

KINGSWOOD NEIGHBOURHOOD DEVELOPMENT PLAN

(Submission Version April 2016)

**Report of the Examination into the Kingswood Neighbourhood
Development Plan**

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16th January 2017.

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1. Introduction

Neighbourhood planning

1. The Localism Act 2011 Part 6 Chapter 3 introduced neighbourhood planning, including provision for neighbourhood development plans. A neighbourhood development plan should reflect the needs and priorities of the community concerned and should set out a positive vision for the future, setting planning policies to determine decisions on planning applications. If approved by a referendum and made by the local planning authority, such plans form part of the Development Plan for the neighbourhood concerned. Applications for planning permission should be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Parishes and neighbourhood forums can use neighbourhood planning to: set planning policies through neighbourhood plans to determine decisions on planning applications.¹

2. This report concerns the Submission Version of the Kingswood Neighbourhood Development Plan (“the Draft NDP”).

Appointment and role

3. Stroud District Council (“SDC”), with the agreement of Kingswood Parish Council (“KPC”), has appointed me, to examine the Draft NDP. I am a member of the planning bar and am independent of SDC, KPC, and of those who have made representations in respect of the Draft NDP. I have been trained and approved by the Neighbourhood Planning Independent Examiner Referral Service (NPIERS). I do not have an interest in any land that may be affected by it.

4. My examination has involved considering written submissions, a hearing in Kingswood Village Hall on 8th September 2016, an accompanied site visit on 8th September 2016, an unaccompanied site visits on 19th July 2016 and a further unaccompanied site visit to view the parish from the Tyndale monument on 7th September 2016. The site visits included the village of Kingswood, all footpaths leaving the village, the Conservation Area, the interior of two historic listed buildings (the Abbey Gatehouse and St Mary's Parish Church) and the village shop. The accompanied site visit included the site in which Persimmon Homes Severn Valley (PHSV) has an interest to the east of Wickwar Road. My

¹ The Framework, paragraph 183.

unaccompanied site visit on 19th July 2016 included the two public footpaths that cross the site to the south of Charfield Road and west of the village in which Gladman Developments Ltd (Gladman) has an interest.

5. My role may be summarised briefly as to consider whether certain statutory requirements have been met, to consider whether the Draft NDP meets the basic conditions, to consider human rights issues, to recommend which of the three options specified in paragraph 12 below applies and, if appropriate, to consider the referendum area. I must act proportionately, recognising that Parliament has intended the neighbourhood plan process to be relatively inexpensive. In seeking to act proportionately I have borne in mind the population of the parish, the recent adoption of the local plan and the fact that this is not a plan that has required strategic environmental assessment.

2. Preliminary Matters

Public consultation

6. I am satisfied that the Statement of Community Involvement and the summary of engagement on page 3 of the draft NDP are accurate and that KPC took public consultation seriously and that sufficient consultation resulted from this approach. I bear in mind that parish councillors are democratically accountable, subject to a code of conduct and likely to be in close contact with the community they represent. I do not consider there has been any failure in consultation, let alone one that would have caused substantial prejudice. The consultation met the requirements of the Neighbourhood Planning (General) Regulations 2012 (“the General Regulations”).

Other statutory requirements

7. I am satisfied of the following matters:
- (1) The Draft NDP area is the parish of Kingswood. KPC is authorised to act in respect of this area (Town and Country Planning Act 1990 (“TCPA”) s61F (1) as read with the Planning and Compulsory Purchase Act 2004 (“PCPA”) s38C (2)(a));
 - (2) The Draft NDP does not include provision about development that is excluded development (as defined in TCPA s61K), and does not relate to more than one neighbourhood area (PCPA s38B (1));
 - (3) No other neighbourhood development plan has been made for the neighbourhood area (PCPA s38B (2));
 - (4) There is no conflict with PCPA s38A and s38B (TCPA Sch 4B para 8(1)(b) and PCPA s38C (5)(b)); and
 - (5) The draft NDP specifies the period for which it is to have effect as required by PCPA s38B(1)(a).

3. The Extent and Limits of an Examiner's Role

8. I am required to consider whether the Draft NDP meets the basic conditions specified in TCPA Sch 4B para 8(2) as varied for neighbourhood development plans, namely:

(a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Plan;

(d)² The making of the Plan contributes to the achievement of sustainable development;

(e) The making of the 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);

(f) The making of the Plan does not breach, and is otherwise compatible with, EU obligations; and

(g) Prescribed conditions are met in relation to the Plan and prescribed matters have been complied with in connection with the proposal for the Plan.

9. There is one prescribed basic condition:³ *“The making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010) 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)”*.

10. The combined effect of TCPA Sch 4B para 8(6) and para 10(3)(b) and the Human Rights Act 1998 means that I must consider whether the Draft NDP is compatible with Convention rights. ‘Convention rights’ are defined in the Human Rights Act 1998 as (a) Articles 2 to 12 and 14 of the European Convention on Human Rights (“the Convention”), (b) Articles 1 to 3 of its First Protocol, and (c) Article 1 of its Thirteenth Protocol, as read with Articles 16 to 18 of the Convention. The Convention rights that are most likely to be relevant to town and country planning are those under the Convention’s Article 6(1), 8 and 14 and under its First Protocol Article 1.

11. In my examination of the substantial merits of the Draft NDP, I may not consider matters other than those specified in the last three paragraphs. In particular I may not consider whether any other test, such as the soundness test provided for in respect of examinations under PCPA s20, is met. Rather it is clear that Parliament has decided not to use the soundness test, but to use the, to some extent, less demanding tests in the basic conditions. It is not my role to write or to rewrite a neighbourhood development plan to reflect my personal views.

² The omission of (b) and (c) results from these clauses of paragraph 8(2) not applying to neighbourhood development plans (PCPA s38C (5)(d)).

³ Sch 2 of the General Regulations prescribes this.

12. Having considered the basic conditions and human rights, I have three options, which I must exercise in the light of my findings. These are: (1) that the Draft NDP proceeds to a referendum as submitted; (2) that the Draft NDP is modified to meet basic conditions and then the modified version proceeds to a referendum; or (3) that the Draft NDP does not proceed to referendum. If I determine that either of the first two options is appropriate, I must also consider whether the referendum area should be extended. My power to recommend modifications is limited by statute in the following terms:

The only modifications that may be recommended are—

- (a) modifications that the examiner considers need to be made to secure that the draft [NDP] meets the basic conditions mentioned in paragraph 8(2),*
- (b) modifications that the examiner considers need to be made to secure that the draft [NDP] is compatible with the Convention rights,*
- (c) modifications that the examiner considers need to be made to secure that the draft [NDP] complies with the provision made by or under sections 61E(2), 61J and 61L,*
- (d) modifications specifying a period under section 61L(2)(b) or (5), and*
- (e) modifications for the purpose of correcting errors.⁴*

13. The word “only” prevents me recommending any other modifications. That includes any proposed modification whether it emanates from an objector, the qualifying body or the local planning authority. The fact that a modification is desirable is not a sufficient ground to recommend it. So, for example, a proposed modification which gives additional information cannot be justified simply because some would find that information helpful. It is not within my powers to recommend avoidance of repetition or other matters that some may consider unnecessary, unless it happens to come with one of the categories specified in paragraph 12 above. My report therefore concentrates on the draft NDP and not on proposed modifications. It has however been helpful to see suggested modification, particularly since this gives others an opportunity to comment on them.

4 Consideration of Objections

14. I have given all objections careful consideration, but have not felt it necessary to comment on most of them. Rather in accordance with the statutory requirement I have mainly concentrated on giving reasons for my recommendations.⁵ Where I am required to consider the effect of the whole Draft NDP, I have, of course, borne it all in mind.

⁴ TCPA Sch 4B, para 10(3).

⁵ TCPA Sch 4B, para 10(6). I do not consider that this require express reasons to be given for corrections to obvious minor errors, since these speak for themselves. These minor errors are dealt with in the Appendix A, but not in the body of this report. Where I say that I have no concerns, or no other concerns, in respect of a section, I am not bearing in mind minor errors that speak for themselves.

15. A central issue is a familiar problem in the field of town and country planning: a tension (and sometimes a conflict) between on the one hand those who consider that green fields should be retained and a settlement's growth substantially limited to previously developed land and on the other hand those who consider that the community should contribute more substantially to local and national need for housing provision. It is not my role to determine the relative merits of these in some generalised sense,⁶ although I must bear in mind national policies and advice including those that seek more homes in appropriate locations; nor is it my role to say, whether, if I had been responsible for drawing up the Draft NDP, I would have reconciled the differences in the same way. Rather it is my role to consider the basic conditions and other matters specified above. These conditions are considered more fully in section 6 below. It is not my role to judge the past actions of bodies or individuals.

5. Public Hearing

16. The general rule is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However an examiner must cause a hearing to be held for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure (1) adequate examination of the issue or (2) a person has a fair chance to put a case. The latter does not apply: No persons have shown themselves unable to put their case in writing. In particular, there is no reason to believe that any person who wished to make representations lacked adequate literacy in the English language. Having considered the written material, I concluded that (1) applied in respect of certain matters (*viz.* Policy SL1 and its supporting text and the settlement boundary as shown on Map 2) and issued guidance and directions in respect of this. The public hearing and the accompanied site visit took place on one day in Kingswood.

17. I would like to thank all those who participated in the hearing. They did so in a courteous and intelligent manner and impressed me with their knowledge and dedication. Although I have not found it necessary to detail the representations, I have found them helpful, have taken time considering them and, to the extent that they relate to my role, borne all in mind.

6. Basic conditions and human rights

Regard to national policies and advice

18. The first basic condition requires that I consider whether it is appropriate that the plan should be made "*having regard to national policies and advice contained in guidance issued*

⁶ I do concur with paragraph 194 of the SDLP inspector's report.

by the Secretary of State". A requirement to have regard to policies and advice does not require that such policy and advice must necessarily be followed, but it is intended to have and does have a significant effect.

19. The principal document in which national planning policy is contained is the National Planning Policy Framework (March 2012) ("the Framework") and I have borne that in mind. I have also borne in mind national Planning Practice Guidance ("NPPG"). The phrase "local plan" in national policies and advice does not include "neighbourhood plan".

Contributing to the achievement of sustainable development

20. The second basic condition means that I must consider whether the making of the Plan contributes to the achievement of sustainable development. Unless the Draft NDP, or the Draft NDP as modified, contributes to sustainable development, it cannot proceed to a referendum. This condition relates to the making of the Plan as a whole. It does not require that each policy in it must contribute to sustainable development.

21. The bulk of the Framework constitutes guidance on sustainable development. Its paragraph 6 says, "*The policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development... means in practice for the planning system.*"

22. I welcome the draft NDP's concern for disabled people, the elderly, young children and women and the express mentions of the Equality Act. This contributes to the social element of sustainable development as well as showing recognition of duties under the Equality Act 2010, the principle of equality inherent in EU law and the human rights of disadvantaged people.

23. I also welcome the support for walking and cycling. This contributes to the environmental element of sustainable development.

24. The draft NDP's support for heritage assets is consistent with the duties imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 and contributes to the environmental element of sustainable development.

General conformity with the development plan's strategic policies

25. The third basic condition means that I must consider whether the Draft NDP is in general conformity with the strategic policies contained in the development plan for the area of the authority. The development plan means the adopted development plan as a whole. This accords with normal usage in planning statutes and has been confirmed by *Supperstone J in BDW Trading (t/a Barratt Homes) v Cheshire West and Chester Borough Council*, where he

said:⁷ “... the only statutory requirement imposed by Condition (e) is that the neighbourhood plan as a whole should be in conformity with the plan as a whole.” Lewis J quoted this without criticism in R. (Gladman Developments Ltd) v Aylesbury Vale District Council.⁸ Even if I had any doubts about this (and on the contrary I am of the respectful opinion that it is correct), I would be obliged to follow it.

26. The adjective ‘general’ allows a degree of (but by no means unlimited) flexibility and requires the exercise of planning judgement. This condition only applies to strategic policies - there is no conformity requirement in respect of non-strategic policies in the development plan or supplementary policy. In assessing whether a policy is strategic, I must bear in mind the advice in NPPG para 074.⁹

27. The relevant part of the development plan is the Stroud District Local Plan (“SDLP”), which was adopted in November 2015. I have considered the whole of this. SDLP Policy CP3 places Kingswood in the third of five tiers and describes it and other third tier villages as “*Accessible Settlements with Limited Facilities*”, a description that is accurate in the case of Kingswood. A neighbourhood plan examination is not the place to determine a hierarchy of villages within a tier in the way suggested in PHSV’s letter of 26th September 2016 and, in any event, if such a district-wide process were to be undertaken it would not be likely to be limited to consideration of the number of facilities. Policy CP3 states:

These villages possess a limited level of facilities and services that, together with improved local employment, provide the best opportunities outside the Local Service Centres for greater self containment. They will provide for lesser levels of development in order to safeguard their role and to provide through any Neighbourhood Plans some opportunities for growth and to deliver affordable housing.

28. I note that SDLP policy CP2 includes “*Outside of strategic sites, development will take place in accordance with the settlement hierarchy set out in this Plan*” and that SDLP’s paragraph 2.70 “*Smaller scale development is expected to come forward at*” [settlements other than the principal settlements] “*identified in the Plan’s settlement hierarchy, as set out in Policy CP3.*” I also note the reference in paragraph 2.72 to “*an early review of this Local Plan, commencing within five years from adoption or by December 2019, whichever is the sooner.*” As Gladman points out, this may result in more housing growth in Stroud district.¹⁰

⁷ [2014] EWHC 1470, para 82.

⁸ [2014] EWHC 4323 (Admin), [2015] JPL 656.

⁹ NPPG, Neighbourhood Planning, para 074, Reference ID: 41-074-20140306.

¹⁰ I have not given weight to the draft Local Development Scheme. As Gladman points out in a post-hearing letter this is at an early stage and may have an optimistic time-scale.

EU obligations

29. The fourth basic condition requires me to consider whether the Draft NDP breaches or is otherwise incompatible with, EU obligations. I have in particular considered the following Directives: the Strategic Environmental Assessment Directive (2001/42/EC); the Environmental Impact Assessment Directive (2011/92/EU); the Habitats Directive (92/43/EEC); the Wild Birds Directive (2009/147/EC); the Waste Framework Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); and the Water Framework Directive (2000/60/EC). I am satisfied that no issue arises in respect of equality under general principles of EU law or any EU equality directive.

30. Historic England, Natural England, the Environment Agency and SDC all agree that the draft NDP is unlikely to give rise to significant environmental effects and therefore would not require Strategic Environmental Assessment. I share their view.

31. I am satisfied that the making of the NDP would not breach, and be otherwise incompatible with, EU obligations and that it is not necessary to consider the matter further in this report.

European site and European offshore marine site

32. Natural England and SDC agree that the draft NDP is unlikely to give rise to significant environmental effects on these sites. I share their view. I am satisfied that the making of the NDP would not breach, and be otherwise incompatible with the prescribed basic condition and that it is not necessary to consider the matter further in this report.

Human Rights

33. English Planning law in general complies with the Convention. This matter can also be dealt with briefly in advance of detailed consideration of the contents of the Draft NDP. I have considered whether anything in the Draft NDP would cause a breach of any Convention right. In particular I have considered the Convention's Articles 6(1), 8 and 14 and its First Protocol Article 1. Nothing in my examination of the Draft NDP indicates any breach of a Convention right, so that no modifications need to be made to secure that the draft NDP is compatible with the Convention rights. It is therefore not necessary to consider human rights in the parts of this report that deal with specific parts of the Draft NDP.

7. The contents of the Draft NDP

34. It will be apparent from the above that, having been satisfied in respect of basic conditions (f) and (g) and human rights, I have needed to concentrate on basic conditions (a), (d) and (e). My recommended modifications are those that I consider need to be made to secure that the Draft NDP meets these basic conditions and to correct errors.

Sections 1-3

Page 4, paragraphs 1.12, 1.13 and 1.14, final sentence

35. The final sentence of paragraph 1.12 is no longer correct and serves no purpose. I recommend its deletion. The same applies to the words in parentheses in paragraph 1.13 and the whole of paragraph 1.14.

36. I have no other concerns about sections 1-3.

Section 4 'Development within and beyond settlement limits'

37. Before moving to specific matters, I shall deal with my approach to further growth in Kingswood. The village has grown substantially since 2006 and has a recent planning permission for up to 51 houses in Chestnut Park, a relatively central site. As far as the near future is concerned I share the concerns about continued substantial growth beyond the permitted up to 51 houses outside the settlement boundary established in the recent Local Plan process.¹¹ The totality of continued substantial growth above that which has taken place and been permitted would place undue pressure on the social cohesion of this community and (notwithstanding the benefit of additional affordable housing) not correspond with the social dimension of sustainable development. Kingswood's location means that many residents travel substantial distances to work by private car and the limits of its public-transport provision is such that this is likely to continue. In particular a higher than average proportion of its population commutes more than 60 kilometres – this seems to be facilitated by access to M5 junction 14. A significant increase in this would not correspond with the environmental dimension of sustainable development. I recognise that Gladman's and PHSV submissions that new housing development can assist the vitality of facilities in a village can be significant; but have not seen evidence that persuades me that any facility in Kingswood is at risk and nothing I saw during my site visits suggested such a risk to me. I am of the firm view¹² that the recently permitted Chestnut Park development should be the only substantial housing development in the near future. I note that the sites that were being advanced before me were respectively (i) with a capacity for 95 dwellings and (ii) subject to a current planning application for up to 61 dwellings and consider that development of this level in the near future would do harm to social cohesion and be likely to encourage longer distance commuting.¹³ I am satisfied that the draft NDP supports "*the strategic development needs set*

¹¹ Decision letter dated 17 February 2016.

¹² The evidence in respect of the village school, a facility that is often threatened by insufficient housing development, is that it has insufficient places for the demand and no land on its present site for expansion.

¹³ Although relatively large in the context of Kingswood, I agree with PHSV's letter of 26th September 2016 that these are not "*larger scale residential developments*" within the meaning of the Framework's paragraph 38.

out in” the SDLP and plans “*positively to support local development*” in accordance with the Framework’s paragraph 16.

38. I said “the near future” in the previous paragraph because I do not consider that the present and permitted situation should necessarily be entrenched throughout the period of a plan that runs until 2031. A breathing space is needed, but not necessarily one as long as 14 years. KPC’s commitment to a review of the plan in 5 year’s time¹⁴ goes some way to reassuring me on that point; but this is not certain, slippage in the production of plans is commonplace, the sort of substantial slippage that would be a real concern by no means unknown and (although good practice) there is no requirement to review an NDP.¹⁵ Gladman’s concerns about a future NDP review have some force in them. I am however much more reassured by the need of local planning authorities to keep their local plans up to date and by SDC’s intention to review its Local Plan in 5 years. With the pressures on local planning authorities to update their Local Plan being considerably greater than those on neighbourhood planning qualifying bodies in respect of NDPs, I am satisfied that the Local Plan will be reviewed in a period that does not significantly exceed 5 years and this is sufficient to meet my concerns. In order to avoid the draft NDP becoming out-of-date if this occurs, I have recommended amending the policy in respect of the settlement boundary so that this boundary will be automatically amended to reflect any change to the settlement boundary in a future Local Plan. Since those changes will be a matter for the future Local Plan process, it would be inappropriate for me to comment on the location and other aspects of any future allocations. In particular I shall not comment on the merits of the proposed development sites mentioned in paragraph 4 of this report.

39. I prefer the approach of leaving the matter until the review of the SDLP to Gladman’s approach of housing reserve sites because the former will allow the decision to be made at a better time in accordance with the law, policy and facts that then exist by an examining inspector who is considering the relative situation of communities throughout the district. It reduces the potential for conflict. I recognise that qualifying bodies may choose to adopt a reserve-site approach,¹⁶ but there is not an obligation and the absence of such sites does not place the draft NDP in breach of any basic condition. Further I consider that a reserved-sites approach is more appropriate where there is doubt about the deliverability of an allocated or already permitted site. That is not the case here.

¹⁴ Draft NDP, pages 3-4, para 1.10; and also its and its intended review of locally identified affordable housing needs mentioned in policy SL13.

¹⁵ NPPG Paragraph: 084 Reference ID: 41-084-20160519.

¹⁶ Paragraph: 009 Reference ID: 41-009-20160211

40. In considering the settlement boundary I have born in mind Local Plan Policy CP3.¹⁷ Since that was written the planning permission for up to 51 houses at Chestnut Park has been granted. Were it not for that planning permission, I would have been concerned that the settlement boundary might restrict new housing development to too great an extent and conflict with SDLP Policy CP3 and the Framework's support for additional housing effectively treating Kingswood as a tier 4, not a tier 3, settlement. The additional houses allowed by this permission are sufficient to provide the "lesser levels of development" envisaged by Policy CP3 and go beyond the limited development that would have been appropriate for a tier 4 settlement. I am satisfied that this would the case even if the rate of windfall provision were to be greatly reduced (and I am not persuaded that this will occur).

41. I have considered the submission that the settlement boundary should be extended to include the land covered by the recent planning permission. SDC opposed this because it might wish to exclude some open space within the development from the settlement. I have concluded that this might occur and that the appropriate time to consider how much of the land subject to this planning permission should be included within the settlement boundary will be within the review of the Local Plan.

42. The need for affordable housing nationally and within Stroud district is a matter of substantial concern. With the recently allowed planning permission Kingswood will be contributing to meeting that need. I do not share the views of Pegasus Group in its letter of 7th June 2016 that all of the need arising from the relatively exceptional situation of having a large employer (Renishaw plc) within the parish boundary should be met in Kingswood. Nor do I share their views that, at a parish level it is normal practice for all the affordable housing needs arising from a particularly large employer in a parish to be met in that parish. The arguments against such an approach are particularly strong here given the proximity of Renishaw plc to the larger village of Charfield and the town of Wotton-under-Edge.

Page 12, paragraph 4.3, first sentence

43. No map is identified as "*the Policies Map*" and this is the only place in the draft NDP where this phrase occurs. I agree with PHSV that should this be replaced by "*Map 2*".

Page 13, paragraph 4.11

44. Paragraph 4.11 does not accurately reflect the Local Plan. I have considered whether I should rewrite it or adopt either the modification proposed on behalf of PHSV or that proposed by KPC. I have however decided that the paragraph is unnecessary and the appropriate modification would be its deletion. This would, of course require subsequent renumbering, but within this report I shall use the original numbering.

¹⁷ Paragraph 27 above.

Pages 16-17, Policy SL1

45. I have been assisted by the submissions in respect of policy SL1. I must however bear in mind that I may only recommend modifications in the circumstances specified in paragraph 12 of this report. The words “*focused*” and “*normally*” mean that the policy is not absolute. While there is a body of opinion that prefers not to use the word “*normally*” in policy, it is not inherently contrary to any basic condition and I consider that it should not be deleted.

46. No map is identified as “*the proposals map*” and the only places in the draft NDP where this phrase occurs are in policies SL1 and E4. In policy SL1 “Map 2” should replace it.

47. I do not consider that the policy as modified will cause the draft NDP to be in breach of any basic condition.

Page 17, Map 2

48. The key is incomplete and should be completed with the black dotted line identified as the present settlement limits boundary and the red line as the parish boundary.

Pages 18-19, paragraphs 4.32 and 4.33

49. KPC has explained that the latter part of paragraph 4.32 and the whole of 4.33 are an error that they wish to be corrected by deletion. I recommend that this be done and that subsequent paragraphs be renumbered.

Page 20, policy SL2

50. KPC’s proposed modification to the second indent would require developers to pay something that is not a consequence of their development and is not justified. Its proposed modifications to the 6th and 7th indents correct an error in referring to Conservation Areas in the plural and advance sustainable development.

51. I have no other concerns in respect of section 4, which I consider contributes significantly to the achievement of sustainable development.

Sections 5 and 6

Page 33, policy BE1, penultimate indent

52. I share PHSV’s concern about the phrase “*wholly exceptional*” to the extent that I consider that such a strong restriction departs from the presumption in favour of sustainable development. My concern can be met by deleting the word “*wholly*”.

53. I have no other concerns in respect of these sections, which I consider contribute significantly to the achievement of sustainable development.

Section 7 Facilities, Infrastructure and Assets of Community Value

Page 35, paragraph 7.3, first sentence

54. The initial part of this sentence does not make sense. Its deletion would be preferable to replacing it with text on which there has been no consultation.

Page 38, paragraph 7.15, first sentence

55. This states: “*Local businesses providing services and facilities for the local community will also be considered for registration as Assets of Community Value.*” The body responsible for registering ACVs is SDC, not KPC. The Parish Council can make “*community nomination*” under the Localism Act s89 and I note that policy GCS2 includes the word nomination. I therefore recommend modification to reflect the correct legal position.

56. I have no other concerns in respect of this section, which I consider contributes significantly to the achievement of sustainable development.

Section 8, Environment

Page 47 policy E4

57. There is no proposals map. Hence the policy as worded needs correcting. I agree with PHSV that they should be identified in plan form within the NDP and recommend that this is done by adding a new map (Map 5) to the NDP that does this clearly. I have visited the proposed local green spaces and consider that they satisfy the requirements of the Framework’s paragraph 77. I am satisfied that the proposed local green spaces are appropriate for designation.

58. I have no other concerns in respect of this section, which I consider contributes significantly to the achievement of sustainable development.

Section 9 and 10

Pages 56-57, policy LA1

59. I have given careful consideration to policy LA1 in the light of Gladman’s objection to it. In doing so I have borne in mind my site visits. I do not consider that it conflicts with government policy or with any basic condition.

Page 62, paragraph 10.10

60. This paragraph does not make sense at present. I consider that it must have been intended to begin “Some flooding occurs” (or words to the same effect). If this is right it can be modified without injustice and I recommend such a modification. If this is wrong, it would be better to delete the paragraph than to modify it in a way upon which there had been no consultation.

61. I have no other concerns in respect of these sections, which I consider contribute significantly to the achievement of sustainable development.

Section 11, Transport, Road Safety and Access for All

62. I have several concerns about this section.

Pages 74 and 75 Policy T1A

63. I agree with PHSV that justification should not form part of policy. I therefore recommend removing the justification from the policy and inserting them as explanatory text. I do not agree that an NDP should be the same as a Local Plan. On the contrary it is entirely appropriate for it to be more detailed. The neighbourhood plan cannot contain a policy for land outside its area, although it may make reference to such land. I recommend that policy T1A should be modified as shown in Appendix A and that the additional text shown in that appendix should be added.

Page 76, Policy T1B

64. Policy T1B serves a purpose although in the near future that purpose is likely to be limited by the draft NDP as modified. Should the settlement boundary be modified by a review of the Local Plan, it is likely to have greater effect. Its essential nature does not conflict with any basic condition, but it does require some modifications of a secondary nature, including recognition that design and access statements are not required for all developments. I have sympathy for PHSV's comments on acronyms particularly ones that are not in general use, but these do not cause the draft NDP to be in breach of any basic condition. KPC may consider it helpful to include in the plan a list of abbreviations.

Page 78 Policy T3B, 2nd paragraph

65. Contribution through the CIL is a legal requirement, not a matter of policy. I therefore recommend modifying in the form given in Appendix A the second paragraph to correct this.

Page 81, policy T6A

66. I have not seen any evidence that justifies a substantial departure from the local highway authority's policies for parking. Further the policy is exceptionally demanding. For example it would require 3 parking spaces for a single small dwelling, something that would be likely to reduce the number of windfalls. It would also encourage private motor-vehicle dependence in a village whose average commuting distance is high. It follows that to a substantial extent I share the concerns of PHSV and of Pegasus Group about this policy. However its first sentence does not conflict with any basic condition. I therefore recommend that the policy be modified by deletion of all but its title and first sentence.

67. I have no other concerns in respect of this section, which I consider will, when modified, contribute significantly to the achievement of sustainable development.

Section 12 and Appendices

68. I have no concerns in respect of these, other than the obvious omission of the map mentioned in page 92's second paragraph.

Updating

69. It may be that certain passages need updating. For example there are references in the draft NDP to specific intentions as to the future.¹⁸ If any of those specific intentions have come about, it would be appropriate to modify the text to correct what would have become an error (but no more than this). Care should be taken not to extend this to matters on which in fairness there should be consultation. This applies to paragraph 8.27. I am satisfied that this can be brought up to date by recording that an intention mentioned it in the draft has now come about and that this is a minor matter of primary fact that does not require fresh consultation.

8. The Referendum Area

70. I see no reason for the referendum area to be extended beyond the designated plan area, namely the parish of Kingswood. I therefore recommend that the referendum area be limited to that area.

9. Summary of Main Findings

71. I commend the Draft NDP for being well written, logical, clear, appropriately concise and intelligible to a reasonably intelligent lay reader with no expertise in town and country planning.

72. I recommend that the draft NDP be modified in the terms specified in Appendix A to this report in order to meet basic conditions and to correct errors. I am satisfied with all parts of the draft NDP to which I am not recommending modifications.

73. With those modifications the draft NDP will meet all the basic conditions and human rights obligations. Specifically

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the NDP;
- The making of the NDP contributes to the achievement of sustainable development;
- The making of the NDP is in general conformity with the strategic policies contained in the development plan for the area of KPC (or any part of that area);
- The making of the NDP does not breach, and is not otherwise incompatible with, EU obligations;

¹⁸ Paragraphs 8.27 and 8.28.

- The making of the NDP is not likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects).
- The modified draft NDP is in all respects fully compatible with Convention rights contained in the Human Rights Act 1998.

74. I recommend that the modified NDP proceed to a referendum, the referendum area being the parish of Kingswood.

Timothy Jones, Barrister, FCI Arb,

Independent Examiner,

No 5 Chambers

16th January 2017.

Appendix A: Recommended Modifications

Page 4, paragraph 1.12, final sentence

Delete the whole sentence.

Page 4, paragraph 1.13, first sentence

Delete “(including those subject to Legal Challenge)”.

Page 4, paragraph 1.14

Delete this.

Page 12, paragraph 4.3, first sentence

Replace “*the Policies Map*” with “*Map 2*”.

Page 12, paragraph 4.4, line 5

Delete “*achieve*”.

Page 13 paragraph 4.11

Delete this.

Pages 13-22

Renumber paragraphs currently numbered 4.12 to 4.43.

Pages 16 and 17 policy SL1

Replace the first paragraph with “*The development of the village of Kingswood shall be focused within the settlement development limits boundary as identified on Map 2 (or subsequently varied by any adopted Local Plan) and subject to compliance with other policies within the development plan.*”

Page 17, Map 2

The key should be completed with the black dotted line identified as the present settlement limits boundary and the red line as the parish boundary.

Page 18-19 paragraphs 4.32

Replace this with:

“It is also important that any new residential development reinforces the local dwelling mix and demand for property. The market is considered to show a healthy turnover for a range of dwelling sizes. This is evidenced by annual sales counts from Land Registry data.”

Page 19 4.33

Delete this paragraph.

Page 19-22

Renumber paragraphs appropriately.

Page 20, policy SL2

Replace the 6th and 7th indents with one indent, namely: *“Respects the integrity, character, and appearance and the setting of any identified heritage assets”*.

Page 33, policy BE1, penultimate indent

Delete the word *“wholly”*.

Page 35, paragraph 7.3, first sentence

Replace this with *“This approved list of priorities should be used to inform regular updates of the Infrastructure Delivery Plan (and Local Transport Plan) for the district as a whole.”*

Page 38, paragraph 7.15 first sentence

Replace this with *“Local businesses providing services and facilities for the local community will also be considered for nomination for registration as Assets of Community Value.”*

Page 38, Policy GCS2, final paragraph

Replace *“enhances”* with *“enhance”*.

Page 42

Replace *“Map 11”* with *“Map 4”*.

Page 45, paragraph 8.22, 2nd indent

Replace *“ricaess”* with *“richness”*.

Page 47, 1st column, line 3

Replace *“design at”* with *“designate”*.

Page 46, paragraph 8.27, first line

Replace this with *“These areas have been transferred to the Parish”*.

Page 47, policy E4

Replace *“the proposals map”* with *“Map 5”*.

Add an appropriate map on an Ordnance Survey base that clearly shows the local green spaces.

Page 48, Table, 1st column

Replace *“ricaess”* with *“richness”*.

Page 55, paragraph 9.17, 5th indent

Replace “if” with “of”.

Page 57, 4th indent

Replace “Tynedale” with “Tyndale”.

Page 62, paragraph 10.10

Add “flooding occurs” after the word “Some”.

Page 64, paragraph 11.1, line 4

Delete the word “Paragraph” at the end of the line

Page 65, paragraph 11.6, first line

Replace “MNU” with “NMU”.

Pages 74 and 75 Policy T1A

The policy should be modified to read

“Policy T1 A: Developers will be expected to contribute towards the cost of pedestrian connections (footways, footpaths and public rights of way) in the village, including links between their sites and key services and destinations in the village. These contributions will apply to developments of 5 units or more and be on a graded scale in line with the size and scale of the development, its ability to optimise sustainable travel modes, and its predicted traffic impact. Contributions will be proportionate and appropriate in line with the Community Infrastructure Levy Regulations 2010.

The primary improvements identified to receive developer contributions for accessibility improvements, environmental enhancements and traffic-calming from new development proposals in Kingswood when these have traffic impacts on the area are as follows:

- *An accessible pavement should be implemented on Wotton Road.*
- *A zebra crossing should be implemented at Wotton Road/Tubbs Turf junction*
- *Widening and segregating of the pavement from the road, with the addition of space for a cycle lane on Wotton Road*
- *Pedestrian zebra crossing to be implemented at Wickwar Road / Old Rectory Road.”*

The subheading “Pedestrian Accessibility” should be modified to “Pedestrian and Cycle Accessibility”

The following should be added to the policy’s supporting text and subsequent paragraphs should be renumbered.

“11.45 It is desirable to improve provision on Wotton Road both within the parish and (although this plan’s policy cannot cover this) beyond it for the benefit of those walking and cycling between the village and the homes, secondary school and town of Wotton-under-Edge

to its north. The boundary of the parish means that this NDP cannot influence the entirety of the route into Wotton-under-Edge. However this NDP is supportive of a shared-use pedestrian and cycle path into Wotton on Wotton Road, and developer contributions would be approved towards this end.

11.46 A strong desire has been identified through consultation for a designated pedestrian crossing at the Tubbs Turf/Wotton Road junction, in order to cross the road safely. Due to the convergence of 4 roads at this point (Wotton, Charfield, Old Rectory and Abbey Street) it is difficult to read the traffic and fears around safety are high here. A zebra crossing is the preferred solution.”

11.47 A strong need has emerged through consultation for a pedestrian zebra crossing at the Old Rectory Road/Wickwar Road junction, in order to cross the road safely. This is a busy node with a shop, a pub, the gymnasium on The Chipping, a pedestrian footpath to Chestnut Park, and the Village Hall access.

Page 76, policy TB1

This should be modified to read

New Development should positively improve the walkability/accessibility of the village for all users, including those with characteristics protected by the Equality Act 2010. It will not conflict with the user hierarchy which places pedestrian users at the top, particularly at the village centre or at key junctions within the village.

In the application submission material, as an annex of an application’s Design and Access statement (where such a statement is required), applications will be required to undertake and submit an assessment of equality and access issues arising from the site and reasonable and proportionate mitigation will be received through planning conditions and S106 contribution. The assessment will be in line with Annex A of the NMU audit (as supported in the MfGS). A NMU assessment will be required where there is:

- Development is of over 10 units; or*
- There is significant traffic generation;*
- Material change to the way in which a road/route is being used;*
- Road safety issues would discriminate against a specific equality group.*

Page 77, Policy T2B

Replace “styles” with “stiles”.

Page 78 Policy T3B, 2nd paragraph

Replace this with:

“Developers will be expected to contribute towards the costs of any defined traffic management scheme outlined by this policy through a S106 deed of planning obligation unless they are doing so through a CIL payment (See Policy 1 and Projects Section).”

Page 81, policy T6 A

Delete all of this policy other than its title and first sentence.

Either on page 92 or on a new page following page 92

Add an appropriate map on an Ordnance Survey base that clearly shows the Office for National Statistics definition.

Updating

If necessary, there should be appropriate minor updating relating to uncontroversial matters.

Appendix B: Abbreviations

The following abbreviations are used in this report:

Convention	European Convention on Human Rights
Draft NDP	draft Kingswood Neighbourhood Development Plan 2016-2031
EU	European Union
Framework	National Planning Policy Framework (DCLG, March 2012)
General Regulations	Neighbourhood Planning (General) Regulations 2012 (as amended)
Gladman	Gladman Developments Ltd
KPC	Kingswood Parish Council
NDP	Neighbourhood Development Plan
NPPG	national Planning Practice Guidance
para	paragraph
PCPA	Planning and Compulsory Purchase Act 2004 (as amended)
PHSV	Persimmon Homes Severn Valley
s	section
SDC	Stroud District Council
SDLP	Stroud District Local Plan
Sch	Schedule
TCPA	Town and Country Planning Act 1990 (as amended)

Where I use the verb ‘include’, I am not using it to mean ‘comprise’. The words that follow are not exclusive.