

SOUTH WEST KETTERING (HEADLANDS COMMUNITY) NEIGHBOURHOOD PLAN 2019 - 2031

South West Kettering (Headlands Community)
Neighbourhood Plan Examination
A Report to North Northamptonshire Council
(Kettering Area)

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1. Summary

- 1 Subject to the recommendations within this Report, made in respect of enabling the South West Kettering (Headlands Community) Neighbourhood Plan to meet the basic conditions, I confirm that:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

- 2 Taking the above into account, I find that the South West Kettering (Headlands Community) Neighbourhood Plan meets the basic conditions¹ and I recommend to North Northamptonshire Council that, subject to modifications, it should proceed to Referendum.

¹ It is confirmed in Chapter 3 of this Report that the South West Kettering (Headlands Community) Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

2. Introduction

The Neighbourhood Plan

- 3 This Report provides the findings of the examination into the South West Kettering (Headlands Community) Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by South West Kettering (Headlands Community) Neighbourhood Planning Forum on behalf of Kettering Town Council².
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. At Referendum, should more than 50% of votes be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by North Northamptonshire Council.
- 5 The Neighbourhood Plan would then form part of the relevant development plan and as such, it would be used to determine planning applications and guide planning decisions in the South West Kettering (Headlands Community) Neighbourhood Area.
- 6 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can shape, direct and help to deliver sustainable development.”

(Paragraph 29, National Planning Policy Framework)

- 7 As confirmed under “*Introduction*” in paragraph 1.3 on page 2 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Kettering Town Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan.

² Kettering Town Council took over the role of Qualifying Body from South West Kettering (Headlands Community) Neighbourhood Forum following local government reorganisation in April 2021. This followed the requirement under Section 61F (Para 8A) of the Town and Country Planning Act, which requires a neighbourhood forum to cease to have effect if a new Parish Council (or in this case, Town Council) is created. Kettering Town Council was created at the same time as the the new North Northamptonshire unitary authority. The opening paragraphs of the Basic Conditions Statement submitted alongside the Neighbourhood Plan provide further details in this regard.

- 8 Paragraph 1.5 of the Basic Conditions Statement also confirms that the Neighbourhood Plan relates only to the designated South West Kettering (Headlands Community) Neighbourhood Area. There is no other neighbourhood plan in place in the South West Kettering (Headlands Community) Neighbourhood Area.
- 9 The above meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2021) and Planning Practice Guidance (2014).

Role of the Independent Examiner

- 10 I was appointed by North Northamptonshire Council to conduct the examination of the South West Kettering (Headlands Community) Neighbourhood Plan and to provide this Report.
- 11 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the relevant Local Authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 12 I am a chartered town planner and have ten years' direct experience as an Independent Examiner of Neighbourhood Plans and Orders. I also have thirty years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 13 As the Independent Examiner, I must make one of the following recommendations:
 - that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
 - that the Neighbourhood Plan, as modified, should proceed to Referendum;
 - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

- 14 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the South West Kettering (Headlands Community) Neighbourhood Area to which the Plan relates.
- 15 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

Neighbourhood Plan Period

- 16 A neighbourhood plan must specify the period during which it is to have effect.
- 17 The title page of the Neighbourhood Plan refers to the plan period as “*2019 – 2031.*”
- 18 Taking this into account, the Neighbourhood Plan meets the requirement in respect of specifying the period during which it is to have effect.

Public Hearing

- 19 According to the legislation, it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 20 However, it is also the case that *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 21 Further to consideration of the information submitted, I determined not to hold a public hearing as part of the examination of the South West Kettering (Headlands Community) Neighbourhood Plan.
- 22 However, further to consideration of the submission documents, I wrote to the Qualifying Body in respect of matters where further information was sought. At the same time, in line with good practice, the Qualifying Body was provided with an opportunity to respond to representations received during the Submission consultation process.

3. Basic Conditions and Development Plan Status

Basic Conditions

- 23 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “*basic conditions*.” These were *set out in law*³ following the Localism Act 2011.
- 24 Effectively, the basic conditions provide the rock or foundation upon which neighbourhood plans are created. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
- 25 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to above. Of these, the following basic condition, brought into effect on 28th December 2018, applies to neighbourhood plans:
- 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.⁴

³ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

⁴ *ibid* (same as above).

- 26 In examining the Plan, I am also required, as set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act), to check whether the neighbourhood plan:
- has been prepared and submitted for examination by a qualifying body;
 - has been prepared for an area that has been properly designated for such plan preparation (under Section 61G of the Town and Country Planning Act 1990 (as amended));
 - meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one Neighbourhood Area and that:
 - its policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004.
- 27 An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.⁵
- 28 I note that, in line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan and this sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

⁵ The Convention rights has the same meaning as in the Human Rights Act 1998.

European Convention on Human Rights (ECHR) Obligations

- 29 I am satisfied, in the absence of any substantive evidence to the contrary, that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998.
- 30 In the above regard, information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. A Consultation Statement was submitted alongside the Neighbourhood Plan and the role of public consultation in the plan-making process is considered later in this Report.

European Union (EU) Obligations

- 31 In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment. In this regard, national advice states:
- “Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”*
(Planning Practice Guidance⁶)
- 32 This process is often referred to as “screening”⁷. If likely environmental effects are identified, an environmental report must be prepared.
- 33 North Northamptonshire Council produced a Strategic Environmental Assessment Screening Report for the Neighbourhood Plan. This concluded that:
- “...it is unlikely that there will be any significant environmental effects arising from the implementation of the SWKNP and there is therefore no requirement for a full SEA to be undertaken.”*

⁶ Planning Guidance, Paragraph 027, Ref: 11-027-20150209.

⁷ The requirements for a screening assessment are set out in in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.

- 34 The statutory bodies, Historic England, Natural England and the Environment Agency were all consulted. Each of the statutory bodies agreed with the conclusion that there are unlikely to be any significant environmental effects and that a full SEA is not required.
- 35 In addition to SEA, a Habitats Regulations Assessment identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans and projects. This Assessment must determine whether significant effects on a European site can be ruled out on the basis of objective information⁸. If it is concluded that there is likely to be a significant effect on a European site, then an appropriate assessment of the implications of the plan for the site must be undertaken.
- 36 In the case *People Over Wind & Sweetman v Coillte Teoranta* (“*People over Wind*” April 2018), the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means that if a likely significant effect is identified at the screening stage of a habitats assessment, an Appropriate Assessment of those effects must be undertaken.
- 37 In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018, allowing neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an Appropriate Assessment to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or a planning application.
- 38 North Northamptonshire Council produced a Habitat Regulations Assessment Screening Report, submitted alongside the Neighbourhood Plan with the Strategic Environmental Assessment Screening Report.
- 39 This Report assessed whether the policies of the Neighbourhood Plan would give rise to the potential for a likely significant effect on Natura 2000 European sites.

⁸ Planning Guidance Paragraph 047 Reference ID: 11-047-20150209.

40 The Report notes that the nearest European site, Upper Nene Valley Gravel Pits Special Protection Area (SPA), is located more than 14km from the south west of the Neighbourhood Area. The Report also refers to the North Northamptonshire Joint Core Strategy Habitat Regulations Assessment (2015).

41 The Habitat Regulations Assessment Screening Report submitted alongside the Neighbourhood Plan concludes that:

“...the SWKNP will not lead to any likely significant effects and therefore does not require an appropriate assessment.”

42 Each of the statutory bodies were consulted as part of the process. All concurred with the above conclusion.

43 Further to this, I am mindful that national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations (including obligations under the Strategic Environmental Assessment Directive)” (Planning Practice Guidance⁹).

44 North Northamptonshire Council has no outstanding concerns in respect of the Neighbourhood Plan's compatibility with EU obligations.

45 Taking this and the recommendations contained in this Report into account, I am satisfied that the Neighbourhood Plan is compatible with European obligations.

⁹ ibid, Paragraph 031 Reference ID: 11-031-20150209.

4. Background Documents and the South West Kettering (Headlands Community) Neighbourhood Area

Background Documents

- 46 In completing this examination, I have considered various information in addition to the South West Kettering (Headlands Community) Neighbourhood Plan. I also spent an unaccompanied day visiting the South West Kettering (Headlands Community) Neighbourhood Area.
- 47 Information considered as part of this examination has included the following main documents and information:
- National Planning Policy Framework (referred to in this Report as “*the Framework*”) (2021)
 - Planning Practice Guidance (2014, as updated)
 - Town and Country Planning Act 1990 (as amended)
 - The Localism Act (2011)
 - The Neighbourhood Plan Regulations (2012) (as amended)
 - North Northamptonshire Joint Core Strategy (2016) (referred to in this Report as “*JCS*”)
 - Kettering Site Specific Part 2 Local Plan (2021) (referred to in this Report as “*Local Plan*”)
 - Kettering Town Centre Area Action Plan 2011-2021 (2011)
 - Kettering Conservation Area Appraisal (2007)
 - Basic Conditions Statement
 - Consultation Statement
 - Supporting Documents
 - Representations received
 - SEA/HRA Screening Report

South West Kettering (Headlands Community) Neighbourhood Area

- 48 The boundary of the South West Kettering (Headlands Community) Neighbourhood Area is identified on a plan on page 8 of the Neighbourhood Plan.
- 49 The South West Kettering (Headlands Community) Neighbourhood Area was designated by East Northamptonshire Council (now part of the combined North Northamptonshire Council) on 14th October 2015.
- 50 The designation of the Neighbourhood Area satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).
- 51 As noted above, a new Town Council for Kettering was created as a result of Local Government Reform, which took place across Northamptonshire during the plan-making process. In accordance with statute, the South West Kettering (Headlands Community) Neighbourhood Forum ceased to exist from 1st April 2021 and was replaced by Kettering Town Council as the relevant qualifying body.
- 52 In the above regard, at Kettering Town Council's Annual Meeting which took place on 19th May 2021, Members formed a specific committee, the South West Kettering (Headlands Community) Neighbourhood Planning Forum, for the purpose of bringing the Neighbourhood Plan forward to referendum.

5. Public Consultation

Introduction

- 53 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 54 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

South West Kettering (Headlands Community) Neighbourhood Plan Consultation

- 55 A Consultation Statement was submitted to North Northamptonshire Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *Regulations*¹⁰.
- 56 Neighbourhood Plan consultation commenced with a public meeting in January 2016. This was well-attended by local residents and resulted in a large number of comments. Information received was considered and a subsequent consultation event was held in January 2017.
- 57 Feedback from this second event was provided during March 2017, via a hand-delivered and emailed report.
- 58 Public consultation on the draft plan, supported by drop-in sessions, took place between December 2019 and February 2020. The draft plan and supporting information were made available electronically and as hard copies.

¹⁰ Neighbourhood Planning (General) Regulations 2012.

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- 59 Public consultation was supported throughout the plan-making process by, amongst other things, the Qualifying Body's dedicated website, social media and the use of the Neighbourhood noticeboard, emails, posters and letters.
- 60 Taking the Consultation Statement and the above into account, I find that there is considerable evidence to demonstrate that public consultation was central to the plan-making process, that there were opportunities for people to have a say and that matters raised were duly considered.
- 61 Taking this and the submitted information into account, I am satisfied that the consultation process for the South West Kettering (Headlands Community) Neighbourhood Plan complied with the neighbourhood planning regulations referred to above.

6. The Neighbourhood Plan – Introductory Section

- 62 Some parts of the Neighbourhood Plan have been overtaken by subsequent events and there are a small number of typographical/grammatical errors, leading to a number of recommendations below.
- 63 The basic conditions comprise precise legal definitions and it is therefore important that references to them are accurate.
- 64 Taking the above into account and for clarity, I recommend the following changes (in *italics*) to the introductory section of the Neighbourhood Plan:
- **Page 6, Governance, delete final sentence “It is anticipated...experience.”**
 - **Page 6, last para, change to: “...the Plan to have regard to national policy...to *be in general conformity with the strategic...*”**
 - **Page 7, first para, delete and replace with: “*The pre-submission draft of the South West Kettering (Headlands Community) Neighbourhood Plan underwent public consultation between 16th December 2019 and 19th February 2020.*”**
 - **Page 7, Stage 3, change to: “*The South West Kettering (Headlands Community) Neighbourhood Plan was modified in line...(as amended).*” Delete the rest of the para and delete the following para “If the examiner...plan.”**
 - **Page 9, first para, delete second sentence and replace with: “*As above, in order to meet the basic conditions, the SWK Neighbourhood Plan must have regard to national policy and be in general conformity with the strategic policies of the development plan.*”**

- **Page 15, penultimate line, the word “*playing*” appears to be in a different font to the rest of the text. This may be a printing error but please check and ensure that the font is the same as that of the surrounding text.**
- **Page 17, Group 1, for consistency, please use capital letters for “*Conservation Area*”**

7. The Neighbourhood Plan – Neighbourhood Plan Policies

Policy 1: Community Services and Facilities

65 Paragraph 92 of the Framework states that:

“Planning policies and decisions should aim to achieve healthy, inclusive and safe places...”

66 Further, Paragraph 93 of the Framework goes on to require planning policies and decisions to:

“...plan positively for the provision and use of...community facilities (such as local shops, meeting places...cultural buildings, places of worship) and other local services to enhance the sustainability of communities and residential environments (and) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community...”

67 Joint Core Strategy (JCS) Policy 7 (“Community Services and Facilities”) requires development to support and enhance community services and facilities; and the Kettering Site Specific Part 2 Local Plan (Local Plan) Policy HWC2 (“Protection of Community Facilities and Proposals for New Facilities”) seeks to resist the loss of community facilities.

68 In general terms, Policy 1 seeks to safeguard the provision of community services and facilities in the Neighbourhood Area.

69 However, as presented, Policy 1 would require any applicant to set out what, at the time of the application, the “balance” between residential and community services comprises and how any such balance would change.

70 In the absence of definition and evidence in respect of how “balance” might be measured and the basis on which this might be judged, there is scope for wide interpretation in respect of what the balance actually comprises, is, or should be.

71 Consequently, Policy 1 introduces considerable scope for uncertainty and confusion. This results in a Policy that is ambiguous, contrary to national guidance, which requires planning policies to be unambiguous¹¹:

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

72 Further to the above, it is not apparent what kind of “loss of a community service or facility” might bring about “a clear and convincing benefit to the neighbourhood” – and consequently, in the absence of any detail in this respect, it is difficult to understand how this part of the Policy might be deliverable, having regard to Paragraph 16 of the Framework, which requires plans to:

“...be prepared positively, in a way that is aspirational but deliverable;”

73 In a similar respect, I am also mindful that the final paragraph of Policy 1 introduces new requirements relating to “variety” and “multi-functionality” without any supporting information to indicate how such things might be measured or why, having regard to Paragraph 57 of the Framework, in respect of planning obligations, they might be necessary in planning terms.

74 Therefore, as worded, Policy 1 does not present a clear and unambiguous land use planning framework to support the retention and/or development of community facilities and services in a manner that has regard to national policy or which is in general conformity with local strategic policy.

¹¹ Planning Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

75 In response to the Examiner's Clarification Letter, the Qualifying Body has confirmed the overall intention of the Policy to be avoiding the loss of community facilities and taking this and the above into account, and in the interest of clarity, I recommend:

- **Delete the wording of Policy 1**
- **Replace with a newly worded Policy 1:**

“Development should not result in the loss of community services or facilities.”

76 In making the above recommendation, I note that Local Plan Policy HWC2, referred to above, requires proposals that lead to the loss of community facilities to be supported by evidence to demonstrate that there will be no harm to vitality and viability; and that any such loss is supported by information demonstrating that the facility is no longer viable. As the development plan is read as a whole, there is no need for the Neighbourhood Plan to repeat these requirements.

Policy 2: Defined Business Area

- 77 National planning policy seeks to build a strong, competitive economy and in so doing, it states that:

“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity...”
(Paragraph 81, the Framework)

- 78 Local Plan Policy EMP4 (“Live Work Units”) encourages the development of live/work units to provide flexible living and working space for small businesses.
- 79 Policy 2 sets out a supportive land use planning framework for appropriate business and live-work development within a “Defined Business Area.” In so doing, it has regard to national policy and is in general conformity with the development plan.
- 80 Much of the Defined Business Area coincides with the Kettering Conservation Area and in general terms, the Policy also seeks to ensure that support for economic growth does not have a negative impact on heritage assets or harm local character.
- 81 However, the development plan is read as a whole and it is therefore unnecessary – and it appears unduly cumbersome - for Neighbourhood Plan policies to cross-reference other adopted policies. This is a matter addressed in the recommendations below.
- 82 I recommend:

- **Policy 2, delete part a) and replace with: “they conserve and/or enhance the Kettering Conservation Area.”**
- **For clarity, no changes are recommended to the first sentence of Policy 2 or to part b) of Policy 2**

Policy 3: Development in the Kettering Conservation Area

- 83 A significant part of the Neighbourhood Area falls within Kettering Conservation Area.
- 84 Chapter 16 of the Framework, "*Conserving and enhancing the historic environment*," recognises that the nation's heritage assets comprise an irreplaceable resource.
- 85 Paragraph 189 of the Framework requires all heritage assets to:
- "...be conserved in a manner appropriate to their significance..."*
- 86 The Framework goes on to require plans to set out a positive strategy for the conservation and enjoyment of the historic environment and take opportunities to draw on the contribution made by the historic environment to the character of a place. JCS Policy 2 ("*Historic Environment*") affords protection to heritage assets in line with national policy.
- 87 As set out, Policy 3 provides a vague reference requiring consistency with principles set out in the Kettering Conservation Area Character Appraisal (2007). However, the Kettering Conservation Area Character Appraisal is simply that. It does not set out a defined list of principles with which development proposals must be "*consistent*."
- 88 Consequently, in the absence of any substantive information in this regard, it is not clear how Policy 3's requirement is deliverable, having regard to Paragraph 16 of the Framework, which requires plans to:
- "...be prepared positively, in a way that is aspirational but deliverable;"*
- 89 The Policy goes on to require development to restore original features to buildings, walls, fences and gates, where these have been lost or damaged over time.
- 90 Whilst it may be desirable, there is nothing to demonstrate that any such requirement has regard to the requirements of Chapter 16 of the Framework, "*Conserving and enhancing the historic environment*," which presents a very carefully worded approach to ensuring that development conserves heritage assets in a manner appropriate to their significance – but which does not demand the restoration of original features, where achievable, as a requirement of development.

- 91 Further to the above, Paragraph 57 of the Framework requires that planning obligations must only be sought where they meet the following tests:

*“a) necessary to make the development acceptable in planning terms;
b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.”*

- 92 There is no evidence to demonstrate that the requirements of Policy 3 have regard to national policy in this respect.

- 93 In addition, national heritage policy does not provide blanket support to development proposals where any harm or loss is outweighed by public benefits. Such an approach over-simplifies national policy and fails to provide for the balanced consideration of all relevant factors in determining a planning application, including the level or degree of harm arising.

- 94 Further to all of the above, the Policy refers only to development proposals *“within the Kettering Conservation Area that relate to”* the Neighbourhood Area. Such an approach fails to have regard to Paragraph 194 of the Framework, which requires consideration of:

“...the significance of any heritage assets affected, including any contribution made by their setting.”

- 95 I recommend:

- **Delete the wording of Policy 3**
- **Replace with a newly worded Policy 3:**

“Development in the Kettering Conservation Area and its setting must conserve and/or enhance the significance of the heritage asset.”

Policy 4: Protected Housing Areas

- 96 Policy 4 seeks to designate an area where there will be *“no loss of residential accommodation or land.”*
- 97 As set out, this appears as a sweeping requirement which is not supported by substantive and relevant detail. It is not clear, for example, precisely what or how much *“residential accommodation or land”* there is within the proposed designated area, how any *“loss”* might be judged or interpreted, or how, or in what way the development of a housing use within the defined area would impact on *“loss.”*
- 98 These are important factors which result in an ambiguous policy and which place obstacles in the way of understanding whether or not a development proposal will result in the loss of residential accommodation or land – for example, does the policy simply prevent any loss of residential land or accommodation, without exception, no matter the circumstances – and if so, how does this contribute to the achievement of sustainable development, whereby a balanced consideration might be afforded to the harm and benefits arising from a development proposal ?
- 99 Or, in the absence of any detailed information in support of Policy 4, if the Policy does allow for replacement within the defined area, how might it be possible to calculate whether say, a mixed use application including residential accommodation or land, would increase or decrease the amount of such ?
- 100 Or how might a decision maker determine a householder application involving an overall reduction in residential accommodation, perhaps through demolition or replacement of extensions or conservatories ?
- 101 Consequently, the Policy does not have regard to Paragraph 16 of the Framework, which requires policies to be:
- “...clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;”*

- 102 Further to the above, in response to the Examiner's Clarification Letter, the Qualifying Body referred to previous "*protection*" afforded by a 1996 planning policy. This is also referred to in the supporting text to Policy 4. However, this previous approach goes back some quarter of a century and as a consequence, it pre-dates both adopted local planning policy and national policy by more than two decades.
- 103 Planning is, by its very nature, dynamic and there is no detailed information before me to demonstrate that the existence of a planning policy some considerable time ago provides a substantive, evidenced basis to justify the approach set out. Indeed, in noting that the Area Action Plan for Kettering Town Centre supports a mix of uses, the Neighbourhood Plan itself identifies that planning policy has moved on and this emphasises the need for evidence and information in justification of Policy 4.
- 104 Taking the above into account, even if the Policy was more clearly worded, there is a lack of information or evidence to support the approach set out in Policy 4. In the absence of clarity and substantive supporting information in support of the approach set out, it is not possible for me to conclude that Policy 4 meets the basic conditions.
- 105 I also note in this regard, that whilst the Qualifying Body has stated that it would be "*glad to work with me to develop the Policy to its full potential,*" my role as Examiner is narrow – it is confined to the examination of the Neighbourhood Plan, as submitted, against the basic conditions.
- 106 Taking all of the above into account, I recommend:
- **Delete Policy 4, the plan on page 26 and all related supporting text. NB, this will require related changes to the Contents and to the Policies referred to on Page 22**
- 107 However, in making the above recommendation, I am mindful that Policy 5 of the Neighbourhood Plan affords protection to identified character areas, including the area the subject of Policy 4; and that national policy affords protection to the setting of the Kettering Conservation Area.

Policy 5: Design

108 National planning policy recognises that:

“Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

109 JCS Policy 8 (“North Northamptonshire Place Shaping Principles”) sets out principles in support of good design.

110 In general, Policy 5 supports good design and in this way, it meets the basic conditions.

111 However, as set out, the Policy is reliant on an existing adopted policy in another document and it sets out what appears to be an ambiguous requirement for all development to *retain the unique distinctiveness* of character areas.

112 Whilst some considerable work has gone into describing the Neighbourhood Area's character areas – and this information is summarised in the Neighbourhood Plan and provided in a little more detail in the Appendices – nowhere does this information clearly set out the specific elements of distinctiveness unique to each character area that must be retained. Rather, the information simply provides descriptions of each area and highlights their characteristics.

113 Consequently, this part of Policy 5 does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework.

114 Similarly, in the absence of any substantive evidence, it is not clear how the “*integrity*” of each character area should be measured, who by and on what basis; nor how an innovative and outstanding design might be judged.

115 Notwithstanding the above, it is clear that the Neighbourhood Plan seeks to ensure that all new development respects the character of the area within which it is located and that in so doing, it takes account of the South West Kettering Character Area Assessment. This is recognised in the recommendations below.

116 Further to the above, I note that the Neighbourhood Plan does not set or control Northamptonshire Parking Standards.

117 Taking all of the above into account, I recommend:

- **Delete the wording of Policy 5**
- **Replace with a newly worded Policy 5:**

“All new development must be of good design. Development must respect the distinctive character of the Character Area within which it is located, taking account of the SWK Character Area information set out within and appended to the Neighbourhood Plan. Development must not harm highway safety.”

Policy 6: Natural Features and Landscape

118 The Framework requires planning policies to contribute to and enhance the natural environment by:

"...minimising impacts on and providing net gains for biodiversity..."
(Paragraph 174, the Framework)

119 JCS Policy 4 (*Biodiversity and Geodiversity*) presents a policy framework for the protection and enhancement of biodiversity.

120 Policy 6 seeks to safeguard biodiversity.

121 However, as set out, the Policy introduces a vague reference to "*natural features recognised for their value and amenity*" without specifically stating what these are. The supporting text suggests that these include trees and hedgerows and also refers to "*bushes and other forms of vegetation*" – referring to all of these things as "*examples.*" The Policy goes on to refer to "*natural features of significance,*" but does not identify these.

122 As a consequence of the above, the Policy appears ambiguous – it does not have regard to national policy, which, in Paragraph 16 of the Framework, requires planning policies to be clearly written and unambiguous.

123 Policy 6 also requires "*appropriate landscaping to soften visual impact*" without identifying what constitutes appropriate landscaping, or why it would be necessary in all circumstances for visual impact of a proposal, regardless of whether or not such impact is positive, to be "*softened.*"

124 Such an approach fails to have regard to Paragraph 57 of the Framework, referred to earlier in this Report, in respect of the imposition of planning obligations.

125 Taking this and the above into account, I recommend:

- **Delete the wording of Policy 6**

- **Replace with a newly worded Policy 6:**

“Development should protect and enhance natural features, such as trees and hedgerows. In circumstances where replacement planting is found to be acceptable in accordance with statutory requirements, it must be with native species that are of an equal or greater ecological value than the planting replaced.”

8. The Neighbourhood Plan: Other Matters

126 The recommendations made in this Report will have a subsequent impact on Contents, including Policy and page numbering; and the presentation of plans.

127 As presented, the Neighbourhood Plan does not include paragraph numbering. This makes the Neighbourhood Plan a little difficult to navigate and to reference. Once made, the Neighbourhood Plan will form part of the Development Plan and the inclusion of paragraph numbering will improve its clarity.

128 The Neighbourhood Plan cannot impose monitoring requirements on the Local Planning Authority.

129 I recommend:

- **Update the Contents, Policy and page numbering; and the presentation of Plans, to take into account the recommendations contained in this Report**
- **Add paragraph numbering to the Neighbourhood Plan (NB, there is no need to add paragraph numbering to the Appendices)**
- **Page 30, Section 7, change first sentence to “...(Headlands Community) Neighbourhood Area. The Neighbourhood...” (NB, this change is to correct the typos/incorrect reference and delete “as they arise.”)**
- **Page 30, Section 7, delete “Procedure for processing a planning application” and change following sentence to: “The Town Council’s procedure for monitoring...”**
- **Page 30, Section 7, delete bullet 1 (“A designated...Council.”)**
- **Page 30, Section 7, bullet 2, delete second sentence: (“Where appropriate....Policies.”)**

9. Referendum

- 130 I recommend to North Northamptonshire Council that, subject to the recommended modifications, **the South West Kettering Headlands (Community) Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

- 131 I am required to consider whether the Referendum Area should be extended beyond the South West Kettering Headlands (Community) Neighbourhood Area.
- 132 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.
- 133 Consequently, I recommend that the Plan should proceed to a Referendum based on the South West Kettering Headlands (Community) Neighbourhood Area approved on the 14th October 2015.

Nigel McGurk, November 2022
Erimax – Land, Planning and Communities