

Questions for Clarification Kingsbridge, West Alvington and Churchstow Neighbourhood Development Plan.

I am Deborah McCann, the independent examiner of the Kingsbridge, West Alvington and Churchstow NDP. During the course of my examination issues have arisen on which I require clarification.

Firstly, I seek clarification in connection with Policies KWAC1 Community Facilities and Policy KWAC Env2 Local Green Spaces (LGS) whether the owners of the community facilities and proposed LGSs listed in these policies have been individually consulted and what if any responses have been received.

In addition, I seek clarification in connection with the following policies:

Policy KWAC H1 Affordable Housing

Policy KWAC H4 - Principal Residence

Policy KWAC Em1 Safeguarding of existing employment uses.

Policy KWAC Em2 the regeneration and intensification of employment sites at Lower Union Road and Orchard Industrial Estate.

Policy KWAC BE1 Brownfield first

KWAC HW1 Community facilities

1. Policy KWAC H1 Affordable Housing

Proposals for affordable housing development within the settlement boundaries or as exception sites will be supported where:

- a) The number of affordable homes to be delivered is in line with the need as defined by the housing needs assessments, Devon Homes Choice or the local affordable housing register in place at the time and where a need has been identified, includes custom and self-build plots where feasible.

b) The range and size of dwellings especially single bed units is in line with the need as defined by Devon Homes Choice.

c) Housing for the increasing number of older people, and those with special needs in the parishes is provided in the form of sheltered, extra care or assisted living housing.

d) Homes are proposed for rent, purchase and shared ownership. Based on the recommendations of the HNA for this Plan approximately 75% of Affordable Housing units should take the form of rented tenures such as social and affordable rent, with the remaining 25% as affordable routes to home ownership, focused on First Homes.

e) Discounted 'First Homes' for young families shall be provided in line with National Policy. To respect the evidence of the Housing Needs Assessment (Appendix A8) discounts should be 50% on a new home price to ensure First Homes are affordable to local incomes.

f) Homes should be occupied by people with a local connection which is defined within the SHDC Adopted Local Allocation Policy (2017). The early needs of key workers (e.g., health, fire brigade and lifeboat crew) should be considered exceptional circumstances under the provisions of the allocation policy.

g) Affordable housing for sale is subject to a legal restriction to ensure the homes remain affordable and that the discount is maintained in perpetuity;

Such developments could include proposals for Community Led Housing

SHDC have raised a number of concerns in relation to this policy as follows:

- i. "The wording of policy KWAC H1 used within the neighbourhood plan to seek boost local affordability is however potentially inconsistent with the strategic policies of the Joint Local Plan and in some places misleading when considering national guidance.
- ii. Policy KWAC H1 makes reference to support for affordable homes within settlements and exception sites within a combined list of criteria. This

- includes a priority for First Homes as an affordable home ownership product.
- iii. First Home Exception Sites are not eligible within Rural Designated Areas or within Areas of Outstanding Natural Beauty (AONB). This was made clear in the written ministerial statement (24 May 2021) which is afforded planning weight within the National Planning Policy Framework (paragraph 6). This would mean such sites would not be appropriate on land within West Alvington and Churchstow Civil Parishes and within the southern area of Kingsbridge Civil Parish.
 - iv. Strategic Policy SPT3 of the adopted JLP sets out the overall policy target for affordable housing delivery within the plan area. Policy DEV8 sets out the percentage of affordable Homes expected to be delivered on and offsite in order to achieve this total within the Thriving Towns and Villages Policy Area. The JLP Supplementary Planning Document (Para 4.79) sets out the preferred split of affordable Homes to be 65% as social rent and 35% affordable home ownership products. The policy thresholds for affordable housing were informed by an assessment of housing need at the strategic level in the Strategic Housing Market Assessment and through viability testing to ensure that such thresholds would not impact the overall deliverability of new proposals for housing including development allocations in Kingsbridge. The evidence assumptions used in these documents were subject to examination at a Public Inquiry in respect of the JLP. The proposed policy for KWAC H1 (criteria d & e) changes the assumptions used in two ways:
 - a) It seeks to set a percentage requirement for social rent Homes at 75% of total affordable Homes delivered.
 - b) It seeks to prioritise First Homes as the preferred form of home ownership model and provides evidence in a Housing Need Survey (AECOM, 2021) to suggest such Homes be sold at a 50% discount on market value based on levels of local housing need without viability evidence.
 - v. The Written Ministerial Statement states that policy compliance including First Homes will be judged at the equivalent total value as locally adopted affordable housing policies (in this case JLP Policy DEV8) with at least

25% of those affordable homes as First Homes. No viability evidence has been undertaken to support the AECOM study to show that applying 50% discount to 25% of affordable Homes will not lead to a reduction in the overall proportion of affordable Homes at any given residential site and which would now be considered policy compliant. We do not know from the evidence presented whether this policy approach will lead a reduction in the number of both homes for Social Rent and the scale of impact on all affordable housing delivery in the Neighbourhood Plan Area should the plan be made.

- vi. For the above reason, in the absence of viability testing to prove otherwise, we cannot support the inclusion of First Homes in this policy. The approach to discounted First Homes has the potential to reduce affordable housing delivery and conflict with strategic policy SPT3 of the Joint Local Plan which seeks to deliver a minimum of 2,050 affordable Homes up to 2034. It is also unclear whether the policy would significantly prejudice the ability to meet the identified affordable housing needs of specific groups.

Specific Issues relating to KWAC H1 criteria

- vii. Criterion a: See General comments above. Additionally, whilst the housing waiting lists and Devon Homes data base provide important information for assessing local housing need, the starting point should be the Strategic Housing Market Assessment linked to an up-to-date local housing needs assessment.
- viii. Criterion b: As above for assessing housing mix requirements simply using Devon Homes information will not provide the full evidence base.
- ix. Criterion d) See General Comments above.
- x. Criterion e) See General Comments above.
- xi. Criterion f) The definition of Key workers changes over time; it is not appropriate that the Neighbourhood Plan identifies specific key worker categories this is best achieved by a review of the Local Allocations Policy. Criterion g) This is not entirely correct. Parts of Kingsbridge outside of the AONB are classed as main town and stair casing is allowed to 100% as per Homes England grant funding requirements.”

Considering the comments made by SHDC I seek clarification on how this policy reflects the requirements of the Ministerial Written Statement (2021) and meets the Basic Conditions.

Policy KWAC H4 - Principal Residence

a) This policy only applies where it has been identified in the latest Census that an individual parish in the Plan area there are 20% or more 'household spaces with no usual residents. Once this threshold has been exceeded new open market housing excluding replacement dwellings will only be supported where first and future occupation is restricted in perpetuity to ensure that each new dwelling is occupied only as a 'principal residence'. This restriction will be secured through a section 106 agreement'.

b) Principal residence is defined as one occupied as the residents' sole or main residence, where the residents spend the majority of their time when not working away from home. The condition or obligation on new open market homes will require that they are occupied only as the primary (principal) residence of those persons entitled to occupy them.

c) Occupiers of homes with a Principal Residence condition will be required to keep proof that they are meeting the obligation or condition and will be obliged to provide this proof if and when SHDC requests this information. Proof of Principal Residence includes but is not limited to residents being registered on the local electoral register and being registered for and attending local services including healthcare, and schools.

d) Once the 20% threshold has been exceeded this policy will apply to all new build development both allocated and windfall sites where open market housing is proposed within the Neighbourhood Plan Area.

e) A replacement dwelling is defined as a single new build dwelling replacing an existing dwelling of equivalent size and design as the original dwelling.

SHDC's comments on this policy are as follows:

“The Census is not the only indicator of the level of second home ownership. Furthermore, it is carried out every ten years and will not pick up this trend in home ownership swiftly. Most Groups produce evidence based on the Census plus other available information often survey work carried out by themselves. Suggest therefore the evidence base to be relied upon is wider and more flexible.

Criterion a: Suggest additional wording in red is added to the second sentence to provide clarity that the Principal Residence Policy will apply in that Parish not generally in the Plan Area: -

“Once this threshold has been exceeded new open market housing excluding replacement dwellings, within that Parish, will only be supported where first and future occupation is restricted in perpetuity to ensure that each new dwelling is occupied only as a ‘principal residence’. This restriction will be secured through a section 106 agreement”

Criterion d) Suggest wording change in red is introduced to provide clarity as to where the Principal Residence Policy will apply: -

Once the 20% threshold has been exceeded this policy will apply to all new build development both allocated and windfall sites where open market housing is proposed within that Parish.

Criterion e) Suggest this clause is better placed in the supporting text.”

Planning Guidance on preparing neighbourhood plans and policies is clear, it 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.”

I seek clarification on how this policy could be applied consistently when the evidence proposed to underpin the policy will not necessarily accurately

reflect the second home ownership in the parishes and meet the Basic Conditions?

Policy KWAC Em1 Safeguarding of existing employment uses.

Retention of existing employment sites is supported in the Plan area unless other suitable sites are found that are more compatible with the existing transport infrastructure and surrounding residential neighbourhoods. Changes of use resulting in the loss of employment land to the Plan area will not be supported.

Where the loss of an employment related site is justified as no longer viable the applicant must demonstrate through an independent assessment that the vacant unit has been actively marketed and offered at a reasonable sale price (comparable with valuations achieved elsewhere in the district) for a minimum period of 1 year.

SHDC comment son this policy are as follows:

Para 5.5.1 Last sentence: Suggest removal of this sentence. The proposal that no business development is permitted in Churchstow is out of accord with JLP Policies DEV 14 and 15.

This policy is unclear in its intent and undermines JLP Policy DEV14. The first sentence of Policy KWAC Em1 opens by stating that, '*Retention of existing employment sites is supported*', but weakens this by stating '*unless other suitable sites are found that are more compatible with...*' This

introduces ambiguity into the policy position and opens the scope for a 'test ('more compatible') that would be very difficult to assess. The final sentence of this clause then appears to rule out this scope by stating, '*Changes of use resulting in the loss of employment land to the Plan area will not be supported.*' Furthermore, the wording of this final sentence is unclear – what does, '*to the Plan area*', mean? This phrase should be deleted. If it is attempting to restrict any relocation of employment uses to within the NP area only, this is unrealistic and unachievable.

In terms of the second paragraph of this Policy, JLP Policy DEV14, linked to Paragraph 5.9 to 5.13 of the JLP Supplementary Document 2020, set out the

exceptional circumstances where change of use may be acceptable and the requirements to prove such a case. It is considered the wording and intent of this Policy undermine the exceptional circumstances JLP Policy DEV14 seeks to apply. “

I seek a response to SHDC’s comments on the policy and clarification on how the policy as currently worded meets the Basic Conditions.

Policy KWAC Em2 the regeneration and intensification of employment sites at Lower Union Road and Orchard Industrial Estate.

Ancillary retail and residential uses forming part of live work or small infill developments will be permitted providing the employment uses are not compromised. In such mixed use developments only user class E (commercial, business and service) employment related uses will be permitted.

In order to consider improvements on a comprehensive basis rather than piecemeal development a development brief for the regeneration of Lower Union Road, Orchard Industrial Estate and the adjacent Western Backway has been prepared and included in Appendix B33. All development in the area described in figure 23 should respect and respond to this brief.

SHDC’s comments on this policy are as follows:

Strong concerns remain regarding the content of this Policy. The “redlining” of this area in the NP, at this juncture, could lead to undesirable consequences. For example, the buying and selling of land may be unduly affected since the proposed designation will appear on land searches. The Roger Tym Study is dated, the preparation of a Development Brief for this area should be based on up to date research alongside robust and full consultation with landowners, tenants and employees. The Development Brief that has been produced sets out some good ideas for future development/redevelopment of the area. It is suggested this needs to be worked through fully with stakeholders before its inclusion in the NP.

NB The Council’s Economic Development Officer has undertaken an appraisal of the site covered by this Policy which is included as *APPENDIX 1: The Economic*

Development perspective on key brownfield sites identified in the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan

I seek a response to SHDC's comments on the policy and clarification on how the policy as currently worded meets the Basic Conditions.

Policy KWAC BE1 Brownfield first

This Plan promotes the redevelopment of previously developed land or 'brownfield'-first strategy before any greenfield sites other than those allocated in the JLP can be considered for development. This strategy complements the greenfield sites allocated in the JLP and ensures that there is flexibility in this approach whilst minimising further encroachment on the countryside and AONB unless there is proven demand that cannot be met by the brownfield-first approach. The brownfield sites that may be suitable for long term re-development as and when there is landowner support and they become available include existing industrial estates, employment areas, depots, garage workshops, and builder's merchants located within the urban area of Kingsbridge. Such sites may become redundant within the lifetime of the Neighbourhood Plan and would benefit in the long term from intensification of existing employment sites and more effective use of land or change of use to mixed use (C3 Housing and E Commercial, Business and Service.)

As stated in policy KWAC EM1 changes of use resulting in the loss of employment land to the plan area will not be supported.

A schedule of sites that the community may look favourably on for intensification or re-development and a plan locating these are included as Appendix B36 and B14. All proposals for re-development must demonstrate conformity with other policies of this Plan with respect to the protection of the natural and historic environment.

Re-development of brownfield sites should be subject to a comprehensive survey of existing heritage assets and must avoid harm to these assets and protect and enhance the historic environment as set out in national and local policy.

All detrimental water impacts of any brownfield site on the estuarine environment and the Kingsbridge and Salcombe Estuary SSSI through surface water run off

during construction and operation must be fully assessed prior to a planning application for re-development. Proposals must also address level 2 and 3 flood risks; the Sequential Test must first be successfully applied. The Exception Test may also need to be applied for certain components of the proposed redevelopment.

SHDC's comments on this policy are as follows:

“Opening sentence: This statement seeks to exclude brownfield sites that may arise in West Alvington and Churchstow. Suggest the Policy should apply to the Plan Area as a whole.

Last sentence: Suggest reference to the intensification of use at Torr Quarry, in a neighbouring parish, is inappropriate.

First paragraph, opening three sentences: It is unclear how a developer would be able to demonstrate that there are no suitable brownfield sites available before proposing development on Greenfield Land as a part of a planning application as suggested within the policy.

General comments on Policy KWAC BE1

As commented previously, the principle of support for brownfield development accords with Policy SPT1 of the JLP. However, the wording of this policy is convoluted, lacks clarity and appears at odds with the NPPF, the JLP and Policy KWAC Em1. In particular, the Policy refers to named viable and active employment sites, none of which have been subject of formal site assessment, by reference to Appendices B14 and B36. While the Policy does refer to avoidance of the loss of employment uses it details local employment types and identifies specific sites that theoretically could, given the terms of the Policy, become available for redevelopment. As such, the Policy appears to do nothing more than promote the redevelopment of these sites. The wording has the potential to encourage speculative applications and to encourage landowners/purchasers to consider more profitable land uses at these locations thus undermining the existing uses, many of which enhance the sustainability and mixed use nature of Kingsbridge. This approach is not in accordance with the strategy of the JLP which seeks to support business growth and employment opportunities (SPT1, DEV14) and prioritises our

main towns as a location for employment and services (TTV1). Furthermore, the promotion, as it appears, of the loss of employment sites to residential use does not accord with the general principals, set by the NPPF, which supports the retention of sustainable uses.

NB The Council's Economic Development Officer has undertaken an appraisal of key sites covered by this Policy which is included as *APPENDIX 1: The Economic Development perspective on key brownfield sites identified in the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan* “

I seek a response to SHDC's comments on the policy and clarification on how the policy as currently worded meets the Basic Conditions.

KWAC HW1 Community facilities

The following community facilities have been identified as important to the vitality, health and wellbeing of the community; -

- a) Kingsbridge Hospital
- b) Norton Brook Medical Centre
- c) Kingsbridge Library
- d) Kingsbridge Leisure Centre
- e) Quay House
- f) The bandstand
- g) Tourist Information Centre
- h) Public toilets
- i) Harbour House
- j) Cookworthy Museum

k) Tresillian

l) The churches of the town (St. Edmunds, St. Thomas a Becket, Dodbrooke
, Methodist Church, Evangelical Church, Family Church, Sacred Heart)

m) All Saints Church, West Alvington

n) Saint Mary the Virgin Church, Churchstow

o) Kingsbridge Town Hall/ Cinema

p) Market Hall

q) Memorial Shelter, Embankment Gardens

r) Post Office, Fore Street

s) Banks (Lloyds and NatWest)

t) Scout Hut

u) West Alvington village hall and car park

v) Churchstow Church Hall

w) Churchstow village shop and Post Office

Development that results in the loss of existing community facilities or that results in any harm to their community function, character, setting, accessibility, appearance, general quality, and amenity value will only be supported if they are replaced by community facilities of equal or higher quality, economic viability and value to the community or it can be demonstrated they are no longer needed.

The area illustrated in Figure 30 encompassing Kingsbridge Hospital and Norton Brook Medical Centre should be safeguarded solely for health and wellbeing related uses.

Where the loss of a community facility is justified as no longer viable the applicant must demonstrate through an independent assessment that the vacant facility has been actively marketed and offered at a reasonable sale price (comparable with valuations achieved elsewhere in the district) for a minimum period of 1 year.

SHDC's comment on the policy as currently worded:

"There are concerns regarding the number, breadth and nature of some of the community facilities identified in this policy. For this reason, in this instance, the Council requested (at Regulation 14) that the owners be specifically consulted. No evidence has been presented that such a consultation has taken place. "

Whilst I understand the desire of communities to protect assets which they consider essential to the sustainability and viability of their communities planning policy only controls the use of land and not its ownership. So, whilst change of use can, in most cases be controlled, continued ownership by a particular organisation cannot nor is there an ability to enforce the continued operation of that use. I seek clarification on the intention of this policy and how it meets the Basic Conditions. I have already covered clarification on consultation of the owners.

These questions are directed to the Qualifying Body.

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