brought into play and so it has been appropriate to continue to examine the Plan. However all neighbourhood planning referenda scheduled to take place, between 16 March 2020 and 5 May 2021, are postponed in line with the [Local Government and Police and Crime Commissioner \(Coronavirus\) \(Postponement of Elections and Referendums\) \(England and Wales\) Regulations 2020](#) until 6 May 2021.

1.3.4 The general rule remains that examinations should be conducted by written representations. If an examiner considers that oral representations are necessary,

these should not take place in person. Where feasible, oral representations should take place using video conferencing or other suitable technologies.

1.3.5 In this case, I have been able to consider the Plan by way of the key documents, salient background information, evidence base, supporting reports and written representations. I have not considered it necessary to hold a Hearing to complete my findings.

1.3.6 My examination findings have resulted from my assessment of the documents noted at Appendix A and the written submissions from interested parties at both the Regulation 14 and 16 stages of the NP process, and are in addition to my reference to the following documents, which set out extant legislation, regulation and guidance;

- National Planning Policy Framework (The Framework) (Revised as at 2018 and 2019)
- Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act (2011)
- The Neighbourhood Planning (General) Regulations (2012) and additions
- The Neighbourhood Planning Act 2017 and associated guidance and regulations.

1.3.7 Finally, I confirm that I undertook a series of unaccompanied site visits to the Plan area in May and July 2020.

## **2.0 BACKGROUND TO THE CLIFFORD CHAMBERS & MILCOTE NEIGHBOURHOOD PLAN**

2.1. Further to a formal application, Stratford on Avon District Council confirmed the designation of the entire civil parish of Clifford Chambers & Milcote as a Neighbourhood Plan Area in October 2015. I note that the area has not been the subject of any other NP proposal.

2.2 The Parish Council, as the relevant Qualifying Body, then pursued appropriate consultation across the NP area. I am advised that a Neighbourhood Plan Steering Committee was established by the Parish Council and engaged with the community and stakeholders with respect to the vision of the NP.

2.3 Community Focus Groups were held in 2016 to consider the perspective of different groups within the community, to assist in addressing the vision and strategy for the Plan. This was followed by a range of community consultation activity.

- 2.4 A draft version of the Plan was prepared and was the subject of a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) screening by Lepus Consulting, on behalf of Stratford on Avon District Council. That work found that neither Assessments were required.
- 2.5 The consultation background to the Plan is set out in the Consultation Statement prepared in compliance with Section 15(2) of Part 5 of the Neighbourhood Plan Regulations 2012. I find that the community liaison was appropriate at both a local level and with statutory parties.
- 2.6 I have reviewed the evidence base which supports the policies and vision of the Plan. I find the evidence base and Consultation Statement to be proportionate to the nature of the Plan, well-presented and clear.
- 2.7 The Plan was subject to changes as a result of the consultation process and the Reg 14 submissions by third parties. A Submission Version was duly prepared and finalised in August 2019 and submitted to the District Council. After a formal period of public consultation in January and February 2020, it was confirmed that the Plan could proceed to Examination.
- 2.8 I have been presented with written representations to the Submission Version of the Plan. Most of these were submitted within the formal period. Some, however, were issued to the Council after the due period for consultation had closed.
- 2.9 Further to a dialogue with Council officers and my review of the guidance issued by the Neighbourhood Planning Independent Examiners Referral Service (NPIERS), due to the publication of documents relating to the emerging SoADC Site Allocations Plan, and the unprecedented circumstances surrounding Covid19, I considered it was appropriate to receive and review the late submissions. I have done this on the basis this matter was publicly noted on the Council's website and late representations listed.
- 2.10 I should add at this juncture that the late representations generally reiterated matters already raised during the formal Regulation 14 and 16 periods. Some, however highlighted the more recent approval of development proposals within the NP area and others highlighted and responded to the publication of documents relating to the emerging SoADC Site Allocations Plan. Others presented information on local flooding.
- 2.11 While the grant of consent for development is a factual matter, which I highlight later in my findings, the presentation of evidence regarding flooding has comprised primarily of photographs and anecdotal evidence. Other than when referring to matters of verifiable fact, I confirm that the late submissions have not resulted in my examination of the NP changing in terms of overall findings and/or proposed modifications.

2.12 On review of all of the properly made Reg 16 representations, some made specific objections or have presented amendments to the proposed policies. I have assessed the stance of the QB in light of these objections and the evidence supporting the NP. I confirm that the points made by the Regulation 16 parties, are either addressed within this report or raise issues that do not warrant modifications to the NP proposals.

### **3.0 COMPLIANCE WITH MATTERS OTHER THAN THE BASIC CONDITIONS AND HUMAN RIGHTS**

3.1 Given the above, I now report on the procedural tests, as set out earlier in this Report, and find as follows;

- **The Qualifying Body**

3.2 From the documentation before me, I conclude that the Clifford Chambers & Milcote Parish Council is a properly constituted body, i.e. a Qualifying Body for the purposes of preparing a Neighbourhood Plan, in accordance with the aims of neighbourhood planning as set out in the Localism Act (2011) and recognised in the National Planning Policy Framework (2018) and accompanying Planning Practice Guidance. Accordingly, I find this addresses the necessary requirements.

- **The Plan Area**

3.3 The Clifford Chambers & Milcote Neighbourhood Area reflects the boundary of the Clifford Chambers & Milcote Parish. No other Neighbourhood Plan has been proposed for this area.

3.4 An appropriately made application was submitted to the District Council and duly endorsed. The appropriate protocol and process were followed. I am satisfied this meets the requirement relating to the purposes and identification of a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended) and salient regulations of the Neighbourhood Planning (General) Regulations 2012.

- **The Plan Period**

3.5 Any neighbourhood plan must specify the period during which it is to have effect. The Clifford Chambers & Milcote Neighbourhood Plan clearly states on its front cover and in its introductory sections that it addresses the period between 2011 and 2031. I note that this reflects the SDC Core Strategy. Clearly the QB could have considered a shorter period, potentially reflecting the start date of the QB's work, which has been the case for other Neighbourhood Development Plans. However, the choice of time period is at the discretion of the QB and the issue of relevance is that its end date corresponds to that of the Core Strategy. Hence, I am satisfied that this matter is clear and hence meets the statutory requirement.

- **Excluded Development**

3.6 From my review of the documents before me, the proposed policies within the NP do not relate to any of the categories of excluded development, as defined by statute and extant regulations, or to matters outside the Neighbourhood Area. While I find there are some areas which would benefit from improved clarity or amended text, and I note these later in this report, in terms of the proposed policies, I find that the Plan meets legal requirements.

- **Development and use of land**

3.7 Any neighbourhood plan's policies, in accordance with current regulations, should only contain policies relating to development and/or use of land. While supporting text can reflect the goals and ambitions of any community, unless directly relating to development or use of land, this should not be included within or be confused with specific policies.

3.8 Where I consider that a policy or part of a policy is ambiguous, duplicates other policies or statutory regulations or concern matters that do not relate to the development or use of land or property, I have recommended that it be modified or clearly explained as such within the text of the Plan.

3.9 In general, the Plan complies with the regulations on this matter although I have suggested some modifications where necessary. These are set out in Section 5 of this Report.

- **Public Consultation**

- 3.10 Planning legislation requires public consultation to take place during the production of neighbourhood plans. Any public consultation should be open and accessible and any information presented should be easy to understand and to comment upon. It should enable all sectors of the local community the ability to comment on and hence shape the policies which may have a bearing on where they live, work or spend their leisure time.
- 3.11 I have reviewed the extensive Consultation Statement and the supporting documentation prepared and used by the QB. As a requirement of the salient regulations of the Neighbourhood Planning (General) Regulations 2012, this was submitted to the District Council and then presented to me.
- 3.13 All stakeholders including statutory bodies appear to have been given the opportunity to take part in proceedings. I am of the opinion that the consultation exercise was extensive and thorough and a wide a spectrum of the community was approached through a range of initiatives.
- 3.14 I have reviewed all salient surveys and documents relating to the consultation work undertaken by the QB and consider that the various initiatives and the general approach adopted was extensive, inclusive and robust. I note that with respect to the setting of the development boundary around Clifford Chambers, discussions were held with the LPA and the boundary was consulted upon. It is clear from the representations made to the emerging NP that some parties remain aggrieved by the proposed boundary. However, from the documentation before me, I am satisfied that the matter was the subject of appropriate discussion and process with all relevant policy and guidance taken into account.
- 3.15 I note the concerns raised by some Regulation 16 representations as to the allocation of a reserve housing site. Not unusually, these are polarised in their support or objection to the NP proposed reserve site and alternatives sites.
- 3.16 For the avoidance of doubt, the above matters have been fully assessed as part of my examination. I have reviewed the evidence before me and the submissions made, including submissions to the Draft Site Allocations Plan which is being pursued by the LPA. I comment on this in the policy section below.
- 3.17 In general, I consider that the response to representations made to the Neighbourhood Plan, as it progressed through its preparation stages, were clear and an appropriate approach has been taken. My role has not been to undertake a detailed analysis of the consultation details but moreover review the general process and approach taken. I believe changes to the draft version of the NP were appropriately assessed, undertaken and then explained.

- 3.18 As noted elsewhere in this Report, given the evidence before me, I did not feel it necessary to hold a public hearing as the comments made by Regulation 16 parties and the stance of the LPA and QB was clear. No issues were ambiguous.
- 3.19 I conclude that an appropriate consultation exercise was undertaken and that stakeholders had the opportunity to input into the Plan's preparation and as such, Regulation 15 and 16 have been addressed.

## **4.0 THE BASIC CONDITIONS AND HUMAN RIGHTS**

### **4.1 BASIC CONDITIONS STATEMENT**

- 4.1.1 I have reviewed the Basic Conditions Statement and find it to be a comprehensive and well written document. It addresses the Basic Conditions in a clear and logical manner and I highlight these as follows;

### **4.2 NATIONAL POLICY, ADVICE AND GUIDANCE**

- 4.2.1 As noted earlier, the NPPF (2018 and revised publication in 2019) explains that a presumption in favour of sustainable development means that Neighbourhood Plans should support the strategic development needs set out in the Development Plan and plan positively to support local development.
- 4.2.2 The Framework is clear that Neighbourhood Plans should be aligned with the strategic needs and priorities of the wider local area, i.e. they must be in general conformity with the strategic policies of the Development Plan. The NPPF advises that they should not promote less development than is set out in the Development Plan or undermine its strategic policies. Neighbourhood Plans should provide a practical framework within which decisions on planning applications can be made with predictability and efficiency. It is stressed that the examination has been of the Plan, as a whole.
- 4.2.3 The Basic Conditions Statement clearly explains how the NP responds to specific core planning principles, as set out in the NPPF and makes appropriate cross reference to specific NP policies.
- 4.2.4 Given the guidance found within National Planning Practice Guidance (NPPG) which accompanies the NPPF, I have considered the extent to which the NP meets this first basic condition in Section 5 below. **Subject to some modifications, detailed below in Section 5 of this report, I find the Plan compliant.**

### **4.3 SUSTAINABLE DEVELOPMENT**

- 4.3.1 Any Neighbourhood Plan should contribute to the achievement of sustainable development. The NPPF explains that there are three dimensions to sustainable development: economic, social and environmental. I consider that the approach taken in the Basic Conditions Statement is robust.
- 4.3.2 Whilst there is no legal requirement for any Plan to be accompanied by a separate Sustainability Appraisal, it is helpful for it to acknowledge and explain how its policies have reflected sustainability matters in all forms as expressed in the NPPF. I consider that the NP has achieved this.

### **4.4 THE DEVELOPMENT PLAN AND STRATEGIC LOCAL POLICY**

- 4.4.1 I note that the 'Development Plan' for Clifford Chambers & Milcote Neighbourhood Area, inter alia, comprises the Stratford on Avon Core Strategy, adopted in 2016. This sets out strategic policy for the District.
- 4.4.2 The Local Planning Authority is also in the process of preparing a Site Allocations Plan (SAP). This has been in preparation for some time with a number of parties responding to a 'call for sites. This has included the identification and promotion of sites at Clifford Chambers.
- 4.4.3 The timetable for the adoption of this has been delayed but (as at July 2020) I am advised that the Council has now confirmed that stakeholder engagement will proceed until September 2020, followed by a scoping consultation on preferred options in October and November and further formal public consultation on the Publication Version of the SAP due in April / May 2021. The examination of the SAP is not expected until the end of 2021/Spring 2022 with adoption of the Plan not expected until the Summer of 2022. I find that as the SAP has yet to progress through some key consultation stages to a point of formal examination, it has only some but not significant weight, at this point in time.
- 4.4.4 Through the evidence before me I am aware of the technical, design and environmental evidence presented to date in support of various development sites in and around Clifford Chambers, and have noted the most recent Council's Strategic Housing Land Allocations Assessment (SHLAA) and Strategic Housing Market Assessment (SHMA). Indeed, these have been cross referenced by Reg 14 and 16 submissions to the emerging NP.
- 4.4.5 I am also aware of the submissions to the SAP from the Parish Council and the not insignificant strength of feeling indicated by the community through the NP consultation process.

- 4.4.6 Section 4 of the Basic Conditions Statement (BCS) presents an explanation of how the proposed NP policies are in general conformity with strategic policies and highlights specific policies from the Stratford on Avon District Core Strategy. I find this to be generally appropriate and helpful.
- 4.4.7 However, paragraph 4.2 of the BCS states that the Development Plan for the Neighbourhood Area comprises the Stratford on Avon District Core Strategy, adopted in July 2016. While this is correct, more accurately, the Development Plan also comprises elements of the now dated County Waste Core Strategy and Minerals Plan and will comprise the policies of the Gypsy and Traveller Local Plan and policies from the County Minerals Plan, still currently being revised, and the emerging SAP.
- 4.4.8 Furthermore, the County Council oversees highway matters and I note that traffic and transport matters have been highlighted within the NP. **For consistency and to avoid any confusion on the part of a reader, it would be helpful to explain these matters in the Basic Conditions Statement at para 4.2 and more accurately reference the Development Plan.**
- 4.4.9 For the avoidance of doubt, I do not consider the omission of this point of clarification detracts sufficiently from the overall Statement and that complicity has not been compromised as the principal document in this exercise is the adopted Core Strategy.
- 4.4.10 **Hence, further to a point of clarification with regard to paragraph 4.2 and the modifications, as set out later in this report, I find that the NP policies are in general conformity with the relevant strategic policies of the Development Plan.**

#### **4.5 EUROPEAN UNION (EU) OBLIGATIONS AND CONVENTIONS**

- 4.5.1 Notwithstanding the decision by the UK to leave the European Union, any Neighbourhood Plan must still be compatible with European Union (EU) obligations, as incorporated into UK law, to be legally compliant.

##### **- Strategic Environment Assessment**

- 4.5.2 Directive 2001/42/EC, often referred to as the Strategic Environment Assessment (SEA) Directive, relates to the assessment of the effects of certain plans and programmes on the environment, and has relevance here. Similarly, Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (referred to as the Habitats and Wild Birds Directives respectively) aim to protect and improve Europe's most important habitats and species and can have a bearing on neighbourhood plans.

- 4.5.3 I note that a screening opinion of the draft NP was requested by the QB and subsequently undertaken by the LPA which confirmed in writing on the 1<sup>st</sup> March 2019 that a SEA was not required. This followed the preparation of a Screening Report by Lepus Consulting and consultation with the relevant statutory parties; Natural England, The Environment Agency and Historic England.
- 4.5.4 I am aware of various legal challenges to the need or otherwise of SEAs across England and the respective judgements passed down. Hence, I have given particular regard to how the Clifford Chambers & Milcote NP was screened. I am of the opinion that the relevant work was undertaken professionally and an appropriate assessment was undertaken.
- 4.5.5 I therefore find that the Plan meets the legal requirements of the EU's SEA Directive and conclude that in respect of this EU obligation, the Plan is compliant.

- **Habitat Regulations and Environmental Impact Assessment**

- 4.5.6 The QB states in the BCS that as the NP policies reflect the Core Strategy, an HRA wasn't considered a pre-requisite. This was supported through a Habitat Regulations' Assessment screening which was prepared by Lepus Consultants on behalf of the LPA at the same time as the SEA screening. Having reviewed both the Core Strategy and NP policies, and the representations made by relevant parties, I concur and am of the view that an HRA is not required. I note however that while formal correspondence has been issued by the LPA with regard to the SEA position, similar correspondence isn't in the public domain for the HRA. **This doesn't make the Plan non-compliant and I assume it is an administrative oversight that could be rectified with formal correspondence issued by the LPA placed in the public domain, for the avoidance of doubt on this matter.**
- 4.5.7 I further note that an Environmental Impact Assessment (EIA) was not considered a requirement, as the proposals within the NP do not fall under the current remit of the EIA Directive.
- 4.5.8 I concur with this point and find that the NP meets the legal requirements of the EU and HRA Regulations and conclude that, in this respect, the Plan is compliant.

- **Human Rights**

- 4.5.9 The Basic Conditions Statement makes reference to compliance with the European Charter on Human Rights (ECHR) and Human Rights Act 1998 in para 5.6

- 4.5.10 I am unaware of any matters proposed in the NP that challenges issues of human rights and no evidence has been put forward through the public consultation period, to indicate that this is not the case. I conclude that the Plan does not breach and is otherwise compatible with the ECHR.
- 4.5.11 I am not aware of any other European Directives which apply to this particular Neighbourhood Plan, and hence am satisfied that the Plan is compatible with EU obligations.

## **5.0 ASSESSMENT OF THE CLIFFORD CHAMBERS & MILCOTE NEIGHBOURHOOD PLAN POLICIES**

### **5.1 THE OVERALL PRESENTATION AND FORM OF THE PLAN**

- 5.1.1 The NPPF advises that plans should provide a practical basis within which decisions on planning applications can be made with a high degree of predictability and efficiency. I consider that this can be interpreted as 'having a clear document'. I find the Clifford Chambers & Milcote Neighbourhood Plan is straightforward, well written and generally well explained and expressed. A small number of matters could be addressed which would enable the Plan to be clearer for any user, or decision maker, and remove ambiguity. I comment on these below.
- 5.1.2 As mentioned in my opening remarks, technically this is a Neighbourhood Development Plan. However, I acknowledge that many groups use the phrase 'Neighbourhood Plan' and clearly the whole of the Clifford & Milcote NP use the latter. Providing there is consistency throughout the document I do not consider this detracts from its purpose and I have not suggested that the whole document should be amended to use the phrase 'Neighbourhood Development Plan (or the abbreviation NDP).
- 5.1.3 I am content with the general extent and nature of Figures and Tables within the NP and consider these have been well referenced through the Plan. However, where I feel these could be improved, I have noted the matter below as I review specific policies.
- 5.1.4 The statutory context and relevant background to Clifford Chambers & Milcote is set out in Sections 1 and 2 of the Plan. These helpfully and clearly set the scene in terms of the evidence supporting the Plan and explains that the future development of the village is seen in terms of development policies relating to housing, the natural

environment, the local community and traffic and transport were of priority. I have, though, noted some typographic errors which require correction;

**Contents Page; Addition of the word 'Local' to 6 Local Community LC2 Designated Green Spaces and modification of LC3 to read 'Neighbourhood Design Principles'**

**Page 2; Amend 6 (a) to read "Valued Landscape view to Martin's Hill".**

**Paragraph 1.6; add the word 'vote' after 'majority'.**

- 5.1.5 I also consider that the addition of factual data on the extent and nature of residential development across the Plan area would assist in setting the context. I appreciate that this would be a snap shot of the position as at 2020 but **this information could either be added to the explanatory text supporting the housing policies or added as a new paragraph to the Character Assessment at Appendix 1.**
- 5.1.6 In general, however, I consider that the introductory sections of the NP, setting the context in terms of relevant background and history of the area, the role of the NP, the compliance with basic conditions, summarising the evidence base, the extent and nature of community engagement are well written and the vision and objectives of the Plan are clearly expressed.
- 5.1.7 I am aware that some consultees during the preparation of the Plan and at both Reg 14 and Reg 16 stages suggested additional initiatives, amended text and sites that have not been included in the Submission Version of the NP. I should stress that it is not the role of the Examiner to add further detail or policies that may have been considered by the QB through the Plan preparation, but not included in the Submission Version.
- 5.1.8 The Plan's vision is set out in **Section 3** and emphasises the need to nurture a community spirit and the objectives of the document are clearly expressed in tabular form. I note however that the text next to Policy H2 in the table of Page 11 is not reflected in the formal Policy H2 and explanatory text on pages 18 and 19. The former refers to moving within the village while the latter refers to development beyond the village boundary. **It is suggested that the last part of the last sentence would more accurately refer to 'downsize/move to or close to the Village'**
- 5.1.9 The table which continues onto page 12 refers to *landmarks* next to Policy NE2. This is at odds with the formal policy and explanatory text within the body of the NP. **It is suggested that this is replaced with 'To protect important and valued landscapes'**
- 5.1.10 **For the Objective supported by Policy NE4, the phrase 'strongly moderate' would be better expressed as 'minimised'.**

- 5.1.11 The Objective supported by Policy TT2, on page 13, should use the word ***'incorporated'*** in place of ***'prioritised'*** to better reflect the formal Policy TT2 as expressed within the body of the Plan.
- 5.1.12 Two minor amendments could also be considered, as follows;
- the second sentence at paragraph 1.7 could include ***'CIL'*** in front of ***'receipts accruing from development within their parish'***
  - the tense of paragraph 1.11 could be updated, as the BCS has now been prepared
- 5.1.13 As written, these last points do not make the Plan invalid but if amended, the text would be more accurate and remove ambiguity.
- 5.1.14 Sections 4 through to 7 present specific policies under the subheadings of Housing, Natural Environment, Local Community and Traffic and Transport. In terms of evidence to support the NP policies, I have been provided with extensive digital documents and formal correspondence. I have also been able to review the data and surveys prepared by, or on behalf of, the QB and the questionnaire which was used to solicit views from the community and stakeholders. I have considered the list of third parties and statutory consultees who were approached during the preparation of the draft and submission version of the Plan and have reviewed the comments received by the QB. As noted above, I have reviewed the responses to comments made through the Plan preparation, by the QB, and the changes made to the draft Plan, where appropriate, in light of the comments received.
- 5.1.15 A proportionate amount of background information and an appropriate evidence base has been used by the QB to prepare draft policies to address the vision and objectives of the NP. Generally, I find this to be robust, given the policies proposed.
- 5.1.16 I also find that cross reference to the evidence base is generally good. Where this could be improved further, to make the Plan clearer and to avoid ambiguity, I have commented accordingly.
- 5.1.17 Further to the above, I now consider the NP policies against the Basic Conditions and for ease of reference follow the structure and headings as adopted in the Plan. As I have set out above, I find that the Plan is generally compliant with Basic Conditions 4 and 5 but that the following section of my Report highlights modifications which I consider would allow the Plan to fully comply with;
- Basic Condition 1 (Compliance with National Policy);
  - Basic Condition 2 (Delivery of Sustainable Development); and
  - Basic Condition 3 (General Conformity with the Development Plan).
- 5.1.18 I wish to stress that my examination has comprised a review of the policies and supporting text in the context of their compliance with the Basic Conditions. It has not comprised a forensic review of the rationale behind each policy. However,

where I am aware that the evidence base is weak or erroneously interpreted or proposals have been suggested that conflict with extant statute or are ultra vires, or indeed are superfluous given other policy or statutory regulations in place, then these are highlighted.

5.1.19 I confirm again that I have reviewed all comments made as part of the Regulation 16 process, particularly where they have raised matters relating to compliance with national policy, sustainability and general conformity with the strategic policies of the Development Plan.

5.1.20 I consider that some modifications are required for the Plan to comply with the Basic Conditions. In places, this has resulted in the omission of the policy or part thereof. In others it has resulted in changes to specific policies. I wish to emphasise that wherever possible these have been made to complement the tone and language of the Plan.

## **5.2 NEIGHBOURHOOD PLAN POLICIES**

5.2.1 Turning to Sections 4 through to 7 of the Plan and the specific policies and supporting text, I consider that, generally, the policies are well constructed and clear. Some elements are ambiguous and some typographic errors exist which require modification. Other elements add little to the Strategic policies found in the Development Plan but I find that in some places these are accompanied by relevant supporting text and provide a useful context for the overall vision of the Plan. They do not breach the Basic Conditions and, accordingly, I have accepted that they should remain in the NP.

### **HOUSING**

5.2.2 **POLICY H1: HOUSING GROWTH** and the explanatory text is clear in its presentation. I note that the policy is sensitive in that it identifies a formal development boundary and a reserve site for housing development that may or may not come forward dependant on future needs. I further note that the reserved site does not reflect the emerging SAP.

5.2.3 I am aware that two landowners / developers and their agents have raised concern over the omission of their particular land and have drawn my attention to the nature and status of the SAP. I have commented above on the envisaged timetable for the examination of the SAP and the delay in its adoption until possibly 2022.

- 5.2.4 This position regularly arises when a NP and local site allocation documents are pursued in parallel. However, as the NP examiner I am not appointed to preside over alternative sites. Instead I am appointed to consider the conformity of the submission version of the NP in the context of the Basic Conditions. I am aware of the various High Court decisions where Plans have been challenged by parties who have been aggrieved by the omission of their sites but find that each of these cases reflect a specific context and site details. I am, therefore, led by guidance within the NPPG and specifically the following;

*Paragraph: 042 Reference ID: 41-042-20170728*

*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.....*

*Paragraph: 043 Reference ID: 41-043-20140306*

*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.*

*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.*

- 5.2.5 However, as noted above, in this situation there is no approved SAP in place as yet, and in advance of the envisaged consultation stages and examination by an appointed Inspector, the weight attributed the emerging SAP is low. While reserve housing sites have been proposed, and LPA officers have suggested their inclusion across the District, none have been formally approved and many, including the alternative reserve housing sites in Clifford Chambers have been opposed.
- 5.2.6 As and when the SAP comes forward, then it will become the last document of note. Alternative development proposals could come forward but it will be entirely in the hands of the LPA to proceed with a draft SAP with alternative reserve housing sites and subsequently in the hand of the SAP Inspector to endorse those that he/she feels are appropriate.
- 5.2.7 At this stage and with respect to my role as the Examiner of this NP, I am charged with assessing the policies and proposals before me in the context of the Basic Conditions, without a SAP in place. While I note the strength of local feeling indicated through Reg 14 and 16 submissions from respective landowners and their agents and indeed the submissions made on their behalf to promote their sites, I have also given specific attention to the nature and use of the evidence and the approach taken by the QB in consulting with the community and stakeholders. In this context, I have reviewed the evidence presented to me specifically relating to how the development boundary and the alternative reserved housing sites were assessed.
- 5.2.8 I turn first to the Village Boundary, as indicated at Fig 2. I note that this is slightly amended from the boundary included within the SEA and HRA Screening Report undertaken by Lepus Consultants on behalf of the LPA in 2019. The area between Willowmere and Owlet End was excluded from the Village Boundary following the Reg 14 consultation period. While this a small area lying close to the River Stour, I find that as the boundary has retrenched away from the river in this location, the issue is not considered paramount and would not have changed the findings of the screening assessment.

- 5.2.9 That assessment was thorough and professional and included reference to the accepted range of biodiversity and ecological assessment. It also made reference to a Landscape Sensitivity Assessment of the village undertaken in 2012.
- 5.2.10 The text of Policy H1 is clear although I consider the last sentence of the second paragraph adds little. **It is a statement of fact and doesn't assist a decision maker. It should either be removed or repositioned to support Policy NE2.**
- 5.2.11 I note that one representation (Ref C002) objected to the boundary severing garden land. Given paragraph 4.6 of the NP, and the approach taken on residential curtilage, **I assume that this is cartographical error and the land in question should be included within the Village Boundary.**
- 5.2.12 In summary, and with these modifications, I find that the setting of the 'Village Boundary' to have been the result of appropriate assessment and consultation. Its alignment appropriately reflects the urban form of the village, while also taking into account relevant curtilage / garden land and permitted development sites.
- 5.2.13 I now turn to the issue of the reserve housing site. I note that a professional assessment of alternative sites was undertaken and was the subject of appropriate consultation. A substantial number of representations were made at the Regulation 14 and 16 stages to the identification of land to the west of Willowmere to address any need for further development, in or adjacent to the village. I have reviewed all the documents before me, including the comments raised by alternative land promoters and the LPA during the Regulation 14 and 16 stages. Inter alia, these question the extent and nature of the evidence supporting the allocation; whether the draft SAP should take precedence in the identification of any land for development and whether an allocation of this nature complies with CS.16 given that CS.16 refers to a district-wide need. Concern has also been raised to the potential capacity of the site identified.
- 5.2.14 As written, Policy H1 clearly refers to the reserved site coming forward to address *local* need, although I accept that the supporting text does not emphasise this. It further refers to 'small-scale' which is misleading in that this is generally considered to be less than 10 units. This is contrast to the explanatory text that refers to between 15 and 20 units.
- 5.2.15 On the fundamental matter of the approach taken by the QB, in terms of the assessment of potential reserve housing sites, I find that sufficient and proportional evidence was compiled and is robust and the identification of land in Campden Road

has been appropriate. **However, the reference to 'local' need in the body of Policy H1 is not compatible with, or reflective of CS.16, and as such should be removed.**

5.2.16 In terms of potential scale of development, should the reserve housing site be developed, I consider the supporting text underplays the potential of the land available which isn't constrained. **The upper indication of the number of units which could come forward should therefore refer to 25 units** – as expressed in the assessment by Avon Planning forming the relevant evidence base. This would reflect the sustainable use of land, in line with the NPPF.

5.2.17 **I consider that the reference in paragraph 4.1 should accurately reflect CS.16 and hence refer to 'approximately 32 new homes' as opposed to 'up to 32 homes'. I have also noted one very minor typographical error at paragraph 4.4 '.....under Policy H1, identifies an area of approximately..... '**

5.2.18 I note that the table of sites granted planning consent since 2011 is incomplete and needs to be updated. While this table indicates sites that could materialise, there is no indication as to which sites have been completed. As with any permitted site, there is currently no onus on completion and indeed some may not come forward. Hence the NP is pragmatic in its provision for additional homes, should they be needed.

5.2.19 In summary, I find that the nature of assessment and the evidence base is proportionate to support the policy and the allocation and **I find Policy H1 compliant with the Basic Conditions, but only subject to the following modifications**

- **Removal of 'local' in the last sentence of (2) relating to a Reserve Housing Allocation**
- **Amendment of paragraph 4.1 to refer to 'approximately 32 new homes'**
- **Amendment of the potential capacity of the site to refer to 'approximately 25 units.'**
- **Updating of Table 1 to reflect all relevant consented housing schemes**
- **Minor typographic correction as above.**

5.2.20 **Policy H2: LOCAL HOUSING NEED** is well presented, with clear cross reference to the NPPF and the evidence base. While I consider that H2 adds little to the extant Core Strategy Policy CS15, which supports the local needs scheme within and adjacent to

settlements such as Clifford Chambers, I accept that a specific policy within the NP is helpful.

- 5.2.21 **In order to reflect the tone of the NP, the word 'permitted' should be replaced with 'supported' in the first paragraph.**
- 5.2.22 While I note that some representations have raised concerns over the terminology of affordable housing and local housing and have suggested the use of 'small-scale community led' housing, I consider this does not reflect the objectives or vision of the plan nor the intent to reflect paragraph 77 of the NPPF .
- 5.2.23 **I do, however, find that paragraph 4.9 should make reference to the application of secure arrangements to ensure that the homes in question remain affordable and meet local needs. This could be achieved through the use of legal agreements with applicants entering into appropriate S106 Agreements.**
- 5.2.24 **Specific reference should also be made to the '*Parish of Clifford Chambers and Milcote*' at the second bullet point of Paragraph 4.9 and in order to reflect current practice by Registered Housing Providers, a cascade approach might be required to ensure implementation. This should be referenced in the explanatory text.**

**Only with the modification as expressed above, do I find Policy H2 compliant.**

- 5.2.25 **Policy H3: LIVE WORK UNITS** is well expressed with clear reference to the evidence base.
- 5.2.26 The supporting text at paragraph 4.11, however, implies that the conversion of a room within an existing domestic property for the occupier's use would be assessed under this policy. **Conversion of a room into a home-based office for the occupier's own use is permitted without planning permission and to avoid confusion, the supporting text should express this.**
- 5.2.27 **Subject to clarification within paragraph 4.11, I find Policy H3 compliant and requires no further modification.**
- 5.2.28 **Policy H4: USE OF GARDEN LAND** has been the subject of representation by the Environment Agency. I endorse this and advise that **(e) should read '*Will not increase flood risk elsewhere and where possible, reduces flood risk in line with Policy NE1*'**,

5.2.29 **In order to reflect the tone of the NP, the word 'permitted' should be replaced with 'supported' in the first paragraph.**

5.2.30 **Subject to these modifications, Policy H4 is considered compliant**

#### **NATURAL ENVIRONMENT**

5.2.31 **Policy NE1: FLOOD RISK AND SURFACE WATER DRAINAGE** reiterates the national and local policy position but helpfully relates this to the local flood risk areas, as indicated on Figure 4(a). I again note the EA's representations on the wording of the Strategic Objective. I endorse this and suggest that it read ***'Development should reduce flood risk where possible and improve flood resilience'***.

5.2.32 In the first paragraph of the policy text, reference is made to *'....may also be required on a site-by-site basis on locally available evidence'*. This implies a degree of subjectivity and could simply be requested in response to local hearsay on flooding events in recent memory. Reference would be better made to ***'locally available evidence verified by relevant statutory parties'***.

5.2.33 I further endorse the EA's proposed modification of the second paragraph of Policy NE1 to read ***'All proposals must demonstrate that land being proposed for development should demonstrate that flood risk will not be increased elsewhere and where possible, reduces flood risk and ensures the development is appropriately flood resistant and resilient.'*** The last paragraph of the policy refers to residential development incorporating water efficient measures and makes cross reference to Section H of the building regulations 2000. **To reflect longevity, it would assist to add *'or updated regulations.'***

5.2.34 With respect to the map at Figure 4a, **I consider that use of the EA Flood Map for Planning, representing fluvial flood risk to the area, would provide clarity to developers and decision makers.**

**Only subject to these modifications, do I find Policy NE1 compliant.**

5.2.35 **Policy NE2: TO PROTECT VALUED LANDSCAPES AND SKYLINES** is understood in terms of strategic objective. The subsequent supporting text primarily refers to the topographical relationship between the village and Martin's Hill. This understandably reflecting the juxtaposition of the hill, the village and the footpaths linking the two which are clearly valuable to the community.

5.2.36 Although it is noted that a specific Landscape and Visual Impact Assessment (LVIA) has not been prepared, this is not an absolute pre-requisite to including policy on landscapes issues and the protection of views, providing other evidence is proportionate.

5.2.37 I have assessed that evidence and find that the topography of the area; the character of the village of Clifford Chambers and the matters highlighted in the Village Character Assessment, the SEA Screening Report, and responses to the Consultation Questionnaire sufficiently reflect the strategic objective (as amended and detailed earlier in my findings).

**Hence, I find that Policy NE2 is compliant without modification.**

5.2.38 **Policy NE3: NATURE CONSERVATION** is general and appears to simply reflect national policy in NPPF and Core Strategy policy although I note the reference to the River Stour and its tributaries. However, neither the policy nor the explanatory text makes any cross reference to an evidence base or any specific evidence. **Accordingly, as written, the policy adds little to existing guidance and policy and hence could be deleted.**

5.2.39 While I note the emphasis placed on the community's wish to value habitats, this reflects a generic aspirational policy, as opposed to a policy to address a specific need to protect local environments or habitats.

5.2.40 I am also concerned that the last two paragraphs of the policy refer to the retention, protection and enhancement of trees and hedgerows which are important for their historic, visual or biodiversity value, but no clear reference is made to specific areas.

5.2.41 As written the policy is overly broad and the subsequent request to replace trees or hedgerows is too general and potentially unimplementable. This text would be better relocated in the supporting text and a clearer indication given to areas that are considered particularly valuable, supported by reference to evidence.

**In the absence of cross reference to specific evidence, I find Policy NE3 duplicates extant policy and environmental guidance and regulations and can be deleted.**

5.2.42 **POLICY NE4: MAINTAINING 'DARK SKIES'** and explanatory text is clear in its intent and I note it reflects a strong community stance. However, given the nature of the B4632 and the potential need to introduce some highway improvements along this road which might include additional street lighting, I consider that suitable reference to this should be made in the explanatory text.

- 5.2.43 This could include an acknowledgement that *'where highway safety is a factor, the Parish Council will work with the relevant Highway Authority to achieve an appropriate solution.'*

**With this modification or similar wording, I find Policy NE4 compliant.**

#### **LOCAL COMMUNITY**

- 5.2.44 **POLICY LC1: DESIGNATED HERITAGE ASSETS** is clearly expressed but is general in nature and adds very little to national policy or the Core Strategy. However, when read with the explanatory text, which makes good use of the evidence base, the policy is relevant.

**Accordingly, I find Policy LC1 compliant with no modifications.**

- 5.2.45 **POLICY LC2: Designated Local Green Spaces** has been expressed with balance and reflects the evidence base which includes an appropriate assessment of sites. The policy also makes relevant reference to Community Infrastructure Funds.
- 5.2.46 With regard to **LGS Sites (1) and (2)** concerning the spinney opposite Orchard Place and the Village Pound, I have had regard to the specific representations in objection to their allocation on grounds that this might prejudice required highway improvements by Warwickshire County Council as the statutory highway authority. These sites, or parts of them, may be needed to support highway improvements associated with a new garden village development beyond the NP area which has been identified within the Core Strategy. While the highway improvements have not been formally approved through the standard statutory process, they are advanced, and the LPA is in the process of determining the proposals which comprise a new Garden Village of circa 3100 new homes. Highways modelling has been undertaken and the junction of Campden Road, Clifford Chambers and Milcote Road has been identified as requiring improvement.
- 5.2.47 I note that the assessment of LGS Site (1) refers to its value as a screen between traffic and the main part of the village but I have concerns that this does not necessarily meet the tests in the NPPF and I have not been presented with any specific evidence to support the land having a particular significance for the community other than as a physical buffer.

*99. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. 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.*

*100. The Local Green Space designation should only be used where the green space is: a) in reasonably close proximity to the community it serves; b) 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 c) local in character and is not an extensive tract of land.*

- 5.2.48 The only relevant reference is the potential of the site in terms of 'richness of its wildlife' but the evidence presented does not specifically support this and simply assumes that the trees in situ at LGS Site (1) will host wildlife. I have not been advised of any sightings of rare species or any flora or fauna out of the ordinary.
- 5.2.49 I accept that the value of the spinney and green space at **LGS Site (1)**, to act as a screen between the village and a public highway that is likely to be carrying more vehicles in the near future, is clearly of importance to the community, but this does not in itself satisfy the relevant test in the NPPF and **hence I do not consider it is compliant.**
- 5.2.50 I am more persuaded by the evidence provided to support the allocation of **LGS Site (2)** which has clearly been the subject of community attention and use and which more appropriately reflects the tests in the NPPF.
- 5.2.51 I note the proposed text of the policy refers to the protection of the LSG sites unless there is substantial evidence to prove that the public benefit would outweigh the harm to theme in this particular case. I also note the objective of NP Policy TT3 addressing highway safety where the explanatory text accepts the Parish Council needs to work with relevant parties and take into account road traffic measures that might emerge from development beyond the NP area.
- 5.2.52 I accept that the matter may become one of timing. I have not been advised of the timescale for determining the salient Garden Village proposals and associated off site highway works that may affect LGS Sites (1) and/or (2) but **clearly if this occurs**

**prior to the 'making' of the NP, then the two sites in question should not be included within Policy LS2.**

- 5.2.53 In conclusion, and in advance of the grant of planning consent for a new settlement and corresponding off site highway works, I find that the allocation of **LGS Site (2)** is appropriate and compliant with the NPPF and supported by evidence. Should substantial evidence be presented to prove that the public benefit would outweigh its loss as part of road improvements then this is provided for in the Policy. Its allocation as LGS at this point would not detract from ongoing discussions between the Parish Council and the Highway Authority to identify suitable highway improvements and hence align with NP Policy TT3.
- 5.2.54 I consider the allocation of **LGS Site (3)** compliant.
- 5.2.55 I note that appropriate correspondence has been issued to the respective land owners of the proposed LGS sites and the opportunity presented to them to support or object to the proposed allocations. Further to this I have reviewed the specific representations on **LGS Site (4)** the allotments site to the rear of Main Street. While a great number support the allocation, some suggest that the allocation of this land as an LGS is not warranted and indeed it is opposed by the landowner.
- 5.2.56 I have reviewed the manner in which this site has been identified by the QB, the strength of feeling indicated by the community, and the nature by which it and indeed all other LGS sites have been assessed. There is clearly a difference of subjective opinion as how to measure the 'value' of the allotments site.
- 5.2.57 I accept that LGS (4) may not be open to the whole community, but is physically used by a smaller number of allotment holders. Public access is not, however, a prerequisite of allocation. Similarly, I note that no detailed ecological surveys have been undertaken. Again, these are not a prerequisite of a QB assessment of potential LGS land. The land was the subject of an appropriate assessment and consultation and the guidance within both the NPPF and NPPG have been adhered to. As such, I find the allocation of LGS Site (4) compliant.
- 5.2.58 I note that the concluding text references '*will not be permitted....*'. The QB /Parish Council is not the decision maker in the determination of development proposals. **To reflect the tone and approach throughout the rest of the NP, it is advised that this phrase is replaced with '*will not be supported...*'**
- 5.2.59 **For the purposes of my examination, subject to the minor modification to the text noted in 5.2.58 above, and reflecting the timing of any determination on the**

**Garden Village proposals, and consequent approval of off-site highway improvements, I find the allocation of LGS Sites (2), (3), (4) and (5) of Policy LC2 as Local Green Spaces, compliant. For the avoidance of confusion, I do not find the allocation of LGS Site (1) compliant.**

5.2.60 **POLICY LC3: NEIGHBOURHOOD AREA CHARACTER** reflects the evidence base and community questionnaire, to preserve and enhance the character of the area. The policy presents appropriate encouragement and support has been indicated that provides clear guidance for developers, landowners and decision makers. While I accept that the list of design principles is extensive, in general the prescriptive approach has been presented in terms that encourage adoption rather than compel it.

5.2.61 There are some exceptions where the word '*must*' has been used when the word '*should*' is more appropriate and would better reflect the tone of the NP i.e. bullets (g), (h), (i), (k). This amendment would also allow for more innovative architectural proposals to come forward which may concern alternative means of construction but still achieve very high design standards. I consider that (i) duplicates Policy NE4, discussed above, but given the context of both policies, feel that this does not detract from the goal of either policy and is relevant.

5.2.62 (l) refers to designing to deter crime or the perception of crime. The last sentence of this bullet point references a situation that might only be experienced once a development has been completed / occupied. **It would be clearer to any decision maker to amend the text to the following; '*Proposals which risk creating a safe and secure environment will not be supported.*'**

**Subject to modifications replacing 'must' with 'should' and amending bullet (l), I find Policy LC3 compliant.**

5.2.63 **POLICY LC4: PROMOTING HIGH SPEED BROADBAND** is relevant and well evidenced.

**I find Policy LC4 compliant**

#### **TRAFFIC AND TRANSPORT**

5.2.64 **POLICY TT1: PARKING** reflects existing local supplementary planning advice. I note that this is relatively up to date and by repeating this in the NP, as a formal policy,

enables it to become part of the Development Plan, as opposed to non-statutory guidance.

5.2.65 I note the Supplementary Planning Document's reference to the use of garage space when calculating parking provision. Should garages be converted to other uses, the parking space would be lost. The LPA can therefore impose conditions on consent for new development, preventing the change of use of garages which would normally be allowed under permitted development rights. **I consider it helpful to highlight this in the explanatory text.**

5.2.66 Furthermore, and to avoid ambiguity, I also advise that the second and third sentences of Policy TT1 are amended as follows;

***'Dwellings must provide off-road spaces which may include garages and car ports, in line with Stratford upon Avon District Council's Development Requirements Supplementary Planning Document (SPD) 2019;***

- ***1 and 2 bedroom properties – 1 space***
- ***3 bedroom properties – 2 spaces***
- ***4 and 5 bedroom properties – 3 spaces***

***Parking provision of non-residential development will also be considered against the Council's Development Requirements Supplementary Planning Document.***

**Subject to these modifications, I find Policy TT1 compliant**

5.2.67 **POLICY TT2: WALKING AND CYCLING** is well expressed and the explanation clear, relating well to the local area. Cross reference to appropriate figures is appropriate.

**Accordingly, I find Policy TT2 compliant**

5.2.68 **POLICY TT3: HIGHWAY SAFETY** refers to general principles. Although it duplicates national guidance and Core Strategy policies, the reference to Main St within the policy text in the second paragraph reflects a clear explanation of local concerns and justifies it being included within the NP. **It would assist, however, if that sentence read '.....Main Street, in Clifford Chambers'.**

5.2.69 The last sentence of the fourth paragraph of Policy TT3 asks developers to anticipate cumulative traffic generation by taking into account other development in adjoining or surrounding areas, but this is not qualified in any way. **As written, this is unreasonable, and this sentence should be removed.**

- 5.2.70 Reference is made at paragraph 7.6, to the Parish Council working with other 'highway agencies'. **It would remove ambiguity if this also specifically referred to the County Highway Department.**

**Only with the above modifications is Policy TT3 compliant**

- 5.2.71 The Appendix to the NP, comprising the Clifford Chambers and Milcote Character Assessment, is a clear and helpful document. Technically it does not comprise formally proposed NP policies and as such does not come under my jurisdiction as an Examiner for compliance with the Basic Conditions. I do, however feel it relevant to comment on its ability to provide context for those policies. In this role, it is a helpful element of the NP which I consider assists the decision maker, landowner or developer in interpreting and understanding the NP policies.
- 5.2.72 I have previously noted that an additional section summarising the nature of the housing supply in the NP area would be helpful in providing context for the Plan. **This could either be inserted into the Appendix and as part of the explanatory text supporting Policy H1.**

### **5.3 PLAN DELIVERY, IMPLEMENTATION, MONITORING AND REVIEW**

- 5.3.1 Reference is made, at paragraph 1.26 of the NP, to the future review of the Plan and that this will start two years before the expiry of the current document, ie in 2029. There is little formal guidance on when any review should be undertaken, but the monitoring approach proposed at paragraph 1.25 is considered pragmatic and proportional. This is welcomed.

### **6.0 REFERENDUM**

- 6.1 Further to my comments above, I recommend to Stratford on Avon District Council that, subject to the recommended modifications being undertaken, the Clifford Chambers & Milcote Neighbourhood Plan should proceed to a Referendum. I am required, however, to consider whether the Referendum Area should reflect the approved Neighbourhood Area or whether it should extend beyond this, in any way.

6.2 As noted earlier, the Neighbourhood Area reflects the whole of the Clifford Chambers & Milcote Parish and am content that this should also reflect the area for any forthcoming Referendum.

## **7.0 SUMMARY AND RECOMMENDATION**

7.1 I find that the Clifford Chambers & Milcote Neighbourhood Plan is an effective and well-written document. It has been the subject of effective consultation and is supported by appropriate and proportional evidence. The resulting vision, strategy and ensuing policies reflect the findings of those consultations and drafts of the NP have been the subject of appropriate amendments to take on board relevant comments from statutory consultees and key stakeholders.

7.2 While I have suggested modifications to some of the proposed policies and explanatory text, to remove ambiguity and ensure that policies are clear and do not duplicate extant policy or other regulations, these are minor in nature and number. Overall, I consider that the document is well written and appropriately justified with clear cross reference to the evidence base. My modifications have been suggested to reflect the tone and language of the document and if addressed, would provide for a robust and compliant document.

7.3 In summary, subject to the suggested changes, the Plan would comply with the legal requirements set out in Paragraph 8(1) and 8(2) of Schedule 4B to the Town and Country Planning Act 1990 and the relevant regulations relating to the preparation of a Neighbourhood Plan.

7.4 I do not have any concerns over the defined Plan Area nor with that area forming the basis for any Referendum.

7.5 Hence further to the modifications proposed within this submission, I recommend that the Clifford Chambers & Milcote Neighbourhood Plan should proceed to a Referendum.

**Louise Brooke-Smith, OBE, FRICS, MRTPI**

**September 2020**

## **Appendix A - Documents reviewed by the Examiner**

- National Planning Policy Framework (The Framework) (2018) and subject to MHCLG clarification in 2019
- Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act (2011)
- The Neighbourhood Planning (General) Regulations (2012) and additions
- The Neighbourhood Planning Act 2017 and associated guidance and regulations.
- Draft Version of the Clifford Chambers & Milcote Neighbourhood Plan
- Submission Version of the Clifford Chambers & Milcote Neighbourhood Plan and supporting appendix
- All documents identified in the Clifford Chambers & Milcote Neighbourhood Plan Examination Core Documents list ( as set out on the LPA and Parish Council Website)

## **Appendix B – Examiner's use of Abbreviations**

- Clifford Chambers & Milcote Neighbourhood Plan; NP
- The Plan / The Neighbourhood Plan; NP
- Clifford Chambers & Milcote Parish Council; PC
- Qualifying Body; QB
- Stratford on Avon District Council; SoADC / Council
- Local Planning Authority; LPA
- National Planning Policy Framework; NPPF
- National Planning Practice Guidance; NPPG
- Site Allocation Plan; SAP
- Core Strategy; CS
- Basic Conditions Statement; BCS