

REDACTED COMMENTS

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FEEDBACK STARTS BELOW:

1.1 The purpose of this letter is to set out, on behalf of our clients, our comments on the Pre-Submission Draft King's Somborne Neighbourhood Development Plan ("NDP") which was published for consultation on 10 May 2018.

1.2 It should be noted from the outset that we are aware of the Government's support towards Neighbourhood Plans which is exemplified at Paragraph 184 of the National Planning Policy Framework (March 2012). This states: "Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community."

1.3 The Government's continual support of Neighbourhood Planning is also apparent within the recent consultation draft of the National Planning Policy Framework (March 2018) which recognises that:

"Neighbourhood plans can shape, direct and help to deliver sustainable development by influencing local planning decisions as part of the development plan."

We confirm our support to the preparation of a Neighbourhood Development Plan for King's Somborne and the work of the Parish Council and NDP Group in bringing forth this document. The on-going engagement with local residents and landowners as part of the process of bringing into force an NDP is essential, not only to ensure that development is carried out in such a way so as to preserve the character of the village, but also to ensure that any sites allocated for development are viable, deliverable and can be developed to meet the identified needs

1.5 Having reviewed the available evidence base, and consultation version of the King's Somborne Neighbourhood Plan, there are various matters that we consider require further consideration and amendment before the NDP is submitted to Test Valley Borough Council.

2.0 Procedural Considerations

2.1 The preparation of a Neighbourhood Plan involves a series of stages as required by legislation before it can be 'made'. To be 'made', a Neighbourhood Plan must meet certain 'Basic Conditions' set out in Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (As Amended).

2.2 To comply with the 'Basic Conditions', the NDP must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the Development Plan for the area of the authority (or any part of that area); and
- not breach, and be otherwise compatible with, European Union (EU) obligations.

2.3 In order to comply with the Basic Condition relating to European obligations, it is necessary to consider whether there could be any significant environmental effects as a result of the production of the Plan.

2.4 Directive 2001/42/EC “on the assessment of the effects of certain plans and programmes on the environment” seeks 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.” This Directive is transposed into UK law through The Environmental Assessment of Plans and Programmes Regulations 2004 (the “SEA Regulations”) and it is these Regulations that the NDP will need to be compatible with.

2.5 Another key European obligation is Directive 92/43/EEC “on the conservation of natural habitats and of wild fauna and flora”. This is often referred to as the Habitats Directive and has been transposed into UK law through The Conservation of Habitats and Species Regulations 2017 (the “Habitats Regulations”).

To establish what further work, if any, is required to satisfy these Directives, Test Valley Borough Council should be asked by the Qualifying Body preparing the NDP (in this case King’s Somborne Parish Council) to carry out a Screening Opinion to consider whether there is a need for a Strategic Environmental Assessment and/or an Appropriate Assessment under the Habitats Regulations for the King’s Somborne NDP. This is consistent with the advice in the Planning Practice Guidance¹ which states: “Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”

2.7 The Planning Practice Guidance also requires that one of the following documents be included with an NDP when it is submitted to the Local Planning Authority:

1. A statement of reasons for a determination under Regulation 9(1) of the Environmental Assessment of Plans and Programmes Regulations 2004 that the proposal is unlikely to have significant environmental effects; or
2. An environmental report prepared in accordance with paragraphs (2) and (3) of Regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004.

At the start of consultation period, and in the draft NDP documents, there was no mention of whether the requirements of the EU Obligations had been considered, let alone satisfied. However, we note from the Test Valley Borough Council website (updated 18 June 2018) that a Screening Opinion was sought on 12 March 2018. The Council has determined that the King’s Somborne NDP would be likely to have significant environmental effects and on this basis a Strategic Environmental Assessment is required. With regard to the Habitats Regulations, an Appropriate Assessment is also required to consider the effects on European Designations.

Additionally, whilst we recognise that the draft NDP has been published for consultation, there is no mention as to whether this is in fact a consultation under Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 (as Amended). Also, there is no list of the Consultation Bodies (see Schedule 1 of the 2012 Regulations) who have been consulted by the Qualifying Body at this stage. The various stages of engagement with the consultation bodies whose interests may be affected by the draft NDP, should be clearly set out within a Consultation Statement. There is no such statement currently available for this draft NDP.

3.0 National Planning Policies and Guidance

3.1 We have dealt with above the issue of conformity with European Union legislation. This section deals with the key elements of the National Planning Policy Framework (March 2012) hereafter referred to as “The Framework”, and the Planning Practice Guidance, hereafter referred to as “The PPG”.

3.2 Paragraph 15 of the Framework requires “all plans”, which clearly extends to Neighbourhood Plans as well as Local Plans, to be based upon and reflect “the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally”.

3.3 Paragraph 16 of the Framework states that “neighbourhoods should develop plans that support the strategic needs set out in Local Plans, including policies for housing and economic development ... and ... plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan”.

3.4 The Framework contains 12 Core land-use planning principles, set out at Paragraph 17 of the Framework. Of particular relevance for the King’s Somborne NDP are:

- Promoting a plan-led system – including the relationship between the Neighbourhood Plan and the adopted Test Valley Borough Local Plan;
- Pro-actively driving and supporting sustainable economic development to deliver new homes;
- Seeking to secure high quality design and good standards of amenity for all future occupants of land and buildings;
- Recognising the intrinsic character and beauty of the countryside and supporting thriving local communities; and
- Actively managing patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

3.5 At a more practical level the Framework requires plans to be “aspirational but realistic”. This is reinforced through the PPG, which requires :

“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.”

As presently drafted, we consider that policies within the NDP are ambiguous. There is currently insufficient clarity to provide confidence on the deliverability of some of the proposed allocations. As such, we consider that the King’s Somborne NDP does not fully accord with national policies and advice, or the policies of the Test Valley Borough Local Plan, and as a result the NDP is unlikely to contribute to the achievement of sustainable development. This is a key requirement in order to satisfy the basic conditions. Our reasons for this are set out within the remainder of this letter.

4.0 Amount of Development

4.1 Draft Policy H1 limits the amount of additional housing development within the Parish to between 33 to 42 dwellings over the next 15 years. This extends beyond the current Test Valley Borough Local Plan period.

4.2 Paragraph 47 of the Framework requires Local Planning Authorities to “boost significantly the supply of housing” by using their “evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period”.

4.3 Whilst this is clearly written in relation to Strategic / Local Plans, and whilst it is common for such plans to look at least 15 years ahead, there is no statutory time-period that a plan must cover. Commonly, Qualifying Bodies for Neighbourhood Plans seek to align the NDP with that of the Local Plan.

4.4 There is an established policy expectation⁴, that a Local Planning Authority should regularly review the Local Plan to “respond flexibly to changing circumstances”. This expectation was made a legal requirement in January 2018 through the introduction of The Town and County Planning (Local Planning) (England) (Amendment) Regulations 2017 which amends Regulation 10A of the 2012 Regulations to require a Local Planning Authority to complete a review of a Local Plan every five years starting from the date of adoption of the Local Plan. That means that legally, Test Valley Borough Council must complete a review of the current Local Plan, adopted in January 2016, by January 2021. This makes any 15-year projection for the King’s Somborne NDP at best speculative, and as such we consider there to be little justification to adopt a plan-period beyond that of the Test Valley Local Plan.

4.5 The Government has recently consulted upon a revision to the National Planning Policy Framework and is expected to publish a final version (which will supersede the current 2012 version) in July 2018. Whilst it is accepted that no weight can be attached to the revised Framework until it is finally published, it is pertinent to note that Paragraph 32 of the consultation draft states: “Once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan for that neighbourhood, where they are in conflict; unless they are superseded by strategic policies that are adopted subsequently”.

4.6 The Test Valley Local Plan currently allocates no specific housing requirement to King’s Somborne (or the rural settlements generally), however there will be a requirement to do so in the future.

4.7 In this regard, Paragraph 66 of the consultation draft Framework states that:

“Strategic plans should set out a housing requirement for designated neighbourhood areas ... once the strategic plan has been adopted, these figures should not need re-testing at the neighbourhood plan examination, unless there has been a significant change in circumstances that affects the requirement.”

4.8 Paragraph 67 continues:

“Where it is not possible to provide a requirement figure for a neighbourhood area, the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body. This figure should take into account factors such as the latest evidence of local housing need, the population of the neighbourhood area and the most recently available planning strategy of the local planning authority”.

4.9 Whilst this is clearly not currently policy, there is plainly an intention to place the onus of establishing housing need for neighbourhood planning areas on the Local Planning Authority. Therefore, Test Valley Borough Council can be expected to do this through their review of the Local Plan, which will need to conform with the revised Framework once published.

4.10 In the meantime, and where NDP’s do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need. The PPG states⁵:

“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.”

4.11 There is no evidence within the current consultation draft that the NDP group has approached the Borough Council for assistance in defining the housing need for King’s Somborne.

4.12 According to the Annual Monitoring Report published by the Borough Council in December 2017, in 2016/17, 891 dwellings were completed in Test Valley, of which 651 were in Northern Test Valley (NTV) and 240 in Southern Test Valley (STV). Whilst this was in excess of the annual requirement figure of 588 it is recognised that completions were less in 2016/17 than they were in earlier years. Further, the housing requirement in Test Valley Borough is expressed as a minimum target, with no maximum cap or limitation on the amount of new development other than the need for development to accord with the Development Plan unless material considerations indicate otherwise.

4.13 The Adopted Local Plan sets a minimum housing requirement for Rural Test Valley of 648 dwellings over the plan period. This equates to a minimum of 36 dwellings per annum. The draft NDP recognises that this is a minimum requirement, and that a higher number of dwellings could be delivered.

4.14 The Borough Council has no monitoring data available for Rural Test Valley, therefore it is unknown whether the Council is on track to meet its minimum requirement within the rural areas. But even if the target is being met, it is clear that it is a minimum target and therefore can be exceeded. Going forward, in the next Local Plan review, it seems clear that the Borough Council will need to establish a greater understanding of the housing needs within the rural areas, and plan positively to support sustainable development to maintain the vitality of rural communities.

4.15 In the absence of a set housing requirement for King's Somborne, the Parish Council has sought to establish its own housing need figure through its "housing numbers" study. At this point, it is worth bearing in mind the approach set out in Paragraph 159 of the Framework, which requires plan-makers to have a "clear understanding of housing needs in their area" in determining the Objectively Assessed Housing Need for a housing market area. The Framework states that Plans should:

- * "identify the scale and mix of housing and the range of tenures that the local population is likely to need over the plan period which:

- * meets household and population projections, taking account of migration and demographic change;

- * addresses the need for all types of housing, including affordable housing and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);

- * caters for housing demand and the scale of housing supply necessary to meet this demand."

4.16 The Housing Needs study for the NDP uses nationally available data and SAPF data (Small Area Population Forecasts) from Hampshire County Council (which has not been made publicly available as part of this consultation). The study applies an assumed population growth rate of 0.25% per annum to the SAPF forecasts which is determined to be "realistic" because there are "no major local employers" in the Parish, and the Parish is largely "unaffected by immigration". However, the selected growth rate is significantly lower than the UK average. A formula is then applied, which assumes an occupancy rate of each household, which decreases during the plan period.

4.17 Using this somewhat formulaic method, the study concludes that there is an estimated need for 41 homes over the next 15 years.

4.18 We consider the chosen method is too narrow in its focus and fails to enable the Neighbourhood Plan to plan positively for sustainable development in this area to meet future needs. The method gives no recognition of the existing and therefore likely future occupancy in the village of residents employed outside the Parish, the contribution the village can make to a local and therefore national housing need, and the growth of home working substantially affected by digital communication.

4.19 The study focuses on population forecasts to project need. There is some analysis of affordable housing need, but no analysis of the need for all types of households within the community such as homes for downsizing, or to encourage young families into the village to help sustain local services and facilities. There is no analysis of market demand, or whether the existing housing stock provides adequate supply to meet that demand. Therefore, we consider the study deficient in determining the Objectively Assessed Need for housing in King's Somborne. As such, we consider that a further analysis should be undertaken to establish whether the housing need for the Parish in fact justifies a higher requirement than 41 new homes being taken forward for the NDP.

4.20 Notwithstanding our reservations regarding the soundness of the Housing Needs study, given its conclusion, together with the NDP objective to "provide sufficient housing stock to maintain a sustainable community with similar social and demographic profile to that existing currently thereby ensuring the continuation of the character of the village and maintaining the way of life of a rural community"; it is surprising that Policy H1 then proposes a lower minimum housing requirement of 33 dwellings. There is no justification for this.

4.21 Further, Policy H1 limits development to 42 dwellings. Housing requirements should be expressed as a minimum. There is no justification for restricting the development within King's Somborne to a maximum of 42 dwellings within the 15-year plan period.

4.22 It is premature and unduly restrictive to limit housing numbers prior to any detailed master-planning for each site being undertaken. We consider such an approach could prevent the achievement of sustainable development which would fail to satisfy the basic conditions.

4.23 In summary, there is no recognition that assessments of housing need change over time and should comprehensively look at needs of the whole community, and not just population forecast. The King's Somborne NDP is looking 15 years ahead, which is a relatively long time period. It is also beyond the Adopted Local Plan period and therefore any assessment will be speculative. Whilst we consider the approach taken by the Parish to be unsound, at the very least i.e. if no further analysis is undertaken, the housing requirement for the village should be expressed as a minimum of 41 dwellings, to reflect the NDP's own evidence base and to bring the policy into general conformity with the Development Plan. However, given our comments above, we advocate that further analysis of housing need is undertaken to ensure the study is robust in meeting housing demand in the Parish.

5.0 Approach to Site Selection

Policy H6 identifies and proposes 5 sites for allocation. It is stated that sites KS5, KS3, KS6, KS7 and SHELAA 81 are suitable for development and as a result these 5 sites are proposed to be allocated for development through the NDP. However, the proposed allocation sites are stated to be ranked in "order of preference". This order appears to be solely based on the site assessments undertaken by the 6 members of NDP group. We find this to be an arbitrary selection process, and we question whether such an assessment could be objective given potential conflicts of interest as discussed below.

Conflicts of interest / Inconsistencies in Site Assessments

5.2 Whilst we accept that all Members of the NDP Steering Group will live within the village, there is a clear requirement for assessments to remain objective and for sites to be assessed fairly, notwithstanding where a Member lives.

5.3 We are concerned that there are some inconsistencies in the Site Allocation scoring (Attachment 2.4.9). For example:

* Existing Use

5.4 KS4 and KS5 are described as agricultural pasture. These sites were scored 3,2,3,3,2,2 by Members, giving an average score of 2.5. Sites KS7 and SHELAA 81 are also described as agricultural pasture, yet are scored 3,2,2,2,2,2 by Members giving an average score of 2. It is entirely unclear why there is a difference in scoring, when all four sites are agricultural pasture.

* Views in

5.5 Site KS5 is located on higher ground wholly above the 40m contour, whereas Sites KS7 and SHELAA81 are both wholly located below the 40m contour. The NDP is drafted to resist development above the 40m contour and support development below. There is therefore an inconsistency between the site assessments and the policy objective, and there is no reference to the 40m contour in the assessment for KS5.

5.6 Notwithstanding this, site KS5 has been scored highly at an average of 2.8, whereas KS7 scored an average of 2. SHELAA81 scored the least at 1.1. Whilst it is recognised that sites KS7 and SHELAA81 might be more visible from Winchester Road than KS5, these sites offer the potential to design an attractive gateway into the village from the eastern end thereby enhancing views from Winchester Road. There appears to be no recognition of this within the assessment, and it appears that some sites have scored low on the basis that development will be seen so it must be harmful. This takes no account of the positive findings of the NDP Landscape Assessment where it is acknowledged that these sites can be sensitively developed with appropriate landscape mitigation and through good design.

5.7 There is also no recognition that other sites, including KS3 and KS5, will also be seen in wider views from higher ground, yet it appears that Site KS7 has been singled out in reference to possible views from the north. KS5 will similarly be seen in views from the public right of way to the north of KS7.

* Would redevelopment of the site relate well to the site surroundings?

5.8 KS5 has scored an average of 2.6 here, and both KS7 and SHELAA81 have scored 1.7. Turning to SHELAA81 first, there is positive recognition that development on the site would contribute positively to the historic settlement pattern. The commentary however goes on to suggest that the site makes a contribution to the setting of the listed building (presumably Manor Farm House). However, the site is separated by the main Winchester Road and enclosed by well-established hedges and vegetation. Therefore, any contribution the site does make would be minimal, and unlikely to lead to any harm to the heritage asset. This view is consistent with the findings of the NDP Landscape Assessment.

5.9 Turning to KS5, we note that no reference is made to the views of the site from the public footpath to the east, however, when assessing KS7, concern is raised that development would encroach into the countryside. Both sites are within the countryside currently, and both are situated adjacent to existing housing development and the same public footpath. There appears to be no reasonable explanation to score these sites differently.

5.10 In summary, the approach to site scoring appears inconsistent and on the face of it, unfair. Whilst all sites are not without constraint, this exercise has been undertaken without any illustrative site layouts or material from site promoters to demonstrate how the sites could be developed having regard to the suitability criteria outlined within the Site Allocation Scoring Form. Such information surely would have been useful in enabling those completing the assessments to visualise how a site could be developed.

Why should KS7 and SHELAA81 be allocated?

5.11 It is noted that our XXX sites are proposed for allocation within the Neighbourhood Plan. This is welcomed, and we confirm that these sites are available now and fully deliverable without third party involvement.

5.12 The Landscape Assessment prepared by Terra Firma, and which supports the allocation of sites within the NDP, describes the context within which these sites sit.

5.13 For KS7, the assessment recognises that:

“The central and north-eastern parts of the field are visible from elevated downland to the south, but tucked behind houses along Winchester Road. Mitigation of these views would be helped by existing built form and trees, and the permitted house south-east of the site.”

“As part of the conservation area setting the area would seem to have little importance as there is limited intervisibility and much of this side of the village is made up of modern development. However the listed Manor Farmhouse lies to the south but separated by a thick hedge.”

“The site relates well to the settlement pattern which sits towards and along the valley bottom in this part of the village.”

“The site sits outside of the floodplain and below the 40m contour, lower lying than sites 1, 3 and 4.”

5.14 The Assessment acknowledges that the character of and views from the footpath would change but recognises that development on the site would provide an “opportunity to strengthen the edge of the settlement.” The Assessment also considered that “The setting of the listed Manor Farmhouse would be protected”.

5.15 The Assessment concludes that the site has potential to accommodate housing, subject to minimising loss of hedgerow and leaving the central portion of the site undeveloped to protect the backdrop setting to Manor Farmhouse. On that basis, there is no reason why, in landscape terms, KS7 should not be allocated for residential development.

5.16 SHELAA Site 81 was also considered by the Terra Firma Landscape Assessment and is described as being “tucked amongst houses along Winchester Road and beyond a mature hedge”. The Assessment considered that:

“Little additional planting would be required to mitigate impacts on these views”.

“As part of the conservation area setting the area would seem to have little importance, considering that much of this side of the village is made up of modern development. However the listed buildings at Manor Farm are opposite and Manor Farm Cottages lie tight against the southern corner of the site, with the site forming a backdrop to views of the cottages from the road.”

“The site relates well to the settlement pattern which sits towards and along the valley bottom in this part of the village. There is a mix of built form, some of which directly addresses the road and some with deeper plots with small estates.”

“The site sits outside of the floodplain and below the 40m contour.”

5.17 The Assessment concludes that the site has potential to accommodate housing, but recommends that the south-western part of the site be left undeveloped to main a buffer and open backdrop to Manor Farm Cottages. It is also recommended that the access and road frontage be sensitively designed to integrate with the rural village character. On that basis, there is no reason why, in landscape terms, SHELAA81 should not be allocated for residential development.

5.18 Odyssey have undertaken a preliminary review of the sites and to advise on access and highway safety matters. This Feasibility study of KS7 and SHELAA81 is attached.

5.19 Turning to flood risk, both KS7 and SHELAA81 are located outside of the flood zone. It is acknowledged that Flood Risk Assessments including Drainage Strategies will need to be submitted as part of any application for planning permission on these two sites. It is also acknowledged that development should be located where flood risks can be managed and without increasing flood risk elsewhere.

5.20 XXX area immediately north of the Bourne Rivulet at the junction between New Lane and Winchester Road. It is therefore possible that open space improvements including drainage works could be undertaken as part of a development on KS7 to improve the storage capacity within the adjacent flood plain. This could potentially result in wider flood risk related benefits. These are not likely to be forthcoming if development is preferentially on other land.

5.21 In summary, we have demonstrated that sites KS7 and SHELAA81 are both suitable for development and there is no sound reason why the sites should not be allocated for development now. The sites can be designed and developed sensitively and in a manner that respects the character of the village and the amenity of existing residents.

5.22 In conclusion, we consider that Policy H6 should be drafted to identify the sites which are suitable for allocation, rather than indicating any order of preference. This is because the site identified as the “preferred site” (KS5) may not be deliverable without a viable access to the highway which conforms with standards. We consider, based on our analysis of the sites and the immediate context, that it may be necessary, and indeed preferable, to achieve development on KS5 by providing an access from Winchester Road through KS7.

5.23 Following on from our concerns raised above regarding housing numbers within the NDP, we consider that Policy H6 should specify a minimum number of dwellings to be accommodated on each site, rather than cap or limit development on sustainable sites deemed suitable for allocation. Other Policy requirements, such as for developments to reinforce character by reflecting the scale, mass, design etc. of the village will control the amount of development on any site. As above, we consider the precise number of homes on each allocation will only emerge at the detailed planning stage and it is unduly restrictive to impose limitations on sites prior to master-planning being undertaken.

5.24 Therefore, to make Policy H6 sound, i.e. to enable the policy to satisfy the basic conditions, we consider that all references to sites coming forward in order of preference should be deleted and the Policy simplified to identify the sites deemed suitable for allocation. The policy should also specify the minimum number of homes which each site should deliver. The sites should be identified by a map and based on the evidence available and our commentary above, should include both Site KS7 and SHELAA Site 81.

New homes are planned on five sites as set out in Policy H6. However, Policy H10 introduces a phased approach to the delivery of those sites. This is linked to the order of preference set out within Policy H6, to which we have significant concerns for the reasons set out above.

6.2 However fundamentally we are concerned that the phasing of sites in no way relates to the deliverability of each individual site. The Policy is not supported by indicative delivery timetables and there is no evidence to suggest that sites are in fact deliverable. This makes Policy H10 flawed and in our view this policy fails to meet the basic conditions.

6.3 The Framework states that “to be deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years and in particular that development of the site is viable.”

6.4 For KS5, which is the site ranked first in order of preference in Policy H6, the deliverability of the site is most likely severely compromised without access via adjoining land. We have discussed above our concerns with increasing traffic onto Muss Lane, which is narrow and unlikely to be suitable to support additional traffic arising from new residential development. It is also material that existing properties on Muss Lane sit very close to the Lane and in some cases the highway passes directly beneath a window. We consider that additional traffic on the Lane could be of detriment to the amenities of existing properties. This is likely to be a material consideration for Test Valley Planning Officers in assessing a planning application for development on KS5 and could lead to the refusal of permission if the impact is considered severe / detrimental. These considerations did not feature in the assessment of sites undertaken by the NDP group members.

6.5 Given the above there is a reasonable prospect that an alternative access to KS5 i.e. from Winchester Road through KS7 would need to be provided to enable that site to be delivered. This would be consistent with the recommendations of the Landscape Assessment. Whilst such an access might be achievable, it will be over land outside of the control of KS5. Whilst that is not a reason not to allocate KS5, it goes to the question of whether the site can be delivered within 5 years.

6.6 For the avoidance of doubt, Sites KS7 and SHELAA 81 already have a direct access to Winchester Road and New Lane, and therefore are deliverable within 5 years.

6.7 In our opinion, if KS7 was delivered in advance of KS5, it would be possible to create a safe access to Winchester Road through to that adjoining land. We are confident, having sought independent highways advice, that such an access could be delivered to meet with highway safety requirements and could be designed in such a way so as to respect the amenity of existing neighbouring residents.

6.8 In summary, there is no certainty that all the allocated sites could be delivered as envisaged within the three phased periods. As drafted, the policy contains no mechanism to bring forward lower order sites at an earlier stage and could therefore mean that needs go unmet until the next phasing period. The policy therefore fails to meet with the basic conditions.

6.9 Whilst we have focussed on the deliverability of site KS5 in access terms, it is well known that the deliverability of sites can be delayed for a number of reasons. This might particularly be the case where a Development Plan or planning decision places unreasonable burdens on sites (as discussed below). This can have an impact on viability and so deliverability of the sites. Therefore, policies which phase the allocation of site delivery, with no mechanism for review should be avoided.

6.10 In conclusion, we are concerned that Policy H10 fails to meet the basic conditions and should therefore be deleted. Deleting this restrictive and unjustified policy will enable development to come forward on sites that are available and suitable for development, and when there is a reasonable prospect of the development being delivered. In that way, there will be a natural phasing to the delivery of development which might also be dictated by market conditions at the time

7.1 We have considered all policies within the draft NDP and there are a number of general concerns regarding the appropriateness of several policies as discussed below:

7.2 Policy E3 - The objective of this policy appears to be to prevent new housing development within existing hamlets within the Parish which are located outside of the King's Somborne Settlement Policy Boundary. Although we note that the footnote to the Policy does refer to windfall developments in accordance with the Local Plan. As drafted, we consider that this policy fails to promote sustainable development in rural areas and is therefore contrary to Paragraph 55 of the Framework. We suggest the policy be deleted.

7.3 Policy E4 - This policy requires all new development in King's Somborne to be kept within the valley floor, below the 40m contour line. However, site KS5, identified in Policy H6 as the most preferred site by the 6 Members of the site assessment panel, is located above the 40m contour. This was recognised by the Landscape Assessment of Potential Housing Sites which forms part of the evidence base, but is not acknowledged within the site assessment scoring, which further adds to our concerns regarding the objectivity of the assessment.

7.4 It seems clear that KS5 cannot be developed to accord with Policy E4. Therefore, any development on the site would need to be considered having regard to the conflict with the Neighbourhood Plan. Whilst this might not preclude the site coming forward, it adds significantly to our concerns above regarding the approach to site selection and in order of preference.

7.5 It should be noted that both KS7 and SHELAA 81 are entirely below the 40m contour and can therefore be developed in accordance with Policy E4.

7.6 Policy E6 - Whilst we have no objection to the policy, we note that there is a spelling mistake in the first line: 'compliments' should be 'complements'.

7.7 Policy E7 - The policy requires a minimum of 1.5 times the building footprint to be provided as public open space, on new housing developments in excess of 5 dwellings. Public open space is not a benefit ipso facto and arbitrary quantum-based policies can deliver unwanted, unused and unmaintained space. An average 70 square metre footprint of 5 dwellings will produce only 350 square metres of public open space – about half the size of a tennis court. This clearly would not be sufficient in size to provide recreational opportunities, which appears to be the objective of the policy. Whilst we respect the intention behind the policy, we consider the policy to be an onerous requirement and therefore suggest that this either be deleted and retained as guidance only or the threshold increased to developments of 10 or more dwellings, where open space could be designed to relate well to new dwellings, would be overlooked and would be accessible to future residents of the development.

7.8 Policy H1 - For the reasons set out above, our clients object to this policy and consider that it fails to satisfy the basic conditions.

7.9 Policy H2 - The policy states that affordable housing should be provided in accordance with revised Policy COM7 of the Local Plan. It is unnecessary to repeat Local Plan policies within a Neighbourhood Plan, and we expect this policy will therefore need to be redrafted. Notwithstanding this, and whilst our client supports the principle of securing provision of affordable housing within the village, we object to the proposed phasing Policy H10. Therefore, for the reasons set out above, we object to reference to Policy H10 within Policy H2. It also seems unnecessary and inappropriate to restrict the amount of affordable housing provided within the village in the plan period.

7.10 Policy H3 - This Policy sets out a requirement to review Affordable Housing requirements on a regular basis, which implies that the policy could change during the plan period. The only basis to do this would be through a review of the NDP. Further, the Policy sets out a requirement to review affordable housing needs with the Parish and Borough Councils before submission of any application. If this is truly intended to apply to any application, it would be onerous.

7.11 Policy H3 - However, we note that the Policy also refers to COM8 of the Local Plan, which relates to Rural Exceptions Affordable Housing. Therefore, the Policy is ambiguous in whether it is intended to apply to all development applications and the provision of any affordable housing, or specifically only Rural Exceptions housing i.e. development outside of the settlement to meet specific needs. If it is the former, then this would be of significant concern to developers since the wording of the Policy would effectively leave it open and unknown for the Parish to change the requirements without consultation. This could be a bar to the economic viability of bringing forward sites and will likely affect deliverability. As drafted, the policy is unsound and should either be reworded or deleted.

7.12 Policy H4 - The introduction of design guidance for the village is broadly welcome but the guidance in this document is excessive, too specific and idiosyncratic (often more of an essay than clearly delivered guidance). The tick-and-cross good and bad examples are unhelpful and questionable. Items such as that referring to "the construction of end terrace structures", "where sash are employed attic casements would be just as appropriate", or references to "fireplaces in the core of the house", and many other aspects of this guidance appear to be personal to the author rather than robust and justified planning policy. We consider that the guidance needs to be edited, simplified, given more clarity and related to modern development requirements. At present, we object to the guidance and by extension to Policy H4.

7.13 Policy H5 - We have significant concerns with the appropriateness of Policy H5 and its relevance to planning. The policy fails to demonstrate the application of the presumption in favour of sustainable development, which is a fundamental principle of plan-making and decision-taking. This policy seeks to impose restrictive covenants on planning permissions to ensure continual accordance with the Design Guidance. Model Covenants are provided at Appendix 2.3 of the NDP. We consider that the imposition of covenants is unnecessary given general development control policies set out within the Borough Local Plan. There is no reasonable justification for any deviation from those widely used and tested policies.

7.14 Policy H5 - Further, neither the Parish Council nor Borough Council could enforce a restrictive covenant unless being a beneficiary of the covenant. That process would become very complex and could unreasonably delay the transfer of a new home from the developer to a purchaser. Additionally, such restrictive covenants could be off-putting to future homeowners thereby unreasonably affecting the deliverability and saleability of future development.

7.15 Policy H5 - We have reviewed the list of proposed covenants, and there is some overlap with planning conditions, such as the removal of permitted development rights. There are also restrictions on owners which stray beyond the remit of planning, such as preventing an owner from keeping a recreational boat within their property. Whilst these covenants might be desirable for some within the village, we suggest that it be left to the consideration of an individual application to determine whether it is reasonably necessary for any restrictions to be imposed on the future use of the site, or buildings.

7.16 Policy H5 - In summary, Policy H5 is ultra vires and unlikely to meet the basic conditions test.

7.17 Policy H6 - Our clients objections are covered above.

7.18 Policy H7 - XXXX concern that there is limited market for two-bedroom houses within this village, yet the policy seeks a significant proportion of two bedroom homes on each site. Whilst we note the basis for this policy is question 12 of the Housing Needs Survey, we are concerned that the policy is too restrictive and not reflective of the approach taken by the Council in its Local Plan. Further, there is no justification at all to prevent any dwellings with more than four bedrooms from being built within the village, particularly when larger properties are generally sought after in this location and characteristic of the village.

7.19 We consider that the Housing Mix policy should be deleted, and like the Local Plan, the NDP should simply refer to developments including a mix of properties having regard to the character of the immediate area. In this way, housing mix would be assessed on a site-by-site basis with the inclusion of smaller houses encouraged where needed and appropriate.

7.20 Policy H8 - The intention of the policy to encourage developments with a mix of house types, sizes and styles is generally supported. The first line of the policy achieves this, without being overly restrictive. However, we find the second and third paragraphs of the policy unreasonable, unjustified and unduly restrictive.

7.21 If a pair of two bed cottages were proposed within a scheme, it is reasonable to expect those dwellings to mirror one-another. This would not be uncommon, and there are many examples of this within the village. We are concerned therefore that the reference to avoiding "identical (or mirrored) dwellings" is impractical. Repetition is not of necessity bad design.

7.22 Turning to the third paragraph, if read literally, then a development of, say, six dwellings would according to this policy have to have a bungalow, two semi-detached houses and a terrace of three houses to conform. Such a streetscene is unlikely to reflect the characteristics and context of every site and for this reason is overly prescriptive. It should be sufficient to say inter alia that "developments should respect the local context have a mix of dwelling types and avoid excessive repetition".

7.23 Policy H9 - For similar reasons as we have already set out above, we consider this policy to be unreasonable. In determining a planning application, an Officer would consider whether there is justification / a need to impose planning conditions removing permitted development rights to give greater control over future development. This is done on a case by case basis, and as such, there is no need to impose Policy H9. Further, Policy H9 removes any consideration of an application on its merits, which is a fundamental principle of planning. It can be the case that a dwelling could be substantially extended but still be sympathetic to and respect the character of its surroundings. The use of covenants in this context is therefore ultra vires and the policy fails the basic conditions test.

7.24 Policy H10 - Our Clients' objections to this policy are covered above.

7.25 Policy F4 - This Policy is ambiguous. It is not explained what is meant by "smart tech" or how individual residential developments could incorporate such "tech" to reduce the need to travel. There is also no evidence to state why such "tech" would be necessary in King's Somborne, particularly given that this is not a wider Borough requirement.

7.26 Policy F4 - The NDP could, for example, encourage sustainable travel by selecting sites close to bus routes. For example, KS7 and SHELAA 81 are both within walking distance of the bus stop and village shops. XXX electric car charging point for each dwelling within these sites, which whilst not reducing the need to travel could encourage residents to travel in a more environmentally friendly way.

7.27 Policy F6 - This Policy is ambiguous and as drafted is unclear. The policy implies that allowing additional housing development within the village would likely mean additional children within the village, whose attendance at village schools would contribute to the sustainability of those schools. If that is what is meant, then this is quite clearly a consequence of development – we would therefore suggest this policy be turned into an objective of the plan rather than a policy.

7.28 Policy F6 - Alternatively, if the Policy means that developments are required to contribute to the sustainability of the schools by providing good pedestrian access to the schools, it should be clear that any physical improvements (and particularly within the historic core of the village centre) are unlikely to be deliverable through individual allocations since this will involve land outside of the control of individual site promoters. However CIL Payments arising from developments will be able to fund local infrastructure improvements which are identified by the Council in the Regulation 123 List. We are also aware that the Parish Council should receive 25% of CIL payments collected from developments in King's Somborne where an Adopted Neighbourhood Plan is in place. Such CIL receipts would enable the Parish to invest in improvements within the village.

7.29 Policy F6 - Developments should be encouraged to provide pedestrian connectivity within the site boundaries and, where possible, connecting with the existing pedestrian network and public footpaths within the village.

7.30 Policy F8 - The phrase “where practical” should be incorporated into the first line of this policy to recognise that services should be routed underground where reasonably practical and where the relevant utility companies permit.

With regard to the Design Guidance, we have already made some comments above regarding this document. However fundamentally, the document imposes a number of onerous requirements on developments which could compromise deliverability or achievability of sites. It could also threaten viability.

7.32 There are also aspects of the guidance that are not relevant to planning and are unlikely to be enforceable i.e. the requirement to fit an intruder alarm system into each dwelling.

7.33 Further, the document should not stifle the ability of home owners to adapt their homes to meet their individual tastes and needs, within the boundaries of remaining within the permitted development legislation and achieving good design that responds to the local area through planning applications.

7.34 The Design Guidance should therefore be reviewed and modified to include only principle design considerations which go to the heart of preserving the character of the village whilst recognising that new development is necessary to maintain the vitality of the community.

In conclusion, we have significant concerns with the drafting of the Policies within the NDP as a whole, and also the Design Guidance. For the reasons above, we consider that the draft NDP fails to be consistent with national policy and as a result will fail to accord with the basic conditions.

We do support the principle of a Neighbourhood Plan for King's Somborne, and in particular the proposed allocation sites KS7 and SHELAA81. We have confirmed that these sites are available for development, and clearly have the potential to deliver new homes to meet local needs in a manner which respects the character of the village. The evidence base for the NDP, including the Landscape Assessment undertaken by Terra Firma, and the Feasibility Study undertaken by Odyssey, confirms that there is no reason why these two sites should not be allocated.

Notwithstanding our support for the NDP in principle, and whilst we note the efforts put in by the Steering Group Members, we have significant reservations regarding the soundness of the Plan as currently drafted. These reservations are set out in detail above, but in summary go to the approach to allocation, the controls over the amount of development and the way in which need has been assessed, and also to the appropriateness of policies and the relevance of some aspects of policies to planning.

We therefore consider that the Plan fails to meet the basic conditions as defined by legislation and is unlikely to be capable of being “made” at Examination. We recommend that the Parish Council undertake to significantly amend the Plan, and revisit the evidence base, prior to submission to the Borough Council.

We would welcome the opportunity to meet with the NDP steering group members to discuss these representations in more detail.