

# **KINGTON AREA NEIGHBOURHOOD PLAN**

## **Submission Draft Version**

**A report to Herefordshire Council  
into the examination of the  
Kington Area Neighbourhood Plan  
by Independent Examiner, Rosemary Kidd**

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## 1.0 Summary

- 1.1 The Kington Area Neighbourhood Development Plan has been prepared to set out the community's wishes for this Group of parishes to become vibrant rural communities which have delivered managed growth to meet the area's needs whilst balancing this with protecting its high quality environmental setting. The Plan area contains the parishes of Kington Town, Kington Rural and Lower Harpton, and Huntington.
- 1.2 The Plan sets out policies that support and complement those in the Core Strategy. I have made a number of recommendations in this report in order to make the wording of the policies and their application clearer including improvements to the mapping of sites referred to in policies to ensure that the Plan meets the Basic Conditions. Section 6 of the report sets out a schedule of the recommended modifications.
- 1.3 The main recommendations concern:
- The revision of the Settlement Boundary for Hergest, the deletion of Policy KANP ENV4 and a number of proposed Local Green Spaces;
  - Clarification of the wording of policies and the supporting text; and
  - Improvements to the mapping of policies.
- 1.4 Subject to the recommended modifications being made to the Neighbourhood Plan, I am able to confirm that I am satisfied that the Kington Area Neighbourhood Plan satisfies the Basic Conditions and that the Plan should proceed to referendum.

## 2.0 Introduction

### Background Context

- 2.1 This report sets out the findings of the examination into the Kington Area Neighbourhood Development Plan (referred to as the KANP throughout this report).
- 2.2 The Plan area lies in north west Herefordshire and contains the parishes of Kington Town, Kington Rural and Lower Harpton, and Huntington. Kington Town is about 19 miles north west of Hereford and has a population of about 3000. The other parishes have a combined population of 556. It is an attractive rural area with the historic market town of Kington at its core containing a conservation area and several listed buildings. There are also several hamlets and clusters of farms and houses in the surrounding countryside.

### Appointment of the Independent Examiner

- 2.3 I was appointed as an independent examiner to conduct the examination on the Kington Area Neighbourhood Plan by Herefordshire Council with the consent of Kington Area Town / Parish Councils in January 2019. I do not have any interest in any land that may be affected by the KANP nor do I have any professional commissions in the area currently and I possess appropriate qualifications and experience. I am a Member of the Royal Town Planning Institute with over 30 years' experience in local authorities preparing Local Plans and associated policies. My appointment was facilitated through the Neighbourhood Planning Independent Examiner Referral Service.

### Role of the Independent Examiner

- 2.4 As an independent Examiner, I am required to determine, under paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether the legislative requirements are met:
- The Neighbourhood Plan has been prepared and submitted for examination by a qualifying body as defined in Section 61F of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004;
  - The Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004;
  - The Neighbourhood Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provisions relating to 'excluded development', and must not relate to more than one Neighbourhood Area); and

- The policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of the Planning and Compulsory Purchase Act 2004 Section 38A.

2.5 An Independent Examiner must consider whether a neighbourhood plan meets the “Basic Conditions”. The Basic Conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The Basic Conditions are:

1. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
2. the making of the neighbourhood plan contributes to the achievement of sustainable development;
3. 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);
4. the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
5. prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan. The following prescribed condition relates to neighbourhood plans:
  - Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further Basic Condition in addition to those set out in the primary legislation. That the making of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects). (See Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (as amended)).

2.6 Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

- That the plan should proceed to referendum on the basis that it meets all the legal requirements;
- That the plan should proceed to referendum if modified; or
- That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.

2.7 If recommending that the Neighbourhood Plan is submitted to referendum my report must also recommend whether the area for the referendum should

extend beyond the neighbourhood area to which the Neighbourhood Plan relates, and if to be extended, the nature of that extension.

- 2.8 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. It is not within my role to comment on how the plan could be improved but rather to focus on whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention rights, and the other statutory requirements.
- 2.9 It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings. 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.

### **The Examination Process**

- 2.10 The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or so that a person has a fair chance to put a case.
- 2.11 I have sought clarification on a number of factual matters from the qualifying body and/or the local planning authority in writing. I am satisfied that the responses received have enabled me to come to a conclusion on these matters without the need for a hearing.
- 2.12 I had before me background evidence to the plan which has assisted me in understanding the background to the matters raised in the Neighbourhood Plan. I have considered the documents set out in Section 5 of this report in addition to the Submission draft of the Kington Area Neighbourhood Development Plan 2011 – 2031 dated September 2018.
- 2.13 I have considered the Basic Conditions Statement and the Consultation Statement as well as the screening report for the Habitats Regulation Assessment and the Strategic Environmental Assessment Environmental Report. In my assessment of each policy I have commented on how the policy has had regard to national policies and advice and whether the policy is in general conformity with relevant strategic policies, as appropriate.
- 2.14 I have undertaken an unaccompanied visit to the Plan area and viewed the sites referred to under the policies in the plan.

## **Legislative Requirements**

### **Qualifying Body**

- 2.15 The neighbourhood plan making process has been prepared jointly by Kington Town and Kington Rural & Lower Harpton and Huntington Parish

Councils which together constitute the “qualifying body” under the Neighbourhood Planning legislation which entitles them to lead the plan making process. The Plan was prepared by the Neighbourhood Plan Steering Group.

- 2.16 I am satisfied that the requirements set out in the Localism Act (2011) and in Section 61F(1) and (2) of the Town and Country Planning Act (as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act) have been met.

### **The Plan Area**

- 2.17 The Neighbourhood Plan area is co-terminus with the boundaries of the three parishes of the Kington Area. The area was designated by Herefordshire Council on 13 November 2013 as a Neighbourhood Area. The Basic Conditions Statement confirms that there are no other neighbourhood plans relating to that area.
- 2.18 This satisfies the requirements of preparing a Neighbourhood Development Plan under section 61G (1) (2) and (3) of the Town and Country Planning Act 1990 (as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004) and regulations 5, 6 and 7 of the Neighbourhood Planning (General) Regulations 2012.

### **Plan Period**

- 2.19 A neighbourhood plan must specify the period during which it is to have effect. The front cover of the Plan and the Basic Conditions Statement state that the lifespan of the Neighbourhood Plan is 2011 – 2031. This timescale mirrors that of the adopted Core Strategy. The commencement date of the Plan on the Plan’s cover is some time before the plan was prepared and it is recommended that it should be revised to the date it is “made”.

**Recommendation 1: Revise the date of the Plan period to 2019 – 2031.**

### **Excluded Development**

- 2.20 The Basic Conditions Statement confirms that the Plan does not include provision for any excluded development: county matters (mineral extraction and waste development), nationally significant infrastructure or any matters set out in Section 61K of the Town and Country Planning Act 1990.

### **Development and use of land**

- 2.21 The Neighbourhood Development Plan should only contain policies relating to development and use of land. Subject to the modifications proposed, the KANP would be compliant with this requirement of Section 38B of the Planning and Compulsory Purchase Act 2004 as amended.
- 2.22 I am satisfied therefore that the KANP satisfies all the legal requirements set out in paragraph 2.4 above.

## The Basic Conditions

### Basic Condition 1 – Has regard to National Policy

- 2.23 The first Basic Condition is for the neighbourhood plan “to have regard to national policies and advice contained in guidance issued by the Secretary of State”. 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 which requires plans to be “consistent with national policy”.
- 2.24 The Planning Practice 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.”
- 2.25 In considering the policies contained in the Plan, I have been mindful of the guidance in the Planning Practice Guide (PPG) that:
- “Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like.”*
- 2.26 In order to ensure that a neighbourhood plan can be an effective tool for the decision maker, the PPG advises that:
- “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.”*
- 2.27 The NPPF of 2012 is referred to in this examination. Paragraph 214 of Appendix 1 of the February 2019 NPPF states that the policies of the 2012 NPPF will apply for the purpose of examining plans where those plans are submitted on or before 24 January 2019. The footnote to this paragraph confirms that this applies to neighbourhood plans.
- 2.28 NPPF paragraph 183 states that parishes can use neighbourhood planning to set planning policies through neighbourhood plans to determine decisions on planning applications. The Planning Practice Guidance on Neighbourhood Plans states that neighbourhood plans should “*support the strategic development needs set out in the Local Plan*” and further states that “*the neighbourhood plan must address the development and use of land by setting*

*out planning policies to be used in determining planning applications because once the plan is made it will become part of the statutory development plan”.*

- 2.29 Paragraph 16 of the National Planning Policy Framework is clear that those producing neighbourhood plans should support the strategic development needs set out in local plans, including policies for housing and economic development. Qualifying bodies should plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan. PPG guidance under Rural Housing states that *“all settlements can play a role in delivering sustainable development in rural areas – and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless they can be supported by robust evidence”.*
- 2.30 The Basic Conditions Statement describes how the KANP has had regard to the core planning principles of the NPPF. It demonstrates that the Plan has regard to the elements set out in the NPPF relevant to the Plan Area and to delivering sustainable development.
- 2.31 I consider the extent to which the policies of the plan meet this Basic Condition No 1 in Section 3 below.

#### **Basic Condition 2 - Contributes to sustainable development**

- 2.32 A qualifying body must demonstrate how a neighbourhood plan contributes to the achievement of sustainable development. The NPPF as a whole constitutes the Government’s view of what sustainable development means in practice for planning. The NPPF explains that there are three dimensions to sustainable development: economic, social and environmental.
- 2.33 There is no legal requirement for a formal Sustainability Appraisal to be carried out in respect of neighbourhood plans. However good practice suggests that where neighbourhood plans are allocating land for development an appraisal should be carried out.
- 2.34 Table 2 of the Basic Conditions Statement considers how the KANP contributes to the delivery of sustainable development with regards to economic, social and environmental aspects. Taking account of the information presented, I am satisfied that the KANP contributes to the delivery of sustainable development.

#### **Basic Condition 3 – is in general conformity with strategic policies in the development plan**

- 2.35 The third Basic Condition is for the neighbourhood plan to be in general conformity with the strategic policies contained in the Development Plan for the area. The adopted strategic policies covering the Neighbourhood Plan area are contained in the Herefordshire Local Plan Core Strategy which was adopted in 2015.

- 2.36 The Basic Conditions Statement comments on how the Plan policies will support and deliver the Core Strategy policies.
- 2.37 The Council raised no concern over general conformity with the strategic policies of the development plan. I consider in further detail in Section 3 below the matter of general conformity with the strategic policies of the plan.

#### **Basic Condition 4 – Compatible with EU obligations and human rights requirements**

- 2.38 A neighbourhood plan must be compatible with European Union obligations as incorporated into UK law, in order to be legally compliant. Key directives relate to the Strategic Environmental Assessment Directive and the Habitats and Wild Birds Directives. A neighbourhood plan should also take account of the requirements to consider human rights.
- 2.39 Regulation 15 of the Neighbourhood Planning Regulations as amended in 2015 requires either that a Strategic Environmental Assessment (SEA) is submitted with a Neighbourhood Plan proposal or a determination from the responsible authority (Herefordshire Council) that the plan is not likely to have “significant effects.”
- 2.40 A screening opinion was carried out on the draft KANP and it concluded that due to the range of environmental designations in and around the parish, there may be significant environmental effects and consequently a SEA would be required. The Environmental Report assesses the objectives, policies and options and includes a rescreening of revised policies. The final Environmental Report was published in August 2018.
- 2.41 The conclusions of the SEA for Regulation 14 draft KANP indicate:
- “The assessment of the Draft Regulation 14 NDP, carried out in May 2017, concluded that on the whole the Kington Area NDP is in general conformity with both national planning policy contained in the NPPF and strategic policies set within the Herefordshire Local Plan (Core Strategy). The assessment went onto say that the Neighbourhood Plan does not propose any growth that would be over and above that prescribed by strategic policies. The assessment noted that the Neighbourhood Plan included site allocations and will accommodate up to 200 dwellings within Kington Town with the majority of these dwellings allocated in two large scale sites located in south Kington.”*
- 2.42 A number of revisions were made to the Plan following the Regulation 14 consultation and the SEA was reviewed in the light of the changes. The outcome through screening these changes found that they were unlikely to have a significant environmental effect due to the location of the Special Area of Conservation (SAC) and the nature of the schemes along with the safeguards include in the KANP and Core Strategy. It was concluded that overall these changes help move the policies closer towards the SEA baseline and likely to ensure suitable development in the plan period.

*“It has been concluded the rescreening made will not have a significant adverse impact on the SEA objectives and therefore the conclusions of the SEA remain the same as the Draft Plan, no significant effect is likely from the implementation of the Kington Area NDP policies.”*

2.43 The Neighbourhood Plan has been prepared in conjunction with a formal screening process in accordance with the Habitats Directive. The Initial Screening Report (October 2013) revealed that the Plan area falls within the hydrological catchment of the River Arrow and therefore also in the hydrological catchment area of the River Wye SAC which is a European site. Therefore, a full screening assessment was required. The conclusion of this screening was provided in May 2017 and concluded that the KANP will not have a likely significant effect on the Rive Wye SAC.

2.44 Following the Regulation 14 consultation, the Submission Regulation 16 KANP was reassessed by Herefordshire Council in August 2018. The HRA concluded that the review and rescreening in addition to the revisions to the policies post Regulation 14, have been found to be unlikely to result in significant effects on the River Wye SAC.

*“It has therefore been concluded that the Kington Area Neighbourhood Plan will not have a likely significant effect on the River Wye SAC.”*

2.45 Dwr Cymru Welsh Water (DCWW) has stated for the Core Strategy that there is currently existing capacity with regards to permitted headroom in the Waste Water Treatment works serving the Kington area to continue to treat the water from the amount of housing provided for in the Core Strategy policies. Growth can be potentially accepted within the current flow limit. DCWW recommend further contact with the company should be made prior to any development. Policy SD4 of the Core Strategy and Policy ENV4 of the KANP indicate that development would not be permitted if waste water treatment and water quality cannot be assured

2.46 In addition, the Nutrient Management Plan for the River Wye SAC should ensure that development within Herefordshire which can be accommodated within existing water discharge permits would not be likely to have a significant effect upon the River Wye SAC.

2.47 No mitigation measures have been included within the screening of the policies of the KANP. A key requirement of the Core Strategy is to meet the Water Framework Directive.

2.48 The screening report concluded that *“It is unlikely that the Kington Area Neighbourhood Plan will have any in-combination effects with a any plans from neighbouring parish councils as the level of growth proposed is the same as that proposed for the Kington Housing Market Area in the Herefordshire Core Strategy.”*

2.49 The statutory environmental bodies: Historic England, Natural England and the Environment Agency were consulted on the SEA Scoping Report in

September 2014 and the Environmental Report in July 2016 and May 2018. Consultation on the HRA Screening Report took place in July 2016 and May 2018. The environmental bodies made no comments to the reports on the April 2018 Submission Plan.

- 2.50 The Basic Conditions Statement includes a Human Rights Assessment and concludes that

*“The Neighbourhood Plan has been prepared within the existing framework of statute, national planning policy and guidance, and County-level strategic planning policies. In accordance with established process, its preparation has included consultation with the local community and it is subject to independent examination. The policies within Plan are considered to comply with the requirements of EU obligations in relation to Human Rights.”*

- 2.51 The Neighbourhood Plan considered other European Directives such as the Waste Water Framework Directive (2008/98/EC) and the Water Framework Directive (2000/60/EC). The Core Strategy (Policies SD3 and SD4) requires that development proposals are considered against the Water Framework Directive objectives, including that the development should not undermine the achievement of the water quality targets. These strategic policies are referenced within the KANP in the justification to Policies KANP ENV4 and KANP INF1. The Water Framework Directive has been taken into account within the objectives used for the SEA of the KANP and as a source of baseline information and targets. The Basic Conditions Statement concludes that the KANP is considered to be compatible with the Water Framework Directive.

- 2.52 The Environment Agency has not indicated that any proposals within the KANP would conflict with measures and provisions it is advocating to meet its obligations under this Directive as set out in the Severn River Basin Management Plan or the River Wye Nutrient Management Plan.

- 2.53 I am not aware of any other European Directives which apply to this particular Neighbourhood Plan and no representations at pre or post-submission stage have drawn any others to my attention. Taking all of the above into account, I am satisfied that the KANP is compatible with EU obligations and therefore with Basic Conditions Nos 4 and 5.

### **Consultation on the Neighbourhood Plan**

- 2.54 I am required under The Localism Act 2011 to check the consultation process that has led to the production of the Plan. The requirements are set out in Regulation 14 in The Neighbourhood Planning (General) Regulations 2012.

- 2.55 The Consultation Statement sets out an overview of the various stages of consultation that have been carried out during the preparation of the KANP. It highlights the aims of the consultation and summarises the consultation process undertaken during the preparation of the plan. Comments from the preliminary meetings and surveys are included that highlight the issues

raised. A summary of the responses from the Regulation 14 consultation is recorded.

- 2.56 Prior to the commencement of the KANP, work on a Community Led Plan was undertaken between 2012 and 2013. It was decided that relevant aspects of the Local Action Plan were to be taken forward to help inform the Neighbourhood Plan.
- 2.57 Work commenced on the Neighbourhood Plan in 2014 with the establishment of a Steering Group and a website. This was followed by:
- 19 March 2014 – A launch meeting was held on the topic of housing with about 80 people in attendance.
  - 22 April 2014 Public meeting on Transport.
  - 29 May 2014 Public meeting in Huntingdon.
  - 30 June 2014 Public meeting on Housing.
  - 30 September 2014 Public meeting on Economy.
  - 8 October 2014 Public meeting in Kington Rural and Lower Harpton
  - 30 October 2014 Public meeting on Environment
  - November 2014 Special supplement in the Kington Chronicle: a resume of work to date, a call for helpers and publicity about forthcoming drop-in event at Kington Market Hall.
  - 27-29 November 2014, 10-4 each day. Drop in “Planning for Real” type event. Prior publicity through a special edition of the Kington Chronicle, posters, a large banner on the building and letters to local groups.
  - 30 November 2014 Public meeting on Sustainability.
  - 11 November 2015 Public meeting on Green Spaces and Built Environment.
  - 30 November 2015 Special meeting of Kington Town Council to discuss potential housing sites.
  - 2 February 2016 Public meeting in Huntingdon.
  - 14 July 2016 Special meeting with local residents to consider the large housing site proposals. All residents notified of meeting by hand delivered letter, and notice posted on public notice boards. Consultants reports posted on website and available in library and Council offices.
  - 21 February 2017 meeting with Kington Chamber of Trade.
  - 6 June – 17 July 2017 Regulation 14 consultation. A special issue of the Kington Chronicle produced and circulated to all households in the Plan area. Additional copies in the library, pubs and advertised on posters.
  - 6 June – 17 July 2017 Exhibition at Kington Library. Exhibition featuring 12 illustrated display boards summarising all the policy areas. Large scale map and plans showing proposed development sites, green spaces etc.
  - 27 July 2017 Public meeting to report back on the results of the Reg 14 consultation.
- 2.58 Kington Area submitted their Neighbourhood Development Plan to Herefordshire Council on 21 September 2018. The Regulation 16 consultation ran from 3 October to 14 November 2018.

- 2.59 Representations received have raised concerns about the publicity given to some of the consultation events and whether adequate consultation has been carried out with landowners of potential housing sites and proposed Local Green Spaces.
- 2.60 I have carefully considered the responses made concerning the adequacy of the consultation process. From the evidence presented to me, I am satisfied that the consultation and publicity on the draft Plan has met the requirements of Regulations 14, 15 and 16 in the Neighbourhood Planning (General) Regulations 2012.
- 2.61 This report is the outcome of my examination of the Submission Draft Version of the Kington Area Neighbourhood Plan 2011 – 2031 dated September 2018. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions. My report makes recommendations based on my findings on whether the Plan meets the Basic Conditions and provided the Plan is modified as recommended, I am satisfied that it is appropriate for the Neighbourhood Plan to be made. If the plan receives the support of over 50% of those voting, then the Plan will be made following approval by Herefordshire Council.

### 3.0 Neighbourhood Plan – As a whole

- 3.1 The Neighbourhood Plan is considered against the Basic Conditions in this section of the Report following the structure and headings in the Plan. Given the findings in Section 2 above that the plan as a whole is compliant with Basic Conditions No 4 (EU obligations) and other prescribed conditions, this section largely focuses on Basic Conditions No 1 (Having regard to National Policy), No 2 (Contributing to the achievement of Sustainable Development) and No 3 (General conformity with strategic policies of the Development Plan).
- 3.2 Where modifications are recommended, they are presented and clearly marked as such and highlighted in bold print, with any proposed new wording in italics.
- 3.3 Basic Condition 1 requires that the examiner considers whether the plan as a whole has had regard to national policies and advice contained in guidance issued by the Secretary of State. Before considering the policies individually, I have considered whether the plan as a whole has had regard to national planning policies and supports the delivery of sustainable development.
- 3.4 The Plan is clear and well presented; it commences with a description of the strategic requirements that the Plan is seeking to deliver. There are policies relating to the environment, housing, economy, town centre, tourism, infrastructure, green infrastructure and community facilities. It is evident that there is a good understanding of the issues facing the area supported by a succinct summary of the consultation feedback. The policies and justifications are clearly worded.
- 3.5 Historic England has commented that they consider the Plan takes an exemplary approach to the historic environment and constructive conservation including masterplanning for major housing sites. It considers that the Plan constitutes a very good example of community led planning.
- 3.6 Four Policies Maps are included in the Plan showing the plan area and various designated sites in the countryside. Other maps cover Kington Town as a whole, Kington Town Centre and Hergest. The maps are clear and legible showing the boundaries of sites and they are linked to the relevant policies.
- 3.7 Other maps are included in the text. Plan 1 shows the development areas and green spaces. There are 13 Appendices which include a number of maps. I comment on these under the relevant policies.
- 3.8 Twenty-three site options have been assessed for their suitability, potential and deliverability for housing development in the Kington Options and Assessment Report 2015. The Environmental Report sets out an assessment of the sustainability of various options for growth and the 23 site options.

- 3.9 It is recommended that a consistent form of wording and punctuation is adopted in the criteria of policies. Where all the criteria are to be applied, there should be a semi-colon at the end of each criterion and the word “and” added at the end of the penultimate criterion. This would improve the clarity of the policy and avoid the inclusion of “and” at the end of each criterion as applied in Policy KANP H3.
- 3.10 A number of policies are a mixture of policy and explanation including examples and text of how the policy is to be applied. National planning guidance is that policies should be clear and unambiguous. I have made recommendations under those policies to remove explanatory text from the policy and place it in the justification where appropriate.

**Recommendation 2: Apply a consistent form of wording and punctuation to policies where all criteria are to be satisfied.**

## The Neighbourhood Plan - Policies

### Introduction

- 3.11 The Introductory sections of the Plan are succinct setting out: the aims of the Plan, a description of the Plan area, Kington Town and the rural parishes in sufficient detail to enable the reader to appreciate the planning context. Section 5 very helpfully sets out the strategic context and the development requirements from the Core Strategy. Local issues that have been identified through consultation are listed for consideration in the Plan.

### Vision and Objectives

- 3.12 The Vision and Objectives were developed from the strategic requirements and through community discussions and consultation. The Vision seeks to ensure that Kington Town and the rural parishes will be vibrant rural communities which have delivered managed growth to meet the area’s needs balanced with the protection of the high quality environment.
- 3.13 There are 15 objectives which are delivered through the policies of the Plan.

### KANP ENV1: A Valued Natural Environment

- 3.14 The policy accords with national planning policy on protecting the environment and with Core Strategies LD1 – 3 and provides locally specific details.
- 3.15 A representation has questioned the robustness of the evidence to support the proposed protection of the landscape and views.
- 3.16 Criterion (ii) of the policy links to the Characterisation Assessment and the list of Cherished Places in Appendices 4, 5 and 6. The report was prepared by an

independent consultant and is correctly titled “*Character Appraisal – Kington (February 2016)*”. Appendix 4 of the KANP lists 9 open spaces that contribute to the town’s character as identified in the Appraisal. This list includes some of the sites to be designated as Local Green Spaces and other open areas within the town itself.

- 3.17 Paragraph 9.1.6 refers to the “*Landscape Sensitivity and Capacity Assessment*” which provides an assessment of the landscape features of the rural parts of the plan area prepared by an independent consultant. It is recommended that reference to this study should be included in the policy to replace the list of Cherished Places in Appendices 5 and 6.
- 3.18 I am satisfied that the evidence presented in these reports is sufficiently robust to support the policy. To improve the clarity of the policy wording, it is recommended that criterion (ii) should refer to the two Assessment Reports and that the reference to the list of Open Spaces and Cherished Places in Appendices 4, 5 and 6 should be deleted.
- 3.19 Criterion (iii) requires that development does “not break the skyline”. I have asked the Qualifying Body how they intend that this should be interpreted. They have responded that it should be elaborated as “*should not be visible against the skyline when seen from a distance.*” I have recommended that this criterion should be revised accordingly.

**Recommendation 3: Revise Policy KANP ENV1 as follows:**

**Revise criterion (ii) to read “.....as identified in the *Character Appraisal – Kington (February 2016)* and the *Kington Area Landscape Sensitivity and Capacity Assessment (October 2015)*”. Delete “the list of Cherished Places (see Appendices 4, 5 and 6.”**

**Revise criterion (iii) to read: “respecting topography and *not being visible against the skyline when seen from a distance, whether.....*”**

**Delete the list of Open Spaces in Appendix 4 of the KANP.**

**KANP ENV 2: Dark Skies**

- 3.20 This policy seeks to reduce light pollution and safeguard the dark skies of the area in accordance with Core Strategy Policy SD1. I make no comments on the Policy.

**KANP ENV 3: A Valued Built Environment**

- 3.21 This policy adds local details to Core Strategy Policy LD4. Historic England has commented that the Plan provides an exemplary approach to the historic environment. I make no comments on the Policy other than to correct the title of the Characterisation Assessment 2016 in paragraph 9.2.5.

**Recommendation 4: Revise paragraph 9.2.5 to read: “....the *Character Appraisal – Kington (February 2016)* has been prepared ....”**

**KANP SB1: Settlement Boundaries**

- 3.22 The Kington Settlement Boundary has been reviewed to include modifications to the north and east and the proposed housing allocation to the south of Kington.
- 3.23 A representation has been made that suggests that the use of settlement boundaries prevents sustainable development coming forward. I consider that the settlement boundaries have been drawn up to accommodate sufficient developable sites to provide for housing and other development needs in the Plan period. National and strategic planning policy make provision for exceptional development to come forward in the countryside outside the settlement boundaries.
- 3.24 A new settlement boundary has been drawn up for Hergest which includes the existing and proposed housing. It has also been drawn to include The Camp turkey farm and adjoining farmland. This intensive livestock unit is an agricultural use and there is no evidence to justify it being included in the settlement boundary. The inclusion of agricultural land within the settlement boundary could lead to pressure for significant housing development in this small settlement contrary to the intentions to Core Strategy Policy RA2 which identifies Hergest as a settlement where proportionate housing development is appropriate. It is recommended therefore that the settlement boundary for Hergest is revised and reduced to include only the existing housing and the housing allocation. As this is a significant revision to the policy, consultation with the landowner(s) affected is suggested prior to the referendum.
- 3.25 I make no comments on the wording of Policy KANP SB1 which seeks to direct development proposals to sites within the settlement boundaries of Kington and Hergest. The policy refers to the relevant Core Strategy policies to steer development in the countryside.

**Recommendation 5: Revise the settlement boundary for Hergest to include only the existing housing and the housing allocation.**

**KANP H1: Housing Delivery Kington Town**

- 3.26 This policy sets out how the strategic requirement for 200 new homes in Kington is to be delivered through the allocation of 7 sites, housing completions, commitments and an allowance for windfall development.
- 3.27 Following a review of sites identified in the SHLAA and a call for sites, an assessment of 23 site options was carried out by independent planning

consultants using clearly identified criteria in accordance with advice in national planning guidance.

- 3.28 The Plan includes a large housing site to accommodate 100 dwellings as required to deliver the strategic policies. This proposal has given rise to concerns by local residents. Representations have suggested that:
- There is a lack of infrastructure to serve the scale of development proposed, particularly waste water treatment;
  - Concerns about increased traffic;
  - Environmental impact of additional housing;
  - Opposed to a large scale housing site;
  - Concern about the proposed road access from sites K6 and K7 involving loss of the open space and safety at the junction with Old Eardisley Road;
  - Concern about pedestrian safety;
  - Concern about whether the type of housing proposed reflects the needs of the population of the town;
  - Objection to the proposed settlement boundary;
  - There should be sufficient flexibility in the policies in the Plan to ensure that the Plan delivers the housing requirement;
  - Land north of Headbrook should be allocated for housing development.
- 3.29 Site K1 Greenfield Drive is under construction so should be deleted as an allocation and included as a commitment. The site allocations and Policies Map should be renumbered as a consequence.
- 3.30 Site K5 Mill Street is a paddock that is currently accessed from the unmade Bath Cottage Lane. The Council's Highways Officer has confirmed that the existing points of access are considered to be unsuitable to serve the proposed development. However, there is the potential to take access from Marwick Close to the east of the site subject to the agreement of landowners of the intermediate land and securing the necessary engineering operations. From the evidence presented it would appear that it would be possible to secure a suitable access to the site. However, it is recommended that reference to the need to secure a suitable means of access to the satisfaction of the Highway Authority should be included in the policy for this site.
- 3.31 With regard to the development of sites K6 and K7, Dwr Cymru Welsh Water has indicated that the Kington Waste Water Treatment Works is currently overloaded and no improvements are planned during the current Capital Investment Programme (2015 – 2020). An improvement scheme will form part of the submission for the next Capital Programme (2020 - 2025). Improvements to the water supply network may also be required. There is provision for developers to fund improvements if they wish to proceed with development in advance of the planned improvements being made.
- 3.32 From the evidence presented to me I am satisfied that the sites proposed for allocation are suitable, available and achievable and are sufficient to deliver

the strategic requirement. It is noted that the delivery of sites K6 and K7 will require improvements to the waste water treatment works and water supply network but I have no reason to suppose that these cannot be achieved within the Plan period.

- 3.33 It is not within my remit to consider whether other sites put forward in representations are suitable for development.
- 3.34 Minor amendments to the text are recommended for clarification. Note that strategic allocations can only be made through Local Plans.

**Recommendation 6: Revise the justification to Policy KANP H1 as follows:**

**Delete Site K1 Greenfield Drive and paragraph 9.4.9. Renumber the site allocations and revise the Policies Map. Include the site in the table of commitments.**

**Paragraph 9.4.15 delete “dis”.**

**Revise the fourth sentence of paragraph 9.4.18 to read: “A new access road will be required *to serve the development which should be taken from Marwick Close; it should be designed to the satisfaction of the County Highway Authority.*”**

**Paragraphs 9.4.20 and 21 delete “strategic”.**

**KANP H2: Housing Delivery Land South of Kington**

- 3.34 The policy sets out the framework for the development of sites K6 and K7 allocated under Policy KANP H1.
- 3.35 Representations have been made to the proposed allocation on the grounds of the loss of public open space and play area at Kington Park for the proposed access road, and increased traffic on Old Eardisley Road and the implications for pedestrian safety.
- 3.36 A masterplan has been included in Diagram 1 to show a potential layout of the site which shows the access taken through the northern part of the amenity land to the north of the Kington Estate onto Eardisley Road. The access road follows the line of the footpath through the amenity land and it is proposed to bound it by a hedge in the interests of safety and to form a clear separation from the play area. The site also adjoins Kingswood Road; however, the Council’s Highways Officer endorsed the view that access should not be taken onto Kingswood Road in view of its narrowness and difficult junction with poor visibility at Headbrook. Criterion (iii) of the policy requires the access arrangements to satisfy the Herefordshire Highways Design Guidance. Criterion (viii) requires a footpath link to provide pedestrian access onto Kingswood Road.

- 3.37 Criterion (vii) requires new green infrastructure to be provided within the development. To improve the clarity of the wording of the policy it is recommended that the justification should be revised to explain that sufficient green space should be provided to meet the needs of the new housing development and any lost through the construction of the access road through the adjacent amenity area.
- 3.38 The final paragraph of Policy KANP H2 states that the scheme will be expected to engage and consult with the community and Town and Parish Councils. This is a procedural matter and should not be included in a planning policy. It is recommended that the text be added to the justification to state that in view of the significance of the development, pre-application consultation with the community and local councils will be welcomed.

**Recommendation 7: Revise Policy KANP H2 as follows:**

**Delete “to engage and consult with the community and Town and Parish Councils and”.**

**Add the following to the justification: “Green infrastructure including landscaped amenity open space and children’s play areas should be provided within the development to meet the needs of future residents and to compensate for any amenity land / green space lost to provide access to the site from Eardisley Road.”**

**Add the following to the justification: “In view of the significance of the development to the local community, pre-application consultation on the proposed development with the community and Town and Parish Councils will be welcomed.”**

**KANP H3: Housing Delivery: Kington Rural and Lower Harpton Group Parish**

- 3.39 Core Strategy Policy RA1 sets an indicative housing growth target of 12% for the Kington Housing Market Area which equates to a requirement of a minimum of 32 dwellings in the rural areas of the Plan. Hergest is identified under Policy RA2 as a settlement where proportionate housing growth is appropriate.
- 3.40 Policy KANP H3 sets out how the housing requirement is to be delivered in the rural areas: through completions, commitments windfall infill in Hergest and exceptional development. One site is allocated in Hergest for approximately 15 dwellings. The site is shown on Plan 2 and referenced KH01 but numbered KR1 in the policy wording.
- 3.41 The Site Assessment Report states that the site is a former military land which has regenerated and now over 90% of the site is identified as Priority Habitat as it contains deciduous trees. In response to my question on the nature of the habitat and the deliverability of housing development on the site,

the Council's Ecologist has commented that "A full ecological and tree survey should be required including some longer term survey work during optimal times of the year for bats, birds, otters, amphibians and reptiles. Any development would need to demonstrate full mitigation and a high level of enhancements, including but not limited to bird and bat roosting opportunities in/on the new buildings, hedgehog, and pollinator homes and reptile/amphibian refugia in the retained habitat areas; and a long term management strategy for the remaining trees, riverside and flood meadow/grass areas." To improve the clarity of the details of the allocation, it is recommended that the policy is revised to require a full ecological and tree survey and that the advice on the contents of the survey and the desirability of the enhancement of the habitat should be included in the justification to the policy.

- 3.42 The Council's Environmental Health Officer has commented on the possible effects of odour emissions from the turkey farm on new dwellings in this location. This is likely to be when the turkey sheds are emptied and cleaned, perhaps 3 – 4 times a year and is likely to be of a limited duration. It is not considered possible to supply mitigation against odours at the site other than by increased distance. There is no prescribed minimum distance between the location of intensive livestock buildings and dwellings.
- 3.43 The Qualifying Body has suggested that the new dwellings should be located at the eastern end of the site and a green space provided on the western part of the site between the new development and the existing houses on Arrow View. Whilst the location of housing to the east of the site would place it at the greatest distance from the turkey farm, until the site is fully surveyed, I consider that it would not be possible to identify which parts of the site are most suitable for housing development.
- 3.44 The framework for developing the site is included in the policy. Subject to the modifications recommended, I consider that the policy accords with national and strategic policies.

**Recommendation 8: Revise Policy KANP H3 as follows:**

**Revise criterion (i) of Policy KANP H3 to read; "A full ecological and tree survey shall be undertaken and submitted as part of any planning application taking account of the advice of the Council's Ecologist. The proposals for the development of the site shall include proposals to enhance the local habitat and the provision of open space."**

**Include a new paragraph in the justification setting out the requirements of the ecological and tree survey: "A full ecological and tree survey should be required including some longer term survey work during optimal times of the year for bats, birds, otters, amphibians and reptiles. Any development would need to demonstrate full mitigation and a high level of enhancements, including but not limited to bird and bat roosting opportunities in/on the new buildings, hedgehog, and pollinator homes**

*and reptile/amphibian refugia in the retained habitat areas; and a long term management strategy for the remaining trees, riverside and flood meadow/grass areas.”*

**Ensure the reference number for the site at Hergest is consistent with that shown on Plan 2.**

**Correct the typographical error in paragraph 9.4.39 line 5 “remaining”.**

#### **KANP H4: Housing Delivery: Huntington Parish**

- 3.45 I make no comments on Policy KANP H4 which confirms the Core Strategy policies to be applied to housing development in this parish located in the countryside.

#### **KANP H5: Housing Design Criteria**

- 3.46 The policy sets out 13 criteria to be satisfied by all housing developments. There is an element of repetition with criterion (ii) and Policy KANP ENV3(vi) and with criterion (iii) and Policy KANP ENV1(ii). Criterion (ii) adds further requirements on materials and may be retained in the policy.
- 3.47 However, criterion (iii) adds no further requirements to that set out in Policy KANP ENV1(ii). The requirement for multi-functional green space should be added to criterion (viii) on community amenity space and caveated with such words as “to meet the needs of the development” or “local open space standards” as small housing development should only be expected to provide green space appropriate to their scale or contribute towards off site provision.
- 3.48 The second paragraph of criterion (iv) refers to the Greater London Authority Space Standards (2006). The PPG advises that “Where a local planning authority (or qualifying body) wishes to require an internal space standard they should only do so by reference in their Local Plan to the nationally described space standard.” The Written Ministerial Statement of March 2015 states that neighbourhood plans should not be used to apply the new national technical standards. The MHCLG has advised Neighbourhood Plan Examiners that the guidance in the WMS of March 2015 continues to apply to neighbourhood plans and they should not seek to include any part of the national technical standards in neighbourhood plan policies.
- 3.49 Criterion (xii) refers the plan user to Core Strategy Policies SD3 and SD4 thus rendering criteria (x) and (xi) unnecessary.

#### **Recommendation 9: Revise Policy KANP H5 as follows:**

**Delete criteria (iii), (x) and (xi).**

**Delete the second paragraph of criterion (iv) referring to The Greater London Space Standards.**

**Revise criterion (viii) to read: “*Provide multi-functional green infrastructure and community amenity space proportionate to the number of dwellings. Contributions to new or improved off site provision nearby may be acceptable only for small housing developments where it is not feasible to provide open space on site.*”**

**Paragraph 9.4.49 should refer to the correct title of the “*Character Appraisal – Kington (February 2016)*”.**

### **KANP E1: A Thriving Rural Economy**

- 3.50 The policy seeks to safeguard the two industrial estates in the Plan area for employment uses. The sites are not shown on the Policies Map and to assist decision makers and to ensure consistency in the interpretation of the policy it is recommended that they are included on the relevant Policies Map.
- 3.51 Core Strategy Policy E2 safeguards those industrial estates that are rated as ‘best’ and ‘good’ and sets out criteria for considering the loss of sites on those industrial estates classed as moderate. Hatton Gardens Estate in Kington is classed as ‘good’ and its safeguarding is therefore covered by Core Strategy Policy E2. Arrow Court Estate at Hergest is classed as ‘poor to moderate’ and its blanket safeguarding would not conform to Core Strategy Policy E2 which makes provision for the consideration of proposals for alternative uses as appropriate. It is therefore recommended that the first paragraph of Policy KANP E1 is deleted.
- 3.52 Criterion (vii) contains a typographical error.

#### **Recommendation 10: Revise Policy KANP E1 as follows:**

**Delete the first paragraph.**

**Show the boundary of the two industrial estates on the Policies Maps.**

**Correct the typographical error in criterion (vii).**

### **KANP E2: Large Scale Employment Activities**

- 3.53 Policy KANP E2 accords with Core Strategy Policies E1 and RA6 and provides locally specific requirements. I make no comments on Policy KANP E2.

### **KANP KTC 1: Kington Town Centre**

- 3.54 The policy provides local details to support the implementation of Core Strategy Policies E5 and E6.
- 3.55 The first paragraph and criterion (i) refer to the Primary Shopping Area as defined on Map 1; there is a degree of unnecessary repetition in the two statements. In any case there is no Map 1. The Kington Town Centre Policies Map defines the Primary Shopping Frontages and this terminology should be used consistently in the wording of Policy KANP KTC1.
- 3.56 Some of the criteria use the word “should” whilst others use “will need to”. Unless there is evidence that the criterion sets out a justified requirement, it is recommended that the word “should” is used to provide a degree of flexibility.

#### **Recommendation 11: Revise Policy KANP KTC1 as follows:**

**Delete the following from the first paragraph: “and retail development should, where possible, be within the boundary of the primary shopping area as defined in Map 1.”**

**Revise criterion (i) to read: “proposed retail developments should, where possible, be located in the Primary Shopping *Frontages* as defined on the Kington Town Centre Policies Map”.**

**Review the use of the phrase “will; need to” in the criteria of the policy.**

### **KANP T1: Sustainable Tourism**

- 3.57 Policy KANP T1 adds locally specific details to Core Strategy Policy E4. I make no comments on Policy KANP T1.

### **KANP INF1: Local Infrastructure**

- 3.58 The third paragraph of the policy supports proposals that include small scale low carbon energy initiatives subject to there being no landscape or residential amenity impacts. It is considered that this adds no locally specific requirements to Core Strategy Policy SD2. In any case it is restricted to the consideration of small scale developments only. It is therefore recommended that this section of the policy should be deleted.
- 3.59 The PPG advises that neighbourhood plans may wish to consider what infrastructure is needed to support the development proposed in the Plan so that the area can grow in a sustainable way.
- 3.60 NPPF paragraph 204 sets out three tests for assessing the suitability of planning obligations and states that they should be necessary to make the development acceptable in planning terms; directly related to the

development; and fairly and reasonable related to the scale and kind of the development.

- 3.61 The justification to the policy sets out a number of infrastructure requirements that have been identified as needed to support the delivery of the proposed housing development including education provision and upgrading of the waste water treatment works. In their representation Dwr Cymru Welsh Water also identified the need to undertake a hydraulic modelling assessment of the water supply network. It would be helpful to plan users if this requirement were included in the justification.
- 3.62 The policy itself listed four pedestrian / cycleway paths as well as a proposal to increase the capacity of the primary school. These routes have been proposed through the consultations to provide pedestrian and cycleway access to the allotments, to Hergest and Hatton Garden industrial estates and the Medical Practice. The development of these routes are community aspirations; however, no evidence has been provided to demonstrate that they are deliverable and as they are not necessary to deliver the housing allocations in the Plan, it is recommended that they should be included as Community Projects or Aspirations.
- 3.63 It is recommended that the sixth and seventh paragraphs of the policy and the five points are deleted from the policy and placed in a new section on Community Projects.
- 3.64 Paragraphs 9.12.4 - 5 include other proposals for the enhancement of community infrastructure through the use of CIL monies. Other suggestions are proposed under Policy KANP CF1.
- 3.65 A representation has noted that they have a micro hydro scheme in operation.

**Recommendation 12: Revise Policy KANP INF1 as follows:**

**Delete the third paragraph.**

**Delete the sixth and seventh paragraphs and paragraph 9.8.5 on developer contributions and CIL together with the five proposals.**

**Place the proposals in a new section under Community Projects with the following text: “*The Town and Parish Councils will work with Herefordshire Council, Dwr Cymru Welsh Water etc to deliver the following improvements to the infrastructure: list of pedestrian/ cycleways, school capacity increase, waste water treatment, water supply network and community facilities. Funding for these proposals will be through developer contributions, CIL, grants etc.*”**

**Add the following to the justification: “*Dwr Cymru Welsh Water has advised that a hydraulic modelling assessment of the water supply network may be required in order to understand where a connection can be made and if any upsizing is required to serve the proposed housing development on land south of Kington.*”**

### **KANP ENV 4 Flood Risk and Drainage**

- 3.66 Core Strategy Policies SD3 and SD4 provide a comprehensive approach to the management of sustainable water management, water resources, waste water treatment and river water quality. Policies KANP H5 and E1 include the need to comply with Core Strategy Policies SD3 and SD4. It is considered that as Policy KANP ENV4 adds no locally specific details to the strategic policies it is unnecessary and should be deleted. The justification may be retained in the Plan for information.

### **Recommendation 13: Delete Policy KANP ENV4.**

### **KANP LGS1: Local Green Spaces**

- 3.67 Policy KANP LGS1 proposes the designation of 26 areas as Local Green Spaces. The policy is worded so as to protect the Local Green Spaces from development.
- 3.68 NPPF paragraph 78 states that local policy for managing development within a Local Green Space should be consistent with the policy for Green Belts. Paragraph 87 of the NPPF states that inappropriate development that is harmful to the Green Belt should not be approved except in very special circumstances.
- 3.69 It is considered that the wording of the policy does not provide for development to occur in very special circumstances in accordance with the NPPF. It is recommended that the policy be modified to accord with national planning policy on Green Belts.
- 3.70 I have taken into account the advice in NPPF paragraph 77 which states that the Local Green Space designation will not be appropriate for most green areas or open space. This designation is reserved for those that are demonstrably special to the local community and hold particular local significance for example because of its beauty, historic significance, recreational value, tranquillity or richness of its wildlife.
- 3.71 The background evidence contains three documents that are headed as Summary Descriptions of green spaces in Kington, Huntington and Kington Rural and Lower Harpton. These describe the green infrastructure of the three parishes but do not assess the proposed Local Green Spaces against the criteria of NPPF paragraph 77. Following my request, the Qualifying Body has provided me with a brief assessment of the sites against the NPPF criteria.
- 3.72 In order to demonstrate that the areas are demonstrably special, the Plan is relying on the fact that all the green spaces were identified by respondents

during the consultations. I consider that this does not provide sufficient evidence that they are “demonstrably” special as required by the NPPF

- 3.73 I have concerns that a considered assessment of the green spaces proposed by the community against the criteria set out in NPPF paragraph 77 was not carried out during the preparation of the Plan. A number of the areas include agricultural land and woodland and cannot therefore be defined as green space unless there is robust evidence to justify their inclusion using the NPPF criteria. This applies to sites GS02, 03, 06, 07, 10, 13, 18, 19, 23, 34 and the westernmost part of 05. Site GS11 is a caravan and camp site.
- 3.74 A representation has been received that GS06 should not be designated as it is agricultural land with no public access. Another representation states that the policy is not supported by robust evidence.
- 3.74 Site GS32 is the proposed green buffer around the housing allocation. As this site has not yet been defined through a planning application or developed, it is not feasible to designate it as a Local Green Space.
- 3.76 It is acknowledged that the fields have been included in order to safeguard the open land alongside the River Arrow. The woods and fields along the northern edge of the town provide a green buffer to the settlement and a green corridor along Back Brook. However, it is considered that these areas are afforded a degree of protection as Green Infrastructure through Core Strategy Policy LD3 which states that development proposals should identify and retain existing green infrastructure corridors and linkages, including the protection of valued landscapes, trees, hedgerows, woodlands, water courses and adjoining flood plain. Policy KANP GI1 also seeks to protect and enhance the Green Infrastructure Network along the courses of the River Arrow and Back Brook.
- 3.77 The two sites at Hergest are an area of meadow land and a wooded area liable to flooding. Area GSH01 is described as previous recreation / amenity area with public access. However, it appears to be agricultural land and it is not open space. My recommendation under Policy KANP SB1 is that the settlement boundary should be revised to be drawn tightly around the housing area and allocated site so these two sites would lie within the countryside.
- 3.78 Several small amenity grassed areas within residential areas are proposed as Local Green Spaces. I am not satisfied that the assessment demonstrates that they are sufficiently demonstrably special to be designated as Local Green Spaces in accordance with the NPPF criteria. It is recommended that these areas would more appropriately be safeguarded as valued local amenity areas. A recommendation is made to include appropriate wording to safeguard these areas.
- 3.79 For the avoidance of doubt the following areas should be designated as Local Green Space: GS04, GS05 (playing field only), GS08, GS12, GS17 (play area), GS31. The following areas should be designated “valued amenity areas”: GS09, GS17 (small area), GS27, GS30, GS33.

- 3.80 Sport England has commented that the tennis courts at Halo Lady Hawkins School and the bowls green at Park Green have been not been included as Local Green Space. It is not within my remit to consider whether additional areas of open space should be designated as Local Green Space.

**Recommendation 14: Revise Policy KANP LGS1 as follows:**

**Revise the wording of the first paragraph to read: “The following areas are designated as Local Green Spaces. *Development that would result in the loss of the green space will not be supported in these areas except in very special circumstances.*”**

**Delete the following areas: GS02, GS03, GS06, GS07, GS10, GS11, GS13, GS18, GS19, GS23, GS32, GS34, GSH01, GSH02 and the westernmost part of GS05 not forming part of the school grounds.**

**Identify the following areas of amenity land within housing estates as “Valued Local Amenity Areas”: GS09, GS27, GS30, GS33 and small areas of GS17.**

**Include the following policy wording: “*The following sites shall be safeguarded as Valued Local Amenity Areas and shall be retained and enhanced for amenity and children’s play: GS09, GS27, GS30, GS33 and small areas of GS17.*”**

**Revise the title of the policy to “Green Spaces”.**

**Revise the Policies Maps to delete the sites that are not to be designated and to differentiate between the Local Green Spaces and Valued Local Amenity Areas.**

**KANP GI1: Green Infrastructure**

- 3.81 The policy builds on the findings of the Herefordshire Green Infrastructure Strategy 2010 and Core Strategy Policy LD3. The first paragraph of the policy seeks to protect and enhance the Green Infrastructure network identified in the Green Infrastructure Study Plan. This plan is not included in the KANP.
- 3.82 Map 5-5 of the Green Infrastructure Strategy 2010 is diagrammatic and cannot be used to identify sites to be protected. Indeed, it includes built up areas. It is recommended that Map 5-5 should be included in the KANP and referred to in the justification to the policy for information. To ensure that the policy is clearly and unambiguously worded, reference to areas being “protected” should be revised to “safeguarded, where possible”.
- 3.83 The Green Infrastructure Strategy describes the strategic corridors and proposes enhancement measures for the Kington enhancement zones. The criteria set out in Policy KANP GI1 are adapted from these enhancement measures and those in Core Strategy Policy LD3.

- 3.84 Paragraph 9.11.7 should be amended to reflect the recommendations on Policy KANP LGS1.

**Recommendation 15: Revise Policy KANP GI1 as follows:**

**Revise the first paragraph as follows: “The Green Infrastructure network along the river corridors within and around Kington shall be safeguarded, where possible, and enhanced.**

**Add the following to paragraph 9.11.1: “The Strategic Corridors and Enhancement Zones are shown on Map X.” Include Map 5-5 from the Green Infrastructure Strategy 2010 in the justification to the policy.**

**Revise paragraph 9.11.7 as follows: line 2 delete “as Green Spaces”. Revise the second sentence to read: “The river corridors on the western side of the town identified as *important* during the consultations are included...”**

**KANP CF1: Community Facilities**

- 3.85 The policy seeks the retention and enhancement of all the community facilities listed in Appendix 4. It also makes provision for considering proposals that would result in the loss of such facilities.
- 3.86 Appendix 4 includes a list of “Facilities”. It is recommended that this should be revised to Community Facilities to be consistent with the wording of the policy.
- 3.87 Paragraph 9.12.2 refers to the community facilities in Huntington parish and includes the public house. This is not included in the list in Appendix 4 and should be deleted from the justification to ensure consistency.
- 3.88 Paragraphs 9.12.4 – 5 include a number of suggestions for the enhancement of community facilities and other infrastructure using CIL monies. It is recommended that this text should be placed together with the suggestions from Policy KANP INF1 in a new section of the Plan on Community Projects.

**Recommendation 16: Revise the justification to Policy KANP CF1 as follows:**

**Delete “the Public House” from paragraph 9.12.2.**

**Delete paragraphs 9.12.4-5 and place in a new section of the Plan on Community Projects. This section should include text to explain that the projects are not planning policies.**

**Revise Appendix 4 line 1 and the first sub-heading to “Community Facilities”.**

## 4.0 Referendum

- 4.1 The Kington Area Neighbourhood Plan reflects the views held by the community as demonstrated through the consultations and, subject to the modifications proposed, sets out a realistic and achievable vision to support the future improvement of the community.
- 4.2 I am satisfied that the Neighbourhood Plan meets all the statutory requirements, in particular those set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and, subject to the modifications I have identified, meets the Basic Conditions namely:
- has regard to national policies and advice contained in guidance issued by the Secretary of State;
  - contributes to the achievement of sustainable development;
  - is in general conformity with the strategic policies contained in the Development Plan for the area;
  - does not breach, and is otherwise compatible with, EU obligations and human rights requirements
- 4.3 **I am pleased to recommend to Herefordshire Council that the Kington Area Neighbourhood Plan should, subject to the modifications I have put forward, proceed to referendum.**
- 4.4 I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. In all the matters I have considered I have not seen anything that suggests the referendum area should be extended beyond the boundaries of the plan area as they are currently defined. I recommend that the Neighbourhood Plan should proceed to a referendum based on the neighbourhood area designated by the Herefordshire Council on 13 November 2013.

## 5.0 Background Documents

5.1 In undertaking this examination, I have considered the following documents

- Kington Area Neighbourhood Plan Submission Draft Version 2011 – 2031 and Appendices dated September 2018;
- Kington Area Neighbourhood Plan Basic Conditions Statement;
- Kington Area Neighbourhood Plan SEA Environmental Report August 2018;
- Kington Area Neighbourhood Plan HRA Screening Report August 2018;
- Kington Area Neighbourhood Plan Consultation Statement and Appendices;
- Kington Area Neighbourhood Plan Site Options and Assessment October 2015
- Character Appraisal - Kington February 2016
- Kington Landscape Sensitivity and Capacity Assessment October 2015
- Kington Landscape Review of Town Settlement Boundary & Local Green Spaces August 2017
- Kington, Huntington and Kington Rural & Lower Harpton Summary Descriptions of Green Spaces (undated)
- National Planning Policy Framework March 2012 and February 2019;
- Planning Practice Guidance March 2014 (as amended);
- The Town and Country Planning Act 1990 (as amended);
- The Localism Act 2011;
- The Neighbourhood Planning (General) Regulations 2012;
- Herefordshire Local Development Framework Core Strategy (2011-2031) 2015.

## 6.0 Summary of Recommendations

**Recommendation 1:** Revise the date of the Plan period to 2019 – 2031.

**Recommendation 2:** Apply a consistent form of wording and punctuation to policies where all criteria are to be satisfied.

**Recommendation 3:** Revise Policy KANP ENV1 as follows:

Revise criterion (ii) to read “.....as identified in the *Character Appraisal – Kington (February 2016)* and the *Kington Area Landscape Sensitivity and Capacity Assessment (October 2015)*”. Delete “the list of Cherished Places (see Appendices 4, 5 and 6.”

Revise criterion (iii) to read: “respecting topography and *not being visible against the skyline when seen from a distance, whether.....*”

Delete the list of Open Spaces in Appendix 4 of the KANP.

**Recommendation 4:** Revise paragraph 9.2.5 to read: “....the *Character Appraisal – Kington (February 2016)* has been prepared ....”

**Recommendation 5:** Revise the settlement boundary for Hergest to include only the existing housing and the housing allocation.

**Recommendation 6:** Revise the justification to Policy KANP H1 as follows:

Delete Site K1 Greenfield Drive and paragraph 9.4.9. Renumber the site allocations and revise the Policies Map. Include the site in the table of commitments.

Paragraph 9.4.15 delete “dis”.

Revise the fourth sentence of paragraph 9.4.18 to read: “A new access road will be required to serve *the development which should be taken from Marwick Close; it should be designed to the satisfaction of the County Highway Authority.*”

Paragraphs 9.4.20 and 21 delete “strategic”.

**Recommendation 7:** Revise Policy KANP H2 as follows:

Delete “to engage and consult with the community and Town and Parish Councils and”.

Add the following to the justification: “*Green infrastructure including landscaped amenity open space and children’s play areas should be provided within the development to meet the needs of future residents and to compensate for any amenity land / green space lost to provide access to the site from Eardisley Road.*”

**Add the following to the justification: *“In view of the significance of the development to the local community, pre-application consultation on the proposed development with the community and Town and Parish Councils will be welcomed.”***

**Recommendation 8: Revise Policy KANP H3 as follows:**

**Revise criterion (i) of Policy KANP H3 to read; *“A full ecological and tree survey shall be undertaken and submitted as part of any planning application taking account of the advice of the Council’s Ecologist. The proposals for the development of the site shall include proposals to enhance the local habitat and the provision of open space.”***

**Include a new paragraph in the justification setting out the requirements of the ecological and tree survey: *“A full ecological and tree survey should be required including some longer term survey work during optimal times of the year for bats, birds, otters, amphibians and reptiles. Any development would need to demonstrate full mitigation and a high level of enhancements, including but not limited to bird and bat roosting opportunities in/on the new buildings, hedgehog, and pollinator homes and reptile/amphibian refugia in the retained habitat areas; and a long term management strategy for the remaining trees, riverside and flood meadow/grass areas.”***

**Ensure the reference number for the site at Hergest is consistent with that shown on Plan 2.**

**Correct the typographical error in paragraph 9.4.39 line 5 “remaining”.**

**Recommendation 9: Revise Policy KANP H5 as follows:**

**Delete criteria (iii), (x) and (xi).**

**Delete the second paragraph of criterion (iv) referring to The Greater London Space Standards.**

**Revise criterion (viii) to read: *“Provide multi-functional green infrastructure and community amenity space proportionate to the number of dwellings. Contributions to new or improved off site provision nearby may be acceptable only for small housing developments where it is not feasible to provide open space on site.”***

**Paragraph 9.4.49 should refer to the correct title of the *“Character Appraisal – Kington (February 2016)”*.**

**Recommendation 10: Revise Policy KANP E1 as follows:**

**Delete the first paragraph.**

**Show the boundary of the two industrial estates on the Policies Maps.**

**Correct the typographical error in criterion (vii).**

**Recommendation 11: Revise Policy KANP KTC1 as follows:**

Delete the following from the first paragraph: “and retail development should, where possible, be within the boundary of the primary shopping area as defined in Map 1.”

Revise criterion (i) to read: “proposed retail developments should, where possible, be located in the Primary Shopping *Frontages as defined on the Kington Town Centre Policies Map*”.

Review the use of the phrase “will; need to” in the criteria of the policy.

**Recommendation 12: Revise Policy KANP INF1 as follows:**

Delete the third paragraph.

Delete the sixth and seventh paragraphs and paragraph 9.8.5 on developer contributions and CIL together with the five proposals.

Place the proposals in a new section under Community Projects with the following text: “*The Town and Parish Councils will work with Herefordshire Council, Dwr Cymru Welsh Water etc to deliver the following improvements to the infrastructure: list of pedestrian/ cycleways, school capacity increase, waste water treatment, water supply network and community facilities. Funding for these proposals will be through developer contributions, CIL, grants etc.*”

Add the following to the justification: “*Dwr Cymru Welsh Water has advised that a hydraulic modelling assessment of the water supply network may be required in order to understand where a connection can be made and if any upsizing is required to serve the proposed housing development on land south of Kington.*”

**Recommendation 13: Delete Policy KANP ENV4.**

**Recommendation 14: Revise Policy KANP LGS1 as follows:**

Revise the wording of the first paragraph to read: “The following areas are designated as Local Green Spaces. *Development that would result in the loss of the green space will not be supported in these areas except in very special circumstances.*”

Delete the following areas: GS02, GS03, GS06, GS07, GS10, GS11, GS13, GS18, GS19, GS23, GS32, GS34, GSH01, GSH02 and the westernmost part of GS05 not forming part of the school grounds.

Identify the following areas of amenity land within housing estates as “Valued Local Amenity Areas”: GS09, GS27, GS30, GS33 and small areas of GS17.

Include the following policy wording: “*The following sites shall be safeguarded as Valued Local Amenity Areas and shall be retained and*

*enhanced for amenity and children's play: GS09, GS27, GS30, GS33 and small areas of GS17."*

Revise the title of the policy to "Green Spaces".

Revise the Policies Maps to delete the sites that are not to be designated and to differentiate between the Local Green Spaces and Valued Local Amenity Areas.

**Recommendation 15: Revise Policy KANP GI1 as follows:**

Revise the first paragraph as follows: "The Green Infrastructure network *along the river corridors within and around Kington shall be safeguarded, where possible, and enhanced.*

Add the following to paragraph 9.11.1: "The Strategic Corridors and Enhancement Zones are shown on Map X." Include Map 5-5 from the Green Infrastructure Strategy 2010 in the justification to the policy.

Revise paragraph 9.11.7 as follows: line 2 delete "as Green Spaces".  
Revise the second sentence to read: "The river corridors on the western side of the town identified *as important* during the consultations are included..."

**Recommendation 16: Revise the justification to Policy KANP CF1 as follows:**

Delete "the Public House" from paragraph 9.12.2.

Delete paragraphs 9.12.4-5 and place in a new section of the Plan on Community Projects. This section should include text to explain that the projects are not planning policies.

Revise Appendix 4 line 1 and the first sub-heading to "Community Facilities".