

**Hallow Parish Council**

# **Hallow Neighbourhood Development Plan**

A report to Malvern Hills District Council of the Independent  
Examination of the Hallow Neighbourhood Development Plan

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## Summary of Main Findings

This is the report of the Independent Examination of the Hallow Neighbourhood Development Plan. The plan area is the whole of the Parish of Hallow being also the administrative area of Hallow Parish Council within the Malvern Hills District Council area. The plan period is 2021-2041. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan allocates land for the development of a minimum of 40 dwellings.

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 Hallow Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Hallow 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 Hallow Neighbourhood Area which was formally designated by Malvern Hills District Council (the District Council) on 14 July 2017. The Neighbourhood Plan has been produced by the Neighbourhood Plan Steering Group made up of Parish Councillors and other volunteers.
4. The submission draft of the Neighbourhood Plan including the Basic Conditions Statement, along with the Consultation Statement, have been approved by the Parish Council for submission of the plan and accompanying documents to the District Council. The District Council arranged a period of publication between 15 January 2021 to 26 February 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 District Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The

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<sup>1</sup> Paragraph 29 National Planning Policy Framework (2019)

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

District Council will decide what action to take in response to the recommendations in this report.

6. The District 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<sup>4</sup> 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>5</sup> unless the District 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>6</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>7</sup>.
8. I have been appointed by the District 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 District 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

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<sup>3</sup> Paragraph 48 of the National Planning Policy Framework 2019 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> The Local Government & Police & Crime Commissioner (Coronavirus) (Postponement of Elections & Referendums) (England & Wales) Regulations 2020 Regulation 13 states referendums that would have been held from 7 April 2020 up to 6 May 2021 will be held on 6 May 2021

<sup>5</sup> Section 3 Neighbourhood Planning Act 2017

<sup>6</sup> Section 156 Housing and Planning Act 2016

<sup>7</sup> Paragraph 12 National Planning Policy Framework 2019

Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; 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.

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>8</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>9</sup>

11. The representation on behalf of IM Land Ltd states this Independent Examination would merit a hearing. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>10</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. 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 documents including written representations, and an unaccompanied visit to the

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

<sup>9</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>10</sup> Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

Neighbourhood Plan area undertaken on 21 March 2021, partly by car and partly on foot.

## Basic Conditions and other Statutory Requirements

12. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.<sup>11</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>12</sup>

13. 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 new basic condition. I refer to this matter later in my report.

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights.<sup>13</sup> All of these matters are considered in the later sections of this report titled

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<sup>11</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

<sup>12</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>13</sup> The Convention Rights has the same meaning as in the Human Rights Act 1998

‘The Neighbourhood Plan taken as a whole’<sup>14</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>15</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 District Council as a neighbourhood area on 14 July 2017. 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 Hallow boundaries, being also the administrative area of Hallow Parish Council. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>16</sup> and no other neighbourhood development plan has been made for the neighbourhood area.<sup>17</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>18</sup> and the Neighbourhood Plan does not include provision about excluded development.<sup>19</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>20</sup> Paragraph 4.1 of the Neighbourhood Plan confirms the plan period will run to 2041 which is the same time period as the South Worcestershire Development Plan Review. The

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<sup>14</sup> Where I am required to consider the whole Neighbourhood Plan, I have borne it all in mind

<sup>15</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>16</sup> Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

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

<sup>18</sup> Section 38A (2) Planning and Compulsory Purchase Act 2004

<sup>19</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>20</sup> Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

front cover of the Submission Draft Plan document clearly states the plan period to be 2021-2041.

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>21</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>22</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>21</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>22</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Hallow Neighbourhood Development Plan Regulation 16 Submission Draft December 2020
- Hallow Neighbourhood Development Plan Policies Map
- Hallow Neighbourhood Development Plan 2020-2041 Consultation Statement December 2020 [*In this report referred to as the Consultation Statement*]
- Hallow Neighbourhood Development Plan Basic Conditions Statement September 2020 [*In this report referred to as the Basic Conditions Statement*]
- Hallow Parish Neighbourhood Development Plan Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Opinion May 2020
- Evidence and other background documents and information published on the District Council and Parish Council websites
- Representations submitted during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and the District and Parish Councils including: the initial letter of the Independent Examiner dated 2 March 2021; the Parish Council comments on Regulation 16 representations dated 16 March 2021; the letter of the Independent Examiner seeking clarification of various matters dated 17 March 2021; and the document I received on 25 March 2021 that includes the responses of the Parish Council and the District Council
- South Worcestershire Development Plan adopted 25 February 2015
- National Planning Policy Framework (February 2019) and subsequently updated [*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) (Amendment and Consequential Provisions) (England) Order 2014
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- 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
- 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
- Local Government & Police & Crime Commissioner (Coronavirus) (Postponement of Elections & Referendums) (England & Wales) Regulations 2020

## 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. Three focus groups held with residents in March and April 2017 surfaced key issues for Hallow and helped recruit volunteers to join a Neighbourhood Plan Steering Group. A public meeting was followed in November 2017 by a “My Place Matters” exercise with 26 participants. Five public information events held in February and March 2017 were attended by a total of 228 residents. A walkabout in April 2018 focussed on key views and local green spaces. In June 2018 a community survey resulted in 390 responses, representing a 63% completion rate. A business survey which included farms, shops and other commercial and community services resulted in 15 responses. Other consultation included the staffing of a stall at Hallow Country Fayre; a focus group with young people; a classroom discussion at the primary school; and a presentation at the Annual Parish Meeting. A consultation on housing site options took place in October and November 2019. Throughout the plan preparation period additional publicity was achieved through use of monthly updates in the Parish magazine; reports to the Parish Council; updates on the Neighbourhood Plan website; updates in the Hallow School newsletter; and display of information on notice boards.

26. Pre-submission consultation in accordance with Regulation 14 was undertaken between 15 June 2020 and 8 August 2020 which was promoted through the Parish Council website and a dedicated Neighbourhood Plan website. Paper copies of the Plan document and

comment form were available on request. Leaflets were delivered to businesses on the Elgar Business Park, and leaflets were posted to premises on Hallow Business Park. An article was published in the parish magazine. An opportunity to discuss any issues with the Neighbourhood Plan lead councillor by telephone or Zoom call was offered. This consultation generated responses from the District Council and from more than 30 other individuals and organisations. The representations arising from the consultation are summarised in Tables 1 to 4 of the Consultation Statement, and responses and amendments made to the Neighbourhood Plan, are set out. 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 District Council.

27. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 15 January 2021 to 26 February 2021. Representations from 38 different parties were submitted during the period of publication. The representation of the Parish Council explains how the Neighbourhood Plan has been prepared and highlights some of the guiding principles. The representations of Hallow Scout Group and 12 other parties state general support for the Neighbourhood Plan, in some cases also referring to specific elements of the plan, and another representation supports Policies 2 to 16. The representation of the Governors of Hallow CE Primary School fully supports adoption of the Plan as submitted, and makes comments in respect of Policies HAL1, HAL9 and HAL15. A representation on behalf of Mactaggart and Mickel includes support for Objective 1 of the Neighbourhood Plan. The Coal Authority and the Environment Agency, confirm they have no comments. National Grid state general advice. Historic England express support and state *“The emphasis on the conservation of local distinctiveness through good building design that respects local character is to be applauded and, in that regard, the Hallow Design Guide will no doubt prove invaluable in providing a detailed context for developers”*, and *“we also commend the general emphasis placed upon the maintenance, conservation and enhancement of landscape character including policies for the protection of the “strategic gap”, green infrastructure, green space, and important views. We also fully support policies for the protection of the built environment and archaeology including affording recognition to locally important heritage assets through offering them for inclusion in the Malvern Hills Local List.”* The Herefordshire and Worcestershire Earth Heritage Trust draw attention to the substantial interest to geologists of the river

terrace deposits.

28. Severn Trent offer general advice and comment on details of Policies HAL1, HAL3, HAL4, HAL6, and HAL8 which I refer to later in my report when considering those policies. Worcestershire County Council state all development should adhere to the Worcestershire Streetscape Design Guide and comment on accessibility of community facilities; support reduction of single occupancy car use; and support provision for active travel. The representation includes full support for Policy HAL5 – dark skies and the design principles relating to waste management. The County Council representation and some other representations 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.
29. 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>23</sup> I have been provided with copies of each of all of the representations including the representation made by the District Council. In preparing this report I have taken into consideration all of the representations where they are relevant to my role even though they may not be referred to in whole, or in part.
30. 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 comments on several representations. I requested the District Council to publish the Regulation 16 representations and the Parish Council comments on its website.
31. 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

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<sup>23</sup> *Bewley Homes Plc v Waverley District Council* [2017] EWHC 1776 (Admin) Lang J, 18 July 2017 and Town and Country Planning Act Schedule 4B paragraph 10(6)

- 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>24</sup>

32. The Consultation Statement and appendices do 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 Advisory Group has taken great care 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**

33. 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

34. The Basic Conditions Statement states “*the Submission HNDP is fully compatible with the European Convention on Human Rights*” and includes supporting statements. I have considered the European

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<sup>24</sup> Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

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>25</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. Whilst no Equality Impact Assessment has been undertaken in respect of the Neighbourhood Plan, from my own examination, the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

35. The objective of EU Directive 2001/42<sup>26</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>27</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>28</sup>

36. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to Malvern Hills District 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.

37. In May 2020 the District Council issued a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Opinion which states *“Table 2 assesses the likelihood of significant environmental effects arising from the draft Hallow Neighbourhood Plan in its current form. In general, the policies and*

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<sup>25</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.

<sup>26</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

<sup>27</sup> Defined in Article 2(a) of Directive 2001/42

<sup>28</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

*proposed allocation in the Draft Hallow Neighbourhood Plan are in-line with the strategy of the adopted SWDP, which has been subject to a Sustainability Appraisal incorporating a Strategic Environmental Assessment. The policies of the Draft Hallow Neighbourhood Plan seek to avoid or minimise environmental effects through the provision of guidance on issues which are specific to the neighbourhood area. It is therefore likely that the Draft Hallow Neighbourhood Plan will have, both directly and indirectly, a positive environmental impact rather than negative, by setting out guidance addressing how developers can minimise impacts on a number of environmental receptors. However, the emerging plan identifies a potential housing allocation which, whilst adjacent to a SWDP allocation, was not featured in SWDP assessments, and hence the likelihood of it having a significant environmental impact if included in the adopted neighbourhood plan has not been examined. Pending the responses of the consultation and the formal views of the statutory environmental bodies, the Draft Hallow Neighbourhood Plan may require a full Strategic Environmental Assessment.”* The Screening Opinion includes confirmation that the Statutory Bodies have been consulted stating *“On the requirement for a full SEA, the Environment Agency and Natural England concluded that the draft Hallow Neighbourhood Plan was unlikely to give rise to a significant impact on a European site and as such a full SEA was not required, whilst Historic England deferred to the advice of Malvern Hills District Council’s own Archaeology and Conservation Officers. The advice received from Malvern Hills District Council’s Archaeology and Planning Adviser and Senior Conservation Officer can be found at Appendix 1, but in summary it was determined that a full SEA would not be required.”* I am satisfied the requirements regarding Strategic Environmental Assessment have been met.

38. The Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Opinion issued by the District Council in May 2020 concludes *“As a result of the above assessment, it is considered that the policies of the draft Hallow Neighbourhood Plan are in general conformity with those contained in the SWDP. Although the draft Hallow Neighbourhood Plan does deviate from the land allocations contained within the SWDP, the level of such allocations are considered small enough not to have an impact on internationally designated wildlife sites. It is therefore concluded that the draft Hallow Neighbourhood Plan is unlikely to have a negative impact on any internationally designated wildlife sites and as such, the recommendation is made that a full AA is not required.”* The Screening Opinion document states that Natural England concurs with this view. I

conclude the Neighbourhood Plan meets the requirements of the revised Basic Condition relating to Habitats Regulations.

39. 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.

40. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

41. 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 District 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>29</sup>

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

42. 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>30</sup> which requires plans to be “*consistent with national policy*”.

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<sup>29</sup> Planning Practice Guidance paragraph 080 Reference ID: 41-080-20150209

<sup>30</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

43. Lord Goldsmith has provided guidance<sup>31</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.*”
44. The most recent National Planning Policy Framework was published on 19 June 2019. 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.
45. I am satisfied paragraphs 3.1 to 3.14 of the Basic Conditions Statement together, demonstrate the Neighbourhood Plan has regard to relevant identified components of the Framework.
46. The Neighbourhood Plan includes a positive vision statement for the Neighbourhood Area in 2041. The Vision refers to economic factors (“*housing growth*”; “*protecting and improving valued service and facilities*”); social factors (“*healthy place to live*”, “*caters for the needs of all age groups*”, and meets local housing needs); and environmental factors (“*Preserving and enhancing Hallow’s built and natural environment*”). Eight topic-based objectives are identified which help describe how the vision will be achieved and which establish a context within which the policies of the Neighbourhood Plan will operate. Sections 5 to 10 of the Neighbourhood Plan set out policies arranged by topic.
47. In addition to the policies, the Neighbourhood Plan includes a number of proposals:
- “*Potential actions for Parish Council*” - Protection of community assets (page 90);
  - “*Supporting Action for Parish Council*” - Local List of non-designated heritage assets (page 100); and
  - “*Supporting Action for Parish Council*” - Improved Bus Services (page 106).

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<sup>31</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)

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>32</sup> I am satisfied the approach adopted in the Neighbourhood Plan presenting the proposals in plain typeface not in background colour text boxes and including a clear descriptive title differentiates the community aspirations from the policies of the Plan and has sufficient regard for the Guidance.

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

49. At the heart of the Framework is a presumption in favour of sustainable development<sup>33</sup> which should be applied in both plan-making and decision-taking<sup>34</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*

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<sup>32</sup> Planning Practice Guidance *Paragraph: 004 Reference ID: 41-004-20190509 Revision 09 05 2019*

<sup>33</sup> Paragraph 10 National Planning Policy Framework 2019

<sup>34</sup> Paragraph 11 National Planning Policy Framework 2019

*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>35</sup>.*

50. 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.

51. The Framework states there are three dimensions to sustainable development: economic, social and environmental. The Basic Conditions Statement includes, at paragraph 3.3, Table 1 that sets out a brief explanation of how the Neighbourhood Plan will contribute to the achievement of sustainable development. Table 1 identifies policies of the Neighbourhood Plan that seek sustainability benefits in the economic, social, and environmental dimensions. The Table does not highlight any negative impacts on sustainability objectives.

52. 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:

- Allocate land for the development of a minimum of 40 dwellings;
- Ensure housing developments of 5 or more units meet local housing needs;
- Establish principles for housing design;
- Ensure new development protects or enhances local landscape;
- Protect views of dark skies;
- Designate six Local Green Spaces;
- Avoid substantial harm to identified important views;

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<sup>35</sup> Planning Practice Guidance Paragraph 072 Ref ID:41-072-20190509 Revision 09 05 2019

- Protect and enhance the green infrastructure network;
- Ensure new development provides a net gain in biodiversity;
- Prevent unnecessary loss of community facilities and local shops, and support enhancement of community facilities;
- Protect five identified recreation facilities;
- Establish development principles for Hallow Conservation Area;
- Protect non-designated heritage assets;
- Ensure development proposals conserve or enhance archaeological assets; and
- Promote sustainable transport.

53. 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)

54. 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>

55. 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 District Council has confirmed the Development Plan applying in the Hallow Neighbourhood Area and

<sup>36</sup> Paragraph 13 National Planning Policy Framework 2019

<sup>37</sup> Paragraph 21 National Planning Policy Framework 2019

<sup>38</sup> Footnote 16 National Planning Policy Framework 2019

<sup>39</sup> Paragraph 29 National Planning Policy Framework 2019

relevant to the Neighbourhood Plan comprises the South Worcestershire Development Plan adopted 25 February 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 District Council has provided me with a document that identifies what are regarded by the Local Planning Authority as strategic policies for the purposes of neighbourhood planning.

56. I agree that the policies identified by the District Council as strategic are indeed strategic but I regard Policy SWDP25 Landscape Character to also be strategic as this requires all development proposals to be appropriate and integrate with the character of their landscape setting. I have proceeded with my independent examination of the Neighbourhood Plan on the basis that the Development Plan strategic policies relevant to the Neighbourhood Plan are:

- SWDP1 Overarching Sustainable Development Principles
- SWDP2 Development Strategy and Settlement Hierarchy
- SWDP3 Employment, Housing and Retail Provision Requirement and Delivery
- SWDP4 Moving Around South Worcestershire
- SWDP5 Green Infrastructure
- SWDP6 Historic Environment
- SWDP7 Infrastructure
- SWDP8 Providing the Right Land and Buildings for Jobs
- SWDP9 Creating and Sustaining Vibrant Centres
- SWDP10 Protection and Promotion of Centres and Local Shops
- SWDP12 Employment in Rural Areas
- SWDP13 Effective Use of Land
- SWDP14 Market Housing Mix
- SWDP15 Meeting Affordable Housing Needs
- SWDP17 Travellers and Travelling Showpeople
- SWDP21 Design
- SWDP22 Biodiversity and Geodiversity
- SWDP23 The Cotswolds and Malvern Hills Areas of Outstanding Natural Beauty (AONB)
- SWDP25 Landscape Character
- SWDP27 Renewable and Low Carbon Energy
- SWDP28 Management of Flood Risk

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

- SWDP59 New Housing for Villages

57. Malvern Hills District Council is working with Worcester City Council and Wychavon District Council to prepare a South Worcestershire Development Plan Review. This work began in 2017 and has proceeded to the stage where Preferred Options have been prepared in November 2019. This is in line with new Government requirements that local plans should be updated every five years, and therefore a revised SWDP is required by 2021. The review will provide an updated plan period to the year 2041. The plan will update the existing SWDP and where necessary its Vision, Objectives, Spatial Strategy and policies for the future development of the South Worcestershire area. The second part of the plan includes site allocations, policies and policy designations that will provide for the development needs of the area up to 2041.

58. The Neighbourhood Plan can proceed ahead of preparation of the South Worcestershire Development 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 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>*

59. I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and the South Worcestershire Development 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.

60. 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 South Worcestershire Development 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 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.

61. 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,

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

<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

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.

62. 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 Table 3, presented at paragraph 3.18, of the Basic Conditions Statement that demonstrates how each of the policies of the Neighbourhood Plan is in general conformity with relevant strategic policies.

63. 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

64. The Neighbourhood Plan includes 15 policies as follows:

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

Policy HAL1: Development of Land at Greenhill Lane

Policy HAL2: Housing Need

Policy HAL3: Housing Design

Policy HAL4: Landscape

Policy HAL5: Dark Skies

Policy HAL6: Local Green Spaces

Policy HAL7: Important Views

Policy HAL8: Green Infrastructure

Policy HAL9: Biodiversity

Policy HAL10: Community Facilities and Local Shops

Policy HAL11: Recreation

Policy HAL12: Hallow Conservation Area

Policy HAL13: Non-designated Heritage Assets

Policy HAL14: Archaeological Assets

Policy HAL15: Sustainable Transport

65. 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 16 of the Framework states *“Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”*

66. 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.”*

67. 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).”*
68. 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>
69. *“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 should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.*<sup>46</sup>
70. 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>

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

<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

71. *“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>

72. 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 HAL1: Development of Land at Greenhill Lane**

73. This policy seeks to allocate 2.23 hectares of land for the development of a minimum of 40 dwellings at Greenhill Lane to meet housing requirements to 2041. The policy specifies three development design requirements relating to: access; a gas pipeline buffer; and provision of, or for, cycleway connection.

74. A representation supports the site allocation as it falls within the development boundary; is in a central village location avoiding development of more remote sites; is a logical next phase of on-going development; and protects the countryside surrounding the village. A representation states this is the best option, and another states no objection. One representation raises concerns regarding traffic implications of development leading onto the main road. Another representation raises objection on the grounds of noise, dust and disturbance that would result during construction, and requests land immediately to the rear of the representors’ property should be transferred to them. A further representation objects on the grounds of loss of open views; the need to fill a gap in the boundary hedgerow; traffic concerns; and noise during building. One representation states the ‘village feel’ will be lost with continued developments and that services are not coping. Another representation objects to any further

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<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

development in Hallow but the writer understands the need to meet “Government requirements to build new homes” and on that basis expresses agreement to development of land at Greenhill Lane rather than the land lying to the south of Tinkers Coppice Farm, Main Road. A further representation queries why planned dwellings exceed stated requirements, and identifies problems of previous and current developments, and states future developments should be significantly smaller. This representation opposes development of land at Tinkers Coppice Farm bordering the A443.

75. The Governors of Hallow CE Primary School provide information regarding admissions policy, school capacity, and demand for places at the school, and state Policy HAL1 represents an effective way of accommodating future demand for housing.

76. A representation on behalf of Mactaggart and Mickel Limited includes support for the content of paragraphs 6.6, 6.7 of the Neighbourhood Plan, and with respect to paragraph 6.14 *“agree with the assertions made in the bullet points of Paragraph 6.14 that continued growth along the eastern area of the village is the most appropriate direction of growth. Such expansion of the village will place new homes within the most sustainable area with close proximity to existing facilities. The proposed level of growth through the HAL1/1 allocation is considered to be appropriate with respect to Hallow’s future housing requirements, but that the policy of the Neighbourhood Plan should not seek to overly restrict the capacity of housing allocations. Mactaggart and Mickel can confirm that they have rights of access secured through the frontage housing development and therefore access from Main Road is assured. In addition, rights of access over adjacent land to the south has also been safeguarded to ensure the pedestrian and cycle connections can be delivered. The direction of development also avoids any harm to more sensitive landscape settings around the village, notably to the west and south. The Masterplan referenced in Para 6.14 (page 42) is supported as representing indicative parameters by which the proposed allocation can be delivered. This masterplan at Map 8 identifies the necessary separation to the gas main and maintenance of the related easement through the location of public open space. It also directs vehicular access through from the adjacent residential development that has been permitted, whilst linking to delivered housing development to the south. The Masterplan demonstrates how the proposed allocation HAL1/1 will deliver a third phase of eastern expansion to the village which represents a comprehensive approach to village expansion. The Masterplan*

*provided by Mactaggart and Mickel demonstrates their agreement to the principles to be set out through Allocation HAL1/1 and the deliverability of the site for at least 40 dwellings that will address the identified housing requirements whilst also ensuring that there is future supply. The allocation will provide for affordable homes within the village and a mix of dwelling sizes that address local need, whilst assisting to satisfy local housing demand and going some way to moderating the future housing pressures within the area.”*

77. The representation states support of Policy HAL1 in the following terms *“Related to the support of Objective 1 is confirmation of the appropriateness of the housing allocation HAL1/1 – Land at Green Hill Lane, which is proposed through Policy HAL1 to meet the housing requirements up to 2041. The proposed allocation site is currently laid to arable farming land and is characterised by a gentle, flat topography that is bounded by Greenhill Lane to the north and by a bridleway track to the east, whilst separated by hedgerows from recent development to the south. Mactaggart and Mickel Ltd control the land proposed to be allocated as HAL1/1 and have promoted it for consideration to the Hallow Neighbourhood Plan and SWDP. The proposed allocation policy is therefore supported, with the prescribed capacity of ‘a minimum of 40 dwellings’ deliverable within the site. The exact number of homes to be provided, in excess of 40 dwellings, will be reliant upon the housing mix that is required at the time of application as well as the landscaping to be delivered. The allocation should not apply an upper restriction on the number of dwellings to be accommodated at the site, which would frustrate the delivery of smaller units and maximising the delivery of housing on an appropriate site. Instead, the site’s capacity should be determined through the development control application procedure where high quality design can deliver an appropriate layout and density, whilst also taking into account the local housing needs. The location of HAL1/1 rightly follows the previous directions of housing growth that have been allocated and identified at Hallow through the SWDP, recognising the relatively unconstrained nature of the eastern areas of the village. The new allocation will consolidate this growth area up to an identifiable boundary that is demarked by Green Hill Lane and related bridleway track. Claremont Planning can confirm on behalf of Mactaggart and Mickel Ltd that highway access has been secured through the adjacent SWDP59zzi allocation and that the proposed allocation site can be developed effectively whilst respecting the necessary easement to the gas main that is located to the south of the site. The masterplanning of the site as replicated in Map 8, has identified that it will be possible to provide a route through*

*from adjacent lands to the east to connect to the Broadheath Hallow Cycle Loop. As such, it can be confirmed that the requirements set out by Policy HAL1 are deliverable.”* The Parish Council has stated that the supporting comments in this representation are welcomed.

78. A representation on behalf of IM Land Limited refers to the Framework and Guidance; includes an inexact quotation of paragraph 6.6 of the Neighbourhood Plan; and includes a statement that a modification of Policy HAL1 is required as follows *“we are of the view that in order to ensure compliance with basic conditions 8(2)(a), 8(2)(d) and 8(2)(e), the Neighbourhood Plan needs to consider the allocation of additional land for housing, such as Land west of the A443, or, it needs to allocate reserve sites for housing to ensure that the plan will be compliant with future versions of the SWPR. As an absolute minimum, the HNP needs to acknowledge that there may be a need to allocate additional land for housing through the SWDPR. The merits of Land west of the A443 are considered in further detail later in these representations.”* In commenting on this representation, the Parish Council state *“In terms of adopted strategic planning policies these do not contain a housing requirement for Hallow. In terms of NPPG: the indicative figure can be tested at the neighbourhood plan examination; the guidance in Paragraph 102 has been followed; and the qualifying body has NOT determined their own requirement figure this has been provided by the SWDPR authorities. The HNDR and the site allocation contained therein exceed the indicative housing requirement identified for Hallow, therefore, there is no need to identify a further or reserve site. Should this position change the HNDR could be reviewed.”*
79. A representation on behalf of Piper Homes Limited states development of a site at Shoulton Lane would represent sustainable development, and would prevent development of the village eastwards. The representation states that as housing numbers are expressed as a minimum there is no reason why this site should not come forward in addition to the allocated site at Greenhill Lane. In commenting on this representation, the Parish Council state *“The site allocation process in the HNDR has been open, fair and transparent in terms of site identification, appraisal and decision-making. No change. Recognition of figures a minimum noted, this minimum has been exceeded. No change. The pertinent fact is that SWDP59zii is nearing completion and the access to the HAL1/1 - Land at Green Hill Lane is in place. The owner/developers are committed to the delivery of both sites.”*
80. A representation on behalf of Worcestershire County Council objects to Policy HAL1 on the basis a site *“provisionally allocated under*

*CFS0343sc for 49 dwellings under the South Worcestershire Development Plan Review* is not allocated for residential development. The representation states the replacement of CFS0343scv with land at Greenhill Lane is “a frankly mystifying and unreasonable decision given that the Strategic Housing and Employment Land Availability Assessment (SHELAA) did not allocate the Greenhill Lane site because of its proximity to a gas pipeline and the SWCs made clear that the smaller parcel of the WCC smallholding was preferred to be developed for housing within Hallow, due to its central location and having no significant planning constraints.” The representation states that housing figures should be treated as a minimum and “there is no technical evidence that justifies setting out maximum housing figures for rural settlements under SWDP 2 – ‘Development Strategy and Settlement Hierarchy’.” The representation states both the Greenhill Lane and south of Tinkers Coppice Farm sites should be allocated “however if there must be a choice, it should be the WCC land that is allocated.” In commenting on this representation, the Parish Council state “Land lying to the south has never been a housing allocation, it was an option considered in emerging planning policy. The respondent’s site was not allocated, it was an option, the HNDP has considered other options in an open and transparent manner. The gas pipeline is no longer a constraint and it is reasonable to consider and allocate an alternative site based on this significant change in circumstances. No change. This is incorrect, the indicative housing figure is not a maximum. The HNDP exceeds this figure. No change.”

81. In a representation Severn Trent state “From a high-level desk top assessment of this development the risk of sewer flooding from this development is deemed low risk providing that surface water is managed sustainably. We recommend that the following policy wording is added to this policy to ensure that the drainage for the development following the drainage hierarchy and includes SuDS. ‘All applications for new development shall demonstrate that all surface water discharges have been carried out in accordance with the principles laid out within the drainage hierarchy, in such that a discharge to the public sewerage systems are avoided, where possible.’ Reasons for including this wording within your policies include: Planning Practice Guidance Paragraph 80 (Reference ID: 7-080-20150323) states: “Generally the aim should be to discharge surface water run off as high up the following hierarchy of drainage options as reasonably practicable: 1. into the ground (infiltration); 2. to a surface water body; 3. to a surface water sewer, highway drain, or

*another drainage system; 4. to a combined sewer.” ‘New developments shall ensure that Sustainable Drainage Systems (SuDS) for the management of surface water run-off are put in place unless demonstrated to be inappropriate. All schemes for the inclusions of SuDS should demonstrate they have considered all four aspects of good SuDS design, Quantity, Quality, Amenity and Biodiversity, and the SuDS and development will fit into the existing landscape. The completed SuDS schemes should be accompanied by a maintenance schedule detailing maintenance boundaries, responsible parties and arrangements to ensure that the SuDS are maintained in perpetuity. The supporting text for the policy should also include: Sustainable Drainage Systems (SuDS) should be designed in accordance with current industry best practice, The SuDS Manual, CIRIA (C753), to ensure that the systems deliver both the surface water quantity and the wider benefits, without significantly increasing costs. Good SuDS design can be key for creating a strong sense of place and pride in the community for where they live, work and visit, making the surface water management features as much a part of the development as the buildings and roads.”*

82. A representation of Eleven Eleven Property Limited states *“The vast majority of people in Hallow would rather see several small developments instead of another estate. It would be better to meet the housing needs for the village across a number of smaller sites than just one site, as the smaller sites can provide better design, and less ‘housing estate’ feel which is destroying the traditional character of the village. The site I have put forward at Park Acre Church Lane Hallow would fit the small site criteria and as a local developer I can assure its delivery.”*

83. In a representation the District Council state: *“The housing requirement to 2030 in south Worcestershire is 28,370 dwellings. The SWDP makes provision for around 28,400 dwellings to meet this need. It should be noted that the South Worcestershire Councils have commenced a revision of the South Worcestershire Development Plan. The latest evidence of housing need is indicating that the revised SWDP (SWDPR) will need to plan for approximately an additional 14,000 dwellings across south Worcestershire in the period 2021 to 2041. The South Worcestershire Councils consulted on the SWDPR Preferred Options between November and December 2019, including a proposed housing allocation in Hallow at land south of Tinkers Coppice Farm (site reference CFS0343sc). Planning Practice Guidance says that if a local planning authority is also intending to*

*allocate sites in the same neighbourhood area it should avoid duplicating planning processes that will apply to the neighbourhood area. PPG says that 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. PPG says that a neighbourhood plan can also propose allocating alternative sites to those in a local plan, 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. Following public consultation undertaken by the Parish Council in Hallow, the Parish Council requested in December 2019 that the proposed SWDPR allocation be replaced by an alternative site - an extension to an existing site south of Greenhill Lane (site reference CFS0136). The reasons for proposing site CFS0136 as an alternative to site CFS0343sc include:*

- i. The land at Greenhill Lane is considered to form a natural extension to an existing SWDP allocation south of Greenhill Lane, would confine further new development to this area, and would utilise an existing access point on to the Main Road at Hallow.*
- ii. The reason that the Greenhill Lane extension was not chosen as the preferred option in the SWDPR was due to concerns about the proximity of a gas pipeline. These concerns have been investigated and addressed by the Parish Council, including a statement from the Health & Safety Executive setting out the required buffer zone for the pipeline and information from CADENT gas.*
- iii. Residents attending 5 public consultation events in Hallow in Autumn 2019 indicated a preference for site CFS0136 compared with site CFS0343sc because it would preserve the last green space along Main Road (Tinkers Coppice) and avoid the need for an additional access road onto the busy Main Road (the A443).*
- iv. Site CFS0136 would avoid the partial use of a large site at the northern end of the village.*
- v. Site CFS0136 could meet the housing requirement for Hallow Neighbourhood Area.*

*In light of the evidence provided by the Parish Council, and guidance in PPG which discourages duplicating planning processes and allows qualifying bodies to allocate alternative sites, the SWC agreed in principle to support the allocation of site CFS0136 as an alternative to CFS0343sc.”*

84. *“The working relationship between the SWC and Hallow Parish Council in relation to allocating sites for residential development in the Hallow Neighbourhood Plan is set out in a Memorandum of Understanding between the parties. Whilst paragraph 69 of the Framework says that Neighbourhood Planning groups should consider the opportunities for allocating small and medium-sized sites suitable for housing in their area, the Framework does not require Neighbourhood Plans to allocate sites for housing. Paragraph 14 of the Framework does, however, confer a limited protection on Neighbourhood Plans which plan for housing where certain criteria are met. To benefit from the protection conferred by Paragraph 14 a Neighbourhood Plan would need to plan for housing through policies and allocations to meet the identified (or indicative) housing requirement in full, including possible allowance for some windfall development. Following a request by Hallow Parish Council, the SWC provided indicative housing requirement figures for the Hallow neighbourhood area in July 2019. The indicative housing requirement for the Neighbourhood Area for the period 2021 to 2030 was 1 dwelling (over-and-above existing allocations in the adopted SWDP). The indicative housing requirement for the Neighbourhood Area in the period 2031 to 2041 was a further 21 dwellings. It was highlighted that the housing requirement figures were “indicative”, should be considered as minimum requirements and may be subject to change, particularly as they were based on the development strategy in the adopted SWDP rather than the emerging SWDPR. It is considered that the proposed allocation of land at Green Hill Lane for a minimum of 40 dwellings would meet the indicative housing requirement in full. The District Council would like to congratulate the Parish Council for taking a proactive approach towards meeting the indicative housing requirement through the neighbourhood planning process.”*

85. *“Paragraph 69 of the Framework says that Neighbourhood Planning groups should consider the opportunities for allocating small and medium-sized sites suitable for housing in their area. It is considered that the location of the proposed site at Land at Greenhill Lane conforms with SWDP2 (Development Strategy and Settlement Hierarchy). Initial concerns from the South Worcestershire Councils*

*regarding the proximity of the site to a gas pipeline have been satisfied by evidence provided by the Parish Council in correspondence from Cadent and the Health & Safety Executive. The site is capable of accommodating the minimum indicative housing requirement figures for the Hallow neighbourhood area provided by the South Worcestershire Councils to the Parish Council in July 2019. There does not currently appear to be a clear justification for condition (c) relating to the requirement for the site to provide part of a dedicated cycle path.”*

86. The Parish Council has commented on the representation of the District Council as follows *“MHDC’s confirmation that the proposed site at Land at Green Hill Lane conforms with SWDP2 (Development Strategy and Settlement Hierarchy) is welcomed. The acknowledgment that evidence provided by the Parish Council in correspondence from Cadent and the Health & Safety Executive removing any constraint to the development of the site is also welcomed. Confirmation that the site is also capable of meeting the minimum indicative housing figure for Hallow is also welcomed. HNDRP1c is included to ensure that a connection, or potential connection is made to the cycle loop. This will enable any future residents to use alternatives to the private car and will help provide opportunities for recreation and make a contribution to health and well-being. The cycle loop bounds the allocated site to the north and east. Comments on paragraphs 6.5 and 6.6 of the HNDRP noted, but the SWDRP is only an “emerging” plan. Update where necessary as information on SWDRP changes. Comment on paragraph 6.7 noted, no change. Amend 6.8 to 6.10 as suggested. Comment on 6.11 noted, no change. The figures are indicative and theoretically there are no dwellings to find. Comment on 6.12 noted, no change. Table 4 shows past housing delivery in the neighbourhood area and is crucial to understanding how delivery has exceeded policy requirements in Hallow, and is a key part of the narrative in helping residents understand the rationale for housing land to be allocated in the HNDRP. Similarly, Figure 7 is included to help residents, in particular, understand how and why decisions by the Parish Council have been taken. Figure 7 should remain in the plan. Amend bullet point 1, paragraph 6.14 as suggested. Comment on bullet point 2 noted, no change. For response on bullet point 6, see response in relation to HAL1c.”*

87. 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>*

88. *“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>*
89. *“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>*
90. *“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>*
91. *“Where strategic policies do not already set out a requirement figure, the National Planning Policy Framework expects an indicative figure to 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*

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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

*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>*

92. 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 meets the requirements set out in the Guidance.
93. The South Worcestershire Development Plan through Policy SWDP 2 seeks to establish a development strategy and settlement hierarchy. New housing development is to be focussed on Worcester City and the other urban areas. The housing requirement to 2030 in South Worcestershire is 28,370 dwellings. The South Worcestershire Development Plan makes provision for around 28,400 dwellings to meet this need, including 93 dwellings in Hallow.
94. Hallow is identified as a Category 1 village. Category 1, 2 and 3 villages are stated to have a role predominately aimed at meeting locally identified housing and employment needs and are suited to accommodate market and affordable housing needs alongside limited employment for local needs. The SWDP includes four housing allocations: SWDP59/5 Land north of Orchard Close; SWDP59d Land at Braithwaite’s Yard; SWDP59zk Former Royal Oak Public House, Main Road; and SWDP59zzi Land south of Greenhill Lane. These allocations total 93 units. The SWDP also sets a development boundary for Hallow which is presented at Map 4 of the Neighbourhood Plan. Policy SWDP2 establishes that infill development is acceptable in principle within this defined boundary. The Neighbourhood Plan does not seek to amend the development boundary.
95. The District Council representation states that “*following a request by Hallow Parish Council, the SWC provided indicative housing requirement figures for the Hallow neighbourhood area in July 2019.*” Paragraphs 6.8 to 6.10 of the Neighbourhood Plan explain that

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

Hallow's indicative housing requirement has been identified through a method prepared by planning officers for the South Worcestershire Joint Advisory Panel. The indicative housing requirement is calculated to be 1 dwelling over the period 2021-2030 and 21 dwellings for the period 2031-2041, resulting in a total requirement of 22 dwellings for the plan period of 2021 to 2041. Table 4 provides details of 30 additional dwellings above the SWDP allocation. Paragraph 6.11 of the Neighbourhood Plan states that this leaves theoretically no dwellings to find up to 2041. Paragraph 6.12 of the Neighbourhood Plan includes the statement that the housing allocation at Greenhill Lane will provide choice and flexibility to meet changing future needs and that community support has been recorded. Paragraph 6.13 of the Neighbourhood Plan refers to the site appraisal of potential sites undertaken by consultants AECOM, and by the District Council. In response to my request for clarification the District and Parish Councils have confirmed the latter reference is to the Strategic Housing and Employment Land Availability Assessment (SHELAA) undertaken as part of the work preparing for the South Worcestershire Development Plan Review.

96. The Site Options and Assessment report prepared by AECOM in August 2019 considers 16 sites and concluded one site that was previously allocated was immediately suitable and available for housing, and seven other sites were found to be potentially suitable and available, but had constraints. The remaining sites were found to be not suitable for residential development. The site assessment undertaken as part of work to prepare the South Worcestershire Development Plan Review considered 11 sites in the Neighbourhood Area. This latter work concluded that the site 'Land lying to south of Tinkers Coppice Farm, Main Road (plot 1) SHEELAA site reference CFS0343sc' was *"overall a good site with no major constraints (subject to their being no sewerage infrastructure issues). Grade 2 agricultural land. Most of site in sand and gravel safeguarding area."* This assessment also concluded that site 'Land at Greenhill Lane (plot 2) SHEELAA site reference CFS0136' was *"not considered appropriate because of proximity to gas pipeline. CFS0343sc preferred."*
97. Paragraph 6.14 of the Neighbourhood Plan states *"The Parish Council has also worked with the South Worcestershire Councils and, separately, the site owners of HAL1/1. This work has established the following principles: • The South Worcestershire Councils and the Parish Council have signed a Memorandum of Understanding agreeing that HAL1/1 will be the site allocated to meet the housing*

*requirement identified in the SWDPR. • The site will form a new phase or extension to the existing SWDP allocation (SWDP59zzi) (Map 5). Development of the site will reinforce the recent focus of housing development on the eastern side of Hallow in more central locations. This directs development to the most sustainable and accessible areas, areas with the least environmental impact, in particular directing development away from the north, south and west of the neighbourhood area where impacts on landscape and open countryside would be greater. It also helps to direct development away from the SWDP protected Significant Gap to the south of Hallow. • The access to HAL1/1 would be via this earlier phase of development (site SWDP59zzi). This avoids the need for the creation of a new access point on to the already heavily used A443. • A buffer zone and open space will separate HAL1/1 from the gas pipeline to the south, this will also meet Health and Safety Executive requirements. • The site is capable of meeting the identified housing requirement and will help to meet existing and future housing needs (see Policy HAL2). • The development should include a connection or the potential to connect to the Broadheath Hallow Cycle Loop; and • The landowner has confirmed the site is suitable, available, viable and deliverable. A masterplan has been prepared for site HAL1/1 and this shows how the principles set out above can be achieved (Map 8). Overall a third phase of development will be brought forward east of Main Road. This third phase will extend the previous phases of development and all the phases can be linked by public open space. Any development of HAL1/1 will also have to meet other policy requirements in the SWDP and HNDR, for example retaining Public Rights of Way and design requirements.”*

98. The approach taken and the choices made are sufficiently evidenced and justified. The contribution arising from the sites identified in Table 4 and from the allocated site at Greenhill Lane amounts to a significant boost to the supply of housing in the Neighbourhood Area. Whilst no total figure can be assumed there is undoubtedly also some limited potential for additional dwellings to be provided on infill plots or possibly through the redevelopment of sites within the Development Boundary defined on Map 4 of the Neighbourhood Plan. The Neighbourhood Plan places no cap or limit on the number of homes that can be provided within the Development Boundary, subject to compliance with other policies in the Neighbourhood Plan. Table 4 of the Neighbourhood Plan provides evidence that small-scale infill development sites continue to be brought forward within the Development Boundary. 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. Strategic policies provide for further residential development outside the Development Boundary (dwellings for rural workers SWDP19, rural exception sites Policy SWDP16), and paragraph 79 of the Framework identifies circumstances where homes in isolated locations in rural areas may be appropriate.

99. In this policy context, and given the recent approvals information presented in Table 4 of the Neighbourhood Plan, it is reasonable to assume there will be some windfall supply of dwellings during the Plan period up to 2041 which will boost the supply of homes in the Neighbourhood Area. 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 Hallow 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. 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. As recommended to be modified Policy HAL1 is positively worded and does not promote less development than set out in strategic policies, as required by paragraph 29 of the Framework. In the context of the characteristics of the Neighbourhood Area Policy HAL1 will significantly boost the supply of housing.

100. I am satisfied it is appropriate for Policy HAL1 to indicate the scale of development that is being planned for. The use of the term “*minimum*” does not preclude a sustainable development scheme that achieves a greater number of dwellings on the site.

101. 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>

102. *“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.”*

103. *“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*

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

*policies in the neighbourhood plan are not overridden by a new local plan.”<sup>56</sup>*

104. *“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 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.”<sup>58</sup>*

105. I am content that given the allocation made in Policy HAL1 is in excess of the indicative housing requirement provided by the District Council there is no necessity to consider reserve sites to meet emerging evidence of housing need. It is evident that in proposing the allocation of an alternative site allocation to that preferred in the emerging SWDP review the Parish Council has explained to the District Council (the latter working with the other South Worcestershire Councils) why, following consultation with the community, it considers the alternative site should be included in the Neighbourhood Plan.

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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

<sup>58</sup> Planning Practice Guidance Paragraph: 044 Reference ID: 41-044-20190509 Revision date: 09 05 2019

Paragraph 6.14 of the Neighbourhood Plan refers to a Memorandum of Understanding signed by the South Worcestershire Councils and the Parish Council agreeing that site HAL1/1 will be the site allocated to meet the housing requirement identified in the SWDPR. The approach of the District Council and the Parish Council has been consistent with that stated in the Guidance “*It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies.*” I am content that should there ultimately be any conflict between the Neighbourhood Plan, and the SWDP Review (or any further future reviews) when it is adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan. I am content the Neighbourhood Plan indicates the latest position regarding the SWDP review.

106. Regulation 16 representations support or promote land for development as follows:
- Piper Homes Limited promote the development of land at Shoulton Lane;
  - IM Land Limited promote the development of land west of the A443;
  - Eleven Eleven Property Limited promote the development of land at Park Acre, Church Lane; and
  - Worcestershire County Council promote the development of land south of Tinkers Coppice.

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.

107. I have earlier in my report referred to national policy relating to the relationship of neighbourhood plans and emerging strategic plans. There is no requirement for Policy HAL1 to take numerical or other account of housing allocations in the emerging SWDP review and indeed it does not. I am satisfied the approach adopted in the Neighbourhood Plan, as recommended to be modified, in these respects has sufficient regard for national policy.

108. The additional policy wording recommended by Severn Trent is required so that development proposals address flood risk using opportunities provided by new development to reduce the causes and impacts of flooding, in accordance with paragraph 157 of the Framework. In commenting on the Severn Trent representation, the Parish Council have agreed a modification as suggested. The background/justification text should refer to this. For the avoidance of doubt the policy should refer to Map 7 where the Greenhill Lane site is identified. The term *“will have to take account of”* does not provide a basis for the determination of development proposals. Part a) of the policy is imprecise. 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.

109. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policies SWDP2, SWDP3, and SWDP59, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

110. 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 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 HAL1**

- **after “Hallow” insert “identified on Map 7”**
- **replace “will have to take account of the following” with “must conform to the following principles”**
- **insert “vehicular” before “access”**
- **replace “the need to provide” with “provision of”**
- **replace “the development should include” with “provision of”**

- move “and” from the end of part b) to the end of part c) and adjust punctuation
- insert part d) “demonstrate that all surface water discharges have been carried out in accordance with the principles laid out within the drainage hierarchy, in such that discharges to the public sewerage systems are avoided, where possible.”

**Include in supporting background/justification text reference to the drainage requirement inserted as part d) of the policy.**

### **Policy HAL2: Housing Need**

111. This policy seeks to establish that to be supported new housing developments of 5 or more units (subject to viability considerations) must demonstrate that they provide a range of types, sizes, and tenures of housing to meet local need. Categories of local housing need are described. The policy requires proposals to take account of and demonstrate need identified in an up-to-date housing assessment.
112. A representation on behalf of IM Land Limited draws attention to the contribution towards meeting the objectives of Policy HAL2 that an identified site west of the A443 could have. This representation does not necessitate modification of the policy.
113. A representation on behalf of Mactaggart and Mickel states support for the policy. In commenting on this representation, the Parish Council state *“the policy does not prescribe a mix for housing development. It sets a policy framework for how on-site mix should be identified and implemented. No change.”*
114. In a representation the District Council state *“Policy HAL2 seeks to have regard to paragraph 61 of the Framework. Paragraph 6.16 of the Reasoned Justification suggests that the site allocation at Green Hill Lane (Policy HAL1) will provide a range of housing types to meet local need, but this is not clear from the conditions attached to Policy HAL1. Policy HAL2 is broadly consistent with SWDP 14 (Market Housing Mix).”* The penultimate sentence of Paragraph 6.16 of the Neighbourhood Plan does not accurately reflect Policy HAL1. I refer to this matter in the annex to my report. The Parish Council has commented on the District Council representation as follows *“Amend paragraph 6.16 to read: “In the context of current market conditions and development plan policy, housing allocation HAL1/1 should be able to provide a range of types of housing to meet such demand and*

*need. Other proposals of 5 or more units should also include a mix of new homes.” Applicants must demonstrate proposals should respond to the full Hallow Design Guide prepared by AECOM. The Commission was an independent body that advised government on how to promote and increase the use of high-quality design for new build homes and neighbourhoods. It is relevant to refer to this document as part of the national drive to improve design standards.”*

115. 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 the need to consider changes in housing need throughout the plan period and specifies how changes should be assessed. The policy accommodates possible changes in viability considerations, referred to in paragraph 57 of the Framework. The policy satisfies the requirement to be deliverable, as specified in paragraph 16 of the Framework. I am satisfied the approach adopted in the Neighbourhood Plan in these respects has sufficient regard for national policy.

116. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policies SWDP14, SWDP15, and SWDP20, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

117. 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 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 HAL3: Housing Design**

118. This policy seeks to establish housing design principles.

119. In a representation Severn Trent suggest the following additional wording *“New Developments should demonstrate that they are water efficient, where possible incorporating innovative water efficiency and water re-use measures. Development proposals should demonstrate that the estimated consumption of wholesome water per dwelling is calculated in accordance with the methodology in the water efficiency calculator, should not exceed 110 litres/person/day.”* 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”*. Whilst the Parish Council has agreed an amendment as suggested I consider the additional wording does not have sufficient regard for national policy and is not necessary to meet the Basic Conditions.

120. A representation on behalf of Mactaggart and Mickel raises concerns that the Hallow Design Guide does not accurately refer to the character of existing development on Green Hill Lane. I am satisfied the references to the use of the Hallow Design Guide in Policy HAL3 are appropriate and in particular will allow sufficient flexibility for applicants to demonstrate that development proposals will retain and enhance the defining characteristics of the relevant part of the Neighbourhood Area.

121. In a representation the District Council state the Government is seeking to support high quality design in all new development; and draw attention to strategic policy SWDP21 and to paragraphs 124, 125, 126, and 131 of the Framework; and state *“The principle of Part 1 of Policy HAL3 appears to be consistent with the Framework and SWDP 21. It is noted, however, that the focus of Policy HAL3 and associated Figure 3 seems to be on the appearance of development with little reference to the sustainability of buildings. Part 2 of Policy HAL3 sets out 4 requirements that should be part of all development proposals so that they have a positive effect on health and well-being. The principle of Part 2 of the policy is laudable but it is considered that Part 2 could not be applied consistently and with confidence by decision makers. The opportunities for incorporating the proposed requirements in Part 2 are likely to be different for a single dwelling or extension compared to a larger development or group of new*

*dwellings. If the threshold for submission of Design and Access Statements triggers where Part 2 of HAL3 becomes “relevant” then this should be made clear so that it can be applied consistently and with confidence when determining planning applications. As background, the SWDP Design SPD says Design and Access Statements are only required with regard to residential development where the number of dwellings is in excess of 10, the site area is 0.5ha or above. In other types of development where the floor space is 1,000 square metres or more, or the site area is 1ha or above.”*

122. Paragraph 126 of the Framework states *“To provide maximum clarity about design expectations at an early stage, plans or supplementary planning documents should use visual tools such as design guides and codes. These provide a framework for creating distinctive places, with a consistent and high-quality standard of design. However, their level of detail and degree of prescription should be tailored to the circumstances in each place, and should allow a suitable degree of variety where this would be justified”*. Paragraph 127 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 104 of the Framework states planning policies should provide for high-quality walking and cycling networks. Paragraph 91 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 the Neighbourhood

Plan, as recommended to be modified, in these respects has sufficient regard for national policy.

123. The policy is without consequence. The terms “use” and “pay special attention to the needs of” does not provide a basis for the determination of planning proposals. The term “other relevant studies e.g., those relating to landscape and heritage” is imprecise. The term “where relevant” 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.

124. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP21, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

125. 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 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 2:**

##### **In Policy HAL3**

- **commence the policy with “To be supported”**
- **replace “use” with “demonstrate reference to”**
- **delete “other relevant studies e.g., those relating to landscape and heritage”**
- **delete “Where relevant,”**
- **after “development proposals” insert “requiring a design and access statement”**
- **replace “but pay special attention to the needs of” with “including”**

## Policy HAL4: Landscape

126. This policy seeks to establish that new development should be designed so as to protect or enhance the local landscape and sets out design principles and guidance that proposals must take account of.
127. In a representation Severn Trent is supportive of this policy, particularly section c) stating *“It is important that water features and watercourses are protected so that development does not prevent future discharge of surface water to natural outfalls such as watercourses, ditches or soakaways or disconnect land drainage from the watercourses. To further support this we would recommend the inclusion of the following policy wording: ‘No development shall prevent the continuation of existing natural or manmade drainage features, where watercourses or dry ditches are present within a development site, these should be retained and where possible enhanced.’”* Whilst the Parish Council has agreed a modification as suggested I consider the inclusion of this additional wording is not necessary to meet the Basic Conditions.
128. A representation on behalf of IM Land Limited includes *“In order to comply with basic condition 8(2)(a) and (d) we consider that the wording of this policy should be amended to align with the wording of NPPF 170 and 170(b), so as not to restrict otherwise sustainable development in the area in accordance with national planning policy. Notwithstanding the modifications proposed above, we are confident that the development of IM Land’s site will lead to certain landscape improvements and will meet the various bullet points (a)- (d). This is demonstrated as part of the Vision Document prepared for the site.”* In commenting on this representation, the Parish Council state *“HAL4 is considered to be consistent with national planning and be in general conformity with strategic planning policy. No change.”*
129. In a representation the District Council draw attention to part of paragraph 170 of the Framework. 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>59</sup> Policy HAL4 is not seeking to identify valued landscapes but is seeking to ensure development proposals must not significantly harm local landscape. The policy requires proposals to demonstrate how they have taken into account stated characteristics and been informed by identified local

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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)

guidance. 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 approach adopted in Policy HAL4 has sufficient regard for national policy in this respect.

130. The District Council also state “*In relation to HAL3(d), advice from the District Council’s Landscape Officer indicates that there are places where native species might not always be the best choices and more exotic choices may be more appropriate. Paragraphs 7.4 – 7.10 suggest that Policy HAL4 has been informed by Natural England’s “National Character Areas for England”, Natural England’s “Statements of Environmental Opportunity”, and Worcestershire County Council’s Landscape Character Assessment. The reasoned justification includes maps of key woodland habitats and ancient tree records (and other notable trees identified by parishioners), but it is not clear how this evidence has supported the approach taken in Policy HAL4 or how it is to be used in the application of the Policy. It is considered that the intention of Policy HAL4 is laudable but it is not clear where or what types / sizes of development the policy should be applied to – the first part HAL4 says it should be applied “where appropriate and relevant” and the second part “where relevant”. It is therefore not clear to applicants whether Policy HAL4 would apply to their development proposals and it is not clear how an applicant should demonstrate that their development proposal meets the 4 criteria. It is considered Policy HAL4 is confusing and it is not evident how an applicant should approach meeting the requirements of the policy or how a decision maker should react to a development proposal in accordance with paragraph 16 of the Framework. In light of the above, it is suggested that Policy HAL4 needs to be simplified. It is suggested that a Landscape Character policy along the following lines may be more appropriate, based on the County Council’s Landscape Character Assessment (summarised in paragraphs 7.7 – 7.10) and shown on Map 11: “Development proposals must demonstrate that: the characteristics and guidelines for the Landscape Type of the proposed site, as defined in the Worcestershire Landscape Assessment, have positively influenced the siting, design, scale, layout, landscaping and boundary treatment of the proposal; and every available opportunity has been taken to strengthen the landscape character of the relevant Landscape Type, by retaining and conserving existing features such as trees, woodland and hedgerows, and by restoring, enhancing and making new provision where this is appropriate.” The Parish Council has commented on the*

representations of the District Council as follows “*Comment on HAL4d noted, no change. Paragraphs 7.4-7.10 are considered to adequately demonstrate how the NDP’s substantial evidence base has been used to inform and develop Policy HAL4 amongst others. Alternative policy wording noted, no change.*”

131. The policy is without consequence. The terms “*be able to*” and “*where considered necessary*” do not provide a basis for the determination of development proposals. The terms “*e.g.*,” and “*and other relevant planning guidance*” and “*compatible with the surrounding landscape*” are imprecise. The term “*where relevant*” introduces uncertainty. The requirement relating to native species has not been sufficiently justified. Use of full stops in parts a) and b) causes confusion. 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. I have based my recommended modification on the wording suggested by the District Council but given greater recognition to deliverability in accordance with paragraph 16 b) of the Framework.

132. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP25, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

133. 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 3:**

**Replace Policy HAL4 with “To be supported development proposals must demonstrate that: the characteristics and guidelines for the Landscape Type of the proposed site (see Map 11), as defined in the Worcestershire Landscape Assessment,**

have positively influenced the siting, design, scale, layout, landscaping and boundary treatment of the proposal; and every available practical and viable opportunity has been taken to strengthen the landscape character of the relevant Landscape Type, by retaining and conserving existing features such as trees, woodland and hedgerows, and by restoring, enhancing and making new provision where this is appropriate.”

#### **Policy HAL5: Dark Skies**

134. This policy seeks to establish design requirements and principles so that development proposals will minimise light pollution and improve views of the night-time sky.
135. In a representation the District Council state “*Paragraph 180c of the Framework says that planning policies should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. However, paragraph 55 of the Framework also says that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. It is considered that the proposal that all planning proposals involving external artificial lighting undertake an assessment of the level of obtrusive light may be considered excessive. It is suggested that a policy along the following lines may be more appropriate – “Where external lighting is proposed in a development it must be demonstrated that it is essential for the maintenance of health and safety by road users and building occupiers.” It is considered that Part 2 of Policy HAL5 would be more appropriately addressed in the Hallow Design Guide.*” The Parish Council has commented on the representation of the District Council as follows “*Comments on HAL5 noted, no change.*”
136. Paragraph 180 c) of the Framework states planning policies should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. I am satisfied the approach adopted in the Neighbourhood Plan, as recommended to be modified, in these respects has sufficient regard for national policy. The policy is without consequence. The term “*reduce any obtrusive lighting nuisance to a minimum*” is imprecise and does not provide a basis for decision taking in respect of development proposals. I have recommended a modification in these respects 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.

137. The policy includes a requirement of the level of obtrusive light. 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 two 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 in support of planning applications. This is a function that must be achieved through inclusion in the District Council Local Area Planning Applications Requirements List that is subject to modification during the Plan period. I have made a recommendation of modification in this respect so that the policy has sufficient regard for national policy.

138. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 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.

139. 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 4:**

**Replace Policy HAL5 with “In the interests of reducing light pollution and improving views of the night-time sky, to be supported planning proposals must: (a) only include external lighting that is essential for the maintenance of health and safety for users of the development; and (b) include measures to avoid light spillage beyond the development site and beyond any plot within it.”**

**Policy HAL6: Local Green Spaces**

140. This policy seeks to designate six Local Green Spaces where development must be consistent with national planning policy for Green Belt.
141. A representation asks who will be responsible for designated open spaces. In a representation the District Council draw attention to provisions of paragraphs 99 and 100 of the Framework. The representation also states the bracketed reference numbers in Table 7 are unnecessary and confusing; the boundaries of sites 3 and 4 are unclear; and suggest rewording the final sentence of the policy. Whilst the Parish Council has drawn attention to the note in the heading of Table 7 and commented the reference numbers enable cross-referencing to the evidence base, I consider the reference numbers presented in brackets are confusing and unnecessary. I refer to the other matters raised by the District Council below and in the annex to my report.
142. A representation on behalf of Worcestershire County Council objects to the designation of HAL6/1 Tinkers Coppice Wood and HAL6/2 Gravel Pit stating *“In relation to Tinkers Coppice Wood, the woodland is not safe for public access due to there being no formal Public Rights of Way, apart from a footpath that intersects the north western corner, and a steep change in gradient on the south-eastern part of the site. Refusal for a local primary school to use the woodland has also been given because of the concerns around safety. Conversely, the lake under allocation HAL6/2 was created after*

*mineral extraction ceased, which means that WCC cannot guarantee that the lake is safe (notwithstanding also becoming liable for insurance costs, maintenance costs and upkeep of the site if people access it anyway). Contrary to 'Table 7 – Local Green Space Assessment' on page 68 of the HNBP, both proposed allocations do not meet the criteria for Green Space under paragraph 100 of the National Planning Policy Framework (NPPF) (February 2019). Both sites are not within reasonable proximity to the community they would serve due to being isolated from the village of Hallow and the public footpaths mentioned within Table 7 follows the outskirts of the WCC owned sites. The only exception is Public Right of Way 629C, which should only be used to cut through a narrow section of the coppice. In this respect, if a member of the public were to enter the coppice or use the lake, then this would be deemed as trespassing under Criminal Justice and Public Order Act 1994. In relation to parts (b) and (c) of paragraph 100 of the NPPF, proposed designation HAL6/2 does not meet the criteria of being local significance or local in character because of the lake being there as a consequence of commercial mineral extraction from Ball Mill Quarry, who have also extracted sand and gravel deposits from other nearby sites in Hallow and Grimley since 1958 (for further detail, please see planning application 15/000016/CM). The coppice under HAL6/1 is already designated as an ancient woodland. If the two sites were to be allocated as Green Space because of the historic significance of the coppice and richness of its wildlife at the lake as stated in Table 7, this would cause more harm than good in practice unfortunately. Opening the sites to the general public would disturb nesting birds surrounding the lake, of which ten bird species identified here are on the 'red list' of conservation concern according to the British Trust of Ornithology, and potentially irreversible damage could be caused to the coppice through fire or eroding the flora and fauna from the sudden increase in visitor numbers. Paragraph 17 of the Planning Practice Guidance (PPG) (Reference ID: 37-017-20140306) does suggest that designation for Green Space may be considered on restricted access land for its wildlife, historic significance or beauty. However, given that the smallholding is also a working agricultural farm, then the WCC site should not be viewed as a suitable designation for green space. The allocations are also not in accordance with Policy SWDP 38 and SWDPR 43 - 'Green Space' of the South Worcestershire Development Plan (SWDP) (adopted February 2016) or the South Worcestershire Development Plan Review (SWDPR), due to the above planning and legal constraints attached to the sites, which act against the main concept of green space being designated due to being heavily used by*

*the local community. WCC recognises that in planning terms, green space does not grant the right of access onto the land. However, in practice, the public will interpret the green spaces allocations as signalling that the land is open access, which will ultimately lead to problems and conflicts on what is a privately run smallholding. Finally, it should be noted that there is no formal car parking available at either site. Access to the coppice would involve either walking on the adjacent footpath to the busy A443, or via a narrow lane to access the lake with limited places to pass. It would also cause traffic congestion for the only road into the nearby village of Grimley. Given the reasons stated above, HAL6/1 and HAL6/2 should be removed from being designated as Green Space under the HNBP because of neither site being policy compliant with the NPPF, SWDP or SWDPR. There are also several planning, ecological, legal and safety concerns relating to both sites and this should be taken into consideration, since the main aim of Green Space is to be used by the local community, which would have direct and indirect negative impacts for the Coppice and the lake.” In commenting on this representation, the Parish Council state “The Parish Council retain the position that the two sites fulfil the designation criteria for Local Green Spaces. HAL6/1 Tinkers Coppice Wood: The safety issues are acknowledged. Access to the site via the PROW is noted. The site is in reasonable proximity to the community it serves and has wildlife value as ancient woodland. No change. HAL6/2 – ‘Gravel Pit’- This site is regularly accessed by walkers and bird watchers with a monthly update on bird sightings in the parish magazine. It meets the criteria of access, community value and proximity. The origin of the lake through commercial mineral extraction is irrelevant. We appreciate WCC’s wish to balance this with adequate protection for nesting birds and those on the red list, however we are not aware of any past or current disturbance issues. The availability or lack of car parking is not a criterion for designation of Local Green Space. No change.”*

143. 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 Spaces are presented on the Policies Map of the Neighbourhood Plan. When viewed electronically the Policies Map can be expanded to reveal the line of boundaries of the green spaces in question. The Policies Map is not included with the Submission Plan document. It is likely a party referring to the Submission Plan document will refer to Map 12. This map does not reveal the precise boundaries of proposed Local Green Spaces 6/3

and 6/4 adequately, even when expanded electronically, and even after taking into consideration the information set out in Table 7. I consider it is important that the precise boundaries of areas 6/3 and 6/4 can be determined by reference to the Submission Plan document itself. I am not satisfied all of the areas of land proposed for designation as Local Green Spaces have been adequately identified. 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. The Parish Council has confirmed agreement with this modification.

144. In a representation Severn Trent is supportive of policies which support Local Green Spaces stating “*Whilst we do not currently have any flood resilience schemes proposed within Hallow, it is important that planning policy does not prevent flood resilience works from being carried out if required in the future. Green spaces can also be enhanced where a good SuDS scheme incorporates design principles to enhance biodiversity and amenity as well as attenuation. We would therefore recommend the following policy wording is added: ‘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.’*” The Parish Council does not agree this change stating “*development of Local Green Spaces should be consistent with national planning policy for Green Belt.*” Decision makers must rely on paragraph 101 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 143 to 147. That part of the Framework sets out statements regarding the types of development that are not inappropriate in Green Belt areas. An alternative wording expressing support except in very special circumstances would not provide sufficient guidance in respect of the application of Green Belt policy. The Parish Council has commented that no change to the final sentence is necessary. The final sentence of Policy HAL6 is precise and has sufficient regard for national policy.

145. Paragraph 99 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.”*

146. In respect of all of the areas proposed for designation as Local Green Space I find the Local Green Space designations are being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designations are not capable of enduring beyond the end of the plan period. The intended Local Green Space designations have regard to the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework.
147. Paragraph 100 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.”*
148. I find that in respect of each of the intended Local Green Spaces 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. In reaching the latter conclusion I have taken into account the fact that some of the areas of land proposed for designation as Local Green Space are adjacent to, or in close proximity to, one another.
149. 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>60</sup> The areas proposed for designation as Local Green Space have been subject to extensive consultation with the local community and Appendix 8 seeks to identify ownership.
150. With respect to the objection made on behalf of Worcestershire County Council relating to public access the Guidance states *“Some areas that may be considered for designation as Local Green Space*

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<sup>60</sup> Planning Practice Guidance Paragraph: 019 Reference ID:37-019-20140306 Revision date 06 03 2014

*may already have largely unrestricted public access, though even in places like parks there may be some restrictions. However, other land could be considered for designation even if there is no public access (eg green areas which are valued because of their wildlife, historic significance and/or beauty). Designation does not in itself confer any rights of public access over what exists at present. Any additional access would be a matter for separate negotiation with land owners, whose legal rights must be respected.”*<sup>61</sup> In this context and given the areas of land in question are in close proximity to the local community the objection on lack of car parking provision is not a matter on which designation as local green space should turn. The objection made on behalf of the County Council also states “*the coppice under HAL6/1 is already designated as an ancient woodland*”. 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.

151. The submission Neighbourhood Plan includes in Table 7 statements that seek to justify the proposed designations as Local Green Space. Relevant reasons for designation are stated in respect of each site including matters referred to in the Framework. Table 7 provides sufficient evidence for me to conclude that each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance.

152. I find that the areas proposed as Local Green Space are suitable for designation and have regard for paragraphs 99 to 101 of the Framework concerned with the identification and designation of Local Green Space.

153. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP38, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

154. 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

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<sup>61</sup> Planning Practice Guidance Paragraph: 017 Reference ID:37-017-20140306 Revision date 06 03 2014

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 5:**

**In Policy HAL6 replace the text before the list with “The following areas identified on the Policies Map and Map 12 are designated as Local Green Space:”**

**Add insets to Map 12 that identify Local Green Spaces reference HAL 6/3 and HAL 6/4 at sufficient scale so that boundaries of the designated areas can be clearly identified.**

**Policy HAL7: Important Views**

155. This policy seeks to establish that to be supported development proposals must demonstrate that they are sited, designed and of a scale such that they do not substantially harm identified important views.
156. A representation on behalf of IM Land Limited states “*A more robust up-to-date evidence base should be provided in support of the designated views chosen for protection (e.g. a detailed landscape assessment carried out by a qualified consultant) in line with National Guidance and therefore basic condition 8(2)(a). Within the evidence base, the value of the views set out and the rationale for their protection should be clarified, particularly in relation to View 18. Notwithstanding the above, it is worthy to note that View 18 is a sufficient distance to the north of the Site, and the proposed development boundary within the Site, including the proposed green space and landscaping, and will have little, if any, impact on View 18.*” In commenting on this representation, the Parish Council state “*HAL7 has been developed using a comprehensive and proportionate evidence, only part of which is the “community walkabout”. No change. The Parish Council have not comment to make on the impact of any possible development on View 18 at this time.*”
157. In a representation the District Council state “*Paragraph 170 of the Framework says that the planning system should protect and enhance valued landscapes. Whilst national and local planning policy*

*protects local character, it does not provide or protect a “right to a view.” Planning policies can seek to protect specific views where this is justified in the wider public interest (for example from a public footpath, right of way, roadside, or other publicly accessible land). To provide a practical framework for decision makers (and applicants) it would be helpful if the location of the important views was identified on a single map in the NDP. It is noted that the Policies Map (which is a freestanding document) shows the location of the important views but it would be helpful to applicants and decision makers if it was included within the NDP. In terms of general conformity with strategic policies in the Local Plan, it should be noted that Policy SWDP 25 requires development proposals to take account of the latest Landscape Character Assessment and only requires a Landscape & Visual Impact Assessment (LVIA) or similar for major development proposals which are likely to have a detrimental impact on a significant landscape attribute or irreplaceable landscape feature. The emerging SWDPR29 (Landscape Character) proposes that a LVIA will be required for major development proposals and other proposals (outside defined development boundaries) where they are likely to have a detrimental impact on the landscape as a resource and / or views and visual amenity.” I have earlier in my report referred to the Parish Council comment that there is no requirement to include the Policies Map in the main Neighbourhood Plan document.*

158. The Policies Map identifies the location from which important views are seen and the direction of view from those points. The Policies Map is not referred to in the policy. The Policy does refer to Appendix 2 and Table 8. Appendix 2 includes a description and photograph of each view and maps an approximate extent of view. Table 8 presents a description of the view including a definition of boundaries. Table 8 also includes information relating to landmark buildings and landscape features within the view as well as setting out a statement as to what makes each view special. I am satisfied the important views are sufficiently well defined. I am also satisfied the important views have been defined such that the requirement to demonstrate proposals will not substantially harm those views does not result in a disproportionate burden on development within the Neighbourhood Area as a whole, and the approach adopted has been sufficiently justified.

159. Paragraph 7.19 of the Neighbourhood Plan sets out a clear explanation how the important views have been identified. The list of identified views has been the subject of considerable public

consultation. The policy clarifies that it will operate in the public interest by stating it applies to the identified important views when seen from locations that are freely accessible to members of the general public. Policy HAL7 does not seek to establish valued landscapes, as referred to in paragraph 170 of the Framework, which would require a more rigorous and objective justification that identifies physical attributes, beyond 'ordinary', that make the landscape valued.<sup>62</sup> I am satisfied the approach adopted in the Neighbourhood Plan in these respects has sufficient regard for national policy.

160. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP25, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

161. 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 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 HAL8: Green Infrastructure**

162. This policy seeks to establish requirements of development proposals that impact on the identified Green Infrastructure Network. The policy also requires consideration of connections and links to surrounding green infrastructure and seeks to establish that development that will disrupt or sever the green infrastructure network will not be supported. The policy also seeks to establish that where new green infrastructure is created as part of a development proposal this should be accompanied by a management plan.

163. In a representation Severn Trent support the policy, particularly section ii of part a).

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<sup>62</sup> Stroud District Council vs. SSCLG [2015] EWHC 488 (Admin) and Forest of Dean DC v. SSCLG [2016] EWHC 2429 (Admin)

164. A representation on behalf of Worcestershire County Council objects to the designation of a large parcel of Tinkers Coppice Farm as Green Infrastructure stating “Green Infrastructure is defined as ‘A network of green spaces and natural elements that intersperse and connect villages, towns and cities’ under Green Infrastructure Framework 1: Context and Baseline produced by WCC. The National Planning Practice Guidance also provides clear examples of what green infrastructure can include, such as playing fields, allotments, private gardens and other areas of open space (Paragraph: 004 Reference ID: 8-004-20190721). Given that Tinkers Coppice Farm consists of land that is mixed arable and livestock and so heavily farmed, it does not meet the criteria of acting as a corridor to link to other Green Infrastructure assets and therefore not in accordance with part (c) of Policy HAL8 for restoring or creating new infrastructure links and connections. Furthermore, Green Infrastructure is supposed to be of multifunctional use that comprises of green spaces and water features, will enhance environmental quality and form a recreational area for residents and visitors under Paragraph 7.21 of the HNDP. WCC’s landholding does not comply with these criteria. This in turn means that allocating the site would not be compliant with Policy SWDP 5 – ‘Green Infrastructure’ of the South Worcestershire Development Plan (February 2016). The landholding is leased to a tenant farmer and encouraging the public to access the land through the allocation would seriously prejudice farming operations there. Moreover, Policy HAL8 of the HNDP does not specify how the designated green infrastructure will be maintained, which is contrary to paragraph 8.16 of the Reasoned Justification to Policy SWDPR 4 – ‘Green Infrastructure’ within the SWDPR. Once the draft Local Plan is adopted, an arrangement is required to manage the Green Infrastructure designation, whether that is through the form of a management company, a community led scheme or the adoption of the Green Infrastructure network by another organisation. As the HNDP does not provide an explanation as to how the proposed designation of Green Infrastructure within Hallow will be managed to ensure it is viable and fully funded in the long term, it is therefore undeliverable. Consideration should also be given to the fact that the smallholding is designated as Grade 2 and 3 under the Agricultural Land Classification and is therefore classed as being of the ‘best and most versatile land’. Under Paragraph 170(b) of the NPPF, this means that the land is seen to be of economic benefit in providing crops for food and non-food uses. The operations there should therefore not be impeded by being allocated as Green Infrastructure. WCC accordingly request that the smallholding of Tinkers Coppice Farm be removed

*from the proposed designation of green infrastructure in the draft HNDP. The site is after all a working farm, meaning that it does not meet the criteria for the proposed designation.” In commenting on this representation, the Parish Council state the definition of Green Infrastructure in the Framework does not preclude or impede the use of land currently used for agriculture and “GI should be multi-functional in its totality, not as independent spaces. The HNDP does not propose public access. There is no requirement or need to specify how GI will be maintained (the respondent’s comments relate to new GI), nor will Policy HAL8 impact on the land’s use for agriculture.”*

165. A representation on behalf of IM Land Limited states a modification is required for the following reason *“Based on the key attributes of GI set out in paragraph 7.24 of the plan, Land west of the A443 should be removed from the GI designation. This designation is not consistent with national planning policy and guidance. No sufficient justification / evidence has been provided for the designation of the GI network identified. The deletion of Land West of A443 would not have any significant impact on the connectivity or integrity of the GI given that it is located on the edge of the GI designation. Alternatively, it would be possible to remove the southern part of the Site adjacent to the built-up area from the designation to allow its potential development, as detailed in the Vision Document, but retaining the GI flow to the north. Without prejudice to the submissions above, that this approach breaches the basic conditions, the development proposed in the Vision Document would still accord with (and not conflict with) the draft Policy’s requirements, given its landscape-led nature, namely: • Recreational, ecological, historic and landscape character functions of natural habitats; • Drainage and ecological value of the network of watercourses and features; and • The recreational function.”* In commenting on this representation, the Parish Council state *“This response is contradictory it questions the Policy HAL8 and the substantial evidence base upon which it is based. But then seeks a modification to remove the respondent’s client’s site. Policy HAL8 is either fundamentally flawed, which the Parish Council contend that it is not; or it is simply a question of how GI boundaries have been drawn. On this latter point the Parish Council’s position is that (and this is set out in the HNDP and supporting documents) HAL8 is based on a robust and proportionate evidence base. No change.”*

166. In a representation the District Council draw attention to the definition of green infrastructure, and paragraphs 20 and 171, within the Framework, as well as Strategic Policy SWDP5. The District

Council also state *“Paragraph 7.21 suggests that the extent of the proposed Green Infrastructure (Map 13) is based on Maps 10 (Ancient tree records + notable trees identified by parishioners), 11 (Landscape Character Types), 15 (Biodiversity Action Plan habitat core areas and dispersal extent) and 16 (Ponds) and 17 (Community facilities and local shops). Is Map 13 an amalgam of those maps or is the extent of Green Infrastructure on Map 15 based on Worcestershire County Council’s Environmental Character Areas (ECAs); ‘Protect and Restore’ and ‘Protect and Enhance’? Text in the second sentence of paragraph 7.21 needs to be corrected. Reference to “Maps 10, 11 and 15 – 17” presumably refers to “Maps 9, 10 and 14 – 16” in the latest version of the NDP? The Green Infrastructure provision on Map 13 appears to cover ‘strategic GI’ but does not cover localised and/or urban green space opportunities/issues/threats. It is suggested that the policy could be amended to cover urban green spaces or that reference is made to the fact that urban green spaces would be covered by SWDP 38 (Green Space) or its successor policy.”* The Parish Council has commented on the District Council representation as follows *“Map 13 is an amalgam of Maps 10 (Ancient tree records + notable trees identified by parishioners), Map 11 (Landscape Character Types), Map 15 (Biodiversity Action Plan habitat core areas and dispersal extent) and Map 16 (Ponds). The NDP does not identify large areas of arable land as GI per se, such areas are identified as part of the GI network as they are within the key GI corridors of the River Severn and the land around and linking to Spindlewood. Correct text as suggested. Urban green spaces are covered by other NDP and development plan policy, no change.”*

167. As a matter for clarification, I wrote to the District and Parish Councils as follows *“Regulation 16 representations have queried the inclusion of significant areas of intensively managed arable and livestock land within the identified Green Infrastructure network. I have noted the comment of the Parish Council on Regulation 16 representations states “The NDP does not identify large areas of arable land as GI per se, such areas are identified as part of the GI network as they are within the key GI corridors of the River Severn and the land around and linking to Spindlewood.” The Green Infrastructure network identified on the Policies Map and on Map 13 of the Neighbourhood Plan is presented with precise boundaries and those boundaries are used to define where Policy HAL8 is to apply. Please direct me to the evidence that supports the precise boundaries adopted in particular with respect to inclusion of significant areas of intensively managed arable and livestock land?”*

168. In response to my request for clarification I received the following statement *“Hallow Parish Council has set out the sources of information and the methodology for identifying the Green Infrastructure boundaries proposed in Policy HAL8 in Appendix A. Further clarification can be provided by the Parish Council if required. District Council officers are supportive of the principle of Policy HAL8 but are unclear whether all parts of the proposed Green Infrastructure Network identified on Map 13 meet the Framework definition of “a network of multi-functional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities.” District Council officers note that: The Environmental Character Areas (ECA’s - Map 1 in Appendix A) do not identify Green Infrastructure per se – the purpose of the ECA’s is to inform GI priorities in the event that there is a development proposal on the land. We note that the first line of the HPC Methodology says that the ECAs were used as a “starting point” in developing Policy HAL8. • The status of the Green Spaces identified on Map 6 in Appendix A is unclear. The Green Spaces are not identified as Green Spaces in SWDP 38 or proposed Local Green Spaces in Policy HAL6. Map 6 has been taken from Figure 19 (page 48) of the Ecological Search for Hallow, but the evidence underpinning the map and status of the identified Green Spaces is unclear. • Arable land is identified on Figure 6 (page 27) of the Ecological Search for Hallow.”*

169. The response to my request for clarification includes an Appendix A titled ‘Sources of information and methodology for identifying the green infrastructure boundaries proposed in Policy HAL8.’ This document refers to the Framework and Strategic Policy SWDP5; identifies source material; and describes the method used to define the green infrastructure network presented on Map 13 of the Neighbourhood Plan. The Environmental Character Area work at county level provided a starting point. The more detailed maps of the Ecological Search for Hallow, some of which are reproduced in the Neighbourhood Plan, were taken into consideration. The response also states *“This document was used as the basis for drawing up the boundaries on the HNDP Policies Map, this boundary sought to identify and include the following: • The corridors of the Severn Valley and Laugherne Brook; • Designated sites – Local Wildlife Sites and Grassland Inventory Sites (Map 2 of this note); • Habitat Inventory Sites, including Biodiversity Action Partnership (BAP) and other grassland sites (Map 3). Overlaying this information with the BAP Habitat Network shows a good fit with the GI network identified on Map13 of the HNDP (Map 4); • Tree and woodland habitats (Map 5)*

and orchards; and • Green Spaces identified in Figure 19 of the Ecological Search (Map 6). Based on these key elements of Hallow's GI network the composite map included in the HNDP was produced. This is considered to be compatible with the strategic approach set out for each ECA and to be a suitable response to the overarching principles set in the ECAs to: • Enhance stream and river corridors • Protect ancient countryside character • Protect and enhance ancient woodland habitats • Enhance and expand acid grassland habitats • Restore the Severn floodplain • Protect and enhance the multi-functional Severn Corridor By mapping the GI resources in this way and through Policy HAL8 the HNDP will ensure that the GI network in the neighbourhood area is given proper consideration when making planning decisions.”

170. Green Infrastructure is defined in Annex 2 of the Framework as “a network of multi-functional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities”. Paragraph 20 of the Framework states strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for, amongst other things, green infrastructure. Paragraph 171 of the Framework states plans should “take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure”. Strategic Policy SWDP5 provides that overall strategy for South Worcestershire. Policy HAL8 seeks to provide an additional level of detail and distinct local approach. The final paragraph of Policy HAL8 includes additional detail to that set out in strategic policy SWDP5 part B. I am satisfied the approach adopted in these respects in Policy HAL8, as recommended to be modified, has sufficient regard for national policy.

171. I am satisfied paragraphs 7.21–7.24 of the Neighbourhood Plan set out the basis for the identification of the Green Infrastructure network identified on the Policies Map and Map 13. I have considered the supporting document ‘Parish Search for Hallow Neighbourhood Development Plan’ prepared by Worcestershire County Council Ecology Service dated 13 June 2019. Whilst this document does not explore all the dimensions of green infrastructure, for example public rights of way, it does set out a detailed catalogue of many of the relevant dimensions. This document supplements the already comprehensive information presented in the Neighbourhood Plan, which together represent proportionate robust evidence that supports the choices made, and the approach taken, in Policy HAL8, subject to

a spatial exception I identify below. Whilst Policy HAL8 refers to “*historic and landscape character*” functions and “*ecological*” functions which results in a degree of overlap with Policies HAL4 and HAL9 I am satisfied those references in Policy HAL8 are appropriate as dimensions of green infrastructure. The focus of Policy HAL8 is concerned with the green infrastructure network as a whole rather than the individual elements of landscape or ecology which are the focus of the other policies. This approach is consistent with the definition of green infrastructure set out in Annex 2 to the Framework, and does not amount to unnecessary duplication of policies which would be contrary to paragraph 15f) of the Framework. As recommended to be modified Policy HAL8 does not seek to promote less development than set out in the strategic policies for the Neighbourhood Area, nor does it undermine the strategic policies, but it does seek to shape, direct and help to deliver sustainable development. The policy does establish a framework for assessment of development proposals. As recommended to be modified 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, including intensive arable and livestock farming.

172. Two representations state specific areas of land should not be included within the Green Infrastructure Network identified on Map 13 and the Policies Map. I consider inclusion of the land east and north-east of Hallow village including land in the vicinity of Tinkers Coppice Farm has been sufficiently justified, not least as this area is significantly identified as Biodiversity Action Plan habitat core area and dispersal area. There are additionally in this area three areas proposed for designation as Local Green Space under Policy HAL6 which are clearly valued by the community. By contrast I do not consider the area of land north of Heath Farm buildings stretching almost to the Neighbourhood Area north boundary, west of the A443, and east of properties fronting Moseley Road has been sufficiently justified for inclusion in the Green Infrastructure Network. The identification of “*possible*” unimproved grassland is based on uncertainty. Criteria for classification as unimproved grassland are available, not least in grant eligibility documents produced by the Rural Payments Agency and endorsed by Natural England. Identification of this area as Green Space in the Parish Search for Hallow document is not sufficiently justified. Section 2.10 of that document refers to visual

appeal and aesthetic value but includes no further explanation with respect to any of the identified Green Spaces, including that in question. Whilst Map 10 of the Neighbourhood Plan identifies a group of five ‘significant trees identified by parishioners’ north of the Heath Farm buildings (reference 8a to 8e in Table 9) these do not justify inclusion of the wider area in the Green Infrastructure Network and are afforded protection under Policy HAL9 as recommended to be modified. The Guidance states “*Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan*”.<sup>63</sup> I have recommended a modification in this respect so that the policy has sufficient regard for national policy. I have recommended a modification to exclude, from the Green Infrastructure Network, the area of land north of Heath Farm buildings stretching almost to the Neighbourhood Area north boundary, west of the A443, and east of properties fronting Moseley Road.

173. The policy is without consequence. The term “*maintains*” is imprecise. The term “*consideration should be given*” does not provide a basis for the determination of development proposals. The terms “*including key features such as*” and “*where relevant*” introduce uncertainty. The term “*Hallow’s*” is unnecessary and confusing as both the Policies Map and Map 13 identify green infrastructure without reference to Hallow. The full stop after point i is an error. Both the policy title and part b) of the policy should more clearly state their reference to the green infrastructure network, rather than green infrastructure more generally. 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. Whilst reference in Policy HAL8 to green infrastructure within the built-up areas of the Neighbourhood Area would be appropriate I am unable to recommend a modification on that basis as that would not be necessary to meet the basic conditions. I have made reference to the necessary correction of background/justification paragraph 7.21 in the Annex to my report.

174. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP5, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

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<sup>63</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

175. 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 6:**

**In Policy HAL8**

- **modify the policy title to “Green Infrastructure Network”**
- **replace the text before point i with “To be supported development proposals that impact on the green infrastructure network identified on the Policies Map and on Map 13 must demonstrate how new development: a) Avoids significant harm to the following key features of the green infrastructure network:”**
- **replace the full stop in part i with a semi-colon**
- **in part b) after “provision” insert “that will enhance the green infrastructure network” and after “lost” insert “from the green infrastructure network”**
- **replace “Consideration should also be” with “Development proposals should demonstrate that consideration has been”**
- **delete “where relevant”**

**Modify Map 13 and the Policies Map to exclude from the Green Infrastructure Network the area of land north of Heath Farm buildings stretching almost to the Neighbourhood Area north boundary, west of the A443, and east of properties fronting Moseley Road.**

**Policy HAL9: Biodiversity**

176. This policy seeks to establish that new development should provide a net gain in biodiversity by stated means. The policy also requires residents to be provided with information on biodiversity features of new housing developments.

177. The Governors of Hallow CE Primary School support the policy and state they *“will continue to actively consider opportunities for pupils at the school to understand and promote the much-appreciated biodiversity of the area in which it is located.”*
178. In a representation the District Council refer to paragraph 170d of the Framework and state not all development proposals, particularly small-scale developments, would be able to achieve all the requirements a) to e). The representation suggests the first sentence of the policy should refer to demonstrable biodiversity net gain in order to assist decision makers; the policy should refer to hedgerows; and states text supporting the policy is not always relevant. I refer to this latter point in the annex to my report. The Parish Council has commented on the District Council representation as follows *“Comment noted, but policy includes “should” – no change. The policy should be amended to say that should “demonstrable biodiversity net gain”, amend as suggested. It is suggested that HAL9a) should include reference to hedgerows. Amend as suggested.”*
179. Paragraph 174 of the Framework sets out the ways that plans should protect and enhance biodiversity. 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 HAL9 as recommended to be modified, has sufficient regard for national policy.
180. The first paragraph of the policy does not provide a basis for decision making in respect of development proposals and is without consequence. The inclusion of the word *“and”* in the list of items a) to e) means the policy would represent a burdensome scale of obligations in respect of some development proposal, and in some cases delivery of all the measures may not be practical or viable. Paragraph 16 of the Framework requires plans to be deliverable. I have recommended a modification so that the references to woodland, ancient, and notable trees have sufficient regard for paragraph 175 of the Framework which sets out national policy in respect of irreplaceable habitats including ancient woodland and ancient and veteran trees. In this way Policy HAL9 will provide an additional level of detail to that set out in national policy. Reference to hedgerows is not necessary to meet the basic conditions. The final sentence of the policy is reliant on a third party for realization which it may not be. 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.*

181. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP22, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

182. 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 7:**

##### **In Policy HAL9**

- **replace the text before “a)” with “To be supported development proposals must demonstrate a net gain in biodiversity wherever practical and viable by:”**
- **in part a) delete “woodland, ancient and notable trees (Table 9 and Map 14),”**
- **replace the final sentence with “Development proposals that will result in the loss or deterioration of ancient woodland and ancient or veteran trees identified in Table 9 and Map 14 will not be supported unless there are wholly exceptional reasons, and suitable compensation will be achieved.”**

#### **Policy HAL10: Community Facilities and Local Shops**

183. This policy seeks to establish criteria for support of proposals that will result in the loss of identified community facilities or will result in a change of use to non-retail use of identified local shops. The policy also seeks to establish conditional support for proposals that enhance the identified community facilities or propose new community facilities, particularly health facilities.

184. In a representation the District Council refer to paragraph 92 of the Framework and state “*Map 17 helpfully shows the location of the community facilities and shops that are to be protected under Policy HAL10 (although the numbering of the facilities could be made clearer). It is considered that Part 1 of Policy HAL10 is in general conformity with SWDP 37B. It is considered that Part 2 of Policy HAL10 is in general conformity with SWDP 37A. It is considered that Part 3 of Policy HAL10 is in general conformity with SWDP 10. For consistency with other parts of HAL10, it is suggested that Part 3 says “SWDP 10 (or its successor)”*” The Parish Council has noted the District Council representation but considers no change is necessary.

185. Paragraph 92 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 HAL10 has sufficient regard for national policy in these respects. I am also satisfied the references to strategic policies are necessary and adequate but the term “*(or its successor)*”, which is applied inconsistently, is confusing and unnecessary. The numbering of facilities on Map 17 should be made clearer. The term “*particularly*” does not provide a basis for the determination of development proposals. 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.

186. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policies SWDP10 and SWDP37, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

187. 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 8:**

#### **In Policy HAL10**

- replace “particularly” with “or”
- delete “(or its successor)” on both occasions

### **Improve the legibility of the numbering of facilities on Map 17**

#### **Policy HAL11: Recreation**

188. This policy seeks to establish that five identified recreation facilities should be protected and that development affecting those sites should be considered against strategic policy SWDP38.
189. The District Council state *“Paragraph 8.11 says that the Parish Council will support improvements to key facilities. Given that some of the proposed recreation facilities meet the definition of community facilities, it is unclear why proposals for development affecting these sites would be assessed against SWDP 38 (Green Space) rather than SWDP 37A (which would relate to the enhancement of the facilities).”*. Footnote 82 associated with Policy SWDP37 recognises formal sports pitches/courts as community facilities where they include specific buildings. The Parish Council has agreed the policy references in paragraph 8.11 should be amended. I have recommended paragraph 8.11 of the Neighbourhood Plan should also include reference to Policy SWDP37.
190. In a representation the District Council state *“It should be noted that HAL11/1, HAL11/3 and HAL11/4 are already designated as Green Space in the SWDP and therefore protected under SWDP 38. HAL 11/2 and HAL 11/5 are not currently designated as Green Space.”*
191. The Framework states existing open space, sports and recreational buildings and land including playing fields should not be built on unless stated criteria apply. Policy SWDP38 provides protection to those facilities identified on the SWDP Policies Map and to new facilities secured through planning permissions. Policy SWDP38 applies to Facilities with references HAL11/1, HAL11/3 and HAL11/4 but does not apply to the facilities HAL11/2 Hollybank and children’s playground and HAL11/5 allotments. 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 this Framework, where relevant).”* I have recommended Policy HAL11 is modified so as to achieve similar

protection to that afforded by Policy SWDP38 in respect of facilities HAL11/2 and HAL11/5. The term “*will be protected*” is imprecise and does not provide a basis for the determination of development proposals. 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.

192. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP38, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

193. 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 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 9:**

**Replace Policy HAL11 with “Development of the recreation facilities HAL11/2 Hollybank and children’s playground and HAL11/5 Allotments, identified on the Policies Map and Map 18 will only be supported when in accordance with Policy SWDP38.**

**Note: facilities HAL11/1 Playing fields and pavilion; HAL11/3 Scout hut; and HAL11/4 Hallow Tennis Club are previously protected by Policy SWDP38.”**

**Policy HAL12: Hallow Conservation Area**

194. This policy seeks to establish design principles for development within the Hallow Conservation Area.

195. In a representation the District Council draw attention to paragraphs 184, 200 and 201 of the Framework and state Policy HAL12 appears to have regard to the Framework.
196. Paragraph 200 of the Framework refers to the preservation of elements of the setting of conservation areas. Paragraph 201 of the Framework makes it clear not all elements of a conservation area will necessarily contribute to its significance. The term “*preserve*” in the opening statement of Policy HAL12 implies the Conservation Area will be maintained in its existing state. This does not have sufficient regard for national policy which promotes the conservation and enhancement of heritage assets. I have recommended a modification in this respect so that the policy has sufficient regard for national policy. I am satisfied the approach adopted in Policy HAL12, as recommended to be modified, in these respects has sufficient regard for national policy. I am also satisfied the policy identifies appropriate principles for the assessment of development proposals without being overly prescriptive.
197. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP24, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
198. 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 10:**

**In Policy HAL12 replace “preserve” with “conserve”**

**Policy HAL13: Non-designated Heritage Assets**

199. This policy seeks to establish that to be supported proposals which affect a non-designated heritage asset must demonstrate how

they protect or enhance the heritage asset. The policy also seeks to establish a design principle for proposals to renovate or alter a non-designated heritage asset, and establish a basis to assess proposals that will harm the significance of a non-designated heritage asset.

200. In a representation the District Council draw attention to paragraph 184 of the Framework and state *“Policy HAL13 helpfully distinguishes between designated heritage assets (such as listed buildings and conservation areas) and other heritage assets (identified by the local authority). Paragraph 9.16 of the Reasoned Justification makes it clear that the Local List will be designated and maintained by Malvern Hills District Council. It is considered appropriate for the Parish Council to nominate non-designated heritage assets for consideration in the MHDC Local List SPD through the neighbourhood plan process. Appendix 3 lists 30 non-designated heritage assets that the Parish Council will wish to nominate. It is considered that this is appropriate because it allows for the possibility that some nominated assets may not be adopted on the Local List and would allow for the possibility that additional assets may be listed by the District Council. Paragraph 9.16 helpfully makes clear that the Parish Council have sought to identify potential non-designated heritage assets that meet the criteria in the Local List SPD (May 2015). For accuracy, it is suggested that the words “by the Parish Council” be inserted between “identified” and “in” in the penultimate sentence in paragraph 9.16.”* In commenting on the District Council representation, the Parish Council agree paragraph 9.16 should be amended as suggested. I refer to this point in the annex to my report.

201. The third paragraph of the policy which refers to *“the benefits of the proposal”* does not have sufficient regard for paragraph 197 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. If the reference to *“the benefits of the proposal”* is deleted the remainder of the third paragraph duplicates national policy. 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 this Framework, where relevant).”* I have recommended the third paragraph of the policy is deleted on this basis. In response to my request for clarification the District and Parish Councils have agreed this modification.

202. Section 9.15 of the Neighbourhood Plan provides background information how locally valued heritage assets have been identified and paragraph 9.16 explains how those assets will be considered for

inclusion in a Local List being created by the District Council. The Guidance refers to advice on local lists published on Historic England's website.<sup>64</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."* I am satisfied the approach adopted in the Neighbourhood Plan in these respects has sufficient regard for national policy.

203. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP24, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

204. 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 11:  
In Policy HAL13 delete the third paragraph**

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<sup>64</sup> Planning Practice Guidance Paragraph: 040 Reference ID: 18a-040-20190723 Revision date: 23 07 2019

## Policy HAL14: Archaeological Assets

205. This policy seeks to establish requirements of development proposals in respect of potential impact on surface and sub-surface archaeology.
206. In a representation the District Council draw attention to paragraph 189 of the Framework and Policy SWDP24 and state *“It is considered that Policy HAL14 has regard to the Framework and is in general conformity with SWDP 24. Paragraph 9.18 says that the Worcestershire Historic Environment Record Search (HERS) lists the known archaeological remains in the area. In order to provide greater certainty for applicants and to enable decision makers to apply Policy HAL14 consistently and with greater confidence it would be helpful if these sites of archaeological interest were listed in the Policy or an Appendix and their location was shown on a map in the NDP.”* In commenting on the District Council representation, the Parish Council state *“this is not necessary or desirable – the HERS is regularly updated and can be consulted upon as and when necessary by applicants”*.
207. Whilst I recognise the Worcestershire Historic Environment Record may be updated through the Neighbourhood Plan period, I agree with the District Council suggestion that the Neighbourhood Plan should include details of the current record. I have recommended a modification in this respect so that the Neighbourhood Plan *“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 requirement in the first paragraph of the policy to *“conserve or enhance known surface and sub-surface archaeology included in the Worcestershire Historic Environment Record”* does not reflect the need to *“avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal”* as required by paragraph 190 of the Framework, and does not reflect the wider more balanced approach to the consideration of potential impacts set out in paragraphs 189 to 202 of the Framework. I have recommended a modification in this respect so that the policy has sufficient regard for national policy. Paragraph 189 of the Framework states *“Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.”* I am satisfied the approach adopted in the third paragraph of Policy HAL14 has sufficient regard for national policy in this respect.

208. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP24, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

209. 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 12:**

**In Policy HAL14 replace “conserve or enhance” with “avoid or minimise any conflict with”**

**Include in the background/justification text a list of surface and sub-surface archaeology included in the Worcestershire Historic Environment Record, and a Map showing the location of those recorded items.**

**Policy HAL15: Sustainable Transport**

210. This policy seeks to establish that new developments should reduce reliance on the private car and increase opportunities for active travel, and seeks to establish support for stated measures.

211. In a representation the District Council state “*The intentions of Policy HAL15 are laudable, albeit opportunities to incorporate measures to improve facilities for pedestrians, cyclists and public transport are only likely to exist in larger developments or a group of dwellings. Whilst Policy HAL15 provides in principle support for a cycle route on the eastern side of the village and the creation of a dedicated off-road cycle route to Worcester, the Neighbourhood Plan does not appear to include a map showing where these cycle routes should be. As a consequence, it will be difficult for decision makers to apply the policy consistently and with confidence. Further, paragraph 10.5 says that the “existing Broadheath-Hallow Loop” is an example of off-road*

*cycling infrastructure which would be supported. The text says this is shown between points 15 and 16 on Map 20. Map 20, however, does not appear to show points 15 and 16. Map 20 does, however, helpfully show the location where improvements to the PROW network would be supported.”* I refer to this latter matter in the annex to my report.

212. The Governors of Hallow CE Primary School support the policy and state *“the School is located on the busy A433 through the village and a large number of pupils access and exit the school onto the narrow footpath alongside this road at various times of the day. The promotion of alternative (and sustainable) methods of transport will be a key factor in managing on street parking in the vicinity of the school at key times. The overarching principle that new development should seek to reduce reliance on the private car and increase opportunities for active travel (use of public transport, walking and cycling) by incorporating measures that improve facilities, infrastructure and the environment for pedestrians, cyclists, public transport and its users is also a welcome principle that will greatly contribute to pupil safety as well as their health and well-being”*.

213. Paragraph 102 of the Framework states opportunities to promote walking, cycling and public transport should be identified and pursued. Paragraph 104 of the Framework states planning policies should provide for high quality walking and cycling networks. The use of the terms *“seek to”* and *“increase opportunities”* mean the policy is relevant even in the context of the smallest scale of development. I am satisfied the approach adopted in the Neighbourhood Plan has sufficient regard for national policy. It is appropriate for the Neighbourhood Plan to establish support for provision of a cycle route on the eastern side of the village without restricting that support to a defined alignment of the route. Similarly, it is appropriate to establish support for a cycle route leading to Worcester although I have recommended use of the term *“towards Worcester”* to avoid any misunderstanding as the Neighbourhood Plan policies can only relate to land within the Neighbourhood Area. 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. In response to my request for clarification the District and Parish Councils have agreed this modification.

214. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25

February 2016 and relevant to the Neighbourhood Plan, in particular Policy SWDP4, and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

215. 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 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 HAL15 replace “to Worcester” with “towards Worcester”**

## Conclusion and Referendum

216. I have recommended 13 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

217. I am satisfied that the Neighbourhood Plan<sup>65</sup>:

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

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<sup>65</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

- 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>66</sup>

**I recommend to Malvern Hills District Council that the Hallow Neighbourhood Development Plan for the plan period up to 2041 should, subject to the modifications I have put forward, be submitted to referendum.**

218. 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>67</sup> I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”<sup>68</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 Malvern Hills District Council as a Neighbourhood Area on 14 July 2017.**

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

219. 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.

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<sup>66</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>67</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>68</sup> Planning Practice Guidance Reference ID: 41-059-20140306

220. The District Council has suggested the following amendments:

- Paragraph 1.1 – It is considered that the final sentence will be redundant following examination of the NDP.
- Paragraphs 1.4 and 1.6 will need to be updated / amended as the Neighbourhood Plan progresses through the NDP stages.
- Paragraph 2.22 refers to maps of protected and notable species on Maps 10, 11 and 15 – 17. Map 17, however, relates to community facilities and local shops.
- Paragraph 5.2 – It is considered that the final sentence is slightly mis-leading and unnecessary and should be deleted.
- Paragraph 6.28 refers to the Hallow Design Guide (Figure 7). It is considered that there needs to be clarity about whether applicants must demonstrate whether their proposals should respond to the elements of the Design Guide shown in Figure 7 or to the full Hallow Design Guide prepared by AECOM. Policy HAL3 refers to the Hallow Design Guide. Paragraph 6.28 should make it clear Figure 7 merely draws out a selection of points from the Hallow Design Guide.
- Paragraph 6.29 refers to a report titled “Living with Beauty” produced by the building Better, Building Beautiful Commission. It is not clear what the relevance of this document is to Policy HAL3. It is suggested that this paragraph should be deleted.
- In Table 7 delete the reference numbers presented in brackets.
- Paragraph 7.21 replace Maps 10, 11 and 15 -17 with Maps 9, 10 and 14 – 16.
- Paragraph 9.16 - For accuracy, it is suggested that the words “by the Parish Council” be inserted between “identified” and “in” in the penultimate sentence.

I agree with all these points and recommend the appropriate modifications.

221. The District Council has made the following comments in respect of the background/justification and other content supporting Policy HAL1:

- Given that Policy HAL 1 relates specifically to the proposed allocation at Green Hill Lane, it is considered some of the information in the Reasoned Justification is either unnecessary or slightly misleading:
- Paragraphs 6.5 & 6.6 – Reference to the “recently completed” SWDPR Preferred Options consultation in paragraph 6.5 is

- historic and will become out-of-date. Similarly, reference to the “emerging” indicative housing requirement in paragraph 6.6.
- Paragraph 6.7 – The final sentence relates to future reviews of the SWDP and NDP and are not relevant to Policy HAL1. It is suggested that this sentence be deleted.
  - Paragraphs 6.8 to 6.10 – The Indicative Housing Requirement figures were prepared by officers from the South Worcestershire Councils (not Joint Advisory Panel). Reference to “At present” and details of the methodology in paragraph 6.9 will quickly become out-of-date. For accuracy and relevance, it is suggested that paragraphs 6.8 to 6.10 could be replaced with “Following a request from the Parish Council, the South Worcestershire Councils prepared indicative housing requirement figures for Hallow in July 2019 in accordance with paragraph 66 of the Framework. The indicative figures, which should be regarded as a minimum, and may change in the SWDPR, indicate a housing requirement of 1 dwelling in the period 2020 – 2030 and a further 21 dwellings in the period 2031 – 2041.”
  - Paragraph 6.11 - It is misleading to say that “... leaving theoretically no dwellings to find up to 2041” The indicative housing requirements are “indicative”, may be subject to change and are minimum requirements. It is therefore suggested that the above wording is deleted.
  - Paragraph 6.12 – Final sentence should be amended to read “... cannot be guaranteed that **no** other site ...”
  - Map 7 – Policy HAL1 relates to the allocation of land at Green Hill Lane. It is considered that the proposed allocation of the site at Tinkers Coppice Farm in the SWDPR has been overtaken by events in light of the MoU between the SWCs and the Parish Council and that showing the Tinkers Coppice site on Map 7 is unnecessary and unhelpful to the NDP.
  - Paragraph 6.14, bullet point 1 – As a matter of accuracy, the MoU does not say that land at Greenhill Lane will be identified in the SWDPR. Rather, the MoU says that the SWC’s will “Not allocate sites for housing in the Neighbourhood Area through the SWDPR if the Parish Council can demonstrate that it can meet the housing requirement for Hallow through the neighbourhood planning process.”
  - Paragraph 6.14, bullet point 2, final sentence – allocating land at Green Hill Lane because it is outside the Significant Gap is not

a planning reason for allocating the site. It is suggested that the final sentence be deleted.

- Paragraph 6.14, bullet point 6 – the justification for the requirement for the site to connect to the Broadheath Hallow Cycle Loop does not seem clear.

I agree with all these points and recommend the appropriate modifications.

222. The District Council has also drawn attention to the following issues:

- the penultimate sentence of paragraph 6.16 of the Neighbourhood Plan does not reflect Policy HAL1. I recommend that sentence should be amended to reflect Policy HAL1.
- the reasoned justification to Policy HAL9 appears to include elements the relevance of which to the policy is unclear including reference to Map11 and to Policy SWDP7. I recommend the reasoned justification should be adjusted so it is relevant to the policy.
- paragraph 8.11 says that the Parish Council will support improvements to key facilities. Given that some of the proposed recreation facilities meet the definition of community facilities, it is unclear why proposals for development affecting these sites would be assessed against SWDP 38 (Green Space) rather than SWDP 37A (which would relate to the enhancement of the facilities). I recommend paragraph 8.11 should be adjusted to refer to policy SWDP37A also.
- paragraph 10.5 says that the “existing Broadheath-Hallow Loop” is an example of off-road cycling infrastructure which would be supported. The text says this is shown between points 15 and 16 on Map 20. Map 20, however, does not appear to show points 15 and 16. Map 20 does, however, helpfully show the location where improvements to the PROW network would be supported.” General text must not introduce policy statements. I recommend the two final sentences of paragraph 10.5 of the Neighbourhood Plan are deleted.

223. I am able to recommend modification of the Neighbourhood Plan in order to correct errors.<sup>69</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

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<sup>69</sup> Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

it evident how a decision maker should react to development proposals as required by paragraph 16 of the Framework.

**Recommended modification 14:  
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**

224. A representation comments that Maps 5 and 16 include inaccuracies. However, the Parish Council has commented the maps use OS bases and are taken from the work of published sources, not produced by the qualifying body. I do not consider any modification is necessary in this respect.

225. The District Council has suggested the following:

- Paragraph 3.9 – It may be appropriate to provide a link to the District Council’s webpage for the Hallow NDP - <https://www.malvern hills.gov.uk/planning/planning-policy/neighbourhood-planning/hallow-neighbourhood-plan>
- Paragraph 5.1 refers to a Policies Map that accompanies the written document. To provide greater clarity so that a decision maker can apply the policies consistently and with confidence when determining planning applications, it is suggested that the Policies Map is incorporated into the body of the Plan. The Parish Council has commented that there is no requirement for the Policies Map to be within the main body of the Neighbourhood Plan document.

These suggestions for change are not necessary to meet the Basic Conditions or Convention Rights, nor necessary to correct errors. I would have no objection to the changes being made, however, I cannot recommend modifications of the Neighbourhood Plan in these respects as this would be beyond my remit.

Chris Collison  
Planning and Management Ltd

7 April 2021  
REPORT ENDS