Town and Country Planning Act 1990

Neighbourhood Planning (General) Regulations 2012

HIGHWORTH NEIGHBOURHOOD DEVELOPMENT PLAN 2021 – 2036
FIRST REVISION AUGUST 2025

INDEPENDENT EXAMINATION

Final Report to Swindon Borough Council

by Edward F Cousins BA, BL, LLM, Barrister

6th July 2026

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PART 1

INTRODUCTION

1. This Final Report comprises the findings of my examination ('*the Examination*') into the draft Highworth Neighbourhood Development Plan First Revision 2025 ('*the Neighbourhood Plan*'). To satisfy the requirements of the Neighbourhood Planning (General) Regulations 2012 ('*the 2012 Regulations'*) and to remedy a shortfall identified by the first Examiner to the Neighbourhood Plan, Highworth Town Council ('*the Town Council')* and Swindon Borough Council ('*SBC*') have completed a series of additional Regulation 14 and 16 consultations which concluded on 29th November 2025. I was then retained as the Examiner commencing in January 2026 and the documentation, including the responses to the first and second Regulation 16 consultations, were made available to me by email and hard copy to enable me to conduct the Examination.

2. Following my examination, I recommend that the Neighbourhood Plan should proceed to referendum, but in doing so, I am proposing modifications to the Neighbourhood Plan to ensure that it satisfies the basic conditions. This includes the deletion of the proposed Local Green Space on part of the Old Golf Course and its reinstatement within the Open Space policy. In my view, the Local Green Space policy in respect of the Old Golf Course, is not in conformity with national policy.

3. I have been unable to recommend modifications which would have resolved these issues without its deletion as a Local Green Space. An alternative would have been to recommend that the Neighbourhood Plan did not proceed to referendum, but I have rejected this approach for the reason that overall, the Neighbourhood Plan meets the Basic Conditions.

4. I understand this will be disappointing for the Town Council and local residents as I note the amount of work effected by the Town Council in order to support the Neighbourhood Plan. However, the Neighbourhood Plan cannot proceed without satisfying the consideration of the Basic Conditions.

My appointment

5. I have been appointed by SBC to conduct an independent examination into the Neighbourhood Plan. I am independent of the Town Council and of SBC. I do not have any interest in any land that may be the subject of the Neighbourhood Plan - nor do I have any professional conflicts of interest.

6. I am a Barrister in practice at Radcliffe Chambers, where additionally I act as a Mediator. I have also joined a set of Chambers in Manchester – Nine St John Street – as an Associate Member. Previously, I was the Principal Judge of the Land Registration Division of the Property Chamber and a Chancery barrister in practice in Lincoln's Inn. Currently I am a specialist property and planning lawyer, with particular expertise in markets and fairs, including street trading; commons and town and village greens; manorial rights; mines and minerals; and land registration law and practice. I have wide experience examining neighbourhood development plans and, when necessary, conducting public hearings as part of the examination process. In addition to my membership of the Bar of England and Wales, I was also called to the Bar of Ireland at Trinity Term 2001, and I hold a Practising Certificate in Ireland, together with a Practising Certificate in Northern Ireland where I was called in October 2022.

PART 2

THE LEGAL FRAMEWORK

NEIGHBOURHOOD PLANNING

The Background

1. Neighbourhood planning is the process introduced by Parliament as enacted by the Localism Act 2011 ('*the 2011 Act*'). The intellectual purpose of neighbourhood planning is to seek to enfranchise those persons living and working in a community by providing the basis through which they can play a more active role in the process of deciding the future of their neighbourhood. It has been described as the ability: -

> '*to give to communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.*'

2. Thus, the 2011 Act gave powers to Town Councils to involve their communities in the creation of neighbourhood development plans in order to provide them with a greater say in planning matters. Town Councils are therefore able to play a role in the establishment of general planning policies for the development and use of land in their neighbourhoods. Examples of such involvement are directed to the siting, design and construction of new homes and offices, and the designation of local green space. The neighbourhood development plan sets a vision for the future for the area concerned. It can be detailed, or general, depending on the views of local people.

3. In order to ensure that the new process is workable and effective the 2011 Act introduced the requisite amendments into the Town and Country Planning Act 1990, and the Planning and Compensation Act 2004 ('*the 2004 Act*').[1]

4. The provisions of the Levelling-up and Regeneration Act 2023 (Commencement No. 11 and Saving and Transitional Provisions) Regulations 2026[2] came into force on 25th

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[1] The 1990 Act, ss. 61E to 61P, Sch. 4B (neighbourhood development orders); the Planning and Compulsory Purchase Act 2004, ss. 38A to 38C (neighbourhood plans), as amended by the 2011 Act. These amendments variously came into force on subsequent days in 2012 and 2013 and were supplemented by detailed procedures provided in the 2012 and 2013 Regulations.

[2] SI 2026/169

March 2026. The provisions include Section 98 of the Levelling up and Regeneration Act (LURA) (contents of a neighbourhood development plan) and Section 99 (neighbourhood development plans and orders; basic conditions). These new rules change parts of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning Act 1990.

5. The new legal compliance requirements set out in section 98 amongst other things includes details of the policies a neighbourhood plan may include, and states:

> *'So far as the qualifying body considers appropriate, and having regard to the subject matter of the plan, the plan must*
> *a) be designed to secure that the development and use of land in the neighbourhood area contribute to the mitigation of, and adaptation to, climate change, and*
> *b) be designed to take account of any local nature recovery strategy, under section 104 of the Environment Act 2021, that relates to all or part of the neighbourhood area'*

6. In addition, there is a new Basic Condition requirement set out in Section 99 of LURA:

> *'the making of the Neighbourhood Plan would not result in the development plan for the area of the authority proposing that less housing is provided by means of development taking place in that area than if the neighbourhood development plan were not to be made.'*

7. Additionally, the provisions add an additional Basic Condition related to the provision of an environmental outcomes reports. However, the framework for this assessment is yet to be put in place, and therefore compliance with this Basic Condition cannot be assessed.

8. The Statutory Instrument makes provision for transitional arrangements in relation to Local Plans. However, these provisions do not extend to Neighbourhood Plan Examinations and as such I am required to conduct the Examination against these updated provisions which have come into force during the Examination. Given the legislative changes, I have considered it pertinent to allow interested parties an opportunity to comment on these changes and its impact on the Neighbourhood Plan. This is consistent with other current Neighbourhood Plan Examinations.

9. The Town Council and SBC have provided their response and, where appropriate, these comments are included in the Examination Report.

10. Additionally, any persons who may have an interest in the examination were also given a similar opportunity to comment, including those who submitted representations at the Regulation 16 Consultation. SBC placed a notice on their website, advising that the anyone with an interest in the examination may, should they wish, comment on the legal compliance and Basic Conditions changes outlined above. The consultation with stakeholders was completed over a two-week period between 8th May 2026 and 22nd May 2026 following the local elections**.**

11. I note comments from local residents on the difficulty in engaging in a consultation that requires an understanding of the legislation framework and the Neighbourhood Plan process. However, the responses include comments on the Neighbourhood Plan policies which I have considered in preparing this report.

12. All responses have been considered in reaching conclusions on the extent to which the Neighbourhood Plan addresses the requirements of the updated legislation and the Basic Conditions.

Qualifying Body

13. I am satisfied that the Town Council is an appropriate '*Qualifying Body*,' as defined. It is therefore entitled to submit a proposal to the local planning authority for the modification of the Neighbourhood Plan as an essential prerequisite to it being '*made*.'

Neighbourhood Plan Area

14. The first step towards producing a neighbourhood plan is for a Town Council, or other qualifying body, to define a '*neighbourhood area*' for which it considers that a plan should be prepared and presented.[3] This is part of the process which that body is entitled to initiate for the purpose of requiring the local planning authority in England to make a neighbourhood development plan for the whole or any part of its area specified in the plan.[4] A '*neighbourhood development plan*' is a plan -

> *'.... which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area*.'[5]

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3 See s 38A(1).
4 The 1990 Act, s. 61F(1), (2), applied by the 2004 Act, s. 38C(2)(a).
5 By virtue of 38A(2).

15. SBC has confirmed that the Neighbourhood Area was designated on 13th July 2017. The Neighbourhood Plan Area and designation is detailed at Figure 1 in the Neighbourhood Plan and is the same as the Parish boundary of Highworth Parish. For clarity, I recommend a modification that the reference in Figure 1 detailing the area designation in 2013, shown in brackets, should be amended to 2017.

Public Consultation

16. Regulation 14 of the 2012 Regulations sets out the requirements for pre-submission consultation, and Schedule 1 thereto makes reference to the relevant consultation bodies.

17. I have reviewed the Statement of Community Involvement dated August 2025 and its appendices submitted to SBC. I also have access to the assessments made by John Slater, the Examiner appointed following the initial submission of the Neighbourhood Plan Review.

18. I note that a second Regulation 14 consultation occurred between 26th June 2025 and 10th August 2025 which included the consultation on a Modifications Statement prepared on behalf of the Town Council. Subsequently, following the submission of the Neighbourhood Plan, SBC commenced a second Regulation 16 consultation between 9th October 2025 and 20th November 2025. During this period, residents, businesses, and stakeholders, including those who had previously responded to the first regulation 14 and 16 consultations, were invited to review the draft Neighbourhood Plan including the modifications statement and submit comments to SBC. The consultation material notes that previous responses made to the first Regulation 16 consultation would be carried forward to this new round of consultations.

19. Government Guidance[6] states that the Town Council should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space (LGS). SBC has provided me with statements from Cllr Miss Julie Murphy, Highworth Town Council dated December 2025, which observe SBC, the landowner of the Old Golf Course, had the opportunity to respond to the LGS proposal ahead of the

[6] Paragraph: 018 Reference ID: 37-018-20140306

Regulation 16 consultation. The Town Council has also provided an additional note, dated February 2026, which elucidates the interactions and discussions with SBC on the community value of the Old Golf Course site ahead of the Regulation 14 consultations although the specific policy term 'Local Green Space' designation may not have been used in early discussions.

20. In response to my questions in January 2026, SBC have confirmed that they are satisfied the Town Council has undertaken the Regulation 14 statutory consultation satisfactorily and in accordance with the regulations set out under Paragraph 4 of Schedule 4B of the TCPA 1990 and as prescribed by Regulation 14 of the Regulations.

21. The Statement of Community Involvement, dated August 2025, and reports submitted to me in February 2026, set out the consultation strategy for the Neighbourhood Plan review together with the consultation events. In view of the submissions made, I am satisfied that the second round of Regulation 14 and 16 consultations have remedied the issues raised by the first Examiner to the Neighbourhood Plan. I am also broadly satisfied that the community engagement process during the preparation of the neighbourhood plan has adopted an approach which has facilitated meaningful consultation and engagement with local residents and interested stakeholders in accordance with the statutory provisions. I am satisfied that the consultation process, as updated by the subsequent submissions, has met the consultation requirements for consultation on the Neighbourhood Plan.

22. The consultations generated representations at both the first and second Regulations 16 consultation stages. These have been made available to me by email. I confirm that all representations on the Neighbourhood Plan received at the Regulation 16 stages have been considered when undertaking this examination. I have considered each of the representations made in reaching my conclusions on whether the Neighbourhood Plan has met the Basic Conditions.

Referendum

23. Section 38A(11A) of the 2004 Act (as amended) provides that Schedule A2 applies provisions for the modification of a neighbourhood development plan.

24. The relevant provisions of Schedule A2 are as follows - Paragraph 1 provides that a qualifying body can submit a proposal to the local planning authority for the modification of a neighbourhood development plan. Paragraph 7 provides that it applies if:-

> *'(c) the authority consider that the modifications contained in the draft plan to which it relates are so significant or substantial as to change the nature of the neighbourhood development plan which the draft plan would replace*.'

If that is the position, the authority must consider the plan under the provisions of Schedule 4B that apply to an original neighbourhood plan (including referendum). Paragraph 10(1) provides that the matter referred to above is the first matter that the examiner must determine. Paragraph 11 provides that if the determination is made that the modifications are not such as to change the nature of the plan, then -

> '*...the examiner must consider the following –*
>
> *(a) whether the draft plan meets the basic conditions (see sub-paragraph (2));*
> *(b) whether the draft plan complies with the provision made by or under sections 38A and 38B;*
> *(c) such other matters as may be prescribed."*

25. In reaching decision on whether the revisions are so significant or substantial as to change the nature of the Neighbourhood Plan, I am required to consider the nature of the existing Neighbourhood Plan, the Modifications Statement prepared by the Town Council and the submissions by SBC.

26. In accordance with the statutory requirements, the Town Council have submitted a modification statement to address the aspect of whether the qualifying body consider that the modifications to the Neighbourhood Plan are so significant or substantial as to change the nature of the neighbourhood plan, giving reasons for these opinions.

27. The statement provided by the Town Council sets out a summary of the proposed main modifications to the Neighbourhood Plan. A detailed description of the modifications

is included in the statement, and the rationale is detailed and clear. The statement concludes that the modifications proposed to the adopted Neighbourhood Plan are material modifications which change the nature of the plan, require examination and referendum.

28. I also conclude that the significance or substance of the modifications proposed to the Neighbourhood Plan by the Town Council do change the nature of the Neighbourhood Plan. Accordingly, in my judgment, the Neighbourhood Plan requires Examination and a Referendum.

Compliance with provision made by or under sections 38A and 38B of the 2004 Act (as amended)

Section 38A – Meaning of "neighbourhood development plan"

29. Given the changes to legislative provisions during the course of this Examination, it is considered pertinent to set out the updated provisions for clarity.

30. Section 38A of the 2004 Act (as amended) provides that any '*qualifying body*' is entitled to initiate a process for the purpose of requiring a local planning authority in England to make a neighbourhood development plan. As noted above, the Town Council is a Qualifying Bod*y* by virtue of the provisions of 38A(12). Further, as stated above, SBC is the local planning authority for the purpose of the 2004 Act.

31. Since 25th March 2026, Section 38B(A1)(a to d) of the 2004 Act (as amended) requires the neighbourhood development plan only to contain policies relating to the type of development prescribed in the four sub sections, namely.

> *(a)policies (however expressed) in relation to the amount, type and location of, and timetable for, development in the neighbourhood area in the period for which the plan has effect;*
>
> *(b)other policies (however expressed) in relation to the use or development of land in the neighbourhood area which are designed to achieve objectives that relate to the particular characteristics or circumstances of that area, any part of that area or one or more specific sites in that area;*
>
> *(c)details of any infrastructure requirements, or requirements for affordable housing, to which development in accordance with the policies, included in the plan under paragraph (a) or (b), would give rise;*

(d)requirements with respect to design that relate to development, or development of a particular description, throughout the neighbourhood area, in any part of that area or at one or more specific sites in that area, which the qualifying body considers should be met for planning permission for the development to be granted.

32. The policies are set out in Part 3 of the Neighbourhood Plan. I should state at this stage that I am satisfied that the Policies do relate to the use and development of land within the neighbourhood area as set out in the provisions of section 38B(A1), and not to extraneous matters.

33. By Section 38(2A)(e) of the 2004 Act (as amended), a neighbourhood development plan that has been made in relation to an area forms part of the statutory development plan, for the purpose of guiding town and country planning decisions. Under Section 38(6) there is a presumption in favour of determining planning applications in accordance with the development plan unless material considerations indicate otherwise.

Section 38B

34. Since 25th March 2026, Section 38B of the 2004 Act provides as follows:

'38B Provision that may be made by neighbourhood development plans
(1) A neighbourhood development plan—
(a) must specify the period for which it is to have effect,
(b) may not include provision about development that is excluded development, and
(c) may not relate to more than one neighbourhood area.

(2) Only one neighbourhood development plan may be made for each neighbourhood area.

(2A) Subsections (1)(c) and (2) are subject to section 61G(6D) of the principal Act (as applied by section 38C(5A) of this Act).

(2B) So far as the qualifying body considers appropriate, having regard to the subject matter of the neighbourhood development plan, the plan must—

(a)be designed to secure that the development and use of land in the neighbourhood area contribute to the mitigation of, and adaptation to, climate change, and

(b)take account of any local nature recovery strategy, under section 104 of the Environment Act 2021, that relates to all or part of the neighbourhood area, including in particular—

(i)the areas identified in the strategy as areas which—

(A)are, or could become, of particular importance for biodiversity, or

(B)are areas where the recovery or enhancement of biodiversity could make a particular contribution to other environmental benefits,

(ii)the priorities set out in the strategy for recovering or enhancing biodiversity, and

(iii)the proposals set out in the strategy as to potential measures relating to those priorities.

(2C)The neighbourhood development plan must not—

(a)include anything that is not permitted or required by or under subsections (A1) to (2A) or regulations under subsection (4), or

(b)be inconsistent with or (in substance) repeat any national development management policy."

(3) If to any extent a policy set out in a neighbourhood development plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy.

(4) Regulations made by the Secretary of State may make provision—
(a) restricting the provision that may be included in neighbourhood development plans about the use of land,
(b) requiring or permitting neighbourhood development plans to include such matters as are prescribed in the regulations, and
(c) prescribing the form of neighbourhood development plans.

(5) A local planning authority must publish each neighbourhood development plan that they make in such manner as may be prescribed by regulations made by the Secretary of State.

(6) Section 61K of the principal Act (meaning of "excluded development") is to apply for the purposes of subsection (1)(b).'

35. Section 61K provides, so far as is material, as follows: -

> *'61K Meaning of "excluded development"*
> *The following development is excluded development for the purposes of section 61J—*
> *(a) development that consists of a county matter within paragraph 1(1)(a) to (h) of Schedule 1,*
> *(b) development that consists of the carrying out of any operation, or class of operation, prescribed under paragraph 1(j) of that Schedule (waste development) but that does not consist of development of a prescribed description,*
> *(c) development that falls within Annex 1 to Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (as amended from time to time),*[7]
> *(d) development that consists (whether wholly or partly) of a nationally significant infrastructure project (within the meaning of the Planning Act 2008).'*

36. I should state at this stage I am satisfied that the Neighbourhood Plan clearly specifies the period for which it is to have effect (2021-2036); it does not include '*excluded development*'; and it is the only neighbourhood plan for the area.

37. The 2012 Regulations are made under section 38B of the 2004 Act. These prescribe detailed requirements for neighbourhood development plan proposals and how they are to be consulted upon, publicised, and submitted. My consideration of this matter is addressed in paragraphs 16 to 22 above. I address the extent to which the Neighbourhood Plan contributes to the mitigation of, and adaptation to, climate change and takes account of the local nature recovery strategy in Part 3 of this report.

What must the Examiner examine?

38. Paragraph 8 of Schedule 4B to the 1990 Act, as modified by section 38C (5) of the 2004 Act, requires the examiner to consider the following:
    - whether the draft plan meets the Basic Conditions. These are defined at sub-paragraph (2);

[7] This must now be taken to refer to codifying Directive 2011/92/EU. This repealed and re-enacted Directive 85/337/EEC and its amending instruments. It states at Article 14 that references to the repealed directive are to be construed as references to the new directive as a matter of consistent interpretation and under the principle of construction codified in relation to domestic law by s.17(2)(a) of the Interpretation Act 1978.

- whether it complies with the provision made by or under sections 38A and 38B of the 2004 Act; and
- whether the area for any referendum should extend beyond the neighbourhood area to which the draft plan relates; and
- whether the draft plan is compatible with '*the Convention rights*,' as defined by the Human Rights Act 1998[8].

39. Since 25th March 2026, paragraph 11(2) of Schedule 4B, as modified by section 38C(5)(d) of the 2004 Act provides that:

> *'(2) A draft [plan] meets the basic conditions if—*
> *(a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the [plan],*
> *(b)……*
> *(c)…….*
> *(d) the making of the [plan] contributes to the achievement of sustainable development,*
> *(ea) the making of the [plan]would not have the effect of preventing development from taking place which*
> *(i) is proposed in the development plan for the area of the authority (or any part of that area), and,*
> *(ii) if it took place, would provide housing;*
> *(f) the making of the [plan] does not breach, and is otherwise compatible with, EU obligations, and any requirements imposed in relation to the order by or under Part 6 of the Levelling-up and Regeneration Act 2023 (environmental outcomes reports) have been complied with,*
> *(g) prescribed conditions are met in relation to the [plan] and prescribed matters have been complied with in connection with the proposal for the [plan]"*

40. Basic Conditions (b) and (c), relating to the built heritage, apply to the examination of proposed neighbourhood development orders, but not to that of neighbourhood development plans.

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8 Section 1 of the 1998 Act defines these as the rights and fundamental freedoms set out in Articles 2 to 12 and 14 of the European Convention on Human Rights, Articles 1 to 3 of the First Protocol to the Convention, and Article 1 of the Thirteenth Protocol, as read with Articles 16 to 18 of the Convention.

41. Regulations 32 and paragraph 1 of Schedule 2 of the General Regulations, has prescribed a further condition for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act, as follows -

> *'[the] making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects).'*

42. Since 28th December 2018, the General Regulations, Schedule 2 paragraph 1, has prescribed a further Basic Condition, namely:

> '*In relation to the examination of neighbourhood development plans the following Basic Condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act—*
>
> *The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.'*

43. It is to be noted that if a proposed neighbourhood development plan it is to be made it must meet all of the Basic Conditions specified in paragraph 8(2) - not just some of them.

44. Further, and importantly, the examination process is not intended to put the Examiner into the shoes of the '*qualifying body*' so as to usurp its function and re-make its decisions. The statutory remit of the Examiner is limited.

45. Thus, the examination process is less intrusive than that required in respect of a local development plan document. For instance:

> *'the remit of an examiner dealing with a neighbourhood plan does not include the requirement to consider whether that plan is 'sound' (as in section 20(5)(b) of the 2004 Act), so the requirements of 'soundness' contained in paragraph 182 of the NPPF[9] do not apply to a neighbourhood plan. The Examiner of a neighbourhood plan does not consider whether that plan is 'justified' in the sense used in paragraph 182 of the NPPF. In other words, the Examiner does not have to consider whether a draft policy is the 'most appropriate strategy' compared against*

[9] The National Planning Policy Framework ('*the NPPF*').

alternatives, nor is it for him to judge whether it is supported by a 'proportionate evidence base.'

- Whereas under paragraph 182 of the NPPF a local plan needs to be "consistent with national policy" an examiner of a neighbourhood plan has a discretion to determine whether it is appropriate that the plan should proceed having regard to national policy.

46. The concept of '*soundness*,' referred to by Holgate J in this case refers to the text in a former edition of the NPPF. This text has now been superseded by the NPPF paragraph 36. This retains a section now referred to as '*Examining plans*' and refers to the same four requirements for '*soundness*.' However, paragraph 38 of the 2024 NPPF contains a separate reference to the examination process, notably that neighbourhood plans must meet the Basic Conditions and other legal requirements before they can come into force which '*... are tested through an independent examination before the neighbourhood plan may proceed to referendum*.'

47. Thus, although the Examiner has a general discretion whether to recommend modification to bring the neighbourhood plan into line with national policy if he finds points of departure, it is necessary to bear in mind that it would normally be expected that appeal decisions would follow current national policy where it conflicts with a local or neighbourhood plan. A Neighbourhood Plan that is at odds with national policy is in danger of becoming otiose. Unless the Examiner considers that there is evidence demonstrating good reason to depart from national policy in the neighbourhood, he would be expected to recommend that it be followed.

48. In essence, therefore, the role of the Examiner is to assess whether the draft plan is compliant with the Basic Conditions and other legal requirements. If in the event that the draft plan does not comply with the various statutory requirements, the Examiner then is obliged to consider whether it can be modified so that it does so comply. Other legal requirements include consideration of the NPPF and the NPPG. As the sections on the Legal and Statutory Frameworks draw extensively on the provisions contained in both the NPPF and the NPPG, no further reference will be made to either document at this stage.

The Report

49. The Examiner then produces a report, which contains one of three possible recommendations, namely, whether:

> *' (a) the draft plan is to be submitted to a referendum;*
> *(b) the modifications specified in the report are to be made to the draft plan, and that the draft plan as modified is submitted to a referendum; or*
> *(c) the proposal for a plan is to be refused. '*[10]

50. The recommended modifications can only be those that the Examiner feels are necessary to ensure that the draft plan complies with the Basic Conditions and the other relevant statutory requirements or are needed for the purpose of correcting errors. If the changes are substantial, then they may have to be the subject of a further round of consultation.

51. The further requirements of the Examiner, as defined in the 2012 Regulations, include considering whether the draft plan complies with the definition of a neighbourhood plan, and the provisions that can be made by a neighbourhood plan; and whether the draft plan is compatible with the European Convention on Human Rights. The Examiner may also make recommendations on whether the neighbourhood plan area for referendum should extend beyond the neighbourhood plan boundaries.

52. In this part of the Report, I shall first address the European dimension and the question of human rights. I shall then consider the Basic Conditions, and then formal compliance with the provisions contained within sections 38A and 38B of the 2004 Act in Part 3 of the Report. I make recommendations as to the modification or amendment of the draft Policies. The modifications or amendments do not include minor updates to the contents and where necessary, Policy, paragraph, and page numbering. It is recommended that this is undertaken by SBC and the Town Council, where necessary.

[10] 1990 Act, Sch 4B, para 10(2), applied by the 2004 Act, s 38A(3).

European Law Obligations

Strategic Environmental Assessment

53. I am still required to check that the making of the Neighbourhood Plan does not breach EU obligations. This means that I must consider whether there has been compliance with the SEA Directive and SEA Regulations.

54. Directive 2001/42/EC - known as the Strategic Environmental Assessment Directive - on the assessment of the effects of certain plans and programmes on the environment ('the SEA') - provides by Article 3(2) that an environmental assessment is to be carried out for plans prepared for town and country planning or land use. These set a framework for development consent of certain projects, or which in view of the likely effect on protected sites, have been determined to require assessment under the Habitats Directive. Where a neighbourhood plan determines the use of small areas at local level and makes minor modifications to other town and country planning or land use plans, they require such assessment only where Member States determine that they are likely to have significant environmental effects (by virtue of article 3(3)).

55. SBC undertook a screening assessment of the draft Neighbourhood Plan in March 2024, to determine whether a SEA of the emerging Neighbourhood Plan should be screened into the SEA process, informed by consultation with the prescribed statutory consultees. The report concluded that the Neighbourhood Plan Revision does not require a SEA because it will not have significant effects in relation to any of the criteria set out in Schedule 1 of the SEA regulation. Paragraph 5.13 of the SEA Screening Assessment, dated March 2024, comments the statutory consultees are in agreement with SBC that a full SEA is not required although the full statutory consultees responses are not included in the SEA Screening Report.

56. Historic England, contrary to comments reported in paragraph 5.13 of the SEA Screening Report states in its Regulation 16 response: 'To ensure that a full SEA is not required with the second iteration of the Plan, and to demonstrate the ongoing acceptability of the site allocation in terms of conformity with overarching policy for the protection and enhancement of the historic environment, we have recommended that a review of the site's context be undertaken, particularly from a heritage perspective.' SBC have reviewed these comments and have not revised their decision.

The Town Council are of the view that these issues should be addressed through the development management process.

57. It is unfortunate that the Examination and consultation process has been presented with a draft SEA Screening Report prepared early in the consultation process. However, notwithstanding the comments by Historic England, I am satisfied that the current heritage context of the proposed site allocation is fully understood and considered by both the Town Council and SBC.

Habitats Regulations Assessment

58. Article 6(3) of the Habitats Directive[11] requires that any plan which is not directly connected with or necessary to the management of a protected site but is likely to have a significant effect thereon (meaning that such an effect cannot be excluded beyond reasonable scientific doubt on the basis of objective information), must not be the subject of agreement unless it has been subject to an '*appropriate assessment of the implications for the site*'. Further it must have been ascertained that it will '*not adversely affect the integrity of the site concerned*.' If a neighbourhood development plan is assessed and found to cause harm to the integrity of a protected site, Article 6(4) enumerates some conditions under which a plan may exceptionally be approved where the plan must nevertheless be carried out for imperative reasons of overriding public interest.

59. Those obligations have been transposed into national law by Regulations 102, 102A and 103 of the Conservation of Habitats and Species Regulations 2010 ('the *Habitats Regulations*'). Regulation 102 states:

> *'(1) Where a land use plan—*
> *(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*
> *(b) is not directly connected with or necessary to the management of the site, the plan-making authority for that plan must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site's conservation objectives.'*
> *(4) In the light of the conclusions of the assessment, and subject to regulation 103 (considerations of overriding public interest),*

[11] Council Directive 92/43/EEC of 21 May 1992.

> *the plan-making authority… must give effect to the land use plan only after having ascertained that it will not adversely affect the integrity of the European site…'*

Regulation 102A states:

> '*A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 102 or to enable them to determine whether that assessment is required*.'

60. Regulation 107(1) of the Habitats Regulations then sets out definitions. '*Land-use plan*' is defined to include a neighbourhood development plan. '*Plan-making authority*' is defined to mean '*the local planning authority when exercising powers under Schedule 4B to the TCPA 1990 (as applied by section 38A (3) of the 2004 Planning Act)*'. The term '*competent authority*' is not defined by Regulation 107, but by Regulation 7 it includes (but not be limited to) a '*public body of any description or person holding a public office*'. It includes local authorities and Town Councils.

61. Case law establishes that plans cannot be approved in reliance upon the duty to assess the planned projects as and when they come forward, and only approve them at that stage if found not to harm any protected site.[12] Consequently, for instance, the fact that there may be '*boiler plate*' language in the statutory development plan stating that projects cannot be approved if they would harm a protected site, cannot itself be sufficient to enable the plan to be approved without assessment, where it allocates or encourages particular development that is liable to harm a protected site.

62. There is no requirement for any formal decision to be made under the Habitats Regulations whether or not an '*appropriate assessment*' has been required. However, the Town Council will be in breach of Regulation 102 of the Habitats Regulations if in fact a plan is likely to have a significant effect on a European site and has not been assessed.

63. The submitted documents include a draft SEA and HRA Screening Assessment dated March 2024. The assessment reports that 'at this stage in the progression of the plan

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12 Case C-6/04, *Commission v UK* [2006] Env. L.R. 29 at [51]-[56].

with its noted levels or growth and content it is not considered that HNP2 will require an additional HRA Assessment'.

Human Rights

64. The Basic Conditions Statement comments that the Neighbourhood Plan is compliant with human rights legislation. I am satisfied that the Neighbourhood Plan is not likely to lead to increased inequalities or discrimination in the Neighbourhood Area. I have identified that some of the policies will have positive impacts on people who may experience disadvantage by virtue of their age or disability.

65. I am satisfied that the Neighbourhood Plan does not breach EU obligations.

PART 3

THE EXAMINATION

Introduction

1. Section 1 of the Neighbourhood Development Plan sets out the role of the Neighbourhood Plan, its Plan Period, and the Neighbourhood Plan process. This section should in due course be updated, following the Examination to reflect the Regulation 16 consultations completed by SBC, the Examination process, the outcome of the Referendum and ultimately the adoption of the Neighbourhood Plan.

2. I recommend the following modifications:

Part 1 – The Introduction section should be updated to reflect the Neighbourhood Plan that is adopted and the most recent consultations, Examination and Referendum.

The Parish of Highworth

3. Part 2 usefully details the geographic, social, and economic characteristics of Highworth Town, Sevenhampton and Hampton. This section also provides details of the adopted Swindon Local Plan 2026, adopted in 2015, and the progress of the Local Plan review. The Neighbourhood Plan also highlights the structural changes since the adoption of the first Neighbourhood Plan and the impact upon the economy including the loss of community facilities.

4. Since the submission of the Neighbourhood Plan, SBC have progressed the Local Plan Review and completed a Regulation 18 consultation between September 2025 and October 2025. SBC are currently considering the made representations. I recommend modifications to ensure that paragraph 32 of the Neighbourhood Plan is updated to reflect the current status of the Local Plan review. I must stress at this point that I can only give limited weight to the Regulation 18 Local Plan Review policies and any emerging Local Plan updates as the draft plan is at an early stage in its development, is subject to consideration of the public consultation responses and the examination of the draft plan has not yet been commenced.

5. Part 2 of the Neighbourhood Plan sets out the community's extensive Vision to 2036. It centres on a description of a self-contained, prosperous, and inclusive place with high quality, beautiful and sustainable buildings, and settlements. The Vision supports Highworth's cultural heritage, natural environment, and sustainable community. The Neighbourhood Plan proposes the retention of themes and objectives for Housing, Economic Growth, Transport, Arts and Culture and Environment. I note representations who recommend amendments to the Vision.

6. Section 38B of PCPA 2004 (as modified by LURA 2023) states -

> '*So far as the qualifying body considers appropriate, having regard to the subject matter of the neighbourhood development plan, the plan must (a) be designed to secure that the development and use of land in the neighbourhood area contribute to the mitigation of, and adaptation to, climate change*.'

7. In response to my request for a response on the impact of the new legislative changes, the Town Council states that the Neighbourhood Plan has been prepared with regard to climate change mitigation and adaption which is reflected across a number of policy areas. SBC, in its response, highlights that climate change forms part of the Neighbourhood Plan vision and is detailed in the supporting information. However, Regulation 16 representations argue that the Neighbourhood Plan should more explicitly address and mitigate the impacts of climate change.

8. Notwithstanding the updated legislative provisions, national policy is clear that plans should promote a sustainable pattern of development that seeks to mitigate climate change. The Vision includes a contribution towards combatting climate change although I note a specific objective or policy is not included in the Neighbourhood Plan. The Neighbourhood Plan does address mitigation of climate change through its policies including criteria which seek to: improve water efficiency and reduced water consumption; promote sustainable development within the settlement boundary; support sustainable transport and active travel; enhance biodiversity and nature recovery, protect green spaces and secure energy efficiency design and promotion of renewable energy technologies. I recommend modifications that climate change is more

fully included in the Vision and Objectives to align with national guidance and reflect the proposed Neighbourhood Plan policies.

9. I am satisfied that the Vision and Themes set out in Part 2 of the Neighbourhood Plan reflect the aspirations of the community. Its vision and objectives, taken as a whole, seek to support the sustainable growth of the parish, contribute to the mitigation of, and adaptation to, climate change, encourage economic vitality and sustainable transport whilst at the same time safeguarding open green spaces and cultural heritage. I am satisfied the Vision, Themes, and objectives, as modified, will meet the Basic Conditions.

10. I recommend the following modifications:

The section entitled Swindon Local Plan Context (paragraphs 31 to 24) is updated to reflect the current status of the Local Plan Review

Amend the phrase in the Vision 'contribute towards combatting climate change' to 'mitigation and adaption to climate change'

Add an additional objective in the Environment section in Table 2 'Ensure resilience against the future impacts of Climate Change'

Neighbourhood Plan Policies

Format and Content

11. The construction and presentation of the Neighbourhood Plan is in general clear. The two Key Diagrams inserted before Part 1 should be appropriately titled for clarity, the content amended to reflect the proposed modifications below, produced at a scale which ensures clarity of the policy areas to which it relates and located in a more relevant position at the beginning of Part 3 of the document. I therefore recommend modifications to relocate the Key Diagrams to Part 3 and include a title – Key Diagram of the Neighbourhood Plan Area.

12. The supporting text to the policies and the evidence submitted, in some cases, provides a limited amount of information and justification for the detail included within the policy. It is sometimes unclear as to the evidence basis on which the proposed policy

relies. National Planning Practice Guidance advises (amongst other things) that policies in Neighbourhood Plans should be 'concise, precise and supported by appropriate evidence.' Furthermore, policies 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. Where the underpinning evidence is considered to be lacking or not robust, a modification is proposed to the relevant policy.

13. Policies must serve a clear purpose. Therefore, policies should avoid unnecessary duplication of policies that apply to a particular area including repeating the NPPF, national development management policy or references to other policies in the Development Plan. I have proposed modifications where this duplication occurs.

14. Policies are required to be positively worded, clearly written, and unambiguous so it is evident how a decision make should react to development proposals. I have proposed modifications where there is a lack of clarity or there is a duplication within the policy itself. There are policies where the criteria or objective is repeated or rehearsed within the same policy.

15. Policies should provide for a degree of flexibility allowed for by the NPPF and the term 'must' is only appropriate where requirements of the policy are compulsory in every instance. To justify such a stance appropriate evidence is required.

The Neighbourhood Plan

Policy 1: Housing Provision and mix

16. The Neighbourhood Plan is updated to remove a housing allocation at Redlands as the site is substantially complete. The Neighbourhood Plan is also updated to reflect an updated Housing Needs Assessment, to support water efficient standards and to secure the provision of offsite infrastructure.

17. Part A seeks to ensure that the three Conservation Areas are subject to Policy 3 – Highworth Town Centre. It is not necessary to duplicate the policies or references. I have proposed modifications which ensure that Policy 3: Highworth Town Centre, where relevant, relates to the three Conservation Areas.

18. Part B and C of the policy reflect the Housing Needs Assessment (HNA) recommendations to provide accommodation for older people and people throughout all life stages. The HNA advocates that such provision is in sustainable and accessible locations. I recommend modifications to align with national policy to create places that are safe, inclusive, and accessible and which promote health and well-being.

19. I recognise the intention to secure housing in the parish that meets local needs. Part C of the policy requires all new housing to meet accessible and adaptable standards, and some explanatory commentary is provided in paragraph 55. I recommend modifications to align the policy with the recommendations in the HNA and to ensure that viability is considered.

20. Part D seeks to ensure that occupancy of development is aligned with off-site upgrades to infrastructure. I note representations which suggest that services and infrastructure have not kept pace with the implementation of new development and that some upgrades, including to the sewage networks, have long lead in times. The policy reflects a positive approach to these issues. However, there is a duplication between the first and final sentences of the policy. The second sentence in this part of the policy is advice rather than policy and reflects the representations by Thames Water. My view is that this advice is more appropriately located within the supporting text.

21. It is considered entirely appropriate for a Neighbourhood Plan to encourage high levels of water and energy efficiency, in part to support Local Plan Policy IN2: Water Supply and Wastewater, and to take a proactive approach to mitigating and adapting to climate change. I note the representations by Thames Water which demonstrate that the approach is appropriate and justified. I recommend modifications to allow flexibility required by national policy.

22. In respect of Part G, I understand the mathematical breakdown in this part of the policy reflects the HNA. I note representations have suggested that the policy should require a range of housing rather than an arbitrary percentage and local residents recommend the policy should include further affordable housing and bungalows. The HNA highlights the need to significantly increase the level of two- and three-bedroom homes in Highworth to meet the local needs. As such the policy aligns with national policy to

secure an appropriate mix of housing to meet community needs. I recommend modifications to remove reference to other Local Plan policies, ensure that the approach takes on board the most recent housing needs assessments and is subject to the proposals being viable.

23. The site allocation at Crane Furlong is brought forward from the first Neighbourhood Plan, is strongly supported by the landowner as deliverable, suitable and available and an outline planning application for 57 dwellings remains to be determined on the allocation site (application reference S/OUT/19/1195). I am also aware that representations identify constraints including the suitability of access points, odours from the nearby STW and noise from the nearby industrial estate, the capacity of the A417 and the impact of the Brize Norton Safeguarding Zones. Representations advocate that Appendix 1 should be updated to either reflect the current planning application including provision for 57 rather than 42 dwellings or to promote alternative design principles including the points of access. Appendix 1 broadly identifies key design principles and there are clearly inconsistencies between the current application, local representations, and Appendix 1. It is not my role to reach a view on the appropriate amendments to Appendix 1 to reflect the expressed views. However, for clarity the supporting text should explain that Appendix 1 predates the submission of the planning application and subsequent public consultation which should be considered appropriately by SBC as part of the planning application process.

24. The updated Basic Conditions states *'the making of the Neighbourhood Plan would not result in the development plan for the area of the authority proposing that less housing is provided by means of development taking place in that area than if the neighbourhood development plan were not to be made.'* Table 1 to Local Plan Policy SD2: The Sustainable Development Strategy identifies at least 200 dwellings in the parish to be developed within the rural settlement boundary, or on land allocated in a Neighbourhood Plan between 2011 and 2026. The Neighbourhood Plan details the level of completions, planning commitments, and allocations in Highworth for the period 2017 to 2022. It demonstrates that 563 dwellings are expected to be completed during the same period. As such I am satisfied that the making of the Neighbourhood Plan would be in accordance with the updated Basic Conditions and that the allocation at Crane Furlong should be retained in the Neighbourhood Plan.

25. The Local Plan is considering the appropriate spatial strategy to implement the Government's new housing requirement methodology and its drive to boost housing supply. I do not give significant weight to the emerging plan due to its early stages of development. Notably, the draft Local Plan does not provide an indicative housing requirement figure for Highworth.

26. I recommend the following modifications:

Policy 1: Housing provision and mix

A. ~~Within the Conservation Areas of Highworth, Sevenhampton and Hampton, new residential development that involves the change of use of existing commercial buildings (Class E and sui generis) should have regard to Highworth Neighbourhood Plan 2 Policy 3~~.

~~B~~A. Provision of general and specialist accommodation for older people, including ~~an~~ affordable housing ~~component,~~ will be supported in sustainable and accessible locations.

~~C~~B. ~~New~~ Housing developments of 10 dwellings or more should be designed to be adaptable and accessible standard M4(2) and housing developments of more than 25 dwellings or more should provide at least 10% to M4(3) standard ~~throughout all life stages~~ unless it is demonstrated that it would make the development unviable.

~~D~~C. Where appropriate to the scale, nature and location of the proposal, planning permission for developments which result in the need for off-site infrastructure ~~upgrades~~, will be subject to conditions to ensure the occupation of the development is aligned with the delivery of necessary infrastructure ~~upgrades~~. ~~The Local Planning Authority will seek to~~

D. Development proposals should ensure that there is adequate water and wastewater infrastructure to serve all new developments. ~~Developers are encouraged to contact the water/wastewater company as early as possible to discuss their development proposals and intended delivery programme to assist with identifying any potential water and wastewater network reinforcement requirements. Where there is capacity constraint the Local Planning Authority will, where appropriate, apply phasing conditions to any approval to ensure that any necessary infrastructure upgrades are delivered ahead of the occupation of the relevant phase of development.~~

E. Development must be designed to be water efficient and reduce water consumption. Refurbishments and other non-domestic development will be expected

to meet BREEAM water efficiency credits. Residential development must not exceed a maximum water use of 105 litres per head per day (excluding the allowance of up to 5 litres for external water consumption) using the 'Fittings Approach' in Table 2.2 of Part G Buildings Regulation. Planning conditions will be applied to new residential development to ensure that the water efficiency standards are met.

F. ~~It is the responsibility of the developer to make proper provision for~~ Surface water drainage should ~~to~~ be connected to ground water courses or surface water sewers~~. It must not be allowed to drain to the foul sewer, as this is a major contributor to sewer flooding~~.

G. Development schemes should seek to provide the following mix of housing sizes ~~when complying with Swindon 3 Local Plan policies HA1 and HA2~~: a. 45% four-bedroom b. 52% three-bedroom c. 24% two-bedroom d. 2% one bedroom unless otherwise identified in an up-to-date Housing Needs Assessment or Housing Needs Survey or unless otherwise demonstrated, by a site-specific financial viability appraisal, that such provision would make the development unviable.

H. Affordable housing provision should include shared ownership housing according to local evidence unless identified in an up-to-date housing need survey.

I. Land at Crane Furlong, as shown in Figure 3, is allocated for residential development and should take account of the guidance in Appendix 1 of this plan and the issues identified through consultation on the planning application.

Relocate the final two sentences of Part D to supporting text after the section Shared Housing Ownership under a new heading – Infrastructure.

Add at the end of paragraph 50: Appendix 1 predates the submission of a planning application, its associated evidence base and the public consultation on proposals for 57 dwellings. As such Appendix 1 should be appropriately considered by SBC with the other relevant information and submissions as part of the planning application process.

Policy 2: Highworth's Development and Rural Settlement Boundary

27. Policy 2 brings forward the policy from the made Neighbourhood Plan and proposes modest changes to the settlement boundary in part to reflect the delivery of the previously allocated site at Redlands (paragraph 57). The Local Plan is clear that updates to the defined settlement boundary can be reviewed through the Neighbourhood Plan process (paragraph 1.12 of the Local Plan), and the Town Council has confirmed that it has proposed amendments in accordance with SBC's published 'Settlements and Settlement Boundaries Topic Paper' prepared to inform the Local Plan Review.

28. Representations are made that submit that the settlement boundary should be further amended to reflect other committed and completed housing and commercial developments that have been granted consent or implemented. Of particular note are (a) a site for 250 dwellings to the east of Shrivenham Road, (b) land west of Wrag View and (c) a further site for 60 dwellings on the west of Shrivenham Road. Additionally, a new Aldi Supermarket has been constructed north of Blackworth Industrial Estate.

29. The Settlements and Settlement Boundaries Topic Paper confirms that built/commenced allocations and planning permissions physically related to the urban area should be included in the Settlement Boundary. Unimplemented planning permission and Local Plan allocations not yet commenced should not be included.

30. Having regard to the Town Council's response and the Topic Paper, I recommend for consistency that the settlement boundary should be amended to reflect implemented developments at Shrivenham Road and west of Wrag View. For clarity, the allocation at Crane Furlong should be detailed in a separate colour tone to the settlement boundary line in Figure 4. Additionally, Figure 4 should be produced at a scale that clearly enables decision makers to determine whether a site is within or outside of the settlement boundary. This includes increasing the resolution and clarity of the base mapping to ensure clarity.

31. The Neighbourhood Plan uses a number of different descriptions of Settlement Boundary, and Development and Rural Settlement Boundaries. For consistency, the Town Council has confirmed that the Neighbourhood Plan should use a consistent description of Settlement Boundary in all cases.

32. The Government is seeking to significantly increase the supply of new housing. I am satisfied that there is no absolute stop on development imposed by the settlement boundary given the opportunity for infill and backland development within the settlement boundary together with the retention of the housing allocation at Crane Furlong. Additionally, where there is evidence of unmet local housing need, Local Plan Policy HA5 allows for rural exception sites to be identified, and which could include some market housing if necessary to deliver the site.

33. To ensure the Neighbourhood Plan reflects the ambitions of national policy, provides flexibility, and does not become otiose in respect of any changes adopted through the Local Plan review, I recommend a modification to include proposals that may come forward through that process. **Policy 2** should be amended as follows:

Policy 2: High worth's ~~Development and Rural~~ Settlement Boundary

A. Land within the solid blue line as shown on Figure 4 is defined as the settlement boundary for Highworth. Within this defined area, infill, backland and other development consistent with policies in the Development Plan will normally be acceptable. Outside the defined settlement boundary, land is defined as "open countryside," and development here will not be permitted unless it complies with the rural development policies of the Swindon Borough Local Plan or is allocated for development in the Swindon Local Plan Review.

The housing allocation at Crane Furlong detailed on Figure 4 should be highlighted in a colour tone demonstrating that the allocated site is outside the settlement boundary area. Additionally Figure 4 should be produced at a scale that clearly enables decision makers to determine whether a site is within or outside of the settlement boundary. This includes increasing the resolution and clarity of the base mapping to ensure clarity.

The settlement boundary should be amended to include land under construction for housing including land east of Shrivenham Road and land west of Wragg View.

The Neighbourhood Plan should be amended to use the consistent description of Settlement Boundary in all cases within the policy, supporting text and on mapping.

Policy 3: Highworth Town Centre

34. The Neighbourhood Plan identifies the Local Plan's Primary Rural Centre boundary as a Primary Shopping Area aligning with national policy. From my site visit I can conclude that the area identified as the Primary Shopping Area reflects the location of the key town centre services and facilities albeit, as the Neighbourhood Plan has stated, overtime there has been a loss of retail uses. NPPF defines main town centre uses and the approach in the Neighbourhood Plan is consistent with national policy. The identification of the Secondary Shopping Areas is consistent with the Swindon Retail and Leisure Needs Assessment 2017. I recommend modifications to ensure clarity between the terms used in the Neighbourhood Plan, NPPF and the Local Plan and additionally to ensure the policy is positively planned.

35. I note representations which comment on the detail of the Town Centre Improvement Plan. It is inappropriate for me to make changes to the plan to meet the Basic Conditions. However, the Neighbourhood Plan should note that the Improvement Plan is in draft and subject to a public consultation before it is finalised.

36. A proposal for Class MA development (change of use to residential) within the Conservation Area represents permitted development albeit SBC are required to consider the impact of that change of use on the character or sustainability of the Conservation Area. Paragraph 74 should be amended accordingly to accurately reflect the permitted development rights and the process that applies in respect of the MA application assessment. I also propose to amend the policy to reflect the proposed modifications in Policy 1. I recommend modifications to **Policy 3** as follows:

A. Highworth Town Centre ~~boundary~~, ~~as~~ shown as a<u>n</u> ~~solid~~ orange line in Figure 5, is designated as the Primary Shopping Area ~~under~~ <u>for the purposes of implementing</u> ~~Swindon Borough~~ Local Plan policy EC3. Its role and function will be preserved and proposals for new commercial businesses, and service use~~r~~s particularly Class E (a, b, and c), will be supported.

B. The <u>three</u> areas identified with a blue line in Figure 5 are designated as the Secondary Shopping Areas. ~~They~~ <u>Development that</u> provides local services and meet<u>s</u> the daily needs of people within walking distance <u>of these areas</u> <u>will be supported</u>.

C. Class MA (Commercial, business and service uses to dwellinghouse) development within the three Conservation Areas will be ~~restricted to~~ supported on upper and lower floors (basements) retaining Class E (a, b, and c) ~~will be retained~~ on the ground floor.
D. Proposals for improvements and enhancements of the street scene to allow for a café culture to establish, develop and evolve on the High Street are supported.
E. Development will be supported that secures traffic and other environmental improvements that contribute positively to the pedestrian and visitor experience and the commercial vitality and viability of the town centre ~~will be sought~~.
This policy does not aim to, and cannot, remove the statutory provisions of the General Permitted Development Order (GPDO) and should be applied only to applications outside the scope of permitted development.

Amend paragraph 74 to accurately state that permitted development applies in a Conservation Area for MA Class development and the Borough Council are required to consider the impact of that change of use on the character or sustainability of the Conservation Area.

For clarity add at end of paragraph 79: 'The Town Centre Improvement Plan is a draft document and will be subject to a public consultation.'

Policy 4: Tourist attractions and accommodation

37. Policy 4 seeks to support the tourism economy in the parish. This reflects the approach in the Local Plan (Policy RA1 for Highworth and Policy EC1: Economic Growth through existing Business and Inward Investment) which broadly seeks to realise the parish's tourist potential through appropriate attractions and accommodation as an historic market town and gateway to the Cotswolds. This is consistent with national policy to enable rural tourism that respects the character of the countryside.

38. The policy and explanation are broadly in accordance with the basic conditions, and support sustainable development. I have made minor amendments to delete the references for development to be in accordance with other policies in the development plan. I have no further comments.

39. I recommend the following modifications to **Policy 4**:

A. Proposals for the provision of new or extended visitor attractions including cafes, pubs and restaurants ~~(sui generis)~~, and other enhancements to the visitor experience of Highworth will be supported.

B. Proposals for new visitor accommodation will be supported. ~~where they are in compliance with other Development Plan policies~~.

Policy 5: Blackworth Employment Area

40. Blackworth Employment Area is identified in Local Plan Policy EC2 as a Key Employment Area which should be retained for B1, B2 and B8 use classes. Local Plan Policy EC2 includes a broad list of criteria against which proposals for non-B class uses are to be assessed. It is clear from my site visit that the employment area is well established and continues to be an important local business location.

41. Local Plan Policy RA1 allocates 5 hectares of land to the north of the existing industrial estate for B Class uses including criteria which ensures that no more than 50% of the site will be developed for B8 use class (storage and distribution). Policy 5 includes a statement that the Local Plan allocates land for employment. It is not necessary to duplicate the Local Plan and for this reason should be removed and included in the supporting text as background information.

42. National policy supports the expansion of the economy in rural areas ensuring that development is sensitive to its surroundings and exploits opportunities to make the location more sustainable. Local Plan policy RA1 makes it clear that the local priority is to focus shops, services, and facilities in Highworth Town Centre. In my view, this is appropriately reflected in the approach to Use Classes in the policy.

43. Although the Local Plan applies a restriction on the amount of B8 storage and distribution floorspace on the proposed employment area, I have no evidence to demonstrate that such an approach is necessary at the existing estate. Equally, the requirement for offices to provide operational / administrative functions, research and development of products / process and industrial processes is inconsistent with national policy which seeks to support the sustainable growth and expansion of all types of business.

44. For clarity, the supporting text to the policy should be clear that the policy cannot remove the statutory provisions of the General Permitted Development Order (GPDO). I recommend the following modifications to **Policy 5**:

The Blackworth Industrial Estate is a designated Key Employment Area where Class E(g), B2, B8 and sui generis uses are supported. ~~All planning applications should take into account the relevant provisions of Policy EC2 of the Swindon Borough Local Plan~~.

~~The provisions of Swindon SBC Local Plan Policy RA1(b), as shown on Figure 7, allocates land to the north of the Blackworth Industrial Estate for Class E(g), B2, B8 and sui~~ generis uses.

Proposals for Class B2 general industrial must consider operational noise and impacts upon residential amenity. Where appropriate to the location, scale and nature of the proposal, a noise impact assessment should be submitted to demonstrate that it would not cause harm to noise sensitive receptors.~~will be required with all planning applications~~.

~~Proposals for Class B8 storage and distribution must not exceed 50% of the total permitted floorspace.~~

~~Proposals for Class E(g) offices must provide for operational/administrative functions, research and development of products/processes and industrial processes.~~

Proposals for Class E(a), Retail E(b) (sale of food and drink) and E(c) (financial services) will not be supported ~~as they should be directed to Highworth's Town Centre. (HNP2, Policy 3).~~

Proposals for residential institutions (Class C2) and dwellinghouses (Class C3) will not be supported ~~or permitted~~.

In all cases, ~~due regard must~~ consideration will be given to the job creation capability of the activity, the choice of sustainable transport modes for employees ~~to get to work~~ (walking, cycling and public transport), ~~and the operational~~ car parking and ~~the~~ servicing provision~~of the unit~~.

This policy does not aim to, and cannot, remove the statutory provisions of the General Permitted Development Order (GPDO) and should be applied only to applications outside the scope of permitted development.

Amend the final sentence of paragraph 87 to: The blue dashed line in **Figure 7** shows the full extent of the employment allocation identified in policy RA1 of the Swindon Local Plan, to ~~include land to~~ the north of Blackworth Industrial Estate which is land designated as a Key Employment Area ~~covered under EC1 and EC2.~~

Add after paragraph 88: 'Proposals for change of use between different business activities may not need planning permission. This policy does not aim to, and cannot, remove the statutory provisions of the General Permitted Development Order (GPDO) and should be applied only to applications outside the scope of permitted development.'

Policy 6: Community Facilities and Infrastructure

45. Policy 6 seeks to support the retention of community facilities. It identifies those facilities to which Local Plan policy CM4 should be applied when considering a proposal involving the loss of the facility. It also sets out the circumstances where a development may be considered favourably. Policy 6 also supports the provision of increased medical and health service capacity.

46. The policy and explanation are consistent with the adopted neighbourhood plan, the Local Plan and national policy to retain and promote accessible local services and community facilities. The policy refers to Table 9 rather than Table 8 which lists community infrastructure priorities. I recommend a modification to remedy this anomaly.

47. Parts B and C of the policy simply duplicate the criteria against which proposals will be considered. I recommend modifications for clarity and to avoid unnecessary duplication.

48. There are several issues raised by local resident's representations. Representations note that Bang to Rites is detailed twice in Appendix 5 and St Michael's church is no longer available for hire. Although not part of my consideration to meet the Basic Conditions, I would recommend that these anomalies and other typographical and grammatical errors are remedied in the referendum version of the Neighbourhood Plan. I would also recommend that any updates to the availability of the community facilities are made

including any appropriate references to the Community Cider Project, the need for a youth club and the Aldi Supermarket to the supporting text.

49. Part E of the policy seeks to ensure that the Town Council is consulted to determine any contribution that might be required to additional burial capacity. This is a process issue and more appropriately located in the supporting text.

50. I recommend the following modifications to **Policy 6** as follows:

A. Proposals for new or extended community facilities will be supported.~~and involving the loss of such facilities will be considered in relation to Swindon Borough Local Plan policy CM4 and other relevant policies in the Development Plan for those facilities listed in Table 9~~8.~~.~~

B. Development proposals that will result in the loss, or significant reduction in the scale and value of a community facility, including those facilities listed in Table 8, will not be ~~permitted~~ supported unless alternative facilities of equal or better accessibility, size and suitability are provided. Alternatives may be considered favourably if it can be demonstrated that;

i. The facility is not in demand by the community for whatever reasons, or

ii. The facility is no longer economically viable for the established use, and it has been actively marketed at a reasonable price for at least 12 months for the purpose (or any other suitable community facility use) and no interest in acquisition for that established use has been expressed.

~~C. If it can be demonstrated that the operation of the asset is not in demand by the community or no longer economically viable, and it has been Marketed at a reasonable price for at least a year for that, or any other suitable community facility use, and no interest in acquisition has been expressed, then alternatives may be considered that take into account the loss of the asset.~~

D. Increased medical and health service capacity will be supported.

~~E. All housing proposals should consult with Highworth Town Council to determine existing burial capacity and contribution towards additional provision.~~

Insert section E relating the burial capacity at the end of paragraph 100.

Update the availability of the community facilities in the supporting text to accurately reflect the current services and facilities.

Policy 7: Design

51. National policy seeks to achieve well designed places and is recognised as a key aspect of sustainable development. Plans are encouraged to set out a clear design vision and expectations so that applicants have as much certainty as possible. Neighbourhood Plans are identified as having an important role in identifying the special qualities of each area and explaining how this should be reflected in development by engaging in the production of design policy. Design Guides and Codes provide a local framework for creating beautiful and distinctive places with a consistent and high-quality standard of design.

52. Policy 7 is broadly consistent with the principles of sustainable development and national and adopted Local Plan policies. Representations seek to secure specific interventions to secure greater levels of energy efficient design and renewable energy. I have recommended modifications that support the flexibility required by national guidance, and to more accurately reflect the conclusions of the Highworth Design Guidance and Codes and the Highworth Conservation Area Appraisal 2006.

A. ~~All planning applications~~ Development proposals, where appropriate in scale, nature and location ~~will~~ should be prepared in accordance with the Highworth Design Guidance and Codes.
B. In Conservation Areas the respective Conservation Area Appraisal and Management Plan will be an important point of reference in design assessments.
C. Boundary wall treatments ~~are to~~ should, where appropriate, preserve existing stone boundaries, and extend and reflect this local feature.
D. The local building materials should reflect the local vernacular, including the use of stone and red brick as the ~~are the preferred~~ main elevation materials in the Conservation Area, particularly development which is prominent in the street scene and public realm.
E. New landmark native trees, should, where appropriate be incorporated into the soft landscaping scheme of any development proposal.

F. Development should be designed to integrate with the existing neighbourhood and work with the character and appearance of existing buildings and the surrounding area.

G. Where appropriate to the scale, location and nature of the scheme, major development proposals will be expected to undertake design review by ~~means of~~ referral to the Swindon Design Review Panel and the published Planning Protocol of Highworth Town Council.

H. ~~All~~ Where appropriate to the scale, location and nature of the scheme, development proposals should aim to maximise the energy efficiency of a building's performance, harvest rainwater effectively and efficiently and utilise renewable energy technologies.

Policy 8: Landscape and Views

53. National policy seeks to protect and enhance valued landscapes. Local Plan Policy EN5: Landscape Character and Historic Landscape sets out criteria which supports development that protects the intrinsic character, diversity and local distinctiveness of the landscape and avoids the unacceptable impact upon the landscape. Applicants are required to demonstrate how they have considered the potential impacts upon important views, and the landscape character.

54. The Highworth Design Guidance and Codes Report highlights the importance of views within Highworth and also long-distance views from historic assets towards the open countryside.

55. In response to my questions, the Town Council has confirmed that the views identified in the updated Neighbourhood Plan are, in their view, more robust, reflecting a community-based approach compared to the existing views identified in the Adopted Neighbourhood Plan. The Town Council confirm that only views that are publicly accessible are included. I have had regard to the details submitted in Appendix 6 of the Town Council's response which sets out the details of public consultation on the viewpoints. In response to representations, the Town Council states that viewpoints from the west ridge and Stanton were considered as part of the wider assessment and those meeting an agreed criteria were taken forward to the Neighbourhood Plan.

56. I do not have benefit of any detailed assessment of the views submitted nor any description which identifies their distinct attributes which are valued by the local community. As such I accept that the Neighbourhood Plan should be planned positively, and views should be a consideration and respond positively to the landscape character.

57. As recognised on my site visit, I acknowledge that the views are valued by the local community and capture the importance of views both into and out of the settlement recognised in the Design Codes and Guidance. However, Figures 9 and 10 detailing the location of the viewpoints are ambiguous and do not provide a sound basis on which a decision maker can make an assessment of the impact upon any view. The use of the 'Three Words' approach detailed in Appendix 6 is not an appropriate substitute. This is particularly important for locations within the settlement where the dark shading of the built development obscures the location of the viewpoint.

58. Neighbourhood Plans cannot make amendments to SBC's Validation Checklist. As such the second sentence in the policy should be deleted and located in the supporting text for information.

59. I make the following recommended modifications:

~~A.~~ The impact of development should respond positively to the ~~on~~ landscape character and important views shown on Figures 9 and 10 will be taken into account ~~and resisted where it is deemed to be~~ to ensure proposals are not unduly intrusive or unrelated to existing natural or man-made features. ~~A Landscape and Visual Impact Assessment must be submitted in support of a development proposal where it accords with the requirements of Swindon Borough Council's planning application Validation Checklist.~~

Add at paragraph 106: 'A Landscape and Visual Impact Assessment may be required in support of a development proposal where it accords with the requirements of Swindon Borough Council's planning application Validation Checklist. Applicants are advised to contact SBC.'

Figures 9 and 10 are to clearly identify, on an appropriate scale map or maps, the location of the viewpoints clearly showing their location on a publicly accessible point.

Policy 9: Open Space

60. Policy 9 – Open Space brings forward protection for the open space sites identified in the adopted Neighbourhood Plan with the exception of the northern part of the Old Golf Course Site. This policy supports a contribution to sustainable development, is in accordance with national policy and reflects the approach in the adopted Local Plan.

61. The list of sites includes site number 16 - Eastrop Infant School, is not listed in the adopted Neighbourhood Plan and is not identified in Figure 11: Open Spaces in the Highworth Neighbourhood Plan Area. As such, I recommend modifications to delete reference to this site in the policy and the remaining list of sites renumbered accordingly to align with Figure 11.

62. From my site visit and the information submitted I have no doubt that these open space sites continue to perform and function as important open spaces that are valuable to the local community. I make the following recommendation:

Delete site number 16 –Eastrop Infant School from the list of open space sites in the policy and renumber the remaining sites accordingly.

Policy 10: Local Green Spaces

63. I am satisfied that the evidence in Appendix 7 demonstrates that the Local Green Spaces brought forward from the adopted Neighbourhood Plan continue to comply with the assessment criteria in NPPF necessary to identify the sites as Local Green Spaces. I am satisfied that sites two to five will continue to be valuable to the community and will endure beyond the end of the Neighbourhood Plan period. The identification of the sites is consistent with the principles of sustainable development.

64. The Local Green Space for the northern part of the Old Golf Course proposal has clearly been a significant issue for the review of the Neighbourhood Plan. I am acutely aware of strength of local support for identification of the site as a Local Green Space

including a local petition which has secured support from over 4,600 people and represents support from 56% of the local residents. On my site visit it was apparent that the site is valued by local residents for walks and informal recreation particularly given its close proximity to the town centre, its relative tranquillity and flat geography and its acknowledged biodiversity with 300 recorded species. Representations argue strongly that the area is a critically important accessible green space, there is limited, suitable alternative green space in the parish, it is essential for the health of the local community and was given to the Council for the longer-term benefit of the community. I also note the Golf Course is identified as an Asset of Community Value registered on 5th November 2024 remaining in place until 2029. This designation recognises the assets importance to the social wellbeing or social interests of the local community. This is distinct from the tests for a Local Green Space.

65. NPPF identifies criteria where Local Green Space should be designated. I am satisfied that the site is in reasonably close proximity to the community given the significant number of access points from the town centre and surrounding residential areas. The evidence submitted to the examination demonstrates that the location is demonstrably special to the local community and holds a particular significance because of its recreational value, tranquillity and richness of wildlife and habitats.

66. However, I must have regard to national guidance which requires me to assess whether the site is local in character and not an extensive tract of land. There are no hard and fast rules about the definition of the size of a Local Green Space as stated in the Town Council's response.[13] I have had significant regard to the submissions by Cllr Julie Murphy, the Town Council comments and the significant number of representations from the local community.

67. The Town Council confirms that the Local Green Space totals 24 hectares and forms part of the former Highworth Old Golf Course totalling 42 hectares. The northern part of the site is defined on its northern boundary by residential curtilages; to the east by residential curtilages, recreation space, agricultural land, and allotments. The

[13] See Paragraph: 015 Reference ID: 37-015-20140306.

boundaries to the south and west are less well defined, with some delineation by footpaths and some landscaping including hedgerows and trees.

68. The area is within the 'Open Countryside and Outlying Settlements' Character Area defined in the Highworth Design Guidance and Codes. Photographs 22 and 23 in the Neighbourhood Plan acutely demonstrate that the site is seen from the settlement as part of the wider countryside rather than a distinct, delineated, and contained space. From my assessment made at my site visit I interpret that the Local Green Space is an extensive area of land perceived as part of the wider countryside location situated at the entrance to the village. This contributes to its rural setting and hilltop location. The site also incorporates a residential property which does not comply with the Local Green Space tests. Following my site visit and the information submitted to this examination, I conclude that the site is not local in character and is an extensive tract of land.

69. I recommend modifications that the Old Golf Course is deleted from **Policy 10**, the policies maps, the supporting text, and Appendix 7. **Policy 10** should be amended accordingly. I also recommended that the site is reinstated as an open space in **Policy 9** and the maps, supporting text and appendices amended accordingly.

70. I am in no doubt that the Town Council and local community will be disappointed at the conclusions reached. I note that representations are made that the Local Green Space is an essential mechanism or policy tool to help resist development proposals. However, it must be clarified that Local Green Spaces should not be used in a way that undermines the aim of plan making.[14] For the avoidance of doubt, I am also clear that this examination should be focussed on whether the site meets the criteria set out in national policy to identify the site as a Local Green Space. In this regard, it must be stated that this finding does not in any way imply that the site is suitable or appropriate for development.

71. On a minor point, the explanation section of the report has not been updated to reflect the most recent NPPF paragraph numbers. I recommend that this is addressed.

[14] See Reference ID 37 007 20140306

Policy 10: Local Green Spaces

The following areas, as listed in Table 10 as shown on Figure 13 and mapped in Appendix 7 are designated as Local Green Space:

~~1. The Old Community Golf Course (northern section)~~

2. Village Green
3. Highworth Cemetery
4. Highworth Parish Church Churchyard
5. Sevenhampton Churchyard

~~Policies for managing development within the Local Green Spaces should consider the appropriateness of the land use and built development in preserving the prevailing sense of openness.~~ Development on these sites will not be supported unless they are consistent with national policy for Green Belts.

Site 1. The Old Golf Course is deleted from the policies maps, the supporting text and Appendix 7.

Add the northern part of the Old Golf Course site to the open space in policy 9 and the maps, supporting text and appendices amended accordingly.

Policy 11: Sustainable Transport

72. National policy supports the identification of sites and routes which could be critical in developing infrastructure to widen transport choices and provide attractive and well-designed walking and cycling networks. Local Plan Policy RA1: Highworth seeks to improve the accessibility of Highworth by public transport, walking and cycling and provide links to SBCs existing cycle infrastructure. I have no doubt that such initiatives identified in Policy 11 are consistent with the principles of sustainable development and support the implementation of Policy RA1.

73. The identified public rights of way networks are brought forward from Neighbourhood Plan 1 and SBC's Local Cycling and Walking Improvement Plan. Part A of the policy is brought forward from the Adopted Neighbourhood Plan, and I have no further comments other than modifications to address a typographical error. I note representations seek to include detailed interventions, links, or comments on key congestion points. However, I am not required to make these amendments to ensure the

Neighbourhood Plan meets the Basic Conditions. The Town Council has advised that the Town Centre Improvement Plan will be subject to a public consultation and therefore there will be an opportunity to consider detailed comments and proposals to reconfigure the schemes.

74. Parts A, B, D and E of the policy seek to protect and enhance the network of public rights of way shown in Figures 16 to 19 and there is a considerable amount of duplication which is unnecessary. I recommend modifications to consolidate the policy and avoid duplication as follows.

A. Development will be expected to protect and where appropriate to its scale, nature and location, enhance the network of existing public rights of way in the Neighbourhood Plan Area shown in Figures 16 to 19. Enhancements should make, wherever possible, the paths accessible to those with special access needs and complete missing links in the network and severance of existing links due to traffic and other obstacles.

B. Existing patterns of connectivity and permeability offered by networks of pedestrian paths through residential developments as highlighted in Figure 16 ~~will~~ should be protected and extend, where appropriate, in new residential schemes.

C. All cycling provision ~~will~~ should be designed in accordance with the Department of Transport Cycle Infrastructure Design: Local Transport Note 1/20 and SBC's Cycle Parking Standard SPD and where possible, segregated cycle paths ~~will~~ should be provided alongside new footpaths. To include support links from Highworth to Swindon's comprehensive cycling and walking network.

D. ~~Proposals that improve the existing and proposed walking and cycling network improvements identified in Figures 16-19 will be supported. Such improvements will be provided by~~ Financial contributions will be sought for these improvements where housing and commercial development ~~where they~~ are reasonably related to and will give rise to ~~increased use of~~ the need for improvements to the walking and cycling network.

~~E. Links to the walking and cycling network improvements identified in Figures 16-19 will be provided by major housing and commercial schemes where the development will give rise to increased use of the walking and cycling network.~~

Policy 12: Biodiversity and nature recovery

75. Policy 12 seeks to support the Green Infrastructure Network identified in the Local Plan and align with the Wiltshire and Swindon Local Nature Recovery Strategy (LNRS). The policy also seeks to retain existing trees, hedgerows, and wildlife corridors. The policy also requires planning applicants to submit evidence in planning applications to satisfy a number of criteria related to the implementation of Biodiversity Net Gain (BNG).

76. The updated regulations requires me to assess:

> '*So far as the qualifying body considers appropriate, and having regard to the subject matter of the plan, the plan must: .....*
> *b) be designed to take account of any local nature recovery strategy, under section 104 of the Environment Act 2021, that relates to all or part of the neighbourhood area in particular—*
> *(i) the areas identified in the strategy as areas which—*
> *(A) are, or could become, of particular importance for biodiversity, or*
> *(B)are areas where the recovery or enhancement of biodiversity could make a particular contribution to other environmental benefits,*
> *(ii)the priorities set out in the strategy for recovering or enhancing biodiversity, and*
> *(iii) the proposals set out in the strategy as to potential measures relating to those priorities*.'

77. The Town Council, as qualifying body, in its response to me states that the LNRS is relevant to the subject matter in the Neighbourhood Plan. Therefore, I must ensure that the Neighbourhood Plan is compatible with the LNRS.

78. The submission Neighbourhood Plan was prepared ahead of the publication of the Wiltshire and Swindon Nature Recovery Strategy (LNRS), adopted in late 2025. Indeed, the commentary in the Neighbourhood Plan states that the policy was intended to inform the emerging LNRS.

79. The LNRS identifies nine areas that are of BNG Strategic Significance with mapped priority habitats. It also identifies areas that are not of BNG strategic significance. In areas of "high strategic significance" for habitat creation and enhancement, biodiversity

units generated through BNG receive a 15% uplift in the biodiversity metric, making LNRS-aligned projects more valuable and impactful.

80. The LNRS states that 'Planning authorities will use the LNRS to guide off-site BNG delivery, ensuring it connects with existing habitats and aligns with strategic ecological goals.' I note the Town Council's state that Figure 20 represents locally derived evidence of areas of ecological value and opportunity within the neighbourhood plan area. However, the mapping in Figure 20, which identifies the nature recovery priority areas where BNG would be most impactful, is inconsistent with the identified areas of ecological importance and opportunity for enhancement in the LNRS. It is also unclear how the areas of local ecological value have been determined or their particular local characteristics.

81. In my view, Policy 12 is compatible with the broad principles and priorities of the LNRS. However, the Nature Recovery Area would not be consistent with the areas where BNG would be most impactful. I make recommended modifications to ensure that the Neighbourhood Plan is compatible with LNRS.

82. Since the adoption of the Neighbourhood Plan, the Environment Act 2021 has prescribed mandatory Biodiversity Net Gain requirements (a minimum of 10% for all qualifying developments). Government Guidance on Biodiversity Net Gain sets out the process by which BNG will be determined through the planning process. It states:

> *'The statutory framework for biodiversity net gain has been designed as a post-permission matter to ensure that the biodiversity gain objective of achieving at least a 10% gain in biodiversity value will be met for development granted planning permission. Once planning permission has been granted, unless exempt, a Biodiversity Gain Plan must be submitted and approved prior to the commencement of that development.'*

83. An ecological assessment evaluates the potential effects of a development on ecological interests and can support but not necessarily demonstrate the implementation of BNG. Government guidance sets out the required mechanisms including habitat management and monitoring plans and Biodiversity Gain Plans. I have made modifications to take a positive approach to these issues and avoid repeating the Environment Act 2021 or requiring submissions that do not align with national guidance as follows.

Policy 12: Biodiversity and nature recovery

A. Where appropriate to the scale, nature and location, development ~~must~~ should support the implementation of the green infrastructure network as identified by the Swindon Local Plan Policy EN1 and Policies Map~~, which includes the local sites identified in HNP2. And~~ and ~~align~~ takes account of and implements where possible measures identified as a priority in the ~~with~~ Wiltshire and Swindon Local Nature Recovery Strategy.

B. Development proposals ~~must~~ should seek to retain existing trees, hedgerows, and wildlife corridors. Development proposals affecting trees, hedgerows and wildlife corridors ~~must~~ and where appropriate, should be accompanied by a detailed arboricultural survey which justifies any removal of trees and hedgerows in terms of their health or danger presented as a result of condition or position. Trees to be retained must be protected during the construction phase of the development.

C. ~~Applicants for development where biodiversity Net Gain is a requirement should provide evidence in planning applications that the following has been investigated and, where necessary, will be implemented:~~ In addition to the mandatory Biodiversity Net Gain requirements as established by the Environment Act 2021, the following additional requirements are supported:

i. Contact ~~has been made~~ with Swindon Borough Council to ~~determine whether work has been done towards the preparation of the Nature Recovery Strategy and~~ seek advice on any conclusions and recommendations of the Local Nature Recovery Strategy ~~available~~ that relate to the proposal.

ii. Where Biodiversity Net Gain cannot be delivered on site, ~~Applicants must work with Swindon Borough Council to identify ways that it can be delivered~~ off-site provision will be supported in the Highworth Neighbourhood Area to take account of and implement the priorities in the Local Nature Recovery Strategy.

~~iii. Where off-site Biodiversity Net Gain is proposed, this should be focused on the Nature Recovery Areas shown in Figure 20.~~

iv. ~~All planning applications should be accompanied by~~ Where appropriate to the scale, location and nature of the proposal, the submission of an Ecological Impact Assessment to demonstrate how a project may impact biodiversity and what measures can be taken to mitigate negative effects ~~how long-term Biodiversity Net Gain, both~~

~~on site or off-site will be delivered with enduring benefits and management where necessary~~.

~~v. Only where off-site biodiversity can be proven to be undeliverable within the Neighbourhood Plan Area can out of Neighbourhood Plan Area biodiversity improvements be considered.~~

~~vi. Planning proposals must demonstrate that the owner of the land, where Biodiversity Net Gain is proposed, has agreed to the proposals and will fully cooperate in its delivery.~~

The supporting text should be rewritten to recognise the changes to the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning Act 1990, the implementation of the Environment Act 2021, and the adoption of the Wiltshire and Swindon Local Nature Recovery Strategy and its priorities. The extensive maps and information detailing the environmental baseline data should be retained in the Neighbourhood Plan for information where they are consistent with the LNRS.

Monitoring

84. This section contains a succinct description of quarterly monitoring to be completed by the Planning Committee of the Town Council. For clarity, the monitoring should be reported to the Town Council. I recommend that an additional sentence is added at paragraph 150 to state: 'Quarterly Monitoring Reports will be submitted to the Town Council'.

PART 4

CONCLUSIONS

1. In essence, subject to the adoption of the various recommended modifications and amendments set out above made in order to address various perceived deficiencies in the draft Neighbourhood Plan, I am satisfied that it should thereafter be compliant with the statutory requirements. The Policies set out in the draft Neighbourhood Plan are broadly justified by legitimate aims protection of the environment; amenity of local people; support for the local economy; conservation of landscape and local housing needs. I am also satisfied that they do not strike an intrinsically unfair balance. I am further satisfied that the Policies will in general conform with the existing statutory development plan and support sustainable development.

2. In addition, in my judgment, I also conclude that the significance or substance of the modifications proposed to the Neighbourhood Plan by the Town Council do change the nature of the Neighbourhood Plan. Accordingly, in my judgment, the Neighbourhood Plan requires a Referendum.

Edward Cousins
Examiner

Radcliffe Chambers

6th July 2026