

Nailsworth Community Right to Build Order Examination Version

Report to Stroud District Council of the Examination into the
Nailsworth Community Right to Build Order

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1st June 2016

Summary of Recommendation:

Nailsworth Community Right to Build Order: as modified should proceed
to referendum

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1.0 Introduction

- 1.1 Neighbourhood Planning provides communities with the power to shape future development in and around where they work.
- 1.2 This Report provides the findings of the Examination into the Nailsworth Community Right to Build Order (referred to as the NCRTBO).
- 1.3 The Nailsworth Community Land Trust (NCLT) is recognised as the qualifying body for leading a Community Right to Build Order¹. The NCLT was initiated by Nailsworth Town Council to develop and manage affordable homes as well as other assets important to the community.
- 1.4 This Report provides a recommendation as to whether or not the NCRTBO should go forward to a Referendum.
- 1.5 Modifications may not fundamentally change the Order's content or direction, but are intended to ensure that the Order meets the Basic Conditions.
- 1.6 Were the Plan to go to Referendum and achieve more than 50% of votes in favour, then the NCRTBO would be made by Stroud District Council and planning permission be granted.
- 1.7 I would like to take this opportunity to commend all parties that have taken part in the creation of the NCRTBO and its evidence bases. This CRTBO comprises a well-considered approach towards meeting the affordable housing needs and onward development requirements of the area whilst protecting the public routes and landscape that contributes to the attraction and quality of life for local people. Modifications to the Proposal are intended ensure the aims of the Proposal are furthered within the current planning framework.

1.2 The proposed development: Nailsworth Community Right to Build Order

- 1.2.1 The proposal is for 10 new affordable homes on land at Lawnside/ Bunting Hill, Nailsworth, Gloucestershire. These will comprise 6 x 1 bedroomed, two person homes, arranged in maisonettes, and; 4 x 2 bedroomed, four person homes and 15 car parking spaces.
- 1.2.2 The need for this housing was established by a Housing Needs Survey commissioned by Nailsworth Town Council and run by the Gloucestershire Rural Community Council.

¹ In accordance with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014)

2.0 Appointment of the Independent Examiner

- 2.1 I have been appointed by Stroud District Council with the consent of Nailsworth Community Land Trust to conduct the Examination and provide this Report as Independent Examiner. My appointment was facilitated by NPIERS, The Neighbourhood Planning Independent Examiner Referral Service.
- 2.2 I confirm that I am independent of the qualifying body and local authority; without land or other interests that may be affected by the Proposal. I am a Chartered Town Planner with over 20 years experience in public, private, third sector and community organisations specialising in planning, design and community led development.
- 2.3 As Independent Examiner, I must make one of the following recommendations:
- a) that the Community Right to Build Order should proceed to Referendum, on the basis that it meets all legal requirements;
 - b) that the Community Right to Build Order as modified should proceed to Referendum; **This is the recommendation for the NCRTBO.**
 - c) that the Community Right to Build Order does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 2.4 If the order proposal can proceed to referendum with or without modifications, the examiner must consider whether the referendum area should be extended beyond the related neighbourhood plan area. In this case the site is within the built up area of the Nailsworth Neighbourhood Area which forms a known, logical area. Therefore the Referendum area may remain the same as the Neighbourhood Designated Area.
- 2.5 In respect of a CRTBO the Examiner's report is binding. If the Examiner's report recommends that the draft order is refused, the local planning authority must refuse the proposal. If the examiner's report recommends the draft order is submitted to a referendum (with or without modifications) a referendum must be held on the making by the authority of a CRTBO.
- 2.6 If the order proposal goes forward to a referendum and more than 50% of those voting vote in favour of the order proposal then it is made by the relevant local planning authority, Stroud District Council.
- 2.7 I also considered whether it was necessary to hold a hearing into the CRTBO. Given that a hearing may be held when it is considered necessary to ensure adequate examination of the issue or a person has a fair chance to put a case, I decided that it was not necessary to hold a hearing into this Order. The evidence of community and stakeholder engagement shows that people have had fair chance to put their case and the CRTBO is supported so far.

3.0 Role of the Independent Examiner

3.1 The Community Right to Build Order is subject to Independent Examination to ensure that it meets the Basic Conditions and other requirements set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

3.2 The Basic Conditions are:

- (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order.
- (b) having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order.
- (c) having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order.
- (d) the making of the order contributes to the achievement of sustainable development.
- (e) the making of the order 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 order does not breach, and is otherwise compatible with, EU obligations. The Order has been screened for EIA by Stroud DC which has found no requirement for the submission of Environmental Impact Statements as any impacts as they are on the environment are not sufficient as to be covered by the EIA Regulations 2011.
- (g) prescribed conditions are met in relation to the order and prescribed matters have been complied with in connection with the proposal for the order.

3.3 Regulations 32 and 33 of the Neighbourhood Planning Regulations (2012) as amended set out two further Basic Conditions:

The making of the neighbourhood plan or order 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.

Having regard to all material considerations it is appropriate that the neighbourhood development order is made where the development described in an order proposal is Environmental Impact Assessment development.

3.4 The Examiner is also required to consider whether:

The order proposal is accompanied by a draft of the order and a statement which contains a summary of the proposals and set out the reasons why an order should be made in the proposed terms and the order is made by a community organisation and grants planning permission for specified

development in relation to a specified site in the specified neighbourhood area and the specified development does not exceed prescribed limits.

The order proposal may not provide for the granting of planning permission for development which is excluded development, where planning permission is already granted for that development, and may not relate to more than one neighbourhood area.

The order proposal complies with section 61L of Schedule 9 of the Town and Country Planning Act 1990 (as amended) which refers to permission granted by neighbourhood development orders and any conditions specified in the order and any time periods specified.

Whether the draft order is compatible with the Convention rights.

- 3.5 Having examined the CRTBO I am satisfied that all of the points have been met, as expanded upon later in this report and subject to modifications.

4.0 About Community Right to Build Orders

- 4.1 Neighbourhood Development Orders can grant planning permission for specific types of development in a neighbourhood area. A Community Right to Build Order (CRTBO) is a particular type of Neighbourhood Development Order that can be used to grant planning permission for small scale development for community benefit on a specific site in a neighbourhood area. This power means that the community can decide to build, for example, a community centre or new residential development without submitting a planning application and going through the usual planning application process.
- 4.2 In particular for Nailsworth CRTBO the legislation provides a mechanism that enables housing which is developed using a CRTBO to be retained as being affordable in perpetuity. This is achieved by disapplying certain statutory rights of tenants of long leases to buy their freehold and the statutory right given to qualifying tenants to acquire social housing as within the provisions of Schedule 4C to the Town and Country Planning Act 1990 (as amended), paras 11 and 12, and Neighbourhood Planning (General) Regulations 2012 (as amended) Part 7.² Section 12 of this report refers.
- 4.3 Where the community organisation would like to develop the land itself the resulting assets can only be disposed of, improved or developed in a manner which that organisation considers would benefit the community.³ This is covered in more detail in Section 5 of this report, about the Nailsworth Community Land Trust.
- 4.5 Meaning of “community right to build order” is provided by the Localism Act 2011, Schedule 11 which inserted Schedule 4C to the Town and Country Planning Act 1991 and S.61Q, stating in para. 2:

(1) A neighbourhood development order is a community right to build order if—

(a) the order is made pursuant to a proposal made by a community organisation **Here, it is the Nailsworth Community Land Trust Ltd, Companies House registration number RS007192⁴**

(b) the order grants planning permission for specified development in relation to a specified site in the specified neighbourhood area, **as set out in supporting drawings attached to the CRTBO and is for 10 housing units that will be 100% affordable**

(c) the specified development does not exceed prescribed limits⁵.

² NPPG Neighbourhood Planning Paragraph: 012 Reference ID: 41-012-20140306

³ 2012 NP Regs Part 4

⁴ Letter from Financial Conduct Authority dated 18 August 2015

⁵ (2) Regulations under sub-paragraph (1)(c) may prescribe a limit by reference to—

(a) the area in which the development is to take place; (b) the number or type of operations or uses of land constituting the development, or (c) any other factor.

5.0 Nailsworth Community Land Trust

- 5.1 Part 4 of the Neighbourhood Planning Regulations 2012 (as amended) makes provision in relation to additional prescribed conditions a community organisation must satisfy in order to be a community right to build organisation. This includes allowing anyone from the area to be a member of the organisation and ensuring that such members have majority voting rights for the body and prescribing the way profits must be used and assets distributed on a winding up (regulation 13).

Prescribed conditions for community right to build organisations
13.—(1) For the purposes of paragraph 3(1)(b) of Schedule 4C to the 1990 Act, the following additional conditions are prescribed for any community organisation which is not a parish council—
(a) individuals who live or work in the particular area for which the community organisation is established (“the particular area” which for NCRTBO will be the neighbourhood area established by Nailsworth Town Council) must be entitled to become voting members of the community organisation (whether or not others can also become voting members); (provided for within paras. C5 to C10 and C11 to C13 of the NCLT Rules) and
(b) the constitution of the community organisation must—
(i) provide that taken together the individuals who live in the particular area—
(aa) hold the majority of the voting rights; (provided in the NCLT Membership Policy Adopted 14 December 2015) and
(bb) have the majority on the board of directors or governing body, of the community organisation; (provided in the NCLT Membership Policy Adopted 14 December 2015)

(ii) include a statement—
(aa) that the community organisation will carry on its activities for the benefit of the community in the particular area or a section of it; (provided in para. A2 of the NCLT Rules) and
(bb) indicating how it is proposed the community organisation’s activities will benefit the community in the particular area (or a section of it) (provided in para. A2 of the NCLT Rules);
(iii) provide that any assets of the community organisation may not be disposed of, improved or developed except in a manner which the community organisation consider benefits the community in the particular area or a section of it; (provided in para. A3 to A5 of the NCLT Rules) and
(iv) provide that any profits from its activities may only be used to benefit the community in the particular area or a section of it (the payment of profits directly to members or directors is not to be considered a benefit to the community in the particular area or a section of it) (provided in para. A3 to A5 of the NCLT Rules);
(v) provide that in the event of the winding up of the community organisation or in any other circumstances where the community organisation ceases to exist, its assets must be transferred to another

body corporate which has similar objectives; (provided in para. A5.6 of the NCLT Rules) and

(vi) provide that the organisation has at least 10 members, living in different dwellings to each other, who live in the particular area.

(confirmed via the NCLT membership list of 10 May 2016)

(2) For the purposes of this regulation, "dwelling" has the meaning given in section 3 of the Local Government Finance Act 1992(a).

- 5.2 The NCLT Rules⁶ state it is formed for the benefit of the community to operate as a Community Land Trust in Nailsworth for purposes including providing and managing housing including social housing. There is a restriction on use of assets pursuant to regulations made under section 29 of the Co-operative and Community Benefit Societies Act 2014 that include for a purpose of benefit for the community. Eligibility for membership and obligations of members are clearly defined to act in the best interests of the CLT. There exists an asset lock upon any dissolution of the CLT whereby its assets would be transferred to another named body.
- 5.3 The community organisation for the NCRTBO is the Nailsworth Community Land Trust. Members of the local community in Nailsworth set themselves up as a corporate body, the NCLT with the purpose of furthering the social, economic and environmental well-being of the local community. The resulting developments would then be managed by this corporate body, either themselves or via a third party such as the nominated Aster Homes. Any benefits from any development which come to the body must be retained or used for the benefit of the community, as per the NCLT Rules.
- 5.4 The NCLT comprises 'body corporate'. It is registered as the Nailsworth Community Land Trust Ltd, Companies House registration number RS007192⁷ with the Financial Conduct Authority as a Registered Society under the Co-operative and Community Benefit Societies Act 2014. The model rules are based on the model rules of the National CLT Network.
- 5.5 The NCLT comprises a 'community organisation' whereby the 1990 Planning Act (as amended) states within para. 3 (1) (a) relating to a 'body corporate' established for the express purpose of furthering the social, economic and environmental well-being of individuals living, or wanting to live in a particular area, and which meets such other conditions in relation to its establishment or constitution as may be prescribed, and; para. 3 (2) where provisions relate to distribution of profits by members, assets of the body, membership and control. Here, S.61G, para. 2 defines a 'relevant body' as either (a) parish council, or (b) community organisation.

⁶ Dated 22 December 2014 <http://www.nailsworthclt.org.uk/docu/>

⁷ Letter from Financial Conduct Authority dated 18 August 2015

5.6 Proposals by community organisations for community right to build orders:

4 (1) A community organisation is authorised for the purposes of a community right to build order to act in relation to a neighbourhood area (whether or not any part of the neighbourhood area falls within the area of a parish council) if

(a) the area mentioned in paragraph 3(1)(a) consists of or includes the neighbourhood area, and

(b) at the time the proposal for the order is made more than half of the members of the organisation live in the neighbourhood area.

(2) Accordingly, the community organisation is in that case to be regarded as a qualifying body for the purposes of section 61E.

The evidence provided shows that the community organisation is authorised for the purposes of a CRTBO as it satisfies paragraphs (a) and (b), above.

5.7 I am therefore satisfied that the Nailsworth Community Land Trust meets the prescribed conditions required for community right to build organisations as set out in Part 4 of the Neighbourhood Planning Regulations 2012, as amended.

6.0 Content of a Community Right to Build Order

6.1 Where a CRTBO is submitted to the local planning authority S.22 of the Neighbourhood Planning (General) Regulations 2012 specify it must include:

- a) A map identifying the land to which the order relates. The Order provides this data.
- b) A consultation statement which includes a) details of those bodies and persons who were consulted, b) explains how they were consulted, c) summarises the main issues and concerns raised by those consulted and d) describes how those issues and concerns have been considered and addressed in the proposed order. The Order provides this data in its sections S.2.0 and S.8.0.
- c) The proposed order. The Order provides this detail.
- d) An archaeology statement if the qualifying body considers it to be appropriate after consultation with English Heritage. When one is submitted this should confirm that information contained in the historic environment record has a) been reviewed, b) sets out the findings from that review and c) explains how the findings have been taken into account in preparing the order proposal. Where no findings of relevance are identified the statement need only a) confirm the review has taken place and b) explain there are no relevant findings. The Order provides this data and confirms that there are no relevant findings.
- e) A statement that explains how the order meets the Basic Conditions. The Order provides this data in section S.7.0.
- f) Details of any enfranchisement rights and the properties or types of properties to which the qualifying body proposes are not exercisable. The Order provides this data in section S.6.0 Enfranchisement rights where the Right to Buy and Right to Acquire are proposed to be removed for the proposed new affordable homes in order to ensure they are affordable in perpetuity.

6.2 Having examined the CRTBO I am satisfied that all of the necessary data has been provided.

7.0 Compliance with matters other than the Basic Conditions

- 7.1 In relation to the matters set out earlier in this report, I am satisfied that the Orders are made by a qualifying body and grant planning permission for a specified development on a specified site in a specified neighbourhood area. The Order does not grant permission for development which already has planning permission and does not relate to more than one neighbourhood area.
- 7.2 The Order proposal contains a draft of the Order, statement of the proposal and reasons why the Order should be made. The draft Order contains a number of conditions including some that specify time periods and I consider that, with appropriate modifications, these would comply with the relevant requirements.
- 7.3 The development site lies within a wider area, designated as a 'neighbourhood area' under S.61G of the 1990 Act as amended and covers the whole of the civil parish of Nailsworth. It was designated on 16 June 2015. Nailsworth Town Council considers the area is an appropriate area for designation as a Neighbourhood Area, for the following reasons:
1. The area defined is covered by Nailsworth Town Council in its entirety. The Neighbourhood Area will sit comfortably with the electorate, as it also constitutes an Electoral Ward. The Civil Parish area/Electoral Ward has been adopted by the Nailsworth Community Land Trust Steering Group, acting under the auspices of the Town Council, as its area for eligible membership. It is therefore appropriate that this is the area for the planned referendum on the Community Right To Build Order (CRTBO) to be promoted by the CLT and the Town Council to obtain consent to the development of eight (sic) affordable homes in Lawnside, Forest Green. This will be on land to be provided to the CLT by Stroud District Council.
 2. This is the area used consistently by the Town Council for the most recent and previous consultation exercises on preparing and updating the Town Plan that guides the work of the Town Council.
 3. This is the area served by the 10 issues a year home delivery of the Nailsworth News, the 24 page town magazine.
- 7.4 This is the area that will form the referendum area.

8.0 Background documents

8.1 In undertaking this examination, I have considered the following documents in addition to the Examination Version of the Nailsworth Community Right to Build Order:

1. The submitted Order
2. The CRTBO Basic Conditions Statement
3. The CRTBO Consultation Statement
4. The CRTBO Enfranchisement
5. Documents listed in Appendices from the CRTBO
6. The Neighbourhood Area
7. Representations made to the Order as part of Reg. 21 and 23 consultations
8. Nailsworth Community Land Trust web page
<http://www.nailsworthclt.org.uk/docu-2/>
9. Nailsworth CLT Rules
10. Constitution of the Nailsworth CLT
11. Draft Lease Agreement with Aster Communities Ltd (RSL)
12. Stroud District Local Plan Adopted Nov. 2015
13. Stroud District Council Residential Design Guide, SPD Nov. 2000
14. National Planning Policy Framework (NPPF) (2012)
15. National Planning Policy Guidance (NPPG) (2014) and updates
16. Town and Country Planning Act 1990 (as amended)
17. The Localism Act (2011)
18. The Neighbourhood Planning Regulations (2012 as amended)

8.2 I visited the site and the surrounding area unaccompanied for the proposed CRTBO

9.0 Planning Policy Context

9.1 Stroud District Local Plan was adopted in November 2015 (the 2015 Plan) and covers the period up to 2031. It provides a clear and up-to-date framework for the proposed CRTBO.

9.2 The following policies have been highlighted within the CRTBO as directly relating to the Order proposal:

CP9: Affordable housing

CP14: High quality sustainable development

HC1: Meeting small scale housing need within defined settlements

ES8: Trees, hedgerows and woodlands

EI12: Promoting transport choice and accessibility

9.3 The 2015 Plan recognises and supports the development of neighbourhood plans in S.7.5 which by implication includes the wider powers to facilitate community-led development conferred by the Localism Act 2011. The 2015 Plan's Vision for the District is of one that is 'living, modern and innovative' responding to climate change, providing a safe and inclusive way of living and nurturing its historic and cultural heritage. The proposed CRTBO will be a positive contributor towards this vision.

9.4 Stroud District Council supported the CRTBO in its delegated report dated 16th December 2015 and recommended the conditions that are proposed within the CRTBO. I have added to these conditions with modifications detailed later in this report.

10.0 Consultation

- 10.1 Public consultation is important for the development of Community Right to Build Orders. More especially because the making of a CRTBO replaces the need for a traditional planning application.
- 10.2 NCLT prepared a Consultation Statement as part of the Order. This refers principally to consultations undertaken through the Reg. 21 and 23 requirements and builds on earlier consultations.
- 10.3 Earlier consultations are described in the Order, Section 1.0 Introduction, pg. 3, where a public meeting was held in October 2013 to consider establishing a Community Land Trust (CLT) to develop and manage affordable homes with a view to later considering other assets important to the community. This built on earlier discussions which began December of the previous year. From this meeting Nailsworth Town Council set up the Nailsworth Community Land Trust with the aim to be registered as a Community Benefit Society.
- 10.4 The steering group for the CLT met monthly throughout 2014 and 2015 to find a suitable site for affordable housing and then begin developing a brief for the affordable housing for the site chosen for this CRTBO. A further public meeting was held on 8th December 2014 that would be promoted via Nailsworth News, email to members and Facebook as well as trying for coverage in the local press. This meeting charted the progress from Dec 2012 – Initial discussions, to May 2013 – Housing Needs Survey, Oct 2013 – CLT Meeting, Dec 2013 – 1st Steering Group meeting and Dec 2013 – Site visits.
- 10.5 Further meetings took place throughout 2014 and 2015 to progress the CLT and housing on the site, a membership drive, choosing a partner Housing Association, site feasibility study and selection of architects.
- 10.6 Minutes of an NCLT Steering meeting 13 July 2015 document a public consultation event at the Arkell Community Centre on 8th July, spanning the afternoon to early evening at which 25 members of the public attended and site meeting on 4th July. The issues raised had been:
- site boundaries - the need for clarity and the retention of vegetation.
 - Bollards - desire for their removal and retention.
 - Car Parking - whether those using the garages will get replacements locally, and possible additional parking demand from the new homes.
 - Roof Heights - that they be kept as low as practically possible.

- 10.7 The CLT Steering Group Meeting on 14th September 2015 was an open meeting and received questions from local people about the detail of the scheme including concerns over parking and highway safety, overlooking and building heights.
- 10.8 The Reg. 21 consultation for the Order took place from 5th October to 16 December 2015. Certain groups were only notified on 3rd of November, therefore, to ensure all parties had at least 6 weeks to respond, the consultation was extended until the 16th of December 2015 and was followed up via a number of events. Publicity was via statutory notices in press, NCLT website, TIC window display, Clocktower banner, NN and drop-in sessions in Arkell Community Centre and Mortimer Rooms, Old Market (with Steering Group members). The findings are reported in S.2.0 of the NCRTBO. The plans were modified to reduce any loss of privacy for the surrounding residential properties and improvements in layout so the car parking would not dominate the streetscene.
- 10.9 The Reg. 23 consultation took place between 27th January and 09th March 2016 and is reported in Section 8.0 Consultation Summary of the Order.

11.0 Compliance of NCRTBO with the Basic Conditions

11.1 This section of the report deals with the extent to which NCRTBO meets the Basic Conditions. The Order needs to meet all the Basic Conditions and other requirements set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended) to proceed to referendum.

The Basic Conditions are:

(a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order.

National policies and advice is set out in National Planning Policy Framework (NPPF), 2012 and Planning Practice Guidance (PPG) 2014. NPPF introduces neighbourhood planning and sets core land use planning principles to underpin plan making and decision taking. A community right to build order is part of the decision taking apparatus sitting within the wider NPPF context and with the presumption in favour of sustainable development, a 'golden thread running through both plan-making and decision-taking' (NPPF14).

In particular the NCRTBO responds positively to NPPF16 where it indicates that neighbourhoods should develop plans that support the strategic needs set out in local plans and plan positively to support local development that is outside the strategic elements of the development plan.

NPPF 71 identifies the particular importance of Community Right to Build Orders and positive and collaborative working with local planning authorities of the community and key stakeholders. It also highlights the importance of working with communities to identify and resolve key issues. The NCRTBO has charted in its consultation statement. Local issues relating to overlooking, highways and retention of landscaping have been explained and overcome through consultation.

NPPF 10 states the importance of taking local circumstances into account so they respond to different opportunities for achieving sustainable development in different areas. Here the local engagement has resulted in alteration of the proposed scheme to allow for the site context of a sloping site and access and privacy issues.

I am also satisfied that the Order has had regard to NPPF56 – 58 relating to design quality.

The proposed conditions within NCRTBO must also have regard to national policy. The six tests set out in NPPF 206 state that conditions must be: necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise, and; reasonable in all other respects.

As submitted the NCRTBO conditions are provided in headlines only and must be provided in full. They are presently incomplete concerning tenure

and protection of flora and fauna. Consequently they do not fully accord with the six tests. These are addressed in modifications later in this report and to ensure the NCRTBO is in general conformity with national and local planning policy. In making these modifications I have been mindful of the model conditions set out in Appendix A of Circular 11/95 which remains extant.

In addition to the NPPF I have also taken account of other elements of national planning guidance including the Planning Practice Guidance and written ministerial statements of March, May and June 2015.

Having considered the evidence and representations provided I am satisfied that the submitted Order has had regard to national planning policies and guidance in general terms. It sets out a positive solution to providing 100% affordable housing that is designed to suit local requirements, would sit well within its context and fulfil a defined local need.

The Order, with modifications, therefore satisfies this requirement.

(b) having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order.

The NCRTBO has submitted evidence stating there are no listed buildings in the area and therefore the proposal will have no direct or indirect effect. The Order therefore satisfies this requirement.

(c) having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order.

The NCRTBO has submitted evidence stating there is no conservation area in the near vicinity and therefore the proposal will have no direct or indirect effect. The Order therefore satisfies this requirement.

(d) the making of the order contributes to the achievement of sustainable development.

Evidence submitted with the NCRTBO demonstrates the proposed development will contribute to this achievement. It will provide affordable homes for local people that are well designed in themselves and sit well within the landscape. The design and layout has been developed in conjunction with and supported by local people through consultation.

I am therefore satisfied that the Order has had regard to NPPF 14, 16, 17 and 47 relating to sustainable development and the provision of affordable housing and high quality homes, NPPF56 – 58 relating to design quality. In addition to the NPPF I have also taken account of other national planning guidance including the Planning Practice Guidance and written ministerial statements of March, May and June 2015.

(e) the making of the order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).

The detail of the submitted NCRTBO, supporting documents, particularly the Basic Conditions Statement, the local planning authority delegated report and Local Plan, representations made and having viewed the site I am satisfied the proposed NCRTBO is in general conformity with the strategic policies in the development plan. In particular I am satisfied that the NCRTBO would bring forward a 100% affordable housing scheme that would comply with Local Plan Policy CP9, Affordable housing where the mix is based on the results of a local housing needs survey and local consultation. In addition the NCRTBO, as modified, is in general conformity with other specific matters of the development plan, is of high quality sustainable development (CP14), meeting small scale housing need within defined settlements (HC1), protection of trees, hedgerows and woodlands (ES8), promoting transport choice and accessibility (EI12).

(f) the making of the order does not breach, and is otherwise compatible with, EU obligations.

The Order has been screened for EIA by Stroud DC which has found no requirement for the submission of Environmental Impact Statements as any impacts as there are on the environment are not sufficient as to be covered by the EIA Regulations 2011.

The Order has been screened for HRA by Stroud District Council which has found that the development site is not likely to have a significant effect on any European designated nature sites or Sites of Special Scientific Interest (or European Offshore Marine Habitats), either alone or in combination with other plans or projects, and so does not require a Habitats Regulation Assessment under the EU Habitats Regulations.

Stroud DC confirms in its letter of 15 September 2015 that the proposed development will have no significant effects on any other EU obligations.

The Order documents evidence that it has been consulted upon fairly, that local people have had the opportunity for a fair hearing and that their views have been considered and incorporated in changes to the document and therefore does not breach Human Rights requirements.

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

Subject to the modifications proposed, the Order complies.

Regulations 32 and 33 of the Neighbourhood Planning Regulations (2012) as amended set out two further Basic Conditions:

- The making of the neighbourhood plan or order 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 Order complies.

- Having regard to all material considerations it is appropriate that the neighbourhood development order is made where the development described in an order proposal is Environmental Impact Assessment development.

Stroud DC has screened and confirmed that EIA is not required for the development proposed in the CRTBO.

The Examiner is also required to consider whether:

- The order proposal is accompanied by a draft of the order and a statement which contains a summary of the proposals and set out the reasons why an order should be made in the proposed terms and the order is made by a community organisation and grants planning permission for specified development in relation to a specified site in the specified neighbourhood area and the specified development does not exceed prescribed limits.

This has been provided and therefore the Order complies.

- The order proposal may not provide for the granting of planning permission for development which is excluded development, where planning permission is already granted for that development, and may not relate to more than one neighbourhood area.

The Order complies.

- The order proposal complies with section 61L of Schedule 9 of the Town and Country Planning Act 1990 (as amended) which refers to permission granted by neighbourhood development orders and any conditions specified in the order and any time periods specified.

The Order complies.

- Whether the draft order is compatible with the Convention rights.

The Order complies. Sufficient community engagement and the right to respond has been demonstrated and resulting alterations subsequently made to the submitted Order. These are documented in NCRTBO sections S.2.0 and S.8.0. Publicity for these Orders was made in accordance with NDP Regs 21 and 23, the former being between 5 October 2015 and 16 December 2015 clearly documented within the CRTBO. Prior to this the first meeting of the CLT Steering Group took place 17 December 2013 stating its aim to adhere to good practice for CLT and to be open and transparent. Section 10, Consultation, of this report provides greater detail of public engagement.

12.0 Enfranchisement rights and retention of affordable housing in perpetuity

- 12.1 The legislation provides a mechanism that enables housing developed using a Community Right to Build Order to be retained as housing that is affordable in perpetuity. This is achieved by disapplying certain statutory rights of tenants of long leases to buy their freehold and the statutory right given to qualifying tenants to acquire social housing as per the provisions of the Town and Country Planning Act 1990 (as amended) (paras. 11 and 12 of Schedule 4C) and the Neighbourhood Planning (General) Regulations 2012 (as amended), Part 7.
- 12.2 The CRTBO, in section 6.0 Enfranchisement Rights, clearly states that both the Right to Buy and the Right to Acquire are to be removed.
- 12.3 Nailsworth Community Land Trust will eventually become the owner of the land with the title transferred to it by Stroud District Council for the sum of £1. The Community Right to Build Order will grant planning permission for this development. The proposed affordable housing is being provided by Aster Homes, a Registered Provider and that will be the development partner for NCLT. Aster Homes are funding the CRTBO and the resulting development and will maintain and manage the completed homes along a 125 year lease.
- 12.4 Using a CRTBO to grant planning permission results in the benefits staying within the community, delegating the management of these benefits to the community itself.
- 12.5 A CRTBO requires no further mechanism for transfer of monies or benefits other than the nature of the community organisation or body with the purpose of furthering the social, economic and environmental well-being of the community⁸ plus other conditions where not a Parish Council. This is the reason for the importance attached to the nature of the organisation that is the relevant body for submitting a CRTBO, as provided in the legislation.⁹
- 12.6 The nature of the 'community organisation'¹⁰ is described in Section 5, Nailsworth Community Land Trust, of this report.

⁸ <https://www.gov.uk/government/publications/2010-to-2015-government-policy-localism/2010-to-2015-government-policy-localism> & <http://mycommunity.org.uk/resources/understanding-the-community-right-to-build/>

⁹ NP Regs 2012 Part 4

¹⁰ 1990 Planning Act (as amended)

13.0 Modifications to the CRTBO

13.1. Section 1.0 Introduction

Refer to constitution of the NCLT and reference to the full constitution in the Appendices.

13.2. Section 2.0 Consultation Statement

Include a summary of the engagement and consultation events, publicity and outcomes from inception of the NCLT leading to the NCRTBO.

13.3. Section 4.0 The Order: Description of Development

Include the conditions in full in a separate section 9.0 Conditions. The condition removing permitted development rights shall extend to removal of permitted rights for inserting additional windows and other openings or apertures in order to maintain privacy for nearby residents.

13.4. Section 9.0 Conditions

13.5. Add to the planning conditions the following conditions:

- a) Conditions relating to wildlife surveys in accordance with the recommendations on page 17 and 18 of the Preliminary Ecological assessment provided by Middlemarch Environmental Ltd.
- b) The Affordable housing units shall be constructed and completed (and all associated works including all services roads and paths) in accordance with the Approved Affordable Housing Scheme.
- c) All 10 Affordable Rented Dwelling Units shall be completed in accordance with the Affordable Housing Matrix of 6 x 1 bedroomed, two person homes, arranged in maisonettes, and; 4 x 2 bedroomed, four person homes and 15 car parking spaces.
- d) The developer shall ensure the highway and pedestrian layout and finished surfaces are in accordance with the drawings submitted with the CRTBO following the laying of services and construction traffic access.

- e) The proposed development shall be carried out in accordance with the submitted drawings as shown by the drawings accompanying this application: -

Site layout – proposed no: 14054/10 rev. C dated 30 Oct 2015
Site elevations – proposed sheet 1 of 2 no: 14054/11 rev. C dated 30 Oct 2015
Site elevations – proposed sheet 2 of 2 no: 14054/12 rev C dated 30 Oct 2015
Unit plans and elevs. no: 14054/13 rev. B dated 30 Oct 2015
Topographical survey no: 595/7979/1 dated Aug. 2014

- f) The developer shall ensure the Affordable Housing is managed and occupied in accordance with the objects of a Registered Provider and with such published housing waiting list and lettings and allocations policy as the Registered Provider may from time to time adopt (the same having been first Approved by the Council) to ensure that the Affordable Housing Units and at all times subsequently that each Affordable Housing Unit is allocated to a Person in Housing Need as their sole residence
- g) The developer shall in respect to the Affordable Rented Units to allocate each Dwelling to a Qualifying Person* by advertising any vacant Dwelling through the Gloucestershire Homeseeker Choice Based Lettings scheme (or any replacement scheme) and thereafter by allocating any such vacant Dwelling to a Qualifying Person as his sole residence and who expresses an interest in occupying the said Dwelling through bidding on the Council's 'Choice Based Letting' scheme (or any replacement scheme) SUBJECT TO the Owner having first agreed in writing with the Council the appropriate labelling for such Dwelling to provide more information on who is eligible to express an interest in occupying the same

* Qualifying Person means a person on the Council's Housing Register and accepted by the Council as a Person in Housing Need who would qualify for Affordable Housing in accordance with the policies of the Council current at the relevant time and has a Local Connection** to the Relevant Geographical Area***

Local connection means (i) having Family Associations within the Relevant Geographical Area; (ii) for a continuous period of either 6 months out of the last 12 months or; 3 years out of the last 5 years immediately prior to the date that the Affordable Rented Housing Unit becomes vacant having had their only or principal home within the Relevant Geographical Area; or (iii) for the last 6 months immediately prior to the date that the Affordable Rented Housing Unit becomes vacant having had their place of work (not of a casual nature) within the Relevant Geographical Area*

*** Relevant Geographical Area means means in preference the parish of Nailsworth or in the event of there being no Qualifying Person in the parish of Nailsworth then substitute a Qualifying Person within the parishes of Nympsfield, Woodchester, Amberley, Horsley and Minchinhampton in the event of there being no Qualifying Person within the parishes of Nympsfield, Woodchester, Amberley, Horsley and Minchinhampton then substitute a Qualifying Person within the Stroud District.

14.0 Summary and Referendum

In summary, it is my view that the Nailsworth Community Right to Build Order reflects the views of the community and sets out a clear and deliverable development.

There are minor Modifications to the Order. None fundamentally change its content or direction, but are intended to ensure that the Order meets the Basic Conditions and is a user-friendly document.

The Nailsworth Community Right to Build Order stands alone and no further requirements are made to ensure the housing remains affordable in perpetuity, as outlined in this document, particularly S.12 Enfranchisement Rights and within the conditions of permission. Therefore a S.106 agreement, as provided in the draft document, is discretionary.

Subject to the above, the Nailsworth Community Right to Build Order has regard to national policies and advice contained in guidance issued by the Secretary of State; contributes to the achievement of sustainable development; is in general conformity with the strategic policies of the development plan for the area; does not breach, and is compatible with European Union obligations and the European Convention of Human Rights and does not affect any conservation area or listed building.

The Nailsworth Community Right to Build Order meets the Basic Conditions.

Referendum

I am delighted to recommend to Stroud District Council that, subject to the minor modifications proposed, the Nailsworth Community Right to Build Order should proceed to a Referendum.

Referendum Area

I am required to consider whether the Referendum area should be extended beyond the Nailsworth Neighbourhood Area.

The Neighbourhood Area mirrors the boundary of the parish. It forms a logical and known boundary. I therefore consider the Neighbourhood Area to be appropriate. No evidence has been submitted to demonstrate that this is not the case.

I recommend that the Plan should proceed to a Referendum based on the Nailsworth Neighbourhood Area as defined by Stroud District Council on 16th June 2015.