

Kenilworth Neighbourhood Plan (Submission Plan dated March 2018)

As you are aware I have been appointed to conduct the Examination of the Kenilworth Neighbourhood Plan. I can see that considerable community effort has gone into progressing the Plan; in order that I may progress the Examination I would be grateful for the Qualifying Body's response to the initial enquiries below; the local authority may also have comments. I am sorry for the number of queries but the responses will all contribute to the progressing of the Examination.

I still have considerable work to undertake in fully assessing the submitted Plan but my purpose here is to better understand the intention behind the policy content from the authors and it is not to invite new content or policies that will not have been subjected to the public consultation process. In particular I need to be sure that the Plan policies meet the obligation to “provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency” (NPPF para 17). It is an expectation of Neighbourhood Plans that they should address the issues that are identified through community consultation, set within the context of higher level planning policies. There is no prescribed content and no requirement that the robustness of proposals should be tested to the extent prescribed for Local Plans. Where there has been a failure by the Qualifying Body to address an issue in the round, leading to an inadequate statement of policy, it is part of my role wherever possible to see that the community's intent is sustained in an appropriately modified wording for the policy.

In order to ensure transparency with the conduct of the Examination I am copying in the Local Planning Authority with a request that this exchange of emails be published on the webpage relating to the Neighbourhood Plan alongside the representations received during the Regulation 16 public consultation.

Policy KP1: Town Centre

It is difficult for me to relate the detail on Map 5.3 to the content of the Policy:

- The site allocated for the Town Arts Centre (a) is not apparently distinguished from the medical facilities to be upgraded (b); the site allocated needs to be absolutely clear and so I would appreciate an accurate indication.
- It is also unclear, because of the notation adopted, whether the proposed primary shopping frontage (c) extends to include the Smalley Place site?
- The supporting text for (b) says that “we assume and expect that a clinic will still be provided” but has any evidence been submitted within your consultations to support the notion that redevelopment of the site is considered feasible?
- The supporting text for (e) says: “We would propose that the Kenilworth Civic Society's Shop Fronts Guidance be adopted as part of our plan” and then there follows what appear to be suggestions for additional content (unexpected in a final Plan version). The Plan does not however include the Guidance but merely references it as being within the evidence documents. Since the Guidance has been prepared independently of the Neighbourhood Plan and to include it would mean that it would become part of the Examination may I assume that the Policy text is more correct than the supporting text?
- In (f) what “current requirements” are being referred to?
- In (h) are there any *land use* proposals that might be relevant to improving air quality?

Policy KP2: Station Road

I note that the station has now opened and therefore this Policy will need to be updated.

In the second part of the Policy development is encouraged that “will encourage a greater movement between [the station and the Town Centre]”; in reality is not development likely to increase movement between that development and the two other locations? The supporting text

suggests that the aim is to facilitate the improvement of the route for pedestrians, cyclists and bus passengers, which seems more feasible. In this instance may I assume that the supporting text is more accurate than the Policy text?

Policy KP3: Warwick Road Special Policy Area

I note that the supporting text says that the aim is to attract “uses that are not essential to a location in the Town Centre” which I understand to mean ‘uses for which a Town Centre location is not essential and that will not detract from and may enhance the attractiveness of the Town Centre’. This would seem to be an important element to be included within the Policy wording rather than merely within the supporting text?

Policy KP4: Land East of Kenilworth

You will have noted that interested development parties have made representations proposing detailed amendments that might better reflect the realities of progressing the proposed significant development. Do you have any comments on their wording amendment suggestions? In particular two representations have taken issue with “principle” (e) since no evidence is provided to support the 5% figure used; I note that the supporting text says that “the precise means for delivering the [principle (e)] requirement will be addressed in the [Warwick District] Development Brief” and therefore I can see that an amendment would not be unreasonable. Do you have any comments on my line of thinking here?

I note that a Concept Plan Map is included in the supporting text but the source of that Plan – somewhat difficult to read in black & white – is not shown; full details of the source are essential as the Plan may be amended/updated over time.

I note that in para 5.21 there is a reference to “Appendix D”; as the Neighbourhood Plan does not have an Appendix D this must be a reference to an Appendix in a Local Plan document but which one is not declared and so clarification is required.

Whilst reading text paragraphs 5.25 & 5.27 relating to school and community facilities I have been puzzled as to what distinction, if any, is being drawn between the concerns of each of these two paragraphs. A brief additional explanation may be helpful?

Policy KP5: Kenilworth School Sites

Criterion (a) of this Policy requires that the community uses presently attached to the Leyes Lane site be relocated to the new education area within the residential expansion area; however, no evidence is proffered to suggest that co-location is essential whilst re-provision very well might be. Do you have any comments on my line of thinking here?

In the supporting text para 5.28 mention is made of the need to ensure linkages from the redeveloped school site to the existing shops at Leyes Lane; however, this element is not part of the Policy wording and instead the reference is to appropriately located public open space. Was this difference accidental or deliberate?

Policy KP6: Land East of Warwick Road

You will have noted that the interested development party has made representations proposing some amendments to the Policy wording as a result of outline planning approval W/17/2150. Do you have any comments on their wording amendment suggestions?

Policy KP7: Abbey Fields

I note from the supporting text that Abbey Fields is a Scheduled Monument (not a Scheduled Ancient Monument as used in your text). Therefore “there is a presumption that [it] will be handed on to future generations in much the same state that we have found [it]”; “Scheduling is applied only to sites of national importance”; “The planners can make sure that development proposals take archaeology fully into account” (<https://historicengland.org.uk/listing/what-is-designation/scheduled-monuments/>). A Policy apparently inviting development proposals, albeit whilst requiring an undefined “right balance” to be achieved, could be seen not to have appropriate regard to national policies. I will comment later on the additional proposal to designate Abbey Fields as a Local Green Space, but at this juncture I would suggest that the Neighbourhood Plan can add nothing beneficial to the protections already afforded through national and local policies. Do you have any comments on my line of thinking here?

Policy KP8: Castle Farm

I do not believe that the term “defendable boundary” (as used in criterion (g)) is self-explanatory and it is difficult to see how “the layout of uses and landscaping scheme” will deliver it. From the supporting text the concerns appear to be around the (undefined) potential for incursions into the Green Belt and the need for “replacement” open space. Is this Policy about the site blending in with the adjacent countryside at its boundaries?

Policy KP9: Traffic

As far as I can ascertain the “comprehensive traffic study” referred to in this Policy is conjectural (and certainly it would be beyond the scope of a land use Plan to require it) – is that the case?

Policy KP10: Cycle Routes

Some wording is an issue here. I am wondering what the use of “priority” within “new priority cycle routes” is intended to convey. Similarly the Policy refers to indicative “corridors” and the key icon to Map 5.2 suggests that areas are being indicated (as is also the case for the “existing” cycle route); however, on the Map and in the wording of the key “cycle connections” are indicated. The latter seems the more helpful way to indicate notional routes. Do you have any comments on my line of thinking here? I note that the source reference to the “analysis undertaken” for this Plan is omitted.

Policy KP 11

No comments at this time.

Policy KP12: Footpaths

Is the inclusion of reference to cyclists twice within this Policy an error or some special attention intended?

Policy KP13: Parking Standards

The expectation that, in all circumstances, road widths should be wide enough to accommodate on-street parking in addition to the appropriate off-street parking is not explained or justified in the supporting text. The phrase “unless very special circumstances can be demonstrated” is undefined and might be seen to undermine the local authority standards. Is “the agreed minimum standards” intended to refer to the new SPD in preparation? Do you have any comments on my lines of thinking here?

Policy KP14: General Design Principles

As a result of the Deregulation Act 2015 “local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements

relating to the construction, internal layout or performance of new dwellings” (Written Statement HCWS488); principle (e) and (f) seem to make such requirements. Criterion (g) seems to be included in criterion (j). Criteria (h) and (i) are very difficult to understand and assess in the absence of further criteria – the usual reference is to the Lifetime Homes design guidance. Do you have any comments on my line of thinking here?

A representation is concerned that some parts of the Policy do not show sufficient regard for Local Plan Policies HE1 – HE6. Since the two must operate together I would appreciate your comments on the thinking behind the choice of words.

The supporting text at para 5.52 presents a conundrum:

“The policy does not expect absolute adherence by all development principles [proposals?] to every principle”.

And I presume that the Map reference in para 5.53 should be to Policy Map 5.5? Map 5.5 in turn refers in the key to “Conservation Areas” whereas I presume this should – to be consistent with the other titles on the page – read Character Areas?

Policies KP14A – 14S

All but one of the Policies include at the end of the supporting text “Protection of the elements is important” which seems to be a throwaway line that is difficult to interpret. Similarly the maps defining the Character Areas actually identify locations rather than “areas” which one would expect to be outlined. Because the maps are at varying scales & colours and include a variable amount of unrelated information, at the very least an “area” needs to be defined that will make clear the boundaries between one Character Area and the next. Do you have any comments on my line of thinking here?

Policy KP15: Local Heritage Assets

The Policy and supporting text seem to reverse the correct understanding of designated and non-designated heritage assets. Neighbourhood Plans cannot “designate” heritage assets – designation is covered by other legislation. However it is possible for Neighbourhood Plans to identify non-designated heritage assets for recognition. Therefore the Policy should refer to non-designated heritage assets (in place of Local Heritage Assets) and there must be a reference to the listing in Appendix A and the Policies Map 5.4; the supporting text and the Appendix A text, where they refer to “non-designated heritage assets”, ought to refer to designated heritage assets.

A representation has pointed out that the wording of this Policy (and Policy KP14a) should better reflect the national context which requires that heritage assets be conserved in a manner appropriate to their significance rather than expect that no harm will be occasioned.

Appendix A needs to be precise about the extent of the heritage asset since the map only identifies a general location – for example item 2 notes that there are “fine landscaped gardens” but it is unclear whether they are included as part of the heritage asset and item 4 refers to the “main building” but no clue is given as to the characteristics of this building to distinguish it from others on the school site. There is a discrepancy between Appendix A and Map 5.4 in relation to the “WDC” references that are included; further it is not declared what these WDC references are and, if these reference a local listing, why there needs to be a further inclusion in the Neighbourhood Plan. Do you have any comments on my line of thinking here?

Policy KP16: Environmental Standards of New Buildings

This Policy appears to be contrary to the Ministerial Written Statement HCWS488 referenced above?

Policy KP17: Industrial Estates

May I assume that it is recognised and accepted that the provision of a car park at Farmer Ward Road would not only be an exception to the principle of replacement with employment uses but also the principle of no net loss?

Policy KP18: Tourism

How is it envisaged that the encouragement here for new visitor accommodation “in the vicinity of the new railway Station” will operate in relation to the expectations of Policy KP17?

Policy KP19: Green Infrastructure

In the second part of this Policy may I assume that “proportion” is to be interpreted in relation to the area of green infrastructure as a whole, rather than the built up area or the Neighbourhood Area?

Policy KP20: Local Green Space

The “separate report” that sets out how the Local Green Space meets the NPPF test must be included as an Appendix to the Plan. However, I cannot locate the report within the submission documents on the Warwick Council site nor via a search of the Town Council site. I am concerned that the Planning Practice Guidance says: “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” (Ref: 37-011-20140306). Since the space by a combination of designations already enjoys a very high level of national protection I am unsure what “additional local benefit” would be gained by a Local Green Space designation. Do you have any comments on my lines of thinking here?

Policy KP21: Street Trees

No comments at this time.

Policy KP22: Flooding

When this Policy refers to “all developments” I surmise that you had in mind housing or employment developments of some scale; it will be impractical to incorporate SuDS into a new single dwelling or the provision of a new single shop. Therefore the expectation of the Policy needs to be tempered in the same manner as the Local Plan equivalent which it might reference. Local Plan Policy FW2 refers to “major developments”; major development is generally taken to mean development where the number of houses to be provided is 10 or more or the site has an area of 0.5 hectares or more. Do you have any comments on my line of thinking here?

6. Implementation

I believe this is a confusing title for a section that the Summary suggests “deals with a number of issueswhich although relevant are outside the scope of the Neighbourhood Plan. Planning Practice Guidance says: “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” (Paragraph: 004 Reference ID: 41-004-20170728”. Therefore I believe that the Implementation section, that will in effect guide the actions of the Town Council over the Plan period once the Plan has become part of the Development Plan, should become an Annex the Plan document rather than a section of it. In relation to paragraph 6.10 I would note that whilst the Town Council may engage constructively with

the County Council on highway matters it cannot “expect” action arising directly from the Neighbourhood Plan. In relation to the content in general and the Policy references in particular, this will need to be reviewed in the light of the modifications arising from my Report.