

Welland Neighbourhood Development Plan

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

Copy to Little Malvern and Welland Parish Council

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Summary of Main Findings

This is the report of the Independent Examination of the Welland Neighbourhood Development Plan that has been prepared by Little Malvern and Welland Parish Council. Welland Parish only (and not Little Malvern Parish) was designated as a Neighbourhood Area on 12 May 2014. The Neighbourhood Plan relates to the Neighbourhood Area. The plan area lies within the Malvern Hills District Council area. The plan period runs until 2041. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan allocates land for residential development of 13 dwellings. The allocation includes land for green infrastructure.

This report finds that subject to specified modifications the Neighbourhood Plan meets the Basic Conditions and other requirements. It is recommended the Neighbourhood Plan should proceed to a local referendum based on the plan area.

Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. Paragraph 29 of the National Planning Policy Framework (the Framework) states that “neighbourhood planning gives communities the power to develop a shared vision for their area”.
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Welland Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Little Malvern and Welland Parish Council (the Parish Council). The Welland Parish part of the administrative area of the Parish Council was designated by Malvern Hills District Council (the District Council) as a Neighbourhood Area on 12 May 2023. The draft plan which relates to the Neighbourhood Area has been submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Welland Neighbourhood Area (the Neighbourhood Area). The Neighbourhood Plan has been produced by a Neighbourhood Plan Working Group (the Working Group) made up of Parish Councillors and other volunteers from the local community.
4. The submission draft of the Neighbourhood Plan and accompanying documents were approved by the Parish Council for submission to the District Council. The District Council arranged a period of publication between 26 June 2023 and 21 August 2023. This period of publication included a two-week extension after the Parish Council advised at the beginning of August that the ‘Welland Neighbourhood Plan: Housing Site Assessment and Selection Report (November 2022)’ was not listed with the other Neighbourhood Plan Consultation evidence base documents on the website. The District Council subsequently submitted the Neighbourhood Plan to me for independent examination which commenced on 12 September 2023.

Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan. The report makes recommendations to the District Council including a recommendation as to whether the Neighbourhood Plan should proceed to a local referendum. The District Council will decide what action to take in response to the recommendations in this report.
6. The District Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and a decision statement is issued by the local planning authority outlining their intention to hold a neighbourhood plan referendum, it must be considered and can be given significant weight when determining a planning application, in so far as the plan is material to the application.
7. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area unless the District Council subsequently decide the Neighbourhood Plan should not be 'made.' The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan. Paragraph 12 of the Framework is very clear that where a planning application conflicts with an up-to-date neighbourhood plan that forms part of the Development Plan, permission should not usually be granted.
8. I have been appointed by the District Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the District Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan.
9. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; and a Member of the Institute of Historic Building Conservation. As a Chartered Town Planner, I have held national positions and have 35 years' experience at Director or Head of Service level in six local planning authorities. I have been a panel member of the Neighbourhood Planning

Independent Examiner Referral Service (NPIERS) since its inception, and have undertaken the independent examination of neighbourhood plans in every region of England, and in the full range of types of urban and rural areas.

10. As independent examiner, I am required to produce this report and must recommend either:
 - that the Neighbourhood Plan is submitted to a referendum, or
 - that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
 - that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.
11. I make my recommendation in this respect and in respect to any extension to the referendum area, in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.
12. Paragraph 9 of Schedule 4B to the Town and Country Planning Act 1990 provides that the general rule is that the examination of a neighbourhood plan is to take the form of the consideration of written representations. The Planning Practice Guidance (the Guidance) states “it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.”
13. The examiner can call a hearing for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. This requires an exercise of judgement on my part. All parties have had the opportunity to state their case and no party has indicated that they have been disadvantaged by a written procedure. Regulation 16 responses clearly set out any representations relevant to my consideration whether the Neighbourhood Plan meets the Basic Conditions and other requirements. Those representations; the comments of the Parish Council; the level of detail contained within the submitted Neighbourhood Plan and supporting documents; and the responses to my request for clarification of matters have provided me with the necessary information required for me to conclude the Independent Examination. As I did not consider a hearing necessary, I proceeded based on examination of the submission and supporting documents; the written representations; and an unaccompanied visit to the neighbourhood area undertaken on 17 September 2023.
14. On 22 November 2023 National Government rebranded Areas of Outstanding Natural Beauty as National Landscapes as part of its response to the Landscapes Review 2019. I refer to this matter in the Annex to my report.

15. This report should be read as a whole, and has been produced in an accessible format.

Basic Conditions and other Statutory Requirements

16. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions.” A neighbourhood plan meets the Basic Conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

17. With respect to the penultimate Basic Condition the European Withdrawal Act 2018 (EUWA) incorporates EU environmental law (directives and regulations) into UK law and provides for a continuation of primary and subordinate legislation, and other enactments in domestic law. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights, which has the same meaning as in the Human Rights Act 1998. All these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’ and ‘The Neighbourhood Plan Policies.’ Where I am required to consider the whole Neighbourhood Plan, I have borne it all in mind.

18. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (in sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)). I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in respect to the Neighbourhood Planning

(General) Regulations 2012 as amended (the Regulations) which are made pursuant to the powers given in those sections.

19. The Neighbourhood Plan relates to the area that was designated by the District Council on 12 May 2014. A map of the Neighbourhood Area is included as Figure 1 of the Submission Version Plan. The Neighbourhood Plan does not relate to more than one neighbourhood area, and no other neighbourhood development plan has been made for the neighbourhood area. All requirements relating to the plan area have been met.
20. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area; and the Neighbourhood Plan does not include provision about excluded development (principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment, and nationally significant infrastructure projects). I can confirm that I am satisfied that each of these requirements has been met.
21. A neighbourhood plan must also meet the requirement to specify the period to which it has effect. The front cover of the Neighbourhood Plan states the plan period is 2021-2041. This is confirmed in paragraph 1.20 of the Neighbourhood Plan.
22. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the tests of soundness provided for in respect of examination of Local Plans. It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises because of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.
23. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with all land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
24. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have meaning and significance to people living and working in the area.

25. I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified. I refer to the matter of minor corrections and other adjustments of general text in the Annex to my report.

Documents

26. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:

- Welland Neighbourhood Plan 2021-2041 Regulation 15 Submission including Appendices May 2023
- Welland Neighbourhood Plan 2021-2041 Basic Conditions Statement May 2023 [In this report referred to as the Basic Conditions Statement]
- Welland Neighbourhood Plan Consultation Statement and Appendices (May 2023) [In this report referred to as the Consultation Statement]
- Welland Neighbourhood Area Baseline Report (September 2019)
- Welland Neighbourhood Development Plan Landscape Assessment (June 2015)
- Welland Neighbourhood Development Plan Landscape Sensitivity & Capacity Assessment Review of Selected Sites (December 2019)
- Welland Neighbourhood Plan Landscape Sensitivity & Capacity Assessment Selected Sites (April 2022)
- Welland Neighbourhood Area Development Boundary Review (November 2022)
- Welland Neighbourhood Plan Local Green Space Report (March 2023)
- Welland Neighbourhood Plan Neighbourhood Open Space Report (March 2023)
- Welland Neighbourhood Plan Housing Evidence Paper (June 2022)
- Welland Neighbourhood Plan Housing Evidence Paper Appendices Document Resources, Housing Policy, and Context
- Welland Neighbourhood Plan Housing Site Assessment and Selection Update Report (March 2023)
- Welland Neighbourhood Area Windfall Housing Delivery 2006 - 2022 (March 2023)
- Welland Neighbourhood Plan Design Guide and Code (May 2023)
- Welland Draft Neighbourhood Plan SEA HRA Screening Opinions (July 2022) and Addendum (12 December 2023)
- Welland Neighbourhood Plan Housing Site Assessment and Selection Report (November 2022)
- Welland Neighbourhood Plan Housing Site Assessment and Selection Update Report (March 2023)
- Information available on the Little Malvern and Welland Parish Council website
- Information available on the Malvern Hills District Council website

- Representations received during the Regulation 16 publicity period including two late representations accepted by the District Council
- A representation relating to the late representations accepted by the District Council
- Correspondence between the Independent Examiner and Malvern Hills District Council and the Parish Council including: the initial letter of the Independent Examiner dated 12 September 2023; the comments of the Parish Council on Regulation 16 representations which I received on 10 October 2023; the letter of the Independent Examiner seeking clarification of various matters dated 28 October 2023; and the joint response of the Parish Council and the District Council dated 6 November 2023 which I received on 7 November 2023; the letter of the Independent Examiner seeking clarification of further matters dated 12 November 2023 and the joint response of the Parish Council and the District Council dated 21 November 2023. A further joint response of the District Council and the Parish Council to the Examiner's letter of 28 October 2023 was received on 12 December 2023.
- National Planning Policy Framework (2023) [In this report referred to as the Framework]
- South Worcestershire Development Plan adopted 25 February 2016
- The emerging South Worcestershire Development Plan Review which was submitted to the Planning Inspectorate for Examination on 27 September 2023
- Malvern Hills AONB Management Plan
- Permitted development rights for householders' technical guidance MHCLG (10 September 2019) [In this report referred to as the Permitted Development Guidance]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated) [In this report referred to as the Guidance]
- Town and Country Planning (Use Classes) Order 1987 (as amended)
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Equality Act 2010
- Localism Act 2011
- Housing and Planning Act 2016
- European Union (Withdrawal) Act 2018
- Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- Neighbourhood Planning (General) Regulations 2012 (as amended) [In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations]
- Neighbourhood Planning (General) (Amendment) Regulations 2015
- Neighbourhood Planning (General) incorporating Development Control Procedure (Amendment) Regulations 2016
- Conservation of Habitats and Species Regulations 2017
- Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

Consultation

27. The submitted Neighbourhood Plan is accompanied by a Consultation Statement, including Appendices, which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the submission plan. I highlight here several key stages of consultation undertaken to illustrate the approach adopted.
28. The Neighbourhood Plan Working Group consisting of Parish Councillors and other volunteers from the community was established in June 2013 to oversee plan production. Meetings of the Working Group have always been open to public attendance. Between May 2014 and October 2015 consultation undertaken included a 'Have Your Say Village Survey' which generated 121 responses, policy consultations, and discussions with stakeholders. A Regulation 14 consultation was undertaken in December 2015 and January 2016. After a pause in plan preparation and discussions at Parish Council Annual Meetings in 2018 and 2019 a 'Your Village - Have Your Say' newsletter was distributed in March 2020 seeking views from the community on matters including an updated Vision Statement, potential Local Green Space designations, and potential sites for housing development. An analysis of questionnaire responses is presented in Appendix 4.2 of the Consultation Statement. The owners of potential Local Green Space designations were written to in July 2020. In April 2021 an update newsletter was delivered to every household providing an overview of analysis and considerations undertaken, and explaining the intended future process. There have been regular updates on plan preparation in the monthly Parish newsletters, and the Neighbourhood Plan has been a standing agenda item at the monthly Parish Council meetings which members of the public could attend and ask questions.
29. In accordance with Regulation 14 the Parish Council consulted on the pre-submission version of the draft Neighbourhood Plan between 24 September 2021 and 7 November 2021. The consultation on the pre-submission draft Plan and supporting documents was publicised through the Parish Council website. A leaflet was delivered to every household and consultee bodies were notified directly. Section 5 of the Consultation Statement presents details and analysis of the representations received from 98 residents and from 16 Consultee Bodies. Appendices 5.6 and 5.7 of the Consultation Statement detail the representations received and set out a response and any action taken, including modification and correction of the emerging Neighbourhood Plan. Suggestions have, where

considered appropriate, been reflected in changes to the Plan that was submitted by the Parish Council to the District Council. Section 6 of the Consultation Statement sets out a description of consultation and engagement undertaken following the Regulation 14 consultation period. A summary of key changes made to the Neighbourhood Plan is set out in Section 7 of the Consultation Statement.

30. Following submission of the plan proposal by a qualifying body, the local planning authority will check it includes all items set out in Regulation 15, and then publicise the plan in accordance with Regulation 16. The local planning authority then send the Independent Examiner all the documents set out in Regulation 17, which includes a copy of any representations that have been made in accordance with Regulation 16. The actions necessary under Regulation 16 and Regulation 17 are entirely matters to be undertaken by, and under the control of, the local planning authority. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 26 June 2023 and 21 August 2023. This period of publication included a two-week extension after the Parish Council advised at the beginning of August that the 'Welland Neighbourhood Plan: Housing Site Assessment and Selection Report (November 2022)' was not listed with the other Neighbourhood Plan Consultation evidence base documents on the website. Representations were submitted from a total of 17 different parties. A late representation was received by the District Council from D Brookes, an agent on behalf of the owners of the land that is the subject of Policy H4, stating a wish to withdraw the site from the Neighbourhood Plan. Whilst late representations are usually determined by Local Planning Authorities to have not been duly made it is not irrational for the District Council to have accepted the late representation in this instance given the significance of its contents in relation to the only housing allocation of the Neighbourhood Plan. Acceptance of the late representation would seem to meet the Wednesbury test. Having accepted the first late representation it is not irrational for the District Council to have accepted the further late representation subsequently received from the same agent stating the owners of the allocation site wish that the development should go back into the Plan. The District Council decided to accept both late representations and have determined they are Regulation 16 representations. I provided an opportunity for any interested party to comment on those late representations. Taking that opportunity, a representation, and a correction to that representation, were received from Fosse Planning Ltd on behalf of clients relating to the late representations accepted by the District Council. I have taken the late representations, and the representation commenting on those late representations, into account in preparing my report.
31. The District Council has submitted substantial Officer comments that include helpful general comments and suggested alternative wording for some policies. The representation includes remarks relating to areas of general text and appendices

which I refer to in the Annex to my report. Specific comments relate to Policies SD1; SD3; DB1; G1; G2; B1; LC1; C1; C2; HE1; I1; I2; I3; I4; D1; D2; HLP; H1; H2; H3; H4; and LE1. The District Council comments had been shared with the Parish Council prior to preparation of the submission version Neighbourhood Plan so many of the comments were able to be taken on board in the submission version plan.

32. Worcestershire County Council suggests amendment of Policy DB1, and objects to Policy HE1 and identified supporting text. The Malvern Hills AONB Unit comments on Policies SD1; SD2; SD3; DB1; G1; G2; B1; LC1; C1; C2; HE1; I1; I2; I3; I4; D1; D2; HLP; H1; H2; H3; H4; and LE1, and makes comment on several areas of general text. Castlemorton Parish Council has expressed support for the Welland Development Boundary referred to in part 5 of Policy DB1.
33. The Coal Authority has no specific comments. Historic England have made supportive comments. The Environment Agency offer general advice. Natural England advise the Habitats Regulations Assessment Screening Report should be updated to include additional consideration of potential pathway for the impacts associated with the functionally linked lands and watercourses of the Severn Estuary SPA, SAC and Ramsar site. Natural England also advise Policy H4 should be amended in the light of evidence relating to mitigation of recreational impacts on the Malvern Hills SSSI in the South Worcestershire Development Plan Review.
34. Severn Trent Water has commented on Policies SD1; G2; and I3, and offered general advice. NHS Herefordshire and Worcestershire Integrated Care Board has no direct comment but welcomes the suggestions for developing ultrafast broadband infrastructure and telecommunications which are considered to be of benefit to the provision of healthcare into rural communities.
35. The representation of an individual comments on aspects of Policy H4 and refers to Policy DB1. A further individual raises concerns regarding Policy H4. A representation of two individuals raises objections relating to Policy H4 and proposes amendments should the development proceed. Another individual states the wrong sites have been assessed and included in the Housing Site Assessment and Selection Report, and identifies issues with the Landscape Sensitivity and Capacity Assessment Selected Sites of April 2022.
36. The representation of Fosse Planning states Policy SD1 is appropriate, but states the failure to refer to paragraph 11 of the Framework is a fundamental flaw. This representation also proposes an amendment of Policy B1; comments on the need to apply Policy LC1 in Policy H4; and comments on Policies HLP, H2, and H4. As referred to earlier in my report Fosse Planning Limited on behalf of clients also submitted a representation (and correction to that representation) relating to two late representations of D Brookes on behalf of a client that had been accepted by the District Council.

37. A representation on behalf of Clarendon Care objects to Policy HLP and Policy DLB1, and seeks inclusion of its land associated with Welland House Nursing Home “within the settlement boundary of the village and thereby unlocking its potential for development.” A representation on behalf of Stonebond Limited promotes the development of land at Lawn Farm, Drake Street for housing development. The site referred to in the representation is stated to be a proposed allocation in the South Worcestershire Development Plan Review
38. I have been sent each of the Regulation 16 representations. In preparing this report I have taken into consideration all the representations submitted, in so far as they are relevant to my role, even though they may not be referred to in whole in my report. Some representations, or parts of representations, are not relevant to my role which is to decide whether the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. Where the representations suggest additional policy matters that could be included in the Neighbourhood Plan that is only a matter for my consideration where such additions are necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements that I have identified. Having regard to *Bewley Homes Plc v Waverley District Council* [2017] EWHC 1776 (Admin) Lang J, 18 July 2017, and Town and Country Planning Act Schedule 4B paragraph 10(6), where representations raise concerns or state comments or objections in relation to specific policies, I refer to these later in my report when considering the policy in question where they are relevant to the reasons for my recommendations.
39. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. Whilst I placed no obligation on the Parish Council to offer any comments, such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. The Parish Council submitted comments on 10 October 2023 in this respect, and those comments were published on the District Council website. The Parish Council took the opportunity to clarify where the District Council representations referred to a previous version of the Neighbourhood Plan. I have taken all the Parish Council comments into consideration even though I have not referred to them all in my report.
40. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:
- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
 - b) explains how they were consulted;
 - c) summarises the main issues and concerns raised by the persons consulted;

and

- d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.

41. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. In addition, sufficient regard has been paid to the advice regarding plan preparation and engagement contained within the Guidance. It is evident the Neighbourhood Plan Working Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

The Neighbourhood Plan taken as a whole

42. This section of my report considers whether the Neighbourhood Plan, when considered as a whole, meets EU obligations, habitats, and Human Rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the Development Plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this. In considering all these matters I have referred to the submission, background, and supporting documents, and copies of the representations and other material provided to me.

Consideration of Convention Rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017

43. On page 39 of the Basic Conditions Statement, it is stated the Neighbourhood Plan in terms of its preparation and content, has had regard to the fundamental rights and freedoms enshrined under the European Convention on Human Rights, and it complies with the Human Rights Act 1998. I have considered the European Convention on Human Rights and in particular Article 6 (fair hearing); Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property). The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of

codifying the protections in the European Convention on Human Rights into UK law. Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. I am satisfied the Neighbourhood Plan has been prepared in accordance with the obligations for Parish Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010. Appendix 8.1 of the Basic Conditions Statement sets out an Equality Impact Assessment Schedule that does not identify any negative impact of the Neighbourhood Plan. From my own examination the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

44. The objective of EU Directive 2001/42 (transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004) is “to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.” The Neighbourhood Plan falls within the definition of ‘plans and programmes’ (Defined in Article 2(a) of Directive 2001/42) as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result (Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012).
45. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to the District Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.
46. The Strategic Environmental Assessment and Habitats Regulations Assessment: Screening Opinion prepared by the District Council in July 2022 states “The SEA screening exercise featured in Section 2 concludes that the draft Welland Neighbourhood Plan may require a full Strategic Environmental Assessment to be undertaken. This is because the Neighbourhood Plan proposes land allocations for development over and above those featured in the South Worcestershire Development Plan. This recommendation was subject to consultation with the statutory bodies. The Environment Agency and Natural England concluded a full SEA was not required. Historic England deferred to the advice of the District Council Archaeology and Conservation Officer who determined that a full SEA would not be

required. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.

47. With respect to Habitats Regulation Assessment Section 3 of the Screening Opinion states “there are no internationally designated wildlife sites within the Welland Neighbourhood Area, the Bredon Hill SAC, Lyppard Grange SAC and Dixon Wood SAC falling within a 20 km radius.” The impact on these sites because of the land allocations within the SWDP has been assessed in the SWDP HRA AA and although the draft Welland Neighbourhood plan does deviate, the level of such allocations is considered small enough to conclude that it is unlikely to have a negative impact on any internationally designated wildlife sites and as such, the recommendation is that a full AA is not required.” Natural England has confirmed agreement with this conclusion.
48. Natural England advise that in the context of the HRA report produced in support of the emerging South Worcestershire Development Plan Review 2021-2041, the HRA Screening Report relating to the Neighbourhood Plan should be updated to include consideration of the additional potential pathway for the impacts associated with the functionally linked lands and watercourses of the Severn Estuary SPA, SAC, and Ramsar Site. Following discussion with the District Council, the Parish Council state “i. The process for preparing and consulting on the SEA/HRA Screening Opinion for the Welland Neighbourhood Plan was appropriate and proportionate; ii. The conclusion that no HRA is required was informed by the professional advice provided by the statutory environmental bodies in September / October 2020; iii. Although there have been some changes to the Plan since the screening opinion, which in respect of the proposed allocation at land north of Cornfield Close has reduced the site area and number of houses, these are considered unlikely to lead to a different conclusion regarding the need for a HRA in 2023; and iv. Natural England have not indicated that a HRA is required. In light of the above, we consider there to be no new evidence to indicate that an update to the HRA is required for the Welland Neighbourhood Plan. We also consider that the SEA / HRA Screening Opinion (July 2022) continues to provide robust and proportionate evidence to help assess whether the making of the Neighbourhood Plan would breach, or be incompatible with, EU obligations”.
49. The Guidance states “Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.” I have noted paragraph 9.4.8 of the HRA of the SWDP Review Volume 1 October 2022 states the requirements of Emerging Policy SWDPR 36 leads to a conclusion that no deterioration in water quality and therefore no adverse impacts on site integrity at the

Severn Estuary SAC, SPA and Ramsar sites will occur. Impacts on functionally linked watercourses and functionally linked bird sites are considered further in Chapter 11 of the SWDPR HRA. Given the Natural England advice I requested a proportionate statement is prepared and added as an addendum to the Neighbourhood Plan SEA/HRA Screening Opinion July 2022 confirming consideration of the potential additional pathway for the impacts associated with the functionally linked lands and watercourses of the Severn Estuary SPA, SAC, and Ramsar Site and any implications for the Screening Opinion.

50. The District and Parish Councils advised me “An addendum has been drafted to the July 2022 SEA/HRA screening report addressing the evidence emerging from the Habitats Regulations Assessment of the South Worcestershire Development Plan Review 2021 - 2041 Publication Version, October 2022 report and the Identification of wintering and passage roosts on functionally linked land of the Severn Estuary - Gloucestershire and Worcestershire (Phase 5) November 2021 Natural England Research Report NECR401 report.”
51. The addendum includes “The district council’s Natural Heritage and Biodiversity Officer has reviewed the Habitats Regulations Assessment of the South Worcestershire Development Plan Review 2021 - 2041 Publication Version, October 2022 and the Identification of wintering and passage roosts on functionally linked land of the Severn Estuary - Gloucestershire and Worcestershire (Phase 5) November 2021 Natural England Research Report NECR401. In terms of the Welland Neighbourhood Plan, the NECR401 report considers birds and does not include any functionally linked bird sites within or immediately adjacent to the designated Welland Neighbourhood Area. The closest sites are Clifton Pits and Upton Hams. It is unlikely that the small scale of residential development proposed in the neighbourhood plan at Welland (13 houses) would create significant additional impacts on these sites from public access to sites and disturbance. The report does describe ringed teal at Slimbridge being recovered in Welland but concludes that although some teal do move inland from the Special Protection Areas (SPA) and to the Severn Vales and beyond as far as Malvern and Ludlow, the number of recoveries is small, and Worcestershire counters observe little or no sign of exchanges with the SPA. The HRA report for the SWDPR does consider a proposed allocation for 17 houses in Welland (ref SWDP NEW 99, CFS0336sc) and concludes this site is not located within 400m of a European site or functionally linked bird site or within 200m of a potentially functionally linked watercourse. The development proposed through Policy H4 in the neighbourhood plan is located approx. 125 metres of the Marlbank Brook. The Marlbank Brook is functionally linked, via the China, Mill and Bushley Brooks to the River Severn some 8 km distant. Therefore, it is considered that there is potential for there to be some impacts from the allocation on the water courses described above, albeit these are considered to be limited. This is

due to the relatively small scale of the proposed allocation and distant geographical proximity to the sites in question. The consideration of the above issues does not change the conclusions as set out at Section 4 of the Welland Neighbourhood Plan SEA/HRA Screening Opinion July 2022. This concluded that the draft Welland Neighbourhood Plan was unlikely to give rise to a significant impact on a European site and as such a full SEA was not required and that HRA Appropriate Assessment was not required.”

52. Natural England has reviewed the addendum note and has stated “Your assessment concludes that the proposed development through Policy H4 in the neighbourhood plan can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of the information provided, Natural England concurs with this view.” I am satisfied that the Neighbourhood Plan meets the requirements of the revised Basic Condition relating to Habitats Regulations.
53. There are other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.
54. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
55. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met for the draft neighbourhood plan to progress. The District Council as Local Planning Authority must decide whether the draft neighbourhood plan is compatible with EU environmental law obligations (directives and regulations) incorporated into UK domestic law by the European Withdrawal Act 2018 (EUWA):
- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
 - when it takes the decision on whether to make the neighbourhood plan (which brings it into legal force).

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the

Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

56. I refer initially to the basic condition “having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.” The requirement to determine whether it is appropriate that the plan is made includes the words “having regard to.” This is not the same as compliance, nor is it the same as part of the tests of soundness provided for in respect of examinations of Local Plans which requires plans to be “consistent with national policy.”
57. Lord Goldsmith has provided guidance (Column GC272 of Lords Hansard, 6 February 2006) that ‘have regard to’ means “such matters should be considered.” The Guidance assists in understanding “appropriate.” In answer to the question “What does having regard to national policy mean?” the Guidance states a neighbourhood plan “must not constrain the delivery of important national policy objectives.”
58. The most recent National Planning Policy Framework published on 5 September 2023 sets out the Government’s planning policies for England and how these are expected to be applied. The Planning Practice Guidance was most recently updated on 20 November 2023. As a point of clarification, I confirm I have undertaken the Independent Examination in the context of the most recent National Planning Policy Framework and Planning Practice Guidance.
59. Section 5 of the Basic Conditions Statement set out an explanation how the Neighbourhood Plan has regard to the Framework and the Guidance. I am satisfied the Basic Conditions Statement demonstrates how the Neighbourhood Plan has regard to relevant identified components of the Framework.
60. The Neighbourhood Plan includes in paragraph 4.2 a positive vision for Welland with economic, social, and environmental dimensions. Paragraph 4.2 of the Neighbourhood Plan sets out 21 objectives that help support delivery of the vision. The objectives, which are organised under the headings of environmental sustainability, social sustainability (community cohesion and housing), and economic sustainability, provide a framework for the policies that have been developed.
61. The Neighbourhood Plan includes, in Section 6, reference to several ‘Non-Policy Actions’. These actions are presented in Appendix 6 of the Neighbourhood Plan and include Community Development Projects agreed by the Parish Council, and projects arising from the Regulation 14 consultation. Paragraph 6.3 of the Neighbourhood Plan explains the Parish Council intend to prioritise the actions and prepare an action plan for their delivery. The plan preparation process is a convenient mechanism to surface and test local opinion on ways to improve a

neighbourhood other than through the development and use of land. It is important that those non-development and land use matters, raised as important by the Parish Council and the local community or other stakeholders, should not be lost sight of. The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning policy represents good practice. The Guidance states, “Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan.” The actions are presented in a dedicated Appendix. I am satisfied the community actions are adequately distinguished from the policies of the Neighbourhood Plan. I am also satisfied that paragraph 6.2 of the Neighbourhood Plan makes it clear the projects and initiatives are not neighbourhood plan policies. I confirm the non-policy actions have not been subject to Independent Examination.

62. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to ‘have regard to’ national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that except for those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition “having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.”

63. At the heart of the Framework is a presumption in favour of sustainable development which should be applied in both plan-making and decision-taking. The Guidance states, “This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic, and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced, or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions”.

64. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to

assess whether the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

65. The Framework states there are three dimensions to sustainable development: economic, social, and environmental. Section 6 of the Basic Conditions Statement demonstrates ways in which the Neighbourhood Plan supports the economic, social, and environmental aspects of sustainable development. The statement does not highlight any negative impacts of the Neighbourhood Plan or its policies.

66. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes are of an appropriate nature and quality to contribute to economic and social well-being; whilst also protecting important environmental features of the Neighbourhood Area. I consider the Neighbourhood Plan as recommended to be modified seeks to:

- Support renewable and low-carbon microgeneration;
- Support energy efficiency improvements in existing buildings;
- Support development within the Welland Development Boundary;
- Designate Local Green Spaces;
- Protect neighbourhood open space;
- Ensure developments deliver local biodiversity net gain;
- Conserve and enhance landscape and scenic beauty;
- Protect built community facilities and conditionally support new provision;
- Protect non-designated heritage assets;
- Ensure developments provide necessary infrastructure;
- Support high-quality communications infrastructure;
- Ensure development provides for sustainable drainage and water management;
- Safeguard the former Malvern to Upton-upon-Severn railway and conditionally support its use for active travel;
- Establish development design principles;
- Establish access, travel, and connectivity requirements for development;
- Meet the indicative housing requirement for the Neighbourhood Area;
- Ensure new market housing developments over 4 dwellings meet local needs;
- Ensure affordable housing provision in specified developments;
- Establish support for housing development that meets accessibility standards;
- Allocate land for residential development at Cornfield Close; and
- Conditionally support new small-scale business development within the Welland Development Boundary.

67. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

68. The Framework states neighbourhood plans should “support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies.” Plans should make explicit which policies are strategic policies. “Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies.”

69. In this independent examination, I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). The District Council has confirmed the Development Plan applying in the Welland Neighbourhood Area and relevant to the Neighbourhood Plan comprises the South Worcestershire Development Plan adopted 25 February 2016. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 21 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.” The District Council has provided me with a document that identifies what are regarded by the Local Planning Authority as strategic policies for the purposes of neighbourhood planning.

70. I agree that the policies identified by the District Council as strategic are indeed strategic but I regard Policy SWDP25 Landscape Character to also be strategic as this requires all development proposals to be appropriate and integrate with the character of their landscape setting. I have proceeded with my independent examination of the Neighbourhood Plan on the basis that the Development Plan strategic policies relevant to the Neighbourhood Plan are:
SWDP1 Overarching Sustainable Development Principles
SWDP2 Development Strategy and Settlement Hierarchy
SWDP3 Employment, Housing and Retail Provision Requirement and Delivery

SWDP4 Moving Around South Worcestershire
 SWDP5 Green Infrastructure
 SWDP6 Historic Environment
 SWDP7 Infrastructure
 SWDP8 Providing the Right Land and Buildings for Jobs
 SWDP9 Creating and Sustaining Vibrant Centres
 SWDP10 Protection and Promotion of Centres and Local Shops
 SWDP12 Employment in Rural Areas
 SWDP13 Effective Use of Land
 SWDP14 Market Housing Mix
 SWDP15 Meeting Affordable Housing Needs
 SWDP17 Travellers and Travelling Showpeople
 SWDP21 Design
 SWDP22 Biodiversity and Geodiversity
 SWDP23 The Cotswolds and Malvern Hills Areas of Outstanding Natural Beauty (AONB)
 SWDP25 Landscape Character
 SWDP27 Renewable and Low Carbon Energy
 SWDP28 Management of Flood Risk
 SWDP59 New Housing for Villages

71. Malvern Hills District Council is working with Worcester City Council and Wychavon District Council to prepare a South Worcestershire Development Plan Review. The plan will update the existing SWDP and where necessary its Vision, Objectives, Spatial Strategy, and policies for the future development of the South Worcestershire area. The second part of the plan will include site allocations, policies and policy designations that will provide for the development needs of the area up to 2041. This work began in 2017 and has proceeded to the stage where the South Worcestershire Development Plan Review was submitted to the Planning Inspectorate for Examination on 27 September 2023.

72. The Neighbourhood Plan can proceed ahead of preparation of the South Worcestershire Development Plan Review. The Guidance states: "Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan. A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. Although a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing needs evidence is relevant to the question of

whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:

- the emerging neighbourhood plan;
- the emerging Local Plan;
- the adopted development plan;

with appropriate regard to national policy and guidance. The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan.

Neighbourhood plans should consider providing indicative delivery timetables and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan.”

73. The approach of the District Council and the Parish Council has been consistent with that stated in the Guidance “It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies.” I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and the South Worcestershire Development Plan Review when it is adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan; however, the Guidance is clear in that potential conflicts should be minimised. To satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The emerging South Worcestershire Development Plan Review is not part of the Development Plan and this requirement does not apply in respect of that. Emerging planning policy is subject to change as plan preparation work proceeds. The Guidance states “Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan.”

74. In considering a now-repealed provision that “a local plan shall be in general conformity with the structure plan” the Court of Appeal stated “the adjective ‘general’ is there to introduce a degree of flexibility” (Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P &CR 31). The use of ‘general’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

75. The Guidance states, “When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

- whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;
- the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;
- whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;
- the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”

My approach to the examination of the Neighbourhood Plan Policies has been in accordance with this guidance.

76. Consideration as to whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and each of the plan policies below. I have taken into consideration Section 7 of the Basic Conditions Statement that demonstrates how the policies of the Neighbourhood Plan are in general conformity with relevant strategic policies. Subject to the modifications I have recommended, I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

The Neighbourhood Plan Policies

77. The Neighbourhood Plan includes 23 policies as follows:

Policy SD1: Promoting and Achieving Sustainable Development

Policy SD2: Renewable and Low-Carbon Microgeneration Development

Policy SD3: Energy Efficiency Improvements to Existing Buildings
Policy DB1: Development within the Welland Development Boundary
Policy G1: Local Green Space
Policy G2: Neighbourhood Open Space
Policy B1: Local Biodiversity net gain
Policy LC1: Landscape Character and Visual Impact
Policy C1: Protection of existing Built Community Facilities and the Local Shop
Policy C2: Provision of new and improved Built Community Facilities
Policy HE1: Non-Designated Heritage Assets
Policy I1: Development and Infrastructure
Policy I2: High Quality Communications Infrastructure
Policy I3: Surface and Foul Water Drainage and Management
Policy I4 Active Travel Corridor
Policy D1: Design
Policy D2: Access, travel and connectivity associated with development proposals
Policy HLP: Welland Housing Land Provision
Policy H1: Market Housing Type and Size
Policy H2: Affordable Housing Provision
Policy H3: Homes Standards
Policy H4: Land north of Cornfield Close
Policy LE1: New small-scale business development within the Welland Development Boundary

78. Paragraph 29 of the Framework states “Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct, and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.” Footnote 16 of the Framework states “Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”
79. Paragraph 15 of the Framework states “The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social, and environmental priorities; and a platform for local people to shape their surroundings.”
80. Paragraph 16 of the Framework states “Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and

communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”

81. The Guidance states “A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise, and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”
82. “While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan.”
83. A neighbourhood plan should contain policies for the development and use of land. “This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”
84. “Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.” “A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.”
85. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is ‘made’ they will be utilised in the determination of planning applications and appeals, I have

examined each policy individually in turn. I have considered any inter-relationships between policies where these are relevant to my remit.

Policy SD1: Promoting and Achieving Sustainable development

86. This policy seeks to establish support for proposals which clearly demonstrate they promote sustainable development in accordance with the policies of the Neighbourhood Plan.
87. The District Council states it is considered the policy has regard to national policy.
88. The representation of Fosse Planning states Policy SD1 is entirely appropriate but raises concern the reasoned justification disregards paragraph 11 of the Framework. The Parish Council draw attention to paragraph 13 of the Framework, and the basis of the indicative housing requirement.
89. Paragraph 7 of the Framework states the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 11 of the Framework requires application of a presumption in favour of sustainable development, with part a) of the paragraph explaining all plans should promote a sustainable pattern of development. Part b) of paragraph 11 refers to strategic policies. Paragraph 18 of the Framework states neighbourhood plans contain just non-strategic policies.
90. Severn Trent recommend additional policy wording relating to water efficiency. The additional policy content is not necessary to meet the Basic Conditions.
91. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
92. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

Policy SD2: Renewable and Low-Carbon Microgeneration Development

93. This policy seeks to establish criteria for support of development proposals for renewable and low-carbon microgeneration. The policy also seeks to establish

support for developments that incorporate on-site low carbon and renewable energy generation capacity to be self-sufficient in energy requirements.

94. The representation of the Malvern Hills AONB Partnership suggests reference to “other special qualities” in part 1 of the policy. I have recommended this clarification is made.
95. Policy SWDP 27 (Renewable & Low Carbon Energy) requires all new development over 100m² or one or more dwellings incorporate renewable or local energy technologies to meet at least 10% of the developments predicted energy requirements, unless it can be demonstrated that this would make the development unviable.
96. Paragraph 155 of the Framework includes “to help the use and supply of renewable and low carbon energy and heat, plans should provide a positive strategy for energy from these sources, that maximises potential for suitable development, while ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts)”. Paragraph 158, footnote 54 of the Framework states “Except for applications for the repowering of existing wind turbines, a proposed wind energy development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in the development plan; and, following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been fully addressed and the proposal has their backing.” Policy SD2 is limited to supporting microgeneration.
97. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these. The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: “From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout, or performance of new dwellings”. The term “will be encouraged” does not provide a basis for the determination of development proposals. The limitation to new development has not been sufficiently justified and the term residential and non-residential development is unnecessary. It is confusing for a policy to state “having regard to the provisions of other relevant policies in the statutory development plan” as the Neighbourhood Plan, and the wider development plan, should be read as a whole. Whilst paragraph 155 of the Framework refers to cumulative landscape and visual impacts, it is inappropriate to consider cumulative impacts in respect of other criteria included in Policy SD2 in respect of which proposals must be considered on their own merits. The term “unacceptable harm” is

imprecise. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework. The use of the term “proposals requiring planning permission” is acceptable in the context of relevant permitted development categories.

98. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular strategic Policy SWDP27. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

99. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 1:

In Policy SD2

- **replace “individually or cumulatively cause unacceptable” with “cause significant”**
- **in part 1 replace “and visual amenity” with “, visual amenity or other special qualities (either alone or cumulatively with existing development)”**
- **replace the final sentence with “Development proposals that incorporate capacity to generate their energy requirements from on-site low-carbon and renewable energy sources will be supported.”**

Policy SD3: Energy Efficiency Improvements to Existing Buildings

100. This policy seeks to establish that retrofitting of energy efficiency measures in existing developments will be encouraged and considered favourably subject to stated criteria.

101. The representation of the Malvern Hills AONB Partnership suggests reference in the policy to “Due regard shall be had to the proposals being informed by guidance within the Welland Design Guide and Code, and, where relevant to the specific development and location of the site, AONB Partnership Guidance, including on Building Design.” I have recommended this text is added to the reasoned justification and that reference is made to the AONB Partnership Guidance in the policy itself in recognition of the highest status of AONB afforded by paragraph 176

of the Framework. The term “encouraged” does not provide a basis for the determination of development proposals. The term “considered favourably” is inappropriate as paragraph 2 of the Framework states “planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise”. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

102. Paragraph 153 of the Framework states planning policies should take a proactive approach to mitigating and adapting to climate change.
103. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular strategic Policy SWDP27. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
104. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 2:
In Policy SD3**

- **replace “encouraged and considered favourably” with “supported”**
- **continue the policy with “Where relevant to the specific development and location of the site, proposals should demonstrate they have been informed by the AONB Partnership Guidance on building design.”**

Insert in the reasoned justification “In assessing proposals due regard shall be had to the proposals being informed by guidance within the Welland Design Guide and Code, and, where relevant to the specific development and location of the site, AONB Partnership Guidance on Building Design.”

Policy DB1: Development within the Welland Development Boundary

105. This policy seeks to establish support for development proposals within the defined Welland Development Boundary where stated criteria are met. The policy

also seeks to establish a basis for determination of development proposals beyond the Welland Development Boundary.

106. The Malvern Hills AONB Partnership question the application of the policy to householder planning applications. I have not adopted the suggestion of the Parish Council to explain the scope of the policy but recommended use of the term “development proposals” as used in the final paragraph. This term is universally accepted as referring to all proposals requiring planning permission. In accordance with the suggestion of the Parish Council I have recommended additional supporting text, but in the reasoned justification rather than as a footnote. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
107. A representation on behalf of Clarendon Care proposes the allocation of the Welland House Nursing Home site for housing development and request the land is included “within the settlement boundary of the village and thereby unlocking its potential for development.” The Parish Council comment the Development Boundary Review paper approach to large curtilages with capacity to extend the built form of a settlement as being consistent with the SWDPR assessment of development boundaries (September 2019). The Parish Council state the site in question was not considered in the Site Assessment and Selection process and there is no evidence it was proposed in response to the call for sites. The Parish Council draw attention to proposed Plan monitoring arrangements.
108. A development boundary can represent the dividing line between built areas and open countryside, and can follow clearly defined features such as walls, hedgerows, or water courses. Extant planning permissions and allocations can be included within the development boundary, but do not have to be. The definition of the boundary however does not have to relate to some observable land use difference or dividing feature. A development boundary does not have to include the full extent of a settlement, and development boundaries do not have to reflect land ownership boundaries or the precise curtilages of properties. Development boundaries can be used to identify the limits to future development of a settlement. One approach is to exclude curtilages of properties which have the capacity to extend the built form of a settlement in areas where this is not considered desirable. Such areas could include whole properties, or parts of large residential gardens, or parts of the grounds of other buildings. The development boundary proposed for Welland, identified on Figure 5.1 of the Neighbourhood Plan, has been subject to community engagement and consultation during the plan preparation process. The proposed development boundary does not define the built-up areas of the settlement but defines the area within which new development and conversions will be

supported throughout the plan period and will guide development to sustainable solutions. There is no requirement for the housing site allocation made in Policy H4 to be included within the development boundary, which it is not. I am satisfied the Development Boundary Review paper justifies the approach adopted in Policy DB1. It is beyond my role to consider whether any alternative alignment of the development boundaries would offer a more sustainable solution.

109. Worcestershire County Council suggest part 5 of the policy should be amended to clarify not all the factors need to apply. I have adopted this suggestion in my recommended modification so that the policy “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
110. Paragraph 29 of the Framework states neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies. I have recommended the final paragraph of the policy is modified to ensure the policy has sufficient regard for national policy in this respect. The term “unacceptable” in parts 4 and 5 of the policy does not provide a basis for the determination of development proposals. It is unnecessary and confusing for one policy to refer to other policies of the Neighbourhood Plan and the SWDP as the Development Plan should be read as a whole. The term “other relevant policies” is imprecise. It is necessary to clarify the attributes listed in part 5 of the policy are independent of one another. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
111. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular strategic Policy SWDP 2B. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
112. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 3:
In Policy DB1**

- in the opening text delete “including new development and conversion, re-use or extension of an existing building along with any associate infrastructure”
- in parts 4 and 5 replace “unacceptable” with “significant”
- in part 5 replace “and heritage” with “or heritage”
- delete part 6 and the free-standing sentence that follows it
- in the final paragraph after “H4” insert “and any strategic allocation”

Insert in the reasoned justification “This policy applies to all development proposals requiring planning permission including, but not limited to, householder, residential, tourism and holiday accommodation, energy generation, and employment and agricultural developments.”

Policy G1: Local Green Space

113. This policy seeks to designate seven Local Green Spaces. Two areas of land are presented as distinct parts of site reference WLGS05 so that the policy relates to eight areas of land.
114. The District Council state that Policy G1 should meet the Basic Conditions.
115. The representation on behalf of Stonebond Ltd states the landowners have no intention to make the site at Lawn Farm available for public use and there is no plan prepared for the LGS “as required by the NPPF.” The Parish Council state “We believe this comment relates to the proposed Local Green Space referred to as ‘Kingston Close Habitat Area’ (ref. WLGS07) which was previously referred to, in the Regulation 14 Plan, as ‘Natural England Ecology Zone (ref. WLGS07). The Local Green Space Report submitted with the Plan sets out the process, including consultation with landowners, and the justification for the proposed LGS designations. It is considered that this meets the requirements of the NPPF and the advice within the PPG.” In response to my request for clarification regarding the relationship between site WLGS07 and the land proposed to be allocated for residential development in the emerging SWDPR the District and Parish Councils have jointly stated “A paper titled SWDP NEW 99 and WLGS 07 is appended at page 3 of this letter that states that the proposed Local Green Space WLGS07-Kingston Close Habitat Area lies outside of and is not part of the 1.42 hectares of land (reference SWDP NEW 99) allocated in emerging Policy SWDPR 62 at Lawn Farm.” The paper attached to that joint response includes maps that illustrate the relationship of the two sites referred to. The Guidance states “Some areas that may be considered for designation as Local Green Space may already have largely unrestricted public access, though even in places like parks there may be some restrictions. However, other land could be considered for designation even if there is

no public access (eg green areas which are valued because of their wildlife, historic significance and/or beauty). Designation does not in itself confer any rights of public access over what exists at present. Any additional access would be a matter for separate negotiation with land owners, whose legal rights must be respected” (Paragraph: 017 Reference ID: 37-017-20140306 Revision date: 06 03 2014). I am satisfied the absence of public access does not prevent site WLGS07 being designated as Local Green Space.

116. The representation on behalf of Stonebond Ltd states the landowners have not been contacted regarding the proposed LGS designation. Another representation states as landowners they never received the report and letter referred to in paragraph 1.14 of the Neighbourhood Plan and so were not consulted. In respect of the latter representation. The Parish Council state “Correspondence with the respondent on the Local Green Space and Neighbourhood Open Space proposals is transcribed in the Local Green Space Report appendices. Details of our consultation processes are set out in our Consultation Statement. We have attempted to address comments received where this is appropriate. For example, following this respondent’s comments to the Reg 14 consultation, the Neighbourhood Open Space proposals were amended to remove the designation from some of the respondent’s land.” I have earlier in my report concluded sufficient regard has been paid to the advice regarding plan preparation and engagement contained within the Guidance and it is evident the Neighbourhood Plan Working Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.
117. A representation objects to proposed WLGS06 Kingston Close Green Space on the basis the gated entrance to the field is not green space and should have no restrictions. I am satisfied it is appropriate for the gated entrance to form part of the proposed LGS. The representation also objects to proposed WLGS07 Kingston Close Habitat Area on the basis people should not be encouraged near to the pond. I have earlier in my report stated I am satisfied the designation of Local Green Space does not create public rights of access.
118. The Malvern Hill AONB Partnership suggest the policy could be strengthened with reference to exceptional circumstances. The Parish Council do not consider this appropriate. A modification as suggested by the AONB Partnership is not necessary to meet the Basic Condition. I am therefore unable to make such a recommendation.
119. Designation of Local Green Space can only follow identification of the land concerned. For a designation with important implications relating to development potential it is essential that precise definition is achieved. The proposed Local Green Spaces are presented on Figure 5.2, and individual larger scale maps and some images are presented in The Welland Neighbourhood Area: Local Green Space

Report (March 2023). I am satisfied the areas of land proposed for designation as Local Green Spaces have been adequately identified.

120. Paragraph 103 of the Framework states “Policies for managing development within a Local Green Space should be consistent with those for Green Belts”. Paragraphs 147 to 151 of the Framework sets out statements regarding the types of development that are not inappropriate in Green Belt areas. The policy does not seek to introduce a more restrictive approach to development proposals than apply in Green Belt without sufficient justification, which it may not. (R on the Application of Lochailort Investments Limited v Mendip District Council. Case Number C1/2020/0812).
121. Paragraph 101 of the Framework states “The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.” In respect of each of the areas proposed for designation as Local Green Space I find these requirements are met.
122. Paragraph 102 of the Framework states “The Local Green Space designation should only be used where the green space is: a) in reasonably close proximity to the community it serves; b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and c) local in character and is not an extensive tract of land.” I have visited the areas of land proposed for designation as LGS and find that in respect of each of the proposed Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves, is local in character, and is not an extensive tract of land.
123. The Welland Neighbourhood Area: Local Green Space Report (March 2023) includes information in respect of each of the proposed Local Green Spaces which seeks to justify the proposed designations as Local Green Space. For each proposed LGS a statement sets out why the site is demonstrably special and of significance to the local community. Paragraph 102 of the Framework includes examples of the way land can be demonstrably special to a local community and holds a particular local significance. There can be other ways this can be demonstrated, for example if land is used for significant local events as is the case in respect of site WLGS03. I am satisfied that each of the areas of land proposed to be designated as Local Green Space is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic

significance, recreational value (including as a playing field), tranquillity or richness of its wildlife.

124. I find that the areas of land proposed to be designated as Local Green Space are suitable for designation and have regard for paragraphs 101 to 103 of the Framework concerned with the identification and designation of Local Green Space.
125. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
126. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

Policy G2: Neighbourhood Open Space

127. This policy seeks to designate four identified areas of land as Neighbourhood Open Spaces where development proposals will only be supported if one of two stated criteria are met.
128. The representation of the District Council states Policy G2 is considered to have regard to paragraph 99 of the Framework. Severn Trent recommend additional policy wording supporting flood resilience works schemes within Local Green Space. The additional policy content is not necessary to meet the Basic Conditions.
129. Paragraph 99 of the Framework states "Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless: a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use."
130. The name "Giffard" requires correction in WNOS04. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and is "clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" as required by paragraph 16d) of the Framework.

131. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

132. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 4:

In Policy G2 in WNOS04 replace "Gifford" with "Giffard" (make consequential changes to the key on the map at Appendix 5.1 and to Figure 5.3.4 at Appendix 5.4)

Policy B1: Local Biodiversity net gain

133. This policy seeks to establish a regime that ensures new development will deliver biodiversity net gain.

134. The District Council state "Whilst paragraphs 174 and 179 of the Framework refer to net gains for biodiversity, they do not specify a percentage for the gain. The Environment Act 2021 introduces the mandatory requirement for new developments to provide a 10% biodiversity net gain. However, it is understood that the requirement has no legal effect yet (and will be brought into force through secondary legislation at a date not yet known)." The representation of Fosse Planning states the requirement to deliver at least 10% net gain in local biodiversity should be deleted as it is not open for neighbourhood plans to introduce such a requirement. The Parish Council state the policy is consistent with emerging national policy and regulations. At present the policy does not have sufficient regard for national policy and I have therefore recommended a modification in this respect.

135. The Malvern Hill AONB Partnership query application of the policy in respect of householder planning applications and suggest off-site delivery should be within the parish where possible. I am satisfied with the explanation of the Parish Council that the policy wording relates to new development and that "close proximity" is appropriate especially in respect of sites at or near the parish boundary.

136. Paragraph 174d of the Framework states planning policies should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. Paragraph 179b of the Framework states plans should promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.
137. Policy SWDP22 states development which would compromise the favourable condition or the favourable conservation status of a Grassland Inventory Site (GIS), a Local Wildlife Site (LWS), a Local Geological Site (LGS), an important individual tree or woodland and species or habitats of principal importance recognised in the Biodiversity Action Plan, or listed under Section 41 of the Natural Environment and Rural Communities Act 2006, will only be permitted if the need for and the benefits of the proposed development outweigh the loss.
138. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular strategic Policy SWDP22. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
139. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 5:

In Policy B1 delete "at least 10%" and insert "a"

Policy LC1: Landscape Character and Visual Impact

140. This policy seeks to ensure developments conserve and enhance the special qualities of the area's landscape and scenic beauty and be consistent with its landscape character and visual amenity by meeting stated requirements.
141. The representation of Fosse Planning raises no objection to the policy but comments on its application in Policy H4 which I consider later in my report. A representation states errors in the Landscape Sensitivity and Capacity Assessment Selected Sites April 2022, and the Housing Site Assessment and Selection Report November 2022 result in the wrong sites being assessed and included in the

Housing Site Assessment and Selection Refreshed report March 2023. I am satisfied with the response of the Parish Council in this respect.

142. The term “and also to relevant good practice guidance” is imprecise and does not provide a basis for the determination of development proposals. In response to the representation of the Malvern Hill AONB Partnership suggesting adjustments of wording to achieve improved clarity the Parish Council has proposed revisions to the policy wording. The Parish Council also suggest a formatting correction. I have adopted these points in my recommended modification. I have recommended a modification in these respects so that the policy is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
143. Paragraph 174 of the Framework states planning policies should recognise the intrinsic character and beauty of the countryside.
144. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular strategic Policies SWDP25. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
145. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 6:
In Policy LC1**

- **replace the text between parts 3 and i with “This should be demonstrated through the submission of evidence, proportionate to the type and scale of development proposed and the site’s location, to demonstrate they conserve and enhance the special qualities of the Neighbourhood Area taking account of:”**
- **after point ii. insert “iii. Demonstration of regard for the Malvern Hills AONB Management Plan and the Welland Parish Council’s Landscape Assessment Reports (retain footnote 26)”**
- **replace the final paragraph with ‘Development proposals which would create unacceptable adverse effects that cannot be mitigated to an acceptable degree when compared to the baseline condition will not be supported’**

Policy C1: Protection of existing Built Community Facilities and the Local Shop

146. This policy seeks to protect existing built community facilities and the local shop. I am satisfied the location of the community facilities that the policy relates to have been sufficiently identified in Figure 5.5 of the Neighbourhood Plan.
147. A representation states there is no mention of sustaining and improving current amenities; plans for car parking provision for the shop, school, and church; or pedestrian crossings. There is no requirement for the policy to refer to such matters to meet the Basic Conditions.
148. Paragraph 93 of the Framework states planning policies should guard against the unnecessary loss of valued facilities and services, and should plan positively for the provision and use of shared spaces, community facilities and other local services. I am satisfied the approach adopted in Policy C1 has sufficient regard for national policy in these respects.
149. Policy SWDP 37B states any proposal that would result in the loss of a site or building currently or last used as a community facility will only be permitted if the certain criteria are met. The footnote 82 to Policy SWDP 37 sets out what uses constitute community facilities. The Welland Village Store and Post Office does not meet the definition of a community facility. Proposals for change of use of the Post Office to non-retail uses would only be supported when consistent with SWDP Policy 10. The approach of Policy C1 is in general conformity with strategic policy.
150. The term “permitted” does not have sufficient regard for paragraph 2 of the Framework which states “planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.” I have recommended a modification in this respect so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
151. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
152. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’

neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 7:

In Policy C1 replace “permitted” with “supported”

Policy C2: Provision of new and improved Built Community Facilities

153. This policy seeks to establish support for new or improved built community facilities provided stated criteria are met.
154. The Malvern Hills AONB Partnership has asked whether additional policy measures can be included in the policy but I am unable to recommend a modification that is not necessary to meet the Basic Conditions.
155. Paragraph 93 of the Framework states planning policies should plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments. Paragraph 93 of the framework also states planning policies should ensure that established shops, facilities, and services are able to develop and modernise, and are retained for the benefit of the community. Paragraph 106 of the Framework states planning policies should provide for attractive and well-designed walking and cycling networks.
156. It is unnecessary and confusing for a policy to refer to another policy of the Neighbourhood Plan as the Plan should be read as a whole. The terms “unacceptable” and “unacceptably” are imprecise. The final sentence duplicates Policy SD2. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
157. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
158. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’

neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 8:
In Policy C2**

- **in part 1 delete “and satisfy the requirements of policy LC1”**
- **in part 3 replace “unacceptable” with “significant”**
- **in part 4 replace “unacceptably” with “significantly”**
- **delete the final sentence**

Policy HE1: Non-Designated Heritage Assets

159. This policy seeks to establish a policy approach to the determination of development proposals affecting the significance of a non-designated heritage asset.

160. The representation of Worcestershire County Council states the limited definition of non-designated heritage assets does not reflect national policy, and such assets can be identified in several ways. I have recommended a modification of the first paragraph of the policy in this respect so that the policy has sufficient regard for national policy. Worcestershire County Council also state the policy and wider plan fails to identify the Historic Environment Record and the Neighbourhood Plan offers an opportunity to highlight specific local heritage. The Parish Council state neither the plan nor the policy seeks to identify non-designated heritage assets. The policy merely provides protection to a non-designated heritage asset however it is identified. Paragraph 5.7.3 of the Reasoned Justification refers to MHDC’s Local List SPD (May 2015) [which is currently being updated] which sets out the process for identifying non-designated heritage assets including reference to the Historic Environment Record (HER). In addition, the Community Projects at Appendix 6.1 of the Plan refer to the Parish Council and the community identifying non-designated heritage assets for inclusion on MHDC’s Local List. This would involve referencing the HER.

161. The Guidance refers to advice on local lists published on Historic England’s website (Paragraph: 040 Reference ID: 18a-040-20190723 Revision date 23 07 2019). Historic England Advice Note 11 Neighbourhood Planning and the Historic Environment (Published 16 October 2018) states “Preparing a list of locally-valued heritage assets. Independent (at least initially) of any local list endorsed or developed by a local planning authority, neighbourhood planning groups may wish to consider if any buildings and spaces of heritage interest are worthy of protection through preparing a list of locally-valued heritage assets that is referenced in neighbourhood plan policy. The use of selection criteria helps to provide the processes and procedures against which assets can be nominated and their

suitability for addition to the local planning authority's heritage list assessed. A list of locally-valued heritage assets can inform or be integrated within a local list maintained by the local authority, subject to discussion with them." It is appropriate for a local community to use the Neighbourhood Plan preparation process to identify heritage assets that are locally valued and it is equally valid, as in the case of the Neighbourhood Plan, to adopt an approach where identification of potential non-designated heritage assets is undertaken as a proposed Community Project separate from the Neighbourhood Plan preparation process. I am satisfied the approach adopted in the Neighbourhood Plan in these respects has sufficient regard for national policy.

162. Policy HE1 has regard for paragraph 130 of the Framework which requires planning policies to ensure developments are sympathetic to local character and history, and that places are attractive and welcoming. However, the policy does not have sufficient regard for Paragraph 203 of the Framework which sets out a balanced judgement approach to considering potential impacts of development proposals affecting the significance of non-designated heritage assets. Paragraph 203 of the Framework requires that regard is given to the scale of any harm or loss and the significance of the asset. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and is "clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" as required by paragraph 16d) of the Framework.

163. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular strategic Policy SWDP6. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

164. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 9:

In Policy HE1

- **replace the first paragraph with "To be supported development proposals which directly or indirectly affect a non-designated heritage asset must describe the impact of the proposal on its significance, and demonstrate regard for the scale of any harm or loss and the significance of the asset."**
- **delete the third paragraph**

Policy I1: Development and Infrastructure

165. This policy seeks to establish a policy approach to the provision of infrastructure needs arising from development proposals.
166. Paragraph 28 of the Framework refers to the provision of infrastructure being the subject of non-strategic policies used by communities. Paragraph 34 of the Framework states plans should set out contributions expected from development and planning policies relating to development contributions should not undermine the deliverability of the plan. I am satisfied the policy has sufficient regard for national policy in these respects.
167. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular strategic Policy SWDP7. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
168. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

Policy I2: High Quality Communications Infrastructure

169. This policy seeks to establish a policy approach to the development of communications infrastructure.
170. The Malvern Hills AONB Partnership has asked whether additional measures regarding undergrounding of cables can be included in the policy but I am unable to recommend a modification that is not necessary to meet the Basic Conditions.
171. Paragraph 114 of the Framework states planning policies should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Policies should set out how high-quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded over time; and should prioritise full fibre connections to existing and new developments (as these connections will, in almost all cases, provide the optimum solution). Paragraph 115 of the Framework says that the number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings and other

structures for new electronic communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.

172. Although Policy SWDP26 is not regarded as strategic its contents are relevant to note. Policy SWDP26A states new development should be provided with superfast broadband or alternative solutions where appropriate, for example, mobile broadband and / or Wi-Fi. Wherever practicable, superfast broadband capacity should be incorporated to agreed industry standards. Developers and infrastructure providers should seek to facilitate this through early engagement. Policy SWDP 26B sets out five factors that will be considered when assessing telecommunications development proposals.
173. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
174. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

Policy I3: Surface and Foul Water Drainage and Management

175. This policy seeks to establish a policy approach to surface and foul water drainage and management relating to development proposals.
176. The District Council has questioned whether the policy should be less onerous. Severn Trent recommend additional policy wording relating to drainage hierarchy policy and SuDS. The additional policy content is not necessary to meet the Basic Conditions.
177. Paragraph 167 of the Framework states “when determining any planning application, local planning authorities should ensure that flood risk is not increased elsewhere”. Paragraph 168 of the Framework states major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be appropriate. I am satisfied the policy has sufficient regard for national policy.
178. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to

the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

179. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

Policy I4 Active Travel Corridor

180. This policy seeks to safeguard land that formed part of the former Malvern to Upton-on-Severn railway line to form part of an active travel corridor. The policy also seeks to establish criteria relating to provision of a cycle and pedestrian route.

181. A representation states the land is in private ownership, and the bridge mentioned has been demolished, and it is too far out of the village to walk to. This representation does not necessitate any modification to meet the Basic Conditions. The Parish Council has agreed to a reference to the AONB as requested by the Malvern Hills AONB Partnership. I have adopted the adjustment in my recommended modification so that the policy has sufficient regard for national policy and is "clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" as required by paragraph 16d) of the Framework.

182. Paragraph 106 of the Framework states planning policies should provide for attractive and well-designed walking and cycling networks.

183. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

184. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 10: Continue Policy I4 with "and the setting of the Malvern Hills AONB"

Policy D1: Design

185. This policy seeks to establish design principles for development. The policy includes reference to the Welland Design Guide and Code presented at Appendix 5.1 of the Neighbourhood Plan.
186. A representation objects to the entire policy and states the Parish Council has over the past 10 years not objected to several infills that do not compliment adjacent dwellings. It is not within my role to assess the merits of development proposals, and associated consultation responses, in respect of planning applications over the last decade.
187. The Malvern Hills AONB Partnership has asked whether additional policy measures can be included in the policy but I am unable to recommend a modification that is not necessary to meet the Basic Conditions.
188. To be read alongside the Guidance, Government published the National Design Guide on 1 October 2019 to set out the characteristics of well-designed places and demonstrate what good design means in practice. The National Design Guide was updated on 30 January 2021 to align with the National Model Design Code and Guidance Notes for Design Codes published separately (as forming part of the Guidance) on 20 July 2021, and have been last updated on 14 October 2021. The design principles included within Policy D1 are consistent with the approach and principles recommended in national policy.
189. Paragraph 127 of the Framework states “neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development”. The policy has regard for paragraph 130 of the Framework which sets out design principles of development that planning policies should ensure. The policy is not overly prescriptive and will not prevent or discourage appropriate innovation or change.
190. The term “relevant AONB Guidance” is imprecise and does not provide a basis for the determination of development proposals. It is unnecessary and confusing for the final paragraph of Policy D1 to refer to Policy H4, especially as it differs from part 3 of Policy H4. Cross referencing of policies of this nature is unnecessary as the Neighbourhood Plan should be read as a whole. I have recommended a modification in these respects so that the policy is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
191. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular strategic Policy SWDP21. The policy serves a

clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

192. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 11:
In Policy D1**

- **delete “and relevant AONB Guidance”**
- **delete the final paragraph**

Policy D2: Access, travel and connectivity associated with development proposals

193. This policy seeks to establish access, travel, and connectivity criteria for support of development proposals.
194. The Malvern Hills AONB Partnership has asked whether additional policy measures can be included in the policy but I am unable to recommend a modification that is not necessary to meet the Basic Conditions. The District Council raise the issue of overlap between Policies D1 and D2. Whilst Policy D1 refers to connectivity, I am satisfied Policies D1 and D2 each provide appropriate guidance to decision makers regarding the determination of development proposals whilst being complimentary.
195. Paragraph 106 of the Framework states planning policies should “provide for attractive and well-designed walking and cycling networks.” Paragraph 92a of the Framework states planning policies should aim to achieve healthy, inclusive, and safe places which promote social interaction, including opportunities for meetings between people who might not otherwise encounter each other, for example through ...street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages.
196. Policy SWDP21Bix states “design and layouts should maximise opportunities for pedestrian and cycle linkages to the surrounding area and local services and should be generally accessible for all users, including those with disabilities”.
197. The use of the term “adequate” in parts 1 and 3 of the policy is imprecise. Part 2 of the policy does not have sufficient regard for paragraph 111 of the Framework which states development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual

cumulative impacts on the road network would be severe. Part 4 of the policy has not been sufficiently justified with respect to access by bus, and the requirement relating to access by non-car modes of transport relies on the imprecise term “appropriately accessed”. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

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

199. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 12:
In Policy D2**

- **in part 1 replace “adequate” with “safe”**
- **replace part 2 with “it does not result in residual adverse cumulative impacts on the road network that are severe, and the impact on highway safety is acceptable;”**
- **replace part 4 with “it pursues opportunities to promote access by walking, cycling or by using public transport;”**

Policy HLP: Welland Housing Land Provision

200. This policy seeks to establish how the indicative housing requirement for the Neighbourhood Area will be met, and establish criteria for support of windfall development.

201. As Policy HLP identifies the residential allocation in Policy H4 for 13 dwellings on land north of Cornfield Close as a major source in meeting the Indicative Housing Requirement of 25 dwellings in the Neighbourhood Area during the Plan period there is an inter-relationship between Policies HLP and H4. I have considered quantitative housing land provision issues here in respect of Policy HLP, and considered issues relating to the specific site on land north of Cornfield Close, including its selection from alternatives, later in my report when I address Policy H4.

202. The Guidance states “The scope of neighbourhood plans is up to the neighbourhood planning body. Where strategic policies set out a housing requirement figure for a designated neighbourhood area, the neighbourhood planning body does not have to make specific provision for housing, or seek to allocate sites to accommodate the requirement (which may have already been done through the strategic policies or through non-strategic policies produced by the local planning authority). The strategic policies will, however, have established the scale of housing expected to take place in the neighbourhood area. Housing requirement figures for neighbourhood plan areas are not binding as neighbourhood planning groups are not required to plan for housing.”
203. “Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.”
204. “Where neighbourhood planning bodies have decided to make provision for housing in their plan, the housing requirement figure and its origin are expected to be set out in the neighbourhood plan as a basis for their housing policies and any allocations that they wish to make. Neighbourhood planning bodies are encouraged to plan to meet their housing requirement, and where possible to exceed it.”
205. “The National Planning Policy Framework expects most strategic policy-making authorities to set housing requirement figures for designated neighbourhood areas as part of their strategic policies”
206. The Guidance also states “If a local planning authority is also intending to allocate sites in the same neighbourhood area the local planning authority should avoid duplicating planning processes that will apply to the neighbourhood area. It should work constructively with a qualifying body to enable a neighbourhood plan to make timely progress. A local planning authority should share evidence with those preparing the neighbourhood plan, in order, for example, that every effort can be made to meet identified local need through the neighbourhood planning process.”
207. “Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing need evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date local plan is in place the qualifying body and the local planning authority should

discuss and aim to agree the relationship between policies in: the emerging neighbourhood plan; the emerging local plan; the adopted development plan; with appropriate regard to national policy and guidance.”

208. “The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body so that complementary neighbourhood and local plan policies are produced. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. Strategic policies should set out a housing requirement figure for designated neighbourhood areas from their overall housing requirement (paragraph 65 of the revised National Planning Policy Framework). Where this is not possible the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body, which will need to be tested at the neighbourhood plan examination. Neighbourhood plans should consider providing indicative delivery timetables, and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new local plan.”

209. The representation of Fosse Planning states the level of housing allocation in the Neighbourhood Plan is insufficient which should at very least meet the requirement in the SWDPR. The representation on behalf of Clarendon Care raises objection that the Indicative Housing Requirement set out in the SWDPR could alter. The Parish Council comment it has maintained a dialogue with the District Council throughout the Plan preparation process which has confirmed the Indicative Housing Requirement. The Parish Council state plan preparation has consistently been based on latest information from the District Council. The Parish Council state data comparing the indicative housing requirement with locally assessed housing need is set out in the Housing Evidence Paper (2022). The Parish Council draw attention to the conclusion within the Housing Evidence Paper that there is a demonstrable local need for 13 affordable dwellings. The Parish Council also state it has committed to Plan Monitoring and Review as set out in Section 8 of the Neighbourhood Plan.

210. Paragraph 29 of the Framework states “Neighbourhood Plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.” Whilst it is not within my role to test the soundness of the Neighbourhood Plan it is necessary to consider whether the Plan

meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies, as required by paragraph 29 of the Framework; and meets the requirements set out in the Guidance.

211. The strategic planning policy framework for the Welland Neighbourhood Area is provided by the South Worcestershire Development Plan (SWDP) which was adopted in February 2016. The housing requirement to 2030 in south Worcestershire is 28,370 dwellings. The SWDP makes provision for around 28,400 dwellings to meet this need. Welland is identified in the SWDP as a Category 1 village. Category 1 villages are stated to have a role predominately aimed at meeting locally identified housing and employment needs and are suited to accommodate market and affordable housing needs alongside limited employment for local needs. The SWDP allocated three sites in Welland that were anticipated to deliver an indicative 90 dwellings. Strategic Policy SWDP 2B states windfall development proposals will be assessed in accordance with the settlement hierarchy. Welland is identified as a Category 1 settlement where infill development within the defined development boundaries is acceptable in principle subject to the more detailed Plan policies. The Neighbourhood Plan reports in paragraph 5.10.5 that in the 16-year period to 2021 102 dwellings have been completed on windfall sites. The contribution arising from allocated and windfall sites amounts to a significant boost to the supply of housing in the Neighbourhood Area.
212. As stated earlier in my report the South Worcestershire Councils are preparing a revision of the South Worcestershire Development Plan. The emerging revised SWDP (SWDPR – Regulation 19 version November 2022) includes a proposed strategic housing allocation for 17 dwellings (Site reference MHPH11 but also designated SWDP NEW 99) at Lawn Farm (Phase 3) Drake Street, Welland. Paragraph 5.10.1 of the Neighbourhood Plan states the SWDPR contains an indicative housing requirement for Welland of 25 dwellings for the period 2021-2041. It is stated this is a minimum number and may be subject to change. Policy HLP sets out how the Neighbourhood Plan will meet the indicative housing requirement.
213. Whilst paragraph 70 of the Framework states Neighbourhood Planning groups should consider the opportunities for allocating small and medium-sized sites suitable for housing in their area, the Framework does not require Neighbourhood Plans to allocate sites for housing. Paragraph 14 of the Framework does, however, confer a limited protection on Neighbourhood Plans which plan for housing where certain criteria are met. To benefit from the protection conferred by Paragraph 14 a Neighbourhood Plan would need to plan for housing through policies and allocations to meet the identified (or indicative) housing requirement in full, including possible allowance for some windfall development.

214. The Neighbourhood Plan allocates a site for development although there is no requirement that it should. Policy H4 of the Neighbourhood Plan allocates land for residential development of 13 dwellings. Whilst no total figure can be assumed, there is undoubtedly also some potential for additional dwellings to be provided on infill plots or possibly through the redevelopment of sites within the development boundary of Welland in accordance with Policy DB1. The Neighbourhood Plan places no limit on the number of homes that can be provided within the development boundary. Policy DB1 of the Neighbourhood Plan also recognises development may occur outside the development boundary and does not place any limit on the number of homes that can be provided in accordance with that aspect of the policy. I conclude the Neighbourhood Plan will not promote less development than set out in the Local Plan, as required by paragraph 29 of the Framework. I have noted there is also a likelihood that a strategic housing allocation arising from the SWDPR will result in additional residential development in the Neighbourhood Area.
215. The representation on behalf of Stonebond Ltd states the reliance on windfall development to achieve the total housing requirement for the Plan area is unjustified. The representation of Fosse Planning states reliance on windfall sites is too high. The representation on behalf of Clarendon Care states opportunities to achieve the anticipated 12 dwellings on windfall sites are seriously limited within the tightly drawn settlement boundary. The Parish Council state windfall provision could include Rural Exception Sites or other development outside the settlement boundary in sustainable locations. The Parish Council draw attention to the c.200 dwellings completed since the SWDP was adopted and state the Windfall Housing Delivery 2006-2022 paper (March 2023) includes evidence supporting the delivery of proposed windfall sites including evidence of completions and permissions granted already within the Plan period. I am satisfied the Windfall Housing Delivery Report 2006-2022 provides the necessary justification for the approach adopted.
216. Clarendon Care state that 13 affordable houses does not represent 40% of the overall figure contrary to emerging SWDPR policy on affordable housing provision. I agree with the Parish Council that the affordable housing requirements of strategic policy are site relevant and minimum requirements and do not apply to total Neighbourhood Plan provision.
217. The merits or demerits of housing development on the sites promoted in Regulation 16 and other representations are not a matter for my consideration. The approach taken and the choices made in the Neighbourhood Plan regarding housing provision are sufficiently evidenced and justified and have sufficient regard for the Framework and Guidance. I am satisfied the approach adopted to address the quantity of housing need in the Neighbourhood Area is appropriate for the purpose of neighbourhood plan preparation for the Welland Neighbourhood Area and provides the necessary justification that those policies (after recommended modification) that

are relevant to housing supply will result in local housing needs being met. The Neighbourhood Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, and will not undermine those strategic policies.

218. The term “for Welland” is ambiguous. The term “in principle” does not provide a basis for the determination of development proposals I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

219. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular strategic Policy SWDP2. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

220. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 13:

In Policy HLP

- **replace “for Welland” with “for the Neighbourhood Area”**
- **delete “in principle”**

Policy H1: Market Housing Type and Size

221. This policy seeks to establish that new market housing developments of five dwellings or more must demonstrate subject to viability considerations, that they provide the type and size of housing to meet specified local housing needs.

222. In response to a representation the Parish Council state a correction is necessary as follows “Amend Policy H1, 5.10.9 and 5.10.19, and the Design Guide 0.2.4, 0.3.3, Fig 44 and p38 (The Avenue), to include “short row” or “short row (3 max)” as appropriate before references to terraced housing.” I have recommended a modification in these respects to correct an error so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident

how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

223. Paragraph 62 of the Framework states, within the context of paragraph 61, planning policies should reflect an assessment of the size, type and tenure of housing needed for different groups in the community. Strategic Policy SWDP14A states residential developments of five or more units having regard to location, site size and scheme viability should contain a mix of types and sizes of market housing that is informed by the latest strategic housing market assessment and/or other local data. I am satisfied Policy H1 is sufficiently justified by the Housing Evidence Paper (June 2022). The policy includes provision for a different housing mix where that is demonstrated to meet local housing need.
224. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular strategic Policy SWDP14A. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
225. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 14:

In Policy H1 include “short row” or “short row (3 max)” as appropriate before references to terraced housing

Make consequential adjustments to paragraphs 5.10.9 and 5.10.19 of the Neighbourhood Plan, and within the Design Guide at 0.2.4, 0.3.3, Fig 44 and p38 (The Avenue).

Policy H2: Affordable Housing Provision

226. This policy seeks to establish affordable housing requirements within new residential windfall developments, and on the proposed residential development site allocated in Policy H4.
227. The representation of Fosse Planning states the policy is fundamentally weakened by the proposal to deliver 100% affordable housing on its only allocated housing site because this level of affordable housing should be brought forward as a

rural exception site and not a housing allocation. The Parish Council state: neither the Framework nor the Guidance restrict a plan from making an allocation for 100% affordable housing; locally identified need is solely for affordable housing; and that relying on rural exception sites coming forward does not constitute proportionate and evidential plan-making.

228. Paragraph 64 of the National Planning Policy Framework states provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 or fewer). In response to my request for clarification that the Welland Neighbourhood Area is currently a designated rural area the Parish and District Councils jointly stated “A copy of the Statutory Instrument 2016 No. 587 is appended at page 6 of this letter. The Statutory Instrument which is also referenced in the South Worcestershire Development Plan - Adopted Affordable Housing SPD (October 2016) identifies the Parish of Welland as a designated rural area. The Parish of Welland, is synonymous with the Welland Neighbourhood Area.” I am satisfied with this explanation.

229. Part D of the policy requires correction. Paragraph 5.10.24 in the reasoned justification seeks to introduce a policy requirement which it may not. I have recommended a modification in these respects so that the Neighbourhood Plan has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

230. Paragraph 34 of the Framework states “Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.”

231. I sought clarification that Part F of Policy H2 is intended to apply in respect of all proposals for new residential development including on the proposed allocation for residential development made in Policy H4. In response to my request for clarification the District Council and the Parish Council jointly stated “We can confirm that Part F of Policy H2 is intended to apply in respect of all proposals for new residential development including on the proposed allocation for residential development made in Policy H4. In order to make the intention of Part F clearer we would suggest a minor amendment to the wording of the first sentence as follows): F. For all new residential development, where proposals are made on viability grounds for a lower provision and/or different mix of affordable housing from Parts A-E above, a viability assessment must be submitted to demonstrate that cross-subsidisation is necessary. Policy H4 (i) refers to allocation for 13 affordable housing complying with

policy H2 'Affordable Housing Provision'. This would therefore include consideration of Part F of Policy H2. As such, we believe policy H2 and policy H4 have regard to national policy and guidance and are in general conformity with the strategic policies contained in the adopted development plan for the area. In addition, policy H2 has also taken into consideration the evidence and reasoning informing the SWDP Review process relevant to the consideration of the basic conditions particularly in relation to national policy and sustainable development within an AONB. This is in line with NPPG paragraph: 009 Refence ID: 41-009-20190509. Part B was included in policy H2 to reflect that evidence and reasoning but still subject to viability considerations." I am satisfied part F of Policy H2 ensures the policy includes the necessary flexibility to respond to viability considerations in respect of any site where residential development is proposed. I have adopted, with minor variation, the suggestion of the District and Parish Councils to modify the first sentence of Part F of Policy H2. I have made this recommendation so that the policy has sufficient regard for national policy and is "clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" as required by paragraph 16d) of the Framework.

232. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular strategic Policy SWDP15. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

233. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 15:

In Policy H2

- **in Part D after "70%" delete "should be"**
- **commence Part F with "For all new residential development," and in the same sentence after "housing" insert "from Parts A-E of this policy above,"**

In paragraph 5.10.24 of the reasoned justification replace "new rural exceptions site and other proposals" with "a new rural exception site"

Policy H3: Homes Standards

234. This policy seeks to establish local requirements relating to accessible homes standards.
235. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these. The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: “From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
236. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
237. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 16:

Replace Policy H3 with “Development proposals for new dwellings that achieve Part M4(2) Accessible and adaptable dwellings, and Part M4(3) Wheelchair user dwellings of the Building Regulations will be supported.”

Policy H4: Land north of Cornfield Close

238. This policy seeks to allocate 1.06 hectares of land north of Cornfield Close for a maximum of 0.64 hectares of residential development and a minimum of 0.42 hectares of green infrastructure as shown on Figure 6.7 of the Neighbourhood Plan.

239. A representation objects to land provision promoting development in the AONB (reference Cornfield Close) stating views to the hills are important as views from the hills. The District Council representation includes “The Framework enables Plans to allocate sites within AONB’s. The scale and extent of development within AONB’s should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. Figure 5.7 helpfully shows the boundaries of the site and location of green space. Paragraph 10.43 indicates that Appendix 5.8 includes an illustrative Concept Plan. It would have been helpful if this had been included in the Plan to provide greater clarity.” A concept plan, prepared for illustrative purposes only, is included in the Appendix to the Neighbourhood Plan and in the Design Guidance and Code supporting the Neighbourhood Plan, but is not referred to in Policy H4. It is not necessary for the concept plan to be included in the main body of the Neighbourhood Plan to meet the Basic Conditions.
240. The District Council also state with respect to part 7 of the policy “it is not clear why an applicant would have to demonstrate that the development provides safe walking, cycling and vehicle access to key local facilities. Paragraph 5.10.42 indicates that this has already been established as part of the site assessment process.” I agree with this comment and consider the requirement has not been sufficiently justified. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.
241. Representations of individuals refer to matters of mutual privacy including fencing, landscaping, orientation of windows and gardens, and possible single storey dwellings bordering existing homes. The representations also refer to matters of impact on local wildlife; light pollution; biodiversity gain; green infrastructure; avoidance of harm to the AONB; provision of affordable housing for older people; access; disruption; soil conditions; and drainage. I am satisfied Policy H4, when read together with the other policies of the Neighbourhood Plan, will provide part of the Development Plan policy framework for the determination of development proposals. Material considerations must additionally be addressed in the determination of specific applications for planning permission.
242. In a representation Natural England advise the policy is amended to reflect evidence from the SWDPR relating to recreational impacts on the Malvern Hills SSSI. The Parish Council comment this would be premature and state any future policy of the SWDPR would apply to development sites. I agree no modification is necessary to meet the Basic Conditions,
243. The Malvern Hills AONB Partnership has requested additional clarity in respect of integration within the landscape. In this respect I have adopted a suggestion of the Parish Council in my recommended modification of part 4 of Policy H4. The Malvern Hills AONB Partnership has also asked whether additional policy

measures can be included in the policy but I am unable to recommend a modification that is not necessary to meet the Basic Conditions.

244. The representation of Fosse Planning raises objection to Policy H4 stating that if Policy LC1, in respect of landscape and visual impact, had been properly applied the site would not have been brought forward. The representation also states the requirement to deliver 100% affordable housing makes it inappropriate to be a housing allocation since 100% affordable housing should be brought forward as a rural exception site. The representation also states the selection of the site should consider the assessment of the combined impact on the AONB with the previous two schemes on adjacent land. It is stated the allocation should be removed and replaced with another allocation. The Parish Council comment it is aware of paragraph 177 of the Framework, and in considering site selection these and many other factors were weighed in the balance, and believes the allocation provides a deliverable and sustainable means of meeting evidenced local housing need.

245. I have earlier in my report referred to two late representations made on behalf of DB Land and Planning Limited which the District Council decided to accept. The first late representation stated a wish to withdraw the site subject to Policy H4 from the Neighbourhood Plan on the basis “the site in the present climate in its present form is not deliverable and we understand a site must be deliverable”. The first late representation stated a desire to work with the Parish Council to submit the site as a rural exception site. The second late representation stated “It may now be too late but my client wishes for the development to go back into the plan if that is possible. Apologies for the inconvenience this has caused, they have taken further advice and with their drive to provide affordable housing for the village wish to offer it back to the NDP for delivery of that housing.”

246. I provided an opportunity for any interested party to comment on the two late representations on behalf of DB Land and Planning Limited accepted by the District Council. A representation, as corrected, by Fosse Planning Limited relating to the late representations accepted by the District Council states it is made on behalf of Brandon Planning and Development Limited and Craddick Residential Limited who are stated to be promoters of land on Gloucester Road Welland which is subject to a pending planning application validated in April 2022 for 56 dwellings (Reference M/22/00608/OUT). The representation states that site, which is outside of the AONB, is in the same ownership as the land that is subject of the representations of DB Land and Planning Limited. The representation of Fosse Planning Limited states no explanation has been provided in the Neighbourhood Plan why it is considered that the site should be brought forward as a housing allocation rather than as an exception site under existing Development Plan policy. The representation states the first late representation from DB Land states that Policy H4 is not deliverable and that there is no evidence, in the subsequent second late representation, to explain

the reversal of the intention to withdraw the site from the Neighbourhood Plan or to demonstrate that Policy H4 is viable and deliverable.

247. Paragraph 31 of the Framework states “The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals.” Paragraph 58 of the Framework states “Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.” The Guidance, in response to the question ‘How should a community ensure its neighbourhood plan is deliverable?’ states “Plans should be prepared positively, in a way that is aspirational but deliverable. Strategic policies in the local plan or spatial development strategy should set out the contributions expected from development. This should include the levels and types of affordable housing required, along with other infrastructure. Neighbourhood plans may also contain policies on the contributions expected from development, but these and any other requirements placed on development should accord with relevant strategic policies and not undermine the deliverability of the neighbourhood plan, local plan, or spatial development strategy. Further guidance on viability is available” (Paragraph: 005 Reference ID: 41-005-20190509 Revision date: 09 05 2019).

248. In response to my request to be directed to any existing evidence that demonstrates the residential development allocation in Policy H4 is deliverable and viable the District and Parish Councils jointly stated: “The Neighbourhood Plan Working Group (NPWG) has relied upon the affirmation by the landowner’s promoter that the allocation is deliverable. Landowner communications are set out on Page 4 of the submitted Housing Site Assessment & Selection Report – Refreshed March 2023. Copies of the correspondence are appended on Pages 17-24 of that report including a letter dated 05 January 2023 that acknowledges that the allocation is to be 100% affordable and reconfirms its availability and deliverability. In the Late Representations #18 and #19, the promoter first casts doubt on the viability of the site but then retracts that uncertainty with a stated commitment to deliver the affordable housing in the allocation while requesting that the site be re-instated as the allocation in the Plan.” Relevant pages abstracted from submitted and published documents were appended to the joint response that has been published on the

District Council website. I am satisfied Policy H4 of the Neighbourhood Plan is supported by evidence to confirm consideration of deliverability and viability and has sufficient regard for national policy and guidance to meet the Basic Conditions. I have earlier in my report concluded that I am satisfied part F of Policy H2 ensures that policy includes the necessary flexibility to respond to viability considerations in respect of any site where residential development is proposed.

249. The joint response of the District and Parish Councils includes identification of a considerable number of schemes under development, or commitments, that include 100% affordable housing in the Malvern Hills and Wychavon Districts (details of which are published either in the South Worcestershire Councils Five Year Housing Land Supply Report December 2022 or in the Planning Register). In addition, recent planning applications in Malvern Hills district are identified where they include 100% affordable housing. It is also stated the Hanley Castle Neighbourhood Plan (the Neighbourhood Area adjoins the Welland Neighbourhood Area) includes a 100% affordable housing allocation. I have not considered these cases and examples, or the circumstances that surround them. The statement in the representation of Fosse Planning that “a requirement to deliver 100% affordable housing makes it inappropriate to be a housing allocation since 100% affordable housing should be brought forward as a rural exception site” is not supported by Paragraph 65 of the Framework which refers to planning policies and decisions relating to major housing development where a site or proposed development is exclusively for affordable housing, an entry level exception site or a rural exception site.

250. I have noted the reference in the representation of Fosse Planning Limited to promotion of residential development of land at Gloucester Road, Welland. The representation on behalf of Clarendon Care proposes the allocation of land at the Welland House Nursing Home site for housing development. Another representation states “site CFS0336” Lawn Farm, Drake Street, Welland would supply the houses required in the area. The representation on behalf of Stonebond Limited promotes the development of land at Lawn Farm, Drake Street for housing development. The site referred to in that representation is stated to be a proposed allocation in the South Worcestershire Development Plan Review. The merits or demerits of housing development on the sites promoted in Regulation 16 and other representations are not a matter for my consideration.

251. The Parish Council state “The proposed site allocation is derived from a comprehensive and robust site assessment using the Locality toolkit ‘How to Assess and Allocate Sites for Development.’ The site assessment incorporates evidence from a Landscape Sensitivity & Capacity Assessment conducted in 2022 which has carefully considered all of the available sites in the context of their location relative to the AONB and taking into account the cumulative impacts of more recent housing

developments than would have been available to SWDPR in their site selection evaluations. The NPWG assessments concluded that the site proposed for the housing allocation was the most suitable. The 2022 LSCA noted that the area of land being proposed for the Plan's allocation within Policy H4 is one of just two sub areas with lower landscape sensitivity, and it had the highest capacity for development of all the sites available for consideration in the Welland Neighbourhood Area. National policy, the SWDP and SWDPR do not preclude development in the AONB. However, the SWDPR, echoed also in emerging MH AONB guidance (MH AONB Position Statement on Housing), expect such development to be in response to evidenced local needs. We believe we are delivering an allocation that reflects such evidence and is consistent with national and local policy expectations for a protected landscape. Please see our Housing Evidence Paper and associated Appendices document for our evidence and thinking on this. The respondent suggests we do not consider sheltered accommodation. We disagree - Section 3.4 of the Housing Evidence paper explores the evidence for housing for older members of the community. Sheltered accommodation is mentioned specifically in the context that there is some evidence of need but that a neighbourhood plan is not obliged to provide for this through a policy. We believe that the most effective way in this Plan to deliver for our older population is to provide policies that enable downsizing, affordability, and accessibility, as proposed in the Plan policies H1, H2 and H3, and as is allocated for delivery in policy H4."

252. The Parish Council state "as identified in footnote 26 to the policy a succession of three landscape assessment reports, most recent in 2022, expressly consider cumulative influence of development throughout the village including the site allocation". The Parish Council state the findings of the 2022 report informed the site assessment and selection, and landscape sensitivity although a major factor, but not the only factor, was considered in site selection and in considering the quantum and form of development. The Parish Council state the 3 requirements of Policy LC1 have been met.

253. The representation on behalf of Stonebond Ltd states that the allocation of a different site in the Neighbourhood Plan to that proposed for allocation in the SWDPR means the Neighbourhood Plan conflicts with its evidence base. The representation also states the evidence base is not proportionate. The representation states it is clear the well-advanced emerging SWDPR requires Welland to make an important contribution to housing growth in the plan period and identifies Lawn Farm Welland (site reference New 99) as a housing allocation. The representation states the Neighbourhood Plan by identifying this site as part Local Green Space and part open countryside is inconsistent with strategic policies and as a further inconsistency allocates a different site for housing and is therefore in conflict with its evidence base that includes the SWDPR. The representation states that if the SWDPR progresses to become part of the development plan any conflict

embedded in the Neighbourhood Plan would render the Neighbourhood Plan out of date.

254. The Parish Council has commented that the Plan recognises Welland as a Category 1 Settlement and seeks to make provision for the growth expected for it through the emerging evidence base supporting the SWDPR including the IHR. The Parish Council state “examination of the SWDPR will assess whether it, including its proposed allocations, are sound. This has yet to take place. As such the SWDPR remains some way from being adopted. The Plan must meet the Basic Conditions which includes being in general conformity with the strategic policies of the local plan which in this case is the SWDP. It is not tested against the policies in the emerging local plan. However, the Plan has had regard to the evidence informing the emerging local plan in line with the advice in the PPG (Paragraph: 009 Reference ID: 41-009-20190509). The NPWG has undertaken its own assessment, informed by a Landscape Sensitivity & Capacity Assessment, to identify the most suitable site for the neighbourhood area. The allocation of this site along with windfalls (as allowed in the PPG) meets the identified housing requirements within the emerging local plan.”

255. In answer to my request for clarification the District Council and Parish Council have sent me maps that confirm the housing allocation included in the SWDPR does not include any land that is proposed to be designated as Local Green Space in the Neighbourhood Plan.

256. In answer to the question ‘can a neighbourhood plan allocate additional or alternative sites to those in a local plan?’ the Guidance states “A neighbourhood plan can allocate additional sites to those in a local plan (or spatial development strategy) where this is supported by evidence to demonstrate need above that identified in the local plan or spatial development strategy. Neighbourhood plans should not re-allocate sites that are already allocated through these strategic plans. A neighbourhood plan can also propose allocating alternative sites to those in a local plan (or spatial development strategy), where alternative proposals for inclusion in the neighbourhood plan are not strategic, but a qualifying body should discuss with the local planning authority why it considers the allocations set out in the strategic policies are no longer appropriate. The resulting draft neighbourhood plan must meet the basic conditions if it is to proceed. National planning policy states that it should support the strategic development needs set out in strategic policies for the area, plan positively to support local development and should not promote less development than set out in the strategic policies (see paragraph 13 and paragraph 29 of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the local plan or spatial development strategy. Should there be a conflict between a policy in a neighbourhood plan and a policy in a local plan or spatial development strategy, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires

that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan”. (Paragraph: 044 Reference ID: 41-044-20190509 Revision date: 09 05 2019). I am satisfied it is appropriate for the Neighbourhood Plan to allocate a housing development site that is different to a strategic housing allocation of the emerging SWDPR.

257. The representation on behalf of Stonebond Ltd refers to paragraph 176 of the Framework and states there can be no justification for proposing an allocation of land within the AONB when non-AONB sites are suitable, available, and deliverable as at Lawn Farm. I am satisfied the Neighbourhood Plan has had regard to the evidence informing the emerging SWDPR and has been informed by its own Landscape Sensitivity and Capacity Assessment, Site Assessment report (Housing Site Allocations - Site assessment Report 2021), and Housing Site Assessment and Selection Report November 2022. I have noted this latter report included the Lawn Farm site referred to in the representation.

258. Paragraph 175 of the Framework states “Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.” Paragraph 176 of the Framework states “Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.” Paragraph 177 of the Framework states “When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development (Footnote 60) other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- (a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- (b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- (c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.”

Footnote 60 of the Framework states “For the purposes of paragraphs 176 and 177, whether a proposal is ‘major development’ is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.”

259. Strategic Policy SWDP23 states: A. Development that would have a detrimental impact on the natural beauty of an AONB will not be permitted. B. Any development proposal within the AONB must conserve and enhance the special qualities of the landscape. C. Development proposals should have regard to the most up-to-date approved AONB Management Plans.
260. Paragraph 3 of the Framework includes “General references to planning policies in the Framework should be applied in a way that is appropriate to the type of plan being produced, taking into account policy on plan making in chapter 3.” Paragraph 9 of the Framework includes “Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.” I am satisfied the Neighbourhood Plan has concluded the recent adjacent developments have resulted in a site the development of which will have limited landscape impact, and is suitable for the allocation made in Policy H4. My visit to the site has confirmed the described relationship of the site with existing development and its landscape setting. I observed the site has little particular scenic beauty, and noted trees and other vegetation significantly screen the south-eastern boundary of the site. I consider development is capable of being sensitively designed and located to avoid or minimise adverse impacts on the AONB; and be capable of being designed so that it can be regarded as not major development in terms of Footnote 60 of the Framework; and be capable of being favourably considered with respect to factors identified in paragraph 177 of the Framework. Whilst a representation raises questions regarding the achievement of a satisfactory access, I note that issue was explored by the Parish Council in its site assessment work. I saw nothing on site that would prevent achievement of suitable and safe vehicular and pedestrian access. I have noted neither the District Council nor the AONB Partnership have objected to the allocation of the site in their Regulation 16 representations. I am satisfied the limited development supported by the allocation in Policy H4 has sufficient regard for national policy to meet the Basic Conditions. I find the approach taken and the choices made in the Neighbourhood Plan regarding housing provision are sufficiently evidenced and justified and have sufficient regard for the Framework and Guidance.
261. It is confusing and unnecessary for the opening text of the policy to refer to Policies H2 and H3; for part 3 of the policy to refer to Policy D1; and for part 5 of the Policy to refer to Policy B1 as all the policies of the Neighbourhood plan apply throughout the Neighbourhood Area unless a lesser area is specified, and the

Neighbourhood Plan should be read as a whole. At present the policy does not have sufficient regard for national policy in respect of a specific percentage of biodiversity net gain. The terms “including” in part 2, and “including” and “relevant” in part 5 are imprecise and do not provide a basis for the determination of development proposals. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

262. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular strategic Policies SWDP2 and SWDP23. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

263. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 17:

In Policy H4

- **in the opening text delete “with the tenure, type and size complying with policy H2 ‘Affordable Housing Provision’ and of a standard complying with policy H3 ‘Accessible and adaptable dwellings’”**
- **in part 2 delete “including”**
- **in part 3 delete “Accord with policy D1 and”**
- **continue part 4 with “An Environmental Colour Assessment should be submitted to demonstrate the appropriateness of the proposed materials and their finishes”**
- **in part 5 replace “Accord with policy B1 in providing at least a 10%” with “Provide a”; and replace “relevant” with “the”; and delete “Guidance, including its”**
- **in part 7 delete “and that it provides safe pedestrian cycle and vehicular access from the site to key local facilities and services”**

Policy LE1: New small-scale business development within the Welland Development Boundary

264. This policy seeks to establish conditional support for development proposals for specified business uses within the Welland development boundary.
265. Paragraph 84 of the Framework states planning policies should enable the sustainable growth and expansion of all types of business in rural areas both through the conversion of existing buildings and well-designed new buildings.
266. I am satisfied that whilst the policy relates to the area within Welland Development Boundary it does not limit business development outside that boundary as it is made clear such development will be assessed against Policy SWDP12 or successor policy. I am also satisfied the inclusion of the term “where practical and viable” in the penultimate paragraph of the policy means that part of the policy has sufficient regard for national policy. The limitation to outbuildings in part 1 of the policy has not been sufficiently justified. The terms “sizeable” and “unacceptable” and “satisfactory” are imprecise. The term “without the need for sizeable extensions” has not been sufficiently justified. Part 4 is imprecise and has not been sufficiently justified. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
267. The policy is in general conformity with the strategic policies included in the South Worcestershire Development Plan adopted 25 February 2016 and relevant to the Neighbourhood Plan, in particular strategic Policies SWDP12. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
268. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 18:

In Policy LE1

- **in part 1 replace “outbuilding” with “building” and replace “sizeable extensions” with “extensions that are inappropriate for their location”**
- **in part 2 replace “an unacceptable” with “significant”**
- **in part 3 replace “satisfactory” with “safe” and insert “sufficient” before “off-street”**
- **delete part 4**

Conclusion and Referendum

269. I have recommended 18 modifications to the Submission Version Plan. I recommend an additional modification in the Annex to my report. The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them. I am satisfied that the Neighbourhood Plan is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and subject to the modifications I have recommended, meets all the Statutory Requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990, and meets the Basic Conditions:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

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

270. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension. I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”. I have seen nothing to suggest the referendum area should be extended for any other reason. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Malvern Hills District Council as a Neighbourhood Area on 12 May 2014.

Annex: Minor Corrections to the Neighbourhood Plan

271. I have only recommended modifications and corrections to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Supporting text must be adjusted to achieve consistency with the modified policies.
272. The Parish Council propose paragraph 5.6.3 is corrected to read: “There are a small number of built community facilities and one local shop within the Neighbourhood Area; the Village Hall, primary school, pre-school, place of worship, and a village store with a post office. The first three of these are publicly owned facilities and the fourth is owned by the local diocese. They are important assets to the community providing facilities for the young and the elderly within the community. The shop and post office although a privately owned local business, provides vital facilities for a rural community such as Welland.”
273. The Parish Council propose paragraph 1.11 of the Neighbourhood Plan is corrected to state the District Council decision to designate the Neighbourhood Area was 12 May 2014.
274. The District Council has drawn attention to the rebranding by National Government of AONB’s as National Landscapes on 22 November 2023 as part of its response to the Landscapes Review 2019. Rather than amending all references to AONB’s to an unfamiliar name throughout the Neighbourhood Plan I recommend the rebranding is referred to within the Introduction to Neighbourhood Plan.
275. In response to representations of the Malvern Hills AONB Partnership Unit the Parish Council propose:
- Paragraph 2.7 replace “177” with “176” and insert a footnote number 11 to the second sentence stating “The AONB Partnership’s Position Statement on Setting provides details on defining the setting of an AONB (see <https://worcestershire.moderngov.co.uk/documents/s23433/9%20Develop>

ment%20and%20Land%20Use%20change%20in
%20the%20MH%20AONB.pdf).”

- Paragraph 3.1 in the third sentence after “setting” insert “(see footnote 11)”
- Replace Paragraph 4.4 with “The Key Diagram also includes the Malvern Hills Area of Outstanding Natural Beauty designation (in opaque green) providing a key landscape designation relevant to the WNA.”
- Continue Footnote 22 with <https://www.malvernhillsaonb.org.uk/wp-content/uploads/2022/08/19-24-MHAONB-Management-Plan.pdf>
- In paragraph 5.5.1 replace “175” with “176”
- In paragraph 5.9.3 after “(non-reflective)” insert “for building elevations”

276. I recommend all the above modifications are made.

Recommended modification 19:

Modify policy explanation sections, general text, figures, and images, and supporting documents to achieve consistency with the modified policies, and to achieve updates and correct identified errors.

Chris Collison
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14 December 2023

REPORT END