

Kilsby Review Neighbourhood Development Plan

A report to West Northamptonshire Council of the Independent Examination of the Kilsby Review Neighbourhood Development Plan

Copied to Kilsby Parish Council

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Summary of Main Findings

The Kilsby Neighbourhood Development Plan (the made Neighbourhood Plan) was made by Daventry District Council on 22 July 2016. Following a local government re-organisation, the plan area now lies within the West Northamptonshire Council area.

Kilsby Parish Council (the Parish Council) decided the made Neighbourhood Plan should be updated to take account of changes to national and strategic planning policy and changes to the evidence base. The Parish Council has prepared the Kilsby Review Neighbourhood Development Plan (the Review Neighbourhood Plan) which includes revised policies relating to the development and use of land. The Parish Council state the Review Neighbourhood Plan involves material modifications which do not change the nature of the made Neighbourhood Plan.

The Parish Council submitted the Review Neighbourhood Plan to West Northamptonshire Council on 14 January 2022. West Northamptonshire Council agree with the Parish Council that the Review Neighbourhood Plan involves material modifications which do not change the nature of the made Neighbourhood Plan.

West Northamptonshire Council submitted the Review Neighbourhood Plan to me on 28 March 2022. I decided the Review Neighbourhood Plan involves material modifications which do not change the nature of the made Neighbourhood Plan and proceeded with the Independent Examination.

This report of the Independent Examination finds that subject to specified modifications the Review Neighbourhood Plan meets the Basic Conditions and other requirements. It is recommended the Review Neighbourhood Plan should, subject to specified modifications, be made by West Northamptonshire Council.

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 “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. 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.
3. The Kilsby Neighbourhood Development Plan was made by Daventry District Council on 22 July 2016. Following a local government reorganisation, the plan area now lies within the West Northamptonshire Council area.
4. The Parish Council decided the made Neighbourhood Plan should be updated to take account of changes to national and strategic planning policy, and changes to the evidence base that had supported the preparation of the made Neighbourhood Plan.
5. The Planning Policy Guidance (the Guidance) states there are 3 types of modification which can be made to a neighbourhood plan. The process will depend on the degree of change which the modification involves:
 - Minor (non-material) modifications to a neighbourhood plan or order are those which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum.
 - Material modifications which do not change the nature of the plan or order would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan.

- Material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.
6. The Parish Council has prepared the Kilsby Review Neighbourhood Development Plan (the Review Neighbourhood Plan) in respect of the Kilsby Neighbourhood Area (the Neighbourhood Area). The Neighbourhood Plan has been produced by a Neighbourhood Plan Steering Group (the Steering Group) made up of volunteers from the local community.
 7. Kilsby Parish Council has, on 14 January 2022, submitted a proposal to West Northamptonshire Council for the modification of the made Neighbourhood Plan stating the changes that are proposed to the made Neighbourhood Plan are a mixture of minor (non-material) changes and material changes that do not change the nature of the made plan. West Northamptonshire Council has undertaken its own assessment and concluded, stating reasons, that the authority agrees with this view.
 8. West Northamptonshire Council arranged a period of publication which closed on 11 March 2022, and subsequently submitted the Review Neighbourhood Plan to me for Independent Examination which formally commenced on 28 March 2022. I have examined the made Kilsby Neighbourhood Development Plan and the submitted Kilsby Review Neighbourhood Development Plan. Whilst the Review Neighbourhood Plan proposes the deletion of a policy, the insertion of a policy, and modification of the other policies of the made plan, both plans seek to shape, direct and help to deliver sustainable development in similar ways that are not significantly or substantially different. The Review Neighbourhood Plan seeks to update the made plan so that it remains relevant in the context of more recent information and analyses, and changed context and circumstances. Neither the made plan nor the review plan seek to allocate land for development. I have considered the Regulation 16 representations insofar as they are relevant to the decision I must make. I have determined under Paragraph 10(1) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 that the modifications contained in the proposed Kilsby Review Neighbourhood Development Plan do not change the nature of the development plan which the modification proposal would modify. On this basis the Review Neighbourhood Plan will require independent examination but not a referendum.
 9. On 28 March 2022 I advised West Northamptonshire Council and the Parish Council of my determination, and that I would proceed with the Independent Examination in order to consider whether the Review Neighbourhood Plan meets the Basic Conditions and other requirements. The Parish Council has confirmed in the light of my determination it wishes to proceed with the proposal.

Independent Examination

10. This report sets out the findings of the independent examination of the Review Neighbourhood Plan. The report makes recommendations to West Northamptonshire Council.
11. I have been appointed by West Northamptonshire Council with the consent of the Parish Council, to undertake the examination of the Review Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and West Northamptonshire Council. I do not have any interest in any land that may be affected by the Review Neighbourhood Plan.
12. 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.
13. As independent examiner, I am required to produce this report and must recommend either:
 - that the Review Neighbourhood Plan is made; or
 - that the Review Neighbourhood Plan is modified and then made, or
 - that the Review Neighbourhood Plan does not proceed on the basis it does not meet the necessary legal requirements.
14. I make my recommendation in this respect 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.
15. Paragraph 9 of Schedule 4B to the TCPA 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."
16. The examiner has the ability to 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. The preparation of the plan documents has had considerable professional input. Four of the Regulation 16 representations have been submitted by national organisations and Government agencies, and three by Local Government Councils. The representation of Richborough Estates includes much detail and is professionally drafted to cover all the relevant points. The Regulation 16 responses clearly set out any representations relevant to my consideration whether or not the Review 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 Review 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 on the basis of examination of the submission and supporting documents; the written representations; and an unaccompanied visit to the neighbourhood area.

Basic Conditions and other Statutory Requirements

17. 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.
18. 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 consider whether a neighbourhood plan is compatible with the Convention Rights, which has the same meaning as in the Human Rights Act 1998. All of these matters are considered in the later sections of this report titled 'The Review Neighbourhood Plan taken as a whole' and 'The Review Neighbourhood Plan Policies'. Where I am required to consider the whole Review Neighbourhood Plan, I have borne it all in mind.

19. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Review 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 Review Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 as amended (the Regulations) which are made pursuant to the powers given in those sections.
20. The Review Neighbourhood Plan relates to the area that was designated by Daventry District Council as a neighbourhood area in 2013. A map of the Neighbourhood Area is included as Map 1 of the Review Neighbourhood Plan. The Neighbourhood Area is unchanged from that to which the made Neighbourhood Plan relates. The Review Neighbourhood Plan does not relate to more than one neighbourhood area, and no other neighbourhood development plan, other than the made Neighbourhood Plan, has been made for the neighbourhood area. All requirements relating to the plan area have been met.
21. I am also required to check whether the Review Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area; and the Review 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 am able to confirm that I am satisfied that each of these requirements has been met.
22. A neighbourhood plan must also meet the requirement to specify the period to which it has effect. The front cover of the Review Neighbourhood Plan clearly states the plan period is 2022–2029.
23. 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 as a result of my recommended modifications so that the Review Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been

appointed to examine whether the Review Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.

24. 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.
25. 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 particular meaning and significance to people living and working in the area.
26. I have only recommended modifications to the Review 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

27. I have considered each of the following documents in so far as they have assisted me in determining whether the Review Neighbourhood Plan meets the Basic Conditions and other requirements:
 - Kilsby Neighbourhood Development Plan 2022-2029 Modified Plan for Submission January 2022
 - Kilsby Modified Neighbourhood Development Plan 2022-2029 Basic Conditions Statement January 2022 [In this report referred to as the Basic Conditions Statement]
 - Kilsby Modified Neighbourhood Development Plan 2022-2029 Consultation Statement January 2022 [In this report referred to as the Consultation Statement]
 - Kilsby Review Neighbourhood Development Plan Screening Report for: Strategic Environmental Assessment and Habitats Regulations Assessment December 2021
 - Kilsby Modified Neighbourhood Development Plan 2022-2029 Statement of Modifications January 2022
 - Kilsby Neighbourhood Development Plan Review March 2022 West Northamptonshire Council Consideration of Minor (Non-material/Major (Material) Changes to the Made Kilsby Development Neighbourhood Plan (22 July 2016)

- Information available on the Kilsby Parish Council website including the Kilsby Conservation Area Appraisal and Management Plan (referred to in this report as the CAAMP) adopted December 2018, the Kilsby Housing Need Report November 2020, and the Kilsby Neighbourhood Plan Design Code July 2021
- Information available on the West Northamptonshire Council website
- Representations received during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and West Northamptonshire Council and the Parish Council including: the initial letter of the Independent Examiner dated 28 March 2022; the comments of the Parish Council on the Regulation 16 representations which I received on 13 April 2022; the letter of the Independent Examiner seeking clarification of various matters dated 21 April 2022; and the joint response of the Parish Council and West Northamptonshire Council which I received on 29 April 2022
- West Northamptonshire Joint Core Strategy Local Plan (Part 1) 2011-2029 adopted December 2014 [In this report referred to as the Core Strategy]
- Settlements and Countryside Local Plan for Daventry District (Part 2) adopted 2020
- National Planning Policy Framework (2021) [In this report referred to as the Framework]
- 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 DLUHC and 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 and Planning (Various Amendments) (England and Wales) Regulations 2018

Consultation

28. The Review Neighbourhood Plan is accompanied by a Consultation Statement 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 a number of key stages of consultation undertaken in order to illustrate the approach adopted.
29. A Parish Housing Needs Survey undertaken in 2020 was publicised in the Kilsby Kronickle and in a letter to all 610 households within the parish. 83 completed survey forms were returned. The survey report was published on the Parish Council website. West Northamptonshire Council were invited to comment on Design Codes that were prepared by consultants AECOM through the Locality Technical Support Programme. The Design Codes were also promoted to local residents and stakeholders in two editions of the Kilsby Kronickle. The Conservation Area Appraisal and Management Plan identified important open spaces with potential to be designated as additional Local Green Spaces together with the Jubilee Plantation. Letters were sent in July 2021 to relevant landowners inviting comment on the proposed designations. West Northamptonshire Council were consulted on the type of modifications being proposed for the made Neighbourhood Plan in August 2021.
30. In accordance with Regulation 14 the Parish Council consulted on the pre-submission version of the draft Review Neighbourhood Plan between 1 October 2021 and 16 November 2021. The consultation on the pre-submission draft Review Plan and supporting documents was publicised through the Parish Council website (from which the documents could be downloaded to read or print); posters on notice boards and telegraph poles around the village; and through an article in the Kilsby Kronickle. Hard copies of the documents were available to borrow from the Clerk to the Parish Council, the Community Shop, and the church porch. A public drop-in event was held on a Saturday morning in the Village Hall where the documents were available for inspection and members of the Steering Group were available to talk to stakeholders and answer questions. Consultation bodies and other local organisations were sent emails directly. Response forms could be submitted electronically or as hard copy. A summary of consultation responses is set out in section 5 of the Consultation Statement. Tables 1, 2 and 3 within Appendix 6 of the Consultation Statement present details of the representations received and set out a response and any action taken, including modification and correction of the emerging Review Neighbourhood Plan. Suggestions have, where considered appropriate,

been reflected in a number of changes to the Plan that was submitted by the Parish Council to West Northamptonshire Council.

31. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication which closed on 11 March 2022. Eight representations were submitted in total. Natural England has confirmed it does not have any specific comments on the Review Neighbourhood Plan. Historic England state “The area covered by your Neighbourhood Plan includes a number of important designated heritage assets. In line with national planning policy, it will be important that the strategy for this area safeguards those elements which contribute to the significance of these assets so that they can be enjoyed by future generations of the area.” National Highways state “We note that this consultation relates to an update of the adopted Kilsby NDP (July 2016) with the plan period of 2014 to 2029. We understand that a Neighbourhood Plan is required to be in conformity with the relevant national and local policies. We note that this is acknowledged within the NDP and that it has been prepared in accordance with the adopted West Northamptonshire Joint Core Strategy (2014) and the Settlements and Countryside Local Plan (Part 2) for Daventry District 2011 - 2029. Whilst we note that no new sites have been allocated within the Kilsby NDP, the housing requirements were identified through a ‘Housing Needs Survey’ undertaken in 2020. Based on this, a requirement for circa 20 dwellings have been identified within the Kilsby Parish limits including a mix of market housing and affordable housing. Given the limited level of growth proposed, we do not consider that there will be any material impacts on the operation of the SRN in the area.” A representation on behalf of National Grid states “National Grid has identified that no assets are currently affected by proposed allocations within the Neighbourhood Plan area.” Barby and Onley Parish Council state support for strong design in the local area and are pleased to see that design codes have been incorporated into the Review Neighbourhood Plan. These representations do not necessitate any modification of the Review Neighbourhood Plan to meet the Basic Conditions.
32. North Northamptonshire Council have submitted general comments relating to the Part 1 and Part 2 Local Plans and residential development including in Kilsby. I refer to these matters later in my report. The representation also refers to use of developer contributions, in particular relating to schools and libraries, and to superfast broadband delivery. Apart from an acknowledgement that developer contributions can arise from mechanisms other than Community Infrastructure Levy, which I refer to later in my report, this representation does not necessitate any modification of the Review Neighbourhood Plan to meet the Basic Conditions.
33. West Northamptonshire Council submitted representations relating to general matters as follows “It is noted that section 2 from the made NDP, which set out the context for neighbourhood planning and preparation the NDP has been removed and

replaced with a new section on the review. However, some of the original text included useful background information on the Localism Act, Basic Conditions, SEA/SA and sustainable development. It is recommended that the contents of deleted paragraphs 2.8-2.15 are re-inserted because they are still relevant and useful. Former paragraph 2.10 can be updated to explain that the Council has screened the Modified NDP” and “Last sentence of second paragraph states that the review has resulted in changes to some of the policies. It is recommended that this is amended to clarify that one of the policies has been deleted, there is one new policy and all the other policies have been subject to a degree of modification.” I have dealt with these matters in the Annex to my report. West Northamptonshire Council also commented on Policy K3. I refer to that representation when considering Policy K3 later in my report.

34. Richborough Estates raise objection to: Objective 3 and Policies K5 and K6 of the Neighbourhood Plan with respect to the approach to heritage assets, and in particular non-designated ridge and furrow; the Design Code and Policy K3 in that respect; Policy K4 with respect to meeting housing needs (and in this latter respect proposes the allocation of land at Barby Road for residential development and consequent modification of Policy K6); and Policy K6 in other respects. I have taken these representations into account when considering the relevant objective and policies later in my report.
35. I have been sent each of the Regulation 16 representations. In preparing this report I have taken into consideration all of 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 or not 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.
36. 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 sent me comments in this respect on 13

April 2022. I have taken those comments into account when preparing this report.

37. 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.

38. 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 Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Review Neighbourhood Plan.

The Review Neighbourhood Plan taken as a whole

39. This section of my report considers whether the Review Neighbourhood Plan taken 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 of 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

40. The Basic Conditions Statement states “the Submission Neighbourhood Plan is fully compatible with the European Convention on Human Rights.” 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 Review 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 Review Neighbourhood Plan that indicates any breach of the Convention. I am satisfied the Review 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. Whilst no Equality Screening Assessment has been undertaken, from my own examination the Review Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.
41. 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 Review 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 recommendation by the Independent Examiner that it should do so (Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012).
42. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to West Northamptonshire 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.
43. The Kilsby Review Neighbourhood Development Plan Screening Report for: Strategic Environmental Assessment and Habitats Regulations Assessment December 2021 concluded that a full SEA does not need to be undertaken for the Review Neighbourhood Plan. This view is supported by Historic England, Natural England, the Environment Agency and the Wildlife Trust for Bedfordshire,

Cambridgeshire and Northamptonshire. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.

44. The Screening Report also concluded “many of the policies of the Review Neighbourhood Plan are in conformity with the policies of the WNJCS and the SCLP, which were both subject to full HRA, which found no significant or in combination effects. It is considered that due to the plan demonstrating conformity with the WNJCS and SCLP it will not result in any significant effects, alone or in combination, upon the Upper Nene Valley Gravel Pits SPA/RAMSAR or the Rutland Water SPA/RAMSAR sites. This view is supported by Natural England and the Wildlife Trust for Bedfordshire, Cambridgeshire and Northamptonshire.” I am satisfied that the Review Neighbourhood Plan meets the requirements of the Basic Condition relating to Habitats Regulations.
45. There are a number of 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.
46. I conclude that the Review 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 Review Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
47. 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 review neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. West Northamptonshire Council as Local Planning Authority must decide whether the draft review 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 or not 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 Review Neighbourhood Plan; and whether the making of the Review Neighbourhood Plan contributes to the achievement of sustainable development

48. 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”.

49. Lord Goldsmith has provided guidance that ‘have regard to’ means “such matters should be considered” (Column GC272 of Lords Hansard, 6 February 2006). 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.”
50. The most recent National Planning Policy Framework published on 21 July 2021 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 24 June 2021. 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.
51. The Basic Conditions Statement sets out an explanation how the Review Neighbourhood Plan has regard to the Framework with respect to plan making and in respect of the matters addressed in parts 5 to 16 of the Framework. I am satisfied the Basic Conditions Statement demonstrates how the Review Neighbourhood Plan has regard to relevant identified components of the Framework. I am also satisfied the Review Neighbourhood Plan has regard to the Guidance.
52. The Neighbourhood Plan includes in part 3 a positive vision for Kilsby up to 2029 that refers to economic, social and environmental matters, and seven objectives that help support its delivery. The objectives, which provide a framework for the policies that have been developed, include economic dimensions (“job opportunities, infrastructure”), and social components (“housing, recreation leisure and community facilities, transport, safe village environment”), whilst also referring to environmental considerations (“historic buildings, natural environment and conservation”). Richborough Estates have objected to Objective 3 on the basis the approach to ridge and furrow fields is contrary to national policy. The Parish Council has expressed a desire that the objective is not modified referring to the made Neighbourhood Plan; the Conservation Area Appraisal; the Northamptonshire Historic landscape Character Assessment; and Regulation 14 representations. Later in my report when considering Policy K6 I conclude the approach to ridge and furrow fields in the Review Neighbourhood Plan does not have sufficient regard for national policy. Additionally, the reference to national heritage has not been sufficiently justified. I therefore recommend Objective 3 is modified in these respects. I have also recommended Objective 7 is modified to acknowledge a point made by North Northamptonshire Council, and accepted by the Parish Council, that developer

contributions may arise from mechanisms other than Community Infrastructure Levy during the plan period.

Recommended Modification 1

- **replace Objective 3 with “To ensure that development proposals affecting the heritage and natural environment assets of the village, including green spaces, green field boundaries and ridge and furrow fields are considered having regard to the scale of any harm or loss proposed and the significance of the asset.”**
- **in Objective 7 after “contribute,” insert “including”**

53. The Review Neighbourhood Plan includes eight actions that the Parish Council commit to. Two of those actions support Policy K8 with respect to employment related matters and the other six actions are presented in section 4.5 of the Review Neighbourhood Plan related to transport and infrastructure matters. The Executive Summary of the Review Neighbourhood Plan explains the actions lie beyond the role of neighbourhood plan policies. 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 local community or other stakeholders, should not be lost sight of. The acknowledgement in the Review 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 plain text. I am satisfied the actions are adequately distinguished from the policies of the Review Neighbourhood Plan in text boxes with coloured backgrounds. I am also satisfied that the Executive Summary of the Review Neighbourhood Plan makes it clear the actions are beyond the role of neighbourhood plan policies. The actions have not been subject to Independent Examination.

54. 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 with the exception of 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.”

55. 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”.

56. 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 or not 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.

57. The Framework states there are three dimensions to sustainable development: economic, social and environmental. Table 1 of the Basic Conditions Statement demonstrates ways in which the Review Neighbourhood Plan supports the economic, social and environmental aspects of sustainable development. The statement does not highlight any negative impacts of the Review Neighbourhood Plan or its policies.

58. I conclude that the Review Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Review 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. In particular, I consider the Review Neighbourhood Plan as recommended to be modified seeks to:

- Enhance and guard against unnecessary loss of community facilities;
- Support improvement of the active travel network and achieve cycle storage facilities in new development;
- Establish design principles for new development;

- Ensure new housing development has regard for local housing needs;
- Conserve built heritage and important views of heritage assets;
- Ensure the character and form of development is appropriate to its setting;
- Designate Local Green Spaces; and
- Support local employment opportunities.

59. Subject to my recommended modifications of the Review Neighbourhood Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Review 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 Review Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether the making of the Review 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)

60. 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”.

61. In this independent examination, I am required to consider whether the making of the Review 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 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.” West Northamptonshire Council has informed me that the Development Plan applying in the Kilsby Neighbourhood Area and relevant to the Neighbourhood Plan is the West Northamptonshire Joint Core Strategy (Part 1) adopted 15 December 2014, and the Settlements and Countryside Local Plan for Daventry District 2011-2029 (Part 2) adopted 20 February 2020.

62. In order to satisfy the basic conditions, the Review Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. West Northamptonshire Council has advised me that all of the policies of the Core Strategy and those policies listed in Appendix F of the Part 2 Local Plan are

regarded by the Local Planning Authority as strategic policies applying in the Neighbourhood Area.

63. 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.

64. 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 Review Neighbourhood Plan Policies has been in accordance with this guidance.

65. Consideration as to whether the making of the Review 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 Table 3 of the Basic Conditions Statement that demonstrates how each of the policies of the Neighbourhood Plan is in general conformity with relevant strategic policies. Subject to the modifications I have recommended, I have concluded the Review Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

The Review Neighbourhood Plan Policies

66. The Review Neighbourhood Plan includes eight policies as follows:

- Policy K1 Community Facilities
- Policy K2 Walking and Cycling
- Policy K3 Design of New Development
- Policy K4 Meeting Local Housing Needs
- Policy K5 Built Heritage
- Policy K6 Character, Form and Setting
- Policy K7 Local Green Space Designations
- Policy K8 Supporting Accessible Local Employment Opportunities and Homeworking

67. Paragraphs 15 and 16 of the Framework state:

“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.”

“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).”

68. 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.”

“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”.

“A neighbourhood plan should contain policies for the development and use of land”.

69. 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. Whilst I have considered the issue of meeting housing needs when considering Policy K4 I have stated Policy K3 is also relevant to that issue.

Policy K1 Community Facilities

70. This policy seeks to identify community facilities and establish support for the enhancement of existing community facilities. The policy seeks to establish circumstances for support of the loss of community facilities. The policy also seeks to encourage proposals to relocate the village shop from the current temporary accommodation. The policy also seeks to identify projects to which developer contributions could be applied.

71. It is a legitimate role of a neighbourhood plan to identify projects for the use of any locally determined developer contributions that may arise. Paragraph 93a) 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 93c) of the Framework states planning policies should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs. The policy has sufficient regard for national policy in these respects. The term “will be encouraged” does not provide a basis for the determination of development proposals. 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.

72. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Review Neighbourhood

Plan, in particular strategic Policies CW3, S2 and RC2. 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.

73. 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 K1 part 3 replace “encouraged” with “supported”

Policy K2 Walking and Cycling

74. This policy seeks to establish support for proposals to improve accessibility for walking and cycling and enhancement of routes linking residential areas to community facilities, the village centre and nearby towns and villages. The policy states a list of proposed routes for improvement is provided in Appendix V of the Review Neighbourhood Plan. The policy also requires new development to incorporate suitable and safe cycle storage facilities wherever possible.
75. Paragraph 106 of the Framework states planning policies should provide for attractive and well-designed walking and cycling networks with supporting facilities such as secure cycle parking.
76. The reference to routes to nearby towns and villages may give the impression the policy relates to routes outside the Neighbourhood Area which it may not. 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.
77. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Review Neighbourhood Plan, in particular strategic Policies R3 and ST1. 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.
78. 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 K2 in part 1 replace “, the village centre and” with “and the village centre, and towards”

Policy K3 Design of New Development

79. This policy seeks to establish that proposals should have regard to the Kilsby Design Codes and demonstrate how they have addressed the detailed principles of the codes in their designs. The policy also identifies eight matters those proposals should, in particular, address.
80. Policy K3 also supports development within the existing confines of Kilsby village and is therefore relevant to housing supply. I address the issue of housing supply later in my report when I consider Policy K4. Paragraph 4.2.4 of the Review Neighbourhood Plan refers to Policy RA2 and the Kilsby Policies Map defining the confines of the village contained within the Local Plan (Part 2). The confines of the village are identified on Map 7 in Appendix IV of the Review Neighbourhood Plan and are unchanged from those established in strategic policy.
81. Paragraph 128 of the Framework states “To provide maximum clarity about design expectations at an early stage, all local planning authorities should prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code, and which reflect local character and design preferences. Design guides and codes provide a local framework for creating beautiful and distinctive places with a consistent and high-quality standard of design. Their geographic coverage, level of detail and degree of prescription should be tailored to the circumstances and scale of change in each place, and should allow a suitable degree of variety.”
82. Paragraph 129 of the Framework states “Design guides and codes can be prepared at an area-wide, neighbourhood or site-specific scale, and to carry weight in decision-making should be produced either as part of a plan or as supplementary planning documents. Landowners and developers may contribute to these exercises, but may also choose to prepare design codes in support of a planning application for sites they wish to develop. Whoever prepares them, all guides and codes should be based on effective community engagement and reflect local aspirations for the development of their area, taking into account the guidance contained in the National Design Guide and the National Model Design Code. These national documents

should be used to guide decisions on applications in the absence of locally produced design guides or design codes.”

83. Paragraph 126 of the Framework states “The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.”
84. Paragraph 127 of the Framework states “Plans should, at the most appropriate level, set out a clear design vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable. Design policies should be developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area’s defining characteristics. 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, both through their own plans and by engaging in the production of design policy, guidance and codes by local planning authorities and developers.”
85. To be read alongside the Guidance, the National Design Guide sets out the characteristics of well-designed places and demonstrates what good design practice means in practice. As set out in paragraph 134 of the Framework, development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to: a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings. The National Model Design Code sets out clear design parameters to help local authorities and communities decide what good quality design looks like in their area.
86. In a representation West Northamptonshire Council state that it is unclear whether the design code principles only apply to development within the village confines or if they apply to all development. Whilst paragraph 4.2.11 of the Review Neighbourhood Plan states design codes 1 to 4 apply to the whole parish the wording of Policy K3 is unclear. I have recommended a modification in this respect 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.

87. West Northamptonshire Council also state it would be more appropriate for the principles to be applied in a proportionate way according to the scale, nature and location of development. I agree with this point as paragraph 128 of the Framework states design guides or codes should provide a local framework for creating beautiful and distinctive places with a consistent and high-quality standard of design, and taking into consideration all the matters referred to below regarding this policy, I have adopted the suggested wording of West Northamptonshire Council in recommending a modification of the policy. Flexible application is not only appropriate in the context of providing a local framework but also in the context of the statement in paragraph 4.2.11 of the Review Neighbourhood Plan which states “Although the Design Codes were prepared for housing development most could equally be applied to other forms of development in Kilsby.”
88. Richborough Estates has raised concerns with the way the Kilsby Design Code (the Design Code) has been prepared, referring to paragraph 129 of the Framework and parts of the National Model Design Guide, and the way the Kilsby Design Code is used in Policy K3. The Guidance states non-strategic policies can be used to establish local and/or detailed design principles for an area. They can be prepared by neighbourhood planning groups, and are most effective when based on appropriate evidence of the defining characteristics of the area, such as its historic, landscape and townscape character. Non-strategic policies are important for providing a clear indication of the types of development that will be allowed in an area, especially where they provide a hook for more detailed local design guides, masterplans or codes. Neighbourhood plan-making is one of the key ways in which local character and design objectives can be understood and set out, and with the benefit of being a community-led process.
89. Richborough Estates state that if the Design Code is to be used as a fundamental part of the Review Neighbourhood Plan, then it must be appended to it and therefore tested alongside the rest of the content against the basic conditions. Design codes are a set of illustrated design requirements that provide specific, detailed parameters for the physical development of a site or area. The Guidance states graphic and written components of the code should build upon a design vision, such as a masterplan or other design and development framework for a site or area. The Guidance states design codes can be adopted as a supplementary planning document, or appended to, inter alia, a Neighbourhood Plan. I do not interpret the word “can” in this latter respect as meaning “must”.
90. I have considered whether the Design Code is a design code in its entirety, or whether, at least in part, it is more akin to a local design guide. In answer to the question “how can plans support well-designed places?” the Guidance states planning policies can set out the design outcomes that development should pursue as well as the tools and processes that are expected to be used to embed good

design. Appropriate policies can be included within: a plan's vision, objectives, and overarching strategic policies; non-strategic policies in local or neighbourhood plans; supplementary planning documents, such as local design guides, masterplans or design codes, which provide further detail on specific design matters. Local design guides can be prepared by neighbourhood planning groups to set out the general design principles and standards that development proposals should follow in the area. The Guidance states "to be given as much weight as possible in the decision-making process, local design guides need to be adopted as supplementary planning documents or appended to a neighbourhood plan." Again, there is no requirement stated, but the issue of weight in decision making is referred to. Paragraph 129 of the Framework states "Design guides and codes can be prepared at an area-wide, neighbourhood or site-specific scale, and to carry weight in decision-making should be produced either as part of a plan or as supplementary planning documents."

91. The Design Code has not been formally submitted to West Northamptonshire Council under Regulation 15; not been subject to Regulation 16 publicity; and not been submitted to me for Independent Examination. The Design Code states in the 'Background' section on page 6 that the document will form part of the evidence base for the Review Neighbourhood Plan. The 'Next Steps' section on page 34 states "this document has set out an evidence base for the Kilsby Neighbourhood Plan and it is recommended that the codes are embedded within the forthcoming plan as policy." Whether the Design Code is a design code in its entirety, or at least in part a local design guide, it undoubtedly does form part of the evidence base for the Review Neighbourhood Plan.
92. Neighbourhood Plans are often supported by an evidence base. This can include evidence from pre-existing sources, or evidence prepared specifically to support the policies of an emerging Neighbourhood Plan or Review. The evidence base is not subject to examination whether it meets the basic conditions. I have earlier in my report explained I am not examining the tests of soundness provided for in respect of examination of Local Plans. I am satisfied the Design Code can form part of the evidence base of the Review Neighbourhood Plan and does not have to be appended to the Review Neighbourhood Plan. However, as a matter of convenience to users of the Review Neighbourhood Plan, I have recommended the Kilsby Design Code is appended to the Review Neighbourhood Plan and that it should be made clear that this will not form part of the statutory development plan, and that where specific principles are referred to in the text of Policy K3, and with respect to the Kilsby Conservation Area in the text of Policy K5, of the Review Neighbourhood Plan these do form part of the statutory Development Plan. The Guidance does include provision for this approach in the context of other matters, specifically community aspirations. I have referred to this earlier in my report. The elevation of particular matters from an evidence base document to development plan status through inclusion in a policy of the Review Neighbourhood Plan can only be accepted where

those matters meet the basic conditions. 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, focussed tightly on supporting and justifying the policies concerned, and take into account relevant market signals.” The modifications I have recommended for Policy K3 are designed to ensure this requirement is met. Richborough Estates question aspects of the place assessment in the Design Code raising specific example points relating to the approach to densities of development and a specific key view. These are amongst the matters to which my later consideration of recommended modifications is directed.

93. Richborough Estates state that from the information provided it does not appear the Design Code reflects the Framework, the Guidance or the National Model Design Code in respect of engagement of the public and others. Paragraph 127 of the Framework states design policies should be developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area’s defining characteristics.

94. The Parish Council do not accept this point and state:

“The Design Codes were commissioned by the Parish Council through the national programme of neighbourhood planning technical support delivered by Locality / Groundwork. Consultants AECOM were appointed by Locality on behalf of the Parish Council and followed an approved methodology and process, similar to other design codes prepared for neighbourhood plans across the country. The draft design codes were prepared with the involvement of members of the neighbourhood plan steering group who are also local residents and parish Councillors. As the Consultation Statement sets out in sections 2.5 and 2.6 Design Codes were prepared for the Neighbourhood Plan by consultants AECOM through the Locality Technical Support Programme. This document was placed on the NDP pages of the Parish Council website under the Key Documents for Consultation folder. West Northamptonshire Council were also invited to comment before the Design Codes were finalised. The Design Codes were also promoted to local residents and stakeholders in the Kilsby Kronickle April/May 2021 edition page 10 and June/July 2021 – see Appendix 5. Local residents had the opportunity of commenting informally and formally on the Design Codes (at Reg 14) and as Table 2 in the Consultation Statement demonstrates, were largely supportive of the approach to design in the NDP.”

95. The Guidance states there is a range of tools that can be used to effectively engage local communities throughout the plan-making process, including: design workshops; community panels or forums; exhibitions; and digital method. I am aware that directives and advice of Her Majesty’s Government relating to the Covid-19 pandemic, and changes in attitudes of individuals to gatherings, have influenced how

community engagement has been approached in many neighbourhood areas over the past two years. The Guidance states “Neighbourhood plan-making is one of the key ways in which local character and design objectives can be understood and set out, and with the benefit of being a community-led process”. I am satisfied the Design Code has been prepared with adequate engagement of local communities as part of a community-led process.

96. Richborough Estates state the Design Code does not align with recommendation of the National Model Design Code. There is here, a matter of timing to be considered. 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 Kilsby Design Code was issued on 22 July 2021. It is evident the Kilsby Design Code was prepared prior to the publication of the National Model Design Code and Guidance Notes for Design Codes, although issued two days after the latter was published. It is not reasonable to expect the volunteers making up the Neighbourhood Plan Steering Group to seek to resource and commission a review of the preparation of the Design Code as the result of publication of the national model and guidance the same week, even if variations of approach in practice can be identified. I consider the Design Code had substantially anticipated much of the national model and guidance and that the Design Code represents a valuable part of the evidence base supporting the preparation of the Review Neighbourhood Plan. The volunteers from the local community making up the Neighbourhood Plan Steering Group, and in turn the Parish Council, are to be applauded for their commissioning of the Design Code.

97. I am satisfied it is appropriate for all development proposals to be required to demonstrate regard for identified principles of the Kilsby Design Code where those principles are applied in a proportionate way according to the scale, nature and location of development. Those principles of the Design Code should be shown to have been considered in the preparation of a development scheme, but variation from those principles of the Design Code may be demonstrated to be appropriate in the circumstances of a particular development proposal. In this way the Design Code will influence the preparation of development proposals seeking to ensure developments add to the overall quality of the area, are visually attractive, and are sympathetic to local character and history, including the surrounding built environment, without preventing or discouraging appropriate innovation or change in accordance with paragraph 130 of the Framework.

98. I have considered the eight “in particular” principles set out in parts 1 to 8 of Policy K3. I have concluded that, within the context of the overall approach to the Design Code (which is relevant to six of the principles) that I have recommended, and to the extent those specific principles have been adequately and proportionately supported by evidence, not least of being appropriate in the context of national policy and being in general conformity with strategic planning policy, it is appropriate for them to be incorporated in the policy text. This requirement has resulted in my recommendation for modification of those specific principles. I have earlier in my report explained it is not within my remit to consider whether the Review Neighbourhood Plan is sound as defined in paragraph 35 of the Framework.

99. 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”. Part 2 of the policy is seeking to establish technical requirements. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.

100. Part 3 of the policy refers to views. In response to my request for clarification regarding the intended relationship between part 3 of Policy K3 and Map 5 of the Review Neighbourhood Plan West Northamptonshire Council and the Parish Council, after describing and comparing the two base documents (Design Code and CAAMP), stated:

“The Parish Council suggests that all these views should be combined and identified as Key Views on the Policies Map (NDP Map 2 p7). The supporting text should be amended to refer to the identified key views and include the descriptions from the 2 documents and relevant photos. Photographs of the relevant views identified in the CAAMP can be provided. The Policies Map should be amended to include the CAAMP Views 1, 3, 4 and 5 together with the additional Key Views identified on pp16-17 of the Kilsby Design Code: Views 2, 3 and 4.’ These views should be numbered concurrently on the Policies Map and explained in the supporting text to improve clarity. Policy K3 Part 3 could be amended as follows: ‘Consider and minimise any impacts on important views and vistas looking out from the settlement edge towards the countryside in accordance with the Kilsby Conservation Area Appraisal (adopted December 2018) and Code 2 - Landscape, Views and the Settlement Edge. These are identified as Key Views on NDP Map 2 Policies Map.”

101. The Kilsby Design Code identifies five views on a map and includes an image of each view. The absence of numbering on the map results in a lack of clarity. The accompanying text states “The undulating landscape character surrounding Kilsby

has resulted in several view points from where the surrounding landscape can be appreciated.” This is merely a statement that a view is afforded from each of the identified points. The photographs of those views presented in the Design Code are unconvincing that the views are in some way key views. My visit to each viewpoint did not cause me to vary this opinion. There is an absence of criteria for assessing the visual value of the views and no explanation why the identified views have been selected, nor any description of attributes.

102. I have taken into consideration the fact that the CAAMP identifies a number of important views. I am satisfied important views 2, 7, 8, 9, 10 and 11 relate to specific parts of the built heritage of the Conservation Area and are appropriately referred to in Policy K5. I am also satisfied view 4 of ridge and furrow fields included within the Local List of heritage assets is sufficiently supported with evidence and should be included in a policy of the Review Neighbourhood Plan, although more appropriately Policy K6 rather than Policy K3. I agree with West Northamptonshire Council and the Parish Council that view 6 looks towards the village and is therefore not relevant to consideration of views of the surrounding countryside.

103. With respect to views 1, 3, and 5 identified in the CAAMP, all looking away from the village, the first two are not identified in the Design Code and the last one is a view that can be seen from a considerable length of Barby Road. Paragraph 174 of the Framework refers to protection of valued landscapes. To be valued, a landscape needs to be more than popular with local residents but must demonstrate physical attributes beyond “ordinary” (Stroud District Council vs. SSCLG [2015] EWHC 488 (Admin) and Forest of Dean DC v. SSCLG [2016] EWHC 2429 (Admin)). In my planning judgement landscape features or other attributes of views 1, 3 and 5 have not been adequately identified, nor has it been adequately explained why those views should be protected from impact to the extent specified in Policy K3. It is inappropriate for part 3 of the policy to seek to minimise any impacts on views when the attributes of those views are not adequately identified. The inconsistency and variation of views identified in the Design Code from those outside the Conservation Area identified in the CAAMP has not been adequately explained or evidenced. The suggestion of the Parish Council that all of the views identified in the CAAMP and Design Code should be combined and included in Policy K3 is not in my planning judgement sufficiently evidenced. The CAAMP was prepared for a particular purpose of identification of the significance of a heritage asset and its management, and its preparation did not include expert detailed landscape evaluation against stated criteria. The CAAMP has SPD status, but has not been subject to examination and does not form part of the Development Plan for the area. The suggestion of the Parish Council that new explanations of views can be prepared and included in the Review Neighbourhood Plan would amount to new evidence that has not been subject to statutory publicity. I have concluded specific views of the countryside surrounding the village should not be protected by Policy K3. I am however satisfied

sufficient evidence has been produced for the policy to refer to the spacing of any proposed buildings at the settlement edge to offer long glimpsed views to the surrounding landscape and achieve a suitable transition between the built and rural environments. I have recommended a modification so that the policy has sufficient regard for national policy with respect to valued landscapes and the requirement for policies to be underpinned by relevant and up-to-date evidence in accordance with paragraph 31 of the Framework.

104. Whilst housing density samples have been tested in the Design Code no assessment has been made of the density of the village as a whole. The term “lower density than the rest of the settlement” in part 3 of the policy is imprecise in that it has not been defined, and has not been sufficiently evidenced, including in terms of matters to be taken into account as identified in paragraphs 124 and 125 of the Framework. The term “amenity green” in part 3 of the policy requires correction. I am satisfied the part of part 3 of the policy relating to access to existing rights of way has sufficient regard for provision for active travel set out in paragraph 106 of the Framework. The inclusion of two references to scale of development in part 4 is confusing. The final sentence of part 5, and the term “should be avoided” in part 6 of the policy, 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.

105. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Review Neighbourhood Plan, in particular strategic Policy S10. 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.

106. 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 K3 replace the second paragraph with “All development proposals throughout the Neighbourhood Area should demonstrate regard for the following principles of the Kilsby Design Code in a proportionate way according to the scale, nature and location of development:

- 1. Protect the natural environment and demonstrate a net gain in biodiversity (part of Code 1);**

2. Demonstrate they are responding to climate change. Highest possible standards of insulation and energy conservation will be supported (part of Code 1);
3. Development proposals at the settlement edge should be designed so that the spacing of buildings will offer long glimpsed views to the surrounding landscape and achieve a suitable transition between the built and rural environments. Where appropriate, access to the network of existing public rights of way surrounding the village should be provided. Grass verges and amenity green spaces should be protected (part of Code 2);
4. The height and scale of proposed new homes should be sympathetic to the character of their setting. Development should have a maximum height of two storeys but may include an additional storey within the roof space with sky lights and/or gable end windows. There should be variations in orientation and rigid layouts where buildings are clustered very formally should be avoided (part of Code 3);
5. Include materials informed by the local vernacular including ironstone, sandstone, local red brick, limestone, render and painted brick with slate. Thatched roofing will be supported (part of Code 3);
6. Wherever possible provide off-road parking. Any on-road parking should be in the form of small groupings with appropriate landscaping. Back gardens should be of sufficient size to provide reasonable useable amenity space. Boundary materials should in keeping with their setting and where they abut the settlement edge, surrounding landscape or open green spaces should be formed of hedgerows and trees (part of Code 4).

Development proposals should also provide safe access for all, and be accessible to local facilities by walking or cycling.

Where new homes adjoin the M45, A5, or A361 a noise buffer should be provided using planting or fencing. Where development is adjacent to the A5 or A361 this buffer should be appropriately designed to avoid a fortress appearance.”

Include the Kilsby Design Code as an appendix to the Review Neighbourhood Plan and clearly state in that appendix and in the supporting text to Policy K3 and Policy K5: “The Kilsby Design Code does not form part of the statutory Development Plan. Where specific principles are referred to in the text of Policy K3, and with respect to the Kilsby Conservation Area in the text of Policy K5, of the Review Neighbourhood Plan they do form part of the statutory Development Plan”.

Policy K4 Meeting Local Housing Needs

107. This policy seeks to ensure proposals for new housing development have regard for identified local housing need and contribute towards a suitable mix of house types, sizes and tenures in the parish. The policy states housing schemes will be supported where they provide specified house types. The policy identifies relevant strategic policies and states, where affordable housing is proposed there will be a preference for affordable housing for rent from a registered provider.
108. Whilst it is not within my role to test the soundness of the Review 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.
109. The Framework states strategic policies should make sufficient provision for housing. This should include planning for and allocating sufficient sites to deliver the strategic priorities of the area. Paragraph 4.2.12 of the Review Neighbourhood Plan explains that the Settlements and Countryside Local Plan (Part 2) for Daventry District 2011-2029 states the housing requirement for rural areas has been exceeded as at 1 April 2019 by 630 dwellings with 10 years of the plan period remaining. Paragraph 4.2.12 of the Review Neighbourhood Plan states “It is not proposed therefore that Kilsby will accommodate significant growth and any new housing proposals should meet local needs.” A neighbourhood plan steering group cannot be expected to determine objectively assessed needs over a wide area. I consider the approach adopted in preparing the Review Neighbourhood Plan is appropriate in the strategic planning context described.
110. The Review Neighbourhood Plan identifies 73 houses that have been provided in Kilsby between 2011 and May 2021 and recognises that a small number of further additional houses may come forward on ad hoc sites within the confines of the village. In total this represents a significant boost to the supply of homes within the Neighbourhood Area.
111. A neighbourhood plan can allocate sites for housing development but there is no obligation to do so. The scope of neighbourhood plans is up to the neighbourhood planning body. Mrs Justice Lang in *Park Lane Homes and Rother District Council* 2022 EWHC 485 (Admin) states “In my judgment, it is clear that national policy or guidance does not require a neighbourhood plan to allocate any sites for housing to meet a strategic housing requirement in the development plan. The neighbourhood plan body has a choice whether or not to do so. Therefore, the absence of housing allocations in the draft plan was not of itself a basis upon which the Examiner and

the Council ought to have concluded that the draft plan failed to meet basic condition (a).”

112. Whilst the Review Neighbourhood Plan does not allocate land for housing development, it places no cap or limit on the number of homes that can be provided within the existing confines of Kilsby village. Part A of strategic Policy RA2 (Local Plan Part 2) states development at the Secondary Service Villages (of which Kilsby is one) will be located within the confines of the village as defined on the Inset Map. The Inset Map for Kilsby is presented as Map 7 in Appendix IV of the Review Neighbourhood Plan. There is no requirement for a neighbourhood plan group to review or alter the definition of the confines of the village. The Review Neighbourhood Plan recognises that beyond those confines, that is outside the settlement, proposals will be subject to strategic policies, specifically Policies RA2 and RA6 of the Local Plan (Part 2) which support development in limited circumstances. In this policy context it is reasonable to assume there will be some windfall supply of homes during the Review Neighbourhood Plan period up to 2029, in addition to any extant permissions, which will boost the supply of homes in the Neighbourhood Area. The Review 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, or undermine those strategic policies.
113. The Guidance states “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.” Policies K3 and K4 of the Review Neighbourhood Plan, are relevant to housing supply. Policy K3 seeks to establish support for new development within the existing confines of Kilsby village and to establish design principles. Policy K4 seeks to ensure proposals for new housing development have regard for, and contribute towards meeting, local housing need. The Kilsby Parish Housing Need Report prepared by Daventry District Council in November 2020 identified 7 households with a need for affordable housing for rent from a housing association, and found 14 households expressed a need for market housing. I am satisfied housing needs have been adequately assessed and the approach adopted to address housing need in the Neighbourhood Area is appropriate for the purpose of neighbourhood plan preparation and provides the necessary justification that those policies that are relevant to housing supply, as recommended to be modified, will result in local housing needs being met.
114. Richborough Estates object to Policy K4 because it fails to adequately provide the certainty for delivering identified local housing needs. The representation refers

to the failure to allocate site(s) to meet the need identified in the Kilsby Parish Housing Need Report November 2020. It is suggested this report may potentially be out of date. Reference is made to paragraphs 69, 78 and 79 of the Framework stating the Review Neighbourhood Plan does not reflect national policy by taking a negative approach to new development rather than deliver the homes people need. Referring to an outline planning application submitted by the representor for a maximum of 44 dwellings on land at Barby Road it is stated this site should be allocated to ensure the Review Neighbourhood Plan “meets its obligations for bringing forward local housing needs with certainty, especially as there is a live application”. It is stated that without the allocation of the site there is no guarantee that the local housing need identified will be delivered. The representation refers to a shortfall of affordable homes in the former Daventry District and states the submitted scheme would deliver affordable homes which are unlikely to be otherwise provided owing to the likely small size of sites, below the Local Plan Part 1 threshold for provision of 5 dwellings, coming forward within the village confines.

115. The Parish Council state “Not accepted. The Parish Housing Needs report, although providing a ‘snapshot in time’ of local housing needs was commissioned to provide updated evidence in support of NDP housing policies. The modified Policy K4 has some flexibility as it refers to ‘the Kilsby Parish Housing Need Report, November 2020 and subsequent surveys or assessments.’ There is no requirement for NDPs to include site allocations. Kilsby has seen significant housing growth in recent years. 73 additional houses have been provided since 2011.”

116. It is not within my role to consider the merits or demerits of development proposals promoted in Regulation 16 representations, nor is it within my role to balance those merits or demerits against potential alternative development schemes. I have earlier in my report explained that my role is to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. Allocation of land for development would change the nature of the Review Neighbourhood Plan and require an alternative procedure to be adopted beyond this Independent Examination. It is not within my role to change the nature of the Review Neighbourhood Plan unless that is necessary to meet the Basic Conditions or other requirements that I have identified.

117. Richborough Estates state Policy K4 does not reflect strategic Policy RA2 because that policy does allow development outside the village confines in stated circumstances. Part A of Policy RA2 states development will be located within the confines of the identified villages which include Kilsby, and Part B of Policy RA2 states development outside the defined confines will be acceptable in stated circumstances. The second of those circumstances is where the development provided would clearly meet an identified local need, for housing this would be need

identified through an up-to-date Housing Needs Survey or Housing Needs Assessment where it is demonstrated that this could not otherwise be met within the defined village confines. I have earlier in my report stated the Review Neighbourhood Plan places no cap or limit on the number of homes that can be provided within the existing confines of Kilsby village and I have seen no demonstration that needs cannot be met within the village confines. The third circumstances are where it is demonstrated that a scheme is required to support an essential local service that may be under threat, especially a primary school or primary health service. In this latter respect I have noted Richborough Estates state “the proposals would also support the themes of NPPF Paragraph 79 – enhance/maintain the vitality of the community, identifying opportunities for the village to thrive, supporting local services – because the village has a range of existing services that this modest increase in housing will support. This includes the recently expanded Kilsby Primary School, which requires more children to reach its capacity”. I have also noted the Parish Council state “It is wrong to suggest that their housing application would support Kilsby’s ‘range of existing services’ when in fact the reverse is the case. E.g., the school doesn’t require the development in order to reach capacity, instead it will have to create extra capacity in order to meet the needs of the development.” I conclude Policy K4 is in general conformity with Policy RA2. I have noted strategic Policy RA6 provides for the development of rural exception sites (which are defined in the Glossary to the Framework as being small sites used for affordable housing in perpetuity where sites would not normally be used for housing) outside the confines of villages where Policy H3 of the West Northamptonshire Joint Core Strategy (and where appropriate Policy HO7) are complied with.

118. An allocation of land outside the village confines would call into question whether the making of the Review Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area. This not a matter that I need to consider as the Review Neighbourhood Plan does not allocate land for development outside the village confines, and there is no requirement for the Review Neighbourhood Plan to allocate land for development. An allocation of land for development would in any case need to be based upon proper process to identify and evaluate alternative sites. It is not within my role to undertake such a process on behalf of the qualifying body and local community. I have noted Richborough Estates refer to the West Northamptonshire Strategic Plan Spatial Options consultation of October 2021. That consultation document has been issued at a very early stage of plan preparation and does not affect the conclusions I have reached.

119. Reference to other policies of the development plan is not normally necessary or desirable however the references to strategic Policies H2 and HO8 in Policy K4 are in this instance helpful to users of the Review Neighbourhood Plan. The reference in part 3 of the policy to “a preference” does not provide a basis for the

determination of development proposals. 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.

120. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Review Neighbourhood Plan, in particular strategic Policies S3, H2, H3, RA2, RA6, HO8. 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.

121. 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 K4 in part 3 replace “there will be preference for” with “this should be” and continue the policy after “provider” with “unless this is demonstrated not to be deliverable”

Policy K5 Built Heritage

122. This policy seeks to establish principles to be applied in the determination of development proposals affecting heritage assets.

123. In a representation Richborough Estates make reference to paragraphs 189 and 205 of the Framework and state part 1 of Policy K5 is selective in its use of national policy. The Parish Council state “National and strategic policies should not be duplicated in NDPs. The Parish Council would prefer to retain the wording in the policy but accepts that the Examiner will recommend any changes required to ensure the policy meets the required basic conditions.” I agree with the representation of Richborough Estates that part 1 of the policy does not reflect the complexity of the balanced approach set out in Chapter 16 of the Framework. Paragraph 16f) of the Framework states plans should avoid unnecessary duplication of policies that apply in an area (including policies in the Framework, where relevant). I have recommended part 1 of the policy is deleted for those reasons.

124. Paragraph 207 of the Framework states not all elements of a Conservation Area will necessarily contribute to its significance. The approach of part 2 of the policy which requires proposals to have regard for the Kilsby Conservation Area

Appraisal and Management Plan (CAAMP) SPD, and of part 4 of the policy which identifies architectural details to be carefully considered and to be appropriate, has sufficient regard for national policy. The requirement in part 6 of the policy to sustain and enhance the character of the local vernacular, has sufficient regard for national policy relating to achieving well designed places set out in chapter 12 of the Framework. In response to my request for clarification West Northamptonshire Council and the Parish Council have confirmed part 3 of the policy is intended to apply to proposals within the Conservation Area and to those that would impact on its setting. The requirement in part 3 of the policy for development proposals to respond positively to the established form, scale, design and materials used within the conservation area as highlighted in the CAAMP SPD and Design Code should be modified in recognition of paragraph 130c) of the Framework which states that appropriate innovation or change should not be prevented or discouraged. The full and correct title of documents should be used to avoid confusion. 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.

125. Part 5 of the policy requires six identified important views, into and out of the Conservation Area, to be sustained and enhanced, and for any adverse impacts to be mitigated through detailed designs. An approach to sustain views does not have regard for national policy in relation to conserving and enhancing the historic environment. I have recommended a modification in this respect. The important views reference numbers 2, 7, 8, 9, 10, and 11 are identified on Map 5 in Appendix 1 of the Review Neighbourhood Plan. I find Map 5, which includes other important views and vistas and other information, to be cluttered and not sufficiently clear for unambiguous use. 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.

126. I am satisfied the selection of the specified views is adequately explained in terms of their identification in the CAAMP SPD. There is a consistency between the purpose of identification and the application of those views in Policy K5. Planning policy should operate in the public interest. I am satisfied the locations from which the important views are to be seen, as indicated by the base of the direction of view indicators on Map 5, are in places that are accessible to the general public. I have recommended a modification that clarifies the reference is to impacts of development proposals so that the policy is clearly written and unambiguous as required by paragraph 16d) of the Framework.

127. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Review Neighbourhood Plan, in particular strategic Policies BN5 and ENV7. 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.
128. 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 K5**

- **delete part 1**
- **in part 3 after “proposals” insert “within or affecting the setting of the Kilsby Conservation Area”**
- **in part 3 replace “Appraisal and Design Codes” with “Kilsby Conservation Area Appraisal and Management Plan SPD and Kilsby Design Code unless an alternative approach is clearly demonstrated to be appropriate”**
- **in part 5 replace “and should be sustained and enhanced” with “the significance of which should not be significantly adversely affected by development proposals”**

Modify Map 5 so that important view reference numbers 2, 7, 8, 9, 10, and 11 are more clearly identifiable and delete other important views and vistas numbered 1,3, 5, and 6. An alternative approach to rely on the Policies Map rather than Map 5 would be equally satisfactory. I refer to view 4 when considering Policy K6 later in my report. See Modification 4 relating to Policy K3 regarding inclusion of the Kilsby Design Code as an appendix of the Review Neighbourhood Plan.

Policy K6 Character, Form and Setting

129. This policy seeks to establish that development within the existing confines of Kilsby village must respect its compact, sustainable, nucleated form and rural setting. The policy also seeks to establish principles for development outside the existing confines of the village and seeks to establish areas of ridge and furrow identified as significant through policy documents or the planning process should be sustained and enhanced.

130. In a representation Richborough Estates state that part 2 of the policy would require modification if the Review Neighbourhood Plan were to allocate land for residential development. As the Review Neighbourhood Plan does not allocate land for residential development modification of part 2 of the policy is not necessary in this respect. The representation also states the part 2 of the policy is contrary to national policy relating to areas of archaeological significance. The Parish Council state “The wording of Policy K6 was amended in line with comments from West Northamptonshire Council at Reg 14 – see Table 1 in the Consultation Statement. The Parish Council would prefer to retain the wording in the Policy but accepts that the Examiner will recommend any changes required to ensure the Policy meets the required basic conditions.” Paragraph 194 of the Framework requires desk-based assessment and where necessary field evaluation of known or potential heritage assets of archaeological significance on a site subject to development proposals. Paragraphs 195 and 197 of the Framework describe the approach and criteria that should be followed in determining development proposals affecting heritage assets including their setting. I have recommended a modification of part 2 of the policy as it does not have sufficient regard for these identified elements of national policy.
131. Richborough Estates have also raised 3 concerns regarding part 3 of the policy. Firstly, significance is the relevant term relating to value of heritage assets. Secondly lack of clarity relevant to reliance on policy documents and that ridge and furrow earthworks on a current planning application site is a non-designated heritage asset of low value. Thirdly, that the policy does not allow for anything but sustain and enhance on those sites deemed significant. The representation concludes part 3 of the policy is confusing and ultimately not required.
132. Strategic Policy BN5 states “Designated and non-designated heritage assets and their settings and landscapes will be conserved and enhanced in recognition of their individual and cumulative significance and contribution to West Northamptonshire's local distinctiveness and sense of place. In environments where valued heritage assets are at risk, the asset and its setting will be appropriately conserved and managed. In order to secure and enhance the significance of the area's heritage assets and their settings and landscapes, development in areas of landscape sensitivity and/ or known historic or heritage significance will be required to: 1. sustain and enhance the heritage and landscape features which contribute to the character of the area including: a) conservation areas; b) significant historic landscapes including historic parkland, battlefields and ridge and furrow; c) the skyline and landscape settings of towns and villages; d) sites of known or potential heritage or historic significance; e) locally and nationally important buildings, structures and monuments 2. demonstrate an appreciation and understanding of the impact of development on surrounding heritage assets and their setting in order to minimise harm to these assets; where loss of historic features or archaeological remains is unavoidable and justified, provision should be made for recording and the

production of a suitable archive and report 3. be sympathetic to locally distinctive landscape features, design styles and materials in order to contribute to a sense of place. The retention and sensitive re-use of disused or underused heritage assets and structures is encouraged in order to retain and reflect the distinctiveness of the environment, contribute to the sense of place and promote the sustainable and prudent use of natural resources. Proposals to sustain and enhance the area's understanding of heritage assets, for tourism and historic interest as part of cultural, leisure and green networks will be supported." I have noted Policy BN5 refers to unavoidable and justified loss of historic features or archaeological remains.

133. Paragraph 4.3.11 of the Review Neighbourhood Plan states the Northamptonshire Historic Landscape Character Assessment 2015 includes Kilsby within the Historic Character Area 5e - Crick Undulating Clayland where significant amounts of ridge and furrow survive throughout the area. Paragraph 4.3.8 of the Review Neighbourhood Plan states there are excellent examples of ridge and furrow fields in the area backing onto Rugby Road and in the fields between Barby Lane and the B4038 Kilsby to Hillmorton Lane and that these are referred to in the CAAMP. Paragraph 4.3.10 of the Review Neighbourhood Plan provides more detail of the CAAMP reference and states "However the ridge and furrow fields, of which there are particularly fine examples on the northern boundary of the village have no formal, specific protection". Paragraph 4.3.12 of the Review Neighbourhood Plan states "The NDP process provides an opportunity to strengthen Policy K6 in relation to the ridge and furrow landscapes, taking into consideration the Conservation Area Appraisal and Northamptonshire Historic Landscape Character Assessment."

134. The term "identified as significant through policy documents or the planning process" used in part 3 of the policy is imprecise and does not provide a basis for the determination of development proposals. In response to my request for clarification regarding the status of the Local List of heritage assets in the Neighbourhood Area and the relationship with the statement in paragraph 4.3.10 of the Neighbourhood plan referred to above West Northamptonshire Council and the Parish Council state "The Local List for Kilsby has been adopted, which includes one area of ridge and furrow off Rugby Road. This specific area of ridge and furrow therefore has the status of a non-designated heritage asset. This is shown in figure 35 (page 36) of the Kilsby Conservation Area Appraisal and Management Plan (CAAMP). The CAAMP identifies other areas of ridge and furrow, which are shown in Figure 17 (page 26), although they are not on the Local List. The CAAMP itself is an adopted supplementary planning document which is a material consideration in decision making." I have recommended paragraph 4.3.10 of the supporting text should be modified to more accurately explain that an area of ridge and furrow north of Rugby Road is included in the Local List. Paragraph 203 of the Framework states "The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that

directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset". Footnote 68 of the Framework (which Paragraph 3 confirms should be read as part of the whole) states "non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets". Paragraph 205 of the Framework makes provision for the loss of heritage assets and sets out the approach required for preservation by record assets in such circumstances. The term "should be sustained and enhanced" does not have sufficient regard for national policy. I have recommended a modification of Policy K6 so that development proposals will provide the basis for proposals affecting the significance of non-designated heritage assets to be determined in accordance with paragraph 203 of the Framework. I am satisfied sufficient evidence has been identified to justify the protection of views of the ridge and furrow fields north of the village (identified as a non-designated heritage asset through the Conservation Area Appraisal) seen from viewpoint 4 identified on Map 5 such that development proposals should minimise any adverse impact on those views. 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.

135. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Review Neighbourhood Plan, in particular strategic Policies BN5, RA2, RA6, and ENV7. 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.

136. 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 K6

- **in part 2 delete "including any areas of archaeological significance"**
- **replace part 3 with "Development proposals directly or indirectly affecting the significance of ridge and furrow fields must demonstrate appropriate consideration of the significance of the heritage asset, and detail the scale of harm or loss. Development proposals affecting views of the ridge and furrow fields north of the village (identified as a non-designated heritage asset through the Conservation Area Appraisal and**

Management Plan SPD) seen from viewpoint 4 identified on Map 5 should minimise any adverse impact on those views.”

An alternative approach to rely on the Policies Map rather than Map 5 would be equally satisfactory. Modify paragraph 4.3.10 of the supporting text to more accurately explain that an area of ridge and furrow north of Rugby Road is included in the Local List.

Policy K7 Local Green Space Designations

137. This policy seeks to designate ten Local Green Spaces identified on Map 2 and more detailed maps 6a - 6f inclusive in Appendix 3 of the Review Neighbourhood Plan.
138. 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. I am satisfied the areas of land proposed for designation as Local Green Spaces have been adequately identified, however a minor error where Map 6d is referred to in the policy as Map 67d should be corrected. I also recommend Map 6a is adjusted as the identifier 1 could be mistaken for a 4, at least that is the case on the copy of the map supplied to me. 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.
139. 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. Whilst I appreciate the construction of Policy K7 reflects that of the made Neighbourhood Plan it seeks 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). I have recommended a modification to clarify that it is inappropriate development that is ruled out.
140. 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.”

141. In respect of each of the areas proposed for designation as Local Green Space I find the Local Green Space designations are being made when a neighbourhood plan is being prepared. Whilst I appreciate the first five named areas of land were designated as Local Green Space in the made Neighbourhood Plan and therefore may not require redesignation, I consider such redesignation causes no harm and their inclusion in a complete list in Policy K7 will assist users of the Review Neighbourhood Plan.
142. 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.” Although the Jubilee Plantation is stated to be three-quarters of a mile from the centre of the village this represents an approximately 15-minute walk for a reasonably ambulant pedestrian. I find each of the areas proposed for 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.
143. The review Neighbourhood Plan includes Table 1 which seeks to justify the proposed designations as Local Green Space. Relevant reasons for designation are indicated as applying in respect of the proposed Local Green Spaces including matters referred to in the Framework. I have visited each of the areas of land concerned and as a matter of planning judgement consider the attributes identified to be relevant and reasonable. Table 1 of the Neighbourhood Plan provides sufficient evidence for me to conclude that each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance.
144. I find that the areas proposed 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.
145. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Review Neighbourhood Plan, in particular strategic Policy ENV4. 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.
146. 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 K7

- replace “67d” with “6d”
- commence the second paragraph with “Inappropriate”

Policy K8 Supporting Accessible Local Employment Opportunities and Homeworking

147. This policy seeks to establish conditional support for the provision of office/small workshop space within the confines of the village and specified types of economic development outside the defined confines. The policy also seeks to establish conditional support for new communication technologies as part of business and residential proposals.
148. Paragraph 84 of the Framework states planning policies should enable the sustainable growth and expansion of all types of business in rural areas. Paragraph 85 of the Framework states planning policies should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements. Whilst it is not normally necessary to repeat other planning policies as the Development Plan should be read as a whole the reference to part of Policy RA2 in Policy K8 is helpful to users of the Review Neighbourhood Plan.
149. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Review Neighbourhood Plan, in particular strategic Policies R1, R2, RA2 and RA6. 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.
150. 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.

Conclusion

146. I have recommended eight modifications to the Review Neighbourhood 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. I have determined under Paragraph 10(1) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 that the proposed Kilsby Review Neighbourhood Development Plan will not require a referendum.

I recommend to West Northamptonshire Council that the Kilsby Review Neighbourhood Plan for the plan period up to 2029 should, subject to the modifications I have put forward, be made.

Annex: Minor Corrections to the Review Neighbourhood Plan

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.

Heading 4.0 of the Consultation Statement should be corrected from 15 October to read 1 October, and corrected from 15 November to read 16 November.

In the penultimate paragraph of the Executive Summary, insert “employment” after “related to”.

West Northamptonshire Council state “Last sentence of second paragraph states that the review has resulted in changes to some of the policies. It is recommended that this is amended to clarify that one of the policies has been deleted, there is one new policy and all the other policies have been subject to a degree of modification.” I agree that this modification should be made for the avoidance of doubt.

In part 1 of Policy K4 replace “In” with “in”.

West Northamptonshire Council state the Ordnance Survey licence is unclear on Maps 4 and 7 and has offered to provide replacement maps. Whilst this is not a matter for the Basic Conditions, I regard it as a correction that needs to be made.

Recommended modification 9:

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.

West Northamptonshire Council has stated “It is noted section 2 from the made NDP, which set out the context for neighbourhood planning and preparation the NDP has been removed and replaced with a new section on the review. However, some of the original text included useful background information on the Localism Act, Basic Conditions, SEA/SA and sustainable development. It is recommended that the contents of deleted paragraphs 2.8-2.15 are re-inserted because they are still relevant and useful. Former paragraph 2.10 can be updated to explain that the Council has screened the Modified NDP.” Whilst re-insertion of the deleted text is not a matter for the basic conditions and I am therefore unable to make a recommend a modification in this respect I would have no objection to an adjustment of this nature which will assist users of the Review Neighbourhood Plan.

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11 May 2022
REPORT END