

Kempsey Neighbourhood Plan 2016-2030

**A report to Malvern Hills District Council
on the Kempsey Neighbourhood Plan**

**Andrew Ashcroft
Independent Examiner
BA (Hons) MA, DMS, MRTPI**

Director – Andrew Ashcroft Planning Limited

Executive Summary

- 1 I was appointed by Malvern Hills District Council in May 2017 to carry out the independent examination of the Kempsey Neighbourhood Plan.
- 2 The examination was undertaken by written representations. I visited the neighbourhood plan area on 18 May 2017.
- 3 The Plan proposes a series of policies and seeks to bring forward positive and sustainable development in the plan area. There is a very clear focus on safeguarding local character and identifying local green spaces. It allocates a parcel of land for community, recreation and sports provision.
- 4 The Plan has been significantly underpinned by community support and engagement. It is clear that all sections of the community have been actively engaged in its preparation.
- 5 Subject to a series of recommended modifications set out in this report I have concluded that the Kempsey Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum.
- 6 I recommend that the referendum should be held within the neighbourhood plan area.

Andrew Ashcroft
Independent Examiner

22 June 2017

1 Introduction

- 1.1 This report sets out the findings of the independent examination of the Kempsey Neighbourhood Plan 2016-2030 (the Plan).
- 1.2 The Plan has been submitted to Malvern Hills District Council (MHDC) by Kempsey Parish Council in its capacity as the qualifying body responsible for preparing the neighbourhood plan.
- 1.3 Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently embedded in the National Planning Policy Framework in 2012 and which continues to be the principal element of national planning policy.
- 1.4 This report assesses whether the Plan is legally compliant and meets the Basic Conditions that apply to neighbourhood plans. It also considers the content of the Plan and, where necessary, recommends changes to its policies and supporting text.
- 1.5 This report also provides a recommendation as to whether the Plan should proceed to referendum. If this is the case and that referendum results in a positive outcome the Plan would then be used to determine planning applications within the plan area and will sit as part of the wider development plan.

2 The Role of the Independent Examiner

- 2.1 The examiner's role is to ensure that any submitted neighbourhood plan meets the relevant legislative and procedural requirements.
- 2.2 I was appointed by MHDC, with the consent of the Parish Council, to conduct the examination of the Plan and to prepare this report. I am independent of both MHDC and the Parish Council. I do not have any interest in any land that may be affected by the Plan.
- 2.3 I possess the appropriate qualifications and experience to undertake this role. I am a Director of Andrew Ashcroft Planning Limited. In previous roles, I have over 30 years' experience in various local authorities at either Head of Planning or Service Director level. I am a chartered town planner and have significant experience of undertaking other neighbourhood plan examinations and health checks. I am a member of the Royal Town Planning Institute and the Neighbourhood Planning Independent Examiner Referral Service.

Examination Outcomes

- 2.4 In my role as the independent examiner of the Plan I am required to recommend one of the following outcomes of the examination:
- (a) that the Plan is submitted to a referendum; or
 - (b) that the Plan should proceed to referendum as modified (based on my recommendations); or
 - (c) that the Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.

The Basic Conditions

- 2.5 As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the basic conditions, the Plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State; and
 - contribute to the achievement of sustainable development; and
 - be in general conformity with the strategic policies of the development plan in the area; and
 - be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

I have examined the submitted Plan against each of these basic conditions, and my conclusions are set out in Sections 6 and 7 of this report. I have made specific comments on the fourth bullet point above in paragraphs 2.6 to 2.10 of this report.

- 2.6 In order to comply with the Basic Condition relating to European obligations the District Council carried out a SEA screening assessment. The assessment also addresses the parallel need for a Habitats Regulations Assessment. The Screening Opinion is very well-constructed. In particular, it identifies the iterative approach that

has been followed between the screening assessments and the production of the Plan itself. This process has allowed refinement of the analysis of the need or otherwise for the production of a strategic environmental assessment based on the likely impact of policy K10B. The Screening Opinion forms the submitted environment report as required by the Regulations.

- 2.7 An addendum to the screening opinion identifies discussions that have taken place with Historic England. As a result, the Parish Council submitted a Heritage Statement identifying the impact of the implementation of the policy. The final conclusion of the screening report was that there were no significant environmental effects as a result of the production of the Plan. The required consultation was carried out with the three prescribed bodies. All the various letters are included in the Screening Report. This is best practice.
- 2.8 MHDC has also undertaken a Habitats Regulations Assessment Screening Opinion of the Plan. This process concluded that the Plan was unlikely to have any significant effect on a European site. Natural England agree with the Council's conclusion of no likely significant effect upon the Bredon Hill SAC and the Lyppard Grange SAC. On this basis, it was concluded that an Appropriate Assessment was not required for the Plan.
- 2.9 Having reviewed the information provided to me as part of the examination I am satisfied that a proportionate process has been undertaken in accordance with the various regulations. None of the statutory consultees have raised any concerns with regard to either the neighbourhood plan or to European obligations. In the absence of any evidence to the contrary, I am entirely satisfied that the submitted Plan is compatible with this aspect of European obligations.
- 2.10 In a similar fashion I am satisfied that the submitted Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) and that it complies with the Human Rights Act. There is no evidence that has been submitted to me to suggest otherwise. There has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known. On this basis, I conclude that the submitted Plan does not breach, nor is in any way incompatible with the ECHR.

Other examination matters

- 2.11 In examining the Plan I am also required to check whether:
- the policies relate to the development and use of land for a designated neighbourhood plan area; and
 - the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one neighbourhood area); and
 - the Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

2.12 Having addressed the matters identified in paragraph 2.11 of this report I am satisfied that all of the points have been met subject to the contents of this report.

3 Procedural Matters

3.1 In undertaking this examination I have considered the following documents:

- the submitted Plan.
- the Basic Conditions Statement.
- the Consultation Statement.
- the Site Appraisals document.
- the MHDC Screening report.
- the representations made to the Plan.
- the South Worcestershire Development Plan 2006 to 2030
- the National Planning Policy Framework (March 2012).
- Planning Practice Guidance (March 2014 and subsequent updates).
- relevant Ministerial Statements.

3.2 I carried out an unaccompanied visit to the Plan area on 18 May 2017. I looked at its overall character and appearance and at those areas affected by policies in the Plan in particular. My site inspection is covered in more detail in paragraphs 5.9 to 5.16 of this report.

3.3 It is a general rule that neighbourhood plan examinations should be held by written representations only. Having considered all the information before me, including the representations made to the submitted plan, I was satisfied that the Plan could be examined without the need for a public hearing. I advised MHDC of this decision early in the examination process.

4 Consultation

Consultation Process

- 4.1 Policies in made neighbourhood plans become the basis for local planning and development control decisions. As such the regulations require neighbourhood plans to be supported and underpinned by public consultation.
- 4.2 In accordance with the Neighbourhood Planning (General) Regulations 2012 the Parish Council has prepared a Consultation Statement. This Statement is proportionate to the Plan area and its policies. It also provides specific details on the consultation process that took place on the pre-submission version of the Plan. The Statement helpfully sets out how the emerging plan took account of the various comments and representations. The various appendices describe the comments received and how the Plan took account of those comments.
- 4.3 The earlier parts of the Statement set out details of the wider consultation events that were carried out to raise awareness as part the evolution of the Plan. Details are provided about:
- the use of dedicated pages on the Parish Council website
 - A household questionnaire (September 2014)
 - The use of regular updates in the Parish newsletter
 - Discussion on an emerging draft plan in Winter 2014/15

The pre-submission consultation exercise was underpinned by:

- The continued use of the website
 - The delivery of a summary leaflet to every household
 - The use of presentation/drop in sessions at the Church
 - Correspondence with statutory consultees and local groups
- 4.4 The Consultation Statement provides very useful information on these and other matters. It provides the clarity and assurance that the plan-making process has had regard to paragraphs 183 and 184 of the NPPF, and that the submission Plan represents a shared vision for the neighbourhood and delivers the sustainable development that it needs.
- 4.5 It is clear to me that consultation has been an important and integral part of the Plan's production. Advice on the neighbourhood planning process has been made available to the community in a positive and direct way by those responsible for the Plan's preparation. Consultation and feedback has been a key part of the Plan throughout the various stages of its production.
- 4.6 The positive approach that was taken in responding to the earlier comments is reflected in the range and detail of the representations received to the submitted plan (see paragraph 4.8 below).

- 4.7 From all the evidence provided to me as part of the examination, I can see that the Plan has promoted an inclusive and comprehensive approach to seeking the opinions of all concerned throughout the process. MHDC has carried out its own assessment that the consultation process has complied with the requirements of the Regulations. The examination process has identified some typographical issues with regards to dates in the Consultation Statement. I am satisfied that no party has been disadvantaged. It was not raised as part of any representation. I have however written separately to the Parish Council asking that these minor issues are remedied to provide an accurate long-term public record.

Representations Received

- 4.8 Consultation on the submitted plan was undertaken by the District Council for a six-week period that ended on 24 February 2017. This exercise generated comments from the following organisations:

- Kempsey Parish Council
- MHDC
- Worcestershire County Council
- Historic England
- Natural England
- Highways Agency
- The Coal Authority
- Network Rail
- Canal and River Trust
- National Grid
- Richborough Estates
- Plainview Planning
- Moule & Co.
- Lioncourt Homes
- Kempsey Lawn Tennis Club
- Mr B Boley
- Mr R Gardener
- Mr Rookes
- Mr and Mrs Capewell
- Mr Rimell
- Mr and Mrs Allsopp
- Mr D Banks

5 The Plan Area and the Development Plan Context

The Plan Area

- 5.1 The Plan area covers the parish of Kempsey. It was designated as a neighbourhood area on 2 July 2013. The Plan area is located approximately 2km to the south of the A4440 Worcester southern relief road and approximately 1km to the west of the M5. It sits in the very heart of the South Worcestershire Development Plan area. The neighbourhood area has a population of approximately 3180 people and has around 1350 dwellings.
- 5.2 The character of the Plan area is defined by a network of villages and hamlets set in an attractive agricultural landscape. Kempsey is the largest and most significant settlement in the Plan area. It sits on the A38 which runs in this part of the country from Worcester to Tewkesbury and Gloucester. The historic core of the village is located approximately 200 metres to the west of this main road around St Mary's Church and Church Street. This reflects the location of the River Severn to the immediate west.
- 5.3 The landscape to the north and west of Kempsey is dominated by the River Severn. To the east of the A38 the countryside is characterised by its open and rolling nature. In places, it is inevitably affected by the M5 motorway.

Development Plan Context

- 5.4 The development plan context is very comprehensively set out in Section 4 of the Plan. The South Worcestershire Development Plan (SWDP) was adopted in February 2016. It covers Wychavon District, Malvern Hills District and Worcester City. MHDC helpfully provided me a schedule of the strategic policies in the SWDP. The following policies have been particularly important in providing a strategic context to the submitted Plan:

SWDP2	Development Strategy and Settlement Hierarchy
SWDP5	Green Infrastructure
SWDP6	Historic Environment
SWDP21	Design

- 5.5 The Basic Conditions Statement (in its Table 3) usefully highlights the policies in the development plan and how they relate to policies in the submitted Plan. This is good practice.
- 5.6 The settlement hierarchy in the SWDP identifies Kempsey as a Category 1 village. It has a focus on meeting locally identified housing and employment needs.
- 5.7 The submitted Plan sets out to add value to the adopted local plan. It does so primarily by refining the boundary of the Significant Gap, by proposing local green spaces inside the settlement boundaries and by proposing land for new community, recreation and sports facilities.

- 5.8 It is clear that the submitted Plan has been prepared to be complementary to the SWDP. It sets out to add value by virtue of its more detailed approach to the matters set out in paragraph 5.7 above. In doing so it has relied on up to date information and research. This is good practice which reflects key elements in Planning Practice Guidance on neighbourhood planning.

Site Visit

- 5.9 I carried out an unaccompanied visit to the Plan area on 18 May 2017. I was fortunate in having selected a very pleasant day. I was rewarded at various points throughout the day by a series of spectacular views of the Malvern Hills.
- 5.10 I drove into the Plan area from Worcester to the north. This helped me to understand scale, location and significance of the 'Significant Gap'. I was also able to see the Malvern Hills for the first time.
- 5.11 I parked by St Mary's Church. Due to the compact nature of the village I was able to look at the important elements of the Plan in Kempsey village on foot. I looked at the Church itself, the ford in Squires Walk and the very pleasant landscape and footpath area around Hatfield Brook off Church Street. I also took the opportunity to walk along the Severn Way. It gave a context to the setting of the historic village.
- 5.12 I then crossed the ford and walked down Old Road South to the area proposed for the new recreation and sporting facilities (Policy K10B). I saw the nature of the landscape setting of both K10Bi and KB10ii and the way in which they sat within the existing context of the road pattern and the associated boundary hedges. I walked along Pixham Ferry Lane so that I could understand the policy and its supporting text in a better fashion.
- 5.13 I then walked through to the existing Plovers Rise recreation ground. I saw the Youth Centre, the pavilion and the extensive playing fields. All the facilities were well-maintained. Several groups of people were taking the opportunity for informal recreation on a very pleasant day. I then looked at one of the proposed local green spaces (K11/6).
- 5.14 I then traced my steps back to Main Street and looked at the range of community facilities in this part of the Plan area. This aspect of the visit helped me to understand the nature of policy K8 more comprehensively. I also looked at one of the other local green spaces (K11/5).
- 5.15 I then looked at the other four local green spaces in the northern part of the village.
- 5.16 I finished my tour of the Plan area by driving to Green Street. In doing so I saw the impact of the M5 on the Plan area. I saw some of the strategic housing developments taking place to the east of Kempsey and the general location of the sites identified in the Richborough Estates representation.

6 The Neighbourhood Plan as a whole

- 6.1 This section of the report deals with the submitted neighbourhood plan as a whole and the extent to which it meets the basic conditions. The submitted Basic Conditions Statement has helped considerably in the preparation of this section of the report. It is a well-presented and informative document.
- 6.2 The Plan needs to meet all the basic conditions to proceed to referendum. This section provides an overview of the extent to which the Plan meets three of the four basic conditions. Paragraphs 2.6 to 2.10 of this report have already addressed the issue of conformity with European Union legislation.

National Planning Policies and Guidance

- 6.3 The key elements of national policy relating to planning matters are set out in the National Planning Policy Framework (NPPF) issued in March 2012.
- 6.4 The NPPF sets out a range of core land-use planning principles to underpin both plan-making and decision-taking. The following are of particular relevance to the Kempsey Neighbourhood Plan:
- a plan led system– in this case the relationship between the neighbourhood plan and the adopted Local Plan (the SWDP).
 - recognising the intrinsic character and beauty of the countryside and supporting thriving local communities.
 - Always seeking to secure high quality design and good standards of amenity for all future occupants of land and buildings.
 - Taking account of local strategies to improve health, social and cultural wellbeing for all.
- 6.5 Neighbourhood plans sit within this wider context both generally, and within the more specific presumption in favour of sustainable development, which is identified as a golden thread running through the planning system. Paragraph 16 of the NPPF indicates that neighbourhoods should both develop plans that support the strategic needs set out in local plans and plan positively to support local development that is outside the strategic elements of the development plan.
- 6.6 In addition to the NPPF I have also taken account of other elements of national planning policy including Planning Practice Guidance and the relevant ministerial statements.
- 6.7 Having considered all the evidence and representations available as part of the examination I am satisfied that the submitted Plan has had regard to national planning policies and guidance in general terms. It sets out a positive vision for the future of the plan area and, in conjunction with the SWDP, promotes sustainable growth. At its heart are a suite of policies to safeguard its character and appearance and to safeguard the Significant Gap. It also promotes proposals for new sporting

and recreation facilities in the village. The Basic Conditions Statement cross-relates Plan policies against the appropriate core planning principles in the NPPF.

- 6.8 At a more practical level the NPPF indicates that plans should provide a clear framework within which decisions on planning applications can be made and that they should give a clear indication of how a decision-maker should react to a development proposal (paragraphs 17 and 154). This was reinforced with the publication of Planning Practice Guidance in March 2014. Its paragraph 41 (41-041-20140306) indicates that policies in neighbourhood plans should be drafted with sufficient clarity so that a decision-maker can apply them consistently and with confidence when determining planning applications. Policies should also be concise, precise and supported by appropriate evidence.
- 6.9 As submitted the Plan does not fully accord with this range of practical issues. Some of my recommended modifications in Section 7 relate to matters of clarity and precision. They are designed to ensure that the Plan fully accords with national policy.

Contributing to sustainable development

- 6.10 There are clear overlaps between national policy and the contribution that the submitted Plan makes to achieving sustainable development. Sustainable development has three principal dimensions – economic, social and environmental. It is clear to me that the submitted Plan has set out to achieve sustainable development in the Plan area. In the economic dimension the Plan sets out to promote new housing within the settlement boundary (K1) and to promote employment development (K13/14). In the social role, it includes policies to safeguard and extend community facilities (K8). In addition, it promotes health and well-being by supporting proposals for new community facilities and to safeguard local green spaces (K8-11). In the environmental dimension the Plan positively seeks to protect the natural, built and historic environment of the parish (K5/6/7). In particular, it safeguards the ‘Significant Gap’ (K4) and proposes a package of local green spaces (K11).

General conformity with the strategic policies in the development plan

- 6.11 I have already commented in detail on the development plan context in the wider Malvern Hills District Council area in paragraphs 5.4 to 5.8 of this report.
- 6.12 I consider that the submitted Plan delivers a local dimension to this strategic context and supplements the detail already included in the adopted Local Plan. Table 3 of the Basic Conditions Statement helpfully relates the Plan’s policies to policies in the Local Plan. I am satisfied that the submitted Plan is in general conformity with the strategic policies in the development plan.

7 The Neighbourhood Plan policies

- 7.1 This section of the report comments on the range of policies in the Plan. In particular, it makes a series of recommended modifications to ensure that the various policies have the necessary precision to meet the basic conditions.
- 7.2 My recommendations focus on the policies themselves given that the basic conditions relate primarily to this aspect of neighbourhood plans. In some cases, I have also recommended changes to the associated supporting text.
- 7.3 I am satisfied that the content and the form of the Plan is fit for purpose. It is thorough and distinctive to the Plan area. The wider community and the Parish Council have spent considerable time and energy in identifying the issues and objectives that they wish to be included in their Plan. This sits at the heart of the localism agenda.
- 7.4 The Plan has been designed to reflect Planning Practice Guidance (41-004-20140306) which indicates that neighbourhood plans must address the development and use of land.
- 7.5 I have addressed the policies in the order that they appear in the submitted plan. In some cases, there are overlaps between the different policies.
- 7.6 For clarity this section of the report comments on all policies whether or not I have recommended modifications in order to ensure that the Plan meets the basic conditions.
- 7.7 Where modifications are recommended to policies they are highlighted in bold print. Any associated or free-standing changes to the text of the Plan are set out in italic print.

The initial sections of the Plan (Sections 1-4)

- 7.8 These introductory elements of the Plan set the scene for the policies. They helpfully provide a concise context to the Plan area and the subsequent policies.
- 7.9 Section 1 provides very clear context to the neighbourhood planning process. It sets out some basic information on the Plan area, its population and its facilities. It also provides a useful connection to the adopted Local Plan and its associated strategic development.
- 7.10 Section 2 provides background information on the key issues facing Kempsey. They reflect the scale of development identified in the Local Plan. Specific attention is drawn to the maintenance of the 'Significant Gap', the need to protect heritage assets, the need to provide additional community facilities, and the wider need to protect the countryside.

- 7.11 Section 3 sets out how the Plan has responded to these issues in identifying its Vision and Objectives. There is an overwhelming wish that Kempsey continues to be an identifiable, sustainable rural community.
- 7.12 Section 4 sets out the national and local planning policy context that has informed the production of the Plan. Paragraph 4.13 of the Plan identifies the scale and location of new residential development within the neighbourhood area identified in the SWDP.
- 7.13 The remainder of this section of the report addresses each policy in turn in the context set in paragraphs 7.5 to 7.7 in this report.

Policy K1: New Housing development

- 7.14 This policy provides a positive context within which new residential development can be promoted in the development boundary. That boundary has been identified to take account of the sites allocated for development in the SWDP and which are coterminous with the former settlement boundary. The development boundary excludes that part of SWDP 59f allocation which is identified as open space. This approach has been agreed with MHDC. Representations have been made to the Plan both by MHDC and the Parish Council suggesting that the parcel of land to the south of Post Office Lane with planning permission for 75 dwellings (14/00625/FUL) should be included within the development boundary as shown in Figure 5. Plainly there would be merit in this approach both in general terms, and in particular as the development concerned has now started. I recommend accordingly.
- 7.15 The policy sets out that residential development will be supported within the development boundary subject to a series of criteria. The first criterion is that it seeks, wherever possible to use previously developed land that is not of high environmental value. In its representation MHDC draws my attention to the debates that took place on the use of greenfield and previously developed land for residential purposes at the examination of the SWDP. In the circumstances of this policy that debate is particularly relevant. I recommend a modification that will result in a more flexible criterion. In addition, it will clarify that the policy is not proposing that new residential development will only be supported on previously developed land. However, in any event I acknowledge that the vast majority of land within the development boundary will be previously developed land or will have been allocated for residential development in the SWDP.

**In criterion a) replace ‘wherever.... developed land’ with ‘to use land’
Include the parcel of land to the south of Post Office Lane with planning permission within the development boundary.**

Policy K2: New housing development outside Kempsey village

- 7.16 This policy applies national and local planning policy to the neighbourhood area. It establishes a restrictive approach to development outside the village development

boundary. In doing so it correctly identifies the potential exceptions as identified in national policy.

- 7.17 Part of the policy applies to existing buildings. It does not sit comfortably within the wider context set by the policy as a whole. This detracts from the clarity of the policy. I recommend a modification to address this matter. It identifies this component of the policy in a more free-standing fashion. I also recommend two other modifications to give this policy the clarity required by the NPPF. I also correct a typographical error in paragraph 5.11.

In the opening part of the policy delete ‘within.... but’

In the second sentence of the policy replace ‘when it is’ with ‘where it would be one of the following’

Delete ‘For new dwellings.... the following:’

Insert ‘or’ at the end of a), b) and c)

**Replace the opening part of the third paragraph of the submitted policy with:
Proposals for the following alterations to existing dwellings outside the village development boundary will be supported:**

Change e) to a) and f) to b)

In paragraph 5.11 delete ‘may come forward’ in the penultimate line.

Policy K3: Housing Mix

- 7.18 This policy requires that all residential proposals over five dwellings should provide a range of house types, sizes and tenures.
- 7.19 The policy has regard to national policy and is in clear conformity with Policy 14 of the SWDP. It will assist in delivering the social component of sustainable development. It meets the basic conditions.

Policy K4: The Significant Gap

- 7.20 This policy is an important component of the Plan. It translates the ‘Significant Gap’ from the SWDP into the neighbourhood plan. The second part of the policy sets out the schedule of land uses identified in the SWDP2 (paragraph 8) that may be acceptable in Significant Gaps. To ensure consistency with the SWDP I recommend that the schedule of land uses is located in the supporting text rather than in the policy itself. In any event the use of the expression ‘may be acceptable’ in a policy context does not have the clarity required by the NPPF.
- 7.21 I also recommend that the supporting text identifies and explains the slight anomaly between the boundaries of the Significant Gap in the two documents.

Delete the second part of the policy

Insert the deleted element of policy at the end of paragraph 5.20

At the end of paragraph 5.19 add:

'The definition of the Significant Gap in this Plan is slightly different from that in the SWDP. It includes that part of SWDP 59f which is to be retained as open space'

Policy K5: Designated Heritage Assets

- 7.22 This policy comments that development proposals should respect listed buildings and the conservation area. In doing so it properly reflects national and local planning policy.
- 7.23 I recommend that the second part of the policy is addressed in supporting text rather than within the policy. Its role is to describe the listed buildings within the parish rather than to set out a policy context for associated development proposals.

Delete the second part of the policy

Insert the deleted element of policy at the end of paragraph 5.21

Policy K6: Non-Designated Heritage Assets

- 7.24 This policy continues the approach adopted in Policy K5. In this case, it applies to non-designated heritage assets. The supporting text properly identifies the ways in which historic buildings contribute to local character and distinctiveness. The policy also correctly identifies that MHDC need to follow a separate process to identify a local list of non-designated heritage assets.
- 7.25 The policy meets the basic conditions. Nevertheless, I recommend a modification to the supporting text to clarify the status of the local list. Paragraph 5.25 uses the word 'list' in two very different ways.

In paragraph 5.25 (third line) replace 'listed' with 'included'.

Policy K7: Valued Landscapes

- 7.26 This policy identifies and safeguards Valued Landscape areas in the Plan area. Paragraph 5.27 of the supporting text explains the extent to which these landscapes have been selected and their relationship to Natural England's National Landscape Character Assessment. Paragraph 5.29 helpfully explains the specific characteristics of each of the identified landscapes.
- 7.27 I am satisfied that the policy meets the basic conditions. Nevertheless, I recommend that its second part (referring to Figure 11) is moved into the supporting text. It is not a policy in its own right.
- 7.28 The Commons and the Hams are shown on Figure 11 in the submitted Plan. However, that figure has not reproduced particularly well and needs a stronger key. I recommend accordingly to ensure that the Plan has the clarity required by the NPPF.

Delete the second part of the policy

Insert the deleted part of the policy at the end of paragraph 5.29

Reproduce Figure 11 with greater sharpness and with an appropriate key to identify the Valued Landscapes.

Policy K8: Protection and Improvement of Community Facilities

- 7.29 This policy sets out to identify and safeguard a range of community facilities. The policy indicates that their loss or change of use of the identified facilities will not be supported. The policy identifies two circumstances in which proposals of this nature may be supported. The first is where the facility is no longer viable (subject to marketing information). The second is where the proposal includes alternative provision.
- 7.30 I sought clarification from the Parish Council on the relationship of this policy to Policy SWDP 37. This issue had been raised by others at representation stage. The Parish Council comments that policy K8 should be read alongside Policy SWDP37. I have considered very carefully the alternative approaches to this important policy matter. Whilst I acknowledge that Policy SWDP37 is not a strategic policy in the development plan the design of the two policies is sufficiently different to detract from the clarity in policy approach that is required by the NPPF. This is particularly important given the recent adoption of the SWDP and the extent that it was shaped in its final format to have regard to national policy. In particular policy K8 identifies only two of the five criteria in Policy SWDP37. This results in its more restrictive approach.
- 7.31 I recommend a series of modifications to the policy to ensure that it meets the basic conditions. The policy would operate around the identification of the eleven identified community facilities and the application of the criteria in Policy SWDP 37B. There is no direct challenge to the identification of these facilities to be protected by this policy. The Parish Council has advised that they are the facilities that the community wishes to protect or improve. In addition, Policy SWDP 37Bv. provides a robust basis for the application of marketing requirements (Annex F of the SWDP).

Replace the policy with:

**The following are identified as important community facilities in the Plan area:
[Reproduce list - K8/1 to K8/11]**

Any proposal that would result in the loss of any of these community facilities will only be supported if the criteria set out in SWDP Policy 37B are met.

Insert the following at the end of paragraph 5.32:

It has been designed to follow the same format. Annex F of the SWDP provides clear and robust guidance on the need for appropriate marketing of community facilities to ensure that it could not be satisfactorily operated by an alternative occupier or organisation.

Policy K9: New and Extended Community Facilities

- 7.32 This policy offers support for new community facilities and for extensions or improvements to existing facilities subject to a series of criteria. The policy includes,

but is not exclusive, to the eleven facilities identified in policy K8. I am satisfied that the policy is appropriate both in its own right and in particular given the planned strategic housing growth in the neighbourhood area. I recommend modifications to the policy so that the criteria take on a similar grammatical format. This will bring the clarity required by the NPPF.

- 7.33 Paragraph 5.34 identifies a specific need for meeting rooms. Plainly this is likely to be the case. Nevertheless, I recommend that paragraph 5.34 clarifies that this is one specific community need rather than the only one. I also recommend a modification to paragraph 5.36 to clarify how the policy will be applied.
In criterion d) delete 'They are' and insert 'to the community' between 'accessible' and 'by'.

In paragraph 5.34 insert 'particular' between 'a' and 'requirement'.

In paragraph 5.36 replace 'managed' with 'used'.

Policy K10: Existing and Future Community, Recreation and Sport

- 7.34 This policy sits at the heart of the Plan. It reflects the scale and significance of the strategic housing growth anticipated in the Plan area. The policy comes in two parts. The first (K10A) safeguards the existing sports and recreational facilities at Plovers Rise. The second identifies land to the north of Pixham Ferry Lane for community, sport and recreation provision (K10B).
- 7.35 I am satisfied that Policy K10A meets the basic conditions. It both protects the existing facilities and supports proposals for their improvement. It will make a significant contribution to the achievement of the social component of sustainable development.
- 7.36 Policy K10B is an ambitious policy. It identifies and allocates land to the north of Pixham Ferry Lane for the development of new community and sporting facilities. As part of the proposal the policy identifies the potential for associated enabling housing development on land to the east of the site identified for the new community and sporting facilities. The policy then sets out the circumstances in which the enabling residential development would be promoted and addressed as part of the development management process. A planning application for the wider package of development was being considered by MHDC at the time of the examination of the Plan.
- 7.37 Paragraphs 5.37 to 5.47 set out some of the background to the project and the mechanisms by which it would be achieved. In response to a series of clarification points the Parish Council has provided appropriate levels of assurance that it has proper measures in place to manage the interplay between the two complementary projects. I am satisfied that the approach adopted in the Plan is appropriate to an expanding community. I am also satisfied that appropriate and robust site selection processes have been followed for both components of the wider package. Whilst it has attracted representations from local residents the matters raised are of a detailed nature that are capable of being addressed as part of the determination of the current planning application.

7.38 I recommend a series of modifications to the policy and to the supporting text to ensure that it has the clarity required by the NPPF in general, and that it provides a context within which MHDC can determine planning applications for any associated supporting residential development in particular. As submitted the policy is silent on this second point. Its main focus is on the connection between the recreation development and any housing development rather than its specific details. As part of this package of modifications I recommend that the supporting text has a close and functional relationship with the policy itself. Whilst its reference to a 'preferred' location for enabling development is understandable the planning process requires an appropriate level of clarity. The potential enabling housing site east of Old Road South is identified on the Proposals Map and has been the subject of the public consultation process on the wider plan. I also recommend that the process by which the two elements of the proposal would be submitted and determined is set out in an additional section of supporting text. This will bring clarity to the process for all concerned.

In Policy K10B (first and second paragraphs) delete 'further'.

In the second paragraph replace 'enabling housing....be considered' with 'a site for enabling housing development is identified'.

In the second paragraph (final sentence) replace 'would' with 'will'.

In criterion c) replace 'the minimum necessary to provide' with 'directly related in scale to its role in providing'.

Insert a new paragraph into the policy to read:

Where it can be demonstrated that new residential development is required on land to the east of Old Road South to assist in the delivery of the community, recreation and sport elements of this policy, that residential development will be supported where it meets the following criteria:

- a) it provides for a high design quality in accordance with SWDP Policy 21;**
- b) it contains a mix of types and sizes of houses in accordance with SWDP Policy 14 and Policy K3 of this Plan;**
- c) it provides for satisfactory vehicular access and on-site parking in accordance with development plan standards;**
- d) it safeguards the residential amenities of surrounding residential properties; and**
- e) it provides for open space in accordance with development plan standards.**

In paragraph 5.44 replace the final two sentences with:

Access to the recreation land will be from Pixham Ferry Lane. Detailed discussions are taking place with Worcestershire County Council to address highway safety and passing bay issues. The scheme will be expected to take account of the need for safe pedestrian routes to the new recreation area and to ensure satisfactory drainage'

In paragraph 5.46 (second sentence) replace 'Currently the preferred' with 'The chosen'. At the end of the paragraph include the following additional supporting text: 'The final part of Policy KB10B sets out a series of criteria with which any required enabling housing development will need to comply. It is important that this component of the wider package meets development plan policies in general and results in high quality development in particular. In the event that the residential component of the scheme is triggered it should be submitted and determined as part of a wider package with the application for the community and recreation development. It is anticipated that the two components of the scheme would be linked by a planning obligation. This matter will be determined by the District Council based on the details of the planning application and its supporting documentation.'

In paragraph 5.47 delete 'preferred'. In its final sentence replace 'K10Bii' with 'K10Bi' and delete '(minimum 5 hectares)'

Policy K11: Local Green Spaces

- 7.39 This policy identifies six proposed local green spaces (LGSs) and safeguards them against new development other than in very special circumstances. I looked at the spaces concerned when I visited the Plan area.
- 7.40 The policy has regard to national policy. Table 1 in the Plan assesses each of the proposed LGSs against the three criteria in paragraph 77 of the NPPF. In all cases the sites concerned comfortably meet the criteria. In particular, they are in close proximity to the community that they serve and are local in character. The policy will make an important contribution to the achievement of sustainable development in the Plan area. It meets the basic conditions.
- 7.41 I was able to find all six areas on my visit to the Plan area. Nevertheless, the Proposals Map does not show the six spaces with sufficient clarity for the long-term application of the development management system in the District. I recommend that the LGSs are shown on a separate inset map (or inset maps) of an appropriate scale for accurate identification purposes.

Show the six LGSs on a separate inset map (or inset maps) of an appropriate scale for accurate identification purposes.

Policy K12: Green Infrastructure

- 7.42 This policy identifies and protects a Green Infrastructure Network in the Plan area. That network is shown on Figure 11. In this respect, the policy overlaps with Policy K7. The same comments apply to Figure 11 as I set out in Policy K7.
- 7.43 MHDC considers that the policy lacks the clarity for the determination of planning applications. I agree with this point. I recommend modifications to the policy to address this point. In particular, they insert key elements of Policy SWDP 5C, referred to in paragraph 5.55 of the submitted Plan. This approach will bring the

clarity required by the NPPF and will allow MHDC to apply the policy in a consistent fashion.

Insert a second part of the policy as follows:

Development proposals that would have a detrimental impact on the identified Green Infrastructure Network will not be supported unless:

- a) a robust, independent assessment of community and technical need shows that such sites are surplus in a particular location; or**
- b) replacement of, or investment in, green infrastructure of at least equal community and technical benefit is secured.**

Reproduce Figure 11 with greater sharpness and with an appropriate key to identify the Green Infrastructure Network.

Policy K13: Employment Uses within the Development Boundary

- 7.44 This policy offers support to proposals for two types of employment purposes within the development boundary. The first is where proposals re-use existing land and buildings. The second is where proposals are for the diversification of an existing rural enterprise. In both cases proposals are expected not to have significant adverse impact on residential amenities in the Plan area. The policy comments that it complements SWDP Policy 8.
- 7.45 SWDP Policy 8E indicates that the provision of employment land and the conversion of existing buildings to support job creation will be supported providing that the development supports an existing business or new enterprise of a scale appropriate to the location. Whilst I can see that the submitted policy has sought to relate to this approach I am not satisfied that policy K13 is in general conformity with SWDP Policy 8E which is a strategic policy in the development plan. In particular, the policy approach in policy K13 is more restrictive. This is more than an academic policy issue. The reasoned justification in the SWDP refers to the high levels of economic and entrepreneurial activity in south Worcestershire (paragraph 2 to SWDP8), and the number of employment areas and small businesses dispersed throughout the rural areas (paragraph 3 to SWDP 8).
- 7.46 In order to remedy this matter I recommend a series of modifications to the policy. Their combined effect will be to ensure a closer relationship to the approach taken in SWDP 8 and to identify particular types of employment development that will be supported in the Plan area. For clarity, I am satisfied that the second part of the policy in the submitted Plan meets the basic conditions. Within the context of the recommended modification it would become the third part of the policy.

Delete a) and b) and replace with:

- a) they support an existing business; and**
- b) they facilitate the development of a new enterprise of a scale appropriate to the location.**

Insert a new paragraph at this point to read:

Proposals that involve the re-use of existing land or buildings or would allow the diversification of an existing enterprise will be particularly supported.

Policy K14: Employment Sites outside the development boundary

- 7.47 This policy is the equivalent policy to Policy K13 but in locations outside the settlement boundary. The policy supports the extension of existing premises that would themselves support the retention of existing employment sites or the development of new sites. In their different ways, these aspects of the policy seek to provide a neighbourhood plan dimension to SWDP Policy 12 b and 12C.
- 7.48 MHDC comments that it would be helpful if the policy included a map showing the location of the existing employment sites in the Plan area to which this policy would apply. I agree that this approach would have been helpful. However, it is not necessary to meet the basic conditions.
- 7.49 Paragraph 5.58 of the Plan helpfully sets out the context to this policy. I recommend that 'rural business' is replaced by a more generic description of the location of the businesses concerned. There may well be businesses outside the development boundary which may not naturally be regarded as 'rural' businesses.

In paragraph 5.58 replace 'rural businesses' with 'employment sites outside the development boundary'

Policy K15: Transport

- 7.50 This policy seeks to ensure that any adverse traffic impacts from development are suitably mitigated. It reflects the concerns of local residents. It lists in the supporting text a series of mitigation measures that could be used as appropriate.
- 7.51 MHDC suggests that the policy is not a land use policy and should be listed in a part of the Plan that will not have development plan status. I acknowledge its concerns. Nevertheless, with modifications the policy is capable of operating as a land use policy.
- 7.52 The design of the policy assumes that developments will have adverse traffic impacts that cannot be contained or controlled within their application sites. On this basis, its approach is to secure appropriate mitigation and/or developer contributions. I recommend a modification to address this matter. It would introduce a two-stage approach. In the first instance the expectation would be that developments should be self-sufficient in providing their own necessary levels of car parking and/or transport infrastructure. Where the development is otherwise acceptable and a degree of mitigation is required the second element of the policy would come into effect.

Replace the policy with the following:

Proposed new developments should provide for their own parking and transportation requirements.

Proposed development that is otherwise acceptable and which cannot provide for its own parking and transportation requirements will only be supported where it is accompanied by appropriate mitigation measures and/or makes contributions to transportation projects that will ensure suitable mitigation.

Other matters

- 7.53 The initial and final sections of the Plan include a selection of general commentary on the production of the Plan, its future process stages and its relationship to the wider local planning context. I set out below a series of recommended modifications in addition to those that stem directly from the recommended modifications to the various policies. They either recommend more technically correct language or they bring clarity to the wider intentions of the Plan. They are required to ensure that the Plan has regard to national policy by having the clarity required by the NPPF.

Page 6

First paragraph

Replace 'new' with 'adopted'

Para 4.1

Delete 'the South.... (SWDP)'

Appendix 2

Title

Insert 'District Council' after 'Hills'

8 Summary and Conclusions

Summary

- 8.1 The Plan sets out a range of policies to guide and direct development proposals in the period up to 2030. It is thorough and distinctive in addressing a specific set of issues that have been identified and refined by the wider community.
- 8.2 Following my independent examination of the Plan I have concluded that the Kempsey Neighbourhood Plan meets the basic conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications.
- 8.3 This report has recommended a number of modifications to the policies in the Plan in general, and to Policy K10B in particular. Nevertheless, it remains fundamentally unchanged in its role and purpose.

Conclusion

- 8.4 On the basis of the findings in this report I recommend to Malvern Hills District Council that subject to the incorporation of the modifications set out in this report that the Kempsey Neighbourhood Plan should proceed to referendum.

Referendum Area

- 8.5 I am required to consider whether the referendum area should be extended beyond the Plan area. In my view, the neighbourhood area is entirely appropriate for this purpose and no evidence has been submitted to suggest that this is not the case. I therefore recommend that the Plan should proceed to referendum based on the neighbourhood area as approved by the District Council on 2 July 2013.
- 8.6 I am grateful to everyone who has helped in any way to ensure that this examination has run in a smooth and efficient manner.

Andrew Ashcroft

Independent Examiner
22 June 2017