

# Kings Caple Neighbourhood Development Plan

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## Submission Version

A Report to Herefordshire Council on the Examination of the Kings  
Caple Neighbourhood Development Plan

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## Introduction

Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the Herefordshire Local Plan Core Strategy 2011- 2031. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

This report is the outcome of my examination of the Submission Version of the Kings Cople Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum.

## The Examiner's Role

I was formally appointed by Herefordshire Council in February 2017 with the agreement of Kings Cople Parish Council, to conduct this examination. My role is known as an Independent Examiner. My selection has been facilitated by the Neighbourhood Planning Independent Examiner Referral Service which is administered by the Royal Institute of Chartered Surveyors (RICS).

In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 38 years' experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both Herefordshire Council, and Kings Cople Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

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

- That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.

Furthermore, if I conclude that the Plan should proceed to referendum I need to consider whether the area covered by the referendum should extend beyond the boundaries of area covered by the Kings Cagle Neighbourhood Development Plan.

In examining the Plan, the Independent Examiner is expected to address the following questions

- a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
- b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
- c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body?

I am able to confirm that the Plan, if amended in line with my recommendations, does relate to the development and use of land. It covers the area designated by Herefordshire Council, for the Kings Cagle Neighbourhood Plan on 16<sup>th</sup> November 2012. The plan area coincides with the Parish boundary

I can confirm that it does specify the period over which the plan has effect namely the period between 2013 and 2031.

I can confirm that the plan does not cover any “excluded development”.

There are currently no other neighbourhood plans covering the area covered by the Plan designation.

## **The Examination Process**

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 if a person has a fair chance to put a case.

I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

I am satisfied that I am in a position to properly examine the plan without the need for a hearing. I did receive a representation from a planning consultant who considered that I ought to be calling a hearing to allow local land owners to put their case.

I carried out an unaccompanied visit to the Plan Area and the surrounding area on 1<sup>st</sup> April 2017 to familiarise myself with the main village and the surrounding countryside.

Following my site visit I had a number of matters upon which I invited further submissions from the Qualifying Body and the Local Planning Authority. This was entitled Initial Comments of the Independent Examiner and was issued on 5<sup>th</sup> April 2017. I was pleased to receive the response from both parties on 28<sup>th</sup> April. All the documents have been placed on the respective websites.

## **The Consultation Process**

In January 2012, the Parish Council decided to produce a neighbourhood plan, to take forward policy from the Parish Plan, which had been produced in 2006, which did not have formal planning status. The plan was launched to the public at an open meeting held on 8<sup>th</sup> February 2012 which was attended by 24 residents.

Herefordshire Council formally approved the designation of the neighbourhood area on 16<sup>th</sup> November 2012.

A community launch open day was held on 5<sup>th</sup> October 2013 in the format of a "Planning for Real" exercise attended by 40% of the village's households. This led to a questionnaire being delivered to every household in the parish in February 2014 which generated a staggering 80% response rate. This led to the development of the Plan's Vision Statement and six objectives which was launched at the follow up Open Day on 28<sup>th</sup> June 2014.

The Regulation 14 – Pre-Submission Consultation ran from 30<sup>th</sup> June 2016 to 10<sup>th</sup> August 2016 and was distributed to all households as well as the statutory bodies and adjoining parish councils. This generated 10 responses from local residents and 7 statutory bodies. I am satisfied that the residents and other land owners have had ample opportunity to engage with the plan making process.

## **Regulation 16 Consultation**

I have had regard, in carrying out this examination, to all the comments made during the period of final consultation which took place for a 6-week period between 12<sup>th</sup> December 2016 and 6<sup>th</sup> February 2017. This consultation was organised by

Herefordshire Council who had received the Submitted Plan, prior to it being passed to me for its examination. That stage is known as the Regulation 16 Consultation.

In total 8 responses were received including 3 from different departments within Herefordshire Council. These were from Historic England, Natural England, Welsh Water, National Grid and a late representation by a planning consultant who I understand has been promoting a planning application in the plan area. I have read and had regard to all the representations made and I may refer to them in my comments on individual policies.

## **The Basic Conditions**

The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.

The six questions which constitute the basic conditions test seek to establish that the Neighbourhood Plan: -

- Has had regard to the national policies and advice contained in the guidance issued by the Secretary of State?
- Will contribute to the achievement of sustainable development?
- Will be in general conformity with the strategic policies set out in the Development Plan for the area?
- Does not breach or is otherwise incompatible with EU obligations or human rights legislation?
- Whether prescribed conditions are met and prescribed matters have been complied with?
- Whether the making of the Plan will have a significant effect upon a European site or a European offshore marine site, either alone or in combination with other plans and projects?

## **Compliance with the Development Plan**

To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Herefordshire Local Plan Core Strategy 2011- 2031 adopted in October 2015. Kings Cople is identified as one of the villages in the County which will be the main

focus of proportionate housing development in the rural areas. The county as a whole has a minimum requirement to provide 5,300 new dwellings between 2011 and 2031, which is divided around 7 Housing Market Areas (HMA). Kings Cople is within the Ross on Wye HMA which is required by Policy RA1 to deliver approximately 1150 new dwellings. The policy gives indicative housing growth targets for neighbourhood plans, which for this HMA is 14% over the plan period. Policy RA3 deals with development policies outside settlement boundaries. The Plan has calculated this to equate to 20 units. I deal with the issue of the compliance with the strategic policies in my comments on the housing policies. %

## **Compliance with European and Human Rights Legislation**

A full Environment Report was prepared which incorporated a Strategic Environmental Assessment. A Scoping Report was prepared in 2014 and the full Strategic Environmental Assessment was published in November 2016. This was prepared by Herefordshire Council on behalf of the Steering Group.

The Council also carried out a Screening Determination under the Habitat Regulations in June 2016 which concluded that the Plan was unlikely to have any adverse effect on a European Site, the nearest of which was the River Wye (including the River Lugg) Special Area for Conservation either alone or in combination with other plans or projects and accordingly it was considered that a separate screening was not required nor the need for an Appropriate Assessment under the Habitats Regulations. An addendum report which reviewed the Plan in the light of a number of changes to the policies came to the same conclusions.

I have received no representations that there is any incompatibility with the European or Human Rights legislation and I am satisfied that this element of the Basic Conditions test is met.

## **The Neighbourhood Plan: An Overview**

The context of this Plan is the Parish's location within an Area of Outstanding Natural Beauty. It is important that all development should be guided by the need to protect the landscape quality of the area. This is embodied within the Plan's Vision Statement. Having said that, the village is identified as a settlement that can accommodate proportionate housing growth and the Core Strategy gives an indicative growth figure of 14% over the Plan period.

The site selection and identification process was led by the Herefordshire Council planners, who carried out a call for sites for the SHLAA. This may be the reason why the late representation referred to the lack of contact with the site owners from the Neighbourhood Plan team. This work has guided the Neighbourhood Plan in identifying sites that are capable of delivering new housing. I am satisfied that the process has been carried out in a methodical way and that adequate publicity has been given to the exercise. It is important to recognise that the SHLAA process is not the same as the development plan-making process. The SHLAA is part of the evidence gathering to help inform plan-making and can demonstrate that adequate developable land is available to meet the housing needs of an area. I did get the sense when reading the Plan that the Plan placed over-reliance on the SHLAA selection process rather than proactively taking the initiative as neighbourhood plan making allows, and actually choose to allocate land. Having said that I am satisfied that the plan has identified as preferred sites, two sites which are on the edge of the settlement that are capable of providing sufficient homes to meet the village's needs in locations that have been guided by the Landscape Assessment work.

The plan places reliance on a Housing Needs Survey that is now 5 years old. The plan will be the principal planning policy document covering the next 14 years and I do not think that policies that were the snapshot of requirements back in 2012 should be relied upon to determine the particular tenure of affordable housing over the plan period and I have found some of the policies too prescriptive and not flexible enough to account for changes in housing needs. Whilst the village may not have a shop and a pub, it does have a village school and many rural communities have workers who cannot afford to even buy a house on a shared equity basis. To follow the logic set out in the Plan would mean that many rural villages would not be able to meet rural housing need. In any event, there is only one site KC11 which is capable of delivering sufficient houses to trigger an affordable housing component under Core Strategy H1.

This plan has had a high degree of community involvement during its preparation. It is clear that residents value the rural feel and setting of Kings Cople and I have sought to strengthen the policies relating to the protection of its landscape setting. I would also commend the innovative approach to protecting the historic parts of the village, which is clearly valued and contributes to the distinctiveness of the area. I do hope that in the future, the Local Planning Authority will be able to review the question of whether this area protected by Policy CH1, or at least part of it, should be considered for Conservation Area designation.

There are some matters that I do not consider can be the subject of development plan policy. In line with guidance in the Planning Practice Guidance, these non-land use policy matters, such as those affecting highway management, can be included in the Neighbourhood Plan document but not as neighbourhood plan policy, possibly being included as Community Aspirations.



My report concentrates on the wording of the actual neighbourhood plan policies. I have had to recommend that some policies are revised to bring them in line with basic conditions and in a few cases, recommend that the policy is removed for the same reason. I will leave it to the Parish Council to amend the supporting text to reflect the revised wording and the renumbering of policies.

Finally, I have concerns that in a number of places that the Plan is not totally clear as to its intentions, particularly in the field of housing allocations and I recommend that a Proposal Plan be prepared and be inserted into the plan which will clearly show all designations and site allocations, and a revised settlement boundary on one definitive map. This will allow landowners, applicants and decision makers to be able to determine with total clarity whether the individual plots are affected by particular policies in the plan rather than relying on small scale SHLAA maps.

#### *Recommendation*

That a comprehensive Proposals Map is produced including Site Allocations, a revised Settlement Boundary and other plan designations.

## **The Neighbourhood Development Policy**

### **Policy E1**

Paragraph 115 of the National Planning Policy Framework (NPPF) states that “Great weight should be given to conserving landscape and scenic beauty in... Areas of outstanding natural beauty.... which has the highest status of protection in relation to the landscape and scenic beauty.” It is not just housing developments that could have an adverse impact on the landscape of this part of the Herefordshire countryside. I propose to extend the policy to align with national and strategic planning policy by requiring that “any development should not adversely affect.....”

This policy covers the same issues as Policy CH4, namely the impact of development on the wider landscape, although that policy does recognise that adverse impacts, where it is possible, can be fully mitigated. I propose to combine the two policies so that there is a single policy dealing with consideration of the impact of development on the protected landscape.

#### *Recommendation*

Replace current wording with “Development should not adversely impact upon the quality of the landscape, which is designated as an Area of Outstanding Natural Beauty and should seek to preserve and enhance the setting of Kings Cuple within its landscape. Any development which is shown by an assessment of views to have an adverse effect upon the character and appearance of the landscape will be expected to fully mitigate its effects, before planning permission is granted.”

## Policy E2

Through my proposed modification of Policy E1, it is not necessary to differentiate between agricultural development from any other type of development. I will be recommending that the policy can be deleted, so as to avoid confusion as to what policy relates to agricultural development, as it will already be encompassed within Policy E1.

### *Recommendation*

That the policy be deleted.

## Policy E3

I am in some doubt as to whether the policy requires existing wildlife corridors etc to be retained and incorporated within developments or whether the intention is to require developers to provide new habitats through their landscaping scheme. The policy could be read either way. I am proposing a minor amendment to make clear that the policy covers both situations.

### *Recommendation*

Insert after “incorporate” “new as well as existing”.

## Policy E4

I have no comments to make with regard to this policy.

## Policy E5

This policy relates to all developments. However, SUDS would not be relevant to every development proposal. The simplest way to differentiate between developments that may have issues of surface run-off and those that do not, is to introduce a caveat into the policy by the insertion of “where appropriate.”

### *Recommendation*

Insert after “required”, “where appropriate”

## Policy E6

On the 25<sup>th</sup> March 2015, the Secretary of State for the Communities and Local Government made a Statement to the House of Commons which is relevant to this policy. This statement stated that qualifying bodies preparing neighbourhood plans should not set in the emerging... neighbourhood plans, “Any additional local technical standards or requirements relating to the construction, internal layout or performance

of new dwellings.” This policy is directly contrary to Secretary of State guidance. I do not see any particular local justification or evidence to depart from this guidance and accordingly I will be proposing the deletion of the policy to satisfy basic conditions.

*Recommendation*

That the policy be deleted

**Policy CH1**

This policy seeks to offer particular protection to a part of the plan area. The area lies to the west of the village and includes the Church and churchyard, the Tump, Kings Caple Court garden and historic farmyard, Castle Cottage and the Green. The plan also refers to the Roman road and associated Roman sites but I have no additional information or evidence as to whether this is the route of the Roman road or whether there is any physical evidence remaining. I also consider that the land to both the north and south of Capel Street, makes a positive contribution to the setting of this historically important part of the village.

In the normal course of events, I would expect an area such as this would be designated as a conservation area. However, despite the wishes of the village which have been articulated since 2006, conservation area status is not something that the neighbourhood plan can bestow. However, a neighbourhood plan can define its planning policies which apply to the village’s historic areas. The form of protection set out in Policy CH1 is in my opinion justified by what I saw on-site. Whilst the area will not be subject to the statutory protection afforded by a conservation area status, I consider that planning policies are capable of being used in a development management environment, to give protection to the special qualities of this area, which are clearly valued by the village. However, I do not think that this policy should be protected on the basis of the landscape quality of the area, which is already covered by Policy E1, but should be justified on the basis of providing the setting to historically important buildings and monuments. I note the comments of the Council’s Principal Building Conservation Officer who has recommended a more linear designation to include the crossroads its non-designated buildings of historic interest and Pennoxstone Court but I do not believe that the alteration of the boundary is required to meet the test of basic conditions.

*Recommendation*

In the first sentence delete “and landscape qualities”

**Policy CH2**

This policy seeks to locate stabling and animal shelters or other agricultural/structures

in the least obtrusive location practicable and be designed to minimise their impact. The purpose of the policy is to protect the heritage assets in the wider village i.e. beyond the Heritage area. I do not consider that this policy adds anything beyond the landscape protection policy - Policy E1 which I have strengthened to apply to all developments, which will now cover animal shelters and stables. To retain the policy would result in uncertainty as to what policy will be applicable and so I propose to recommend the deletion of the policy specific to animal stables and shelters and rely upon the overarching Policy E1.

*Recommendation*

That the policy be deleted.

**Policy CH3**

A neighbourhood plan can identify non-designated heritage assets, but the Kings Cople neighbourhood plan does not identify individual buildings that it wishes to protect, but rather refers to those constructed of locally available materials and vernacular buildings. It gives the example of The Old School. I do not consider that this policy passes the test of a plan policy, as described in the Planning Practice Guidance, which requires a policy to be precise, in this case to address the question as to what buildings are expected to be subject to the policy, nor have I seen any convincing evidence as to the importance of these heritage assets. I consider that this policy is too vague, as to which heritage assets and their setting which it is seeking to protect. I have to recommend the deletion of the policy as not passing the basic conditions tests, principally because of its conflict with Secretary of State guidance, namely that policies should be drafted so as to be both clear and unambiguous and also because of the lack of evidence to support the policy.

*Recommendation*

That the policy be deleted.

**Policy CH4**

As I have previously stated, I am concerned how this policy relates to policy E1. In my recommendations on Policy E1 I have combined the two policies. This policy is now therefore superfluous and is recommended for deletion.

*Recommendation*

That the policy be deleted.

## Policy SB1

This policy is somewhat vague in terms of whether a use is residential in character e.g. would a bed and breakfast establishment be residential in character? The policy should be written in a positive manner stating that proposals for residential development within the settlement boundary will be approved and any non-residential users should not be detrimental to the residential character of the area. It is not necessary for a neighbourhood plan policy to quote reference to the NPPF as it can cause ambiguity— for example, some parts of the paragraph referred to, deal with isolated dwellings in the countryside.

### *Recommendation*

Replace policy with

“There will be a presumption in favour of new residential development on land within the settlement boundary as shown on the Proposal Map and any non-residential development must be compatible with the residential character of the surrounding development”

## Policy SB2

The policy allows residential development on sites which *adjoin* the settlement boundary which I believe is contrary to strategic Core Strategy Policy RA2. I will propose that this aspect be removed from the policy. The second part is not however necessary or relevant. A proposal needs to have regard to all relevant policies in the plan, not just those which are referred to of the policy. I will be proposing the deletion of that part of the policy.

### *Recommendation*

Delete “and not adjoining the boundary”

Delete the second sentence of the policy.

## Policy H1

I have had regard to the basis of the calculation of what is defined as a housing target, namely the adoption of the 14% growth figure in Policy RA2. However, I am conscious that produces a very exact number and there could be a tendency to see that as a target figure to be achieved. However, the overall housing need for Herefordshire, for which King Cople’s figure will be making a contribution, as set out in Policy RA1 refers to the provision of a minimum number of 5300 dwellings between 2011 and 2031 and furthermore the figures for the rural market areas are approximate figures with

indicative growth rates. I also have had to have regard to the fact that the NPPF is looking for the planning system to deliver a significant increase in housing supply. Therefore, in considering the overall housing supply I do not believe that it is helpful to refer to 20 as a target. Policy RA1 of the Core Strategy refers to local evidence and environmental factors will determine the approximate scale of development.

In coming to my conclusions, I have also had regard to the Landscape Sensitivity Analysis work, which I have found to be a robust piece of work. I note that the larger site KC11 is identified as having moderate to high landscape capacity, so long as the boundary hedge is retained. The other larger preferred site KC03B is low to moderate to moderate landscape capacity but that this will rise to moderate if a strong hedge line is established along the northern boundary. I note that the Plan refers to 3 other smaller sites also as preferred or identified sites. I believe that one of the purposes of a neighbourhood development plan is to provide certainty as to how a planning application is likely to be determined. It should also give a higher status in terms of being seen as an acceptable location for development than other sites, which also may be on the edge of the village. I therefore will be recommending that these two larger sites are allocated for housing, rather relying on a description of them being *identified or preferred sites*. This is in line with the task set by the Core Strategy's Policy RA2 which also refers to neighbourhood plans allocating sites.

The Neighbourhood Plan identified three other development sites, two are single unit developments, one through the conversion of an agricultural building and the second appears to be an undeveloped parcel of land adjacent to the school. There is another larger plot identified immediately to the west for two units. All these sites fall within the settlement boundary and as such they can come forward, along with other similar sites as windfall. As such I do not think that it is appropriate for them to be allocated.

This then leads on to the consideration of the capacity of the sites to achieve the level of housing that the village needs to be planning for. The Plan has indicated that the KC11 site can be expected to achieve 8 dwellings whilst the SHLAA indicated a potential housing capacity of 15. That would correspond to a housing density of approximately 19 dwellings per hectare, which is not high. I have noted the comments on the Parish Council in their response to my Initial Comments both regards the access and the fact that they would not wish to see the figure of 8 increased, but I do not find the arguments advanced so convincing to justify development at a very low density of development. The NPPF encourages development to make effective use of land and also, I am conscious that the housing needs for the area require the provision of smaller units of accommodation.

The other large site, KC03B is shown on the map – Development sites – Actual and Potential as being capable of accommodating 6 units whilst the SHLAA has a potential

housing capacity of 8 units. From my site visit I am confident that the higher figure could be achieved.

My conclusion is that if the two sites were allocated for the number of units as proposed for each by the SHLAA, then 23 dwellings could be achieved. Other sites which come forward which are already within the settlement boundary under policy H2 can be additional dwellings.

At the present time, the Plan is proposing a settlement boundary which has the two new allocation sites as falling outside the settlement boundary. The Parish Council has asked my advice on this matter. If the logic of the site selection process is that these are natural extensions to the village envelope then I believe that it is sensible to enlarge the settlement boundary to include them, otherwise once developed, they will still be covered by countryside policies. I note that the Local Planning Authority's own guidance is to encourage the inclusion of site allocations within the settlement boundary.

I will accordingly be proposing a revised wording to policy H1.

#### *Recommendation*

Replace the policy with

"The following 2 sites are allocated for new housing:

KC11- Field adjacent to the Homestead for approximately 15 dwellings

KC03B – Land adjacent to Kings Caple Primary School for approximately 8 dwellings"

The settlement boundary to be shown on the Proposal Map to be extended to show these two sites as falling within the settlement boundary.

#### **Policy H2**

I am satisfied that Policy H2 can deliver windfall sites within the settlement boundaries. Sites outside the development will be development in the countryside as set out in Core Strategy Policy RA3. As with Policy SB2, making an assumption for windfall sites outside but adjacent to the settlement would conflict with Core Strategy Policy RA3 which I believe is one of the Core Strategy's strategic policies along with Policies RA1 and 2.

#### *Recommendation*

In the first sentence remove "or immediately adjacent to".

In second sentence remove "and not immediately adjacent to"



### Policy H3

The issue of the type of housing which can meet the needs of the village is difficult to achieve when only considering the development of single plots. I believe that the policy will be capable of achieving its objective if it was a requirement placed upon the allocation sites. I note that the housing needs survey is now somewhat outdated and I believe that the policy should initially point to the evidence set down in the SHMA, which the Parish Council has pointed me towards. This is found in Figures 8.11 and 8.12 of the Herefordshire Local Housing Market Assessment 2013. The issues of the scale and form of the housing is already covered by such policies as Policy BD1.

#### *Recommendation*

Insert after “housing development” “on allocated sites” and delete “in scale, form and type”. In the second sentence insert “on the allocated sites” after “housing development” and delete “Kings Cuple” and insert at the end “as shown in Figures 8.11 and 8.12 of the Herefordshire Local Housing Market Assessment 2013 or such other document which updates the local needs assessment”.

### Policy H4

I do not intend to recommend this policy should remain as proposed. I have noted the comments of the Parish Council both in the Plan itself and in response to my Initial Comments. However, Kings Cuple is identified in the Core Strategy as a settlement which will be one of the main foci of proportionate housing growth development i.e. where it is aimed to maintain and strengthen locally sustainable communities. The issues of accessibility would apply equally to numerous other villages in the County and indeed across the country. The policy appears to be aimed at supporting shared equity as the only form of affordable housing that could be allowed, implying that other forms of social housing could not be considered. This I believe would be contrary to the intentions of Core Strategy Policy H1 which requires open market housing to contribute towards meeting affordable housing needs. I believe that within the percentages set in that policy there is scope for discussions to take place with social housing providers to decide the most appropriate tenure mix, which could include shared equity houses and indeed in the future low cost starter homes that would meet the needs of those looking for accommodation, particularly as there could be changes in needs over the lifetime of the plan that runs until 2031.

#### *Recommendation*

Delete “and shared equity housing schemes”.



## Policy H5

In view of my conclusions in respect of Policy H4, I do not consider that the policy is compatible with the objective of delivering sustainable development and I will be proposing that this policy be deleted.

### *Recommendation*

That the policy be deleted.

## Policy BD1.

I consider this policy reinforces local distinctiveness and I am satisfied that it meets basic conditions.

## Policy BD2

This policy covers matters that go beyond planning policies. Neighbourhood plan policies are required to be restricted by legislation to the use and development of land. This policy relates to matters of highway management. I will be proposing the policy is deleted.

### *Recommendation*

That the policy be deleted.

## Policy BD3

I have no concerns regarding the intention of the policy but the terminology could be improved. Regarding the properties in Poulstone Lane, reference is made to houses which could imply two storey buildings and therefore would be ambiguous. I propose to refer to these “dwellings” being limited to single storey only. The text after reference to bungalows is the justification for the policy rather than being a statement of policy. I will be recommending that this wording goes within the supporting text.

### *Recommendation*

Replace “stories” with “storeys” %

After “Poulstone Lane” change “houses” with “dwellings” %

Replace “story “with “storey” %

Delete the final sentence and put in supporting text %

#### Policy BD4

I consider this to be an appropriate policy which meets the basic conditions.

#### Policy BD5

I can understand the aspirations of the policy and I will not be making recommendations for any modifications as it meets basic conditions; however, I personally will not wish to live in a house capable of having stunning extended views across the surrounding countryside, only for these views to be blocked out.

#### Policy BD6

I consider that the test of harm to neighbours is set too high. As written, the threshold is set at there being no adverse impact. I believe that this is an unrealistic expectation. Planning decisions often involve making balanced but conflicting judgements e.g. the provision for new homes for families set against a limited detrimental impact on neighbour's amenity. I believe that the threshold should be a *significant* adverse effect.

The second element of the policy as written is totally unrealistic as it implies an extent of planning control over existing agricultural operations or other legitimate activities which could affect new residential development. I propose the deletion of that part of the policy as there is other legislation rather than planning control that can address any impact.

#### *Recommendation*

Insert "significantly" before "adversely".

Remove all text after "planning application"

#### Policy BD7

This policy duplicates other planning policies which seek to support the sensitivity of the landscape and the requirements affecting the historic areas. To retain the policy would cause confusion as to what policies are applicable to a particular proposal.

I am therefore recommending the policy for deletion as it is covered by the revised Policy E1 and CH1

#### *Recommendation*

That the policy be deleted

### **Policy EM1**

I do not consider that a requirement to submit a connectivity statement is within the gift of a neighbourhood plan policy. The documents which are required to be submitted with the planning application are set out in the local validation list set by the Local Planning Authority. I therefore propose the rewording of this policy to ensure that the development has the capability to receive high speed broadband.

#### *Recommendation*

Replace the wording with “All housing developments are to be provided with the necessary infrastructure and ducting to enable the property to be connected to a high-speed broadband network”.

### **Policy T1**

The stopping up or diversion over a public right-of-way are matters covered by their own legislation. The effects of the development on a public right-of-way is a material planning consideration. However, the measures for dealing with temporary disruption during the development phase is not an appropriate policy for a neighbourhood plan, which should be addressing the completed development rather than disruption during the construction phase. I equally do not consider it necessary for a policy to require an enhancement of the footpath facilities.

I will accordingly be recommending modification to policy which restricts the scope of the impact on the right of way network.

#### *Recommendation*

Replace all text after PROW and insert “will not be approved”.

### **Policy TT1**

This policy seems to be concentrated on the impact during the development phase of the process rather than the consideration of the traffic generated by the completed development. This is not a matter that can appropriately be covered by development plan policy, which is restricted to the question of the acceptability of completed development. If there is a particular issue anticipated by particular development on a particular site, this sometimes can be dealt with by the imposition of planning conditions requiring the submission for approval of a Construction Management Plan. However, such a requirement would not normally be appropriate for small-scale development. Even if the policy were interpreted to relate to completed development the policy is unenforceable and would be impossible to use at the development management stage. As such I am recommending it for deletion.

*Recommendation*

That the policy be deleted

**Policy TT2**

Again, the requirements of the policy are over- onerous and unrealistic. If there was a planning application that was likely to generate a significant amount of HGV traffic such as a distribution centre, then the requirement for a transport assessment would be justified. However, paragraph 32 of the NPPF states that “Developments that generate significant amounts of movements should be supported by a transport statement or transport assessment”. I do not consider that policy meets basic conditions and I recommend that it be deleted.

*Recommendation*

That the policy be deleted

**The Referendum Area**

If I am in a position to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Neighbourhood Plan as designated by Herefordshire Council on 16<sup>th</sup> November 2012 would be the appropriate area for the referendum to be held and the area does not need to be extended.

**Summary**

Kings Caple is a relatively small village set in the beautiful Herefordshire countryside in a landscape that is rightly designated as an Area of Outstanding Natural Beauty. This plan will protect that landscape through strict policies against all forms of harmful development following my proposed changes. The Plan is required to allocate enough development to meet the requirements of the Herefordshire Core Strategy, which has identified the village as a settlement that can accept proportionate growth, which over the twenty-year plan period, would be around 14%. It achieves this through the two larger allocated sites, the choice of which has been influenced by the Plan’s Landscape Assessment work. The housing numbers of each site have been increased to bring the numbers in line with yield anticipated by the Council’s SHLAA. This is to ensure that where green field sites do come forward, they are developed in the most effective manner to make best use of the land. I am also proposing to bring these two sites within the settlement boundary of the village.

In addition to the allocation sites, the policies in the plan will still allow other sites within the settlement boundary to come forward, including the 3 sites identified in the plan as preferred locations. These will still be developable but as windfall development. I have removed reference to windfall sites now including land which is outside but adjacent to the settlement boundary, as this land is covered by the countryside policies of the Core Strategy.

I have found that the policy which appears only to countenance shared equity as the form of social housing, to be over prescriptive, bearing in mind the need to retain flexibility over the plan period, where housing needs and options, may well change.

I have been able to retain the Plan's desire to protect an area of valued historic distinctiveness around the Parish Church but other policies have been recommended to be removed, partly on the grounds of lacking precision and clarity or conflict with national guidance and policy or strategic policies in the Core Strategy. In weighing up these matters I have not been satisfied that local circumstances are such as to conclude that these considerations which go to heart of the basic conditions should be set aside.

Despite the changes that I have had to make to ensure that the Plan goes forward I hope that the Parish Council and the Steering Group will still recognise their Plan which remains essentially intact and whilst some policies could not be taken forward into the Development Plan, other aspects can be pursued as Community Aspirations.

Finally, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and it is appropriate that the Plan, as amended, if successful at referendum, be made.

**I am therefore delighted to recommend to the Herefordshire Council that the Kings Cople Neighbourhood Plan, as amended by my recommendations, should now proceed to referendum.**

JOHN SLATER BA(Hons), DMS, MRTPI

John Slater Planning Ltd

10<sup>th</sup> May 2017