

**Stoke Golding Parish Council**

# **Stoke Golding Parish Neighbourhood Development Plan**

A report to Hinckley and Bosworth Borough Council of the  
Independent Examination of the Stoke Golding Parish  
Neighbourhood Development Plan

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6 September 2021

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## Summary of Main Findings

This is the report of the Independent Examination of the Stoke Golding Parish Neighbourhood Development Plan. The plan area is the whole of the Parish of Stoke Golding being also the administrative area of Stoke Golding Parish Council together with part of the neighbouring parish of Higham on the Hill. The entire plan area lies within the Hinckley and Bosworth Borough Council area. The plan period is 2020-2039. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan allocates land as a housing reserve site for the development of approximately 25 dwellings. I have recommended a modification so that this identified site should be available for development without the delay that would arise from designation as a reserve site.

This report finds that subject to specified modifications the Neighbourhood Plan meets the Basic Conditions and other requirements. It is recommended the Neighbourhood Plan should proceed to a local referendum based on the plan area.

## Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities the power to develop a shared vision for their area.*”<sup>1</sup>
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Stoke Golding Parish Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Stoke Golding Parish Council (the Parish Council). The draft plan has been submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Stoke Golding Neighbourhood Area which was formally designated by Hinckley and Bosworth Borough Council (the Borough Council) on 15 June 2016. The Neighbourhood Plan has been produced by the Neighbourhood Plan Advisory Committee.
4. On 7 April 2021 the Parish Council approved the Neighbourhood Plan and supplementary documents for submission to the Borough Council. The Borough Council arranged a period of publication between 9 June 2021 to 21 July 2021 and subsequently submitted the Neighbourhood Plan to me for independent examination.

## Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan.<sup>2</sup> The report makes recommendations to the Borough Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The Borough Council will decide what action to take in response to the recommendations in this report.

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<sup>1</sup> Paragraph 29 National Planning Policy Framework (2021)

<sup>2</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

6. The Borough Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and a decision statement is issued by the Local Planning Authority outlining their intention to hold a neighbourhood plan referendum, it must be taken into account and can be given significant weight when determining a planning application, in so far as the plan is material to the application<sup>3</sup>.
7. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area<sup>4</sup> unless the Borough Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan<sup>5</sup>. The Framework is very clear that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted<sup>6</sup>.
8. I have been appointed by the Borough Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the Borough Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of Neighbourhood Plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; and a Member of the Institute of Historic Building Conservation. I have forty years professional planning experience and have held national positions and local authority Chief Planning Officer posts.

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<sup>3</sup> Paragraph 48 of the National Planning Policy Framework 2021 explains full weight is not given at this stage. Also see Planning Practice Guidance paragraph: 107 Reference ID: 41-107-20200407 Revision date: 07 04 2020 for changes in response to the coronavirus (COVID-19) pandemic

<sup>4</sup> Section 3 Neighbourhood Planning Act 2017

<sup>5</sup> Section 156 Housing and Planning Act 2016

<sup>6</sup> Paragraph 12 National Planning Policy Framework 2021

9. As independent examiner, I am required to produce this report and must recommend either:
- that the Neighbourhood Plan is submitted to a referendum, or
  - that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
  - that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.
10. I make my recommendation in this respect and in respect to any extension to the referendum area,<sup>7</sup> in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.<sup>8</sup>
11. Three representations state a wish their objections should be heard by the Examiner. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>9</sup> The Planning Practice Guidance (the Guidance) states “*it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing*”. The examiner has the ability to call a hearing for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had the opportunity to state their case and I am satisfied the representations have all been expressed in terms that are sufficiently clear. No party has advised me that their representations are not sufficiently explained. The Regulation 16 responses clearly set out any representations relevant to my consideration whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements. As I did not consider a hearing necessary, I proceeded on the basis of examination of the written representations and an unaccompanied extensive visit to the Neighbourhood Plan area.

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<sup>7</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>8</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>9</sup> Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

## Basic Conditions and other Statutory Requirements

12. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.<sup>10</sup> 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 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, EU obligations; and
- 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.<sup>11</sup>

13. With respect to the penultimate Basic Condition the European Withdrawal Act 2018 (EUWA) incorporates EU environmental law (directives and regulations) into UK law and provides for a continuation of primary and subordinate legislation, and other enactments in domestic law. As the final basic condition, on 28 December 2018, replaced a different basic condition that had previously been in place throughout part of the period of preparation of the Neighbourhood Plan there is a need to confirm the Neighbourhood Plan meets the revised basic condition.

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights.<sup>12</sup> All of these matters are considered in the later sections of this report titled

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<sup>10</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

<sup>11</sup> This Basic Condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 are amended. This basic condition replaced a basic condition “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”.

<sup>12</sup> The Convention Rights has the same meaning as in the Human Rights Act 1998



‘The Neighbourhood Plan taken as a whole’<sup>13</sup> and ‘The Neighbourhood Plan Policies’.

15. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.<sup>14</sup> I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 (the Regulations) which are made pursuant to the powers given in those sections.
16. The Neighbourhood Plan relates to the area that was designated by the Borough Council as a neighbourhood area on 15 June 2016. A map of the Neighbourhood Plan boundary is included as Map 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Parish of Stoke Golding Parish boundaries, being also the administrative area of Stoke Golding Parish Council with the addition of a part of the adjacent Higham on the Hill parish. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>15</sup> and no other neighbourhood development plan has been made for the neighbourhood area.<sup>16</sup> All requirements relating to the plan area have been met.
17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;<sup>17</sup> and the Neighbourhood Plan does not include provision about excluded development.<sup>18</sup> I am able to confirm that I am satisfied that each of these requirements has been met.
18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.<sup>19</sup> Paragraph 1.15 of the Neighbourhood Plan confirms the plan period will be up to 2039 which is the same time period as the emerging new Hinckley and Bosworth Local Plan.

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<sup>13</sup> Where I am required to consider the whole Neighbourhood Plan, I have borne it all in mind

<sup>14</sup> In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

<sup>15</sup> Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

<sup>16</sup> Section 38B (2) Planning and Compulsory Purchase Act 2004

<sup>17</sup> Section 38A (2) Planning and Compulsory Purchase Act 2004

<sup>18</sup> Principally minerals, waste disposal, development automatically requiring Environmental Impact assessment and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

<sup>19</sup> Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

The front cover of the Submission Draft Plan document clearly states the plan period to be 2020-2039.

19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.<sup>20</sup> It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.
20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.<sup>21</sup> I refer to the matter of minor corrections and other adjustments of general text in the Annex to my report.

## Documents

23. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:

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<sup>20</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2021

<sup>21</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Stoke Golding Parish Neighbourhood Plan Submission Draft
- Stoke Golding Parish Neighbourhood Plan Consultation Statement April 2021 [*In this report referred to as the Consultation Statement*]
- Stoke Golding Neighbourhood Plan Basic Conditions Statement April 2021 [*In this report referred to as the Basic Conditions Statement*]
- Stoke Golding Neighbourhood Plan Strategic Environmental Assessment Screening Statement March 2020
- Stoke Golding NDP Strategic Environmental Assessment Scoping Report July 2020
- Strategic Environmental Assessment for the Stoke Golding Neighbourhood Development Plan Environmental Report to accompany Regulation 14 consultation on the Neighbourhood Development Plan October 2020
- Stoke Golding Neighbourhood Plan Habitat Regulations Assessment Determination dated 15 April 2020
- Evidence and other background documents and information published on the Borough Council and Parish Council websites
- Representations submitted during the Regulation 16 publicity period including the representations of the Borough Council
- Correspondence between the Independent Examiner and the Borough and Parish Councils including: the initial letter of the Independent Examiner 29 July 2021; the Parish Council comments on Regulation 16 representations that I received on 16 August 2021; the letter of the Independent Examiner seeking clarification of various matters dated 17 August 2021; and the combined response on behalf of the Parish Council and the Borough Council, including 7 appendices, that I received on 31 August 2021. In this report I refer to responses of the Parish Council even where they are made on behalf of the Parish Council.
- Hinckley and Bosworth Local Plan 2006 – 2026 including the Core Strategy adopted December 2009 and the Site Allocations and Development Management Policies DPD adopted July 2016
- Regulation 18 draft of the emerging Hinckley and Bosworth Local Plan 2020-2039 June 2021 published for consultation between 30 June 2021 and 27 August 2021.
- National Planning Policy Framework (2021) [*In this report referred to as the Framework*]
- Permitted development rights for householders' technical guidance MHCLG (10 September 2019) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated) [*In this report referred to as the Guidance*]
- Town and Country Planning (Use Classes) Order 1987 (as amended)
- Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)

- Equality Act 2010
- Localism Act 2011
- Housing and Planning Act 2016
- European Union (Withdrawal) Act 2018
- Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations*]
- Neighbourhood Planning (General) (Amendment) Regulations 2015
- Neighbourhood Planning (General) incorporating Development Control Procedure (Amendment) Regulations 2016
- Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

## Consultation

24. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the Submission Plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.
25. Local groups and businesses were contacted in June 2016. Two public consultation events held in October 2016 were attended by over 100 people. Staff and pupils at the two local schools and local landowners were also contacted during 2016. In 2017 a household survey resulted in 258 responses and a survey of young people resulted in 40 responses. An open event in January 2020 provided an opportunity for residents and other stakeholders to comment on the draft plan. Throughout the plan preparation process updates on progress have been made available through the village website, presentations at Advisory Committee and Parish Council meetings, and through 'The Stoker' village magazine. Further publicity was achieved through use of social media, posters and flyers.
26. Pre-submission consultation in accordance with Regulation 14 was undertaken between 14 December 2020 and 5 February 2021 which was promoted through delivery of summary plan document to all premises in the neighbourhood area. The full plan document was

made available to download from the village website and hard copies were available on request. Statutory organisations and other stakeholders who were consulted directly are listed in Appendix 1 of the Consultation Statement. Appendix 3 of that document sets out the responses to representations received and amendments made to the Neighbourhood Plan. The suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was approved by the Parish Council, for submission to the Borough Council.

27. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 9 June 2021 to 21 July 2021. Representations from 23 different parties were submitted during the period of publication including a substantial representation of the Borough Council that includes issues considered to have not been resolved from the previous stage of consultation during plan preparation.
28. A member of the public opposes the Neighbourhood Plan on the basis of implications of further new development. Another member of the public objects to the settlement boundary adjacent to 77 Roseway. Two further members of the public state it is inappropriate to allocate land east of Roseway and that a site at Hinckley Road is far more appropriate. One of these representations refers to the Stoke Golding Development Guide of 1986. The representation of the LLR Clinical Commissioning Groups states support for the Plan and comments additional demand from housing developments for local primary care services that are already under high demand will require developer contributions to mitigate this. The Canal and River Trust support Policies SG8, SG10, SG15, and SG20. The representations of the Coal Authority, Sport England, Historic England, Highways England, Leicestershire County Council, National Grid, the Environment Agency do not necessitate any modification of the Neighbourhood Plan to meet the Basic Conditions or other requirements.
29. Natural England comment on Policies SG2, SG8, SG9, and SG11. Severn Trent comment on Policies SG12, SG15, SG16. A representation on behalf of Jelson Homes comments on Policies SG1, SG2, SG6, SG7 and promotes the development of land off Hinckley Road for approximately 35 dwellings. A representation on behalf of Springbourne Homes states five reasons why the Neighbourhood Plan fails to meet the Basic Conditions in respect of the quantum and type of housing provision, and in respect of the identification of local wildlife

site 91289 in Policy SG11. This representation also promotes the development of land on the south-western boundary of Stoke Golding adjacent to homes on Station Road and with an existing access from Higham Lane. A representation on behalf of Everards Brewery states three reasons the Neighbourhood Plan fails to meet the Basic Conditions in respect of quantum of housing provision, flexibility of strategy, and disregard of development sites within the settlement boundary. This representation promotes the development of land adjacent to the White Swan public house at High Street for a high-quality windfall housing scheme. That representation requests an adjustment to the settlement boundary in that location on Map 3 of the Neighbourhood Plan. A representation on behalf of four individuals promotes land north of Roseway and east of High Street as a prospective housing site, and comments on Policies SG1, SG5, and SG6, and supporting text and Map 3. A representation on behalf of Davidsons Developments Limited promotes land at Wykin Lane including land that has been granted permission for the development of 55 dwellings. This representation comments on Section 4 of the Neighbourhood Plan and Policies SG1, SG2, SG3, SG4, SG5, SG7, and the SEA and Site Assessment Framework. A representation on behalf of Richborough Estates comments on Policies SG1, SG2, SG3, and SG10 and promotes development of land at Hinckley Road referred to as Stokesfield Farm for the development of up to 70 dwellings. A representation on behalf of Stronghold Homes comments on Policies SG1, SG2 and SG6 and promotes the Mulberry Farm site as a housing site allocation rather than a housing reserve site.

30. A number of the representations, in particular that of Leicestershire County Council, include suggestions for additions to the Neighbourhood Plan, but these are not a matter for my consideration unless the addition is necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements I have identified.

31. Where representations raise concerns or state objections in relation to specific policies, I refer to these later in my report when considering the policy in question where they are relevant to the reasons for my recommendations.<sup>22</sup> I have been provided with copies of all of the representations including the representation made by the Borough Council. In preparing this report I have taken into consideration all of the representations where they are relevant to my role even though

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<sup>22</sup> *Bewley Homes Plc v Waverley Borough Council* [2017] EWHC 1776 (Admin) Lang J, 18 July 2017 and Town and Country Planning Act Schedule 4B paragraph 10(6)

they may not be referred to in whole, or in part.

32. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. I placed no obligation on the Parish Council to offer any comments but such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. The Parish Council submitted a substantial response in respect of the Borough Council representation and a Housing Note relevant to housing related matters raised in representations. This Housing Note is described by the Parish Council as setting out *“the background to the Neighbourhood Plan's housing requirement and allocation policies, and addresses the changes in circumstance that have arisen since the plan was submitted. It addresses many of the comments raised by the Borough Council and developers/landowners in their Regulation 16 representations.”* The Parish Council also re-submitted Appendix 3 of the Consultation Statement with the comment this *“sets out the Qualifying Body's response to the Regulation 14 representations, some of which were repeated at Regulation 16 stage.”* I requested the Borough Council to publish the Regulation 16 representations and the Parish Council comments on its website.
33. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:
- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
  - b) explains how they were consulted;
  - c) summarises the main issues and concerns raised by the persons consulted; and
  - d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.<sup>23</sup>
34. The submitted Consultation Statement and appendices include information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. In addition, sufficient regard has been paid to the advice regarding plan preparation and engagement contained within the Guidance. It is evident the Neighbourhood Plan Steering Group has taken great care

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<sup>23</sup> Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

## **The Neighbourhood Plan taken as a whole**

35. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and Human Rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the development plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this. In considering all of these matters I have referred to the submission, background, and supporting documents, and copies of the representations and other material provided to me.

Consideration of Convention Rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and 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

36. I have considered the European Convention on Human Rights and in particular Article 6 (1) (fairness); Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).<sup>24</sup> Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. I am satisfied the Neighbourhood Plan has been prepared in accordance with the obligations for Parish Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010. An Equalities Impact Assessment has been undertaken in respect of the Neighbourhood Plan. That assessment, which is presented as Appendix 1 of the Basic Conditions Statement, found no negative impacts on any protected characteristic by reference to data or evidence. From my own examination, the Neighbourhood Plan would

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<sup>24</sup> The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.



appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

37. The objective of EU Directive 2001/42<sup>25</sup> is *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”* The Neighbourhood Plan falls within the definition of ‘plans and programmes’<sup>26</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>27</sup>
38. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to Hinckley and Bosworth Borough Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.
39. A Strategic Environmental Assessment (SEA) Screening Statement (March 2020), upon which the Consultation Bodies were consulted, concluded there is the potential for the Neighbourhood Plan to have significant effects on designated heritage assets and that therefore there is a requirement for a full SEA. Paragraph 5.5 of the Basic Conditions Statement states *“In light of this conclusion, AECOM has produced an independent SEA (October 2020) in support of the Stoke Golding Neighbourhood Plan. The SEA, undertaken of the Pre-Submissions Draft of the neighbourhood plan, concludes that the potential effects arising from the implementation of the Neighbourhood Plan, are predominantly mainly positive and neutral, although with respect to the historic environment, potential effects could be negative. With regards to the historic environment, the Neighbourhood Plan is considered to be broadly focused on protecting heritage assets and does not set out a framework to enhance heritage assets or their significance. This report therefore identifies a number of recommendations to policy to enhance the positive effects of the Neighbourhood Plan and mitigate any negative effects, to improve the performance of the plan. These changes have been incorporated into*

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<sup>25</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

<sup>26</sup> Defined in Article 2(a) of Directive 2001/42

<sup>27</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

*the Submission Version of the Stoke Golding Neighbourhood Plan.”*  
The Consultation Bodies have been consulted at the appropriate SEA stages. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.

40. The Basic Conditions Statement states there are no Special Areas of Protection within 10 km of the Neighbourhood Area and there are two Special Areas of Conservation within 10 km of the Neighbourhood Area. The Screening Statement (March 2020) described The Ensor’s Pool as being isolated from the river systems and a good example of a ‘refuge’ site. The assessment of potential environmental effects set out in Appendix 1 of the Screening Statement (March 2020) found no implications for The Ensor’s Pool SAC or the River Mease SAC. I have noted Natural England were consulted. I conclude the Neighbourhood Plan meets the requirements of the revised Basic Condition relating to Habitats Regulations. The SEA Scoping Report (July 2020) did not vary from this conclusion. I conclude the making of the Neighbourhood Plan would not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017. I have considered the representations on behalf of Davidsons Developments relating to Strategic Environmental Assessment but these do not lead me to vary the conclusion I have reached.
41. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.
42. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations.
43. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The Borough Council as local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations:
- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
  - when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).<sup>28</sup>

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<sup>28</sup> Planning Practice Guidance paragraph 080 Reference ID: 41-080-20150209

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

44. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans<sup>29</sup> which requires plans to be “*consistent with national policy*”.

45. Lord Goldsmith has provided guidance<sup>30</sup> that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”

46. The most recent National Planning Policy Framework published on 21 July 2021 sets out the Government’s planning policies for England and how these are expected to be applied. The Planning Practice Guidance was most recently updated in respect of Neighbourhood Planning on 25 September 2020. As a point of clarification, I confirm I have undertaken the Independent Examination in the context of the most recent National Planning Policy Framework and Planning Practice Guidance. Whilst the Guidance has been updated on 24 May 2021 with respect to First Homes, transitional arrangements apply in the case of the Neighbourhood Plan which was submitted for independent examination before 28 June 2021.

47. I am satisfied Section 2 of the Basic Conditions Statement including the Table presented on pages 7 to 24 of the Basic Conditions

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<sup>29</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

<sup>30</sup> The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the House of Lords Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

Statement demonstrates the Neighbourhood Plan has regard to relevant identified components of the Framework and Guidance.

48. The Neighbourhood Plan includes at page 11 an imaginatively presented positive vision statement and seven objectives for the Neighbourhood Area in 2039. The vision and objectives refer to economic factors (local employment, tourism and local services); social factors (local identity, housing requirements, local facilities); and environmental factors (character, beauty, views, heritage, and green spaces). The seven objectives have provided a framework within which the policies of the Neighbourhood Plan have been shaped. The sections of the Neighbourhood Plan that follow set out policies arranged by topic.
49. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on ways to improve a neighbourhood other than through the development and use of land. It is important that those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning policy represents good practice. The Guidance states, *“Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan”*.<sup>31</sup> The Neighbourhood Plan states at paragraph 3.2 that any such matters will be taken up by Stoke Golding Parish Council. I am satisfied the approach adopted has sufficient regard for the Guidance.
50. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to ‘*have regard to*’ national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition “*having*

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<sup>31</sup> Planning Practice Guidance *Paragraph: 004 Reference ID: 41-004-20190509 Revision 09 05 2019*

*regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.”*

51. At the heart of the Framework is a presumption in favour of sustainable development<sup>32</sup> which should be applied in both plan-making and decision-taking<sup>33</sup>. The Guidance states, “*This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions*”<sup>34</sup>.

52. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

53. The Framework states there are three dimensions to sustainable development: economic, social and environmental. Section 3 of the Basic Conditions Statement includes a Table presented on pages 25 to 27 that sets out an explanation of how the Neighbourhood Plan supports relevant sections of the Framework<sup>35</sup>. Whilst the Table does not refer to specific policies of the Neighbourhood Plan their content is drawn upon to demonstrate how the Plan seeks sustainability benefits in the economic, social, and environmental dimensions and contributes to the achievement of sustainable development. The Table does not highlight any negative impacts on sustainability objectives.

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<sup>32</sup> Paragraph 10 National Planning Policy Framework 2021

<sup>33</sup> Paragraph 11 National Planning Policy Framework 2021

<sup>34</sup> Planning Practice Guidance Paragraph 072 Ref ID:41-072-20190509 Revision 09 05 2019

<sup>35</sup> The sections of the Framework relating to supporting high quality communications; protecting Green Belt land; and facilitating the sustainable use of minerals are stated to be not applicable.

54.I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, when modified as I have recommended, will contribute to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes will protect local distinctiveness; will serve economic needs; will protect and enhance social facilities; and will protect important environmental features. In particular, I consider the Neighbourhood Plan policies seek to:

- Establish how a calculated housing requirement will be met;
- Allocate a housing reserve site;
- Support housing development within the Stoke Golding Settlement Boundary and establish a requirement for housing development outside that boundary;
- Ensure housing development of more than four dwellings will provide a housing mix that meets local needs;
- Require and support affordable housing provision;
- Establish types of development that will be considered sustainable in countryside locations;
- Establish an area of separation;
- Support the creation of, and establish links to a pedestrian and cycle route.
- Ensure development should not compromise the Green Infrastructure network;
- Require development to protect and enhance the public right of way network including for biodiversity value, and support new links to the network;
- Ensure development is sensitive to its landscape setting and in particular identified views;
- Ensure development does not harm the identified network of ecological features and habitats;
- Ensure new and existing trees are integrated into new developments and protect ancient and important trees and hedgerows;
- Conditionally support ground-mounted solar photovoltaic farms;
- Identify and protect features of local heritage interest;
- Establish design requirements for development proposals;
- Designate a Local Green Space;
- Identify and protect community services and facilities;
- Require development to maintain and enhance the vitality and viability of the village centre;
- Identify infrastructure to be supported by major new development;

- Support appropriate new tourism facilities associated with the Bosworth Battlefield and Ashby Canal and require major development proposals to be supported by a Landscape and Visual Impact Assessment;
- Safeguard the Willow Park industrial estate for specified employment development; support expansion of existing businesses; and specify conditions for acceptance of non-B class development; and
- Establish conditional support for business conversion of rural buildings.

55. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan, will, when modified as I have recommended, contribute to the achievement of sustainable development.

Consideration whether 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)

56. The Framework states neighbourhood plans should “*support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies*”.<sup>36</sup> Plans should make explicit which policies are strategic policies.<sup>37</sup> “*Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area*”<sup>38</sup>. “*Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies*”.<sup>39</sup>

57. In this independent examination, I am required to consider whether 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 Borough Council has confirmed the Development Plan applying in the Stoke Golding Parish

<sup>36</sup> Paragraph 13 National Planning Policy Framework 2021

<sup>37</sup> Paragraph 21 National Planning Policy Framework 2021

<sup>38</sup> Footnote 18 National Planning Policy Framework 2021

<sup>39</sup> Paragraph 29 National Planning Policy Framework 2021

Neighbourhood Area and relevant to the Neighbourhood Plan is the Local Plan 2006 to 2026, which includes the Core Strategy adopted 2009, and the Site Allocations and Development Management Policies DPD adopted July 2016. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”<sup>40</sup> The Borough Council has advised me that Appendix 3 of the Site Allocations and Development Management DPD identifies what are regarded by the Local Planning Authority as the strategic policies of the Local Plan (2006 - 2026).

58. I have proceeded with my independent examination of the Neighbourhood Plan on the basis that the Development Plan strategic policies are:

- Core Strategy Policies – CS Policy 1 to CS Policy 24 inclusive
- Site Allocations Policies – SA Policy 1 to SA Policy 5 inclusive
- Development Management Policies – DM Policy 1 – DM Policy 25 inclusive
- Hinckley Town Centre Area Action Plan Policy 1
- Earl Shilton and Barwell Area Action Plan Policies 1,6,7,8,12,13, and 14.

59. The Borough Council has commenced the preparation of the Local Plan review 2020 to 2039 which will set out land allocations and planning policies for the plan period to 2039. The Borough Council published a Regulation 18 draft of the Local Plan for consultation between 30 June 2021 and 27 August 2021. The Draft Local Plan does not identify proposed housing allocations at this stage. The Neighbourhood Plan can proceed ahead of preparation of the Local Plan review. The Guidance states: “*Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan. A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. Although a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing needs*

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<sup>40</sup> Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20190509 Revision 09 05 2019



*evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*

- the emerging neighbourhood plan;*
- the emerging Local Plan;*
- the adopted development plan;*

*with appropriate regard to national policy and guidance. The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan. Neighbourhood plans should consider providing indicative delivery timetables and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan.”<sup>41</sup>*

60. I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and the Local Plan review when it is adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan; however, the Guidance is clear in that potential conflicts should be minimised.

61. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The emerging Local Plan review is not part of the Development Plan and this requirement does not apply in respect of that. Emerging planning policy is subject to change as plan preparation work proceeds. The Guidance states “*Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood*

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<sup>41</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009- 20190509 Revision 09 05 2019

areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan”<sup>42</sup>. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.

62. In considering a now-repealed provision that “a local plan shall be in general conformity with the structure plan” the Court of Appeal stated “the adjective ‘general’ is there to introduce a degree of flexibility.”<sup>43</sup> The use of ‘general’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

63. The Guidance states, “When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

- whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;
- the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;
- whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;
- the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”<sup>44</sup>

My approach to the examination of the Neighbourhood Plan Policies has been in accordance with this guidance. I have taken into consideration the Tables in Section 4 of the Basic Conditions Statement that demonstrate how each of the policies of the Neighbourhood Plan is in general conformity with relevant strategic policies.

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<sup>42</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

<sup>43</sup> *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

<sup>44</sup> Planning Practice Guidance Paragraph 074 ID ref: 41-074 20140306 Revision 06 03 2014

64. Consideration as to whether 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) has been addressed through examination of the plan as a whole and each of the plan policies below. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

## The Neighbourhood Plan Policies

65. The Neighbourhood Plan includes 22 policies as follows:

- Policy SG1: Housing Requirement
- Policy SG2: Housing Reserve Site at Mulberry Farm High Street
- Policy SG3: Windfall Housing Development
- Policy SG4: Housing Mix
- Policy SG5: Affordable Housing
- Policy SG6: Countryside
- Policy SG7: Areas of Separation
- Policy SG8: Green Infrastructure
- Policy SG9: Public Rights of Way Network
- Policy SG10: Locally Important Views
- Policy SG11 Ecology and Biodiversity
- Policy SG12 Trees and Hedgerows
- Policy SG13 Renewable Energy
- Policy SG14: Features of Local Heritage Interest
- Policy SG15: Design
- Policy SG16: Local Green Spaces
- Policy SG17: Community Services and Facilities
- Policy SG18: Commercial, Business and Service Uses in the Village Centre
- Policy SG19: Infrastructure
- Policy SG20: Tourism
- Policy SG21: Willow Park Industrial Estate
- Policy SG22: Business Conversion of Rural Buildings

66. Paragraph 29 of the Framework states *“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, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies”. Footnote 18 of the Framework states “Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”*

67. Paragraph 15 of the Framework states *“The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”*
68. Paragraph 16 of the Framework states *“Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”*
69. The Guidance states *“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.”<sup>45</sup>*
70. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence*

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<sup>45</sup> Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306 Revision 06 03 2014

*should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan*".<sup>46</sup>

71. A neighbourhood plan should contain policies for the development and use of land. *"This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).*"<sup>47</sup>

72. *"Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need."*<sup>48</sup> *"A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available."*<sup>49</sup>

73. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is 'made' they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn. I have considered any inter-relationships between policies where these are relevant to my remit.

### **Policy SG1: Housing Requirement**

74. This policy seeks to establish the housing requirement for the plan period is 57 dwellings and states this will be met by the committed development of 65 dwellings on land east of Roseway (20/00779/OUT) and through windfall development in accordance with Policy SG3.

75. In a representation the Borough Council state the approach to establishing a housing requirement is not considered appropriate as

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<sup>46</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

<sup>47</sup> Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20190509 Revision 09 05 2019

<sup>48</sup> Planning Practice Guidance Paragraph 040 Reference ID 41-040-20160211 Revision 11 02 2016

<sup>49</sup> Planning Practice Guidance Paragraph 042 Reference ID 41-042-20170728 Revision 28 07 2017

the Core Strategy is dated and apportionment by population is recommended which would result in a requirement of around 158 dwellings for the period 2020-2039. It is suggested potential housing supply would be:

East of Roseway 65 dwellings

Wykin Lane 55 dwellings (permission on appeal May 2021)

Windfall allowance 51 dwellings

Total 171 dwellings with the Mulberry Farm site offering further flexibility of provision in case windfall delivery does not materialise as forecast.

76. I have taken into consideration other representations relevant to this policy including the representation of Jelson Homes; the representation on behalf of four individuals; the representation on behalf of Everards Brewery Ltd; the representation on behalf of Davidsons Developments Limited; the representation on behalf of Richborough Estates; the representation on behalf of Springbourne Homes; and the representation on behalf of Stronghold Homes. All of these representations propose an increased housing requirement should be adopted in Policy SG1.

77. Regulation 16 representations support or promote land for development as follows:

- A representation on behalf of Jelson Homes promotes the development of land off Hinckley Road for approximately 35 dwellings;
- A representation on behalf of Springbourne Homes promotes the development of land on the south-western boundary of Stoke Golding adjacent to homes on Station Road and with an existing access from Higham Lane;
- A representation on behalf of Everards Brewery promotes the development of land adjacent to the White Swan public house at High Street for a high-quality windfall housing scheme;
- A representation on behalf of four individuals promotes land north of Roseway and east of High Street as a prospective housing site;
- A representation on behalf of Davidsons Developments Limited promotes land at Wykin Lane including land that has been granted permission for the development of 55 dwellings;
- A representation on behalf of Richborough Estates promotes development of land at Hinckley Road referred to as Stokesfield Farm for the development of up to 70 dwellings;
- A representation on behalf of Stronghold Homes promotes the

- Mulberry Farm site as a housing site allocation rather than a housing reserve site; and
- Two members of the public state it is inappropriate to allocate land east of Roseway and that a site at Hinckley Road is far more appropriate.

78. The Guidance states *“The scope of neighbourhood plans is up to the neighbourhood planning body. Where strategic policies set out a housing requirement figure for a designated neighbourhood area, the neighbourhood planning body does not have to make specific provision for housing, or seek to allocate sites to accommodate the requirement (which may have already been done through the strategic policies or through non-strategic policies produced by the local planning authority). The strategic policies will, however, have established the scale of housing expected to take place in the neighbourhood area. Housing requirement figures for neighbourhood plan areas are not binding as neighbourhood planning groups are not required to plan for housing.”*<sup>50</sup>

79. *“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.”*<sup>51</sup>

80. *“Where neighbourhood planning bodies have decided to make provision for housing in their plan, the housing requirement figure and its origin are expected to be set out in the neighbourhood plan as a basis for their housing policies and any allocations that they wish to make. Neighbourhood planning bodies are encouraged to plan to meet their housing requirement, and where possible to exceed it.”*<sup>52</sup>

81. *“The National Planning Policy Framework expects most strategic policy-making authorities to set housing requirement figures for designated neighbourhood areas as part of their strategic policies”*<sup>53</sup>

82. *“Where strategic policies do not already set out a requirement figure, the National Planning Policy Framework expects an indicative figure to*

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<sup>50</sup> Planning Practice Guidance Paragraph: 104 Reference ID: 41-104-20190509 Revision date: 09 05 2019

<sup>51</sup> Planning Practice Guidance Paragraph: 040 Reference ID: 41-040-20160211 Revision date: 11 02 2016

<sup>52</sup> Planning Practice Guidance Paragraph: 103 Reference ID: 41-103-20190509 Revision date: 09 05 2019

<sup>53</sup> Planning Practice Guidance Paragraph: 101 Reference ID: 41-101-20190509 Revision date: 09 05 2019

*be provided to neighbourhood planning bodies on request. However, if a local planning authority is unable to do this, then the neighbourhood planning body may exceptionally need to determine a housing requirement figure themselves, taking account of relevant policies, the existing and emerging spatial strategy, and characteristics of the neighbourhood area. The neighbourhood planning toolkit on housing needs assessment may be used for this purpose. Neighbourhood planning bodies will need to work proactively with the local planning authority through this process, and the figure will need to be tested at examination of the neighbourhood plan, as neighbourhood plans must be in general conformity with strategic policies of the development plan to meet the basic conditions.”<sup>54</sup>*

83. The Guidance states *“If a local planning authority is also intending to allocate sites in the same neighbourhood area the local planning authority should avoid duplicating planning processes that will apply to the neighbourhood area. It should work constructively with a qualifying body to enable a neighbourhood plan to make timely progress. A local planning authority should share evidence with those preparing the neighbourhood plan, in order for example, that every effort can be made to meet identified local need through the neighbourhood planning process.”<sup>55</sup>*

84. *“Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing need evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date local plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*  
*the emerging neighbourhood plan*  
*the emerging local plan (or spatial development strategy)*  
*the adopted development plan*  
*with appropriate regard to national policy and guidance.”*

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<sup>54</sup> Planning Practice Guidance Paragraph: 105 Reference ID: 41-105-20190509 Revision date: 09 05 2019

<sup>55</sup> Planning Practice Guidance Paragraph: 043 Reference ID: 41-043-20140306 Revision date: 06 03 2014



85. *“The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body so that complementary neighbourhood and local plan policies are produced. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. Strategic policies should set out a housing requirement figure for designated neighbourhood areas from their overall housing requirement (paragraph 65 of the revised National Planning Policy Framework). Where this is not possible the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body, which will need to be tested at the neighbourhood plan examination. Neighbourhood plans should consider providing indicative delivery timetables, and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new local plan.”<sup>56</sup>*

86. *“A neighbourhood plan can allocate additional sites to those identified in an adopted plan so long as the neighbourhood plan meets the basic conditions.”<sup>57</sup> “A neighbourhood plan can allocate additional sites to those in a local plan (or spatial development strategy) where this is supported by evidence to demonstrate need above that identified in the local plan or spatial development strategy. Neighbourhood plans should not re-allocate sites that are already allocated through these strategic plans. A neighbourhood plan can also propose allocating alternative sites to those in a local plan (or spatial development strategy), where alternative proposals for inclusion in the neighbourhood plan are not strategic, but a qualifying body should discuss with the local planning authority why it considers the allocations set out in the strategic policies are no longer appropriate. The resulting draft neighbourhood plan must meet the basic conditions if it is to proceed. National planning policy states that it should support the strategic development needs set out in strategic policies for the*

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<sup>56</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision date: 09 05 2019

<sup>57</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 67-009-20190722 Revision date: 22 07 2019

*area, plan positively to support local development and should not promote less development than set out in the strategic policies (see paragraph 13 and paragraph 29 of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the local plan or spatial development strategy. Should there be a conflict between a policy in a neighbourhood plan and a policy in a local plan or spatial development strategy, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.”*

87. Paragraph 29 of the Framework states “*Neighbourhood Plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.*” Whilst it is not within my role to test the soundness of the Neighbourhood Plan it is necessary to consider whether the Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies, as required by paragraph 29 of the Framework; and has regard for the Guidance.
88. Paragraph 4.3 of the Neighbourhood Plan states the Core Strategy makes provision for the development of a minimum of 60 new homes in Stoke Golding over the period 2006-2026 and that this was more than twice exceeded by the recently completed Bosworth Manor development of 83 dwellings, and the Convent Drive development containing 59 dwellings. Core Strategy Policy 11 refers to the allocation of land for the development of a minimum of 60 new homes. On this basis Policy SG1 is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan.
89. Paragraph 4.5 of the Neighbourhood Plan states as the Borough Council has been unable to provide an indicative housing requirement to 2039 the Neighbourhood Plan Advisory Committee has undertaken its own assessment which assumes a continuation of Core Strategy levels of growth to 2039. This results in a minimum housing allocation of 57 dwellings with windfall development additional to that. Paragraph 4.13 of the Neighbourhood Plan states this minimum housing requirement has been exceeded by the approval of 65 dwellings on land east of Roseway.

90. The Guidance is clear that where a neighbourhood planning body exceptionally need to determine a housing requirement figure themselves, they should take account of relevant policies, the existing and emerging spatial strategy, and characteristics of the neighbourhood area. The neighbourhood planning toolkit on housing needs assessment may be used for this purpose. The method used to rely on the Core Strategy does not have sufficient regard for the Guidance. I have recommended a modification to reflect the apportionment by population approach suggested by the Borough Council in this respect. This results in a housing requirement of 158 dwellings during the plan period.

91. Commenting on the Borough Council representation the Parish Council stated *“See Housing Note. The Qualifying Body is prepared to support modifications which would allow a minimum housing requirement of 158 dwellings to be met. This includes a 10% additional buffer, using the Borough Council’s preferred methodology. Windfall development provides additional flexibility. The Stokesfield Farm site is therefore not required as either an allocation or a reserve.”* The Housing Note prepared by the Parish Council referred to above concludes *“If the Examiner were so minded, the Parish Council would support the following modifications: 1. Increasing the minimum housing requirement in Policy SG1 to 158 dwellings. This will be met by existing commitments, the allocation of 25 dwellings at Mulberry Farm and a windfall allowance. This would meet the housing requirement figure for Stoke Golding, including a 10% additional buffer, using the Borough Council’s preferred methodology; 2. Extend the Stoke Golding Settlement Boundary to include the Wykin Lane development (19/01324/OUT); 3. Delete the second sentence of Policy SG2, so that the site at Mulberry Farm becomes a full housing allocation and include the site within the Stoke Golding Settlement Boundary; and 4. Consequential revisions arising from the above modifications.”* In my recommendations I have adopted the approach set out in the Housing Note of the Parish Council.

92. It is appropriate to take account of the existing commitments arising from planning permissions for a total of 120 dwellings on land East of Roseway and on land at Wykin Lane. Given the size and nature of the Neighbourhood Area and based on information of recent commitments, as a matter of planning judgement, I consider it is reasonable to assume there will be a windfall supply of dwellings during the Plan period which will boost the supply of homes in the Neighbourhood Area by the amount indicated in the Housing Note of

the Parish Council. The identification of a housing allocation in Policy SG2, as I have recommended it should be amended, provides for additional housing supply in the plan period. On the basis of the modifications I have recommended, I am satisfied the approach adopted to address the quantity of housing need in the Neighbourhood Area is appropriate for the purpose of neighbourhood plan preparation for Stoke Golding Parish and provides the necessary justification that those policies (after recommended modification) that are relevant to housing supply will result in local housing needs being met.

93. Whilst it is normally inappropriate for a policy to refer to other policies of the Neighbourhood Plan the reference to other policies in Policy SG1 does assist clarity in explaining the components of housing supply being planned for and the relationship of the policies.
94. The Neighbourhood Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, and will not undermine those strategic policies. I am satisfied it is appropriate for Policy SG1 to indicate the scale of development that is being planned for and that this should reflect the method of calculation recommended by the Borough Council. I am satisfied the policy will not preclude sustainable development schemes in accordance with Policy SG3 that result in the achievement of a greater total number of dwellings. This is consistent with the fact the Neighbourhood Plan places no cap or limit on the number of dwellings that can be provided within the Settlement Boundary nor on the number of dwellings that can be provided outside the Settlement Boundary subject to it being of types that are consistent with Policy SG2 or Policy SG6 of the Neighbourhood Plan, and national and strategic planning policy. In the context of the characteristics of the Neighbourhood Area those policies relevant to housing provision will significantly boost the supply of housing.
95. The Borough Council has advised me the latest estimate for adoption of the new Local Plan is 2023. Should there ultimately be any conflict between the Neighbourhood Plan, and the Local Plan review when it is adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan.
96. The emerging Local Plan will establish a housing requirement figure for the Neighbourhood Area in its strategic context and will allocate land for housing development to meet that requirement. Given the limited resources available to a parish council in neighbourhood plan preparation the function of balancing issues at a borough-wide scale

cannot realistically be performed. The contribution arising from commitments, and from other identified potential provision, amounts to a significant boost to the supply of housing in the Neighbourhood Area. The Neighbourhood Plan does not in any way delay further housing allocations potentially being made within the Neighbourhood Area in the emerging Local Plan, but has the effect of establishing a Development Plan framework for bringing forward a significant boost to local housing supply in advance of the adoption of an updated Local Plan at a later date, currently estimated to be March 2023. I am satisfied that in preparation of the Neighbourhood Plan consideration has been given to opportunities for allocating small and medium-sized sites suitable for housing in the Neighbourhood Area in accordance with paragraph 69 of the Framework. Future strategic policies including any allocations in the emerging Local Plan may provide for further residential development. As recommended to be modified Policy SG6 would be compatible with such potential future allocations.

97. Representations have stated the Neighbourhood Plan should make additional housing allocations. It is evident the matter of allocating reserve housing sites has been considered, as required by the Guidance and indeed Policy SG2 of the Submission Neighbourhood Plan did allocate a housing reserve site. I have recommended this identified site should be available for development without the delay that would arise from designation as a reserve site. As a matter of planning judgement, on the basis of the scale of allocation and other provision for new housing made in the Neighbourhood Plan, I am content there is no necessity to allocate housing sites or reserve housing sites additional to those in the Neighbourhood Plan, as recommended to be modified, to meet emerging evidence of housing need. I have taken into account the anticipated timetable for preparation of the emerging Local Plan. I have earlier in my report referred to national policy relating to the relationship of neighbourhood plans and emerging strategic plans. I am satisfied the approach adopted in Neighbourhood Plan preparation in these respects, subject to my recommended modifications, has sufficient regard for national policy.

98. Representations promote several sites for housing development. It is not within my role to consider the merits of development proposals, or the relative merits of alternative development proposals, including those supported or promoted in Regulation 16 representations, nor is it within my role to balance those merits against any inherent detriments or shortcomings that the proposals may have. I have earlier in my

report explained that my role is to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified.

99. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

100. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of housing the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 1:**

**In Policy SG1**

- **replace “57” with “158”**
- **after “OUT)” insert “; and the committed development of 55 dwellings at Wykin Lane (19/01324/OUT); and the allocation of a site at Mulberry Farm, High Street for the development of approximately 25 dwellings in accordance with Policy SG2;”**

**Policy SG2: Housing Reserve Site at Mulberry Farm High Street**

101. This policy seeks to establish identified land at Mulberry Farm, High Street should be allocated for housing development, subject to stated criteria, if it becomes necessary to provide for additional homes in Stoke Golding in accordance with the new Local Plan.

102. In a representation the Borough Council state it is not fully apparent how the scores for each site assessed were arrived at although it is also stated certain concerns are addressed in paragraphs 4.16 – 4.18 regarding site selection. The Borough Council state the Conservation Area Appraisal considers the Mulberry Farm site is unattractive and in need of improvement and that development for housing could improve the setting of the historic Bosworth

battlefield. It is questioned whether there is reason to hold back development by designation as a reserve site. The representation expresses concerns regarding criteria 1; 2; 3; 4; 8; 9; 12 and 13 including duplication of strategic policy.

103. A representation by Natural England welcomes the allocation on a brownfield site and in particular the requirement relating to sustainable drainage systems. I have taken into consideration other representations relevant to this policy including the representation of Jelson Homes; the representation on behalf of Davidsons Developments Limited; the representation on behalf of Everards Brewery; the representation on behalf of Richborough Estates; the representation on behalf of Springbourne Homes; and the representation on behalf of Stronghold Homes.

104. Fifteen sites were put forward by developers and landowners for housing development. Paragraph 4.16 of the Neighbourhood Plan states most of these were identified by the Borough Council in its Strategic Housing Land Availability Assessment. The Neighbourhood Plan website includes information gathered for each site. Paragraph 4.18 of the Neighbourhood Plan refers to the opportunity given to members of the public to express views on housing site options. Representations state some potential housing sites should be scored and ranked differently to the outcome of the Site Assessment undertaken. I am satisfied the Site Assessment undertaken has been adequately explained and is appropriate for its purpose. I am satisfied it is appropriate for the Neighbourhood Plan to allocate the site at Mulberry Farm as a housing site as part of the shared vision of the local community in accordance with paragraph 29 of the Framework and that a process that is appropriate to the preparation of the Neighbourhood Plan has been followed with respect to site selection. I do not see any reason to delay the environmental improvement that will result from development of the site. I have recommended a modification to allocate this site as a housing development site without the need for potential delay arising from its designation as a reserve site. I have noted the Parish Council Housing Note accepts this approach.

105. The term “*around*” is less universally understood than the term “*approximately*”, the latter being more appropriate for a formal document. It is unnecessary and confusing to refer to other policies of the Neighbourhood Plan in parts 2, 7, 8 and 10. All of the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area

unless a smaller area is specified. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these.<sup>58</sup> The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*. I have recommended part 15 of the policy is deleted in this respect so that the policy has sufficient regard for national policy. I have recommended a modification in all these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

106. The Borough Council suggest Map 4 should be presented at a larger scale. The Parish Council state scale 1:2500 is acceptable for planning applications. I am satisfied Map 4 defines the housing allocation at a scale that is sufficient to identify the intended boundaries.

107. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

108. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of housing the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

### **Recommended modification 2: In Policy SG2**

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<sup>58</sup> <https://www.gov.uk/guidance/housing-optional-technical-standards>



- Delete the second sentence and “In this circumstance” from the third sentence.
- in part 1 replace “around” with “approximately”
- delete part 2
- delete the final sentence of part 7
- delete the first sentence of part 8
- delete part 15

### **Policy SG3: Windfall Housing Development**

109. This policy seeks to establish support for housing development within the identified Settlement Boundary subject to the other Neighbourhood Plan policies. The policy also seeks to establish that permission for housing development outside the Settlement Boundary will be limited to specified types of development.

110. In a representation the Borough Council state “*Accepting the appropriateness of a housing requirement of 158 for the plan period as HBBC recommends (see response to paras 4.11 – 4.12 above), with the recent permission granted at appeal for 55 dwellings at Wykin Lane, the case for including Stokesfield Farm is reduced. Given that the site performs well in the Sustainable Site Assessment, including part of Stokesfield Farm as a Reserve Site would give the neighbourhood plan resilience to deal with any future increases in housing need later in the plan period and strengthen a ‘plan led’ approach in the face of pressure for release of land in the countryside*”. I have earlier in my report found, subject to the modification recommended, that the Neighbourhood Plan meets the Basic Conditions in so far as it will result in local housing needs being met and not promote less development than set out in the strategic policies for the area, and will not undermine those strategic policies. I am satisfied Policies SG1 and SG2 will, as recommended to be modified, provide for housing needs being met. It is not necessary to identify any additional housing sites or reserve housing sites to meet the Basic Conditions.

111. I have taken into account other representations relevant to this policy including the representation on behalf of Davidsons Developments Limited; the representation on behalf of Richborough Estates; the representation on behalf of Everards Brewery Ltd; and the representation on behalf of four individuals in relation to Map 3.

112. It is confusing and inappropriate for the policy to refer to “*permission*” as paragraph 2 of the Framework makes it clear material considerations must be considered. When commenting on the Borough Council representations the Parish Council state “*we believe the full list of housing development types that are appropriate outside the Settlement Boundary, along with appropriate cross referencing is helpful to the reader*” and “*we also note the relevant Site Allocations and Development Management Policies are out of date.*” The limitation to exclude entry-level exception sites where need has not already been met within the Borough Council area, does not have sufficient regard for national policy. The policy does not have regard for national policy regarding housing development that represents the optimal viable use of a non-derelict heritage asset or would be appropriate enabling development to secure the future of heritage assets. The policy does not have sufficient regard for national policy by supporting innovative development as a circumstance where housing development in the countryside will be supported. It is confusing and unnecessary to refer to Stoke Golding; to strategic Policies DM5, DM14, and DM15; and to other policies of the Neighbourhood Plan. It is confusing and unnecessary for Policies SG3 and SG6 to both seek to establish types of development that will be supported outside the defined settlement boundary. All of the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a smaller area is specified. Paragraph 16 of the Framework states plans should avoid unnecessary duplication of policies that apply in a particular area. The Guidance states a neighbourhood plan should not be used to constrain the delivery of a strategic site allocated for development in the local plan. As recommended to be modified the policy would not be in conflict with strategic policy should any future strategic housing allocation be made in the Neighbourhood Area. My recommended modifications have necessitated an appropriate modification of the policy title. I note the Parish Council has stated the map title does not need to be changed as Map 3 addresses the housing policies of the plan but I agree with the Borough Council that Map 3 should be re-titled to reflect its primary function. The Borough Council states the settlement boundary ought to be re-drawn to include the Wykin Lane permission for up to 55 dwellings granted at appeal. As Policy SG1, as recommended to be modified takes account of commitments, Map 3, which already includes the housing commitment on land east of Roseway within the Settlement Boundary, should similarly include the housing commitment at Wykin Lane. As Policy SG2, as recommended to be modified, allocates a housing site at Mulberry Farm, High Street this should also be included within the Settlement Boundary to clarify

its status throughout the plan period. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

113. In response to my request for clarification regarding the reasoned justification for the alignment of the settlement boundary the Parish Council have provided a document titled ‘Methodology for defining the settlement boundaries and its application for Stoke Golding’. This document sets out guiding principles how the village boundaries defined by the 2016 Site Allocations and Development Management Policies DPD Proposals Map can be reviewed. That document does not provide justification for the alignment of the proposed settlement boundary in its entirety.

114. Settlement boundaries can represent the dividing line between built areas and open countryside, and can follow clearly defined features such as walls, hedgerows or water courses. Extant planning permissions and allocations can be included within a settlement boundary. The definition of the envelope however does not have to relate to some observable land use difference or dividing feature. A settlement boundary does not have to include the full extent of a settlement, and a settlement boundary does not have to reflect land ownership boundaries or the precise curtilages of properties. Settlement boundaries can be used to identify the limits to future development of a settlement. One approach is to exclude curtilages of properties or other parcels of land that have the capacity to extend the built form of a settlement in areas where this is not considered desirable.

115. The settlement boundary proposed to be established in Policy SG3 has been subject to community engagement and consultation during the Plan preparation process. The settlement boundary does not define the built-up area of Stoke Golding as it excludes some adjacent and nearby buildings. The settlement boundary is identified in Policy SG6, as recommended to be modified, to indicate a physical limit outside which the area will be protected as countryside and where specified types of development will be supported. Policy SG3, as recommended to be modified, uses the settlement boundary as a mechanism to define the area within which proposals for housing development will be conditionally supported, and will guide development to sustainable solutions.

116. Whilst justification for the alignment of the settlement boundary in its entirety has not been presented, where the proposed settlement boundary follows the alignment which has Development Plan status and has been subject to examination, I regard this as sufficient justification for the boundary. The most significant variations from the Development Plan are the exclusion of the Mulberry Farm site subject to Policy SG2 and the inclusion of land east of Roseway. I am satisfied the choices made in determining the settlement boundary where it varies from that included in the Development Plan have been adequately explained.
117. The Borough Council has queried whether it was intended to include a small patch of land to the east of 77 Roseway within the settlement boundary. A member of the public objects to the settlement boundary adjacent to 77 Roseway. When commenting on the Borough Council representation the Parish Council states it would support modification to remove the area east of 77 Roseway from the Settlement Boundary.
118. As I am able to recommend the correction of an error, I wrote to the Borough Council and Parish Council seeking clarification if an error has been made in the Submission Version Neighbourhood Plan in that it was actually intended the small area of land to the east of 77 Roseway should not be included within the Settlement Boundary. The Borough Council responded providing a map identifying the land in question, and a description and photograph, and stated the question of an error is for the Neighbourhood Plan Group to answer. The Parish Council has not confirmed an error has been made. I am therefore unable to recommend an error should be corrected.
119. The Parish Council state “*The Neighbourhood Plan as submitted by the Parish Council has been the subject of consultation. The Borough Council and residents have queried the Settlement Boundary alignment to the east of 77 Roseway. The Parish Council has considered these representations and would support a modification that returns this small area of land to outside the Settlement Boundary. The Parish Council would also like to draw the Examiner’s attention to the attached appeal decision (paragraph 10) which may help the Examiner in his deliberations*”. The Borough Council state “*The patch of land comprises of mown grass and some bushes / trees along its eastern flank. It measures approx. 20 x 20 metres. Some kind of storage shed/porta cabin stands on the western side of the plot, near to No77 Roseway. See below table for site map and photos. It is owned by an individual who has unsuccessfully applied for planning*

*permission for a dwelling on the site, and unsuccessfully appealed against the refusal. With the granting of pp for the East of Roseway site, circumstances concerning this plot have changed which could otherwise attract a subsequent planning application. Therefore, it would be reasonable to expect the owner to have opportunity to comment on a proposed modification that significantly impacts on the future development potential of the land.”*

120. The small patch of land east of 77 Roseway is included in the Neighbourhood Plan settlement boundary. I have seen nothing to suggest the land east of 77 Roseway has heritage or particular biodiversity value, nor is it a valued landscape. The land has not been included in the area of separation that Policy SG7 seeks to establish within which new buildings or inappropriate uses of land which adversely affect the open character of this area or the character or setting of the villages of Dadlington or Stoke Golding villages will not be supported. The Parish Council refer to the dismissal of an appeal following refusal of a proposed dwelling on this land and an access on adjoining land, however circumstances have changed markedly since that decision in 2016. At the time of the appeal the small patch of land was seen as acting as a visual endpoint of the suburban character of Roseway and contributing to the wider landscape. Planning permission has been granted on 23 June 2021 in respect of residential development of 65 dwellings on land east of Roseway which is included within the Neighbourhood Plan settlement boundary. Implementation of this planning permission will result in the small patch of land east of 77 Roseway having residential development to its east, west, and south. In this setting and given the small size of the piece of land in question it will make a negligible or very limited contribution to the wider landscape. I do not consider any adjustment of the settlement boundary adjacent to the small patch of land east of 77 Roseway is necessary to meet the Basic Conditions.

121. The representation on behalf of Everards Brewery Ltd states the settlement boundary should include land north of Roseway and east of High Street. The land in question is promoted for residential development. It is not within my role to consider the merits of development proposals, or the relative merits of alternative development proposals, including those supported or promoted in Regulation 16 representations, nor is it within my role to balance those merits against any inherent detriments or shortcomings that the proposals may have. I have earlier in my report explained that my role is to examine whether the submitted Neighbourhood Plan meets the

Basic Conditions and other requirements that I have identified. I am satisfied the Neighbourhood Plan will, subject to the modifications I have recommended, result in a significant boost to local housing supply and provide for housing needs being met. I do not consider any further allocations of housing land are necessary and that there is no pressing requirement to adjust the alignment of the settlement boundary to include land north of Roseway and east of High Street as suggested in the representation.

122. The settlement boundary does not define the built-up area of Stoke Golding village as it excludes some adjacent buildings. The settlement boundary is intended to indicate a physical limit to development within which infill development will be conditionally supported over the plan period. I have stated Policy SG3, as recommended to be modified, uses the settlement boundary as a mechanism to define the area within which proposals for housing development will be conditionally supported, and will guide development to sustainable solutions. Extant planning permissions and allocations can be included within the settlement boundary. Whilst the settlement boundary referred to in Policy SG3 has been subject to community engagement and consultation during the Plan preparation process I have recommended a modification to include the Wykin Lane permission for up to 55 dwellings granted at appeal and the housing allocation at Mulberry Farm so that there is consistency between Neighbourhood Plan policies as recommended to be amended, and so that the Neighbourhood Plan as a whole *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

123. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

124. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of housing the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’

neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 3:**

**Replace Policy SG3 with “Housing development proposals will be supported within the Settlement Boundary identified on Map 3 and the Policies Maps.”**

**Adjust the settlement boundary to include the land subject to planning application reference 19/01324/OUT at Wykin Lane and to include the housing allocation at Mulberry Farm made in Policy SG2.**

**Amend the policy title to “Infill housing development”**

**Re-title Map 3 as “Settlement Boundary”**

**Policy SG4: Housing Mix**

125. This policy seeks to establish that new housing development of more than four dwellings shall provide a mix of dwellings that will reflect the recommendations of the Housing Needs Study 2019. The policy includes provision to vary housing mix on the basis of up-to-date housing need evidence.

126. I have taken into consideration representations relevant to this policy including the representation of Davidsons Developments Ltd relating to site specific circumstance and viability. I have also taken into consideration the representation on behalf of Springbourne Homes relating to specified types of housing need. I am satisfied the policy will require adequate response to local housing needs in the determination of development proposals. In a representation the Borough Council suggest reference should be made to emerging Local Plan Policy HO-06. I am unable to recommend a modification in this respect as it is not necessary to meet the Basic Conditions.

127. Paragraph 61 of the Framework requires that within the context of paragraph 60 the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. The identification of particular types of housing need at the time of plan preparations will guide the preparation of development schemes. The policy acknowledges changes in housing need may occur throughout the plan period. I am satisfied the

approach adopted in these respects has sufficient regard for national policy.

128. The meaning of the final sentence of the policy is unclear. Paragraph 16 of the Framework requires plans to be deliverable. I have recommended a modification to refer to viability in this respect. In this way the policy accommodates possible changes in viability considerations, referred to in paragraph 57 of the Framework. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

129. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

130. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of housing the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 4:**

##### **In Policy SG4**

- **replace “local housing need” with “viability evidence”**
- **after “up-to-date” insert “local”**

#### **Policy SG5: Affordable Housing**

131. This policy seeks to establish the approach to affordable housing provision on sites of 10 or more homes. The policy also includes provision for rural exception sites and sets out a means of implementation including priority for people with a defined local connection.



132. In a representation the Borough Council state there is duplication with Policy CS15 and the application of the policy concerning rural exception developments to areas within the settlement boundary does not make sense. The Borough Council does not object to the local connection aspects of the policy being different to Borough Council policies. When commenting on this representation the Parish Council state *“Core Strategy policies CS15 (Affordable Housing) is out of date as its threshold of 4 dwellings or more (or 0.13 ha or more) does not comply with NPPF paragraph 64 which requires that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. Stoke Golding is not a designated rural area. Exception site affordable housing can be delivered within settlements where land is protected for other uses.”* I have taken into account other representations relevant to this policy including the representation on behalf of four individuals and the representation on behalf of Davidsons Developments Limited.

133. The use of the term *“may also be permitted”* is inappropriate as it introduces uncertainty and paragraph 2 of the Framework requires consideration of material considerations which will not be known until the time of determination of a proposal. Core Strategy Policy 17 establishes an approach to rural needs. Paragraph 16 of the Framework refers to the avoidance of unnecessary duplication of policies that apply in a particular area, including policies in the Framework. Variation from strategic policy has not been sufficiently justified. I have recommended deletion of the second paragraph of Policy SG5 as it is not in general conformity with the strategic policies contained in the development plan for the area. The Parish Council and the Borough Council have confirmed support for the modification I have recommended. The Borough Council has indicated the first paragraph of the policy could also be deleted and a consequential change made to the third paragraph. Whilst the first paragraph of Policy SG5 duplicates content of Core Strategy Policy 15 the latter must be read in the context of paragraph 64 of the Framework with respect to a threshold below which affordable housing is not to be sought. Under these circumstances I consider the first paragraph should be retained without modification so that the policy has sufficient regard for national policy and is *“clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

134. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

135. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of housing the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 5:  
In Policy SG5 delete the second paragraph**

**Policy SG6: Countryside**

136. This policy seeks to establish an approach to development outside the settlement boundary and subject to provisions of strategic Policy DM4 identifies types of development that may be considered sustainable in countryside locations.

137. In a representation the Borough Council state duplication with Policy DM4 remains. I have taken into account other representations relevant to this policy including the representation by Jelson Homes; the representation on behalf of Stronghold Homes; and another representation on behalf of four individuals. I have considered issues relating to the alignment of the settlement boundary when considering Policy SG3.

138. In response to my request for clarification how Policy SG6 has regard for national policy regarding entry-level exception housing sites the Parish Council state this a matter for the Borough Council to address through its new Local Plan. By not including such sites in the list of types of development that may be considered sustainable the policy does not have regard for national policy should the Borough Council identify a need for such housing that is not being met within the Borough. The Borough Council states it has no dedicated policy for entry-level exception sites and Policy SG6 has no regard to entry-level exception housing. The Borough Council state if a policy criterion

were to be added, it would need to be clear what circumstances would make such housing acceptable, including clear definitions of what counts as entry level housing. This could include First Homes.

139. In response to my request for clarification how Policy SG6 has regard for national policy regarding housing development that represents the optimal viable use of a non-redundant heritage asset or would be appropriate enabling development to secure the future of heritage assets the Parish Council supports inclusion of this in the policy. The Borough Council refer to emerging policy and state, Policy SG6 is silent on enabling development. It has potential to consider any special circumstances of Stoke Golding's historic assets or landscape.

140. Paragraph 16 of the Framework states plans should avoid unnecessary duplication of policies that apply in a particular area. The second sentence of the policy refers to Policy DM4 and part 2 of the policy refers to Policies DM14 and DM15 without any additional level of detail or distinct local approach. Although intended as helpful cross-referencing it is confusing and unnecessary for Parts 2, 3, and 7 of the policy to refer to other Neighbourhood Plan policies. It is confusing and unnecessary for Policies SG3 and SG6 to both seek to establish types of development that will be supported outside the defined settlement boundary. The term "*may be considered sustainable*" does not provide a basis for the determination of development proposals. Inclusion of the term "*adjacent to*" in Part 6 of the policy has not been sufficiently justified and is inconsistent with the other parts of the policy which differentiate without qualification between land inside and outside the settlement boundary. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and "*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*" as required by paragraph 16d) of the Framework.

141. In response to my invitation to comment on my draft proposed modifications the Borough Council state support on the basis of improved clarity and removal of duplication with local plan policy. The Parish Council does not support deletion of what it refers to as cross-referencing and state it is imperative Policies SG3 and SG6 should address development outside settlement boundaries. Both Councils refer to an appeal decision at Wykin Lane but draw different conclusions in relation to that. It is beyond my remit to consider planning appeal decisions or another Neighbourhood Plan referred to by the Parish Council. In response to comments made I have included

the word “only” in my recommended modification so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

142. As recommended to be modified the policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

143. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes, and conserving and enhancing the natural environment the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 6:**

**In Policy SG6 replace the second sentence and bullet points with; “In countryside locations only the following types of development will be supported:**

- 1. Recreation and tourism that cannot be provided within the Settlement Boundary;**
- 2. Development by statutory undertakers or public utility providers;**
- 3. Subdivision of an existing dwelling; and**
- 4. Development that is otherwise in accordance with: national policies; or strategic planning policies or allocations; or with the other policies of the Neighbourhood Plan.”**

**Policy SG7: Areas of Separation**

144. This policy seeks to establish that the open character of the defined areas of separation will be retained and that the construction of new buildings or inappropriate uses of land which adversely affect

the open character of this area or the character or setting of the villages of Dadlington or Stoke Golding villages will not be supported.

145. I have taken into account representations relevant to this policy including the representation by Jelson Homes and a representation on behalf of Davidsons Developments Limited.

146. The supporting text within paragraphs 5.8 and 5.9 of the Neighbourhood Plan sets out a reasoned justification for the policy. The precise boundary of the “*areas of separation*” has emerged through the plan-making process which I have noted earlier in my report has been subject to satisfactory consultation. Policy SG7 includes the terms “*adversely affect the open character of this area*” and “*the character and setting of Dadlington or Stoke Golding villages*”.

147. Policy SG7 does not seek to establish valued landscapes, as referred to in paragraph 174 of the Framework, which would require a rigorous and objective justification that identifies physical attributes, beyond ‘ordinary’, that make the landscape valued.<sup>59</sup> Paragraph 130 of the Framework states planning policies should ensure developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. I am satisfied Policy SG7 has regard for national policy including the achievement of sustainable development, and is in general conformity with the strategic policies.

148. Seeking to prevent development that adversely affects the character of an area is not the same as preventing any development in that area. Sustainable development could occur in the area identified as ‘areas of separation’ that does not undermine the open character of the area or the character and setting of Stoke Golding and Dadlington. A policy defining an area where no development is to be permitted would seek to establish a regime that is more restrictive than even that applying in designated Green Belt. Such an approach would not have sufficient regard for national policy for it to be appropriate. Whilst the resistance of all forms of development in a defined area of open countryside would not have sufficient regard for national policy the resistance of development that would adversely affect the open character of the area between settlements can be a legitimate objective of land use policy. No element of the policy relates to the

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<sup>59</sup> Stroud District Council vs. SSCLG [2015] EWHC 488 (Admin) and Forest of Dean DC v. SSCLG [2016] EWHC 2429 (Admin)

undermining of physical separation which would be inappropriate as any development occurring would erode physical separation.

149. The policy would not prevent sustainable development and has regard for those elements of the Framework that specifically recognise the importance of economic growth in rural areas; and the special circumstances where isolated homes in the countryside will be acceptable. The policy would not prevent the development of essential utility infrastructure that is appropriately sited and designed, and the policy is in general conformity with strategic policy relating to rural exception housing schemes. I am satisfied Policy SG7 has regard for national policy; will not prevent sustainable development; and is in general conformity with the strategic policies.

150. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

151. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes, building a strong competitive economy, achieving well-designed places, conserving and enhancing the natural environment, and conserving and enhancing the historic environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions

### **Policy SG8: Green Infrastructure**

152. This policy seeks to establish support for the establishment of a pedestrian and cycle route along the former Ashby and Nuneaton Joint Railway. The policy also requires development in the vicinity of the Willow Park Industrial Estate to create links along the former railway and with the Ashby Canal. The policy also seeks to establish that development that will compromise the Green Infrastructure Network will not be supported.

153. A representation by Natural England welcomes the policy.
154. Through inclusion of the term “*compromise*” Policy SG8 is seeking to establish a more restrictive approach to development of green infrastructure than is set out in the Framework where a more balanced approach is adopted. I have recommended a modification so that the policy has sufficient regard for national policy. The Parish Council and the Borough Council support such a modification.
155. The creation of new active travel routes has regard for paragraph 104 of the Framework which states opportunities to promote walking, cycling and public transport should be identified and pursued, and paragraph 106 of the Framework states planning policies should provide for attractive and well-designed walking and cycling networks.
156. The policy does establish a framework for assessment of development proposals. The policy will provide sufficient guidance to parties preparing development schemes, and to decision makers determining proposals, to ensure that the implications for the green infrastructure network are properly taken into account. The policy does not seek to prevent all development in the identified green infrastructure network area and will not prevent continuation of existing authorised activities.
157. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
158. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting sustainable transport, promoting healthy and safe communities, and conserving and enhancing the natural environment the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 7:**

**In Policy SG8 replace the final sentence with “To be supported development proposals must be located and designed to avoid or minimise adverse impacts on the Green Infrastructure Network.”**

### **Policy SG9: Public Rights of Way Network**

159. This policy seeks to establish that development should where applicable protect and enhance public rights of way, including for their biodiversity value, and wherever possible create new links to the network including footpaths, bridleways and cycleways.
160. A representation by Natural England welcomes the policy.
161. Paragraph 100 of the Framework states planning policies should protect and enhance public rights of way. Paragraph 179 of the Framework states plans should identify and safeguard wildlife corridors. I agree with the representation of the Borough Council that Figure 9 is inadequate. The Figure is not necessary for interpretation of Policy SG9 and I have recommended it is deleted. It is unnecessary and confusing for the policy to state “*within the Neighbourhood Area*” as all of the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a lesser area is specified. The term “*where appropriate*” introduces uncertainty. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
162. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
163. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting sustainable transport and conserving and enhancing the natural environment the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.



**Recommended modification 8:**

**In Policy SG9 replace the text before “including” with “Development proposals should protect and enhance public rights of way”**

**Delete Figure 9 and insert a statement that the definitive map and statement of rights of way can be accessed on the Leicestershire County Council website.**

**Policy SG10: Locally Important Views**

164. This policy seeks to establish that development should be located and designed in a way that is sensitive to the open landscape and to enhance the landscape wherever possible. The policy seeks to establish proposals will not be supported if potential impacts on the landscape cannot be adequately mitigated through design and landscaping. The policy also requires particular sensitivity to identified locally important views. The policy requires a Landscape Visual Impact Assessment in respect of major development schemes and proposals that could affect the identified locally important views.

165. I have taken account of representations relevant to this policy including the representation on behalf of Richborough Estates which states View B should be deleted. In a representation the Borough Council state the supporting text should explain what is thought valuable in the 7 key views. The Parish Council has commented supporting evidence has been updated. In response to my request for clarification of this comment the Parish Council has explained the supporting evidence has been updated to only relate to the seven locally important views identified in Policy SG10. In response to my request to direct me to all of the existing evidence that supports inclusion of view B as a Locally Important View the Parish Council state *“The selection of which views to include or exclude was undertaken by Neighbourhood Plan Advisory Committee members, starting with an original long list of far more candidates. The locally important aspect of this view is that it is a pleasant, tree-lined, single-track lane into the village with open countryside on both sides and much valued for recreational purposes. As a result, this makes it a desirable route for pedestrians, dog walkers and horse riders. The inclusion of this view was intended to reflect this.”* From this response I conclude the existing evidence supporting the Neighbourhood Plan with respect to view B is limited to a single photograph taken from the

identified viewpoint. This same conclusion applies to each of the identified views.

166. Paragraph 170 of the Framework includes *“Planning policies ... should contribute to and enhance the natural and local environment by: ... b) recognising the intrinsic character and beauty of the countryside...”*. I am satisfied the general approach adopted in Policy SG10 has sufficient regard for national policy in this respect. Paragraph 170 of the Framework refers to protection of valued landscapes. To be valued landscape, a landscape needs to be more than popular with local residents but must demonstrate physical attributes beyond “ordinary”.<sup>60</sup> Policy SG10 is not seeking to identify valued landscapes but is seeking to ensure development proposals are sensitive to the open landscape. The policy requires development to be located and designed in a way that is sensitive to the open landscape. I have visited the viewpoints identified in the policy. I found it difficult to replicate precisely the view shown in the evidence base photograph from viewpoint B which appears to distort the view as seen on the ground. I agree with the representation that viewpoint B does not sit comfortably with the principal characteristic of views identified in the policy which refers to the *“open landscape with extensive vistas dominated by natural features that characterise the Neighbourhood Area”*. The requirement of the policy for development to be located and designed in a way that is sensitive to these attributes is without effect in cases where those attributes do not exist. I found viewpoint D to be deficient in the same way. I have recommended a modification to delete locally important views B and D.

167. The term *“should be considered wherever possible”* does not provide a basis for the determination of development proposals. It is not clear how development proposals may have the potential to enhance the landscape. The viewpoints and direction of view are identified on Map 7. The policy should refer to Map 7 to assist interpretation of the policy. It is evident from Map 7 that the viewpoints are accessible to the general public. I have recommended a modification so that the policy is clear that it will operate in the public interest by stating it applies to the identified locally important views when seen from locations that are freely accessible to members of the general public. I have recommended a modification in all the above respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision*

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<sup>60</sup> Stroud Borough Council vs. SSCLG [2015] EWHC 488 (Admin) and Forest of Dean DC v. SSCLG [2016] EWHC 2429 (Admin)

*maker should react to development proposals*” as required by paragraph 16d) of the Framework.

168. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

169. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 9:**

##### **In Policy SG10**

- **delete “; the potential to enhance the landscape should be considered wherever possible”**
- **replace “views” with “locally important views from publically accessible locations”**
- **after “listed below” insert “and identified on Map 7”**
- **delete “B. View from Wykin Lane (Compass Field farm) looking towards Stoke Golding” and “D. View from Ashby Canal bridge near Willow Park looking north”**

#### **Policy SG11 Ecology and Biodiversity**

170. This policy seeks to establish that development should not harm the network of local ecological features which includes identified locations. The policy expects new development to maintain and enhance these, BAP Priority Habitats and other ecological features and landscape features. The policy also states development proposals should provide for biodiversity net gain and identifies priorities for biodiversity enhancement.

171. A representation by Natural England welcomes the policy and strongly supports the requirement to provide biodiversity net gain. The representation recommends utilisation of the Net Gain Metric 2.0

however reference to this in the policy is not necessary to meet the Basic Conditions.

172. In a representation the Borough Council state “*Site references have been added to Map 6 but neither cross references nor explanations of BAP Priority Habitats or Midlands style hedging are provided in the supporting text. A map of Local Wildlife sites is required for clarity.*” I am satisfied Map 6 of the Neighbourhood Plan provides sufficient clarity regarding locations of features but agree with the representation that explanation of terms is necessary. I have included an appropriate modification in this respect. I have noted the Parish Council has stated the reference to BAP Priority Habitats was a recommendation of the SEA report and that an explanation of Midlands style hedge-laying is available.

173. I have taken into account other representations relevant to this policy including a representation on behalf of Springbourne Homes which states Local Wildlife Site reference 91289 (Ash Tree) does not meet the basic classification criteria for LWS designation and that it should not be indicated as a LWS within the Neighbourhood Plan. In response to my request for clarification the Parish Council have provided the citation for potential LWS site 91289 and the guidelines for the selection of LWS. The response refers to a Local Plan for another area but that is not relevant to my consideration whether the Neighbourhood Plan meets the Basic Conditions. I conclude the selection of sites for inclusion in Policy SG11 has been conducted in an appropriate manner and the inclusion of the Ash Tree referred to in the representation is satisfactory. I have recommended a modification to correct the error of the LWS reference number in the policy.

174. In response to my request for clarification regarding the relationship of Policy SG11 with Policy SG12 which also relates to trees the Parish Council state “*Policy SG11 protects identified trees for their habitat value. Policy SG12 protects trees for their arboricultural and amenity value.*” I am satisfied with this explanation.

175. Paragraph 174 of the Framework sets out the ways that plans should protect and enhance biodiversity including providing net gains for biodiversity. Paragraph 175 of the Framework sets out national policy in respect of irreplaceable habitats including ancient woodland and ancient and veteran trees. The Hedgerows Regulations 1997 establish a balanced regime to protect hedgerows in specified locations but exclude any hedgerow which is within, or borders, a

domestic garden. I am satisfied the approach adopted in Policy SG11 as recommended to be modified, has sufficient regard for national policy.

176. The policy would represent a burdensome scale of obligations in respect of some development proposals, and in some cases the requirement to “*maintain*” may not be practical or viable. Paragraph 16 of the Framework requires plans to be deliverable. The first sentence of the policy does not provide a basis for decision making in respect of development proposals. The terms “*will be expected to*” and “*the priorities for*” do not provide a basis for the determination of development proposals. The terms “*other ecological corridors and landscape features*” and “*such as*” introduce uncertainty. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

177. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

178. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 10:  
In Policy SG11**

- **replace the text before the list of sites with “To be supported development proposals that cannot avoid harm to the biodiversity or the geological significance of the following sites must include adequate mitigation, or as a last resort compensate for that harm:”**

- replace “81289” with “91289”
- delete the sentence commencing “New development”
- replace “The priorities for biodiversity enhancement are” with “Proposals for biodiversity conservation or enhancement of the following types will be supported”

**Include in supporting text explanation of the term Midlands style hedge-laying.**

## **Policy SG12 Trees and Hedgerows**

179. This policy seeks to establish that new and existing trees should be integrated into new developments and development that damages or results in loss of ancient trees or trees of good arboricultural and amenity value will not be supported. The policy also seeks to establish a requirement for a tree survey to accompany proposals.
180. A representation by Severn Trent recommends the policy should refer to watercourses also, however this is not necessary to meet the Basic Conditions.
181. The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) sets out what is required from applicants when submitting planning applications. The ‘Guidance on Information Requirements and Validation’ document published by the Department for Communities and Local Government Department (DCLG) in 2010 provides more information on the mandatory national information requirements and states that a valid planning application should include *‘information to accompany the application as specified by the local planning authority on their local list of information requirements’*. The use of local lists of information was again promoted in the Framework requiring that local lists be reviewed on a frequent basis to ensure that they remain *‘relevant, necessary and material’*. The DMPO states that validation requirements imposed by local planning authorities should only be those set out on a local list which has been published within 2 years before the planning application is made to ensure information requirements are robust and justified on recent research. The Growth and Infrastructure Act 2013 makes clear that local planning authority information requirements must be reasonable having regard to the nature and scale of the proposed development and the information required must be a material consideration in the determination of the application. The policy is seeking to establish information requirements that are outside the

statutory framework relating to local lists of information to be submitted in support of planning applications. I have recommended a modification in this respect so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

182. Paragraph 131 of the Framework states planning policies should ensure new streets are tree-lined; opportunities are taken to include trees elsewhere in developments; and existing trees are retained wherever possible. Paragraph 174 of the Framework states planning policies should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland. Paragraph 180 of the Framework states development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons (for example infrastructure projects including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills, where the public benefit would clearly outweigh the loss or deterioration of habitat) and a suitable compensation strategy exists. Paragraph 16 of the Framework states plans should serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area including policies in the Framework where relevant. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

183. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

184. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having

regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 11:**

##### **In Policy SG12**

- **continue the first sentence with “unless this is demonstrated not to be possible”**
- **delete the final sentence**

#### **Policy SG13 Renewable Energy**

185. This policy seeks to establish criteria for support of ground-mounted solar photovoltaic farms. The policy also states the local community does not consider the landscape around Stoke Golding as suitable for hosting wind turbine installations.

186. In a representation the Borough Council state *“From the Consultation Statement it is explained that national planning policy allows for blanket restriction against wind turbines if the local community wants that approach. However, the examiner of a similar policy in the Markfield Neighbourhood Plan recently concluded that a justification for prohibiting all scales of wind turbine regardless of impact had not been adequately made. Evidence of such justification has not been provided for the Stoke Golding NP either”*. When commenting on this representation the Parish Council state *“National planning policy allows local people to have the final say on wind farm applications. In the 2017 Questionnaire, 56% of respondents were against wind turbines. The Markfield Neighbourhood Plan Examiner largely ignored PPG Paragraph: 033 Reference ID: 5-033-150618. Policy SG13 is helpful in that it is clear that the local community does not consider the landscape around Stoke Golding as suitable for hosting wind turbine installations, therefore the LPA does not need to make a judgement on the matter.”* It is not within my role to consider Neighbourhood Plans for other areas or their Independent Examination. I agree with the Borough Council that the policy is insufficiently justified.

187. The policy seeks to establish that the Neighbourhood Area is not a suitable location for wind turbine installations. In response to my request to direct me to the existing evidence that justifies ruling out all scales of wind turbine proposals regardless of location and impact the Parish Council referred to part of the Guidance that states wind energy



development should only be granted if the proposal has the backing of the affected local community. The Parish Council also draw attention to the response to question 50 of the 2017 Neighbourhood Plan Consultation Survey. The Parish Council states Policy SG13 makes it clear that wind energy development in Stoke Golding does not have the backing of the local community. This component of the policy has not been adequately justified to rule out all scales of wind turbine proposals regardless of location and impact. In response to the same request, I made for clarification the Borough Council draw attention to the criteria-based policy for determining renewable energy developments (Policy DM2) and confirm *“no areas of Hinckley & Bosworth are designated as being inappropriate for wind turbine development.”* Paragraph 154 and Footnote 49 of the Framework set out national policy in respect of the determination of renewable and low carbon development proposals. National policy refers to the identification of areas suitable for wind energy development. There is no reference to the identification of areas as being *“not a suitable location for wind turbine installations”*. I have taken into consideration the part of the Guidance which states *“The written ministerial statement made on 18 June 2015 is quite clear that when considering applications for wind energy development, local planning authorities should (subject to the transitional arrangement) only grant planning permission if: the development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing. Whether the proposal has the backing of the affected local community is a planning judgement for the local planning authority.”* I have recommended a modification in this respect so that the policy has sufficient regard for national policy.

188. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

189. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with meeting the challenge of climate change the policy is appropriate to be

included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 12:  
In Policy SG13 delete the final sentence**

**Policy SG14: Features of Local Heritage Interest**

190. This policy seeks to establish an approach to the determination of planning applications which would affect identified features of local heritage interest.

191. Paragraphs 6.29 to 6.32 of the Neighbourhood Plan provide information how locally valued heritage assets have been identified. The Guidance refers to advice on local lists published on Historic England's website.<sup>61</sup> *Historic England Advice Note 11 Neighbourhood Planning and the Historic Environment (Published 16 October 2018)* states "Preparing a list of locally-valued heritage assets. Independent (at least initially) of any local list endorsed or developed by a local planning authority, neighbourhood planning groups may wish to consider if any buildings and spaces of heritage interest are worthy of protection through preparing a list of locally-valued heritage assets that is referenced in neighbourhood plan policy. The use of selection criteria helps to provide the processes and procedures against which assets can be nominated and their suitability for addition to the local planning authority's heritage list assessed. A list of locally-valued heritage assets can inform or be integrated within a local list maintained by the local authority, subject to discussion with them." It is appropriate for a local community to use the Neighbourhood Plan preparation process to identify heritage assets that are locally valued. I am satisfied the approach adopted in the Neighbourhood Plan in these respects has sufficient regard for national policy. I have recommended the policy title and the policy text are amended to reflect the actual status of the heritage assets referred to in the policy.

192. Paragraphs 14.43 to 14.45 of the Site Allocations and Development Management Policies DPD state "*Locally Important Heritage Assets are buildings, monuments, sites, places, areas or landscapes which are valued, distinct elements of the local historic environment. These assets hold meaning to the local community and*

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<sup>61</sup> Planning Practice Guidance Paragraph: 040 Reference ID: 18a-040-20190723 Revision date: 23 07 2019

*contribute to their sense of history, place and quality of life. Locally Important Heritage Assets do not benefit from statutory designation however their importance and significance is recognised by the Borough Council through their listing on the Locally Important Heritage Assets List. The List of Locally Important Heritage Assets will highlight the significance of the asset and identify the key features which should be retained through any development proposal. Development proposals should make every effort to retain the significance of locally listed heritage assets.”* Policy DM 12 states “*Locally Important Heritage Assets - Assets identified on the Locally Important Heritage Asset List should be retained and enhanced wherever possible. The significance of the assets illustrated in the List and the impact on this significance should be demonstrated and justified in line with Policy DM11.*” It is possible that as an administrative process separate from the Neighbourhood Plan preparation process the Parish Council may wish to nominate buildings and features of the built environment for assessment by the Borough Council as potential Non-Designated Heritage Assets to be included in a Locally Important Heritage Asset List. Any assets judged by the Borough Council to meet its published criteria may be added to that local list of Non-Designated Heritage Assets compiled and curated by the Borough Council. A clear statement of reasons for nomination of each heritage asset will be a critical success factor.

193. The policy refers to “*balance the need or public benefit of the proposed development*”. This approach does not have sufficient regard for paragraph 203 of the Framework which requires a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.
194. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
195. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the historic environment the policy is

appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

### **Recommended modification 13:**

#### **In Policy SG14**

- **replace “features of local heritage interest” with “locally valued heritage assets”**
- **replace the first sentence after “70))” with “will be assessed having regard to the scale of any harm or loss and the significance of the heritage asset:”**

### **Retitle the policy “Locally Valued Heritage Assets”**

#### **Policy SG15: Design**

196. This policy seeks to establish design criteria for support of development proposals.

197. A representation by Severn Trent suggests additional wording relating to surface water discharges, sustainable drainage systems, and water efficiency however these additions are not necessary to meet the Basic Conditions.

198. In a representation the Borough Council state support for this policy as it seeks to preserve the historic environment but with some additional wording it may also present opportunities to enhance the historic environment. The representation also states *“In the policy text after the word protect in limbs 2, 6i and 6ii consider adding to this so it reads protect and where possible enhance...The place making requirement of criterion 6 may be difficult to achieve for certain types of development. Could add “As appropriate to the scale of development...” to the beginning of the clause?”* When commenting on this representation the Parish Council state the policy *“concerns the creation of well-designed buildings and spaces. It is not just about heritage though it does require developments to respect the prevailing character of the area”*. I agree with the suggestions of the Borough Council and have recommended appropriate modifications in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

199. Paragraph 128 of the Framework states *“To provide maximum clarity about design expectations at an early stage, all local planning authorities should prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code, and which reflect local character and design preferences. Design guides and codes provide a local framework for creating beautiful and distinctive places with a consistent and high quality standard of design. Their geographic coverage, level of detail and degree of prescription should be tailored to the circumstances and scale of change in each place, and should allow a suitable degree of variety”*. Paragraph 127 of the Framework refers to being clear about design expectations and how these will be tested, and Paragraph 127 of the Framework states *“Neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development.”* I have recommended a modification in this respect so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

200. Paragraph 130 of the Framework states *“Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and f) 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.”* Paragraph 106 of the Framework states planning policies should provide for attractive and well-designed walking and cycling networks. Paragraph 92 of the Framework states planning policies should aim to achieve healthy, inclusive and safe

places which promote social interaction, are safe and accessible, and enable and support healthy lifestyles. I am satisfied the approach adopted in Policy SG15, as recommended to be modified, in these respects has sufficient regard for national policy.

201. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

202. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with achieving well-designed places the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 14:**

##### **In Policy SG15**

- in parts 2, 6i, and 6ii after “protect” insert “and where possible enhance”
- commence part 6 with “As appropriate to the scale of development”
- in point 8 after “buildings” insert “are”

#### **Policy SG16: Local Green Spaces**

203. This policy seeks to designate the Zion Baptist Church Allotments as a Local Green Space.

204. A representation by Severn Trent recommends inclusion of a statement that development of flood resilience schemes within local green spaces will be supported provided the schemes do not adversely impact the primary function of the green space. Such reference is not necessary to meet the Basic Conditions.

205. In a representation the Borough Council state evidence must show the requirements of paragraph 102 of the Framework are met. It is indicated on page 38 of the representation that these matters have been addressed. As a point of clarification, I requested a copy of the

designation form referred to in Paragraph 7.3 of the Neighbourhood Plan, and in the evidence base, and in the comments of the Parish Council on the representations of the Borough Council.

206. Designation of Local Green Space can only follow identification of the land concerned. For a designation with important implications relating to development potential it is essential that precise definition is achieved. The proposed Local Green Space is presented on the Policies Map and Map 11 of the Neighbourhood Plan. I am satisfied the boundaries of the proposed Local Green Space can be satisfactorily identified.

207. Decision makers must rely on paragraph 103 of the Framework that states “*Policies for managing development within a Local Green Space should be consistent with those for Green Belts*” and the part of the Framework that relates to ‘Protecting Green Belt land’, in particular paragraphs 147 to 151. That part of the Framework sets out statements regarding the types of development that are not inappropriate in Green Belt areas. Policy SG16 seeks to introduce a more restrictive approach to development proposals than apply in Green Belt without sufficient justification, which it may not.<sup>62</sup> I have recommended a modification so that the policy has sufficient regard for national policy.

208. Paragraph 101 of the Framework states “*The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.*”

209. In respect of the area proposed for designation as Local Green Space I find the Local Green Space designation is being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designation is not capable of enduring beyond the end of the plan period. The intended Local Green Space designation has regard to the local planning of sustainable development contributing to

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<sup>62</sup> *R on the Application of Lochailort Investments Limited v Mendip District Council. Case Number: C1/2020/0812*

the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework.

210. Paragraph 102 of the Framework states *“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.”*

211. I find that in respect of the proposed Local Green Space the designation relates to green space that is in reasonably close proximity to the community it serves, is local in character, and is not an extensive tract of land.

212. The Guidance states the Qualifying Body (Parish Council) *“should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan.”*<sup>63</sup> The area proposed for designation as Local Green Space has been subject to extensive consultation with the local community.

213. I have considered whether the designation as Local Green Space will result in additional local benefit given the site of the Zion Baptist Church allotments lies within the Stoke Golding Conservation Area. The Guidance is clear that different types of designations are intended to achieve different purposes. Designation as local green space would result in additional local benefit not least in terms of identifying a green space that is of particular importance to the local community where development proposals should be assessed in line with Green Belt policy.

214. The submission Neighbourhood Plan includes in paragraph 7.3 a statement that seeks to justify the proposed designation as Local Green Space with reference to recreational and historic value. Following my request for clarification I have been provided with a detailed completed checklist. The checklist includes: general information; size, scale and local nature; need; evidence relating to being reasonably close to the community it serves; evidence that the area is demonstrably special to a local community; evidence that the

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<sup>63</sup> Planning Practice Guidance Paragraph: 019 Reference ID:37-019-20140306 Revision date 06 03 2014



area holds a particular local significance for reason of its recreational value. The Evidence Base provides sufficient evidence for me to conclude that the area proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance.

215. I find that the area proposed as Local Green Space is suitable for designation and has regard for paragraphs 101 to 103 of the Framework concerned with the identification and designation of Local Green Space.

216. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

217. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 15:**

**Replace Policy SG16 with "The Zion Baptist Church Allotments identified on Map 11, and on the Policies Maps, is designated as Local Green Space"**

**Policy SG17: Community Services and Facilities**

218. This policy seeks to establish that development must show appropriate regard for the retention of identified community facilities in accordance with Strategic Policies DM8, DM22, and DM25.

219. Paragraph 93 of the Framework states planning policies should guard against the unnecessary loss of valued facilities and services, and should plan positively for the provision and use of shared spaces, community facilities and other local services. I am satisfied the approach adopted in Policy SG17 has sufficient regard for national policy in these respects.

220. Policy DM 25 includes “*Retention of Existing Provision - The Borough Council will resist the loss of community facilities including ancillary areas. The redevelopment or loss of community facilities will only be appropriate where it can be demonstrated that: a) An equivalent range of replacement facilities will be provided in an appropriate location within a reasonable distance of the local community; or b) There is a surplus of the facility type within the immediate locality exceeding the needs of the community; or c) The loss of a small portion of the site would result in wider community benefits on the remainder of the site. Loss of Existing Facilities - where replacement facilities will not be provided or a surplus cannot be demonstrated and the scheme would not result in wider community benefits on the remainder of the site, the loss of a community facility would only be considered acceptable where it can be demonstrated that: d) The facility has been proactively marketed for a community use for a reasonable period of time at a reasonable marketed rate as supported and demonstrated through a documented formal marketing strategy. e) It has been offered to the local community for them to take ownership of the facility.*” I have recommended a modification in these respects so that the policy is in general conformity with the strategic policy and provides an additional level of detail to that set out in the strategic policy. Subject to this modification the policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

221. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 16:**

**In Policy SG17 replace the text before “in accordance” with “The community facilities listed below should be retained”**

## **Policy SG18: Commercial, Business and Service Uses in the Village Centre**

222. This policy defines the village centre and seeks to establish approaches to the determination of development proposals in order to maintain or enhance the vitality and viability of the village centre.
223. The terms “*do not detract from the character of the area*” and “*over-concentration*” are imprecise and do not provide a basis for the determination of development proposals. The time limit and size thresholds have not been sufficiently justified. The inclusion of a Class F2a) shop where there is no other such facility within 1000 metre radius is without logic. The non-inclusion of wine bars and drinking establishments with expanded food provision is not justified. The term “*takeaway*” is imprecise. It is confusing and unnecessary to refer to permitted development. The policy duplicates national policy set out in paragraphs 86 to 91 of the Framework in part, and seeks to introduce variations from national policy that have not been sufficiently justified. Policy SG18 is not in conformity with parts a) and b) of Policy DM22. I have recommended a modification in all the above respects so that the policy has sufficient regard for national policy and is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework As recommended to be modified the policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
224. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with ensuring the vitality of town centres the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

### **Recommended modification 17:**

**Replace Policy SG18 with “Development proposals that will enhance the commercial, business and service functions of the Village Centre defined on Map 12 and the Policies Maps, will be**

**supported. Development proposals that will adversely affect the vitality and viability of the Village Centre, or detract from the character of the area, will not be supported.”**

### **Policy SG19: Infrastructure**

225. This policy seeks to establish that new development will be supported by provision of new or improved infrastructure together with financial contributions to specified infrastructure where appropriate.

226. In a representation the Borough Council state *“Suggested rewording to clarify developer contribution requirements have not been undertaken. The suggestion to itemise and prioritise infrastructure needs has not been accepted. It is noted that the government is poised to reform the system of contributions.”* When commenting on this representation the Parish council state *“Community infrastructure improvements will depend upon the scale and nature of the development proposed and prioritisation may vary over time. The Planning for the Future consultation proposes many reforms of the planning system. They are too early in preparation to be a significant consideration.”*

227. It is appropriate for the Neighbourhood Plan to identify priorities for the utilisation of any locally determined element of developer contributions. The opening statement of the policy is imprecise and the use of the term *“where appropriate”* introduces uncertainty. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework. The Borough Council has suggested cross-referencing of GP surgery and school capacity issues in Section 8 of the Neighbourhood Plan to Policy SG19. I agree with the Parish Council that paragraph 8.37 refers to this matter.

228. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies, in particular Policy DM3.

229. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their

community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, promoting sustainable transport, making effective use of land, and conserving and enhancing the natural environment the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 18:**

**In Policy SG19 replace the text before "1" with "Any locally determined element of developer contributions will be utilised for new or improved infrastructure relating to the following:"**

**Policy SG20: Tourism**

230. This policy seeks to establish conditional support for the development of new tourism facilities associated with the Bosworth Battlefield and Ashby Canal. The policy also seeks to establish major development proposals should be supported by a Landscape and Visual Impact Assessment in accordance with Policy SG10
231. In a representation the Borough Council state "*The Consultation Statement clarifies that proposals for tourism facilities that are not associated with the battlefield or canal would be dealt with by HBBC planning policy, but the supporting text does not clarify this.*" No modification in this respect is necessary to meet the Basic Conditions.
232. Paragraph 84 of the Framework states plans should enable the sustainable growth and expansion of all types of business in rural areas both through the conversion of existing buildings and well-designed new buildings. Paragraph 84 also states planning policies should enable sustainable rural tourism and leisure developments which respect the character of the countryside. It is confusing and unnecessary to refer to another policy of the Neighbourhood Plan as all of the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a smaller area of application is specified. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and "*is clearly written and unambiguous, so it is evident how a decision maker should react to*

*development proposals*” as required by paragraph 16d) of the Framework.

233. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

234. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 19:  
In Policy SG20 delete the final sentence**

### **Policy SG21: Willow Park Industrial Estate**

235. This policy seeks to establish the identified Willow Park Industrial Estate will be safeguarded for defined employment development and seeks to establish support for new employment development and expansion of existing businesses.

236. Paragraph 81 of the Framework states planning policies should help create the conditions in which businesses can invest, expand and adapt. Paragraph 83 of the Framework states planning policies should recognise and address the specific locational requirements of different sectors. Policy SG21 includes flexibility to support non-B class economic development uses subject to stated criteria however the safeguarding of the Willow Park Industrial Estate for Class B uses does not have sufficient regard for permanent change (Class of Schedule 2, Part 3) permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The term “*allowed*” does not provide a basis for the determination of development proposals and does not have sufficient regard for the need to consider material considerations as required by paragraph 2 of the Framework. I have recommended a modification in these respects so that the policy has sufficient regard for national

policy and is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

237. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies, in particular Policy DM 19.

238. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 20:**

##### **In Policy SG21**

- **replace the first paragraph with “The expansion of existing businesses and new employment development will be supported within the Willow Park Industrial Estate defined on Map13 and on the Policies Maps.”**
- **commence the second paragraph with “In addition to development permitted by national policy”**
- **replace “allowed” with “supported”**

#### **Policy SG22: Business Conversion of Rural Buildings**

239. This policy seeks to establish criteria for support of business conversion of rural buildings.

240. In a representation the Borough Council state “The Consultation Statement says it is for the development management process to interpret the term ‘proportionate’. This would be preferable to an arbitrary threshold.’ I am content with this approach.

241. The representation also questions “*Is there a policy gap for dealing with proposals for employment uses in the settlement that are*

*not tourism related, for example infills or building conversions? Perhaps policy could be generally supportive (reflecting the Household Survey findings) subject to standard protections against loss of residential amenity, impact on heritage, open space etc?"* The Parish Council has stated neighbourhood plans are not obliged to contain policies addressing all types of development. There is no requirement for the Neighbourhood Plan to include a policy in this respect.

242. Paragraph 84 of the Framework states plans should enable the sustainable growth and expansion of all types of business in rural areas both through the conversion of existing buildings and well-designed new buildings. Paragraph 85 of the Framework makes reference to unacceptable impact on local roads.

243. The policy is in general conformity with the strategic policies included in the Local Plan 2006 to 2026 and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

244. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

## Conclusion and Referendum

245. I have recommended 20 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

246. I am satisfied that the Neighbourhood Plan<sup>64</sup>:

- is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and

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<sup>64</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them



- subject to the modifications I have recommended, meets all the Statutory Requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and meets the Basic Conditions:
  - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the 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);
  - does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
  - 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.<sup>65</sup>

**I recommend to Hinckley and Bosworth Borough Council that the Stoke Golding Parish Neighbourhood Development Plan for the plan period up to 2039 should, subject to the modifications I have recommended, be submitted to referendum.**

In so far as the modifications I have recommended have implications for the Strategic Environmental Assessment of the Neighbourhood Plan the Borough Council as local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations when it takes the decision on whether the neighbourhood plan should proceed to referendum.

247. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.<sup>66</sup> I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable*”

<sup>65</sup> This basic condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 (5) are amended

<sup>66</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

*impact beyond the neighbourhood area*<sup>67</sup>. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Hinckley and Bosworth Borough Council as a Neighbourhood Area on 15 June 2016.**

#### Annex: Minor Corrections to the Neighbourhood Plan

248. A number of consequential modifications to the general text, and in particular the reasoned justification and other general text of policies sections, of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies. Reasoned justification and other supporting text must not introduce any element of policy that is not contained within the Neighbourhood Plan policies.

249. I am able to recommend modification of the Neighbourhood Plan in order to correct errors.<sup>68</sup> I recommend minor change only in so far as it is necessary to correct an error, or where it is necessary so that the Neighbourhood Plan provides a practical framework which makes it evident how a decision maker should react to development proposals as required by paragraph 16 of the Framework. The following corrections are necessary:

The term “large” in paragraph 5.26 is inconsistent with Policy SG10 and should be replaced with “major”

Map 13 (employment area) copies HBBC’s Employment Land and Premises Study (ELPS) outline for the industrial estate but the ELPS outline is wrong. The 2 dwellings to the front of the site should not be included. The Parish Council supports the removal of the dwellings from within the Willow Park Industrial Estate designation.

**Recommended modification 21:  
Modify general text, figures or images to achieve consistency with the modified policies, to correct identified errors, and so it is evident how a decision maker should react to development proposals**

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<sup>67</sup> Planning Practice Guidance Reference ID: 41-059-20140306

<sup>68</sup> Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

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6 September 2021  
REPORT ENDS