



**Independent Examiner's Report of the**  
**Kingsbridge, West Alvington and Churchstow**  
**Neighbourhood Plan**



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## **SECTION 2**

### **Summary**

As the Independent Examiner appointed by South Hams District Council to examine the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan, I can summarise my findings as follows:

- 1. I find the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan and the policies within it, subject to the recommended modifications does meet the Basic Conditions.*
- 2. I am satisfied that the Referendum Area should be the same as the Plan Area, should the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan go to Referendum.*
- 3. I have read the Kingsbridge, West Alvington and Churchstow Consultation Statement and the representations made in connection with this subject. I consider that the consultation process was robust and that the Neighbourhood Plan and its policies reflect the outcome of the consultation process including recording representations and tracking the changes made as a result of those representations.*
- 4. I find that the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan can, subject to the recommended modifications proceed to Referendum.*
- 5. The Kingsbridge, West Alvington and Churchstow Neighbourhood Plan Area is within the area covered by South Hams District Council. The development plan for the area is the Plymouth and South West Devon Joint Local Plan (the JLP), adopted in March 2019.*

## **SECTION 3**

### **Introduction**

#### **1. Neighbourhood Plan Examination.**

My name is Deborah McCann and I am the Independent Examiner appointed to examine the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan.

I am independent of the qualifying body, I do not have any interest in the land in the plan area, and I have appropriate qualifications and experience, including experience in public, private and community sectors.

My role is to consider whether the submitted Kingsbridge, West Alvington and Churchstow Neighbourhood Plan meets the Basic Conditions and has taken into account human rights; and to recommend whether the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan should proceed to Referendum. My role is as set out in more detail below under the section covering the Examiner's Role. My recommendation is given in summary in Section 2 and in full under Section 5 of this document.

The Kingsbridge, West Alvington and Churchstow Neighbourhood Plan has to be independently examined following processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.

The expectation is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. Having read the plan and considered the representations I concluded that it was not necessary to hold a Hearing. I did however seek clarification on a number of policies through written representation. These questions and the corresponding answers can be

viewed in full on the SHDC website.

## **2. The Role of Examiner including the examination process and legislative background.**

The examiner is required to check whether the neighbourhood plan:

- *Has been prepared and submitted for examination by a qualifying body*
- *Has been prepared for an area that has been properly designated for such plan preparation*
- *Meets the requirements to*
  - i) specify the period to which it has effect;*
  - ii) not include provision about excluded development; and*
  - iii) not relate to more than one neighbourhood area and that*
- *Its policies relate to the development and use of land for a designated neighbourhood area.*

The examiner must assess whether a neighbourhood plan meets the Basic Conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

As an independent Examiner, having examined the Plan, I am required to make one of the following recommendations:

1. The Plan can proceed to Referendum
2. The Plan with recommended modifications can proceed to Referendum

Where a policy does not meet the Basic Conditions or other legal requirement I may, on occasion, need to delete wording, including potentially an entire plan policy and/or section of text, although I will first consider modifying the policy rather than deleting it. Where a policy concerns a non-land use matter, advice in the Planning Practice Guidance states “Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion

document or annex.” As such, when considering the deletion of any non-land use matters from the plan, I will consider if I can make a modification to place the relevant proposed actions in a non-statutory annex to the plan, dealing with ‘Wider Community Aspirations’. I will not generally refer back to parties on these detailed revisions. I will make modification either in order to meet the Basic Conditions, to correct errors or provide clarification. However, the focus of my examination, as set out in legislation is relatively narrow, I must focus on compliance with the Basic Conditions. The main purpose of a neighbourhood plan is to provide a framework for the determination of planning applications, policies in a plan which have elements which either seek to control things which fall outside the scope of the planning system or introduce requirements which are indiscriminate in terms of the size of development or are overly onerous and would not meet the Basic Conditions. In these circumstances it will be necessary to make modifications to the plan. In making any modifications I have a duty to ensure that the Basic Conditions are met however I am also very careful to ensure, where possible that the intention and spirit of the plan is retained so that the plan, when modified still reflects the community’s intent in producing their neighbourhood plan.

### 3. The Plan does not meet the legal requirements and cannot proceed to Referendum

3.1 I am also required to recommend whether the Referendum Area should be different from the Plan Area, should the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan go to Referendum.

3.2 In examining the Plan, I am required to check, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether:

- the policies in the Plan relate to the development and use of land for a designated Neighbourhood Area are in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004
- the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 to specify the period for which it has effect

- the Plan has been prepared for an area designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.

3.3 I am also required to determine whether the Plan complies with the Basic Conditions, which are that the proposed Neighbourhood Plan:

- Has regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contributes to the achievement of sustainable development; and
- Is in general conformity with the strategic policies contained in the Development Plan for the area; and
- Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
- Does not breach, and otherwise is compatible with EU obligations and Human Rights requirements.

South Hams District Council will consider my report and decide whether it is satisfied with my recommendations. The Council will publicise its decision on whether or not the plan will be submitted to a referendum, with or without modifications. If the Neighbourhood Plan is submitted to a referendum, then 28 working days' notice will be given of the referendum procedure and Neighbourhood Plan details. If the referendum results in more than half those voting (i.e., greater than 50%), voting in favour of the plan, then the Council must "make" the Neighbourhood Plan a part of its Development Plan as soon as possible. If approved by a referendum and then "made" by the local planning authority, the Neighbourhood Plan then forms part of the Development Plan.



## **SECTION 4**

### **The Report**

#### **4.1. Appointment of the Independent examiner**

South Hams District Council appointed me as the Independent Examiner for the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan with the agreement of the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan Steering Group

#### **4.2. Qualifying body**

I am satisfied that Kingsbridge Town Council is the Qualifying Body.

#### **4.3. Neighbourhood Plan Area**

An application for the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan Area was made on the 7<sup>th</sup> September 2018 and designated on the 27<sup>th</sup> of November 2018 under the Neighbourhood Planning Regulations 2012 (part 2 S6). The area covers the administrative boundaries of the Parishes of Kingsbridge, West Alvington and Churchstow. The Qualifying Body have confirmed that there are no other neighbourhood plans covering the designated area.

#### **4.4. Plan Period**

The Plan identifies the period to which it relates as 2021 to 2034 a period chosen to tie in with the development plan for the area, the Plymouth and South West Devon Joint Local Plan (the JLP). However, at paragraph 1.7 of the Basic Conditions Statement, the plan period is identified as 2019 to 2034. I assume this is just an error, but it is important that the plan period is consistent throughout the plan documents.

#### **4.5. South Hams District Council Regulation 15 Assessment of the Plan.**

Kingsbridge Town Council submitted the plan to South Hams District Council for consideration under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012. The Council has made an initial assessment of

the submitted Kingsbridge, West Alvington and Churchstow Neighbourhood Plan and the supporting documents and is satisfied that these comply with the specified criteria.

#### **4.6. The Consultation Process**

The Kingsbridge, West Alvington and Churchstow Neighbourhood Plan has been submitted for examination with a Consultation Statement which sets out the consultation process that has led to the production of the plan, as set out in the regulations in the Neighbourhood Planning (General) Regulations 2012.

The Statement describes the approach to consultation, the stages undertaken and explains how the Plan has been amended in relation to comments received. It is set out according to the requirements in Regulation 15.1.b of the Neighbourhood Planning (General) Regulations 2012):

(a) It contains details of the persons and bodies who were consulted about the proposed Neighbourhood Plan;

(b) It explains how they were consulted;

(c) It summarises the main issues and concerns raised by the persons consulted; and

(d) It describes how these issues and concerns were considered and, where relevant, addressed in the proposed Neighbourhood Plan.

Having examined the documents and considered the focus of the Neighbourhood Plan I conclude that the consultation process was robust, well conducted and recorded.

A list of statutory bodies consulted is included in the Consultation Statement.

#### **4.7. Regulation 16 consultation by South Hams District Council and record of responses.**

South Hams District Council placed the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan out for consultation under Regulation 16 for

the statutory 6 week period from 28th January until 11th March 2022. A number of detailed representations were received during the consultation period, and these were supplied by the Council as part of the supporting information for the examination process. I considered the representations, have taken them into account in my examination of the plan and referred to them where appropriate.

#### **4.8. Site Visit**

I carried out an unaccompanied site visit to familiarise myself with the Neighbourhood Plan Area on the 9<sup>th</sup> June 2022.

#### **4.9. Compliance with the Basic Conditions**

The Qualifying Body have produced a Basic Conditions Statement. The purpose of this statement is to set out in some detail how the Neighbourhood Plan as submitted meets the Basic Conditions. It is the Examiner's Role to take this document into consideration but also take an independent view as to whether or not the assessment as submitted is correct.

I have to determine whether the Kingsbridge, West Alvington and Churchstow Neighbourhood Development Plan:

- Has regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contributes to the achievement of sustainable development; and
- Is in general conformity with the strategic policies contained in the Development Plan for the area; and
- Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
- Does not breach, and otherwise is compatible with EU obligations and Human Rights requirements.

Documents brought to my attention by the District Council for my examination

include:

- Kingsbridge, West Alvington and Churchstow Neighbourhood Plan - the main document which includes policies developed in consultation with the community at various engagement events and workshops.
- Basic Conditions Statement - sets out how the plan meets the Basic Conditions
- Consultation Statement – sets out how the community, and other stakeholders, have been involved in preparing the Plan.
- Strategic Environmental Assessment (SEA) Screening Report
- Habitats Regulations Assessment (HRA) screening opinion

### **Comment on Documents submitted**

I am satisfied having regard to these documents and other relevant documents, policies and legislation that the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan does, subject to the recommended modifications, meet the Basic Conditions.

## **4.10. Planning Policy**

### **4.10.1. National Planning Policy**

National Policy guidance is in the National Planning Policy Framework (NPPF). At the time of the preparation of the Neighbourhood Plan the relevant NPPF was the National Planning Policy Framework (NPPF) July 2021(as updated).

To meet the Basic Conditions, the Plan must have “regard to national policy and advice”. In addition, the NPPF requires that a Neighbourhood Plan “must be in general conformity with the strategic policies of the local plan”.

Paragraph 29 states:

“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as

part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”

The Kingsbridge, West Alvington and Churchstow Neighbourhood Development Plan does not need to repeat these national policies, but to demonstrate it has taken them into account.

I have examined the plan and consider that, subject to modification, the plan does have “regard for National Policy and Advice” and therefore the Plan, subject to minor modification does meet the Basic Conditions in this respect.

#### **4.11 Local Planning Policy- The Development Plan**

The Kingsbridge, West Alvington and Churchstow Neighbourhood Plan Area is within the area covered by South Hams District Council. At the time of my examination, the Development Plan for the area was the Plymouth and South West Devon Joint Local Plan (the JLP), adopted in March 2019.

To meet the Basic Conditions, the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan Neighbourhood Plan must be in “general conformity” with the strategic policies of the development plan.

The NPPF 2021 (as updated) states:

“20. Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision<sup>12</sup> for:

- a) housing (including affordable housing), employment, retail, leisure and other commercial development;
- b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- c) community facilities (such as health, education and cultural infrastructure);  
and
- d) conservation and enhancement of the natural, built and historic

environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.”

Neighbourhood Plans should only contain non-strategic policies. The NPPF 2021(updated) states:

“Non-strategic policies

28. Non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.

29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”

Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy, which is contained in the last document to become part of the development plan.

The distinction between strategic and non-strategic policies is important because of the relationship with Neighbourhood Plans. Neighbourhood Plans only have to be in general conformity with the strategic policies of the development plan (Localism Act 2011, Schedule 4B, s7 (2)(e)) When made, neighbourhood plan policies take precedence over existing non-strategic policies in the local plan, where they are in conflict.

Planning Policy Guidance paragraph 41-076-20140306 sets out that:

“Strategic policies will be different in each local planning authority area. When reaching a view on whether a policy is a strategic policy the following are useful considerations:

- whether the policy sets out an overarching direction or objective
- whether the policy seeks to shape the broad characteristics of development
- the scale at which the policy is intended to operate
- whether the policy sets a framework for decisions on how competing priorities should be balanced
- whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan
- in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan
- whether the Local Plan identifies the policy as being strategic”

I have examined the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan and consider that, subject to modification, the plan is in general conformity with the Strategic Policies of the Development Plan and does meet the Basic Conditions in this respect.

#### **4.12. Other Relevant Policy Considerations**

##### **4.12.1 European Convention on Human Rights (ECMR) and other European Union Obligations**

As a ‘local plan’, the Neighbourhood Plan is required to take cognisance of the EU Strategic Environmental Assessment (SEA) Directive 2001/42/EC.

South Hams District Council carried out a Strategic Environmental Assessment (SEA) screening exercise (July 2021) in consultation with relevant statutory bodies. Having taken all of the relevant policies of the draft Kingsbridge Neighbourhood Plan (Pre Regulation 14 Version submitted in

May 2021) into account and assessed the potential environmental impact on designated sites and landscapes, it was the Council's opinion that a full SEA was not required for the Neighbourhood Plan since no development proposals are included in the Plan.

#### **4.12.2 Habitats Regulations Assessment (HRA)**

In June 2021, South Hams District Council as the competent authority carried out HRA to comply with Regulation 105 of the Habitats Regulations 2017. Under these Regulations, a competent authority must consider whether a relevant plan is likely to have a significant effect on any European sites before deciding to give any consent, permission or other authorisation.

The conclusion of the assessment was:

“Northern parts of the Kingsbridge/Churchstow Parish fall within the Landscape Connectivity Zone of the South Hams SAC for Greater Horseshoe Bats. The Plan (Regulation 14 Consultation Version, May 2021) does not allocate any development sites in the LCZ. In the light of this Council consider the KWAC NP. Neighbourhood Plan will not have a significant effect on a European Site and therefore further assessment under the Habitat Regulations is not required.”

I am also satisfied that the Prescribed Conditions have been met.

#### **4.12.3 Sustainable development**

Paragraphs 7 to 14 of the NPPF (July 2021 as updated) identify the components of sustainable development, and how planning applications and local plans can meet these requirements.

The Basic Conditions Statement sets out how the neighbourhood plan addresses the requirement to achieve sustainable development, including a sustainability matrix.

My conclusion is that the principles of Sustainable Development required in the NPPF have been taken into account in the development of the plan and its



policies and where issues have been identified they were addressed by revisions to the document prior to submission. I am satisfied that the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan subject to the recommended modifications addresses the sustainability issues adequately.

The Neighbourhood Plan is required to take cognisance of the European Convention of Human Rights and to comply with the Human Rights Act 1998.

I am satisfied that the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan has done so.

I am therefore satisfied that the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan meets the basic conditions on EU obligations.

#### **4.13 Excluded development**

I am satisfied that the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan does not cover County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.

#### **4.14 Development and use of land**

I am satisfied that the Kingsbridge, West Alvington and Churchstow Neighbourhood Development Plan, subject to modification covers development and land use matters.

#### **4.15 General Comments**

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.”

Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements. Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.”

In order to provide clarity and to ensure that the policies in the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan meet the Basic Conditions it has been necessary for me to make modifications to a number of policies. This includes modifications where policies have sought to introduce controls outside the scope of the planning system or where existing policy already sets out the scope of control.

As I have found it necessary to modify a number of policies it may also be necessary to modify the supporting text within the plan to align with the modified policies, where this is necessary. The details of the policy modifications are set out within my comments on the related policies. My comments on policies are in blue with the modified policies in red.

#### **4.16.The Neighbourhood Plan Vision, Themes, Aims and Priorities.**

##### **12.1 Overall Vision Statement**

The Plan sets out to celebrate and sustain the unique characteristics of the market town of Kingsbridge, and the distinct, separate villages of West Alvington and Churchstow, the estuary and beautiful rolling landscape they sit within. It aims to provide a development framework which will sustain a balanced community and a varied and vigorous local economy for the long term, for Kingsbridge town and the surrounding rural area it serves. It is built on the need to maintain a balance between protecting, enhancing the beautiful natural and the much valued historic environments, with encouraging

modest, appropriate and achievable development. Development is only identified where necessary to ensure the current and future wellbeing of all sections of the resident community, local businesses and visitors.

## **12.2 Themes, Aims and Priorities (set out on pages 44 and 45 of the Plan)**

### **COMMENT**

**I am satisfied that the Kingsbridge NDP vision, themes, aims and priorities (set out on pages 44 and 45 of the Plan) were developed from the consultation process and that the policies within the Plan reflect the vision and objectives.**

## **13. KINGSBRIDGE, WEST ALVINGTON AND CHURCHSTOW NEIGHBOURHOOD DEVELOPMENT PLAN POLICIES**

### **Policy KWAC Env1 Settlement Boundaries and the avoidance of coalescence**

Settlement boundaries for Kingsbridge, West Alvington and Churchstow are designated in this Plan and illustrated in Figures 14, 15 and 16. Development inside the settlement boundaries will be supported in principle subject to National Policy and Guidance and the Development Plan.

Development proposals outside the settlement boundaries will be treated as development in the open countryside.

To protect the character and appearance of Kingsbridge, West Alvington and Churchstow, development which erodes the visual separation of the settlements, the natural infrastructure and biodiversity network features will not be permitted.

### **COMMENT**

**I have carefully considered the proposed development boundaries and am satisfied that the process to establish the modified boundaries was**

thorough and consistent. During the course of consultation Natural England raised concern about the inclusion of a site (known as the Croft Lane Piggeries Site) within the proposed Kingsbridge settlement boundary however this issue was resolved when Natural England were provided with the details of the relevant planning permission.

The determining authority for a planning application is the LPA, therefore neighbourhood plan policies should refer to “supporting” or “not supporting” proposals. The phrase “will not be permitted” in the third paragraph should be replaced with “**will not be supported**”.

### **Policy KWAC Env2 Local Green Spaces (LGS)**

The following green open spaces within the plan area are designated as Local Green Space. These areas illustrated in Figure 17 and detailed in Appendix A3 are small tracts of within or land, meet the criteria described in NPPF paragraph 102. All development in the vicinity of the LGS must respect and not compromise this designation.

KLGS1 Duncombe Park

KLGS2 Kingsbridge Recreation Ground

KLGS3 Rack Park amenity space

KLGS4 Quay House Grounds

KLGS5 Kingsbridge Community Garden

KLGS6 Trebble Park Play Area

KLGS7 Bowcombe Amenity Space.

KLGS8 Brittons Field.

KLGS9 Thomas a Becket Cemetery.

KLGS10 Southville Cemetery.

KLGS11 Montagu Road Play Area

KLGS12 Homelands amenity space

KLGS13 Church Street Gardens

KLGS14 Land at rear of the Old Vicarage, Plymouth Road, Kingsbridge.

KLGS15 Cookworthy Museum Garden

KLGS16 Embankment Gardens, Embankment Road

KLGS17 Wallingford Road Community Space

KLGS18 Trebble Park Allotments

KLGS19 Tennis Club, Ebrington Street.

KLGS20 Kingsbridge Community College (KCC) sports fields

1. KCC All-weather pitch

2. KCC grass area to front of main Entrance (old Cricket Pitch).

3. KCC Playing Fields and rugby pitch to south and east (over A379) of school.

4. Rugby pitch, Belle Hill.

WALGS1 Townsend Road/Close

WALGS2 Green open space between the WA village Hall and School East of village hall

WALGS3 East of Village Hall

WALGS4 Home Field Amenity Space

WALGS5 Small copse at the top of footpath 5

CLGS1 Land west of St Mary's Church

CLGS2 Land to south of St Mary's Church

CLGS3,4 & 5 Grassverges

CLGS6 Entrance to Woodlands

## **COMMENT**

**During the course of my examination, I sought clarification regarding the consultation of the owners of the proposed Local Green Spaces and any representations received. It was confirmed that the known owners of the proposed LGSs were directly consulted, and I have had access to a document detailing the responses received. Most of the consultation responses were supportive however there were a number that were either neutral or raised objection. I have carefully considered the comments made. Whilst an objection by an owner is not automatically a barrier to the designation of a LGS it is my role to carefully consider whether or not the objection raises issues which are relevant in the decision-making process.**

**This policy mixes open space and recreation, covered by paragraphs 98 and 99 of the NPPF 2021 and Local Green Spaces covered by paragraphs 101-103 of the NPPF 2021 and should be divided into two policies to reflect the different policy protections set out in the NPPF (2021).**

**Paragraphs 99 of the NPPF 2021 states:**

**“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:**

- a) an assessment has been undertaken which has clearly shown the**

- open space, buildings or land to be surplus to requirements; or
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.”

I consider that the following sites identified in the LGS would more appropriately form part of a new policy KWAC1a:

**KLGS19 Tennis Club, Ebrington Street.**

**KLGS20 Kingsbridge Community College (KCC) sports fields**

**1. KCC All-weather pitch**

**2. KCC grass area to front of main Entrance (old Cricket Pitch).**

**3. KCC Playing Fields and rugby pitch to south and east (over A379) of school.**

**4. Rugby pitch, Belle Hill.**

Local Green Space designation is a “restrictive and significant policy designation” equivalent to Green Belt designation. It is essential that, when allocating Local Green Space, plan-makers can clearly demonstrate that the requirements for its allocation are met in full.

The NPPF 2021 states:

“101. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs, and

other essential services. Local Green Spaces should only be designated when a plan is prepared or updated and be capable of enduring beyond the end of the plan period.

102. The Local Green Space designation should only be used where the green space is:

- a) in reasonably close proximity to the community it serves;
- b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- c) local in character and is not an extensive tract of land.

103. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.”

Given that the Framework is not ambiguous in stating that a Local Green Space designation is not (my emphasis) appropriate for most green areas or open space, it is entirely reasonable to expect compelling evidence to demonstrate that any such allocation meets national policy requirements.

In addition, Neighbourhood planning guidance states:

" Different types of designations are intended to achieve different purposes. If land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space."

Importantly, sites which are already subject to a statutory designation such as Historic Parks and Gardens or Scheduled Ancient Monuments are already subject to high levels of protection and would not benefit from an additional local designation. Likewise, sites which fall within the



curtilage of a listed building or Conservation Area do not necessarily need additional protection under this policy as their importance and contribution to a settlement must already be considered if any application falls within or in the vicinity of these sites.

Whilst the number of proposed LGSs in the KWAC NDP is high I have carefully considered the evidence put before me for all the designations proposed. The decision to designate a particular site is a matter of planning balance and I have made my decision based on whether or not I consider the proposed designations meet the NPPF tests and I find that the proposed LGSs do meet the requirements of the NPPF with the exception of the following:

**CLGS2**

**CLGS3**

**CLGS5**

**CLGS6**

Whilst I accept that these areas contribute to the landscape setting of the village of Churchstow I do not consider they meet the tests to be designated LGS.

Paragraph 103 of the NPPF states that the policies for managing development within a Local Green Space should be consistent with those for Green Belts. Paragraphs 147-149 detail the policy framework for development affecting the Green Belt. Paragraph 147, in particular states;

“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”

Concerns have been raised that designation as a LGS may interfere with the management and development of the sites for their existing or related

**purposes.**

**However, designation as a LGS does not preclude all development. It protects a designated site from inappropriate development except in very special circumstances. Paragraph 149 of the NPPF (2021) sets out what types of development would not (my emphasis) be considered inappropriate:**

**" 149. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:**

**a) buildings for agriculture and forestry;**

**b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;**

**c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;**

**d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;**

**e) limited infilling in villages;**

**f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and**

**g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:**

– not have a greater impact on the openness of the Green Belt than the existing development; or

– not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”

For Clarity, the policy should be modified to reflect the requirements of the NPPF 2021 and recent caselaw (see Court of Appeal Judgement in the Case of The Queen (On the Application of Lochailort Investments Limited) and Mendip District Council Norton St Philip Parish Council 2nd October 2020) which clearly states that Local Green Space polices in neighbourhood plans should not deviate from the policy requirements of the NPPF. For clarity and to meet the Basic Conditions the policy should be modified as follows (Fig.17 and Appendix 3 should be modified to accord with the modified policy):

### **Policy KWAC Env2 Local Green Spaces (LGS)**

**The following are designated as Local Green Space. These areas illustrated in Figure 17 and detailed in Appendix A3.**

**KLGS1 Duncombe Park**

**KLGS2 Kingsbridge Recreation Ground**

**KLGS3 Rack Park amenity space**

**KLGS4 Quay House Grounds**

**KLGS5 Kingsbridge Community Garden**

**KLGS6 Trebble Park Play Area**

**KLGS7 Bowcombe Amenity Space.**

**KLGS8 Brittons Field.**

**KLGS9 Thomas a Becket Cemetery.**

**KLGS10 Southville Cemetery.**

**KLGS11 Montagu Road Play Area**

**KLGS12 Homelands amenity space**

**KLGS13 Church Street Gardens**

**KLGS14 Land at rear of the Old Vicarage, Plymouth Road, Kingsbridge.**

**KLGS15 Cookworthy Museum Garden**

**KLGS16 Embankment Gardens, Embankment Road**

**KLGS17 Wallingford Road Community Space**

**KLGS18 Trebble Park Allotments**

**WALGS1 Townsend Road/Close**

**WALGS2 Green open space between the WA village Hall and School  
East of village hall**

**WALGS3 East of Village Hall**

**WALGS4 Home Field Amenity Space**

**WALGS5 Small copse at the top of footpath 5**

**CLGS1 Land west of St Mary's Church**

**CLGS4 Verge**

**Inappropriate development will not be supported except in very special circumstances.**

## **Policy KWAC Env2a Open Space and Recreation**

**The following areas are identified as areas of open space and recreation. These areas are illustrated in Figure 17.**

**KLGS19 Tennis Club, Ebrington Street.**

**KLGS20 Kingsbridge Community College (KCC) sports fields**

- 1. KCC All-weather pitch**
- 2. KCC grass area to front of main entrance (old Cricket Pitch).**
- 3. KCC Playing Fields and rugby pitch to south and east (over A379) of school.**
- 4. Rugby pitch, Belle Hill.**

**Policy KWAC Env3 Impact on the Natural Environment, South Devon Area of Outstanding Natural Beauty (AONB), green corridors and green infrastructure.**

In addition to National and Development Plan policies and guidance controlling development in the South Devon AONB, Undeveloped Coast, countryside and the rural landscape, development within the parishes must demonstrate the following; -

- a) an awareness of and management for wildlife corridors through the plan area informed by the green corridors identified in this plan (Figure 18 and Appendix B1) the South Hams Green Infrastructure Framework, and the latest Tree Preservation Orders;
- b) how it maintains and enhances the intrinsic character of the landscapes affected;
- c) why it cannot be accommodated reasonably outside the Undeveloped Coast designation;

- d) how the natural assets and constraints of a development site have been assessed. Substantial harm to or loss of irreplaceable habitats such as ancient woodland, historic boundary features, banks and ditches should be wholly exceptional;
- e) how opportunities for improving public access to and the enjoyment of the estuary and countryside have been included;
- f) A commitment to biodiversity net gain as outlined in JLP Policy Dev 26, SHDC's Climate Change and Biodiversity Strategy (2020) and DEFRA's latest Biodiversity Metric.5;
- g) Where appropriate that new biodiversity connectivity routes have been included within planting proposals;
- h) That all new planting shall utilise only native species which are locally appropriate.

## **COMMENT**

**I have no comment on this policy.**

### **Policy KWAC Env 4 Locally Important Views**

Locally important views are described below and illustrated in Figure 19 and Appendix A4. The quality of these views within the settlements and to the estuary or the countryside should be safeguarded in any future development within the parishes of the Plan. Development should not be overly intrusive or prominent to the detriment of the view as a whole, or to landmarks within the view.

KV1 Buckwell Road towards Coombe Royal

KV2 Saffron Park to Coombe Royal

KV3 Manor Park to Wallingford Valley

- KV4 Saffron Park to Wallingford Valley
- KV5 Washabrook Lane looking NNE
- KV6 Washabrook Lane to Tunge Lane
- KV7 Water treatment works access road across the estuary
- KV8 Gerston Lane to Southville (detail)
- KV9 Gerston Lane to Southville. (panorama)
- KV10 Darky Lane eastwards
- KV11 Darky Lane to Coombe Royal
- KV12 Fore Street looking South
- KV13 Tunge Lane
- KV14 Buckwell Road to Malborough
- KV15 Saffron Park to St. Edmunds Church
- KV16 Washabrook Valley
- KV17 Sorley Cross to Kingsbridge
- KV18 Vincent Road to West Alvington
- KV19 Town slipway looking East
- KV20 Buckwell Road looking NW
- KV21 Crabshell to Kingsbridge (detail)
- KV22 Crabshell to Kingsbridge (panorama)
- KV23 Plymouth Road (A379) approaching Kingsbridge from Churchstow

WAV1 Tackett Wood Bridge

WAV2 Old Salcombe Road Eastwards

WAV3 Town Park from Kingsbridge showing the green gap

WAV4 Lower Street Cottages

WAV5 Main Street West Alvington

WAV6 Reservoir and green gap between West Alvington and Kingsbridge

WAV7 Longbrook Lane northwards

WAV8 Longbrook Wood northwards

WAV9 Home Field to Kingsbridge

CV1-4 Merrifield panorama

CV5 Long Lane to Churchstow

CV6 Church House Inn

CV7 Churchstow from the A381

CV8 Church House Inn and cottages

CV9 Churchstow to West Alvington

## **COMMENT**

**The number of views listed in this policy is extensive and could be considered as a record of the landscape setting of the parishes rather than identifying key views. However, I am satisfied that the policy does not place an overly onerous restriction on development within the identified views only a requirement to consider the impact of proposals on the viewpoints and ensure that the any impact is “not overly intrusive or prominent”.**



### **Policy KWAC Env 5 Prevention of light pollution.**

Development should not detract from the unlit environment of the Parishes and should minimise its impact on the night sky.

The impacts of a development on dark skies must be considered at application stage following the guidance of the Institute of Lighting Professionals on the impact of bats of lighting schemes (guidance note 8, Bats and Artificial Lighting)<sup>6</sup>

The use of a high proportion of glass in walls and roofs without consideration of the impact on the environment when internally lit will be discouraged.

Security lighting, outside lighting, and floodlighting should only be used where a clear need is demonstrated and be designed to minimize their impact on the night sky with lighting deflected downwards and switched off after midnight.

### **COMMENT**

**I have no comment on this policy.**

### **Policy KWAC Env 6 Prevention of Flooding and the impact on water quality**

Development proposals should, where necessary demonstrate that the impact on the existing foul and surface water system has been assessed and includes details of on- site mitigation if required.

Any proposals in the proximity of the Environment Agency flood risk areas illustrated in Figure 20a (fluvial flood risk), 20b (surface water flood risk) and Appendix B19 should have due regard to historic flooding incidents and the reports of these prepared on behalf of Kingsbridge Town Council, Devon County Council and South West Water.

There should be no adverse downstream impacts from water discharge on local streams, leats, flood channels and neighbouring properties.

Proposed developments must not exacerbate water issues within the Salcombe to Kingsbridge SSSI.

Development proposals should incorporate SuDS in accordance with DCC's SuDS for Devon Guidance (2017)<sup>7</sup> and any sites located within the Kingsbridge Critical Drainage Area (Appendix B40) as defined by the EA should abide by the stricter drainage requirements.

## **COMMENT**

**I have no comment on this policy.**

### **Policy KWAC Env 7 Carbon Reduction**

This Plan supports and encourages development including works to existing buildings that is designed and constructed to the highest standard of sustainable design and construction, energy efficiency, incorporating on-site renewable energy production, and carbon reduction.

All development within the parishes should demonstrate an awareness of the Devon Carbon Plan.

The use of recycled and natural materials sourced within Devon is encouraged.

The Parishes will work with SHDC to encourage householders and businesses to upgrade their premises and adopt practices and lifestyles that reduce their carbon footprint and achieve low and ideally zero carbon emissions. This will include energy conservation, reduction of waste and avoidance of single use plastics.

## **COMMENT**

**I have no comment on this policy.**

### **Policy KWAC Env 8, Encouraging renewable energy**

Where planning permission is required the development of small-scale renewable energy generation with supporting infrastructure will be encouraged, this includes; -

- Biomass; coppicing local woodland and hedgerows;
- Hydro; power generation from local watercourses;
- Small scale solar power when roof mounted on domestic, employment and agricultural buildings;
- Ground source and air source heat pumps;
- Community energy projects involving the above technologies.

Wind turbines and large-scale ground mounted solar power are not considered appropriate methods of generation within the South Devon AONB part of the Plan area. For the purposes of this policy small scale is defined as less than 50Kwp.

## **COMMENT**

**I have no comment on this policy.**

### **Policy KWAC Env 9, Allotments**

The plan supports the retention of community allotments at Trebble Park, and Wistaria Place, Kingsbridge and to the North of West Alvington Hill. The importance of these assets to the community, and local food production is recognised and the re-purposing or encroachment on these existing sites will not be supported. The need for further provision should be monitored in line with demand from increased waiting lists and the needs of new residents.

Where appropriate development that includes provision for community allotments will be supported.

## COMMENT

**I have no comment on this policy.**

### **Policy KWAC Env 10 Promotion of tree planting**

Development where it is demonstrated that the proposals achieve a net gain in biodiversity and carbon capture through additional tree and other planting and appropriate land management will be supported.

Development that damages or results in the loss of ancient trees or trees of good arboricultural and amenity value will not normally be permitted. Proposals should be designed to retain ancient trees or trees of arboricultural and amenity value. Proposals that impact on existing trees should be accompanied by an assessment of the health and longevity of any affected trees.

New tree planting should use only native, locally appropriate species, must not conflict with and should complement wildflower rich grasslands.

Community based initiatives to plant trees and enhance biodiversity, wildlife habitats and corridors within the plan area will be supported where appropriate.

## COMMENT

**Paragraph 180 c) of the NPPF 2021 states:**

**“When determining planning applications, local planning authorities should apply the following principles:**

**c)development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists;”**

**Paragraph two of the policy does not reflect national policy. For clarity**

and to meet the Basic Conditions paragraph two of the policy should be modified as follows:

**Development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) will be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists. Proposals should be designed to retain trees of arboricultural and amenity value. Proposals that impact on existing trees should be accompanied by an assessment of the health and longevity of any affected trees.**

### **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.

## **COMMENT**

**I have received representation from SHDC (these can be seen in full on the SHDC website) regarding this policy and during the course of my examination I sought clarification from the NPG on the issues raised by SHDC. The response from the NPG can be viewed in full on the SHDC website.**

**The concerns of SHDC relate to potential inconsistencies with strategic policies of the Joint Local Plan and national guidance as follows:**

**“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. First Home Exception Sites are not eligible within Rural Designated Areas or within Areas of Outstanding Natural Beauty (AONB) (written ministerial statement (24 May 2021)) This would mean that sites for First Homes would not be appropriate on land within West Alvington and Churchstow Civil Parishes and within the southern area of Kingsbridge Civil Parish.**

**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:

1. a) It seeks to set a percentage requirement for social rent Homes at 75% of total affordable Homes delivered.
2. 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.

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.

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.”

Criteria c) seeks to include extra care or assisted living housing as affordable housing. This type of accommodation is not included within the definition of affordable housing within national policy and guidance.

The final sentence of Paragraph 5.4.1, page 69 states:

“Beyond meeting a proven need for affordable housing for local people no additional new build housing provision is supported in Churchstow.”

As Policy KWAC Env1 accepts the presumption in favour of development within the Settlement Boundary of Churchstow, limiting new housing within the settlement boundary would not meet the Basic Conditions and the sentence should be deleted.

There is overlap between this policy and Policy KWAC H3 Rural Exception Sites outside the settlement boundaries.

I acknowledge the concerns raised by SHDC in relation to this policy and conclude that with modification the policy can address those concerns satisfactorily. The policy is currently confusing, covers elements of housing that fall outside the definition of affordable housing or cannot be delivered in certain parts of the neighbourhood plan area. However, I am satisfied that the policy can be modified to be in general conformity with the strategic policies of the Development Plan. For



clarity and to meet the Basic Conditions the policy should be modified as follows:

**Policy KWAC H1 Affordable Housing Within Settlement Boundaries.**

Proposals for affordable housing development within the settlement boundaries 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.
- d) Homes are proposed for rent, purchase and shared ownership. Based on the recommendations of the HNA for this Plan and subject to viability 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 where appropriate.
- e) They provide discounted 'First Homes' for young families in line with National Policy and guidance. To respect the evidence of the Housing Needs Assessment (Appendix A8) discounts should be, subject to viability approximately 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.**

### **Policy KWAC H2 Market Housing**

Proposals for market housing will be supported within allocated sites of the JLP, on infill sites within the designated settlement boundaries of the Plan or as part of an exception site as set out in Policy KWAC H3 (If market housing is required to cross subsidise the affordable housing scheme). The housing should respond to local housing needs in terms of type, size, special needs, and tenure. Consideration should be given to provision of housing solutions for young families and the increasing number of elderly in the parishes in the form of development aimed at older persons, including market sale sheltered, extra care or assisted living housing. This Plan also supports opportunities for existing residents to downsize and make more larger units available to the market.

### **COMMENT**

**I have no comment on this policy.**

### **Policy KWAC H3 Rural Exception Sites outside the settlement boundaries.**

This plan supports the use of Rural Exception Sites to deliver affordable housing where they comply with National Policy and JLP policy TTV27 and all other relevant policies in the Development Plan.

### **COMMENT**

**I have no comment on this policy.**

#### **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.

#### **COMMENT**

**During the course of my examination, I sought clarification on how this policy could be applied consistently when the evidence proposed to**

**underpin the policy and meet the Basic Conditions?**

**The response from the NPG is available to read in full on the SHDC website.**

**I have concerns in relation to this policy. Firstly, as I set out in my general comments, 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.”**

**This policy seeks to control an event that may occur at some time in the future, when the level of second home ownership reaches a level of 20%. I have not been provided with evidence to support or justify the 20% threshold, why the impact of 20% of second homes would be a tipping point as opposed to 19% or 21%. This would in itself lead to a significant problem in successfully and consistently applying this policy in the determination of a planning application and defending it on appeal if necessary. There is, in addition, a lack of clarity on who would be responsible for gathering the necessary statistical information and how it would be monitored. I am also not convinced that relying on Census information would be adequately robust. My conclusion on this point is that the policy does not provide the certainty and clarity required to meet the tests set out above.**

**Secondly, the evidence before me suggests the overall number of second homes across the parishes is 14%, with Kingsbridge at 9.7% (the lowest) and West Alvington at 13.7%. This figure has been arrived at by AECOM in the HNA Report and includes an estimated uplift in numbers**

to allow for the increase since the 2011 Census.

The conclusion of the AECOM HNA with regard to second homes is as follows:

#### “5.4 Conclusion- Second homes

237. This section of the HNA considers the current extent of second home ownership in KWAC and related trends. It finds that:

- There is a fairly substantial quantity of second and holiday homes in the neighbourhood plan area, with minor deviations across the three parishes. The 2011 Census counted 364.
- Uplifting this figure with reference to the rate of growth in commercial holiday lets in the component areas of KWAC from 2011-2020 suggests a current total of around 486 units. This is approximately 14% of all properties.
- The likely growth in this indicator dovetails with a context of dramatically worsening affordability in KWAC that is evidenced in greater detail in the preceding chapter.
- A review of the available data sources on this subject strongly suggests that the Census is the most accurate and comprehensive source for this indicator. An up-to-date snapshot is imminent, with the results of the 2021 Census to be published in the coming months.
- There may be scope to reflect the results of the upcoming Census in any potential policy in this subject by making its provisions conditional on an established threshold of second home ownership or rate of increase.”

The figure of 14% is significantly lower than other areas in the South Hams. Whilst I accept that there is an affordability issue within the parishes, I have not been provided with any evidence that links the

number of second homes to the level of affordability or the impact of second homes on the local economy or local community, for example the sustainability of local schools due to falling roles resulting from increased second home ownership.

I accept that it is not easy to provide the information and statistics relating to ownership/ occupation of houses within any parish area however the imposition of a principal residence policy has serious implications, and it is necessary to ensure that there is strong evidence to support the imposition of such a restriction.

I have given very serious consideration as to whether or not I can find that this policy meets the Basic Conditions particularly having regard to the NPPF (2021) – “delivering a wide choice of quality homes” and “delivering sustainable development” together with how the policy meets the requirements of the Human Rights Act 1988 and other European Legislation.

I have also considered in detail Mr. Justice (now Lord Justice) Hickinbottom’s judgment in R (RLT Environment Ltd) v Cornwall Council in relation to Policy H2 of the St. Ives Neighbourhood Development Plan. He concluded:

“that Policy H2 is in pursuit of legitimate public interests identified in article 8(2), namely the interests of the economic well-being of the country, and for the protection of the rights and freedoms of others.”

However, in this instance it was considered that there was adequate evidence to support the policy however there is always a planning balance to be arrived at in consideration of this type of policy.

I have also carefully considered the potential for unintended consequences on the local housing market and the future delivery of affordable housing.

I accept that the level of second homes in the parishes is likely to

increase over the plan period and that this does have implications for the local community however at this time I am not satisfied that this policy meets the Basic Conditions. The imprecise nature of the policy and evidence required would make it difficult to apply consistently leading to uncertainty and the potential for challengeable decisions and implications for Natural Justice and Human Rights.

I acknowledge that there is community concern with regard to the growth of second homes and the impact this can have on local house prices, the local economy and local community. However, after careful consideration I have decided that this policy does not meet the Basic Conditions and couldn't be modified within the scope of my examination to do so. My decision is one of planning balance and I conclude that in this instance Policy KWAC H4 - Principal Residence should be deleted.

I understand that this may disappoint the community however there is an opportunity to review the plan as a whole or just this policy should the situation arise when the impact of second home ownership can be adequately evidenced to support the introduction of a Principal Residence policy.

#### **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.

#### **COMMENT**

**Policy DEV14 of the JLP states as follows:**

**“Maintaining a flexible mix of employment sites**

**A flexible supply of employment land and premises will be maintained to support investment and expansion of existing businesses as well as for the inward investment of high-value businesses, particularly but not exclusively those involved in the marine sector, advanced manufacturing and knowledge based industries. The following provisions will apply:**

**1. Change of use of existing employment sites (including vacant sites whose lawful use is for employment purposes) will only be allowed where the following applies:**

- i. The proposal is specifically provided for by the local plan to deliver wider strategic objectives, or**
- ii. There are overriding and demonstrable economic, regeneration and sustainable neighbourhood / community benefits from doing so, or**
- iii. There is no reasonable prospect of a site being used for employment use in the future.**

**2. The following categories of site will be specifically protected:**

- i. Sites that have clear future potential to support the future expansion of existing businesses.**
- ii. Employment sites with access to wharves and/or deep water facilities, quays and pontoons, which will be protected for marine related uses appropriate to the site and location.**

**3. Employment sites will be protected from inappropriate neighbouring development that will adversely affect the employment operations taking place on the site.”**



Policy DEV14 sets out the Development Plan policy framework for the determination of applications affecting employment sites. SHDC have raised concern relating to the last sentence of Para 5.5.1 which states that no business development is permitted in Churchstow. I agree that such an embargo on development would not meet the Basic Conditions and the sentence should be deleted. I consider that the current wording of the policy is ambiguous with potential for conflict with the NPPF (2021) and Policy DEV14. For clarity and to meet the Basic Conditions the policy should be modified as follows:

**Policy KWAC Em1 Safeguarding of Existing Employment Uses.**

**The change of use of existing employment sites will only be supported in exceptional circumstances and in accordance with the provisions of Policy DEV14 of the JLP.**

**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.**

**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.

## COMMENT

SHDC have raised concerns regarding the content of this policy, in particular the “redlining” of the area in the NP. They state:

“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.”

My concern relates to whether or not this policy effectively allocates the site outlined in red or is in effect only identifying this area of the town as being appropriate for regeneration and renewal. In order to avoid any confusion on this matter and to ensure that the existing employment sites/uses are safeguarded in accordance with the Development Plan (in particular DEV14) it should be made clear in the body of the plan, on Fig 23 and in relation to the development brief in Appendix B33, that the area is identified for information only and that this is not a site allocation. In addition, for clarity and to meet the Basic Conditions, the policy should be modified as follows:

**Policy KWAC Em2 Sites at Lower Union Road and Orchard Industrial Estate.**

**Proposals for renewal and regeneration of sites at Lower Union Road and Orchard Industrial Estate will be supported where:**

- 1. The existing employment sites are not compromised and proposals are in conformity with JLP Policy DEV14.**
- 2. If they include ancillary retail and residential uses as part of live work or small infill developments, they should complement existing uses. In**

**such mixed use developments only user class E (commercial, business and service) employment related uses will be supported.**

**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 for information and is included in Appendix B33. Proposals in the area shown in figure 23 should respect and respond to this brief.**

### **Policy KWAC Em3 Support for the central shopping area of Kingsbridge**

A development brief for Kingsbridge Primary Shopping Area has been prepared and included in Appendix B32 All development in the area should respect and respond to this brief.

At upper levels of the Primary Shopping Area this plan supports development of flats over shops in vacant or under-used accommodation. Ancillary uses will be permitted providing they do not undermine the shopping and historic characteristics of Fore Street and the Primary Shopping Area. The amenity of existing uses should not be compromised with new development through noise, smells and congestion on pavements.

Where the loss of a retail 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.

### **COMMENT**

**The determining authority for a planning application is the LPA, therefore neighbourhood plan policies should refer to “supporting” or “not supporting” proposals. The phrase “will be permitted” in the second paragraph should be replaced with “will be supported”.**

**Policy KWAC Em4 Mixed use employment including living over the shop, and live work.**

A combination of employment and living accommodation is supported providing; -

- a) the development is in keeping with the scale of the surrounding residential area and other businesses;
- b) the new use will not have any detrimental impact on local residential amenities;
- c) significant amounts of traffic and a need for parking will not be generated that cannot be adequately catered for by the existing infrastructure locally;
- d) The proposal will not have a harmful visual impact on either the village, town or the adjacent open countryside.

Mixed use is defined as development of sufficient size to accommodate a genuine business use and any residential accommodation is ancillary to that use.

**COMMENT**

**I have no comment on this policy.**

**Policy KWAC Em5 Promotion of innovative tourism businesses**

This plan supports development that extends the tourism season and includes new, innovative and sustainable tourism related uses. Activities include but are not limited to:

- a) Estuary and water based leisure activity, excluding those harmful to the marine and foreshore environment and contrary to the latest South Devon AONB Estuaries Plan and the Salcombe and Kingsbridge Harbour Bylaws;
- b) The research and development of technologies that support the marine

leisure industry;

c) Glamping, camping, camping barns and lodges that link to the SW Coastal Path and cycle routes;

c) Cycle and electric cycle hire facilities supporting sustainable tourism and transport.

The proposed uses should be compatible with their surroundings and setting within the town, river, countryside and must have no adverse effect on the South Devon AONB.

## **COMMENT**

**There is a policy requirement is for development to conserve and enhance the AONB. For clarity and to meet the Basic Conditions the final paragraph of the policy should be modified as follows:**

**The proposed uses should be compatible with their surroundings and setting within the town, river, countryside and conserve and enhance the South Devon AONB.**

**Policy KWAC Em6 Support for training links that reinforce the existing skills base and emerging new types of employment.**

Opportunities for the development of employment uses that promote hospitality, tourism, local traditional and rural skills and safeguarding these for future generations will be encouraged.

The introduction of opportunities for new and emerging clean employment types that include but not limited to marine, healthcare, digital, and clean energy will also be encouraged.

Development proposals in the above sectors will be supported where they provide training facilities to improve the knowledge and skills of local people.

Development proposals that establish training links with the South West's

universities and further/higher education facilities will also be supported.

## COMMENT

**I have no comment on this policy.**

### **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.

## **COMMENT**

**SHDC have raised a number of concerns in relation to this policy. These can be viewed in full on the SHDC website. I share the concern of SHDC that the wording of this policy is confusing and could have the unintended consequence of landowners bringing forward previously developed sites which are still currently viable for other uses which are perceived as having less value than a new use. I also share the concern that the inclusion of a list of sites identified as suitable for redevelopment could have the unintended consequence of encouraging 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 and contrary to JPL Policies DV14 and DV15.**

**The schedule of sites that the community may look favourably on for intensification or re- development and the plan locating these included as Appendix B36 and B14 should be clearly marked as for information only.**

**For clarity and to meet the Basic Conditions the policy should be modified as follows:**

**Policy KWAC BE1 Brownfield First**

**This plan supports prioritising the development of brownfield sites before greenfield sites, other than those allocated in the JLP. This strategy complements the greenfield sites allocated in the JLP whilst seeking to minimise further encroachment on the open countryside and the AONB. Proposals for the redevelopment of brownfield land will be prioritised unless there is proven demand that cannot be met by the brownfield-first approach.**

**Where suitable previously developed sites are available, proposals for greenfield development will not be supported unless it can be demonstrated through a comprehensive feasibility study that the brownfield site is unsuitable for the proposed development.**

**As stated in policy KWAC EM1 the change of use of existing employment sites will only be supported in exceptional circumstances and in accordance with the provisions of Policy DEV14 of the JLP.**

**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.**

**Proposals for the re development of previously developed site must comply fully with national policy and guidance and the Development Plan having particular regard to managing flood risk and water quality.**

### **Policy KWAC BE2 Kingsbridge Quayside and town square**

The Plan supports improvements to the quayside and town square; these develop further the aims of JLP Policy TTV 10. The improvements identified below will affect the existing locations of car parking however, there should be no significant loss in car parking spaces available to support the town's shopping and tourism roles with particular recognition being applied to the importance of this existing car park to tourism and trade.

- A sustainable transport hub for non-fossil fuel modes of transport;



- Enhanced southern slipway providing easier access to the slipway, dinghy storage and water;
- Small scale tourist related employment units in the order of 200m<sup>2</sup>;
- Space and service connections for temporary(pop-up) food and retail outlets;
- Homes in the order of 60 units addressing local needs;
- Flood risk mitigation and management measures;
- Relocation of the public toilets;
- Retention and enhancement of the skateboard park;
- Overall enhancement of the public realm while retaining the existing uses.

A development brief expanding on the above qualities is included in Appendix B34. All redevelopment of the Quayside and town square should respect this brief. The area covered by this policy is illustrated in Figure 25. Redevelopment of the Quayside and town square 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. The evidence supporting the 2017 Kingsbridge Quayside masterplan included as Appendix B9 should inform the proposals. All detrimental water impacts 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. All 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.

## COMMENT

**This policy builds on the JLP Policy TTV10 The Quayside, however the wording lacks clarity. The policy does not need to repeat elements of TTV10 or other national or local policy. For clarity and to meet the Basic Conditions, the policy should be modified as follows:**

**Policy KWAC BE2 Kingsbridge Quayside and Town Square**

**Proposals for the improvement of the quayside and town square (illustrated in Fig.25) should be in conformity with policy TTV10 and respect the development brief included in Appendix B34; and will be supported where they also include:**

- A sustainable transport hub for non-fossil fuel modes of transport;**
- Enhanced southern slipway providing easier access to the slipway, dinghy storage and water;**
- Small scale tourist related employment units in the order of 200m<sup>2</sup>;**
- Space and service connections for temporary(pop-up) food and retail outlets;**
- Homes in the order of 60 units addressing local needs;**
- Relocation of the public toilets;**
- Retention and enhancement of the skateboard park;**
- Overall enhancement of the public realm while retaining the existing uses.**
- A comprehensive survey of existing heritage assets. Any proposals must avoid harm to these assets and conserve and enhance the historic environment as set out in national and local policy.**
- A detailed assessment of the water impacts on the estuarine environment and the Kingsbridge and Salcombe Estuary SSSI through surface water run off during construction and operation.**
- Address flood risk as appropriate, including Sequential and Exception Tests if required.**

**The evidence supporting the 2017 Kingsbridge Quayside masterplan included as Appendix B9 should inform the proposals.**

### **Policy KWAC BE3 Design Quality**

1. Development proposals in the plan area must demonstrate high quality design and will be supported where; -

a) They are innovative and locally distinctive and respond to and integrate with the local built surroundings, landscape context and setting. A contemporary design solution will be supported providing it respects the context and setting;

b) The design of new buildings is in keeping with the site and its setting and respect the scale, character and siting in terms of 'setback' of existing and surrounding buildings. The recommendations of the National Design Guide (January 2021) and the more locally specific requirements for Place Shaping and Heritage (Dev 20-22) of the JLP SPD 2020 are followed.

c) High quality materials are used for buildings and hard landscape designs that complement the local and traditional palette of materials found within Kingsbridge, West Alvington and Churchstow.

d) Street furniture design respects the style and precedents set by the town, parish councils and Kingsbridge in Bloom.

e) It has regard to the requirements of CPtED and 'Secure by Design' to minimise the likelihood and fear of crime and acts of anti-social and unacceptable behaviour and community conflict in the built environment;

f) It reduces the dependence on the private car by supporting and connecting directly to other more sustainable modes such as walking, cycling and public transport.

g) As outlined in JLP SPD 2020 prominent and strategically important schemes of all scales should be considered at an independent, bespoke

Design Review Panel.15 This is of particular importance where proposals impact on the AONB and heritage assets.

2. The subdivision of existing plots will only be supported where there is no loss in character or environmental quality of the surroundings, there is suitable highway access on at least one boundary, plot and unit sizes are comparable with adjacent properties, adequate amenity space is provided, and the amenity of adjoining properties is not compromised.

3. Proposals should seek to avoid damage to and retain existing trees and hedges in situ. Development proposals will be encouraged to provide no net loss in trees with the aim for more trees on site and achieve biodiversity net gain. Where retention is not feasible, trees and hedges should be replaced with provision elsewhere on site.

## COMMENT

**I have no comment in this policy.**

### **Policy KWAC BE4 Safeguarding Designated and Non-Designated heritage assets within the Plan area and the conservation areas of Kingsbridge and West Alvington**

All proposals in the conservation areas and in the vicinity of Designated and Non- Designated Heritage Assets must comply fully with National Planning Policy the Development Plan and associated SPD (2020) relating to the Historic Environment and: -

a) Give due regard to the asset and demonstrate an awareness of the Devon Historic Coastal and Market Towns survey (DHCMTS) and the Historic Urban Character Areas (HUCA) for Kingsbridge produced by Devon County Council and English Heritage which is included as Appendix B13. Due consideration should be given to the historic character of the area within which a proposal sits.

b) Where relevant, include design features such as setbacks, stone or render

walls and roof details that reflect the character and appearance of the surrounding buildings.

c) For extensions, new doors, windows and roofing materials should be of a similar appearance to those used in the construction of the exterior of the original building.

Proposals that directly or indirectly affect the significance of Designated Heritage Assets included in Appendices B20 and B21 the Non-Designated Heritage assets and described below and illustrated in Appendix A5 and Figure 26 should be judged according to the scale of any harm or loss and the significance of the asset to the parishes.

### **Kingsbridge**

KLHA1 Duncombe Villa, Duncombe Street

KLHA2 Bernagh, Duncombe Street

KLHA3 British School, Church Street

KLHA4 Recreation Ground / Saltmill Quay

KLHA5 Lime Kiln Tumbly Hill

KLHA6 Railway Bridge Plymouth Road

### **West Alvington**

WALHA1 Ring O' Bells Public House

WALHA2 Well, Lower Street

WALHA3 Parish boundary marker, West Alvington Hill

WALHA4 Hitching hook, Lower Street

WALHA5 Collapit Bridge

WALHA6 Public footpath sign, Littlecroft, Main Street

WALHA7 Gate piers, Easton Farmhouse

WALHA8 Millstone, Longbrook Farm

WALHA9 Conflict Arborglyphs, West Alvington Wood

WALHA10 Former buttery, Collapit

WALHA11 Former dairy, Main Street.

### **Churchstow**

CLHA1 Village water pump, Pump Lane

CLHA2 Home Farm Cottage and Thatcher's End

CLHA3 Railway tunnel from Sorley Farm to Coombe Farm

CLHA4 Telephone box, Churchstow

CLHA5 Churn stand outside the Post Office Stores

CLHA6 Church Hall, Pump Lane

### **COMMENT**

**I have no comment on this policy.**

### **Policy KWAC T1 Sustainable Transport routes**

New development in the Plan area should where possible link to a safe footpath network that connects the Parishes, and surrounding settlements. Where appropriate opportunities to improve and extend the existing network will be sought as part of any development proposals. Opportunities will be sought to upgrade footpaths to bridleways to allow cycling and horse riding in consultation with landowners. All footpaths should; -

- a) Have durable surfacing and effective drainage;
- b) Be easy to navigate with improved waymarking through discreet rural signage;
- c) Be accessible to those with special needs where feasible;
- d) Include improved footbridges, removal of stiles and replacement with accessible gates where required and acceptable to landowners;
- e) Protect wildlife habitats as outlined in the Wildlife Resource Map (AppendixB17) and any future revision.

Proposed future safe pedestrian and cycle connections once suitable routes are agreed with landowners include but are not limited to; -

- a) Churchstow to Kingsbridge;
- b) West Alvington to Kingsbridge;
- c) Kingsbridge to Salcombe;
- d) Kingsbridge to Bowcombe Creek
- e) Malborough to West Alvington;
- f) Thurlestone to West Alvington
- g) Kingsbridge to Belle Hill playing fields
- h) Safe pedestrian crossings of the A381 and A379 within the villages that connect to bus stops;
- i) Off road cycle ways and footpaths including a Salcombe to Kingsbridge multi-use trail and the proposed Primrose Trail and better links to the South West Coast Path.

## **COMMENT**

Policies in neighbourhood plans can only relate to the neighbourhood plan area. The section of this policy which refers to new footpath routes includes links to settlements outside the neighbourhood plan area. The appropriate place for this part of the policy would be in the community actions/projects section where the community can work with the relevant authorities and other communities to achieve the sustainable connections. For clarity and to meet the Basic Conditions the policy should be modified as follows:

### **Policy KWAC T1 Sustainable Transport routes**

New development in the Plan area should where possible link to a safe footpath network that connects the Parishes, and surrounding settlements. Where appropriate opportunities to improve and extend the existing network will be sought as part of any development proposals. Opportunities will be sought to upgrade footpaths to bridleways to allow cycling and horse riding in consultation with landowners. All footpaths should; -

- a) Have durable surfacing and effective drainage;
- b) Be easy to navigate with improved waymarking through discreet rural signage;
- c) Be accessible to those with special needs where feasible;
- d) Include improved footbridges, removal of stiles and replacement with accessible gates where required and acceptable to landowners;
- e) Protect wildlife habitats as outlined in the Wildlife Resource Map (AppendixB17) and any future revision.

### **Policy KWAC T2 Non-fossil fuel vehicle hub**

Proposals to reduce the dependence on fossil fuelled modes of transport will be supported. In the short-term electric cars, bicycles and buses should be



accommodated however other sources of fuel are envisaged in the longer term. A hub is proposed on the Kingsbridge Quayside car park. Facilities will include, parking/ charging bays, spaces for a car club for short term hire, a transfer interchange from bus/bike/car, cyclist shower and changing facilities and an information point.

Electric vehicle charging points will be supported for all off-street car parks including the Cattle Market, Duncombe Street, Fore Street, Lower Union Road, Quayside and Churchstow village car parks.

## COMMENT

**I have no comment on this policy.**

### **Policy KWAC T3 Car Parking**

a) Proposals which generate an increase in on-street car parking will be resisted, unless designed as part of an overall parking strategy within a development.

b) No development will be supported within the Plan area that causes a significant loss in the number of public car parking spaces. If the introduction of new and improved community uses within public car parks requires the relocation of spaces, there should be no reduction in their convenience and proximity to the village centres and town centre.

c) New residential development including sheltered housing must, as a minimum comply with adopted parking standards ensuring there is no increase in on-street car parking. Where achievable the indicative parking standards set out in the JLP SPD (2020)<sup>16</sup> should be met; -

1 bedroom 1 space plus 1 space per 3 dwellings for visitors;

2 bedrooms 2 spaces; 3 or more bedrooms 3 spaces.

d) New car parking proposals which adversely affect the setting of a

development and surrounding landscape features will be discouraged;

e) Provision of car spaces and charging points for electric vehicles and other ultra- low emission vehicles will be supported.

f) To assist in the reduction of on street parking a village car park is proposed in Churchstow (capacity 10 cars). The location of the proposed community car park which is the subject of a Section 106 agreement on the development of Reeves Way is illustrated in Figure 30.

## **COMMENT**

**I have no comment on this policy.**

### **Policy KWAC T4 Traffic calming**

Sustainable solutions to calm traffic through the villages and town are supported. Measures supported include; -

a) Reduction of road speeds through West Alvington and Churchstow;

b) The introduction of pedestrian crossings in West Alvington, Churchstow and additional crossings in Kingsbridge (Cookworthy Road, Northville Park, Stentiford Hill) and South Hams Hospital);

c) Measures to discourage Pump Lane, Churchstow being used as a 'rat run';

d) Safer pedestrian access at narrow points in the villages and Kingsbridge to Bowcombe/New Bridge.

## **COMMENT**

**The issues raised in this policy would be more suitably addressed through the community projects/aspirations section of the plan as decisions on traffic calming are not in the control of planning policy.**

**For clarity this policy should be deleted and the contents moved to the**

## community projects/aspirations part of the plan.

### **KWAC Inf 1 Broadband Infrastructure**

This Plan supports the provision on site infrastructure for the installation of, and allow the future upgrade and maintenance of, fibre optic broadband technology.

- a) All development is required to submit a connectivity statement to set out the proposed broadband provision. The statement shall include which broadband supplier(s) can provide full fibre or fixed wireless coverage to the development to provide gigabit capable broadband provision.
- b) On sites of 10 dwellings and over and on all non-residential sites, all new properties must be served with an appropriate open access gigabit capable fibre optic infrastructure to enable high speed and reliable broadband connection in accordance with national and local objectives to increase coverage.
- c) On sites of under 10 dwellings all new properties shall be served with an appropriate open access fibre optic infrastructure to enable high speed and reliable broadband connection unless there is evidence which demonstrates that providing the required infrastructure is not feasible or economically viable.
- d) Installed infrastructure should allow all premises that form part of the approved development to access superfast or better broadband prior to occupancy.
- e) The creation of a building to act as a fibre hub to enable fibre connections within the area will be supported”

### **COMMENT**

**Elements of this policy are overly onerous. Neighbourhood plan policy cannot require the submission of a connectivity statement or prescribe who can deliver broadband services. For clarity and to meet the Basic**

**Conditions the policy should be modified as follows:**

**KWAC Inf 1 Broadband Infrastructure**

**This Plan supports the provision on site infrastructure for the installation of, and allow the future upgrade and maintenance of, fibre optic broadband technology.**

**a) Developers are encouraged to submit a connectivity statement to set out the proposed broadband provision.**

**b) New residential and non-residential development should, wherever possible include appropriate open access gigabit capable fibre optic infrastructure to enable high speed and reliable broadband connection in accordance with national and local objectives to increase coverage.**

**c) The creation of a building to act as a fibre hub to enable fibre connections within the area will be supported.**

**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 HSBC)
- 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.

## **COMMENT**

**This policy seeks to extend planning control over a significant number of community facilities. SHDC have raised concerns over “the number, breadth and nature of the community facilities identified in this policy”.**

**During the course of my examination, I sought clarification as to whether or not the owners of the facilities listed had been individual consulted and what if any response had been received. I am satisfied that the owners were consulted and that there were no specific responses received. It is important to recognise that planning policy controls land use not ownership and there are changes of use that can take place through permitted development rights that do not require the benefit of planning permission. In addition, planning policy cannot compel an operator to continue a particular use. For clarity the policy should be modified as follows:**

### **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 HSBC)**
- t) Scout Hut**

**u) West Alvington village hall and car park**

**v) Churchstow Church Hall**

**w) Churchstow village shop and Post Office**

**Where planning permission is required, proposals for a change of use that would result in the loss of existing community facilities or that would result in any harm to their community function, character, setting, accessibility, appearance, general quality, and amenity value will only be supported where 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 and/or viable.**

**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.**

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

### **KWAC HW2 Open Space**

New residential development will where practicable be expected to deliver any new community facilities including Open Space Sports and Recreation (OSSR) onsite. On smaller sites or where this is not practicable a planning obligation will be sought to mitigate the impact of new residents through new and improved provision in an appropriate location in coordination with the South Hams (OSSR) Study 2017 - Quantity, Quality and Accessibility Standards. Any contribution should be directed towards the projects and priorities set out in the latest Kingsbridge and West Alvington OSSR Plans and emerging plan for Churchstow in liaison with the Local Planning Authority and respective Parish Councils, to confirm which of the listed projects are the



priority at that time.

Proposals that involve the use of land in the countryside to facilitate and enhance informal recreational activities and access related to the enjoyment and interpretation of the countryside will be supported where they would not have an adverse effect on the countryside, historic environment, and other land uses in the vicinity and would conserve and enhance the natural beauty of the AONB. Any proposals that improve access to existing public rights of way will be supported.

## **COMMENT**

**I have received representation that an additional document should be referred to in the policy in addition to the South Hams (OSSR) Study 2017 -Quantity, Quality and Accessibility Standard, namely the Plymouth and the South West Devon Joint Local Plan Developer Contributions Evidence Base. For completeness I agree that this should be included, and the policy modified as follows:**

### **KWAC HW2 Open Space**

**New residential development will where practicable be expected to deliver any new community facilities including Open Space Sports and Recreation (OSSR) onsite. On smaller sites or where this is not practicable a planning obligation will be sought to mitigate the impact of new residents through new and improved provision in an appropriate location in coordination with the South Hams (OSSR) Study 2017 - Quantity, Quality and Accessibility Standards and the South West Devon Joint Local Plan Developer Contributions Evidence Base. Any contribution should be directed towards the projects and priorities set out in the latest Kingsbridge and West Alvington OSSR Plans and emerging plan for Churchstow in liaison with the Local Planning Authority and respective Parish Councils, to confirm which of the listed projects are the priority at that time.**

**Proposals that involve the use of land in the countryside to facilitate and enhance informal recreational activities and access related to the enjoyment and interpretation of the countryside will be supported where they would not have an adverse effect on the countryside, historic environment, and other land uses in the vicinity and would conserve and enhance the natural beauty of the AONB. Any proposals that improve access to existing public rights of way will be supported.**

### **KWAC HW3 A community centre for Kingsbridge**

The Plan supports the development of a new community centre for the town. The development to be located within the town shall serve the whole plan area and surrounding parishes. The accommodation shall or in part include, subject to capacity and heritage constraints the following; -

- Multi-purpose hall for theatre, music performance, sports activities and meetings;
- Meeting rooms;
- Small business hub;
- Ancillary/ support facilities;
- Provision for all those with special needs.

### **COMMENT**

**I have no comment on the wording of the policy. However, I have received representation that the inclusion of Fig 32 (Page 110) entitled “Proposed Locations for Kingsbridge Community Centre” could be misinterpreted as being part of the Proposals Map. It is suggested that the Plans are clearly marked as “*For information purpose only.*” For clarity and to avoid any potential for confusion the legend to the plan should be modified to make it clear that the suggested locations for the community centre are “**for information only**”.**

## SECTION 5

### Conclusion and Recommendations

- 1. I find that the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.*
- 2. The Neighbourhood Plan does not deal with County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.*
- 3. The Kingsbridge, West Alvington and Churchstow Neighbourhood Plan does not relate to more than one Neighbourhood Area and there are no other Neighbourhood Plans in place within the Neighbourhood Area.*
- 4. The Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) screening, meet the EU Obligation.*
- 5. The policies and plans in the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan, subject to the recommended modifications would contribute to achieving sustainable development. They have regard to national policy and to guidance, and generally conform to the strategic policies of the Development Plan. At the time of my examination, the development plan for the area is the Plymouth and South West Devon Joint Local Plan (the JLP), adopted in March 2019.*
- 6. I therefore conclude that the Kingsbridge, West Alvington and Churchstow Neighbourhood Plan subject to the recommended modifications can proceed to Referendum.*

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16<sup>th</sup> August 2022

