

6 July 2018

Our ref: HM/AM/KEN2241 218096 003 06 07 18

Development Services  
Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
Warwickshire  
CV32 5HZ



Dear Sir/ Madam,

**RE: Kenilworth Neighbourhood Plan:  
Representations on behalf of the 'Southern Parcel Landowners'  
(comprising the Trustees of the McDaide Family and the owners of Jersey Farm)**

Sworders, act on behalf of the landowners at Thickthorn, which forms part of the land to the east of Kenilworth that is the subject of an adopted strategic Allocation in the adopted Warwick District Local Plan 2011-2029. We are grateful to have been given this opportunity to submit our comments on the submitted draft Kenilworth Local Plan to the Examiner.

Firstly, we applaud the qualifying body for their significant efforts in preparing the draft neighbourhood plan. Our comments below are made in the spirit of supporting the neighbourhood plan group to ensure it meets the Basic Conditions and can proceed to referendum. These comments should be read alongside the representations submitted by Framptons on behalf of the Southern Parcel Landowners in August 2017, a copy of which is attached for ease of reference.

However, we do believe further changes are needed to some of the policies contained in the Neighbourhood Plan in order that the Basic Conditions are met and can proceed to referendum. We highlight, in particular, Paragraph 184 of the NPPF, which states (*inter alia*) that neighbourhood plans should:

1. be in general conformity with the strategic policies of the Local Plan;
2. reflect the Local Plan policies and plan positively to support them; and
3. should not undermine the strategic policies of the Local Plans.

We also give our suggestions on possible changes to the policy wording to help resolve the issues we raise, which are shown in track changes.



## **Draft Neighbourhood Plan Policy KP4 Land East of Kenilworth**

The draft Neighbourhood Plan rightly identifies the strategic allocations of the Local Plan as being strategic policies, which includes Local Plan policies H40, ED2, H06 and E1 which relate to the strategic housing and employment allocations. Together, these allocations mirrors the neighbourhood plan site named as 'Land East of Kenilworth', under draft Policy KP4.

These sites have been allocated in the Local Plan to ensure that the District's objectively assessed housing and employment needs are met in full over the Plan period. Therefore, it is important that the neighbourhood plan does not include policy requirements that are not supported by robust technical evidence, which are overly-prescriptive and consequentially could undermine and threaten the delivery of these sites and the strategic policies of the 2017 adopted Local Plan.

The views of the local community are clearly important in the preparation of the Development Brief or Layout and Design Statement that is required by the adopted Local Plan strategic policy (DS15) for the Land East of Kenilworth. The principles set out in criteria a) – h) set out in draft Policy KP4 are therefore helpful in this regard. However, the layout of sites must be informed by up to date and robust evidence on the technical constraints and opportunities and there is no technical supporting evidence provided to demonstrate that those aspirations are deliverable. There is also some conflict in the wording of draft Policy KP4 with national and adopted local plan policy, including Local Plan Policy DS15 (Comprehensive Development of Strategic Sites).

Therefore, we believe that the following changes to the wording of draft policy KP4, which we show in track changes below, are required in order that the Neighbourhood Plan meets the basic conditions:

### **Policy KP4: Land to the East of Kenilworth**

**Development proposals for housing and other uses on land released from the Green Belt east of Kenilworth as shown on the Policies Map 5.2 will be supported where they represent a comprehensive development scheme for the land in accordance with a Development Brief Produced by Warwick District Council or a Layout and Design Statement to be approved by Warwick District Council, in accordance with Local Plan Policy DS15.**

We strongly believe that the remainder of the wording of Policy KP4 needs to be deleted in order to ensure conformity with national and local policy.

Recognising that the views of the local community are important in the formulation of proposals, there may nonetheless be merit in including the aspirations identified in this draft policy within the supporting text of the policy. If this approach is preferred, we consider that some changes to the wording are needed in order to be consistent with national and local policy and also to account for



the notable absence of evidence to support some of the principles outlined, including relating to the detail of access and layout of the site and the proportion of self-build/custom build homes sought. Therefore, we suggest the following:

#### **Suggested Supporting Text to Policy KP4**

When preparing the development brief or a Layout and Design Statement, consideration should be given to the views of the local community, including ~~and comprise~~ the following principles:

- a. The provision of land for a secondary school, sixth form college and if deemed the most appropriate location a new primary school within the allocation and/or financial contributions on the northern parcel of the land;
- b. The provision of land for a new primary school on the southern land parcel if deemed an appropriate location;
- c. The provision of a local centre comprising a mix of A1-A5 commercial uses and D1 community facilities, with consideration being given to the possible inclusion of including possible medical and youth facilities and places of worship to meet identified local needs that are also accessible to the existing residential areas of eastern Kenilworth;
- d. The potential for providing a distinct~~The provision of a distinct~~ area at Thickthorn for B1 and suitable B2 business uses ~~only~~ with direct vehicular access to A452 Leamington Road or direct to the A46 junction, the layout and design of which must enhance the entrance of the town from the A46 junction and must be compatible in uses with the amenities of adjoining residential areas;
- e. Opportunities for tThe provision of serviced plots for self-build and custom build, not exceeding 5% of the total number of ~~the open market homes as serviced plots for self-build and custom-build dwellings, having regard to the latest evidence on demand, including the self-build register of interest and the strategic policies contained within the adopted Warwick District Local Plan 2011-2029;~~
- f. Consideration to the potential for a~~The adoption of~~ highways strategy based on an independent access to each of the land parcels that allows for an arrangement of uses and access routes to connect the development with the existing built up area at multiple points by walking, cycling, public transport and car;
- g. The potential for residential roads within the developments to be ~~are~~ designed to a 20mph standard and giving priority to pedestrians and cyclists;
- h. The provision of a green corridor through the various land parcels that, where possible:



- Is arranged in such a way as to benefit the new development and the existing community
- Functions as a linear route linking the school sites and local centre
- Comprises and connects to pedestrian and cycle routes, public open space, the provision of new allotments and other forms of green infrastructure
- Incorporates Rocky Lane and Glasshouse Wood path and other public rights of way and footpaths on the land as a means of improving access from the town to Stoneleigh and the River Avon
- Retains and integrates as much of the existing wooded areas as Glasshouse Spinney, Crewe Lane Arboretum, the spinneys at Thickthorn and Jordan Closes and other landscape features as practical
- The creation of a soft edge along Crewe Lane, retaining the bell of tress and a similar frontage to Glasshouse Lane
- The protection of the residential amenity of the existing development along Leamington Road, Glasshouse Lane, Birches Land and the roads off towards the developments including the planted verges in such areas
- The layout and appearance of the development shall minimise harm to and where appropriate enhance the historic environment and heritage assets on or near to the site
- The agreement of an environmental strategy to establish how the development of the land will [provide for opportunities for deliver](#) a net biodiversity gain, will manage the sustainable drainage of the land and will avoid harm to the setting of adjoining heritage assets
- The agreement of a phasing plan and delivery strategy that will enable self-contained phases of development to come forward and will set out the thresholds by which the provision of site infrastructure and non-housing sites will be required.

#### **SELF-BUILD AND CUSTOM BUILD HOUSING (DRAFT POLICY KP4)**

We note that principle/criterion (e) of draft Policy KP4 relates to the provision of self-build and custom-build housing on the Land East of Kenilworth, which is a strategic allocation in the adopted Warwick District Local Plan.

In addition to the comments above, we object to the inclusion of a policy that would require a specific proportion of self-build and custom-build housing from a strategic allocation.



The adopted Local Plan Policy H15 encourages Neighbourhood Plans to support the delivery of self-build and custom-build housing through the identification of suitable and sustainable sites. The policy and supporting text of Policy H15 that this may include supporting opportunities for self-build and custom-build housing on strategic allocations, the supporting text of that policy is seeking to encourage the identification of specific smaller sites in suitable and sustainable locations. Notwithstanding this, there appears to have been no site selection process followed by the qualifying body in deciding what opportunities may exist in the area for self- and custom-build housing.

To instead rely solely on the District's strategic allocations will not achieve this objective and also risks the delivery of homes that are needed to meet the objectively assessed housing needs of the district and therefore undermining the strategic policies of the Local Plan.

There is also no evidence to support a policy that requires 5% of the homes on the site to be delivered as self-build and custom-build plots. The only information provided is from a latest Register of Interest and, as the District Council has noted in its comments, is a snapshot in time. We would add that a register of interest is not the same as evidence of demand and so if it transpires that there is no demand when those plots are marketed, they will not be delivered. Land East of Kenilworth is required to meet the District's objectively assessed housing needs and so this would therefore affect housing delivery and meeting housing needs of the District, undermining the strategic policies of the Local Plan.

On this basis, whilst we agree opportunities for self-build and custom-build housing should be encouraged, it is not appropriate to rely on an overly-prescriptive requirement for a specific proportion of homes to be delivered from the strategic allocations, including Land East of Kenilworth. Should the Neighbourhood Plan include a policy on self-build and custom-build housing, we would suggest a separate policy which is worded as follows:

**Proposals for self-build and custom build housing will be supported in sustainable and suitable locations subject to compliance with all other relevant policy requirements in the Local Plan, Neighbourhood Plan and national policy.**

#### **CONCEPT PLAN - PAGE 37**

For the reasons set out above, the concept plan on page 37 of the submitted Neighbourhood Plan should be deleted to avoid confusion amongst the local community as to what the approved development brief for the Land East of Kenilworth is. We note that the Qualifying Body has confirmed that this will be replaced, and has been superseded by, the Development Brief requirement for the Land to the East of Kenilworth that is provided for by adopted Local Plan Policy DS15.

#### **DRAFT POLICY KP13: PARKING STANDARDS**



As drafted, this policy would place rigid parking requirements for new developments which conflicts with recently updated parking standards for the District and have not been justified through evidence submitted with the neighbourhood plan.

Parking standards are not intended to be minimum requirements and flexibility is important to ensure that parking requirements are considered on a site-by-site basis. Flexibility in the policy wording is also important, including to ensure that it can reflect potential advances in technology and travel behaviour. The local authority also has up-to-date Local Plan policies and parking standards and which allow for the specific locational and site-specific requirements to be taken into account.

In the absence of evidence to justify a departure from those standards, we therefore believe that draft Policy KP13 needs to be deleted.

#### **DRAFT POLICY KP14: GENERAL DESIGN PRINCIPLES**

We ask that our comments on the following design principles are taken into account in the examination of the Neighbourhood Plan and any subsequent modifications that are made:

##### **Criterion a. (Heritage Assets)**

This conflicts with the NPPF (paras. 128 – 134) and strategic policy DS4 of the Local Plan. Using track changes, we recommend that this is changed to read:

**The significance of any heritage assets and their settings in the locality. ~~and how the scheme will sustain and enhance that significance~~**

##### **Criterion f (Resource Use)**

Building Regulations, which adopts a fabric-first approach, provides the starting point when considering opportunities minimise resource use. Whilst it is important to look for opportunities to minimise carbon dioxide emissions and resource use, including through the inclusion of renewable energy technologies, it is important that consideration is given to the feasibility and viability of options when designing a development. This needs to be reflected in the policy wording. We have used track changes to show our recommendation on the change to the wording of criterion f. that is needed:

**Opportunities to minimise resource use should be explored is minimised and, including through the incorporation of the design incorporates features (including renewable energy) that lead to low or zero carbon dioxide emissions in use, taking into account feasibility and viability;**

##### **Criterion i (Gardens)**



Gardens are not always desired or appropriate. As drafted, this could prevent some housing needs being met, including apartments. It may also prevent smaller, more constrained sites from coming forward in the neighbourhood plan area, such as brownfield or derelict sites in the town centre. We recommend the following change (shown in track changes):

**For residential development, where appropriate, has a garden to meet the needs of existing and future residents, whether private or communal**

### **DRAFT POLICY KP15: LOCAL HERITAGE ASSETS**

The comments made in the representations submitted on behalf of the landowners in August 2017 remain applicable and we ask that they are taken into account as part of the Examination process – A copy is appended to this letter.

We trust that the above comments, which we believe are important to ensure that the neighbourhood plan meets the basic conditions and will also be effective in guiding future development proposals in the town. We would welcome a further discussion if there are any queries or the Examiner or Qualifying Body would like to discuss anything further.

Yours sincerely

**Hywel Morse BSc (Hons) MRICS FAAV  
Senior Associate**

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Encls: Kenilworth Submission to Neighbourhood Plan August 2017 (Framptons)  
Kenilworth Submission to Neighbourhood Plan Policy KP4 August 2017 (Framptons)



# Kenilworth Town Neighbourhood Plan

Pre Submission Consultation

## Tell us what you think!

### Have we got it right?

Please indicate which of the following statements best reflects your views and explain further where necessary.

Please use separate forms for different issues.

- You have it pretty well right and I will be happy to support as it goes forward to a referendum
- The Plan would be improved if it included an additional policy
- The Plan would be clearer if a particular part was reworded
- I disagree with a particular statement or policy
- There is an error in the text or map

#### Comments –

The following submissions are made on behalf of the land owners within that part of the allocation 'Land to the east of Kenilworth' which is so termed the '*southern parcel*'. The 'Southern Parcel Landowners' (SPL) welcome the opportunity to work with the Town Council in the delivery of a high quality and well integrated urban extension to the town.

The SPL wish to make the following comments on the wording of Policy KP4 and its supporting text. The SPL invite discussions with the Town Council in response to these concerns.

Policy RP4 states '*as shown on the Policies Map*'. A Map 5.3 is titled a '*Concept Plan*'. The use of these terms is confusing for the reader of the Neighbourhood Plan. As the form of development has not, as yet, evolved through a master planning exercise, it is recommended that the reference to '*Policies Map*' is replaced with '*Concept Plan*'.

It is submitted that Policy KP4 should be consistent with the provisions of the Warwick District Local Plan, which has now been found to be sound.

As such, it is submitted that the words '*provided a comprehensive masterplan is agreed*' be replaced with '*within the context of an appropriate and comprehensive development scheme*'.



### 1: Criterion d)

Criterion d) seeks to confine employment uses to Use Class B1 with 'suitable Class B2 uses' which are generally ancillary to Class B1. It is considered that the allocated site is suited to a wider range of commercial uses which would be appropriate at this edge of town location.

It is recommended that Criterion d) should read as:

*'The provision of a distinct area for employment uses which may include B1 and suitable B2 uses. Other forms of employment development may be acceptable depending upon the nature of the use and the scale of buildings in a spatial context with surrounding development.'*

The suggested amendment to the Criterion then allows for a measure of flexibility to ensure that no employment use which would otherwise be suited to this location is lost on account of a restrictive policy in the Neighbourhood Plan.

### 2: Criterion e)

This Criterion requires provision of at 'least 5% of the total number of homes as serviced plots'. On the basis of the allocation being for 1400 new homes, at least 70 would be required for self-builders. Reference is thereafter made in the supporting text that within Kenilworth some 13 households have expressed an interest in developing a plot this way.

Kenilworth has not experienced a major urban extension for several decades, and a modest scale of housing growth has occurred within the confines of the town including the release of single plots for new homes to be built by self-builders. The existing urban area will still yield a source of self-build plots during the Plan period.

The Government's support for self-build development does not suggest that a particular percentage of self-build plots should be provided in major developments, or that any expression of interest should be met in a development plan. It is respectfully submitted that there is no cogent evidence to support criterion e) 'of at least 5%'.

On the basis that there is no justification for a distinction to be made between Site KP4 and other sites allocated for housing within the Local Plan at Kenilworth, a 5% provision for self-build housing across all sites would substantially increase delivery well beyond an evidence base which indicates a very modest level of demand.

Further discussions are invited with the Town council as to the level of provision for self-build housing, which, as a term, should also include custom build (Self-Build and Custom House Building Act 2015).

It is hence recommended that Criteria e) reads:

*'Criterion e) Consideration be given to the provision of a small amount of plots for self-build and custom build homes.'*

With respect the 'precise location and means of delivering this requirement' could not be identified on a Master Plan, which realistically can only ever convey broad development principles. A master plan does not 'drill down' to the location of individual house plots.

### 3: Criterion K

This Criterion seeks to introduce a policy provision that is more restrictive than national planning policy in the context of the historic environment (The Framework)

The concerns with this criterion are set out below:

- i) Setting is not a heritage asset. There is a need to undertake a 5 stage process as set out by Historic England to determine whether development may result in harm to the **significance** of a historic asset. Significance for the purposes of heritage policy is defined in the Glossary to the Framework.

- ii) The Framework does not preclude 'harm' from occurring, but requires the decision maker to undertake a planning balance as provided by paragraphs 133-135 of the Framework. Some harm to the significance of a heritage asset may be unavoidable in undertaking this major development. It is submitted that Criterion K should replace '*avoid harm to the setting of adjoining heritage assets*' with:

*'... and will minimise harm to the significance of heritage assets'.*

**Conclusion**

I trust that the Town Council will welcome these contributions to the consultation process and invite representatives of the developers to a meeting and discuss the submissions which are made.

Please return your form to: Kenilworth Town Council,  
Jubilee House, Smalley Place CV8 1QG; or email:  
consult@kenilworth.org

Please add your contact details for further updates (optional).

Thank you for your help and interest. Please continue overleaf as necessary.



# Kenilworth Town Neighbourhood Plan

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Comments –

Policy KP 13 Parking Standards

Principle (1) requires 'adherence to the adopted local authority standards'. Standards are never written as prescriptive requirements, but are to be applied as guidance only. The requirement for 'exceptional circumstances' to be advanced to justify a variation from guidance is considered too onerous as a planning policy requirement.

It is submitted that Policy KP13 criterion (1) should read:

*'The approved local authority standards for the number spaces to be provided'*

KP14 General Design Principles

Criterion ix states:

*'For residential development, has a garden to meet the needs of existing and future residents'.*

This criterion would preclude the provisions of apartments which are important to provide a wide range of house types.

## KP15 Local Heritage Assets

This policy is not consistent with national planning policy (Framework 135). It is recommended that the policy is reworded as follows.

*'If it can be demonstrated that the proposals avoid or minimise harm to the significance of local heritage assets'*.

## Policy KP16 Environmental Standards of New Buildings

It is submitted that the last sentence should be deleted from the policy – as it is not justified by national planning policy, and is not a genuine land-use planning consideration. Self-build plots if provided will be made available on the open market, and will not be subject 'to allocation'.

Please return your form to: Kenilworth Town Council,  
Jubilee House, Smalley Place CV8 1QG; or email:  
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Please add your contact details for further updates (optional).

Thank you for your help and interest. Please continue overleaf as necessary.