

Town and Country Planning Act 1990
Neighbourhood Planning (General) Regulations 2012

BURTON GREEN NEIGHBOURHOOD DEVELOPMENT PLAN 2019-2029

INDEPENDENT EXAMINATION

Final Report to Warwick District Council
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CONTENTS

Contents

PART 1.....	1
INTRODUCTION.....	1
PART 2.....	3
THE LEGAL FRAMEWORK	3
Neighbourhood Planning.....	3
PART 3.....	18
THE EXAMINATION	18
Introduction.....	18
SECTIONS 1 TO 3.....	19
INTRODUCTION, CONTEXT AND THE PARISH TODAY	19
SECTION 4COR.....	21
VISION AND STRATEGIC OBJECTIVES.....	21
SECTION 5.....	23
THE NEIGHBOURHOOD PLAN POLICIES.....	23
PART 4.....	62
CONCLUSIONS	62

PART 1

INTRODUCTION

1. This Report comprises the findings of my examination ('the Examination') into the draft Burton Green Neighbourhood Development Plan ('the Neighbourhood Plan'). As required by Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 ('the 2012 Regulations'), the Neighbourhood Plan was duly submitted for consultation by Burton Green Parish Council ('the Parish Council') to Warwick District Council ('WDC'). Subsequently, in accordance with Regulation 16 of the 2012 Regulations the Parish Council formally submitted the Neighbourhood Plan to WDC. WDC then held a consultation which concluded on 23rd November 2020. I was then retained as the Examiner on 8th March 2021 and the documentation was made available to me on WDC's website so as to enable me to conduct the Examination.
2. As a general point, I consider that the statutory process has been conducted in a satisfactory manner which has resulted in a focused draft Neighbourhood Plan. However, I must consider, having regard to national policies and advice contained in guidance issued by the Secretary of State, whether it is appropriate to make the Neighbourhood Plan. In my view I am satisfied that the Neighbourhood Plan, subject to the recommended modifications, is compliant with the statutory requirements and I therefore recommend that the Neighbourhood Plan should proceed to referendum.
3. I note the considerable amount of work effected by the Parish Council in order to support the Neighbourhood Plan so as to reflect the community aspirations. I should also state that the assistance provided by the Parish Council and WDC have been much appreciated.

My appointment

4. I have been appointed by WDC to conduct an independent examination into the Neighbourhood Plan. I am independent of the Parish Council and of WDC. I do not have any interest in any land that may be the subject of the Neighbourhood Plan, and nor do I have any professional conflicts of interest.

5. I am an Associate Member of Radcliffe Chambers, where I act as a Legal Adviser, Mediator and Arbitrator. I was previously the Principal Judge of the Land Registration Division of the Property Chamber and a Chancery barrister in Lincoln's Inn. I am a specialist property and planning lawyer, with particular expertise in markets and fairs, including street trading; land registration; commons and town and village greens; manorial rights; and mines and minerals. I have wide experience examining neighbourhood plans and conducting public hearings as part of the examination process, when necessary. I was also called to the Bar of Ireland at Trinity Term 2001, and I hold a Practising Certificate in Ireland.

PART 2

THE LEGAL FRAMEWORK

Neighbourhood Planning

The Background

1. Neighbourhood planning is the process introduced by Parliament as enacted by the Localism Act 2011 (“the 2011 Act”). The intellectual purpose of neighbourhood planning is to seek to enfranchise those persons living and working in a community by providing the basis through which they can play a more active role in the process of deciding the future of their neighbourhood. It has been described as the ability:-

‘to give to communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.’

2. Thus, the 2011 Act gave powers to parish councils to involve their communities in the creation of neighbourhood development plans in order to provide them with a greater say in planning matters. Parish councils are therefore able to play a role in the establishment of general planning policies for the development and use of land in their neighbourhoods. Examples of such involvement are directed to the siting, design and construction of new homes and offices, and the designation of local green space. The neighbourhood plan sets a vision for the future for the area concerned. It can be detailed, or general, depending on the views of local people.
3. In order to ensure that the new process is workable and effective the 2011 Act introduced the requisite amendments to the 1990 Act, and the 2004 Act.¹ These amendments came into force on 6th April 2012 and were supplemented by detailed procedures provided for in the 2012 Regulations.

¹ The 1990 Act, ss. 61E to 61P, Sch. 4B (neighbourhood development orders); the 2004 Act, ss. 38A to 38C (neighbourhood plans), as amended by the 2011 Act.

Qualifying Body

4. The Parish Council is the ‘*Qualifying Body*’, as defined. It is therefore entitled to initiate the process whereby it can require the local planning authority to ‘*make*’ the Neighbourhood Plan.
5. The first step towards producing a neighbourhood plan is for a parish council, or other qualifying body, to define a “*neighbourhood area*” for which it considers that a plan should be prepared and presented.² This is part of the process which that body is entitled to initiate for the purpose of requiring the local planning authority in England to make a neighbourhood development plan for the whole or any part of its area specified in the plan.³ “A “*neighbourhood development plan*” is a plan -

*“.....which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area”.*⁴

The local planning authority will provide assistance in this process, where appropriate. The draft plan must meet what are referred to in the legislation as the basic conditions (“*the Basic Conditions*”). This means that the draft plan must in general conformity with national and other local planning policies. It must also conform to other provisions.⁵ It must then proceed to a public consultation.

Neighbourhood Plan Area

6. The Neighbourhood Plan Area was designated by WDC Executive on 5th November 2014. During 2017, WDC amended the Burton Green Ward boundary. In 2019, Burton Green Parish Council applied to WDC to change the Burton Green Neighbourhood Plan Area, and this was approved on 3rd September 2019 after a 6-week consultation period.
7. The Neighbourhood Plan states at paragraph 1.1.6. that the Neighbourhood Plan Area is the same as the Parish of Burton Green but excludes the area of the University of Warwick. A plan showing the boundary of the Neighbourhood Plan Area is shown on page 5 of the Neighbourhood Plan - Map 1.

² See s 38A(1).

³ The 1990 Act, s. 61F(1), (2), applied by the 2004 Act, s. 38C(2)(a).

⁴ By virtue of 38A(2).

⁵ The 1990 Act, Sch 4B, para 8, applied by the 2004 Act, s 38A(3)..

Public Consultation

8. Regulation 14 of the 2012 Regulations sets out the requirements for pre-submission consultation, and Schedule 1 thereto makes reference to the relevant consultation bodies. The consultation statement (*'the Consultation Statement'*) details a number of consultation events and it is apparent that the Steering Group has engaged with landowners and community groups.

9. The Consultation Statement sets out the consultation process which took place between November 2019 and throughout 2020. This process included the Neighbourhood Plan website, publication in the Kenilworth Public Library and Village Hall and The Burton Green Bugle and community email. The draft Neighbourhood Plan was also sent to a list of statutory consultees and others. The Regulation 14 responses, together with the Parish Council's assessment of them, is included in the Consultation Statement. The Neighbourhood Plan itself also makes reference to the May 2018 Burton Green residents survey report (with a very high response rate of 82%) and the BGNPD Community Consultation Report – which I have not seen - together with active participation in completing survey questionnaires consultation events.

10. I am satisfied that the consultation process conducted by the Parish Council satisfied the Regulation 14 requirements for consultation on the Neighbourhood Plan.

11. The Neighbourhood Plan, and accompanying documents, have been submitted to WDC as required under Regulation 15 of the 2012 Regulations. In accordance with Regulation 16 of the 2012 Regulations, WDC, as the relevant local planning authority, is required to publicise the Neighbourhood Plan proposal. The consultation period was from 28th September 2020 and 23rd November 2020. The consultation generated representations (*'Representations'*) on behalf of:

Canal and River Trust

Coal Authority

Crest Nicholson Midlands

Mr and Mrs Davis

High Speed Two (HS2) Ltd

Highways England

Historic England
IM Land
Kenilworth Town Council
Mrs Gill Green
National Grid
Natural England
Mr Mark Nettleton
Network Rail
Mr Roger Taylor
Warwickshire County Council
Warwickshire Police

Referendum

12. The purpose of the referendum is to decide whether the draft plan should be “*made*”, subject to any changes recommended by the Examiner and accepted by the planning authority. If more than 50% of those voting, vote in favour of the plan, the local planning authority then is under a statutory ‘*to make the plan*’.
13. Once it comes into force, the neighbourhood plan forms part of the development plan for the area to which it relates, together with the strategic policies in the adopted local plan, the “*saved*” policies of the relevant local plan, any plans for minerals and waste disposal, and any saved policies of the relevant regional strategy. Thereafter it forms an integral part of the policy framework that guides the local planning authority and the Planning Inspectorate, in making all planning decisions in the area.
14. Given the nature of the Policies in the submitted review of the Neighbourhood Plan I have concluded that it needs both Examination and a Referendum.

The statutory framework - the detail

Compliance with provision made by or under sections 38A and 38B of the 2004 Act

Section 38A – Meaning of “neighbourhood development plan”

15. Section 38A of the 2004 Act provides that any “*qualifying body*” is entitled to initiate a process for the purpose of requiring a local planning authority in England to make a neighbourhood development plan. As noted above, the Parish Council is a “*qualifying*

body” by virtue of the provisions of 38A(12), and the WDC is a “local planning authority”, for the purpose of the 2004 Act.

16. Section 38A(2) requires the neighbourhood development plan only to contain policies relating to the development and use of land lying in the neighbourhood area. The policies are set out in Section 5 of the Neighbourhood Plan. I should state at this stage that I am satisfied that the Policies do relate to the use and development of land within the neighbourhood area, and not to extraneous matters.
17. By section 38(3)(c) of the 2004 Act, a neighbourhood development plan that has been made in relation to an area forms part of the statutory development plan, for the purpose of guiding town and country planning decisions. Under section 38(6) there is a presumption in favour of determining planning applications in accordance with the neighbourhood development plan unless material considerations indicate otherwise.

Section 38B

18. Section 38B of the 2004 Act provides as follows:

‘38B Provision that may be made by neighbourhood development plans

(1) A neighbourhood development plan—

- (a) must specify the period for which it is to have effect,*
- (b) may not include provision about development that is excluded development, and*
- (c) may not relate to more than one neighbourhood area.*

(2) Only one neighbourhood development plan may be made for each neighbourhood area.

(3) If to any extent a policy set out in a neighbourhood development plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy.

(4) Regulations made by the Secretary of State may make provision—

- (a) restricting the provision that may be included in neighbourhood development plans about the use of land,*
- (b) requiring neighbourhood development plans to include such matters as are prescribed in the regulations, and*
- (c) prescribing the form of neighbourhood development plans.*

(5) A local planning authority must publish each neighbourhood development plan that they make in such manner as may be prescribed by regulations made by the Secretary of State.

(6) Section 61K of the principal Act (meaning of “excluded development”) is to apply for the purposes of subsection (1)(b).’

19. Section 61K provides, so far as is material, as follows:-

‘61K Meaning of “excluded development”

The following development is excluded development for the purposes of section 61J—

- (a) development that consists of a county matter within paragraph 1(1)(a) to (h) of Schedule 1,*
- (b) development that consists of the carrying out of any operation, or class of operation, prescribed under paragraph 1(j) of that Schedule (waste development) but that does not consist of development of a prescribed description,*
- (c) development that falls within Annex 1 to Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (as amended from time to time),⁶*
- (d) development that consists (whether wholly or partly) of a nationally significant infrastructure project (within the meaning of the Planning Act 2008).’*

20. The 2012 Regulations were made under section 38B of the 2004 Act. These prescribe some detailed requirements for neighbourhood development plan proposals and how they are to be consulted upon, publicised, and submitted.

21. Further, the 2012 Regulations, at Regulation 32, and Schedule 2 thereof, prescribe a condition for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act. Paragraph 1 of Schedule 2 to the 2012 Regulations stipulates that:

‘[the] making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects).’

⁶ This must now be taken to refer to codifying Directive 2011/92/EU, which repealed and re-enacted Directive 85/337/EEC and its amending instruments and states at Article 14 that references to the repealed directive are to be construed as references to the new directive, as a matter of consistent interpretation and under the principle of construction codified in relation to domestic law by s.17(2)(a) of the Interpretation Act 1978.

22. The procedure for examining draft neighbourhood development plans is provided for in Schedule 4B of the 1990 Act, which is applied by section 38A(3) of the 2004 Act. This provides at paragraph 7 for the local planning authority to submit the draft plan for independent examination by a person who is independent of the qualifying body and of the authority, does not have an interest in any land that may be affected by the draft plan, and has appropriate qualifications and experience.
23. The Examiner must make a report on the draft plan pursuant to paragraph 10 of Schedule 4B, which must recommend either that the draft plan is submitted to a referendum; or that modifications be made to correct errors or secure compliance with legal requirements, and the draft plan as modified be put to a referendum; or that the proposal for the plan be refused. The examiner's report must contain a summary of its main findings and give reasons for each of its recommendations.
24. The local planning authority is then required to publish the examiner's report, and to consider the recommendations made. If the local planning authority considers that the statutory requirements are complied with, the draft plan must then be put to a referendum and, if approved by the referendum, adopted as part of the neighbourhood development plan.

What must the Examiner examine?

25. Paragraph 8 of Schedule 4B to the 1990 Act, as modified by section 38C(5) of the 2004 Act, requires the examiner to consider the following:
 - whether the draft plan meets the Basic Conditions. These are defined at subparagraph (2);
 - whether it complies with the provision made by or under sections 38A and 38B of the 2004 Act; and
 - whether the area for any referendum should extend beyond the neighbourhood area to which the draft plan relates; and
 - whether the draft plan is compatible with '*the Convention rights*', as defined by the Human Rights Act 1998⁷.

⁷ Section 1 of the 1998 Act defines these as the rights and fundamental freedoms set out in Articles 2 to 12 and 14 of the European Convention on Human Rights, Articles 1 to 3 of the First Protocol to the Convention, and Article 1 of the Thirteenth Protocol, as read with Articles 16 to 18 of the Convention.

26. Paragraph 8(2) of Schedule 4B, as modified by section 38C(5)(d) of the 2004 Act provides that:

- ‘(2) A draft [plan] meets the basic conditions if—*
- (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the [plan],*
 - (b).....*
 - (c).....*
 - (d) the making of the [plan] contributes to the achievement of sustainable development,*
 - (e) the making of the [plan] is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),*
 - (f) the making of the [plan] does not breach, and is otherwise compatible with, EU obligations, and*
 - (g) prescribed conditions are met in relation to the [plan] and prescribed matters have been complied with in connection with the proposal for the [plan]’*

Basic Conditions (b) and (c), relating to the built heritage, apply to the examination of proposed neighbourhood development orders, but not to that of neighbourhood plans.

27. Regulations 32 and paragraph 1 of Schedule 2 of the General Regulations, has prescribed a further condition for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act, as follows -

‘[the] making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects).’

28. Since 28th December 2018, the General Regulations, Schedule 2 paragraph 1, has prescribed a further Basic Condition, namely:

‘In relation to the examination of neighbourhood development plans the following Basic Condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act—The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.’

It is to be noted that if a proposed neighbourhood plan it is to be submitted to a referendum it must meet all of the Basic Conditions specified in paragraph 8(2) - not just some of them.

29. Further, and importantly, the examination process is not intended to put the Examiner into the shoes of the ‘*qualifying body*’ so as to usurp its function and re-make its decisions. The statutory remit of the Examiner is limited.
30. Thus, the examination process is less intrusive than that required in respect of a local development plan document. For instance:

‘the remit of an examiner dealing with a neighbourhood plan does not include the requirement to consider whether that plan is ‘sound’ (as in section 20(5)(b) of the 2004 Act), so the requirements of ‘soundness’ contained in paragraph 182 of the NPPF⁸ do not apply to a neighbourhood plan. The Examiner of a neighbourhood plan does not consider whether that plan is ‘justified’ in the sense used in paragraph 182 of the NPPF. In other words, the Examiner does not have to consider whether a draft policy is the ‘most appropriate strategy’ compared against alternatives, nor is it for him to judge whether it is supported by a ‘proportionate evidence base’.

- *Whereas under paragraph 182 of the NPPF a local plan needs to be “consistent with national policy” an examiner of a neighbourhood plan has a discretion to determine whether it is appropriate that the plan should proceed having regard to national policy.*
- *The basic condition only requires the examiner to consider whether the draft neighbourhood plan as a whole is in general conformity with the strategic policies in the adopted Development Plan taken together. I am not charged with determining in respect of each particular policy or element whether there is a tension between the local and neighbourhood plans, and if there is such tension in places, that may not be determinative of the overall question of general conformity.”⁹*

31. The concept of ‘*soundness*’, referred to by Holgate J in this case refers to the text in the former edition of the NPPF. This text has now been superseded in the new edition of the NPPF published in February 2019. This retains a section now referred to as ‘Examining plans’ and refers to the same four requirements for ‘*soundness*’. However,

⁸ The National Planning Policy Framework (‘the NPPF’), current edition February 2019.

⁹ See *R(Maynard) v Chiltern DC* [2015] EWHC 3817 (Admin) at [13] per Holgate J.

paragraph 37 of the new edition of the NPPF contains a separate reference to the examination process for the first time, notably that neighbourhood plans must meet the ‘Basic Conditions’ and other legal requirements before they can come into force which ‘... are tested through an independent examination before the neighbourhood plan may proceed to referendum.’

32. Thus, although the Examiner has a general discretion whether to recommend modification to bring the neighbourhood plan into line with national policy if he finds points of departure, it is necessary to bear in mind that it would normally be expected that appeal decisions would follow current national policy where it conflicts with a local or neighbourhood development plan. A neighbourhood plan that is at odds with national policy is in danger of becoming otiose. Unless the Examiner considers that there is evidence demonstrating good reason to depart from national policy in the neighbourhood, he would be expected to recommend that it be followed.
33. In essence, therefore, the role of the Examiner is to assess whether the draft plan is compliant with the Basic Conditions and other legal requirements. If in the event that the draft plan does not comply with the various statutory requirements, the Examiner then is obliged to consider whether it can be modified so that it does so comply. Other legal requirements include consideration of the NPPF and the National Planning Policy Guidance (‘the NPPG’). As Part 3 of this Report draws extensively on the provisions contained in both the NPPF and the NPPG, no further reference will be made to either document at this stage.

The Report

34. The Examiner then produces a report, which contains one of three possible recommendations, namely, whether:

- (a) the draft plan is to be submitted to a referendum;*
- (b) the modifications specified in the report are to be made to the draft plan, and that the draft plan as modified is submitted to a referendum; or*
- (c) the proposal for a plan is to be refused.’¹⁰*

¹⁰ 1990 Act, Sch 4B, para 10(2), applied by the 2004 Act, s 38A(3).

35. The recommended modifications can only be those that the Examiner feels are necessary to ensure that the draft plan complies with the Basic Conditions and the other relevant statutory requirements or are needed for the purpose of correcting errors. If the changes are substantial, then they may have to be the subject of a further round of consultation.
36. The further requirements of the Examiner, as defined in the 2012 Regulations, include considering whether the draft plan complies with the definition of a neighbourhood development plan, and the provisions that can be made by a neighbourhood development plan; and whether the draft plan is compatible with the European Convention on Human Rights. The Examiner may also make recommendations on whether the neighbourhood plan area for referendum should extend beyond the neighbourhood plan boundaries.
37. In this Report, I shall first consider the Basic Conditions, and then formal compliance with the provisions contained within sections 38A and 38B of the 2004 Act. I shall then address the European dimension and the question of human rights. Finally, I shall make recommendations as to the modification or amendment of the draft Policies. The modifications or amendments do not include updates to the Contents and where necessary, Policy, paragraph, and page numbering. It is recommended that this is undertaken by WDC, where necessary.

European Law obligations

Strategic environmental assessment

38. I am still required to check that the making of the order does not breach EU obligations. This means that I must consider whether there has been compliance with the SEA Directive and SEA Regulations.
39. Directive 2001/42/EC - known as the Strategic Environmental Assessment Directive - on the assessment of the effects of certain plans and programmes on the environment ('the SEA') - provides by Article 3(2) that an environmental assessment is to be carried out for plans prepared for town and country planning or land use. These set a framework for development consent of certain projects, or which in view of the likely effect on protected sites, have been determined to require assessment under the Habitats

Directive. Where a neighbourhood plan determines the use of small areas at local level and makes minor modifications to other town and country planning or land use plans, they require such assessment only where Member States determine that they are likely to have significant environmental effects (by virtue of article 3(3)).

40. It is currently unclear whether English neighbourhood plans always require strategic environmental assessment. In case C-444/15, *Associazione Italia Nostra Onlus v Comune di Venezia*, the European Court of Justice considered the meaning in the context of legislation that precluded consideration whether the commune (city council)'s plan for 68 dwellings within the Venetian lagoon required strategic assessment. The Court ruled as follows:

'Article 3(3) of Directive 2001/42, read in conjunction with recital 10 of that directive, must be interpreted to the effect that the term 'small areas at local level' in paragraph 3 must be defined with reference to the size of the area concerned where the following conditions are fulfilled:

- *the plan or programme is prepared and/or adopted by a local authority, as opposed to a regional or national authority, and*
- *that area inside the territorial jurisdiction of the local authority is small in size relative to that territorial jurisdiction'.*

The use of 'and/or' is ambiguous. It was unnecessary to decide this point in the *Venezia* case, as the plan was prepared and adopted by the same authority. However, English neighbourhood plans are prepared by a parish and adopted by a district. The neighbourhood area in the present case the Neighbourhood Plan embraces the whole area of the Parish Council and so is not 'small in size relative to that territorial jurisdiction'. On the other hand, it may reasonably be said to be small in relation to the District.

41. A Strategic Environmental Assessment Screening Report was completed on 30th June 2020 by WDC. As a result of the screening assessment in Section 3, it is considered unlikely there will be any significant environmental effects arising from the Burton Green Neighbourhood Plan that were not covered or addressed in the Sustainability Appraisal of the Local Plan. As such, it is considered that the Burton Green Neighbourhood Plan does not require a full SEA to be undertaken.

Habitats Regulations Assessment

42. Article 6(3) of the Habitats Directive¹¹ requires that any plan which is not directly connected with or necessary to the management of a protected site, but is likely to have a significant effect thereon (meaning that such an effect cannot be excluded beyond reasonable scientific doubt on the basis of objective information), must not be agreed to unless it has been subject to an ‘*appropriate assessment of the implications for the site*’, and it has been ascertained that it will ‘*not adversely affect the integrity of the site concerned*’. If a neighbourhood plan is assessed and found to cause harm to the integrity of a protected site, Article 6(4) enumerates some conditions under which a plan may exceptionally be approved where the plan must nevertheless be carried out for imperative reasons of overriding public interest.
43. Those obligations have been transposed into national law by Regulations 102, 102A and 103 of the Conservation of Habitats and Species Regulations 2010 (‘the *Habitats Regulations*’). Regulation 102 states:
- (1) *Where a land use plan—*
 - (a) *is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*
 - (b) *is not directly connected with or necessary to the management of the site,**the plan-making authority for that plan must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site's conservation objectives.’*
 - (4) *In the light of the conclusions of the assessment, and subject to regulation 103 (considerations of overriding public interest), the plan-making authority... must give effect to the land use plan only after having ascertained that it will not adversely affect the integrity of the European site...’*

Regulation 102A states:

‘A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 102 or to enable them to determine whether that assessment is required.’

¹¹ Council Directive 92/43/EEC of 21 May 1992.

44. Regulation 107(1) of the Habitats Regulations then sets out definitions. ‘*Land-use plan*’ is defined to include a neighbourhood development plan. ‘*Plan-making authority*’ is defined to mean ‘*the local planning authority when exercising powers under Schedule 4B to the TCPA 1990 (as applied by section 38A(3) of the 2004 Planning Act)*’. The term ‘*competent authority*’ is not defined by Regulation 107, but by Regulation 7 it includes (but not be limited to) a ‘*public body of any description or person holding a public office*’. It includes local authorities and parish councils.
45. Case law establishes that plans cannot be approved in reliance upon the duty to assess the planned projects as and when they come forward, and only approve them at that stage if found not to harm any protected site.¹² Consequently, for instance, the fact that there may be ‘*boiler plate*’ language in the statutory development plan stating that projects cannot be approved if they would harm a protected site, cannot itself be sufficient to enable the plan to be approved without assessment, where it allocates or encourages particular development that is liable to harm a protected site.
46. There is no requirement for any formal decision to be made under the Habitats Regulations whether or not an ‘*appropriate assessment*’ has been required. However, the Parish Council will be in breach of Regulation 102 of the Habitats Regulations if in fact a plan is likely to have a significant effect on a European site and has not been assessed.
47. As part of the Examination, a copy of the Habitats Regulations Assessment (‘HRA’): Stage 1 Screening by Middlemarch Environmental Limited, March 2021, was made available to me. This report considers the impacts of the local policies detailed in the Burton Green Neighbourhood Plan upon designated areas that are considered part of the National Site Network (Special Areas of Conservation or Special Protection Areas or other ecologically important European sites (Ramsar). The impacts are considered both individually and in combination with other plans and projects and to determine whether a Stage 2 assessment process is required as required by Regulation 63 and 64 of the Conservation of Habitats and Species Regulation 2017 (as amended).

¹² Case C-6/04, *Commission v UK* [2006] Env. L.R. 29 at [51]-[56].

- 48 The HRA Stage 1 screening report identifies two European sites with a potential link to Burton Green Parish - namely Ensor's Pool SAC and the Severn Estuary SAC. The link with the Severn Estuary SAC progressed to Stage 1 of the report. Based on the available evidence this report concludes that none of the policies and proposals in the Neighbourhood Plan will likely result in a significant effect on the qualifying species of the Severn Estuary SAC, or habitats and species upon which the qualifying species are reliant, or the delivery of the site conservation objectives, either alone or in combination with other plans and projects. I am advised that it is not necessary for Stage 2 of the HRA (appropriate assessment) to be undertaken.
- 49 In accordance with the recommendations in the report, Natural England were consulted in March 2021. Natural England confirm that it agrees with the conclusions of the HRA Stage 1 Screening report. Natural England advise that further Habitats Regulations Assessment is not required.

Human Rights

52. The Neighbourhood Plan is not likely to lead to increased inequalities or discrimination in the plan area. Some of the policies are identified as having positive impacts on people who may experience disadvantage by virtue of their age or disability.

PART 3

THE EXAMINATION

Introduction

1. In general, unless otherwise noted elsewhere, the information provided in Sections 1 to 3 of the Development Plan is satisfactory for the purposes of this Examination.
2. As noted in the introduction, I am satisfied that subject to the adoption of the various recommended modifications and amendments, set out below, made in order to address various perceived deficiencies, the Neighbourhood Plan is recommended to go forward to referendum.
3. I set out below a number of proposed recommendations directed to the modification or amendment of the draft Policies contained within the Neighbourhood Plan. Further, I shall make recommended changes to its content. Overall, these changes may affect the paragraph and page numbering which should be updated. Also, a number of minor modifications will be required for the purposes of clarity and accuracy.

SECTIONS 1 TO 3

INTRODUCTION, CONTEXT AND THE PARISH TODAY

Introduction

1. Section 1 of the Neighbourhood Plan sets out the following – the broad planning policy context, the Neighbourhood Plan Area at Map 1, reference to the associated documents including the Evidence and Reasoning Document, and a summary of the substantive community consultation events that have supported the preparation of the Neighbourhood Plan. It also sets out that the Neighbourhood Plan includes Community Projects which are distinct from the Neighbourhood Plan policies, but which would enable or facilitate them.

The Village and the Parish Today

2. The Neighbourhood Plan sets out a wide-ranging contextual framework for the plan referring to its historical context, and its three distinct topographical zones running broadly north to south over the Neighbourhood Plan Area, together with a socio – economic profile and details of the provision of services and community facilities within the parish.

Village Character and Appraisal

3. The Neighbourhood Plan seeks to elucidate what makes Burton Green unique and distinctive by describing its location which is in general subject to Green Belt considerations, the three topographical areas, and the Green and Natural features of the landscape. The appraisal notes the significant impact on the community on certain parts of the transport network during peak traffic periods. In response to the Regulation 16 Consultation, and noting the comments in the Village Character Appraisal, Warwickshire County Council support in preserving the Green Belt.
4. Each of these elements provides an important context for the Neighbourhood Plan, and I raise no objections to this approach. However, paragraph 4.1.1. and the Regulations 16 Representations set out the significant development proposals and allocations in the Neighbourhood Plan Area including 425 dwellings and commercial development at Westwood Heath Road, a further 90 dwellings at Burrow Hill, a new community hall

and a place of worship at Red Lane. Additionally, the Neighbourhood Plan Area is impacted by nationally significant infrastructure, namely the construction of the HS2 line which will be utilising part of the current Greenway. The Warwick District Local Plan ('the WDLP') also identifies land south of Westwood Heath Road as safeguarded land with the potential for 725 dwellings in order that it may be utilised, if required, to meet longer-term strategic development needs beyond the Local Plan period (Policy DS21).

5. I recommend a modification in the Neighbourhood Plan to ensure the context and description in the village character and appraisal so as to provide an accurate reflection of the current issues in which the Neighbourhood Plan is promoted. This chapter should additionally outline the current and agreed development proposals including a description of the impact of these planned developments on the Neighbourhood Plan Area together with the additional safeguarded land identified in Policy DS21 of the Warwick District Local Plan.

6. ***Recommended Modifications:***
 - (1) Add new paragraphs at 3.6.12. identifying the extent of permitted and planned development in the Neighbourhood Plan Area including the provision of at least 517 homes, the impact of the delivery of the HS2 project on the community and village character and safeguarded land south of Westwood Heath Road (Policy DS21 Safeguarded Land of the Warwick District Local Plan).

SECTION 4

VISION AND STRATEGIC OBJECTIVES

1. Section 4 of the Neighbourhood Plan sets out the community's vision and strategic objectives. This vision centres around community cohesion so that all residents promote organic and sustainable growth, responds to the climate change emergency, is sensitive to the natural environment and provides assurance that residents are able to enjoy both cycling and walking and activities in the Village Hall and Primary School. The vision is positive and is consistent with the Vision in the WDLP.
2. The progression from Issues to Vision, and Objectives to Policies is an important part of the provision of the requisite evidence in support of the Neighbourhood Plan as required in the NPPG.
3. Three strategic objectives are listed. The first objective seeks to protect and enhance the '*Best and Most Versatile*' agricultural *land* in response to significant infrastructure changes. For clarity, I recommend adding '*land*' after the word '*agricultural*' in paragraph 4.2.1. as it appears to be missing. The second objective seeks to manage woodlands, hedgerow, and wildlife habitats so that present biodiversity is maintained and possibly improved and to ensure valued views of the surrounding countryside are preserved. The topics included in the policies in support of this objective includes Public Rights of Way and Local Green Spaces. For consistency I recommend modifications which ensure the strategic objective reflects the scope of the vision and the policies.
4. The third objective seeks to protect the setting and experience of a wide range of domestic architecture; to encourage innovative, high quality modern architecture and design to ensure continued tranquillity and low noise levels and to promote the organic and sustainable growth of the village.
5. One Regulation 16 Representation expresses disappointment that neither public transport, school transport or highway safety is mentioned in the Neighbourhood Plan.

The Representation highlights inappropriate speed limits around schools and play areas, the impact of proposals for the A46 Link Road and population figures which suggest that public transport and school transport will become increasingly important for the young and the elderly over the plan period. The scope of the Plan is determined by the Neighbourhood Plan Body. As a spatial plan, some transport matters fall within the scope of planning policy whilst other transport matters are not. Whilst I sympathise with the points made, it is not within my remit to extend the scope of the Neighbourhood Plan. or to include matters which are not part of land use planning. However, I do recommended modifications to Strategic Objective 2 to include the protection and enhancement of the Public Rights of Way network.

6. Kenilworth Town Council in their Regulation 16 Representations suggest including a link between the building environment and the 'Environment' to minimise GHG emissions from new builds in Strategic Objective 3. Similarly, the scope of the Neighbourhood Plan is determined by the Neighbourhood Plan Body. Therefore, it is beyond my remit to include additional issues in the Strategic Objectives.
7. I am satisfied that the Vision Statement and Strategic Objectives reflect the aspiration of the community as set out in the Evidence Reasoning Document. Its objectives, taken as a whole, seek to support the sustainable growth of the village whilst at the same time safeguarding the rural character of the parish and the qualities of its environment and would contribute to the achievement of sustainable development. I am also satisfied that subject to the adoption of the various recommended modifications, set out below, the Vision Statement and the three Strategic Objectives will meet the Basic Conditions.
8. ***Recommended Modifications:***
 - (1) Add 'land' after agricultural in paragraph 4.2.1.
 - (2) Format each part of 4.2.2. as set out in 4.2.3. (a) To Ensure etc.
 - (3) Add at 4.2.2. point (c) To protect locally importance green spaces. and point (d) 'To protect and enhance the Public Rights of Way network'.

SECTION 5

THE NEIGHBOURHOOD PLAN POLICIES

Format and Content of the Neighbourhood Plan

1. The structure of the Neighbourhood Plan is broadly logical with the earlier sections setting out the context, vision and objectives followed by the Policy sections. The Policies are distinguishable from the supporting justification, albeit the justification is very limited and appears simply to give reference points to other Policy documents.
2. The Policy numbering within the Neighbourhood Plan is confusing. As an example, there are three Policy 1's within the Neighbourhood Plan. There is a Policy 1 for each of the first, second and third Strategic Objectives. This is likely to lead to misunderstanding and confusion when referring to planning policies in the decision-making process. Therefore, I recommend that the Policies are numbered sequentially with the prefix BGNP AL, BGNP BE or BGNP NE or similar, to avoid confusion with other development plan documents. Additionally, the paragraph numbering within the Policy should be replaced with sequential numbering with sub-paragraphs or bullet points such as (a), (b), (c) or (i), (ii), (iii) etc. I make this point at this juncture, but it is relevant to the Neighbourhood Plan as a whole - which should be updated. This is to ensure clarity, unambiguity and so that the decision-maker can clearly reference and separately distinguish the Policies in the Neighbourhood Plan.
3. In assessing the Neighbourhood Plan policies, I have had regard to a separate document, namely the '*Burton Green Evidence Reasoning Document 2020*'. It is usual practice to include the justification and intent of the Policy within the Neighbourhood Plan to support decision makers in their interpretation of the planning policy. It is disappointing to note that the Neighbourhood Plan includes very limited supporting justification or explanatory text within the plan itself and I do not consider this good practice.
4. Additionally, issues also arise in the Neighbourhood Plan as to the legal requirements of neighbourhood plans. The section on Neighbourhood Planning in the NPPG states that wider community aspirations than those relating to the development and use of land, if set out as part of the Neighbourhood Plan, would need to be clearly identifiable,

and for example, should be set out in a companion document or annex. It also should be made clear in the document that these aspects will not form part of the statutory development plan. The Neighbourhood Plan includes three such Community Projects. Indeed, the Regulation 16 Representations made by Crest Nicholson Midlands state that in respect of Community Project 1 – Cycleway linking Cala Homes/Westwood Heath Housing Development, further information and clarity is required on how the wider route will be safeguarded, funded, and implemented in its entirety as a single continuous scheme. In respect of Community Project 3 – Crest Nicholson Midlands state the proposal for potential additional electric vehicle points at Westwood Heath would exceed the planned one charging point to be provided for each dwelling with a dedicated parking space and it questions the necessity.

5. Although the Neighbourhood Plan makes it clear that these Community Projects are not planning policies, they still appear as part of the Plan. For this reason, I recommend modifications that delete the three Community Projects from the Neighbourhood Plan, and include the Community Projects as an appendix to the Neighbourhood Plan.
6. ***Recommended Modifications:***
 - (1) The Neighbourhood Plan policies should be numbered sequentially preferably with the prefix BGNP or similar. Additionally, the numbering for the additional criteria within the policy or separate paragraphs should be substituted and replaced with (a), (b,) (c) or (i), (ii), (iii) etc., or similar, as mentioned above.
 - (2) Delete Community Projects 1, 2 and 3 (Blue Boxes) from the Neighbourhood Plan and insert in an Appendix so as to provide clarification that these do not form part of the statutory development plan.
7. I now consider each of the neighbourhood planning Policies assessed in turn against the Basic Conditions in the order that they are set out in the Neighbourhood Plan.

STRATEGIC OBJRCTIVE 1 - AGRICULTURAL LAND

Policy 1 – Development of Agricultural Land

8. This Policy, which leads directly from Strategic Objective 1, seeks to resist development on the best and most versatile agricultural land unless it complies with national Green Belt Policy. In addition, such development should only be necessary in

the public interest and where no other land of a poorer quality were to be available. Operational development or changes of use directly associated and necessary for agricultural activity will be considered compatible with the Policy.

9. Regulation 16 Representations by Crest Nicholson Midlands request that the Policy is amended to recognise, and be in conformity with, the strategic policies of the adopted WDLP including the need to comply with housing allocations.
10. Additionally, Crest Nicholson Midland note that to ensure the Policy complies with the best and most versatile land as defined in the NPPF, the Agricultural Land grades be defined as grades 1, 2 and 3a. I endorse this point.
11. Regulation 16 Representations by IM Land argue that Policy 1 conflates the protection of the best and most versatile land with the protection of Green Belt and the promotion of the effective use of land. In so doing it has failed to observe the separate Policy objectives. It also argues that the test of necessity and public interest are vague and imprecise. Further, the requirement to demonstrate no poorer quality of land is available is akin to a sequential test, contrary to paragraph 170 of the NPPF.
12. The best and most versatile agricultural land is a natural resource and is vital to contributing to sustainable development. This includes taking the correct decisions about protecting it from inappropriate development to ensure that it continues as a resource including for its biodiversity, geology, ecosystem services, economic benefits and to prevent land instability. It is apparent from the consultation report that the community seeks to resist inappropriate development and protect agricultural land.
13. Policy NE5 Protection of Natural Resources of the WDLP states '*Development proposals will be expected to demonstrate that they:..... d) avoid the best and most versatile agricultural land unless the benefits of the proposal outweigh the need to protect the land for agricultural purpose*'. Policy 1 broadly introduces a presumption against development on the best and most versatile agricultural land unless the proposal can satisfy four separate criteria. In my judgment, this approach is contrary to Policy NE5 of the WDLP, and national policy set out in the NPPF, and therefore, as written, does not satisfy the Basic Conditions.

14. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open. The NPPF sets out the five purposes of Green Belt. Inappropriate development in the Green Belt is by definition harmful, and should only be approved in very special circumstances. However, as set out by IM Land, the purposes, and objectives of including land within the Green Belt are distinct and different to the purposes of safeguarding the best and most versatile agricultural land. The Policy as written inappropriately conflates the two policy objectives. Moreover, the Neighbourhood Plan Policy unnecessarily duplicates national Green Belt Policy contrary to the Basic Conditions. As written, I consider that it is therefore not compliant with the NPPF, and does not satisfy the Basic Conditions.
15. Policy 1 requires development to demonstrate that it is necessary and in the public interest. Representations argue that the wording is ambiguous and does not provide clear advice on how the decision-maker should react to the development proposal. I note that the NPPF uses the term '*necessary*': an example is given below in respect of footnote 53 in the NPPF. In the interests of positive planning, I make recommended modifications as to the wording so as to reflect planning balance rather than being perceived as constraints.
16. Footnote 53 of the NPPF confirms that '*Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality*'. Policy 1 introduces a test to examine alternative poorer quality agricultural land for all development or development which is less than significant. As written, I therefore consider that it is not compliant with the NPPF and does not satisfy the Basic Conditions.
17. The Development Plan is to be read as a whole. Thus, I do not consider it necessary to note that the development should be compliant with existing housing allocations and safeguarded land identified in the WDLP, or existing planned development as required by Crest Nicholson Midlands.
18. I note the community aspiration expressed through the consultation events and the Neighbourhood Plan's Strategic Objective and therefore I have made recommendations which seek to retain a Policy which is positively prepared. However, I am aware that

the proposed modifications result in a recommended Policy which in part rehearses the NPPF and the WDLP policy.

19. ***Recommended Modifications:***

Amend first sentence to read: ‘Development should demonstrate that it avoids the best and most versatile agricultural land (as defined as land in grades, 1, 2 and 3a of the Agricultural Land Classification) unless the benefits of the proposals outweigh the need to protect the land for agricultural purposes. In considering the benefits of the proposal, weight will be given to the necessity of the development, whether it is in the public interest and if the proposal of a significant scale, the availability of alternative lower grades of agricultural land in sustainable locations’.

STRATEGIC OBJECTIVE 2 - NATURAL ENVIRONMENT

Policy 1 – Trees and Hedges

20. This Policy expects development to demonstrate high quality and sensitive landscaping and native tree/hedge planting. It seeks to maintain and protect existing veteran and mature trees, woodland, and ancient hedgerows. Developments which adversely affect these will not be supported. Where it is not possible to retain existing trees and hedgerows, development which demonstrates full replacement with appropriate native species in mitigation will be supported.
21. Regulation 16 Representations by Crest Nicholson Midlands emphasises that some of the hedgerows shown on Map 4 have not been present since 2016, and some have been removed as part of planning permission for residential development. The Representations provide an update of the current and proposed locations of the hedgerows within the WDLP housing allocations at Westwood Heath Lane. The representation recommends that Map 4 is updated. However, I note this would represent only a partial rather than a full update to Map 4 – Hedgerows.
22. Regulation 16 Representations by Crest Nicholson Midlands also highlights an inconsistency between paragraph 6.1.2. and paragraph 6.1.3. In paragraph 6.1.2. proposals are sought to maintain and protect existing veteran and mature trees, woodland, and ancient hedgerows. Whereas paragraph 6.1.3. contains proposals for full

replacement in mitigation for those existing trees and hedgerows which cannot be retained, whilst at the same time it is also stated that development proposals which affect these features will not be supported. The Representations also highlight that the Policy does not allow for trees of little merit.

23. Regulation 16 Representations on behalf of IM Land state the policy contains no reference to existing hedgerow quality failing to reflect the NPPF, and that no additional evidence is submitted. Map 4 is said to be unclear and ambiguous and should be annotated to set out what hedgerows have been included. Finally, it is submitted that the Policy should not seek to maintain and protect a hedgerow if it is of insufficient quality.

24. Policy 1 seeks to reinforce and add a layer of distinctiveness to Policy NE2 of the WDLP which states:

‘development will not be permitted that will destroy or adversely affect the locally important sites and assets unless it can be demonstrated that the benefits of development clearly outweigh the nature conservation value or scientific interest of the site and its contribution to wider biodiversity objectives and connectivity including Ancient Woodland, aged and veteran trees’.

25. The reference to Map 3 in paragraph 6.1.2. appears to be a typographical error and I assume refers to Map 4 – Hedgerows. This aspect is highlighted by Crest Nicholson Midlands. Although not explicit, it is implied in Policy 6.1.2. that Map 4 details existing veteran and mature trees, woodland and ancient hedgerows that should be maintained and protected. However, Map 4 would appear to detail all hedgerow boundaries, regardless of their quality, referring to an unspecified ‘HBA in 2011 and 2012’. The location of Veteran Trees and Ancient Woodlands are not included on Map 4.

26. In my judgment, Map 4 is out of date. It does not include Ancient Woodland, aged or veteran tree designations and its assessment of the quality of hedgerows is unclear. It is therefore not evident how a decision maker should react to a development proposal using this Map. It is recommended that Map 4 and its reference in the Policy should be deleted given that it provides an indicative map setting out the extent and location

of hedgerows in 2011/2012 and Hedgerow Retention Notices, and does not represent an assessment of their quality or value. Importantly, Map 4 does not reflect the existing position at 2020/2021, nor the impact that planned and approved development will have upon the hedgerows identified.

27. Neighbourhood Plan Policies should be clear, concise, and prepared positively to meet the Basic Conditions. Policy 1 – paragraph 6.1.3. is not positively worded and as constructed, due to its ambiguity, provides conflicting information. Further, it could have unforeseen consequences which would conflict with the Neighbourhood Plan objectives and Policy NE2 of the WDLP. For example, the Policy could support the removal of all existing trees and hedgerows, subject to full replacement as mitigation. I therefore recommend modifications to the Policy which provide a positive approach, aligns with the NPPF, Policy NE2 of the WDLP, and provides the necessary clarity for decision makers.
28. ***Recommended modifications:***
- (1) Delete ‘see Map 3’ in para 6.1.2. and Map 4 in the supporting text.
 - (2) Substitute paragraph 6.1.3. with: ‘Development proposals will be expected to protect and minimise the loss of existing trees and hedgerows. Where it is not possible to retain existing trees and hedgerows of merit, a scheme of mitigation shall be submitted which demonstrates full replacement with appropriate native species.’

Policy 2 – Wildlife and Biodiversity

29. Policy 2 requires appropriate surveys to be submitted as part of the planning application process where the removal of woodland or hedgerows is proposed. The survey should include adequate mitigation measures where a harmful or negative impact has been identified. Provision should be made for wildlife corridors by preserving existing hedgerows, where possible, and new green spaces should connect to existing ecological networks adjacent to the site. Where appropriate, developments should safeguard and enhance the natural environment, priority species and enhance habitats and their biodiversity.

30. Regulation 16 Representations by Crest Nicholson Midlands states that this part of Policy 2 is not in full compliance with Circular 06/2005 'Biodiversity and Geological Conservation' which is referred to in the NPPF and paragraph 9.2.4 of BS42020 (Biodiversity – Code of Practice for Planning and Development). This states that surveys can be subject to conditions only under exceptional circumstances.
31. Regulation 16 Representations on behalf of IM Land states that planning policy should not place unnecessary administrative burdens on applications, especially at outline stage, where a specific requirement can be imposed by condition. It states that the NPPF does not set out a blanket requirement, and the WDC validation list does not require surveys to be submitted with an application, but in cases where substantial removal is proposed then surveys are conducted as a matter of course. The requirement for mitigation measures at submission stage, or prior to determination is unreasonable.
32. Regulation 16 Representations by Crest Nicholson Midlands seek to introduce '*where appropriate*' when considering the provision of wildlife corridors as the provision of corridors could impede making best use of land. Additionally, it argues that the Policy does not recognise that hedgerows can be replaceable habitats and losses may be acceptable if appropriately compensated.
33. Regulation 16 Representations by Kenilworth Town Council suggest that the Policy could include the requirement to demonstrate and achieve net biodiversity gain. Additionally, '*where appropriate*' should be deleted from para 6.2.4. as it is always appropriate to safeguard and enhance the natural environment.
34. The NPPF encourages and promotes the preservation, restoration, and enhancement of biodiversity. The NPPF encourages plans to identify, map and safeguard components of local wildlife rich habitats and wider ecological networks. It is noted that these networks are often linear and continuous and are essential for the migration, dispersal, and genetic exchange of wild species.
35. Policy NE2 Protecting Designated Biodiversity and Geodiversity Assets of the WDLP protects designated areas and species of national and local importance for biodiversity and geodiversity. All proposals likely to impact on assets will be subject to an

ecological assessment. Policy NE3 Biodiversity of the WDLP sets out a policy which seeks to protect, enhance, and restore habitat biodiversity. Development proposals will be expected to ensure that they lead to no net loss of biodiversity, and where possible a net gain where appropriate by means of an approved ecological assessment of existing site features and development impacts. The comments by Kenilworth Town Council specifically to require development to achieve a net biodiversity gain would be contrary to Policy NE3.

36. Circular 06/2005 stresses the need for a clear understanding of the impact on protected species is understood as part of the decision-making process. Circular 06/2005 states:

It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.

37. The absolute requirement for the assessment to be submitted before determination conflicts with Circular 06/2005. I therefore consider that the Policy as written would not meet the Basic Conditions. I therefore recommend modifications which supports the submission of surveys unless exceptional circumstances are identified.
38. Policy 2 of the Neighbourhood Plan identifies that surveys should include adequate mitigation measures where a harmful or negative impact has been identified and be submitted at the application stage. Policy NE3 of the WDLP seeks to ensure mitigation measures must be identified where the criteria in that Policy are not met. It refers to the Warwickshire, Coventry & Solihull Sub-Regional Green Infrastructure Strategy Biodiversity offsetting. This confirms that where biodiversity offsetting is required, it will have been secured as a way forward within the planning process through a legal agreement as part of the approval notice. Mitigation measures may be secured through appropriate planning conditions and not necessarily at the planning application stage. I therefore recommend modifications which ensure the policy aligns with Policy NE3 of the WDLP.

39. The Policies are not rigid, nor inflexible, and do allow for consideration of other planning matters using the term ‘*where possible*’. For clarity and consistency, I make recommended modifications to use the term ‘*where appropriate*’ in paragraph 6.2.2. and to retain it in paragraph 6.2.4.
40. I recommend modifications which ensure there is clarity and unambiguity between Policy 2 and the NPPF, Policies NE2 and NE3 of the WDLP, and Circular 06/2005. I am satisfied that, subject to the adoption of the various recommended modifications, set out below, Policy 2 will meet the Basic Conditions.
41. ***Recommended modifications:***
- (1) In paragraph 6.2.1. delete ‘and in all cases’ and add ‘unless exceptional circumstances are demonstrated’ after prior to determination. Delete the second sentence of paragraph 6.2.1.
 - (2) In paragraph 6.2.2. amend ‘where possible’ to ‘where appropriate’.
 - (3) Insert paragraph 6.2.4 after 6.2.1.
 - (4) Add as final paragraph of Policy 2 ‘Where there is a no net gain, net loss or negative impact upon biodiversity, detailed and adequate mitigation measures must be identified as required by policy NE3 of the Warwick District Local Plan.’

Policy 3 – Public Rights of Way

42. Policy 3 seeks to preserve and enhance the existing footpath network. Developments that adversely affects footpaths or the amenity of users of these footpaths will not be supported. Where appropriate, further footpaths should be incorporated into new developments and demonstrate how the scheme connects with the existing network. Care should be taken to ensure that where public rights of way are part of a development then access is maintained, they are visible and signposted and where not public are recognised as permissive rights of way.
43. Regulation 16 Representations on behalf of IM Land state that the Policy wording is restrictive and out of step with national planning policy. It highlights that the NPPF planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users. The

Representation argues that the NPPF envisages greater flexibility and scope for benefits to be delivered, even where an existing footpath is impacted or partially diverted. The Policy should be positively worded to support opportunities for enhancement and or allow for suitable mitigation measures to not unduly restrict sustainable development.

44. Mr Mark Nettleton supports cycle ways connecting the village, connecting people to places that they want to go including safe routes between Burton Green Primary School and Tile Hill Railway Station.
45. Regulation 16 Representations by Kenilworth Town Council encourages developers to actively improve rights of way so that the ‘*right*’ is equally enjoyed by all.
46. Policy 3 seeks to ensure developments will preserve and enhance public footpaths and seeks to ensure that the amenity that users gain from the footpaths is not diminished. Therefore, it aligns with the NPPF where planning policies should protect and enhance public rights of way and access, including opportunities to provide better facilities for users. The Policy also aligns with the NPPF which requires policies to provide safe and accessible green infrastructure because of the benefits it brings for local health and wellbeing. This is consistent with Policy HS1 of the WDLP – Healthy Safe and Inclusive Communities.
47. However, the Policy should be positively worded and be clear and unambiguous to meet Basic Conditions.
48. ***Recommended Modifications***
Amend second sentence of paragraph 6.3.1 to read ‘Development proposals that will enhance or extend an existing public footpath or maintain and enhance the amenity value of these footpaths will be supported.’

Policy 4 - Local Green Spaces

49. The NPPF at paragraph 100 sets out the circumstances in which it is appropriate to designate a Local Green Space. The Local Green Space designation should only be used where the green space is:

- a) in reasonably close proximity to the community it serves;
 - b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
 - c) local in character and is not an extensive tract of land.
50. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. The NPPF is clear that policies for Local Green Spaces should be consistent with those for Green Belt. I am satisfied that the Policy is clear and that it is consistent with NPPF. However, for clarity and to avoid ambiguity, I recommended modifications to include the list of designated Local Green Spaces within the Policy rather than in the supporting text. Additionally, the map of the sites should be at a scale where the full extent of the boundaries of the Local Green Spaces is unambiguous. For this reason, I recommend that the Neighbourhood Plan includes a larger scale map.
51. Turning to the sites, in principle the Local Green Space designation can only apply to sites that currently meet the requirements of paragraph 100 of the NPPF. For this reason, the designation of the following are not currently spaces that are of special importance to the community, but potentially could or are likely to be in the future, namely –
- a. LGS1 – the ‘*new*’ Village Green,
 - b. LGS2 – Burrow Hill Park Playing Field,
 - c. LGS4 – The top of the ‘*Cut and Cover Tunnel*’ on Cromwell Lane,
 - d. LGS6 – land between new village hall and HS2. and
 - e. LGS7 - The new tree plantations.

Therefore, their designation as a Local Green Space at the planned but not complete stage, would be contrary to the NPPF. Planned or incomplete designation of Local Green Spaces do not meet the Basic Conditions.

52. Further, LGS3 – Red Lion Playing Field, and LGS5 - The Jubilee Verge - are both in close to proximity to the community they serve and are not extensive tracts of land. Red Lion Playing Field is clearly important to the community as a Local Play Space together with its amenity value as a grassed and hedged area supporting wildlife. The Jubilee Verge is clearly important to the local community for both its amenity value as a place for local community activities closely related to the commemoration of the Queen’s Jubilee in 2012. I am satisfied that they will endure for the full plan period and would conform with the principles of sustainable development.
53. For this reason, I am of the view that LGS 3 and LGS 5 satisfy the Basic Conditions.
54. Warwickshire County Council support the protection of open spaces and river corridors but state that the Policy could be developed to mention the benefits of open space as flood risk management and above ground SuDS. Although I am sympathetic to the comments, such an approach would not accord with the principles or rationale for Local Green Spaces as set out in national policy.
55. ***Recommended modification***
- (1) Delete references to LGS1, LGS2, LGS4, LGS6 and LGS7 from the table in paragraph 6.4.4 and Map 5 – Future Local Green Spaces.
 - (2) Insert in Policy 4 – The following two sites are identified as Local Green Spaces as detailed on Map 5
LGS1 – Red Lane Playground
LGS2 – The Jubilee Verge
 - (3) Add a larger scaled map detailing the two Local Green Spaces

Policy 5 – Valued Vistas and Landscapes

56. This policy identifies five broad locations where proposals should ensure that all valued landscapes and important vistas and skylines are maintained and safeguarded particularly where they relate to heritage assets, rising land, village approaches and settlement boundaries.

57. Regulation 16 Representations on behalf of IM Land highlights that the NPPF states that planning policies should contribute to and enhance the natural and local environment by protecting valued landscapes. The protection of important landscape characteristics can contribute to achieving sustainable development. The NPPF is clear that planning policies should be sympathetic to local character and history, including the surrounding built environment and landscape setting and should take into account future changes. However, the NPPF is also clear that evidence must be proportionate and robust. In the context of viewpoints/landscapes the Representations argue this must entail a structured assessment of the relevant landscape character attributes and an understanding of the visual baseline. Views V2, V3 and V5 fail to reflect the significant housing allocation along Westwood Heath Road whilst the Policy seeks to preserve landscapes and viewpoints without any proper regard to the upcoming change. The Representations seek complete deletion of this Policy - alternatively they seek that Policies V2, V3 and V5 should be deleted.
58. Planning policies should protect and enhance valued landscapes and recognise the intrinsic character and beauty of the countryside. Additionally, the NPPF sets that *'neighbourhood plans can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development'*. However, the Policy uses the term *'must'*. The word *'must'* should only be used where the requirements of the Policy are compulsory in all circumstances. Smaller scale development proposals will not necessarily have an impact upon the landscape character. I therefore suggest recommended modifications in order to provide a degree of flexibility.
59. Policy NE4 of the WDLP ensures proposals demonstrate that it has considered its landscape context, including local distinctiveness of the different natural and historic landscapes and avoids detrimental effects on features which make a significant contribution to the character, history and setting of a settlement or area. Policy 5 is therefore, in principle, in general conformity with the WDLP and complementary in identifying what is important locally and distinctive to Burton Green.
60. It is clear from the Evidence Reasoning Document and the Neighbourhood Plan itself that the location, rural setting, and views are clearly important to the local community

expressed through the consultation events. The Evidence Reasoning Document recognises that development proposals at Westwood Heath (the WDLP - H42) will affect View 5 and the vista from footpath W168 . Additionally, HS2, in the view of the Parish Council, will significantly curtail views from V2 from the Greenway. Regulation 16 Representations by Crest Nicholson Midlands also identify the impact that the Westwood Heath housing development will have upon View V2 and this should be recognised in Table 1. IM Land in their representation also identify the significant impact planned development will have upon V2, V3 and V5.

61. The Plan includes a description of the Views and Vistas together with Appendix 3 which includes similar descriptions and photographs. The supporting text and the background evidence are very limited in terms of a Landscape Character Assessment and there is a paucity of available evidence to demonstrate the extent to which these views are distinctive, special to the community, or indeed exceptional. For this reason, I do not consider that the requirement within the Policy to maintain and safeguard vistas and skylines is satisfactorily or proportionately evidenced. Further, it is not positively planned in that it has the potential to preclude allocated and planned development.
62. V3 and V5 identified as valued landscapes on Map 6 are in close proximity to the WDLP housing allocation H42 for 425 dwellings and associated community and retail development. There is a direct conflict between the WDLP housing allocation for sustainable housing growth and a policy which seeks to maintain and safeguard vistas and skylines from V3 and V5. Such vistas and skyline will undoubtedly be directly impacted by existing allocated sites in the WDLP. This is partially acknowledged in the evidence to the Neighbourhood Plan which recognises that the vistas and skylines are to some extent already compromised by development proposals including housing developments. Similarly, existing vistas and skylines cannot be successfully achieved due to the construction of HS2. I am not satisfied that the Policy as currently worded complies with the Basic Conditions on the basis that it is not in general conformity with the WDLP, it is not supported by up-to-date analysis which includes the impact of planned development, and is not positively prepared.
63. ***Recommended modifications***
 - (1) In para 6.5.1 delete 'must' and insert 'should'.

- (2) Delete V2, V3 and V5 from Map 6 and Table 1 and renumber V4 to V2.
- (3) Amend viewpoint description of existing V4 (V2) to 'Greenway looking south west.
- (4) Amend title of Map 6 to 'Vistas and Skylines'.
- (5) In para 6.5.2 delete 'ensure that all valued landscapes' and insert with 'respect and not adversely impact important vistas and skylines'.
- (6) Delete 'and important vistas and skylines are maintained and safeguarded'.

STRATEGIC OBJECTIVE 3 - THE BUILT ENVIRONMENT

Policy 1 – Burton Green Development Boundary

64. This Policy seeks to include three areas of land within a 'Development Boundary'. These areas of land include dwellings and their curtilages along Red Lane; land at Broadwell Woods Park, and land associated with the converted Water Tower adjacent to Long Meadow Farm, Hob Lane. The Policy confirms that land outside the Development Boundary will be subject to national Green Belt policy. The Policy also confirms that land within the Development Boundary includes land designated as Local Green Space. The Policy supports dwellings outside the WDLP Growth Village Envelope referring to Neighbourhood Plan policies for Business, Tourism and Housing.
65. Regulation 16 Representations include support from Crest Nicholson Midlands to include the proposed Westwood Heath housing development within the Development boundary.
66. Warwickshire County Council supports the use of the Development Boundaries, where possible it would not encourage development in these area as picked up in Policy 4 – Local Green Spaces
67. Mr Roger Taylor draws attention to Map 7 which identifies the Village Development Boundary. The existing GVE is clearly incorrect when compared to the Warwick District Local Plan Policies Map for Burton Green. The area shaded blue on the map should extend to include some of the garden of New Farm, Red Lane. New Farm is the only residential property in Red Lane that has not been included in the Village Development Boundary addition shown in Map 8.

68. Mr and Mrs Davies also argue that additional land at Red Lane should be included within the Development Boundary given the extent of existing and planned development which has and will change the character of the northern part of Red Lane resulting in land that is physically and functionally part of the village and would be consistent with strategic objective 3 of the Neighbourhood Plan.
69. Policy H1 - Directing New Housing of the WDLP states that housing development will be permitted within the housing site at Westwood Heath (H42) as shown on the Policies map and within the boundaries of the Growth Villages again shown on the Policies Maps. Housing development on garden land, in urban and rural area, will not be permitted unless the development reinforces, or harmonises with the established character of the street and/or locality. The Policy also refers to other criteria for development in the open countryside and elsewhere in the countryside.
70. Policy H11 - Limited Village Infill Housing Development in the Green Belt allows very small development within the settlement boundaries where sites are appropriately located along street frontages and where the development does not have a harmful impact on the integrity and character of the village.
71. The land identified yellow on 'Map 8 – Village Development Boundary addition' includes land which is entirely within the Green Belt. The NPPF is clear, once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified. Strategic policies should establish a need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term so they can endure beyond the plan period. No such strategic policies are advanced which establish a need for any changes to the Green Belt in this location.
72. However, I imply from the inclusion of paragraph 7.1.2. of the Policy, which states that land outside the Development Boundary is in Green Belt, together with the provisions contained in paragraph 7.1.3., that the Neighbourhood Plan, through the designation of a Village Development Boundary, is seeking to 'inset' land within the Development Boundary. In effect, it is removed from the Green Belt Policy. This would facilitate support for development opportunities identified elsewhere in the Neighbourhood Plan,

and specifically in relation to Business, Tourism and Housing that might not normally comply with national Green Belt Policy or the WDLP.

73. The Neighbourhood Plan does not advance any strategic policies which establish a need for a change to the Green Belt boundary nor any exceptional circumstances. The Green Belt will continue to impinge upon areas within the newly identified development boundary.
74. Development in the Green Belt will only be supported within the exceptions set out in paragraph 145 of the NPPF. It states that construction of new buildings is inappropriate in the Green Belt whilst detailing exceptions which include limited infill in villages. Policy DS18 of the WDLP confirms that national policies apply to sites within the Green Belt and Policy H11 Limited Village Infill Housing Development In The Green Belt confirms the approach to housing in the Green Belt.
75. There is much uncertainty and lack of clarity as to the purpose and intent of the Policy. It is unevidenced as to how the development boundaries have been identified, particularly as they are isolated areas within the Green Belt and separate from the Growth Village Development Envelope, and its housing allocations identified in the WDLP. Additionally, it could be implied that paragraph 7.1.3. permits development which could be contrary to national Green Belt Policy and lead to unsustainable forms of development. Paragraph 7.1.2. is a duplication of both national and Policy DS18 of the WDLP. I therefore consider that the Policy does not meet the Basic Conditions. I have considered how I may make recommended modifications to the Policy to ensure that it meets the Basic Conditions. However, in any event, the principle of a separate identified area in the Green Belt, where Green Belt policy would not apply, and which is not justified or evidenced, does not meet the Basic Conditions, and would conflict with national policy.
76. ***Recommended modifications***
Delete in its entirety Built Environment Policy 1, paragraph 7.1.4., para 7.1.5 and Map 8.

Policy 2 – New Dwellings in Development Boundary

77. The Policy seeks to support new dwellings in the Development Boundary subject to other Policies in the Neighbourhood Plan.
78. As discussed in Policy 1 above, it is not advanced through the Neighbourhood Plan that there are any strategic policies which establish a need for a change to the Green Belt boundary, nor are any exceptional circumstances demonstrated. Therefore, land within the Green Belt, regardless of its position in or out of a Development Boundary, will be subject to national policy which supports limited infill in villages or limited infilling or the partial or complete redevelopment of previously development land. The proviso is that such development does not have a greater impact on the openness of the Green Belt than the existing development or not cause substantial harm to the openness of the Green Belt. This approach to development aligns with Strategic Policy DS3 – Supporting Sustainable Communities and Policy H11 Limited Village Infill Housing Development In The Green Belt of the WDLP.
79. Warwickshire County Council comments that Flood Risk Assessment must be submitted for major planning applications. To meet the Basic Conditions, the inclusion of this statement is not required.
80. I have considered how I may make recommended modifications to the Policy to ensure that it meets the Basic Conditions. However, without any justification for a departure from national and local policy I would simply be unnecessarily rehearsing existing policy.
81. ***Recommended modifications –***
Delete Policy 2 – New Dwellings in Development Boundary, paragraph 7.2.2., 7.2.3., together with Maps 7 and 8.

Policy 3 – Responding to Local Character

82. Policy 3 seeks to ensure that all new development should have regard to local character, and should have sympathetic regard to their immediate setting and to the character of that part of the village. Careful consideration should be given to the impact on built heritage by demonstrating how proposals will protect heritage assets within the village

and respect local character and the surrounding natural environment by, where appropriate, providing details of boundary treatments and landscaping.

83. Chapter 12 of the NPPF confirms that good design is a key aspect of sustainable development, creates better places in which to live and work and helps makes developments acceptable to communities. Plans should set out a clear design vision and expectations so that applicants have as much certainty as possible about what is likely to be acceptable. Additionally, the NPPF (paragraph 170) is clear that planning policies should contribute to and enhance the natural and local environment. Chapter 16 states that when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Policy HE1 of the WDLP sets out a series of safeguarding criteria in assessing development of a designated heritage asset.
84. Regulation 16 Representations by Historic England comment that the Neighbourhood Plan takes a suitably proportionate approach to the main historic environment issues and commend commitment to support well designed locally distinctive development that is sympathetic to the character of the area including its rural landscape character, heritage assets and green spaces.
85. In its Regulation 16 Representation Crest Nicholson Midlands state that the Policy should have regard to Policy HE1 of the WDLP and the NPPF where the substantial harm or less than substantial harm on a heritage asset might still be appropriate. It seeks to introduce a qualification to the Policy where the adverse impact on the significance of a heritage asset or its setting can be justified.
86. In this regard, the NPPF states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Where a proposed development will lead to substantial harm, consent should be refused unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. For non-designated heritage assets, a balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset. The proposal recommended by Crest

Nicholson Midlands does not align with the criteria set out in the NPPF and would lead to a lack of clarity and ambiguity with Policy HE1 of the WDLP.

87. Regulation 16 Representations made by IM Land seeks to amend the Policy so that boundary treatments and landscaping may not be required at application stage, but can be secured via condition. Policy 3 states that ‘where appropriate providing details of boundary treatments and landscaping’. I am satisfied that the Policy is positively prepared, clearly written, and unambiguous, and provides a degree of flexibility. It has regard to national policies and contributes to the achievement of sustainable development.
88. The Policy reflects the communities’ ambition to ensure development takes account of the essential nature of Burton Green and will support sustainable development consistent with national policy and the WDLP. I am satisfied it meets the Basic Conditions

Policy 4 – Community Aspects of Development and Design

89. Policy 4 sets out three policy areas. First, development proposals will be expected to demonstrate how the design has been influenced by the need to plan positively to reduce crime and the fear of crime. Secondly, new development will be expected to maintain the open aspects of roads and grass verges, consider the use of innovative and sustainable architectural approaches which are energy efficient, use carbon neutral forms of construction, and complement the character of the immediate surrounding area as defined in Policy 7.3 – responding to local character. Finally, grass verges, where they currently exist, should not be removed to provide parking bays.
90. National policy seeks to create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
91. Policy BE1 Layout and Design of the WDLP states new development should positively contribute to the character and quality of its environment through good layout and

design. It sets out a series of criteria against which development proposals are assessed which includes the provision of design and layout to reduce crime and fear of crime.

92. Policy CS7 of the WDLP also seeks to ensure the layout and design of development will minimise the potential for crime and anti-social behaviour.
93. Regulation 16 Representations made by Warwickshire Police seek to include Secured by Design Principles within the Vision, Strategic Objective 3, and Policy 4. In terms of Policy 4 the Representations seek to ensure proposals are planned positively to reduce crime and the fear of crime. It is argued this should be done through adopting Secured by Design guidance and the advice contained within Warwick District Council's Residential Design Guide (May 2018). Where necessary, infrastructure for emergency services should also be included within the proposed schemes.
94. Policy 4 at 7.4.1. predominantly rehearses national and local plan policies adding an emphasis to plan positively to reduce crime and the fear of crime. The addition of the phrase '*and how this will be achieved*' is somewhat ambiguous in policy terms and does not provide the clarity of advice needed for decisions makers in reaching decisions on development proposals. The Representations from Warwickshire Police seek to add additional information on reducing crime and the fear of crime through the planning system. Such additions are not necessary for the Policy to comply with the Basic Conditions, and are therefore beyond my remit. However, I have made recommended modifications which add references to the appropriate documents and policies.
95. Neighbourhood Plan Policy 4 at 7.4.2.(a) specifies that all new developments will be expected to maintain the open aspects of roads and grass verges. Additionally, Neighbourhood Plan Policy 4 at 7.4.3. states that grass verges should not be removed to provide parking bays. I have reviewed the evidence submitted with the Neighbourhood Plan and I see no reference or assessment to the importance of roads and grass verges in Burton Green, nor does the community consultation identify this as a key issue to address through the Neighbourhood Plan. The Neighbourhood Plan evidence does not benefit from a village or landscape character assessment which identifies the critical requirement to maintain roads and grass verges as required by this part of the Policy. I consider that Policy 4 at 7.4.2.(a) and Policy 4 at 7.4.3. are

inflexible and unevidenced. I am satisfied that any issue regarding the importance of grass verges can be appropriately addressed in responding to local character in Policy 3 above.

96. Policy CC1 Planning for Climate Change Adaption of the WDLP requires all development to be designed to be resilient to, and adapt to the future impact of climate change including using construction techniques and materials to mitigate against rising temperatures. Additionally, Policy HS1 Healthy, Safe and Inclusive Communities states support is given to proposals that provide energy efficient housing to reduce fuel poverty. Neighbourhood Plan Policy 7.4.2. 'b' provides a positive approach supporting the implementation of policy CC1 of the WDLP.
97. I consider that Neighbourhood Plan Policy 7.4.2.(c) simply rehearses Policy 7.3. The Neighbourhood Plan is to be read as a whole, and there is no requirement to repeat the earlier Neighbourhood Plan Policies.
98. ***Recommended Modifications:***
- (1) Amend Title of Policy to 'Design'.
 - (2) Delete 'and how this will be achieved' in para 7.4.1.
 - (3) Delete Policy 4 7.4.2.(a) and (c) and subsisting (b) for (a).
 - (4) Delete Policy 4 7.4.3.
 - (5) Include Secured by Design guidance Warwick District Council's Residential Design Guide (May 2018) in list of references and the WDLP policy CS7.

Policy 5 – Sustaining Local Facilities

99. The Policy states that the loss of community facilities will not be supported unless the facility is no longer viable or no longer in active use, and has little prospect of being brought back into another community use. The Policy also states that redevelopment of village facilities, or their change of use, will only be supported if they will enhance and improve the facility, provide an alternative, or if it is surplus to current or future requirements.

100. The principle of the Policy aligns with paragraph 20 of the NPPF which provides that strategic policies should set out the overall strategy for the pattern, scale, and quality of community facilities.
101. The NPPF at paragraph 83(d) states policies should enable the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses, and places of worship. Clearly, community facilities play an important role in maintaining a strong and vibrant community
102. This is reinforced by paragraphs 91 and 92 of the NPPF which support active, healthy, inclusive communities, and plan positively for the provision and use of community facilities.
103. Paragraph 122 also states that plans should make efficient use of land taking into account local market conditions and viability.
104. The principle of the Policy aligns with Policy HS8 Protecting Community Facilities of the WDLP. The explanatory text to this policy (paragraph 5.96) includes a list of examples of community facilities including uses within Class D1 – non-residential institutions as well as local cultural facilities, local convenience stores and public houses.
105. The principle of the Policy also aligns with Policy HS2 – Protecting Open Space, Sport and Recreation Facilities of the WDLP which states development on open spaces and sport and recreation facilities will not be permitted unless an alternative can be provided or there is a robust assessment demonstrating a lack of need for the asset currently or in the future.
106. The Policy includes two separate terms: Community Facilities and Village Facilities. However, when making an assessment of which part of the Policy an existing use will be considered is unclear and ambiguous. Indeed, the list of Village Facilities in Table 2 appears to confuse the matter further by including both community facilities as

defined in Policy CS8 of the WDLP together with play spaces, verges, allotments, sports grounds, and the Greenway.

107. For the purposes of clarity, the Policy should distinguish between Community Facilities that support Policy HS8 of the WDLP, and those uses which separately lie within the category of Open Space, sports and recreation facilities reflecting Policy HS2 of the WDLP. This can be partly achieved by separating Table 1 into (a) Community Facilities and (b) Village Facilities - Open Space, Sport and Recreation Facilities. I make recommended modifications accordingly.
108. Policy HS8 of the WDLP provides a criterion-based assessment against which redevelopment or change of use of community facilities will be permitted. The Neighbourhood Plan policy seeks additionally to ensure the facility is no longer viable. To satisfy the Basic Conditions the Policy must be supported by proportionate, robust, and up-to-date evidence. Planning policies should also be clear and precise. To ensure alignment with Policy HS8, the supporting text should identify that HS8 of the WDLP sets out criteria and supporting text which sets out the evidence required to assess the development against this policy.
109. Policy HS2 of the WDLP states that ‘Development on open spaces for sport and recreation purposes will be permitted subject to the proposal being of sufficient benefit to clearly outweigh the loss’. Policy 5 at 7.5.2. to a large extent duplicates the assessment approach set out in HS2. HS2 provides a clearer and unambiguous definition of what is meant by ‘equivalent alternative’ and the assessment necessary to demonstrate a lack of need for the asset currently or in the future. For this reason, I make modifications to avoid duplication of policy HS2 of the WDLP.
110. ***Recommended modification:***
 - (1) Separate Table 2 into two listings - Community Facilities identified in paragraph 5.96 of the WDLP as Table 2(a), and separately listing those uses that are open spaces, leisure gardens, allotments, sportsground, and the Greenway as Village Facilities within a Table 2(b).
 - (2) Add at 7.4.4. – Table 2(a) identifies the list of current and proposed Community Facilities within the Neighbourhood Plan Area. Policy HS8 of the Warwick

District Local Plan, and its supporting text, provides details of the necessary evidence that will need to be submitted with an application for redevelopment or change of use of community facilities.

- (3) At 7.5.2. add after ‘village facilities’, ‘as listed in Table 2(b)’. Delete ‘only’. After ‘equivalent alternative’ add ‘as set out in Warwick Local Plan Policy HS2.’

Policy 6 – Sustaining and Developing Business and Tourism

111. Policy 6 seeks to support the expansion of existing employment sites where it is demonstrated that the existing site is not viable in meeting the future needs of the business. Proposals for change of use of existing employment sites would need to demonstrate that the site has been actively marketed for 12 months and there is clear evidence that the site is no longer viable as an employment site. Proposals for small scale business development will be supported subject to a number of safeguarding criteria
112. Regulation 16 Representations made by Warwickshire County Council suggest encouraging new developments to open up any existing culverts on a site so as to provide more open space/green infrastructure for greater amenity and biodiversity. The creation of new culverts should be kept to a minimum. The suggested amendment by Warwickshire County Council is not required to meet the Basic Conditions test and therefore it is beyond my remit to recommend modifications so that the Policy includes additional issues.
113. National Policy requires planning policies to set out a clear economic vision which positively and proactively encourages sustainable economic growth having regard to local policies for economic development and regeneration. Importantly, policies should be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices and to enable a rapid response to changes in economic circumstances.
114. To support the rural economy, planning policies should enable sustainable growth and expansion of all types of business in rural areas.

115. However, it must also be recognised that those areas outside the Growth Village Envelope for Burton Green fall within the Green Belt where development is normally inappropriate. Paragraph 145 of the NPPF sets out exceptions to inappropriate development. They include:
- (c) *the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
 - (d) *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
 - (g) *limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*
 - *not have a greater impact on the openness of the Green Belt than the existing development; or*
 - *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*
116. Policy EC1 of the WDLP - Directing new employment development states new employment development will be permitted in the rural areas subject to safeguarding conditions which promote sustainable development in growth villages such as Burton Green. The Policy supports the sustainable growth and expansion of existing rural business and enterprise including criteria that ensure development proposals in the Green Belt are determined in line with national policy.
117. In planning terms, Policy 6 at paragraph 7.6.1 places an unreasonable test on the existing employment site and would not be consistent with national policy, the Local Plan nor sustainable development. Employment sites, particularly within the Growth Village Envelope should be supported in accordance with Policy EC1 of the WDLP. Therefore, this part of the policy does not meet the Basic Conditions and I make recommended modifications accordingly.
118. In order to provide a clear framework for decision makers the Policy should be unambiguous as to how it addresses change of use between employment use categories. The Policy as currently drafted would seem to preclude a planning permission for alternative employment uses, contrary to the Framework and Local Plan policies.

119. National policy is clear that land allocations should be reviewed regularly. Where there is no reasonable prospect of a site being used for employment purposes, applications for alternative uses should be considered on their merits. Paragraph 3.38 of the WDLP states

‘In order to demonstrate that employment land/buildings are no longer suitable for employment use, the applicant will be expected to provide evidence that the site has been actively marketed for a period of two years at a level consistent with current local market conditions. This evidence should include whether the size and quality of space provided matches local demand, current market conditions and expected future market trends’.

I recommend modifications which ensure there is clarity and unambiguity between the two Policies.

120. To satisfy the Basic Conditions the Policy must be supported by proportionate, robust, and up to date evidence. Planning policies should also be clear and precise. I have no evidence before me which demonstrates the justification for departing from Policy EC1 of the WDLP policy and a consequent reduction to a marketing period to 12 months. Modifications to the Policy are therefore recommended for the purposes of clarity and to avoid ambiguity.
121. Policy 6 7.6.3. sets out criteria against which proposals for new small-scale business development will be assessed. In order to provide a clear framework for decision makers the Policy should be unambiguous. I make recommended modifications which ensure clarity between the policy and Policy BE3 – Amenity of the WDLP.
122. ***Recommended modification:***
- (1) Delete Policy 6 - 7.6.1.
 - (2) Amend Policy 6 - 7.6.2. ‘Proposals for change of use of existing employment sites’ to read ‘The redevelopment or change of use of existing employment land for other uses’ and amend ‘12 months’ to ‘24 months’.
 - (3) Substitute 7.6.3.(a) as follows - ‘The proposal does not have an unacceptable adverse impact on the amenity of nearby uses and residents’

Policy 7 – Sustaining and Developing Village Retail and Service Outlets

123. The Policy supports the development of farm shops, retail outlets in housing developments, tourism premises and other rural enterprises where they enhance the viability or expansion of existing local businesses subject to no adverse impact on community infrastructure and conforms to national Green Belt policy if the development is outside the Village Development Boundary.
124. Regulation 16 Representations by Crest Nicholson Midlands support the Policy to encourage the provision of retail outlets in new housing developments.
125. Policy TC18 Farm shops of the WDLP supports the development of new farm shops and the extension of existing farm shops subject to safeguarding criteria. The WDLP policy seeks to ensure that the development would not have an adverse impact upon existing rural shops.
126. Policy TC17 Local Shopping Facilities of the WDLP states that in rural locations the development or expansion of existing shops and local services within settlements will be permitted where these meet local retail or service needs.
127. Policy CT1 Directing New Meeting Places, Tourism, Leisure, Cultural and Sports Development of the WDLP sets out a sequential approach to the location of these uses. New tourism, leisure and cultural development will be permitted where it can be demonstrated that there are no sequentially preferable sites, the site is easily accessible using sustainable forms of transport and the facility is of a type and scale that will mean it primary services a local community who can access it by means other than a car.
128. In contrast, Policy 7 of the Neighbourhood Plan seeks to assess the appropriateness of a farm shops, retail, and tourism premises where it enhances its viability or is an expansion of an existing business and there is no adverse impact on community infrastructure and facilities. Planning policies should be clear and precise. I have no evidence before me which demonstrates the justification for departing from the WDLP policy. I recommend modifications which ensure there is clarity and unambiguity between the two policies.

129. The term ‘community infrastructure’ is not defined, and is therefore ambiguous. There is no evidence before me which suggests I should depart from the comprehensive Local Plan Policies. The Policy in its current form could have unforeseen consequences by supporting development in unsustainable locations. Therefore, I make recommended modifications to the policy to ensure clarity between the Neighbourhood Plan Policy and the WDLP Policy TC18, TC17 and CT1.
130. To align with my earlier recommendations relating to the Village Development boundary, the reference should be removed for consistency.
131. ***Recommended modification:***
- (1) Delete ‘where they enhance the viability and/or expansion of existing local business providing there is no adverse impact on community infrastructure and facilities’ and add ‘where it is in accordance with Policies TC17, TC18 and CT1 of the Warwick Local Plan’.
 - (2) Delete ‘if development is outside the village development boundary’.

Policy 8 – Sustaining and Development Private Transport

132. The Policy seeks to secure electric vehicle charging points at all new dwellings. Charging points outside community facilities show in Community Project 3 will be supported.
133. Mr Mark Nettleton comments that sustaining Private Transport should not be a policy objective as it is in conflict with Transport Strategies of the County Council and TfWM for schemes like Mobility as a Service. He suggests the title of this Policy should be modified so as to refer specifically to electric vehicle charging.
134. In Regulation 16 Representations Crest Nicholson Midland highlight that the Council’s Air Quality SPD 2019 seeks one charging point per unit (dwelling with dedicated parking) or one charging point per 10 spaces (unallocated parking) for residential development and provision for 10% parking spaces for commercial/retail units. The Representation seeks to include ‘with a dedicated off street car parking space within the site boundary of the building’.

135. Regulation 16 Representations by IM Land consider that the Policy should reflect the wording of WDLP policy TR1 (d) which includes the term ‘where practicable’ for the provision of charging plug in facilities.
136. National Policy states that local parking standards should take into account the need to ensure an adequate provision of spaces for charging plug in and other ultra-low emission vehicles. Similarly, Policy TR1 Access and Choice of the WDLP states that development proposals will be expected to demonstrate that they, where practical, incorporate facilities for charging plug-in and other ultra-low emission vehicles where the development proposals include provision for off street parking and is for one or more dwelling. WDC’s Parking Standards SPD seeks to secure one charging point per unit (house with dedicated parking) and 1 charging point per one space (unallocated parking).
137. The Policy, whilst using the term ‘should be provided’, in part seeks to rehearse and duplicate Policy TR1 Community Projects of the WDLP which adds a distinctive and specific level of detail and can be supported. Additionally, to align with policy TR1(d) and the Councils Parking SPD the term, ‘*where practicable*’, should be included. For clarity, the Policy should refer to the Council’s Parking SPD and the title of the Policy should more appropriately reflect the intent of the policy.
138. As discussed in the introduction to this Report, the Community Projects do not form part of the Development Plan. As such the reference to Community Project 3 in Policy 8 should be deleted.
139. ***Recommended modifications:***
- (1) Amend policy title to ‘Electric Charging Points’.
 - (2) Add ‘where practicable’ after ‘should be provided’.
 - (3) Add ‘in accordance with the Warwick District Council Parking Standards’
 - (4) Delete ‘shown in Community Project 3’.

Policy 9 – Parking Provision

140. Policy 9 ensures the provision of parking spaces in accordance with WDC's Supplementary Parking Standards. Garages dimensions are suggested to be 5.5m in length and 3.5m wide, and where they are integral to the building they do not class as a parking space. Car parking should be in the grounds of the property, or in a nearby assigned parking areas or garage block assigned to the property.

141. Regulation 16 Representations made by Crest Nicholson Midlands state that the planning permission for Westwood Heath Road and its Design Code is informed by parking standards that predate the Council's 2018 SPD. The planning permission requires the development to be in accordance with the Design Code unless otherwise agreed in writing with the District Council. The Representations seek to include an exemption to support alternative parking standards where they are agreed through a Design Code.

142. Policy TR3 Parking of the WDLP states that development will be expected to comply with the parking standards set out in the most recent Parking Supplementary Planning Document. This SPD was adopted by WDC in June 2018 after the adoption of the Local Plan. This provides the most up to date guidance for the district. The Neighbourhood Plan need not duplicate nor rehearse the WDLP policy. Where it departs from the adopted SPD, appropriate evidence is required to demonstrate the reasonableness and rationale for the amended approach. Although Crest Nicholson Midlands has an agreed Design Code which predates the SPD, the Council's own policy does not provide for such an exemption. For consistency with the WDC's Policy TR3, I do not make any recommended modifications on this issue.

143. The WDC Parking Standards SPD confirms that garages should be considered in addition to the parking standards and should not usually form part of the allocated parking provision. The SPD also confirms that it is recommended that garages should be designed to be capable of accommodating a parked car and other general storage commonly accommodated within garages. The diagram on page 13 of the SPD provides an illustrated width of 4m wide by 6.5m length for garages. The SPD also includes a detailed assessment of allocated parking provision which includes on plot, off street frontage parking and unallocated parking provision.

144. The Neighbourhood Plan Policy in some respects provides a different and more limited approach to that adopted in the Parking SPD. The Neighbourhood Plan only excludes integral garages, rather than all garages, from contributing to the WDC parking standards allocation requirements. Additionally, the suggested dimensions of any garage, (although internal measurements), appear to be smaller than the garage size illustrated in the WDC Parking Standards SPD. Further, the Neighbourhood Plan policy seeks to limit consideration of parking allocations to within the plot, an assigned parking area or garage block. I have no evidence before me which provides a rationale for the more limited approach to parking allocation nor a rationale for a smaller size of garage than required by the SPD. I propose recommended modifications which ensure broad consistent with the WCD Parking Standards SPD.

145. ***Recommended modifications:***

Amend policy to read ‘All new dwellings shall ensure the provision of parking spaces in accordance with the latest WDC Parking Standards including;

- i) Garages have a dimension of at least 4m wide by 6.5m long,
- ii) Garages will not contribute to the parking allocation requirement, and
- iii) Design of allocated parking provision considers on plot, off street frontage parking and unallocated parking solutions.

Policy 10 – Use of Renewable Energy

146. Policy 10 includes criteria to assess how development proposals should contribute to addressing climate change and providing appropriate adaptation measures.

147. Regulation 16 Representations by Crest Nicholson Midlands support this Policy.

148. Representations by IM Land seek an amendment to reflect locally sourced building materials may not be feasible in certain circumstances, may not be necessary and there are other options of supporting the transition to a low carbon future.

149. Regulation 16 Representations by Kenilworth Town Council considers the Policy to be negatively worded with respect to solar energy and heat pumps provided they minimise harm to the appearance of buildings, and so forth. Additionally, given the report singles

out grey water harvesting and SuDs for mention, it could state support for Passivhaus+ or equivalent (near) zero homes.

150. Regulation 16 Representations by Warwickshire County Council seek to strengthen the policy to say all developments will be expected to include sustainable drainage systems instead of where possible.
151. National policy states that new development should be planned for that avoids increased vulnerability to the range of impacts arising from climate change. National policy also states that plans should provide a positive strategy to increase the use and supply of renewable and low carbon energy.
152. Policy CC1 Planning for Climate Change Adaptation of the WDLP provides a comprehensive approach which requires all development to be designed to be resilient to, and adapt to future impact of, climate change through the inclusion of adaptation measures where appropriate. Policy CC1 includes consideration of grey water and rainwater recycling, SuDS, using layout, building orientation, construction techniques and material to mitigate for all developments.
153. Policy CC2 Planning for Renewable Energy and Low Carbon Generation of the WDLP states that proposals for new low carbon and renewable energy and low carbon generation will be supported in principle subject to the list of criteria being demonstrated.
154. Although the principle of supporting climate change mitigation measures within the Neighbourhood Plan is supported, the Policy duplicates and conflicts with the WDLP CC1 contrary to the Basic Conditions. Indeed, it may have unforeseen consequences which supports any development that includes a specified mitigation measure. I make recommended modifications accordingly to ensure that the Policy aligns with, and does not duplicate, the criteria set out in the WDLP seeking to encourage the use of local building materials. It is beyond my remit to include additional elements, such as Passivhaus which have not been submitted by the Neighbourhood Plan body.

155. ***Recommended modifications:***

Amend policy to read: Development should contribute to the achievement of sustainable development by reducing its environmental impact through the adaptation measures identified in Policy CC1 and Policy CC2 of the Warwick District Local Plan. Where appropriate proposals are encouraged to use locally sourced building materials and to minimise any significant harm to the character of the built environment.

Policy 11 – Solar Power

156. The Policy sets out specific criteria where development for ground-mounted solar arrays will be supported where they do not exceed three metres in height, and conforms with Policy 6.5 of the Neighbourhood Plan, and that the surface below the panels is left ‘green’ and capable of restoration to agricultural or horticultural purposes.
157. Mrs Gill Green comments she would like to know the proposed siting of these panels.
158. Mr Mark Nettleton - The loss of agricultural land and the amenity value they contribute would be permanent and detrimental. Unless a facility was associated with a use which benefits the community such as the University or HS2, residents would not benefit and would only lose out. There is no value added to Burton Green by this Policy.
159. National Policy states that the planning system should support renewable and low carbon energy and associated infrastructure. To help increase the use and supply of renewable and low carbon energy and heat, plans should provide a positive strategy for energy from these sources, that maximises the potential for suitable development whilst ensuring the adverse impacts are addressed satisfactorily.
160. Policy CC2 of the WDLP sets out criteria which must be demonstrated to support a proposal for new low carbon and renewable energy technologies. The supporting text identifies that the Council may apply planning conditions to ensure that the land is restored to its previous greenfield use in the event the operation ceases.
161. The NPPF states that policies must be supported by proportionate, robust, and up-to-date evidence. The Neighbourhood Plan Evidence and Reasoning Document states that

there is no community evidence specifically addressing solar power installations whilst noting that some residential dwellings have roof mounted solar panels and Long Meadow is connected to a land based solar power installation. There is no other evidence to explain the evidence or rationale for the requirement contained in the Policy.

162. The Policy, as drafted, provides a rigid and inflexible approach to the assessment of solar power which would be contrary to both national policy and the policies contained within the WDLP. I am not satisfied that it complies with the Basic Conditions and I am unable to make modifications to the policies which would make it acceptable.
163. ***Recommended modification:***
Delete Policy 11.

Policy 12 - Flooding

164. Policy 12 states that development should not increase flood risk. The Policy sets out a series of requirements with which all proposals must comply in order to demonstrate that the proposal is acceptable in terms of impact on flooding. Additionally, all residential development should incorporate water efficiency measures to achieve the enhanced technical standard for water usage under the building regulations.
165. Regulation 16 Representations by IM Land state that mitigation measures would ordinarily be provided as part of a suitably worded planning condition. Additionally, where there is a clear need, Local Planning Authorities can set out local plan policies requiring new dwellings to meet tighter optional requirement. No evidence or justification is provided which show these optional requirements are required in this location.
166. Regulation 16 Representations by Warwickshire County Council seek to strengthen the Policy by stating all developments will be expected to include sustainable drainage systems (not Sustainable Urban Drainage Systems). In the role of the LLFA, it would not accept any development where SuDS are not present in the layout. The Policy may also include comments on the SuDS hierarchy.

167. National policy provides guidance on the approach to be taken when determining applications; local planning authorities should ensure that flood risk is not increase elsewhere. Development should only be allowed in areas of flood risk where it can be demonstrated that it meets a series of criteria set out at paragraph 163 of the framework.
168. Policy FW1 of the WDLP sets out the WDC's approach to reducing flood risk. Policy FW2 of the WDLP states new major development must incorporate SuDS in accordance with the Warwickshire Surface Management Plan. Policy FW3 of the WDLP requires new residential development to meet a water efficiency of 110 litre/person/day.
169. The NPPF states that policies must be supported by proportionate, robust, and rely upon up-to-date evidence. Planning policies should also be concise and precise. I am not satisfied that Policy 12, as written, provides the level of clarity required or that it is supported by appropriate evidence.
170. The NPPF requires appropriate applications to be supported by a site-specific flood risk assessment. The circumstances where a flood risk assessment is required is set out in the NPPF at footnote 50. No evidence is submitted with the Neighbourhood Plan to appropriately identify '*locally available evidence*' where a flood risk assessment may be required beyond that specified in the NPPF. I therefore I recommend modifications to align Policy 12 at 7.12.1. to comply with national policy.
171. Policy 7.12.2. in part duplicates the first sentence of 7.12.1. and the requirement that all proposals should demonstrate that it is appropriately flood resilient and resistant extends beyond the requirement of national policy. The NPPF requires such demonstration in areas of flood risk. No evidence of flood risk has been submitted with the Neighbourhood Plan. I note from the Environment Agency map that an area of Flood Zone 3 extends into the Neighbourhood Plan Area at Whitefield Coppice whilst the remaining Neighbourhood Plan Area lies within the Flood Zone 1. The community feedback confirms that the possibility of flooding has not been raised.

172. In respect of second paragraph of 7.12.2. it is also not clear what information accompanying the applications should be submitted and how this will be assessed as satisfactorily integrating into the design and layout of the development.
173. National Policy states that development in flood risk area should only be allowed where it incorporates sustainable drainage systems. Policy FW2 of the WDLP seeks to ensure all new major developments incorporate SuDS. The Neighbourhood Plan seeks to secure SuDS and permeable surfaces in all instances unless it can be demonstrated to be inappropriate. This would be consistent with the approach taken by Warwickshire County Council as LLFA.
174. Policy CC1 of the WDLP seeks to incorporate water efficiency measures. Additionally, Policy FW3 – Water Efficiency of the WDLP requires new residential development to meet a water efficiency standard of 110 litres per person per day. The supporting text states that the current water efficiency standard of 125 litre per person per day is set in Building Regulations but in an area of higher water stress the higher standard is applicable as set out in the WDLP.
175. Policy 7.12.4. does not specify the enhanced technical standard for water usage and is therefore unclear. I have no evidence submitted as part of the Neighbourhood Plan which suggests the policy should depart in any way from the specifications in Policy FW3 of the WDLP. I therefore suggest the deletion of Policy 12 at paragraph 7.12.4. in order to ensure clarity and to ensure no duplication of Policy FW3 of the WDLP.
176. ***Recommended modification:***
(1) Amend policy to read:
A site-specific flood risk assessment should be provided for development in accordance with national guidance set out in the NPPF and should demonstrate:
- i. that flood risk will not increase elsewhere;
 - ii. the development is appropriately flood resistant and resilient; and
 - iii. where flood risk is increased how mitigating measures will be satisfactorily integrated into the design of the development.

The use of Sustainable Drainage Systems (SuDs) and permeable surfaces should be incorporated in developments in accordance with Policy FW2 of the Warwick District Local Plan.

Appendices

177. Appendix 1 - The Neighbourhood Plan Steering Group constitution is not part of the Development Plan and therefore should be removed and included as a separate annex to the Neighbourhood Plan.

178. Appendix 2 – This is an evidence document informing the preparation of the Neighbourhood Plan, and as such should be separate to the Development Plan. As part of the Neighbourhood Plan, as currently drafted, it would conflict with the recommended modifications for Policy 4 – Local Green Spaces.

179. Similarly, Appendix 3 is an evidence document informing the preparation of the Neighbourhood Plan and as such should be separate to the Development Plan.

PART 4

CONCLUSIONS

1. In principle, I am satisfied that the Policies set out in the draft Neighbourhood Plan are broadly justified by legitimate aims, protection of the environment; amenity of local people; support for the local economy; conservation of landscape and local heritage. I am also satisfied that they do not strike an intrinsically unfair balance. I am further satisfied that the Policies will in general conform with the existing statutory development plan.
2. In essence, therefore, subject to the adoption of the various recommended modifications and amendments, set out above, and made in order to address various perceived deficiencies, I am satisfied that the draft Neighbourhood Plan should thereafter be compliant with the various statutory requirements and proceed to referendum.

Edward F Cousins
Independent Examiner

Radcliffe Chambers
Lincoln's Inn

15th May 2021