

KENILWORTH NEIGHBOURHOOD PLAN 2017 - 2029

**The Report of the Independent Examiner to Warwick District Council on the
Kenilworth Neighbourhood Plan**

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6th August 2018**

Summary

I was appointed by Warwick District Council, in agreement with the Kenilworth Town Council, in June 2018 to undertake the Independent Examination of the Kenilworth Neighbourhood Plan.

The Examination has been undertaken by written representations. I visited the Neighbourhood Area on 16th July 2018.

The Neighbourhood Plan proposes a local range of policies and seeks to bring forward positive and sustainable development in the Kenilworth Neighbourhood Area. There is an evident focus on safeguarding the very distinctive character of the area whilst accommodating future change and growth.

The Plan has been underpinned by extensive community support and engagement. The social, environmental and economic aspects of the issues identified have been brought together into a coherent plan which adds appropriate local detail to sit alongside the Warwick District Local Plan 2011 – 2029.

Subject to a series of recommended modifications set out in this Report I have concluded that the Kenilworth Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum.

I recommend that the referendum should be held within the Neighbourhood Area.

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Introduction

This report sets out the findings of the Independent Examination of the Kenilworth Neighbourhood Plan 2017-2029. The Plan was submitted to Warwick District Council by Kenilworth Town Council in their capacity as the 'qualifying body' responsible for preparing the Neighbourhood Plan.

Neighbourhood Plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently incorporated within the National Planning Policy Framework (NPPF) in 2012 and this continues to be the principal element of national planning policy. Since the commencement of this Examination a new NPPF has been published (July 2018) but the transitional arrangements in para 214 Appendix 1 on Implementation apply and thus this Examination is unaffected by the changed NPPF; accordingly all references to the NPPF in this Report are to the original 2012 NPPF document.

This report assesses whether the Kenilworth Neighbourhood Plan is legally compliant and meets the 'basic conditions' that such plans are required to meet. It also considers the content of the Plan and, where necessary, recommends modifications to its policies and supporting text. This report also provides a recommendation as to whether the Kenilworth Neighbourhood Plan should proceed to referendum. If this is the case and that referendum results in a positive outcome, the Kenilworth Neighbourhood Plan would then be used in the process of determining planning applications within the Plan boundary as an integral part of the wider development plan.

The Role of the Independent Examiner

The Examiner's role is to ensure that any submitted neighbourhood plan meets the legislative and procedural requirements. I was appointed by Warwick District Council, in agreement with the Kenilworth Town Council, to conduct the examination of the Kenilworth Neighbourhood Plan and to report my findings. I am independent of both the Warwick District Council and the Kenilworth Town Council. I do not have any interest in any land that may be affected by the Plan.

I possess the appropriate qualifications and experience to undertake this role. I have over 40 years' experience in various local authorities and third sector bodies as well as with the professional body for planners in the United Kingdom. I am a Chartered Town Planner and a panel member for the Neighbourhood Planning Independent Examiner Referral Service (NPIERS). I am a Member of the Royal Town Planning Institute.

In my role as Independent Examiner I am required to recommend one of the following outcomes of the Examination:

- the Kenilworth Neighbourhood Plan is submitted to a referendum; or
- the Kenilworth Neighbourhood Plan should proceed to referendum as modified (based on my recommendations); or
- the Kenilworth Neighbourhood Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.

As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. If recommending that the Neighbourhood Plan should go forward to referendum, I must then consider whether or not the referendum area should extend beyond the Neighbourhood Area to which the Plan relates.

In examining the Plan, I am also required, under paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:

- 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 Planning and Compulsory Purchase Act 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 Act (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 Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

These are helpfully covered in the submitted Conditions Statement and, subject to the contents of this Report, I can confirm that I am satisfied that each of the above points has been properly addressed and met.

In undertaking this examination I have considered the following documents:

- Kenilworth Neighbourhood Plan as submitted
- Kenilworth Neighbourhood Plan Basic Conditions Statement (March 2018)
- Kenilworth Neighbourhood Plan Statement of Community Involvement with Appendices (February 2018)
- Kenilworth Neighbourhood Plan Strategic Environmental Assessment and Habitats Regulations Assessment Screening Opinion (August 2017 updated 14 September 2017)
- Content at:
www.warwickdc.gov.uk/downloads/download/1024/kenilworth_neighbourhood_plan_submission_-_supporting_documents
- Representations made to the Regulation 16 public consultation on the Kenilworth Neighbourhood Plan
- Warwick District Local Plan 2011 - 2029
- Warwick District Supplementary Planning Documents (SPDs) and other guidance
- Kenilworth - Guide to conservation areas (Warwick District Council) (undated)
- National Planning Policy Framework (NPPF) (March 2012)
- Neighbourhood Planning Regulations (2012)
- Planning Practice Guidance (PPG) (March 2014 and subsequent updates)
- Ministerial Statement 25th March 2015.

I carried out an unaccompanied visit to the Plan Area on 16th July 2018. I looked at Kenilworth and its hinterland. I also viewed the character of the Kenilworth Conservation Areas and all the various sites and locations identified in the Plan document.

The legislation establishes that, as a general rule, neighbourhood plan examinations should be held without a public hearing, by written representations only. Having considered all the information before me, including the representations made to the submitted plan which I felt made their points with clarity, I was satisfied that the Kenilworth Neighbourhood Plan could be examined without the need for a public hearing and I advised Warwick District Council accordingly. The Qualifying Body has helpfully responded to my enquiries so that I may have a thorough understanding of the thinking behind the Plan, and the correspondence has been shown on the Warwick District Council neighbourhood planning website for the Kenilworth Neighbourhood Plan.

Kenilworth Neighbourhood Area

A map showing the boundary of the Kenilworth Neighbourhood Area was provided within the Neighbourhood Plan. Further to an application made by Kenilworth Town Council, Warwick District Council approved the designation of the Neighbourhood Area on 17th August 2015.

This satisfied the requirement in line with the purposes of preparing a Neighbourhood Plan under section 61G(1) of the Town and Country Planning Act 1990 (as amended).

Consultation

In accordance with the Neighbourhood Planning (General) Regulations 2012, the qualifying body has prepared a Statement of Community Involvement to accompany the Plan.

The Planning Practice Guidance says:

“A qualifying body should be inclusive and open in the preparation of its neighbourhood plan [or Order] and ensure that the wider community:

- is kept fully informed of what is being proposed
- is able to make their views known throughout the process
- has opportunities to be actively involved in shaping the emerging neighbourhood plan [or Order]
- is made aware of how their views have informed the draft neighbourhood plan [or Order].” (Reference ID: 41-047-20140306)

I can see that an inclusive approach to community engagement and a range of formal and informal approaches and media has been used to invite and obtain participation. I note that in 2013/2014 Kenilworth Town Council conducted a survey comprising 38 questions regarding the development plans in the early draft Local Plan and this generated 6000 comments. From October 2015 to February 2016 Working Parties were set up for each of the key policy areas. The Parties liaised with interested bodies and local groups and, working with a consultant, began to create the policies to be included in the Neighbourhood Plan. In August 2016 a Neighbourhood Plan questionnaire was developed ‘to help shape the future of the town’ and to inform residents about the Neighbourhood Plan. Later, in September/October 2016, meetings were held with developers and landowners of strategic sites along with interested parties. Widely publicised consultation events took place on three concurrent Saturday mornings to inform residents and local groups about the Kenilworth Neighbourhood Plan and to encourage them to complete the questionnaire. The questionnaire provided was completed by 198 residents. The Regulation 14 consultation ran initially from 15th May 2017 to 30th June 2017 but because of the level of public interest it was extended to 8th August 2017. Key statutory consultees (including adjoining local authorities and Parish Councils) were contacted by letter and sent a copy of the draft Neighbourhood Plan. Publicising the consultation events included: bin hangars on every bin in the town, pop-up banners, information on the Town Council’s website, school newsletters, a banner across the Warwick Road, press releases, emails to the original respondents to the Town Action Plan. A summary report of the analysis of the responses and the recommendations relating to the statutory consultees and land interests was prepared and has been included as one of the Appendices to the Consultation Statement.

I am therefore satisfied that the consultation process accords with the requirements of the Regulations and the Practice Guidance and that, in having regard to national policy and guidance, the Basic Conditions have been met. In reaching my own conclusions about the specifics of the content of the Plan I will later note points of agreement or disagreement with Regulation 16 representations, just as the Qualifying Body has already done for earlier consultations. That does not imply or suggest that consultation has been inadequate, merely that a test against the Basic Conditions is being applied.

Representations Received

Consultation on the submitted Plan, in accordance with Neighbourhood Planning Regulation 16, was undertaken by Warwick District Council from Friday 6th April 2018 to Friday 18th May 2018. I have been passed representations – 17 in total - received from the following:

- Natural England
- Amec Foster Wheeler on behalf of the National Grid
- Canal & River Trust
- HS2 Ltd
- Highways England
- Historic England
- Local Resident 1
- Finham Brook Flood Action Group
- The Coal Authority
- Savills on behalf of Gleeson Developments Ltd
- Public Health Warwickshire
- Kenilworth All Together Greener
- Gladman Developments Ltd
- WYG on behalf of Catesby Estates Plc
- Star Planning and Development on behalf of Richborough Estates Ltd
- Severn Trent
- Sworders on behalf of landowners at Thickthorn

The Neighbourhood Plan

The Kenilworth Town Council is to be congratulated on its extensive efforts to produce a Neighbourhood Plan for their area that will guide development activity over the period to 2029. I can see that a sustained effort has been put into the dialogue with the local community to arrive at actions and policies with the Vision that “The growth of Kenilworth provides an opportunity to preserve the character and improve the quality of life for both present and future generations, by protecting our heritage and improving our environment, making it the town and the community where we all wish to live and work, and which people want to visit”. The Plan document is simply presented with a combination of text, illustrations and Policy pages that are, subject to the specific points that I make below, well laid out and helpful for the reader. The Plan has been kept to a manageable length by not overextending the potential subject matter and the coverage of that.

The wording of some content & policies is not always as well-expressed as one might wish, but that is not uncommon in a community-prepared planning document and something that can readily be addressed. 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. It is evident that the community has made positive use of “direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area” (PPG Reference ID: 41-001-20140306). It is evident that the Qualifying Body understands and has addressed the requirement for sustainable development.

Having considered all the evidence and representations submitted as part of the Examination I am satisfied that the submitted Plan has had regard to national planning policies and guidance in general terms. It works from a positive vision for the future of the Neighbourhood Area and promotes policies that are, subject to some amendment, proportionate and sustainable. The Plan sets out the community needs it will meet whilst identifying and safeguarding Kenilworth’s distinctive features and character. The plan-making had to find ways to reconcile the external challenges that are perceived as likely to affect the area with the positive Vision agreed with the community. All such difficult tasks were approached with transparency and care, with input as required and support from Warwick District Council.

However, in the writing up of the work into the Plan document, it is often the case that the phraseology is imprecise, not helpful, or it falls short in justifying aspects of the selected policy. Accordingly I have been obliged to recommend modifications so as to ensure both clarity and meeting of the ‘Basic Conditions’. In particular, Plan policies as submitted may not 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). I bring these particular references to the fore because they will be evident as I examine the policies individually and consider whether they meet or can meet the ‘Basic Conditions’.

Basic Conditions

The Independent Examiner is required to consider whether a neighbourhood plan meets the “Basic Conditions”, as set out in law following the Localism Act 2011. In order to meet the Basic Conditions, the 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;
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

The submitted Conditions Statement has very helpfully set out to address the issues in the same order as above and, where appropriate, has tabulated the relationship between the policy content of the Plan and its higher tier equivalents. I note that the Local Plan is the Warwick District Local Plan 2011 – 2029 and this was adopted in 2017 after testing against the requirements of the NPPF 2012.

I have examined and will below consider the Neighbourhood Plan against all of the Basic Conditions above, utilising the supporting material provided in the Conditions Statement and other available evidence as appropriate.

The Plan in Detail

I will address the aspects of the Neighbourhood Plan content that are relevant to the Examination in the same sequence as the Plan. Recommendations are identified with a bold heading and italics and I have brought them together as a list at the end of the Report.

Front cover

A neighbourhood plan must specify the period during which it is to have effect. I note that there is a clear reference to the Plan period on the front cover and this is helpfully prominent. I do however note that there is a typographical error on the Basic Conditions Statement where the dates are not picked up correctly.

Summary and Guide

This is a very helpful introduction for all readers but there are two points to be addressed:

- the content needs to be brought in line with the recommended modifications that follow, in particular the recommendations in relation to Section 6: Implementation;
- In the final sentence of paragraph 2 I do not consider it is correct to say that policies in the Neighbourhood Plan can “manage” the land allocations of the Local Plan and accordingly I recommend that this paragraph is amended.

Recommendation 1:

Under the heading “Summary and Guide” amend/correct the following:

1.1 In the final sentence of paragraph 2 delete the words “and manage”.

1.2 Revise the content as a whole in line with the modifications recommended for the main body of the Plan.

1. Background

There are a few points of correction to be addressed in this Section.

Recommendation 2:

Under the heading “1. Background”:

2.1 In the final sentence of paragraph 1.1 add ‘is’ between “area” and “shown”.

2.2 Add a Key below Map 1.1 to distinguish the Neighbourhood Area boundary from other lines on the map or, more simply, reference the larger scale Map 1.1 to the rear of the Plan document, where the key and title should both read ‘Kenilworth Neighbourhood Area’.

2.3 In paragraph 1.2 correct the dates that the Plan covers to match that on the front cover 2017 – 2029.

2.4 In paragraph 1.5 add 'to' between "community" and "decide" and make the representation of the 'basic conditions' accurate by replacing "consistent" in the first two bullet points with, respectively, 'Does the Plan have regard for national planning policies' and 'Is the Plan in general conformity with local strategic planning policies'.

2.5 In the final sentence of paragraph 1.6 replace "will be" with 'is'.

2.6 In paragraph 1.8 replace "will now be" with 'are' and "will recommend" with 'recommends'.

2. The Neighbourhood Area

It is unfortunate that the helpful paragraph numbering has not been used for this section; I suggest that it is made consistent with the rest of the Plan. There are a few points of correction/clarification required in this descriptive section.

Recommendation 3:

Under the heading "2. The Neighbourhood Area":

3.1 Number the paragraphs in a manner consistent the numbering of paragraphs in the rest of the Plan; consistently present all the map cross-references as '(see Map x.x)' rather than show them like a sentence; replace the (potentially confusing) use of the term "Town" with 'Neighbourhood Area'.

3.2 In the first paragraph under "An Introduction to Kenilworth" 'Warwick District Council' is abbreviated to "WDC" for the first and, as far as I can see, the only time; the easiest correction is to put 'Warwick District Council' in full here.

3.3 Also under "An Introduction to Kenilworth", the final 3 paragraphs relate to the Town Council approach to the Plan which is no longer relevant since the Plan is on the verge of becoming a development plan document; delete the final 3 paragraphs.

3.4 Under "Traffic & Transport" paragraph 3 2001 data is too old to be useable; the new Warwick Parking Standards Supplementary Planning Document (2018) states (para 1.4) that "Kenilworth wards [also] have a notably lower % of dwellings with no access to a car or van"; this therefore is the reference/data to use within this and related information paragraphs.

3.5 Under "Traffic & Transport" paragraph 4 quotes data "recorded in 2011" but does not declare the data source; I can see from the on-line document 'Additional Evidence and References' that the source is a Warwickshire County Council 2011 Survey but there is no cross-reference within the Plan; the sources for the data within the Plan need to be cross-referenced and this is normally done with a footnote on the relevant page.

3.6 Also under "Traffic & Transport" paragraph 5 there needs to be an update since the replacement railway station is now completed; in the second sentence replace "taking place" with 'completed'.

3.7 Under "Social Infrastructure" paragraph 3 asserts that the one Secondary School and all the Primary Schools are "at capacity"; a source for the data that substantiate these assertions is required; it is unclear what the table in 'Additional Evidence and References' actually shows and therefore that needs amending to show the relationship between present pupil numbers and declared school capacities.

3.8 Under "Green Infrastructure" it is asserted that "the amount of public open space within the Town [meaning the Neighbourhood Area?] is less than the District Council standard"; a

source for the data that substantiate this assertion is required (a cross-reference to additional data within the 'Additional Evidence and References' would suffice).

3.9 Also under "Green Infrastructure", in the last paragraph, delete "this" at the beginning of the first sentence.

3.10 Under "Small Parks and Recreation Areas" paragraph 7 it is noted that "Wherever possible such space has been identified on the relevant map". I assume that map to be Map 2.8 but there the key indicates "Amenity Greenspace"; both the Plan text and the map with its key need to be co-ordinated so that their information content is clear.

3.11 Under "Allotments" there is a full stop missing from the end of paragraph 2.

3. Planning Policy Context

There are two typographical errors in this section.

Recommendation 4:

Under the heading "Planning Policy Context":

4.1 *In Table 3.1 delete the second full stop at the end of Note 2.*

4.2 *In paragraph 3.9 there is one extraneous bullet symbol.*

4. Community Views on Planning

There is one typographical error in this section.

Recommendation 5:

Under the heading "Community Views on Planning" In paragraph 6, first sentence, replace "if" with 'of'.

5. Vision, Objectives and Land Use Policies

Paragraph 5.4 suggests that policies can "discourage applications for developments that [the local community] do not want to happen"; in reality policies cannot "discourage applications" and the NPPF (paragraph 16) says that neighbourhoods should "plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan". Accordingly the first sentence of paragraph 5.4 should be corrected.

Recommendation 6:

Under the heading "Land Use Planning Policies" rewrite the first sentence as follows:

'The purpose of these policies is to encourage and shape planning applications to be made for things that the local community want.'

Policy KP1: Town Centre

There are a number of issues with Policy KP1 as written and the supporting justification. Smalley Place has existing uses which, I am informed, will be retained alongside the proposed additional uses for which an "Allocation" is now made; the Policy needs to accommodate this. In relation to the proposal to extend the primary shopping frontage to include Abbey End, the related map does not distinguish between the existing Local Plan shopping frontage and its new extension (and on the map the frontages dotted lines are barely distinguishable from the site allocation dotted lines). For the avoidance of doubt the references to Design Advice (element e) and "current requirements" (element f) need to be complete within the Policy itself; since the design element is "advice" or "guidance" then the Policy wording must reflect this. Elements g & h are not land use matters and therefore should be omitted or included within the content presently forming Section 6 (see also later recommendation on this Section).

Recommendation 7:

Policy KP1: Town Centre:

7.1 Reword element a as follows to accommodate both current and proposed uses: 'Land at Smalley Place, as shown on the Policies Map 5.3, is allocated for civic and community uses, with the expectation that a Town Arts Centre and Hall and upgraded medical facility may be accommodated over the Plan period.' Delete element b and renumber subsequent elements accordingly.

7.2 Amend Policies Map 5.3 to ensure a clear distinction between the current primary shopping frontage, the new extension to the shopping frontage and the Smalley Place site now allocated under element a.

7.3 Reword element e as follows:

'All changes to shop fronts in Warwick Road, the Square, Abbey End, and Station Road should demonstrate appropriate regard for the current Shop Fronts Guidance published by the Kenilworth Civic Society.'

In the absence of the Civic Society making this Guidance available on-line I suggest that it would be in the public interest for the Town or District Council to make it available via their website.

7.4 In element f add before "current requirements" 'the Local Planning Authority's'.

7.5 Delete elements g & h since these do not address land use matters; these may be included in the 'Other Issues in Kenilworth' Appendix if the Qualifying Body wishes.

As partly reworded Policy KP1 meets the Basic Conditions.

Statement explaining the intention of Policy KP1 and other background information

Paragraph 5.8 is confusing because the wording "that original plan" has no reference point, either in the same or the preceding paragraph; although the most current document is the Kenilworth Town Action Plan 2014 I am advised that this was never completed and was effectively overtaken by the Neighbourhood Plan preparation. The reference that should be included is therefore to the Town Centre Development Plan 2004 which shows the origins of the town centre proposals. In relation to the reference in paragraph 5.13 to the Civic Society's Shop Fronts Guidance the Qualifying Body has confirmed that this should be, as the Policy suggests, referenced guidance rather than "be adopted as part of our plan" and therefore (in addition to removing the "we" from what will become a development plan document) the wording needs to be corrected. Paragraph 5.15 can be removed since the related Policy content has been deleted or moved.

Recommendation 8:

8.1 Reword the opening sentence of paragraph 5.8 as follows:

'The Town Centre Development Plan 2004 included proposals for the creation of a Civic Centre at Smalley Place, which would include the Town Council Offices, the Library, the District & County One Stop Shop.'

8.2 Reword the third sentence of paragraph 5.13 as follows:

'Policy KP1 therefore references the Kenilworth Civic Society's existing guidance to ensure that all future proposals will need to demonstrate regard for its content which may be updated from time to time'; delete the fifth sentence since this 'wish' is not appropriate Plan content.

8.3 Delete paragraph 5.15 and renumber subsequent paragraphs accordingly.

Policy KP2: Station Road

Proposals to “manage traffic” *per se* are not land use matters and therefore some rewording of Policy KP2 is required. The second element of the Policy would be better expressed if it more straightforwardly encouraged particular features in any redevelopments.

Recommendation 9:

Reword Policy KP2: Station Road as follows:

‘On Station Road between the Town Centre and Priory Road, as shown on the Policies Map 5.3, proposals for redevelopment or change of use should have regard to the desire to improve and increase pedestrian, cycling and other transport links along this route and must not obstruct or hinder the use of the footways.’

Proposals to redevelop land on Priory Road, Waverley Road or Station Road should be designed so as to enhance the attractiveness of the route between the station and the Town Centre.’

As reworded Policy KP2 meets the Basic Conditions.

Statement explaining the intention of Policy KP2 and other background information

Since the Kenilworth station is now open paragraph 5.16 needs a little updating (and a typographical error correcting). The representation from Highways England says that “Highways England is generally supportive of the new [Kenilworth] station as this will give opportunities to reduce traffic on the A46” and this could helpfully be added to the supporting statement.

Recommendation 10:

10.1 In the first sentence of paragraph 5.16 replace “is due to open” with ‘opened’; in the final sentence add ‘it’ between “advanced” and “should”.

10.2 Add an additional sentence to paragraph 5.17: ‘Highways England has indicated general support for the new station as this will give opportunities to reduce traffic on the A46’.

Policy KP3: Warwick Road Special Policy Area

I note that the supporting text says that the Policy 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 is an important element to be included within the Policy wording rather than merely within the supporting text.

Recommendation 11:

Reword the second sentence of the first element of Policy KP3 as follows:

‘Proposals will be supported for 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; accordingly proposals for A2/A3 commercial uses, B1 business uses and C1 hotel uses may be supported provided they have regard to the heritage, design, amenity and other relevant policies of the Development Plan.’

As partly reworded Policy KP3 meets the Basic Conditions.

Policy KP4: Land East of Kenilworth

Since this Policy relates to the most significant prospective development in Kenilworth (Local Plan allocations H06 & H40) it is not surprising that it has attracted significant representations. Broadly speaking the representations do not object to the principle of having a Policy but seek to ensure that the wording of Policy KP4 does not interfere with the strategic intent of the Local Plan adopted in 2107. There is every possibility that the Policy

will be overtaken by events prior to the Neighbourhood Plan being made and therefore the content ought to be as robust as possible.

A representation on behalf of Catesby Estates makes a number of points to allow the Policy “to be compliant with Warwick Local Plan policies and to ensure longevity”. A representation on behalf of Gleeson Developments Ltd makes a number of detailed points which, in common with the Catesby submission, include particular issues with the element on self-build housing. The Local Authority has also made comments on this aspect of the Policy. A representation on behalf of the “Southern Parcel Landowners” notes that they “strongly believe that the [development principles element] of Policy KP4 needs to be deleted in order to ensure conformity with national and local policy”; the basis of this view is said to be that “it is important that the neighbourhood plan does not include policy requirements that are not supported by robust technical evidence, which are overly-prescriptive and consequentially could undermine and threaten the delivery of these sites and the strategic policies of the 2017 adopted Local Plan”.

In accordance with NPPF (paragraph 16) it is perfectly proper for neighbourhoods to “plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan”. The Local Authority has accepted that the Neighbourhood Plan has a legitimate role in helping to “shape and direct” the development of this site, albeit its allocation is a strategic policy decision. The Qualifying Body is fully conscious of their obligation to be supportive of and not in conflict with the emerging District Council Development Brief. The two elements of this Policy could therefore benefit from a more distinct separation. I will then make recommendations on each of the principles a-m having regard to representations and my own assessment of their robustness.

Recommendation 12:

12.1 Reword the opening to Policy KP4 as follows:

‘Development proposals for housing and other uses on land released from the Green Belt east of Kenilworth as shown on the Policies Map 5.2 will be supported where they accord with a Development Brief produced by Warwick District Council or a Layout and Design Statement to be approved by Warwick District Council, all in accordance with Local Plan Policy DS15.’

12.2 Reword the opening to the development principles as follows:

‘The following general principles should inform the Development Brief or Layout and Design Statement and hence show appropriate regard for the views of the local community.’

12.3 As Policy DS12 in the Warwick District Local Plan has already identified and allocated land for education (ED2 on the related Policies Map) Policy KP4 principle a should be about the provision of facilities; add to this principle an element of Policy KP5 related to sports facilities (as noted below). Reword principle a as follows:

‘ a. The provision of a secondary school, sixth form college and, if deemed the most appropriate location, a primary school on land at Southcrest Farm in accordance with Warwick District Local Plan Policy DS12. The new schools site should include for the sports facilities to be, as currently, shared with the community.’

12.4 Warwick District Local Plan Policy DS11 sets down the need for a primary school to serve the “East of Kenilworth (Thickthorn)” site but is not specific as to location; to avoid confusion the identification of sites should not differ between development plan documents. Principle b should therefore be reworded as follows:

‘b. The provision of a primary school to serve the Thickthorn site in accordance with Warwick District Local Plan Policy DS11.’

12.5 For clarity principle c should be slightly reworded as follows:

'c. The provision of a local centre comprising a mix of A1-A5 commercial uses and D1 community facilities, with the possible inclusion of medical and youth facilities and places of worship to meet identified local needs that are also accessible to the existing residential areas of eastern Kenilworth.'

12.6 For robustness principle d should be slightly reworded as follows:

'd. The provision of a distinct area at Thickthorn for B1 and suitable B2 business uses only with direct vehicular access to A452 Leamington Road or direct to the A46 junction, the layout and design of which should enhance the entrance of the town from the A46 junction and must be compatible in uses with the amenities of adjoining residential areas.'

12.7 I have noted to the Qualifying Body that insufficient evidence has been provided to support the detail of principle e regarding self or custom built plots as written. However the local authority has noted that Policy H15 of the Warwick District Local Plan specifically encourages neighbourhood plans to identify suitable sites for self/custom build and it has provided sufficient evidence of demand in general; an appropriate rewording is required, as follows:

'e. the provision of a proportion of the open market homes as self-serviced plots for self-build and custom build, commensurate with demand evidenced on the local authority self-build register of interest, not exceeding 5% of the total number of dwellings.'

12.8 The use of the wording "The adoption of..." is incongruous within the context of principles; further, no evidence has been provided to support (or even explain) the concept of "independent access to each of the land parcels" and therefore principle f should be simplified as follows:

'f. A highways strategy that allows for an arrangement of uses and access routes to connect the development with the existing built up area at multiple points by walking, cycling, public transport and car'.

12.9 The purpose of principle g would be clarified with a minor change of wording, as follows:

'g. Residential roads within the developments are designed to a 20mph standard so as to give priority to pedestrians and cyclists wherever possible.'

12.10 For robustness principle h should be slightly reworded by the addition of 'wherever possible' immediately prior to the colon and list of factors.

12.11 A representation has pointed out that principle k does not sufficiently reflect the NPPF expectations; reword principle k as follows:

'k. The layout and appearance of the development shall conserve and where possible enhance the historic environment and heritage assets on or near to the site in a manner appropriate to their significance.'

12.12 The use of the wording "The agreement of..." is incongruous within the context of principles; further principle l inappropriately repeats part of principle k relating to heritage assets. Principle l should be reworded as follows:

'l. An environmental strategy should establish how the development will provide opportunities for a net biodiversity gain and manage the sustainable drainage of the land.'

12.13 The use of the wording "The agreement of..." is incongruous within the context of principles and also confuses the sense of principle m. Principle m should be clarified with a minor change of wording, as follows:

'm. A phasing plan and delivery strategy should enable self-contained phases of development to come forward and set out the thresholds for the delivery of site infrastructure.'

As reworded Policy KP4 meets the Basic Conditions.

Statement explaining the intention of Policy KP4 and other background information

The supporting material needs a little updating and some amendments for clarity and correction.

Recommendation 13:

13.1 In paragraph 5.20 in the first sentence replace “key” with ‘community’s’ and add ‘approximately’ after “...new development of”; move the Concept Plan Map to be immediately below this paragraph and add a source to it.

13.2 In paragraph 5.21 delete “(see Appendix D)” and the two sentences that follow this as they are no longer required. Also delete “and may indeed reflect the policies detailed above” at the end of the paragraph since this is the stated purpose of the Policy.

13.3 In paragraph 5.23 add ‘approximately’ after “...the Local Plan is” and delete the semi-colon after “1400”.

13.4 In paragraph 5.25, for clarity, replace the opening “It” with ‘The Local Plan...’.

13.5 For readability reverse the order of paragraphs 5.26 and 5.27 and in the fifth sentence of the new paragraph 5.27 replace “A central hub” with ‘A centre...’.

Policy KP5: Kenilworth School Sites

The Qualifying Body has agreed that element a of this Policy is wrongly located as it relates appropriately to Policy KP4 regarding the new school site (as noted above); this amendment suggests the need for KP5 to be retitled as ‘Redevelopment of School Sites’.

Recommendation 14:

Amend Policy KP5 as follows:

14.1 Retitle the Policy as ‘Redevelopment of School Sites’.

14.2 Delete element a of the first part of the Policy (as the content has been relocated to Policy KP4).

14.3 The purpose of element c would be clarified with a minor change of wording, as follows: ‘Residential roads within the developments are designed to a 20mph standard so as to give priority to pedestrians and cyclists wherever possible.’

14.4 Since element c is (or should be) common to both redevelopment sites and element a has been deleted the structure of this Policy can now be simplified to:

‘Policy KP5: Redevelopment of School Sites

The redevelopment of the existing school sites at Leyes Lane and Rouncil Lane, as shown on the Policies Map 5.2, will be supported provided that:

- a. residential roads within the developments are designed to a 20mph standard so as to give priority to pedestrians and cyclists wherever possible;*
- b. at Leyes Lane the redevelopment scheme makes provision for a new public open space and play facilities that are accessible to the existing and new residents;*
- c. at Rouncil Lane the redevelopment scheme makes provision for a footpath and road crossing to St John’s School and to the local shop/post office at Roseland Road.’*

14.5 The Policy Maps need to distinguish on the maps or in the key between the Leyes Lane and Rouncil Lane sites.

As amended Policy KP5 meets the Basic Conditions.

Statement explaining the intention of Policy KP5 and other background information

Further to clarifications provided by the Qualifying Body there are a couple of amendments required for clarity.

Recommendation 15:

In paragraph 5.28 add to the third sentence ‘...ideally on the new schools site (see Policy KP4)’ and delete the fourth sentence since there are existing links to/from the site.

Policy KP6: Land East of Warwick Road

It is confusing and unhelpful for the purposes of planning reports and decision notices that this Policy has two sets of similarly notated criteria. As has been adopted for the maps, the Policy should be divided into parts A & B.

After the submission of the Neighbourhood Plan document in April 2018 Warwick District Council considered application W/17/2150 and granted an outline planning consent (subject to completion of a Section 106 Agreement). A representation by Richborough Estates Ltd argues that “for the sake of consistency” the housing element of Policy KP6 needs amendment in the light of the conditions attached to the planning consent.

In relation to criterion c the representation makes the point that protecting the playing of cricket on the adjoining field can be achieved by mitigation measures other than site layout or site layout alone and this has been accepted by the District Council with condition 5 attached to the planning consent; I agree that criterion c should be amended to avoid any confusion.

In relation to criterion d the representation notes that the site access is not a reserved matter in the outline planning consent and therefore the criterion should only refer to the internal cycle and pedestrian routes. I agree that criterion d should be amended to avoid any confusion.

In relation to criterion e the representation notes that an ecological report accompanied the planning application and it is suggested that criterion e is no longer necessary and should be deleted. I can see that conditions 13, 14 & 15 attached to the outline consent show that matters have moved beyond initial reports and accordingly I agree that criterion e should be deleted to avoid any confusion.

In relation to criterion f the representation notes that a Drainage Strategy has been approved as part of the outline consent and therefore criterion f should be deleted. I can see that condition 4 comprehensively details the matters yet to be approved and therefore I agree that criterion f should be deleted to avoid any confusion.

In relation to criterion g the representation notes that the standards of highway design for the access from Warwick Road will inevitably be different to those of a drive or shared space elsewhere within the housing scheme. I agree that an amendment of wording is appropriate to avoid any confusion.

In relation to Part B the sports and recreation element the criteria need some rewording to read appropriately with the introductory paragraph.

Recommendation 16:

16.1 Since the Policy is listing criteria for support (and to ensure a consistent approach across the Plan) there should be no capital letter at the beginning of each criterion.

16.2 Renumber the housing element of Policy KP6 as KP6A and amend parts as follows:

16.2.1 Amend criterion c to read as follows:

'mitigation or other measures ensure that the development of the site does not prejudice the playing of cricket on the existing, adjoining cricket ground'.

16.2.2 Amend criterion d to read as follows:

'appropriate cycle and pedestrian routes are provided within the site linking to adjoining cycle and foot paths'.

16.2.3 Delete criteria e & f and renumber the subsequent criterion accordingly.

16.2.4 Amend criterion g to read as follows:

'residential roads within the development should be designed, in accordance with the relevant standards of the local planning and highway authorities, to achieve a 20mph standard so as to give priority to pedestrians and cyclists wherever possible'.

16.3 Renumber the sports and recreation element of Policy KP6 as KP6B and amend parts as follows:

16.3.1 Amend criterion b to read as follows:

'suitable vehicular, cycle and pedestrian access is provided from Warwick Road;

16.3.2 Add a new criterion as c to read as follows and amend the numbering of the subsequent criteria accordingly:

'appropriate cycle and pedestrian routes are provided within the site linking to adjoining cycle and foot paths and residential areas'.

16.3.3 Amend criterion d to read as follows:

'an ecological strategy is submitted which minimises impacts on biodiversity and produces net gains where possible'.

16.3.4 Amend criterion e to read as follows:

'a surface water drainage strategy is submitted which incorporates appropriate sustainable surface water management features to suit the site'.

As partly reworded and renumbered Policy KP6 meets the Basic Conditions.

Statement explaining the intention of Policy KP6 and other background information

Paragraph 5.30 needs some minor amendment to acknowledge that the new Local Plan is now adopted and to acknowledge the existing outline consent.

Recommendation 17:

In paragraph 5.30 delete the words "the proposed" in the opening sentence; add an additional sentence after the first as follows:

'In April 2018 Warwick District Council considered application W/17/2150 for the housing part of this site and granted an outline planning consent (subject to completion of a Section 106 Agreement).'

Policy KP7: Abbey Fields

I note from the supporting text that Abbey Fields is a Scheduled Monument (in the text this is incorrectly shown as a Scheduled Ancient Monument) and it is therefore already substantially protected. Any proposals or works that would damage or alter a scheduled monument would require a consent from Historic England over which the Neighbourhood

Plan will have no influence. The protections afforded in Policy HE4 in the Warwick District Local Plan already apply.

The Policy does not acknowledge the nature of existing protections and by virtue of differences of wording unhelpful confusion can arise. At the heart of Policy KP7 is the expectation of an undefined “right balance” and, given the land use constraints, it would seem that this is predominantly a land management issue. I will comment later on the additional proposal to include Abbey Fields within a designated Local Green Space. I note that the preparatory work for the Neighbourhood Plan has shown Abbey Fields to be highly valued by the local community but, in relation to Policy KP7, I must conclude that the land use aspects of the protection afforded to Abbey Fields are already clearly defined but it may be appropriate to address the management aspects that are at the heart of this Policy within an ‘Other Issues’ Appendix (see later recommendation on Section 6).

Recommendation 18:

Delete Policy KP7 and the supporting paragraphs 5.33 and 5.34; this content or parts of it as appropriate may be included in the ‘Other Issues in Kenilworth’ Appendix if the Qualifying Body wishes; renumber subsequent Policies and support paragraphs accordingly.

Policy KP8: Castle Farm

I note that starting with this Policy the colon between the Policy number and the title in headings disappears; for consistency it should be reinstated.

Recommendation 19:

To ensure a consistent titling of Policies reinstate the colon into Policy headings KP8 – KP22.

The Policy wording here is largely uncontroversial since it adds detail to the allocation of the site through the Local Plan. However, some amendments are required for clarity of wording; in particular some criteria need some rewording to read appropriately with the introductory paragraph. The Policy wording must provide the “practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency” (NPPF para 17) but despite some clarification being provided at my request I cannot understand exactly what criterion g is requiring. From the supporting material it is evident that this element arises from an unsubstantiated anxiety that one development “is bound to encourage” another, at some time. Any future expansion of the Town would have to assess all options at that time. The best present safeguard I believe is provided by criterion e noting that development must respect its Green Belt setting; accordingly criterion g should be deleted.

Recommendation 20:

20.1 Reword criterion c as follows:

‘c. vehicle access routes to both the existing and new facilities are designed to accommodate predicted flows whilst addressing and minimising the adverse effects on dwellings and residential roads;’

20.2 Within criterion e replace “provided that” with ‘and’.

20.3 In criterion f replace “must be” with ‘are’.

20.4 Delete criterion g.

As reworded Policy KP8 meets the Basic Conditions.

Statement explaining the intention of Policy KP8 and other background information

In view of the deletion of criterion g, delete paragraph 5.36 that attempts to provide the reasoning behind the criterion.

Recommendation 21:

Delete paragraph 5.36 and renumber subsequent paragraphs accordingly.

Policy KP9: Traffic

I note that “This policy reflects that traffic concerns are one of the major issues in Kenilworth”; however I also note that not all traffic issues may be resolvable through land use policies. The first part of Policy KP9 has already been adequately, and more appropriately, addressed within the site specific policies and there is no value in repeating the requirement. The second part of the Policy, which picks up the concern for public transport, should be expressed as a positive position statement since many if not most of the road alterations will not involve an individual planning consent.

Recommendation 22:

Reword Policy KP9 as follows:

‘Changes and additions to the road system in Kenilworth arising from the accommodation of additional traffic from new housing and changed locations for schools and sports facilities should give priority to pedestrians and cyclists, improve safety and assist traffic flow whilst also accommodating the needs of public transport.’

As reworded Policy KP9 meets the Basic Conditions.

Statement explaining the intention of Policy KP9 and other background information

There is only one minor issue here with regard to our ability to predict the future.

Recommendation 23:

In the second sentence of paragraph 5.41 replace “will” with ‘may’.

Policy KP10: Cycle Routes

This Policy provides local detail which picks up on national and local policy priorities for reducing dependence on cars. For clarity I requested an explanation from the Qualifying Body of their use of the word “priority” and they suggested that it would be better replaced with ‘designated’; they also suggested that the Policy would relate better to the supporting Policies Map if the word “corridors” was replaced, I am suggesting with ‘indicative connections’ since that is the term used on the Maps.

Recommendation 24:

Amend the wording of Policy KP10 in the first and second paragraphs by replacing “priority” with ‘dedicated’ and replacing “within the corridors indicated” with ‘along the indicative connections’.

As reworded Policy KP10 meets the Basic Conditions.

Statement explaining the intention of Policy KP10 and other background information

In paragraph 5.43 there is reference to an “analysis” and the Qualifying Body has explained that this was within the document “Cycling issues in the Kenilworth and Burton Green Area, Kenilworth Community Forum, 2012”. The source must be declared and the sentence within which it appears needs amending for clarity.

Recommendation 25:

In paragraph 5.43 reword the second sentence as follows:

‘In a 2012 analysis of local cycling issues the key priorities were identified as connecting the Town Centre to the residential areas, connecting those areas with the nearby Warwick*

University campus and connecting the East of Kenilworth development with the rest of the town.'

** the source for the data here (and within the Plan in general) needs to be cross-referenced and this is normally done with a footnote on the relevant page.*

Policy KP11: Connecting the Castle to the Town

This Policy evidently had support during public consultation and seeks to improve sustainability by building on the attractions that are the Town Centre and Kenilworth Castle. A minor correction would improve the compass of the Policy.

Recommendation 26:

In the first paragraph of Policy KP11 replace “or” with ‘and’.

Policy KP11 meets the Basic Conditions.

Policy KP12: Footpaths

As with the Traffic Policy, Policy KP12 should be written as a Policy position.

Recommendation 27:

Reword Policy KP12 as follows:

‘New or improved footpaths that serve or connect new and existing parts of Kenilworth should be constructed and maintained to a standard to accommodate both pedestrians and mobility scooters and a shared use with cyclists where it is safe so to do.’

As slightly reworded Policy KP12 meets the Basic Conditions.

Policy KP13: Parking Standards

The wording here appears intended to span both residential and non-residential provision but the detail concentrates on residential aspects. The Policy was drafted prior to the adoption in June 2018 of a new Warwick District Parking Standards Supplementary Planning Document (SPD) and therefore some rewording is needed. The new SPD is written to supplement Policy TR4 in the Local Plan and be compliant with the NPPF. It is noted in paragraph 1.4 of the SPD that “Kenilworth wards [also] have a notably lower % of dwellings with no access to a car or van”; as noted earlier, this reference is more helpful than the 2001 reference used in the Plan document.

The issues that arise when comparing Policy KP13 with the new SPD are:

- Circumstances in which street parking will arise – the SPD says this may be for unallocated spaces;
- The SPD addresses provision for bicycles but not for mobility scooters (other than to note that their movement should be allowed for – para 2.14);
- The undefined “very special circumstances” referred to in the Policy are defined in the SPD;
- Car ports are highlighted in the Policy but in the SPD are considered as but one acceptable means of providing off-street residential parking;
- Electric vehicle charging is addressed in the SPD but there is no specific mention of “rapid charging” in the SPD.

Most of these matters can be dealt with by suitable rewording to avoid any potential confusion; on the matter of charging points no evidence is presented to suggest that rapid charging need be prescribed in Kenilworth and therefore the SPD standards should apply.

Recommendation 28:

Reword Policy KP13 as follows:

‘Development proposals should incorporate parking and cycle spaces at or above the numerical and design expectations set out in the Warwick District Council Parking Standards

Supplementary Planning Document (2018 or any subsequent revision); some exceptions are noted in the Standards document. Where appropriate there should be adequate parking for mobility scooters.

Where unallocated spaces are to be provided on road then, for safety and accessibility, the road design must accommodate these, as set out in the Standards.

Electric vehicle charging infrastructure, as set out in the Standards, will be required where practical for both allocated and non-allocated parking.'

As reworded Policy KP13 meets the Basic Conditions.

Statement explaining the intention of Policy KP13 and other background information

The supporting information needs similar adjustment to acknowledge the new Parking Standards.

Recommendation 29:

In paragraph 5.48:

- *in the first sentence replace “off street car” with ‘car and cycle’;*
- *in the second sentence delete “Vehicle” and replace “Guidance of 2007” with ‘Document 2018’;*
- *delete the third sentence;*
- *in the fourth sentence replace “Car” with ‘As noted in the Standards Document, car...’ and replace “national and District averages” with ‘average’.*

Policy KP14: General Design Principles

Throughout the KP14 policies it should neither be implied that support for proposals will be solely related to adherence to the design principles as set down and nor that all these principles will apply in every circumstance.

Recommendation 30:

Throughout the KP14 Policies replace “will be supported provided they” with “should”, replace “they have” with ‘demonstrate’, replace “to” after “regard” and replace it with ‘for’ and in Policies KP14A-S additionally delete “full”; after “principles” add ‘as appropriate’.

A representation questions whether element a is in conformity with national and local policies. Another representation suggests that more flexibility is provided in the policy wording to ensure that a high quality and inclusive design is not compromised by aesthetic requirements alone. Historic England writes in support of the defining of character areas. I agree that in some instances the wording should be improved for accuracy and clarity but there is national (NPPF para 60) and local (Local Plan Policy DS3) policy support for locally distinctive design with which design principles can help, provided they are expressed as local principles. However, the Ministerial Statement of March 2015 on ‘Housing standards: streamlining the system’ was clear that “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. This includes any policy requiring any level of the Code for Sustainable Homes to be achieved by new development”. Therefore elements e and f need to be deleted.

In relation to the second paragraph of Policy KP14 regarding development in the Conservation Area, the Conservation Area is not, as noted, shown on the Policies Map and that is quite appropriate since it is not a Neighbourhood Plan Policy. Having the detail in

Policies KP14A to 14S should allow the wording of this general Policy to be simplified and therefore more readily understood.

Recommendation 31:

31.1 Rewriting element a as a principle that accords with the NPPF expectations it should read as follows:

'Heritage assets and their settings in the locality must be respected in accord with their significance'.

31.2 Rewriting element c as a principle that accords with the NPPF expectations it should read as follows:

'Impact on the residential amenity of existing and future residents must be assessed and addressed'.

31.3 Rewriting element d as a principle that accords with the NPPF expectations it should read as follows:

'Potential impacts from noise, light or air contamination, land instability or ground water pollution or flooding must be assessed and addressed'.

31.4 Delete elements e & f and renumber the elements that follow accordingly.

31.5 Elements g & h can be combined and the principle made more readily understood as follows:

'Guidance provided through Secured by Design (SBD) and Lifetime Homes should be addressed'; renumber the elements that follow accordingly.

31.6 Elements i & j can be combined and the principle made more readily understood as follows, the security issue having been addressed with element g:

'The requirements for safety, privacy and amenity space must be addressed appropriately'; renumber the elements that follow accordingly.

31.7 Expressing element k as positive guidance, in accordance with the NPPF expectations, it should read as follows:

'When replacing existing buildings, the footprint and design of the replacement must have particular regard for the character of the existing built form and density, residential and visual amenity and the retention of the appropriate level of off-street parking'.

31.8 The second paragraph of Policy KP14 should be corrected and reworded as follows:

'Development proposals within the Kenilworth Conservation Areas must assess and address the guidance provided within the Kenilworth Conservation Areas Design Guide published by Warwick District Council and the following Policies KP14A – 14S which identify locally distinctive design by character areas as identified on Map 5.5'.

As reworded Policies KP14 and KP14A – KP14S meet the Basic Conditions.

Statement explaining the intention of Policies KP14 and Policies KP14A – KP14S and other background information

Some corrections are needed to supporting paragraphs for Policy KP14 and also to those for the KP14A – 14S sections. In paragraph 5.51 the reference to Appendix A is incorrect – the related Policy Maps are numbered. In the second sentence of paragraph 5.52 there are, puzzlingly, two references to “principles”. In paragraph 5.53 there is a reference to Policies Map 5.4 whereas this should actually be to Policies Map 5.5. In all but one of the supporting paragraphs relating to Policies 14A – 14S there is the sentence “Protection of the elements is important” but nowhere are the ‘elements’ or the basis for the ‘importance’ explained.

Recommendation 32:

32.1 In the third sentence of paragraph 5.51 replace “Maps in Appendix A” with ‘Map 5.5’.

32.2 In the second sentence of paragraph 5.52 replace “development principles” with ‘development proposals’.

32.3 In the first sentence of paragraph 5.53 replace “Policies Maps at 5.4” with ‘detailed area maps that relate to Policies Map 5.5’.

32.4 In the paragraphs 5.54 – 5.69 but excluding paragraph 5.60, delete the final sentence that reads “Protection of the elements is important”

Policy KP15: Local Heritage Assets

Listing of buildings of heritage significance, whether nationally or locally, is covered by different legislation from that which relates to the preparation of Neighbourhood Plans. However it is possible for Neighbourhood Plans to identify heritage assets within their Area and these are referred to as non-designated heritage assets. The title of the Policy and the Policy wording therefore need to use the correct term. Quite appropriately Appendix A to the Plan sets down the basis for the significance of each of the identified heritage assets. At my request the Qualifying Body has reviewed the descriptions in Appendix A to ensure that the heritage assets are identified with complete accuracy; it is therefore the revised Appendix A that should be substituted for that in the submission version.

The Policy wording is inconsistent between paragraph 1 which stipulates no harm (and is therefore at odds with the NPPF and Local Plan Policy HE1) and paragraph 2 which says that any harm must be in proportion to the asset’s significance. Whilst correcting the detail of the Policy the two paragraphs can be merged with benefit.

Recommendation 33:

33.1 Reword the title and content of Policy KP15 as follows:

‘Policy KP15: Non-designated Heritage Assets

Buildings and structures of local architectural and/or historic value are recognised as non-designated heritage assets with a map and description in Appendix A. As key features that contribute to the character of Kenilworth the location and design of development proposals must have regard, where applicable, for the significance of these assets and their settings.’

33.2 Ensure that Appendix A is the revised version submitted by the Qualifying Body to the Examiner on 31st July 2018 and that its introduction adopts wording in line with the amended paragraph 5.70.

As reworded Policy KP15 meets the Basic Conditions.

Statement explaining the intention of Policy KP15 and other background information

The terms used in the supporting paragraphs must be corrected.

Recommendation 34:

In the first sentence of paragraph 5.70 replace “national listing status as ‘non-designated heritage assets’” with ‘national or local listing’; replace the second sentence with: ‘The schedule of heritage assets recognised within the Neighbourhood Area is included as Appendix A of this Plan’.

Policy KP16: Environmental Standards

As noted above, the Ministerial Statement of March 2015 on ‘Housing standards: streamlining the system’ was clear that “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". Whilst this Statement does not rule out encouragement (which part of this Policy suggests) or apply directly to non-residential properties the Ministerial logic was clear that there should not be a confusion of standards which are now to be established through the Building Regulations. Accordingly the second sentence of Policy KP16 should be deleted so as not to give rise to confusion. An encouragement to higher environmental standards would be in keeping with the thrust of Warwick District Local Plan Policy CC3 but it must not be implied in the Policy wording that this would be the sole basis for "support".

Recommendation 35:

*Delete the second sentence of Policy KP16 and rewrite the first sentence as:
'Development proposals are encouraged to adopt higher environmental standards of building design and energy performance, such as the Passivhaus approach or similar.'*

As reworded Policy KP16 meets the Basic Conditions.

Statement explaining the intention of Policy KP16 and other background information

In keeping with the revised Policy approach set out above paragraph 5.73 should be deleted.

Recommendation 36:

Delete paragraph 5.73 and renumber subsequent paragraphs accordingly.

Policy KP17: Industrial Estates

This Policy supports the general principle of sustainable development and is in keeping with the thrust of Warwick District Local Plan Policy EC3 but, as that Policy suggests, the reference to use classes should be written as B1, B2 & B8 not "B1- B8".

Recommendation 37:

In the first paragraph of Policy KP17 replace "B1-B8" with 'B1, B2 & B8'.

As corrected Policy KP17 meets the Basic Conditions.

Policy KP18: Tourism

As is noted in the supporting text, Policy KP18 provides appropriate local detail equivalent to the Warwick District Local Plan Policy KP10.

Policy KP18 meets the Basic Conditions.

Policy KP19: Green Infrastructure

This Policy can and, in keeping with the NPPF expectations, should be written as positive guidance to prospective developers.

Recommendation 38:

Rewrite Policy KP19 as follows:

'Development proposals in the vicinity of the green infrastructure of Kenilworth must respect its existing character, setting and purpose; in particular the present quantity of public open space must be retained and, as the population grows, be extended. In the event that the loss of or harm to any part is demonstrated to be unavoidable then provision must be made for mitigation and suitable replacement features.'

As rewritten Policy KP19 meets the Basic Conditions.

Policy KP20: Local Green Space

The NPPF provides for local communities to designate areas as 'Local Green Space' (para 76) but such sites need to meet specific criteria and, the Planning Practice Guidance notes, "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). The NPPF specifies (para 77):

"The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

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

Details of how the chosen Kenilworth site meets the NPPF criteria are said to have been included in "a separate report in the evidence base" but when I opened the Examination this was not evident. The Qualifying Body subsequently provided a copy and I consider that this should be made readily available by including it as a new Appendix B to the Plan.

I consider that the proposed space within the built-up area of Kenilworth is certainly in "reasonably close proximity" and for the whole range of reasons noted in the NPPF, experienced by me on my visit to Kenilworth, the area is "demonstrably special" and well used. Although the Castle grounds and the Abbey Fields are extensive areas they are also certainly areas that are core to the character of Kenilworth and I assess the whole therefore as local in character, albeit the Castle is also of special, national significance. However, a question arises as to whether the areas of the Castle, the Abbey Fields (Scheduled Monument), the Odibourne Allotments and Kenilworth Common are already sufficiently protected by their existing designations and whether any additional local benefit would be gained by designation as 'Local Green Space' (Planning Practice Guidance Ref: 37-011-20140306). My assessment is that the area between and including the Abbey Fields and Kenilworth Common functions well as a linear open space opening up and narrowing along the line of the Finham Brook. The Local Green Space designation is therefore a unifying designation recognising the varied individual spaces together as a joined-up recreation area and affording protection equivalent to Green Belt for this core green space. The same might be said to apply if the area of the Castle, which sits to the west of the Abbey Fields, was also included. However, the Castle site is of special national significance and is already substantially protected as a Grade I Listed Building, a Grade II* Listed Park & Garden and a Scheduled Monument; I conclude therefore that no additional benefit is afforded by the addition of a Local Green Space designation for the Castle area. Although the area known as Abbey Fields is also a Scheduled Monument, the Local Green Space designation does extend the basis for its protection and acknowledge its recreational and biodiversity value.

Recommendation 39:

39.1 Rewrite Policy 20 as follows:

'The area identified on Policies Map 5.2 and described in Appendix B as running between and including Abbey Fields and Kenilworth Common is designated as a Local Green Space.'

39.2 Include the Local Green Space Report as an Appendix B to the Plan document and amend the Policies Maps and Appendix B to exclude references to the area of Kenilworth Castle.

As amended Policy KP20 meets the Basic Conditions.

Statement explaining the intention of Policy KP20 and other background information

The supporting material needs to be amended in line with the amended Policy.

Recommendation 40:

In paragraph 5.84, in the first sentence delete “The Castle”; in the second sentence between “comprises” and “land” add ‘most of’; in the fourth sentence replace “A separate report in the evidence base” with ‘Appendix B’.

Policy KP21: Street Trees

This Policy has general support within the EN range of policies within the Warwick Local Plan. I note the need for one minor typographical correction.

Recommendation 41:

In Policy KP21 omit the comma two thirds of the way through sentence 1.

Policy KP21 meets the Basic Conditions.

Policy KP22: Flooding

There are some wording issues with Policy KP22. A development proposal must be shown to do more than “threaten” to increase flooding risk for it to be “resisted”. In the second sentence “All developments” is a sweeping term and since developments may comprise a single dwelling as often as 10+ dwellings the practicalities of including SuDS (and this is the correct abbreviation not “SUDs”) must be an essential consideration. The Warwick District Local Plan has a comprehensive range of policies for Flooding and Water (FW) that includes reference to the Finham Brook. It is important that the Neighbourhood Plan Policy does not cause confusion by abbreviating and differently wording what can often be complex requirements. However I note that the Environment Agency has commented (in the response to the Strategic Environmental Assessment Screening): “there is significant floodplain and associated watercourses within the plan area and affecting a number of the policies”.

Recommendation 42:

Reword Policy KP22 as follows:

‘In view of the known incidence of flooding from Finham Brook, developers are advised to review the Environment Agency’s flood map for planning at the earliest possible opportunity to consider what development would be appropriate for a potential development site to ensure that proposals are in line with the policy requirements of Warwick District Local Plan Policies FW1 Flood Risk and FW2 Sustainable Drainage.’

As reworded Policy KP22 meets the Basic Conditions.

Statement explaining the intention of Policy KP22 and other background information

In view of the amended approach to Policy KP22 and the limiting of the Neighbourhood Plan to land use content paragraph 5.88 needs to be omitted.

Recommendation 43:

Delete paragraph 5.88 and renumber subsequent paragraphs accordingly.

Monitoring & Review Policy

A commitment to monitoring and review within 5 years is essential but this is not a policy as such; this can appropriately become Section 6.

Recommendation 44:

44.1 Amend the sub-title “Monitoring & Review Policy” to ‘6. Monitoring & Review’.

44.2 In the last sentence of paragraph 5.89 between “reviewed” and “on a five-year cycle” add ‘no later than 2023 and then’.

6. Implementation

“Implementation” 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” (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 to 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 section will need to be reviewed in the light of the modifications arising from my Report.

Recommendation 45:

Move and retitle Section 6 to become an ‘Other Issues’ Annex to the Plan document within which all non-land use issues and commitments are brought together; review the resulting Annex to ensure that any cross-referencing or similar is brought in line with the final content of the Plan.

Appendix A

The content here needs to be married with the earlier Recommendations set out in relation to Policy KP15.

Maps

The Index to the maps is helpful but to maximise its value the titling of the maps should be consistent, consistently prominent and to the same three element format eg Information Map 1.1: Kenilworth Designated Neighbourhood Area. The title of Map 5.4 both on the Index and the map itself must be consistent with the revised Policy KP15 and Appendix A (eg 5.4 Policy Map KP15 – Non-designated Heritage Assets) and the content of the map key and Appendix A must also be consistent. Without exception the information maps need to have a data source reference and a key to the content added to the base map. Where maps identify the Neighbourhood Area those are the words that the key should use, not “Neighbourhood Plans Kenilworth” or some variation of it. In relation to the Maps 5.5 the index page should not refer to the “Demarcation of Conservation Areas” and the footing should not refer to “Appendix A”. As to the character area maps themselves there needs to be some form of overlay (with a key) that distinguishes the area being identified from all the other variable content that is irrelevant; the alternative is that the maps for the Warwick District Council Conservation Area Guide are reused. If the latter is not possible I suggest that a soft-edged cross hatching is used and more consistency is attempted on the scale of the map so that at least one, preferably two, road names are readable per map.

Recommendation 46:

46.1 On the Index to Maps correct entry 5.4 to read: ‘Policy Map KP15 – Non-designated Heritage Assets’.

46.2 Adopt a consistent, consistently prominent and to the same three element format title for every map eg Information Map 1.1: Kenilworth Designated Neighbourhood Area.

46.3 Ensure that the Information Maps, without exception, have a data source reference and a key to the content added to the base map.

46.4 Where maps identify the Neighbourhood Area use those exact words in the key not “Neighbourhood Plans Kenilworth” or a variation of it.

46.5 On Map 5.4 ensure that the wording of the key is consistent with that in Appendix A.

46.6 On the Index Page for the Maps 5.5 delete the sub-heading “Demarcation of Conservation Areas” and in the footing “Appendix A”.

46.7 On the 5.5 Character Area Maps either reuse the maps for the Warwick District Council Conservation Area Guide or add a soft-edged cross hatching (with a key) to distinguish the character area from the other content on the map and, wherever possible, use more consistently scaled maps so that at least one, preferably two, road names are readable per map.

Other matters raised in representations

Kenilworth All Together Greener made a substantial representation suggesting some changes in the wording of a number of policies and offering “some constructive new policy suggestions”. Whilst I have had regard to their wording suggestions when making my recommendations, in relation to the policy suggestions it must be appreciated that, given that the Neighbourhood Plan sits within the development plan documents as a whole, keeping content pertinent to Kenilworth is entirely appropriate. As noted within the body of this Report it is a requirement that a Neighbourhood Plan addresses only the “development and use of land”. Even within this restriction there is no obligation on Neighbourhood Plans to be comprehensive in their coverage – unlike Local Plans - not least because proportionate supporting evidence is required.

I have not mentioned every representation individually but this is not because they have not been thoroughly read and considered in relation to my Examiner role, rather their detail may not add to the pressing of my related recommendations which must ensure that the Basic Conditions are met.

European Union (EU) and European Convention on Human Rights (ECHR) Obligations

A further Basic Condition, which the Kenilworth Neighbourhood Plan must meet, is compatibility with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal. A Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Opinion for the Kenilworth Neighbourhood Plan (dated August 2017 and updated September 2017) produced by Warwick District Council has been used to determine whether or not the content of the Plan requires a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plan and Programmes Regulations 2004. The Screening concluded and the Statutory Consultees agreed that “it is considered unlikely there will be any significant environmental effects arising from the Kenilworth Neighbourhood Plan that were not covered/ addressed in the Sustainability Appraisal (s) of the Local Plan. As such, it is considered that the Kenilworth Neighbourhood Development Plan does not require a full SEA to be undertaken”.

Particularly in the absence of any adverse comments from the statutory bodies or the Local Planning Authority, I can confirm that the Screening undertaken was appropriate and proportionate and confirm that the Plan has sustainability at its heart.

The Kenilworth Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998. No evidence has been put forward to demonstrate that this is not the case.

Taking all of the above into account, I am satisfied that the Kenilworth Neighbourhood Plan is compatible with EU obligations and that it does not breach, nor is in any way incompatible with, the ECHR.

Conclusions

This Independent Examiner’s Report recommends a range of modifications to the Policies, as well as some of the supporting content, in the Plan. Modifications have been

recommended to effect corrections, to ensure clarity and in order to ensure that the Basic Conditions are met. Whilst I have proposed a significant number of modifications, the Plan itself remains fundamentally unchanged in the role and direction set for it by the Qualifying Body.

I therefore conclude that, subject to the modifications recommended, the Kenilworth Neighbourhood Plan:

- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies of the development plan for the area;
- is compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

On that basis I *recommend* to the Warwick District Council that, subject to the incorporation of modifications set out as recommendations in this report, it is appropriate for the Kenilworth Neighbourhood Plan to proceed to referendum.

Referendum Area

As noted earlier, part of my Examiner role is to consider whether the referendum area should be extended beyond the Plan area. I consider the Neighbourhood Area to be appropriate and no evidence has been submitted to suggest that this is not the case. I therefore ***recommend*** that the Plan should proceed to referendum based on the Neighbourhood Area as approved by the Warwick District Council on 17th August 2015.

Recommendations: (this is a listing of the recommendations exactly as they are included in the Report)

| Rec. | Text | Reason |
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| 1 | <p>Under the heading “Summary and Guide” amend/correct the following:</p> <p>1.1 In the final sentence of paragraph 2 delete the words “and manage”.</p> <p>1.2 Revise the content as a whole in line with the modifications recommended for the main body of the Plan.</p> | For clarity and correction |
| 2 | <p>Under the heading “1. Background”:</p> <p>2.1 In the final sentence of paragraph 1.1 add ‘is’ between “area” and “shown”.</p> <p>2.2 Add a Key below Map 1.1 to distinguish the Neighbourhood Area boundary from other lines on the map or, more simply, reference the larger scale Map 1.1 to the rear of the Plan document, where the key and title should both read ‘Kenilworth Neighbourhood Area’.</p> <p>2.3 In paragraph 1.2 correct that dates that the Plan covers to match that on the front cover 2017 – 2029.</p> <p>2.4 In paragraph 1.5 add ‘to’ between “community” and “decide” and make the representation of the ‘basic conditions’ accurate by replacing “consistent” in the first two bullet points with, respectively, ‘ Does the Plan have regard for national planning policies’ and ‘Is the Plan in general conformity with local strategic planning policies’.</p> <p>2.5 In the final sentence of paragraph 1.6 replace “will be” with ‘is’.</p> <p>2.6 In paragraph 1.8 replace “will now be” with ‘are’ and “will recommend” with ‘recommends’.</p> | For clarity and correction |
| 3 | <p>Under the heading “2. The Neighbourhood Area”:</p> <p>3.1 Number the paragraphs in a manner consistent the numbering of paragraphs in the rest of the Plan; consistently present all the map cross-references as ‘(see Map x.x)’ rather than show them like a sentence; replace the (potentially confusing) use of the term “Town” with ‘Neighbourhood Area’.</p> <p>3.2 In the first paragraph under “An Introduction to Kenilworth” ‘Warwick District</p> | For clarity and correction |

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| | <p>Council' is abbreviated to "WDC" for the first and, as far as I can see, the only time; the easiest correction is to put 'Warwick District Council' in full here.</p> <p>3.3 Also under "An Introduction to Kenilworth", the final 3 paragraphs relate to the Town Council approach to the Plan which is no longer relevant since the Plan is on the verge of becoming a development plan document; delete the final 3 paragraphs.</p> <p>3.4 Under "Traffic & Transport" paragraph 3 2001 data is too old to be useable; the new Warwick Parking Standards Supplementary Planning Document (2018) states (para 1.4) that "Kenilworth wards [also] have a notably lower % of dwellings with no access to a car or van"; this therefore is the reference/data to use within this and related information paragraphs.</p> <p>3.5 Under "Traffic & Transport" paragraph 4 quotes data "recorded in 2011" but does not declare the data source; I can see from the on-line document 'Additional Evidence and References' that the source is a Warwickshire County Council 2011 but there is no cross-reference within the Plan; the sources for the data within the Plan need to be cross-referenced and this is normally done with a footnote on the relevant page.</p> <p>3.6 Also under "Traffic & Transport" paragraph 5 there needs to be an update since the replacement railway station is now completed; in the second sentence replace "taking place" with 'completed'.</p> <p>3.7 Under "Social Infrastructure" paragraph 3 asserts that the one Secondary School and all the Primary Schools are "at capacity"; a source for the data that substantiate these assertions is required; it is unclear what the table in 'Additional Evidence and References' actually shows and therefore that needs amending to show the relationship between present pupil numbers and declared school capacities.</p> <p>3.8 Under "Green Infrastructure" it is asserted that "the amount of public open space within the Town [meaning the</p> | |
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| | <p>Neighbourhood Area?] is less than the District Council standard”; a source for the data that substantiate this assertion is required (a cross-reference to additional data within the ‘Additional Evidence and References’ would suffice.</p> <p>3.9 Also under “Green Infrastructure”, in the last paragraph, delete “this” at the beginning of the first sentence.</p> <p>3.10 Under “Small Parks and Recreation Areas” paragraph 7 it is noted that “Wherever possible such space has been identified on the relevant map”. I assume that map to be Map 2.8 but there the key indicates “Amenity Greenspace”; both the Plan text and the map with its key need to be co-ordinated so that their information content is clear.</p> <p>3.11 Under “Allotments” there is a full stop missing from the end of paragraph 2.</p> | |
| 4 | <p>Under the heading “Planning Policy Context”:</p> <p>4.1 In Table 3.1 delete the second full stop at the end of Note 2.</p> <p>4.2 In paragraph 3.9 there is one extraneous bullet symbol.</p> | For clarity and correction |
| 5 | <p>Under the heading “Community Views on Planning” In paragraph 6, first sentence, replace “if” with ‘of’.</p> | For clarity and correction |
| 6 | <p>Under the heading “Land Use Planning Policies” rewrite the first sentence as follows: ‘The purpose of these policies is to encourage and shape planning applications to be made for things that the local community want.’</p> | For clarity and correction |
| 7 | <p>Policy KP1: Town Centre: 7.1 Reword element a as follows to accommodate both current and proposed uses: ‘Land at Smalley Place, as shown on the Policies Map 5.3, is allocated for civic and community uses, with the expectation that a Town Arts Centre and Hall and upgraded medical facility may be accommodated over the Plan period.’ Delete element b and</p> | For clarity and correction and to meet Basic Condition 1 |

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| | <p>renumber subsequent elements accordingly.</p> <p>7.2 Amend Policies Map 5.3 to ensure a clear distinction between the current primary shopping frontage, the new extension to the shopping frontage and the Smalley Place site now allocated under element a.</p> <p>7.3 Reword element e as follows: ‘All changes to shop fronts in Warwick Road, the Square, Abbey End, and Station Road should demonstrate appropriate regard for the current Shop Fronts Guidance published by the Kenilworth Civic Society.’ In the absence of the Civic Society making this Guidance available on-line I suggest that it would be in the public interest for the Town or District Council to make it available via their website.</p> <p>7.4 In element f add before “current requirements” ‘the Local Planning Authority’s’.</p> <p>7.5 Delete elements g & h since these do not address land use matters; these may be included in the ‘Other Issues in Kenilworth’ Appendix if the Qualifying Body wishes.</p> | |
| 8 | <p>8.1 Reword the opening sentence of paragraph 5.8 as follows: ‘The Town Centre Development Plan 2004 included proposals for the creation of a Civic Centre at Smalley Place, which would include the Town Council Offices, the Library, the District & County One Stop Shop.’</p> <p>8.2 Reword the third sentence of paragraph 5.13 as follows: ‘Policy KP1 therefore references the Kenilworth Civic Society’s existing guidance to ensure that all future proposal will need to demonstrate regard for its content which may be updated from time to time’; delete the fifth sentence since this ‘wish’ is not appropriate Plan content.</p> <p>8.3 Delete paragraph 5.15 and renumber subsequent paragraphs accordingly.</p> | For clarity and correction and to meet Basic Conditions 1 |
| 9 | Reword Policy KP2: Station Road as follows: | For clarity and correction and to meet Basic Condition 1 |

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| | <p>'On Station Road between the Town Centre and Priory Road, as shown on the Policies Map 5.3, proposals for redevelopment or change of use should have regard to the desire to improve and increase pedestrian, cycling and other transport links along this route and must not obstruct or hinder the use of the footways.</p> <p>Proposals to redevelop land on Priory Road, Waverley Road or Station Road should be designed so as to enhance the attractiveness of the route between the station and the Town Centre.'</p> | |
| 10 | <p>10.1 In the first sentence of paragraph 5.16 replace "is due to open" with 'opened'; in the final sentence add 'it' between "advanced" and "should".</p> <p>10.2 Add an additional sentence to paragraph 5.17: 'Highways England has indicated general support for the new station as this will give opportunities to reduce traffic on the A46'.</p> | For clarity and correction |
| 11 | <p>Reword the second sentence of the first element of Policy KP3 as follows: 'Proposals will be supported for 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; accordingly proposals for A2/A3 commercial uses, B1 business uses and C1 hotel uses may be supported provided they have regard to the heritage, design, amenity and other relevant policies of the Development Plan.'</p> | For clarity and correction and to meet Basic Condition 1 |
| 12 | <p>12.1 Reword the opening to Policy KP4 as follows: 'Development proposals for housing and other uses on land released from the Green Belt east of Kenilworth as shown on the Policies Map 5.2 will be supported where they accord with a Development Brief produced by Warwick District Council or a Layout and Design Statement to be approved by Warwick District Council, all in accordance with Local Plan Policy DS15.'</p> <p>12.2 Reword the opening to the development principles as follows: 'The following general principles should</p> | For clarity and correction and to meet Basic Conditions 1 & 3 |

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| | <p>inform the Development Brief or Layout and Design Statement and hence show appropriate regard for the views of the local community.’</p> <p>12.3 As Policy DS12 in the Warwick District Local Plan has already identified and allocated land for education (ED2 on the related Policies Map) Policy KP4 principle a should be about the provision of facilities; add to this principle an element of Policy KP5 related to sports facilities (as noted below). Reword principle a as follows: ‘ a. The provision of a secondary school, sixth form college and, if deemed the most appropriate location, a primary school on land at Southcrest Farm in accordance with Warwick District Local Plan Policy DS12. The new schools site should include for the sports facilities to be, as currently, shared with the community.’</p> <p>12.4 Warwick District Local Plan Policy DS11 sets down the need for a primary school to serve the “East of Kenilworth (Thickthorn)” site but is not specific as to location; to avoid confusion the identification of sites should not differ between development plan documents. Principle b should therefore be reworded as follows: ‘b. The provision of a primary school to serve the Thickthorn site in accordance with Warwick District Local Plan Policy DS11.’</p> <p>12.5 For clarity principle c should be slightly reworded as follows: ‘c. The provision of a local centre comprising a mix of A1-A5 commercial uses and D1 community facilities, with the possible inclusion of medical and youth facilities and places of worship to meet identified local needs that are also accessible to the existing residential areas of eastern Kenilworth.’</p> <p>12.6 For robustness principle d should be slightly reworded as follows: ‘d. The potential provision of a distinct area at Thickthorn for B1 and suitable B2 business uses only with direct vehicular access to A452 Leamington Road or direct to the A46 junction, the layout and design of which should enhance the entrance of the town from the A46 junction and must be compatible in uses with the amenities of</p> | |
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| | <p>adjoining residential areas.'</p> <p>12.7 I have noted to the Qualifying Body that insufficient evidence has been provided to support the detail of principle e regarding self or custom built plots as written. However the local authority has noted that Policy H15 of the Warwick District Local Plan specifically encourages neighbourhood plans to identify suitable sites for self/custom build and it has provided sufficient evidence of demand in general; an appropriate rewording is required, as follows: 'e. the provision of a proportion of the open market homes as self-serviced plots for self-build and custom build, commensurate with demand evidenced on the local authority self-build register of interest, not exceeding 5% of the total number of dwellings.'</p> <p>12.8 The use of the wording "The adoption of..." is incongruous within the context of principles; further, no evidence has been provided to support (or even explain) the concept of "independent access to each of the land parcels" and therefore principle f should be simplified as follows: 'f. A highways strategy that allows for an arrangement of uses and access routes to connect the development with the existing built up area at multiple points by walking, cycling, public transport and car'.</p> <p>12.9 The purpose of principle g would be clarified with a minor change of wording, as follows: 'g. Residential roads within the developments are designed to a 20mph standard so as to give priority to pedestrians and cyclists wherever possible.'</p> <p>12.10 For robustness principle h should be slightly reworded by the addition of 'wherever possible' immediately prior to the colon and list of factors.</p> <p>12.11 A representation has pointed out that principle k does not sufficiently reflect the NPPF expectations; reword principle k as follows: 'k. The layout and appearance of the development shall conserve and where possible enhance the historic environment and heritage assets on or near to the site in</p> | |
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| | <p>a manner appropriate to their significance.’</p> <p>12.12 The use of the wording “The agreement of...” is incongruous within the context of principles; further principle l inappropriately repeats part of principle k relating to heritage assets. Principle l should be reworded as follows: ‘l. An environmental strategy should establish how the development will provide opportunities for a net biodiversity gain and manage the sustainable drainage of the land.’</p> <p>12.13 The use of the wording “The agreement of...” is incongruous within the context of principles and also confuses the sense of principle m. Principle m should be clarified with a minor change of wording, as follows: ‘m. A phasing plan and delivery strategy should enable self-contained phases of development to come forward and set out the thresholds for the delivery of site infrastructure.’</p> | |
| 13 | <p>13.1 In paragraph 5.20 in the first sentence replace “key” with ‘community’s’ and add ‘approximately’ after “...new development of”; move the Concept Plan Map to be immediately below this paragraph and add a source to it.</p> <p>13.2 In paragraph 5.21 delete “(see Appendix D)” and the two sentences that follow this as they are no longer required. Also delete “and may indeed reflect the policies detailed above” at the end of the paragraph since this is the stated purpose of the Policy.</p> <p>13.3 In paragraph 5.23 add ‘approximately’ after “...the Local Plan is” and delete the semi-colon after “1400”.</p> <p>13.4 In paragraph 5.25, for clarity, replace the opening “It” with ‘The Local Plan...’.</p> <p>13.5 For readability reverse the order of paragraphs 5.26 and 5.27 and in the fifth sentence of the new paragraph 5.27 replace “A central hub” with ‘A centre...’.</p> | For clarity and correction |
| 14 | <p>Amend Policy KP5 as follows: 14.1 Retitle the Policy as ‘Redevelopment of</p> | For clarity and correction and to meet Basic Conditions 1 & 3 |

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| | <p>School Sites’.</p> <p>14.2 Delete element a of the first part of the Policy (as the content has been relocated to Policy KP4).</p> <p>14.3 The purpose of element c would be clarified with a minor change of wording, as follows: ‘Residential roads within the developments are designed to a 20mph standard so as to give priority to pedestrians and cyclists wherever possible.’</p> <p>14.4 Since element c is (or should be) common to both redevelopment sites and element a has been deleted the structure of this Policy can now be simplified to: ‘Policy KP5: Redevelopment of School Sites The redevelopment of the existing school sites at Leyes Lane and Rouncil Lane, as shown on the Policies Map 5.2, will be supported provided that: a. residential roads within the developments are designed to a 20mph standard so as to give priority to pedestrians and cyclists wherever possible; b. at Leyes Lane the redevelopment scheme makes provision for a new public open space and play facilities that are accessible to the existing and new residents; c. at Rouncil Road the redevelopment scheme makes provision for a footpath and road crossing to St John’s School and to the local shop/post office at Roseland Road.’</p> <p>14.5 The Policy Maps need to distinguish on the maps or in the key between the Leyes Lane and Rouncil Road sites.</p> | |
| 15 | In paragraph 5.28 add to the second sentence ‘...ideally on the new schools site (see Policy KP4)’ and delete the third sentence since there are existing links to/from the site. | For clarity and correction |
| 16 | <p>16.1 Since the Policy is listing criteria for support (and to ensure a consistent approach across the Plan) there should be no capital letter at the beginning of each criterion.</p> <p>16.2 Renumber the housing element of Policy KP6 as KP6A and amend parts as</p> | For clarity and correction and to meet Basic Condition 1 & 3 |

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| | <p>follows:</p> <p>16.2.1 Amend criterion c to read as follows: 'mitigation or other measures ensure that the development of the site does not prejudice the playing of cricket on the existing, adjoining cricket ground'.</p> <p>16.2.2 Amend criterion d to read as follows: 'appropriate cycle and pedestrian routes are provided within the site linking to adjoining cycle and foot paths'.</p> <p>16.2.3 Delete criteria e & f and renumber the subsequent criterion accordingly.</p> <p>16.2.4 Amend criterion g to read as follows: 'residential roads within the development should be designed, in accordance with the relevant standards of the local planning and highway authorities, to achieve a 20mph standard so as to give priority to pedestrians and cyclists wherever possible'.</p> <p>16.3 Renumber the sports and recreation element of Policy KP6 as KP6B and amend parts as follows:</p> <p>16.3.1 Amend criterion b to read as follows: 'suitable vehicular, cycle and pedestrian access is provided from Warwick Road;</p> <p>16.3.2 Add a new criterion as c to read as follows and amend the numbering of the subsequent criteria accordingly: 'appropriate cycle and pedestrian routes are provided within the site linking to adjoining cycle and foot paths and residential areas'.</p> <p>16.3.3 Amend criterion d to read as follows: 'an ecological strategy is submitted which minimises impacts on biodiversity and produces net gains where possible'.</p> <p>16.3.4 Amend criterion e to read as follows: 'a surface water drainage strategy is submitted which incorporates appropriate sustainable surface water management features to suit the site'.</p> | |
| 17 | <p>In paragraph 5.30 delete the words "the proposed" in the opening sentence; add an additional sentence after the first as follows: 'In April 2018 Warwick District Council considered application W/17/2150 for the</p> | For clarity and correction |

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| | housing part of this site and granted an outline planning consent (subject to completion of a Section 106 Agreement).' | |
| 18 | Delete Policy KP7 and the supporting paragraphs 5.33 and 5.34; this content or parts of it as appropriate may be included in the 'Other Issues in Kenilworth' Appendix if the Qualifying Body wishes; renumber subsequent Policies and support paragraphs accordingly. | For clarity and correction and to meet Basic Condition 1 |
| 19 | To ensure a consistent titling of Policies reinstate the colon into Policy headings KP8 – KP22. | For clarity and correction |
| 20 | In Policy KP8: 20.1 Reword criterion c as follows: 'c. vehicle access routes to both the existing and new facilities are designed to accommodate predicted flows whilst addressing and minimising the adverse effects on dwellings and residential roads;' 20.2 Within criterion e replace "provided that" with 'and'. 20.3 In criterion f replace "must be" with 'are'. 20.4 Delete criterion g. | For clarity and correction and to meet Basic Condition 1 |
| 21 | Delete paragraph 5.36 and renumber subsequent paragraphs accordingly. | For clarity and correction |
| 22 | Reword Policy KP9 as follows: 'Changes and additions to the road system in Kenilworth arising from the accommodation of additional traffic from new housing and changed locations for schools and sports facilities should give priority to pedestrians and cyclists, improve safety and assist traffic flow whilst also accommodating the needs of public transport.' | For clarity and correction and to meet Basic Conditions 1 & 3 |
| 23 | In the second sentence of paragraph 5.41 replace "will" with 'may'. | For clarity and correction |
| 24 | Amend the wording of Policy KP10 in the first and second paragraphs by replacing "priority" with 'dedicated' and replacing "within the corridors indicated" with ' along the indicative connections'. | For clarity and correction |

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| 25 | In paragraph 5.43 reword the second sentence as follows: 'In a 2012 analysis of local cycling issues* the key priorities were identified as connecting the Town Centre to the residential areas, connecting those areas with the nearby Warwick University campus and connecting the East of Kenilworth development with the rest of the town. * the source for the data here (and within the Plan in general) needs to be cross-referenced and this is normally done with a footnote on the relevant page.' | For clarity and correction |
| 26 | In the first paragraph of Policy KP11 replace "or" with 'and'. | For clarity and correction |
| 27 | Reword Policy KP12 as follows: 'New or improved footpaths that serve or connect new and existing parts of Kenilworth should be constructed and maintained to a standard to accommodate both pedestrians and mobility scooters and a shared use with cyclists where it is safe so to do.' | For clarity and correction and to meet Basic Condition 1 |
| 28 | Reword Policy KP13 as follows: 'Development proposals should incorporate parking and cycle spaces at or above the numerical and design expectations set out in the Warwick District Council Parking Standards Supplementary Planning Document (2018 or any subsequent revision); some exceptions are noted in the Standards document. Where appropriate there should be adequate parking for mobility scooters. Where unallocated spaces are to be provided on road then, for safety and accessibility, the road design must accommodate these, as set out in the Standards. Electric vehicle charging infrastructure, as set out in the Standards, will be required where practical for both allocated and non-allocated parking.' | For clarity and correction and to meet Basic Conditions 1 & 3 |
| 29 | In paragraph 5.48: <ul style="list-style-type: none"> • in the first sentence replace "off street car" with 'car and cycle'; • in the second sentence delete | For clarity and correction |

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| | <p>“Vehicle” and replace “Guidance of 2007” with ‘Document 2018’;</p> <ul style="list-style-type: none"> • delete the third sentence; • in the fourth sentence replace “Car” with ‘As noted in the Standards Document, car...’ and replace “national and District averages” with ‘average’. | |
| 30 | <p>Throughout the KP14 Policies replace “will be supported provided they” with “should”, replace “they have” with ‘demonstrate’, replace “to” after “regard” and replace it with ‘for’ and in Policies KP14A-S additionally delete “full”; after “principles” add ‘as appropriate’.</p> | For clarity and correction |
| 31 | <p>31.1 Rewriting element a as a principle that accords with the NPPF expectations it should read as follows: ‘Heritage assets and their settings in the locality must be respected in accord with their significance’.</p> <p>31.2 Rewriting element c as a principle that accords with the NPPF expectations it should read as follows: ‘Impact on the residential amenity of existing and future residents must be assessed and addressed’.</p> <p>31.3 Rewriting element d as a principle that accords with the NPPF expectations it should read as follows: ‘Potential impacts from noise, light or air contamination, land instability or ground water pollution or flooding must be assessed and addressed’.</p> <p>31.4 Delete elements e & f and renumber the elements that follow accordingly.</p> <p>31.5 Elements g & h can be combined and the principle made more readily understood as follows: ‘Guidance provided through Secured by Design (SBD) and Lifetime Homes should be addressed’; renumber the elements that follow accordingly.</p> <p>31.6 Elements i & j can be combined and the principle made more readily understood as follows, the security issue having been addressed with element g: ‘The requirements for safety, privacy and amenity space must be addressed</p> | For clarity and correction |

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| | <p>appropriately'; renumber the elements that follow accordingly.</p> <p>31.7 Expressing element k as positive guidance, in accordance with the NPPF expectations, it should read as follows: 'When replacing existing buildings, the footprint and design of the replacement must have particular regard for the character of the existing built form and density, residential and visual amenity and the retention of the appropriate level of off-street parking'.</p> <p>31.8 The second paragraph of Policy KP14 should be corrected and reworded as follows: 'Development proposals within the Kenilworth Conservation Areas must assess and address the guidance provided within the Kenilworth Conservation Areas Design Guide published by Warwick District Council and the following Policies KP14A – 14S which identify locally distinctive design by character areas as identified on Map 5.5'.</p> | |
| 32 | <p>32.1 In the third sentence of paragraph 5.51 replace "Maps in Appendix A" with 'Map 5.5'.</p> <p>32.2 In the second sentence of paragraph 5.52 replace "development principles" with 'development proposals'.</p> <p>32.3 In the first sentence of paragraph 5.53 replace "Policies Maps at 5.4" with 'detailed area maps that relate to Policies Map 5.5'.</p> <p>32.4 In the paragraphs 5.54 – 5.69 but excluding paragraph 5.60, delete the final sentence that reads "Protection of the elements is important".</p> | For clarity and correction |
| 33 | <p>33.1 Reword the title and content of Policy KP15 as follows: 'Policy KP15: Non-designated Heritage Assets Buildings and structures of local architectural and/or historic value are recognised as non-designated heritage assets with a map and description in Appendix A. As key features that contribute to the character of Kenilworth the location and design of development proposals must have regard, where applicable, for the</p> | For clarity and correction and to meet Basic Conditions 1 & 3 |

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| | <p>significance of these assets and their settings.'</p> <p>33.2 Ensure that Appendix A is the revised version submitted by the Qualifying Body to the Examiner on 31st July 2018 and that its introduction adopts wording in line with the amended paragraph 5.70.</p> | |
| 34 | <p>In the first sentence of paragraph 5.70 replace "national listing status as 'non-designated heritage assets'" with 'national or local listing'; replace the second sentence with: 'The schedule of heritage assets recognised within the Neighbourhood Area is included as Appendix A of this Plan'.</p> | For clarity and correction |
| 35 | <p>Delete the second sentence of Policy KP16 and rewrite the first sentence as: 'Development proposals are encouraged to adopt higher environmental standards of building design and energy performance, such as the Passivhaus approach or similar.'</p> | For clarity and correction and to meet Basic Condition 1 |
| 36 | <p>Delete paragraph 5.73 and renumber subsequent paragraphs accordingly.</p> | For clarity and correction |
| 37 | <p>In the first paragraph of Policy KP17 replace "B1-B8" with 'B1, B2 & B8'.</p> | For clarity and correction |
| 38 | <p>Rewrite Policy KP19 as follows: 'Development proposals in the vicinity of the green infrastructure of Kenilworth must respect its existing character, setting and purpose; in particular the present quantity of public open space must be retained and, as the population grows, be extended. In the event that the loss of or harm to any part is demonstrated to be unavoidable then provision must be made for mitigation and suitable replacement features.'</p> | For clarity and correction and to meet Basic Condition 1 |
| 39 | <p>39.1 Rewrite Policy 20 as follows: 'The area identified on Policies Map 5.2 and described in Appendix B as running between and including Abbey Fields and Kenilworth Common is designated as a Local Green Space.'</p> <p>39.2 Include the Local Green Space Report as an Appendix B to the Plan document and amend the Policies Maps and Appendix B to exclude references to the area of Kenilworth</p> | For clarity and correction and to meet Basic Condition 1 |

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| | Castle. | |
| 40 | In paragraph 5.84, in the first sentence delete “The Castle”; in the second sentence between “comprises” and “land” add ‘most of’; in the fourth sentence replace “A separate report in the evidence base” with ‘Appendix B’. | For clarity and correction |
| 41 | In Policy KP21 omit the comma two thirds of the way through sentence 1. | For clarity and correction |
| 42 | Reword Policy KP22 as follows: ‘In view of the known incidence of flooding from Finham Brook, developers are advised to review the Environment Agency’s flood map for planning at the earliest possible opportunity to consider what development would be appropriate for a potential development site to ensure that proposals are in line with the policy requirements of Warwick District Local Plan Policies FW1 Flood Risk and FW2 Sustainable Drainage.’ | For clarity and correction and to meet Basic Conditions 1 & 3 |
| 43 | Delete paragraph 5.88 and renumber subsequent paragraphs accordingly. | For clarity and correction |
| 44 | 44.1 Amend the sub-title “Monitoring & Review Policy” to ‘6. Monitoring & Review’. 44.2 In the last sentence of paragraph 5.89 between “reviewed” and “on a five-year cycle” add ‘no later than 2023 and then’. | For clarity and correction |
| 45 | Move and retitle Section 6 to become an Annex to the Plan document within which all non-land use issues and commitments are brought together; review the resulting Annex to ensure that any cross-referencing or similar is brought in line with the final content of the Plan. | For clarity and correction and to meet Basic Condition 1 |
| 46 | 46.1 On the Index to Maps correct entry 5.4 to read: ‘Policy Map KP15 – Non-designated Heritage Assets’. 46.2 Adopt a consistent, consistently prominent and to the same three element format title for every map eg Information Map 1.1: Kenilworth Designated Neighbourhood Area. 46.3 Ensure that the Information Maps, without exception, have a data source | For clarity and correction |

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| | <p>reference and a key to the content added to the base map.</p> <p>46.4 Where maps identify the Neighbourhood Area use those exact words in the key not “Neighbourhood Plans Kenilworth” or a variation of it.</p> <p>46.5 On Map 5.4 ensure that the wording of the key is consistent with that in Appendix A.</p> <p>46.6 On the Index Page for the Maps 5.5 delete the sub-heading “Demarcation of Conservation Areas” and in the footing “Appendix A”.</p> <p>46.7 On the 5.5 Character Area Maps either reuse the maps for the Warwick District Council Conservation Area Guide or add a soft-edged cross hatching (with a key) to distinguish the character area from the other content on the map and, wherever possible, use more consistently scaled maps so that at least one, preferably two, road names are readable per map.</p> | |
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