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# **Report on Kinver Neighbourhood Development Plan to 2038**

**An Examination undertaken for South Staffordshire Council with the support of Kinver Parish Council on the December 2022 submission version of the Plan.**

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Date of Report: 13 June 2023

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## **Main Findings - Executive Summary**

From my examination of the Kinver Neighbourhood Development Plan (the Plan/KNP) and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body (QB) – Kinver Parish Council;
- The Plan has been prepared for an area properly designated – the Parish of Kinver as shown on Map 1.2-1 (page 5) of the Neighbourhood Development Plan;
- The Plan specifies the period to which it is to take effect: from adoption to 2038; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

## **1. Introduction and Background**

### **Kinver Neighbourhood Development Plan**

- 1.1 The Neighbourhood Development Plan Area for Kinver was approved by South Staffordshire Council (SSC) in September 2020 and comprises the Parish of Kinver. The Kinver Neighbourhood Development Plan Steering Group (KNPSG) was then established comprising Parish Councillors and local residents to take the process forward.
- 1.2 The Parish of Kinver is a large semi-rural area at the southernmost tip of South Staffordshire and lies to the west of the Black Country conurbation. The village of Kinver is the main centre of population in the Parish, with outlying settlements including Stourton, Iverley and Lawnswood. Stourbridge lies some 4 miles to the east, with Kidderminster at a similar distance to the south and Wolverhampton 12 miles to the north. To the south and west the Parish is bordered by the rural areas of Worcestershire and Shropshire.
- 1.3 Kinver Parish covers an area of about 4,196 hectares with a population of about 7,225 people in 3074 households at the 2011 Census. The latest 2020 population estimate is slightly lower at 7,066, with the proportion of older people greater than the South Staffordshire or national average. The

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trend is for this to increase while the number of young people (under 44 years) is falling.

- 1.4 Within the Parish the landscape is made up of woodlands, pasture and arable. There is a strong network of footpaths and bridleways as well as canal towpaths and the area is attractive to visitors from the nearby population centres, serving as a 'green lung' for the Black Country conurbation. The National Trust site of Kinver Edge is estimated to attract more than 250,000 visitors per year.
- 1.5 Home ownership within the Parish is above the national average and rising and there is a higher than average proportion of 4+ bedroom houses. The Housing Needs Assessment<sup>1</sup> indicates that house prices are above the level that households on an average income could afford to buy. Public transport is limited to bus services which are poor, apart from in those areas closer to the conurbation.
- 1.6 Kinver has 3 schools which take pupils from infants through to the sixth form, and 3 pre-schools. The village is one of the largest within the District and acts as a service centre for smaller villages being well served by shops and eating establishments. In the wider Parish, there are pubs and restaurants, farms, garden centres, care and retirement homes, equine liverys and a major anaerobic digestion facility.
- 1.7 Within the Parish there are 3 Conservation Areas (Kinver and the two canal corridors). The village High Street was laid out as a 13<sup>th</sup> Century planned town with a wide central street to house a market and flanked by houses on long narrow plots. A number of the historic buildings remain. Evidence of earlier habitation includes the Hill Fort on Kinver Edge and the Greensforge Roman Fort. The Parish is the centre of the largest group of inhabited rock-cut buildings in Britain and one of the largest in Europe, many of which date back to the Middle Ages.
- 1.8 Kinver Edge and two tracts of stream-side ancient wet woodland are designated SSSIs<sup>2</sup>; lowland heath, a rare habitat nationally, is present at Kinver Heath and other locations and projects are underway to connect these habitats within the area. There are also 20 non-statutory wildlife sites within the Parish.
- 1.9 Responses to community consultation indicate that the rural setting, village character, heritage assets and wildlife of Kinver are greatly valued by the local population.
- 1.10 The KNP is required to be in general conformity with the strategic policies of the statutory Development Plan. This is the South Staffordshire Local Plan which comprises the Core Strategy 2012 and the Site Allocation Document 2018. A review of the South Staffordshire Local Plan (2018-

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<sup>1</sup> AECOM 2021.

<sup>2</sup> Sites of Special Scientific Interest (SSSIs).

2039) is currently in progress and the Regulation 19 Local Plan Review (LPR) was published in November 2022. The KNP seeks to take account of the emerging policies of the LPR. I address the matter of general conformity of the KNP with the adopted strategic policies of the Development Plan throughout my report.

### The Independent Examiner

- 1.11 As the Plan has now reached the examination stage, I have been appointed as the examiner of the KNP by SSC, with the agreement of Kinver Parish Council (KPC).
- 1.12 I am a chartered town planner and retired government Planning Inspector, with more than 45 years of experience in the private and public sectors. I am an independent examiner, and do not have an interest in any of the land that may be affected by the draft Plan.

### The Scope of the Examination

- 1.13 As the independent examiner I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
  - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
  - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.14 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended)('the 1990 Act'). The examiner must consider:
- Whether the plan meets the Basic Conditions.
  - Whether the plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
    - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
    - it sets out policies in relation to the development and use of land;
    - it specifies the period during which it has effect;
    - it does not include provisions and policies for 'excluded development'; and

- it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.
- Whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum.
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended)('the 2012 Regulations').

1.15 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

### The Basic Conditions

1.16 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area;
- Be compatible with and not breach European Union (EU) obligations (under retained EU law)<sup>3</sup>; and
- Meet prescribed conditions and comply with prescribed matters.

1.17 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that 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.<sup>4</sup>

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<sup>3</sup> The existing body of environmental regulation is retained in UK law.

<sup>4</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

## 2. Approach to the Examination

### Planning Policy Context

- 2.1 The following documents set out the strategic policies of the Development Plan for South Staffordshire with which the KNP is required to be in general conformity:
- South Staffordshire Local Plan Core Strategy 2012 (SSCS)
  - Site Allocations Document 2018 (SAD)
  - Policies Maps
- 2.2 The adopted plans are currently subject to review as the South Staffordshire Local Plan 2018-2039. A Regulation 19 Publication Local Plan Review was issued in November 2022.
- 2.3 Work on the KNP was started in 2020 and the submitted KNP has therefore been prepared to be generally in conformity with the adopted Development Plan policies. In respect of the emerging LPR, work on the KNP has also sought to take into account the advice in the Planning Practice Guidance (PPG) that "The local planning authority should work with the qualifying body so that complementary neighbourhood and local plan policies are produced. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies".<sup>5</sup>
- 2.4 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The PPG offers guidance on how this policy should be implemented. A revised NPPF was published on 20 July 2021 and it is this document to which I have had regard in determining whether the KNP meets the Basic Conditions along with its accompanying PPG.

### Submitted Documents

- 2.5 I have considered all policy, guidance and other reference documents I consider relevant to the examination, alongside those submitted. These include:
- Submission version Kinver Neighbourhood Development Plan (December 2022);
  - Basic Conditions Statement (December 2022);
  - Consultation Statement (December 2022);
  - Strategic Environmental Assessment and Habitats Regulations Assessment Screening Statement (May 2022);
  - Local Green Space Designation Site Selection and Review (August 2022)
  - Responses to the Regulation 16 submission consultation; and

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<sup>5</sup> PPG Reference ID: 41-009-20190509.



- Responses of 3, 16 and 26 May 2023 from KPC, and 5 and 17 May from SSC, to the Examiner’s questions of 13 April and 15 May 2023.<sup>6</sup>

I have also had regard to the all the documents listed in the Appendix to the KNP.

### Site Visit

- 2.6 I visited the Neighbourhood Plan Area unaccompanied by any interested party on the 3 April 2023. I carried out a general review of the area in terms of its setting and character in order to familiarise myself with it and visited relevant sites and areas referenced in the Plan and evidential documents.

### Written Representations with or without Public Hearing

- 2.7 This examination has been carried out on the basis of the written submissions (written representations). The Regulation 16 consultation responses clearly articulated the objections to the Plan and presented arguments for and against the Plan’s suitability to proceed to a referendum. Furthermore, in addition to the Regulation 16 responses, I have received further clarification from KPC and from SSC in response to my letters of 13 April and 15 May 2023.<sup>7</sup> As a result, in terms of the appropriate level of scrutiny for the KNP, I consider that hearing sessions are not necessary.

### Modifications

- 2.8 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

## 3. Procedural Compliance and Human Rights

### Qualifying Body and Neighbourhood Plan Area

- 3.1 The Kinver Neighbourhood Development Plan has been prepared and submitted for examination by KPC, which is the qualifying body for an area that was designated by SSC in September 2020.
- 3.2 It is the only Neighbourhood Development Plan for Kinver Parish and does not relate to any land outside the designated Neighbourhood Plan Area.

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<sup>6</sup> View at: [Kinver Neighbourhood Plan | South Staffordshire District Council \(sstaffs.gov.uk\)](https://www.sstaffs.gov.uk/kinver-neighbourhood-plan)

<sup>7</sup> See Paragraph 2.5 and Footnote 6.

## Plan Period

- 3.3 The Plan specifies in paragraph 1.1 the period to which it is to take effect which is to the year 2038. In the interests of clarity, it would be helpful for the Plan to state the date prominently on the front cover **[PM1]**. The end date falls within the period to be covered by the emerging LPR. Whilst the KNP must be in general conformity with the strategic policies of the adopted Development Plan for SSC, the KNP would have effect in the period to be covered in the emerging review of the adopted Local Plan. In these circumstances it is appropriate for the policies of the KNP to have regard to the advice in the PPG in relation to the policies of the emerging plan.<sup>8</sup>

## Neighbourhood Development Plan Preparation and Consultation

- 3.4 Having set up the KNPSG, a questionnaire was launched in June 2021 in which the broad topics and issues identified by the KNPSG were set out together with options for addressing them in the KNP. The consultation was widely advertised in advance and throughout the period. Local organisations were also contacted to encourage members to get involved. Having sent a paper copy of the questionnaire to all households within the Parish and published the questionnaire on the KNP website, the consultation closed on the 30 June 2021. Some 558 responses were received, well distributed through the population both geographically and in terms of age groups.
- 3.5 The results of the consultation were collated and used by the KNPSG to identify main issues and begin the drafting of appropriate policies. At Stage 2, consultation on issues, aims and possible policies was undertaken with stakeholders, residents and interest groups. In particular, a targeted exercise was undertaken on the designation of sites for Local Green Space (LGS) and a draft list of 37 sites was identified. Landowners and organisations with an interest in the sites were contacted and a wider consultation exercise was carried out in February 2022. Following collation of the results, 30 LGS were included in the green space audit for potential designation in the KNP. These are listed in the August report on Site Selection and Review.
- 3.6 Further consultation was also undertaken with local businesses, both individually and in trader-group meetings, to consider how issues raised in the first consultation could be addressed and how economic activity in the village could be increased. Based on feedback received through the process of public consultation, together with advice from SSC, the draft KNP was published for formal Regulation 14 pre-submission consultation from 23 August to 4 October 2022 for the statutory 6 week period. However, although the consultation was widely promoted, it became apparent that some statutory consultees had been accidentally omitted from the email distribution.

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<sup>8</sup> PPG Reference ID: 41-009-20190509.

3.7 A second Regulation 14 consultation was therefore undertaken from 11 October to 22 November 2022. The responses from the Regulation 14 consultation were considered by the KNPSG and recommendations put forward as to whether any changes were required to the emerging KNP. The submission version of the Plan was then the subject of a further round of consultation, as required by Regulation 16 of the 2012 Regulations, from 23 January to the 6 March 2023. I have considered the representations that were made at the Regulation 16 stage in preparing this report. I am satisfied that a transparent, fair and inclusive consultation process has been followed for the KNP. Due regard has been had to the advice in the PPG on plan preparation and engagement, and the KNP is procedurally compliant in accordance with the legal requirements.

### Development and Use of Land

3.8 The Plan generally sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

### Excluded Development

3.9 The Plan does not include provisions and policies for 'excluded development'.<sup>9</sup>

### Human Rights

3.10 No issues have been raised in relation to any potential for a breach of Human Rights (within the meaning of the Human Rights Act 1998). From my independent assessment, I see no reason to find otherwise.

## 4. Compliance with the Basic Conditions

### EU Obligations

4.1 The KNP has been the subject of a Strategic Environmental Assessment (SEA) Screening Statement and a Habitats Regulations Assessment (HRA) Screening Statement published in May 2022. The SEA screening assessment concludes that it is unlikely there will be any significant environmental effects arising from the KNP. No issues have been raised by any of the statutory consultees. I have read the screening report and have no reason to disagree with its findings.

4.2 Although there are no internationally designated sites within the boundaries of the KNP area, a HRA Screening was also carried out in view of the location of the Fens Pool Special Area of Conservation (SAC) which lies some 3.6 km to the east of the Plan area. This accords with the

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<sup>9</sup> See section 61K of the 1990 Act.

approach taken by SSC for the SSLP which included European sites within 20 km of the plan area. The screening by SSC showed that there were no likely significant effects on the Fens Pool SAC resulting from proposals within the SSLP. Since the KNP does not seek to allocate any sites for future development, it is unlikely that any significant environmental effect will arise as a consequence of the implementation of the draft KNP. No issues have been raised by the statutory consultees. I have read the screening report and have no reason to disagree with its findings.

## Main Issues

- 4.3 I have approached the assessment of compliance of the KNP with the remaining Basic Conditions as two main matters:
- General issues of compliance of the Plan, as a whole; and
  - Specific issues of compliance of the Plan policies.

## General Issues of Compliance of the Plan

### *Regard to National Policy and Advice*

- 4.4 The KNP sets out the background and context to its preparation and provides a broad description of the character and appearance of the Plan area, with its historic and attractive rural and semi-rural features. The Vision and Aims of the Plan are set out in section 2.3.
- 4.5 The Vision is clearly expressed and identifies issues which generally relate to the matters identified in NPPF Paragraph 28 as appropriate matters to be addressed through non-strategic policies in neighbourhood plans.
- 4.6 The six Aims of the KNP are based on the Vision and are grouped under six topics which, together with supporting evidence, provide the context and justification for the Plan's policies. The Policies Overview sets out the policies which relate to each of the aims. The policies have been developed to address the Vision and Aims of the KNP.
- 4.7 The KNP is positively prepared, with an aspirational but deliverable approach to the development of the Parish, and it has been shaped through early, proportionate and effective engagement within the local community. It is a requirement of the NPPF that neighbourhood plans do not promote less development than set out in the strategic policies for the area or undermine those strategic policies.<sup>10</sup> However, there is no requirement for neighbourhood plans to allocate land for residential or any other development.
- 4.8 In general, the policies of the KNP are clearly written and unambiguous<sup>11</sup>, however, I do recommend some modifications where necessary to achieve this. In addition, I make some recommended modifications where the

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<sup>10</sup> NPPF, Paragraph 29.

<sup>11</sup> PPG Reference ID: 41-041-20140306.

content of proposed policies would constitute a duplication of national policy or the policies of the SSLP.<sup>12</sup> I have also recommended modifications where proposed LGS designations would conflict with national policy.<sup>13</sup> I have taken into full account the supporting evidence and the responses provided by KPC to my questions on these matters.<sup>14</sup> Nevertheless, my recommendations are made in order to ensure that the KNP has due regard to national policy and that the Basic Conditions can be met. I discuss this further in the consideration of relevant individual policies in my report. Subject to the modifications which I recommend, the KNP has had regard to national policy and advice.

### *Contributes to the Achievement of Sustainable Development*

- 4.9 The three overarching objectives of sustainable development are interdependent and need to be pursued in mutually supportive ways in order to meet the economic, social and environmental needs of the local community.<sup>15</sup> I am generally satisfied that the policies of the KNP are capable of contributing to the achievement of the environmental objectives of sustainable development. In terms of the economic and social objectives, these require that sufficient land of the right type is available in the right places and at the right time to support growth and to ensure that a sufficient number and range of homes can be provided to meet the needs of present and future generations.
- 4.10 Whilst it is not a requirement for the KNP to allocate any sites for new housing, policies and proposals within the KNP which set unjustified constraints to the allocation of land on sustainable sites to meet the needs of future generations would hinder the achievement of the economic and social objectives of sustainable development. In this regard, I am concerned that the scale and location of proposals for LGS designation in Policy KN11 would constitute such a constraint and thus potentially conflict with the need to provide homes in sustainable locations for future generations. I address this later in my report and consider that modifications to the policy are required in order for the policies and proposals of the KNP to contribute to the achievement of sustainable development in accordance with national policies and advice.
- 4.11 Subject to the detailed comments and modifications which I set out below for individual policies, I am satisfied that the Plan would make a positive contribution to the achievement of the economic, social and environmental aspects of sustainable development.

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<sup>12</sup> NPPF, Paragraph 16 f).

<sup>13</sup> NPPF, Paragraphs 101-103.

<sup>14</sup> Paragraph 2.5, final bullet point.

<sup>15</sup> NPPF, Paragraph 8.

## *General Conformity with Strategic Policies in the Development Plan*

- 4.12 I set out the planning policy context for the KNP in section 2 above. In the SSLP, the Core Strategy 2012 (CS) identifies Kinver as a Main Service Village (Core Policy CP1), and Policy CP6 sets a minimum requirement for 91 new dwellings between 2006 and 2028. The Site Allocations Document 2018 identifies the housing requirement for Kinver taking account of changes in the housing land supply since the numbers in the CS were calculated and formally allocates sites where planning permissions have not been implemented. The SAD identifies a minimum requirement for 48 additional dwellings.<sup>16</sup> Policy SAD 2 then allocates land off Hyde Lane (east) for a minimum of 30 dwellings and Land south of White Hill for a minimum of 30 dwellings. Policy SAD 3 also identifies 3.9ha of land safeguarded for future development south of White Hill.
- 4.13 Kinver has a Development Boundary which abuts the Green Belt (GB). Policy SAD 6 amends the Green Belt to remove allocated and safeguarded housing sites from the Green Belt and extends the Kinver Development Boundary to include the allocated sites.
- 4.14 The Local Plan is currently under review for the period 2018 – 2039. The Publication Plan 2022 sets out proposals for the emerging local plan and spatial strategy and identifies Kinver to accommodate 2.6% of the District's total housing delivery. In emerging Policy DS5, Kinver is proposed as a Tier 2 settlement with growth to be delivered through housing allocations in the SSLP and through windfall housing development. Emerging Policy SA5 identifies land south of White Hill for a minimum of 120 dwellings which comprise the 38 dwellings consented on the allocated site and 82 dwellings on the safeguarded land; and land off Hyde Lane (west) to be allocated for a minimum of 44 dwellings.
- 4.15 As noted, whilst neighbourhood plans may allocate land for residential development, there is no requirement for them to do so. The KNP does not make any residential allocations and there is no conflict with adopted or emerging development plan policy in this respect. In my assessment of the individual policies of the KNP I consider whether there is any provision which would conflict with the delivery of sustainable development. I have identified the potential for conflict with the future delivery of sustainable development in Policy KN11 and address this in detail later in my report.
- 4.16 The preparation of the KNP has been the subject of a thorough process of public consultation to ensure the involvement of the community in its development. The submitted Plan has been prepared on the basis of generally robust evidence and site assessments, with the range of policies formulated to meet its Vision and Aims. The Basic Conditions require that the KNP contributes to the achievement of sustainable development and is in general conformity with the strategic policies of the development plan

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<sup>16</sup> Site Allocations Document - Table page 27.

for the area. Subject to the modifications to policies which I recommend later in my report, I am satisfied that these conditions can be fulfilled.

- 4.17 The KNP has been developed with regard to the strategic direction and policies of the adopted (and emerging) SSC Development Plan Documents, which I identify in Section 2 above. With the modifications which I recommend below, the KNP demonstrates general conformity with the strategic policies of the SSLP. SSC has been involved throughout the preparation of the KNP and is generally supportive of its policies. Subject to the detailed comments and the modifications which I recommend to the Plan's policies below, I am satisfied that the KNP would be in general conformity with the strategic policies of the Development Plan.

### Specific Issues of Compliance of the Plan Policies

- 4.18 As indicated in the box on page 15 of the KNP, a number of the policies relate to more than one of the 6 Aims of the Plan. I therefore address each policy individually, in numerical order within the Plan, and identify the relevant aim to which it relates.

### Policy KN01 Economy

- 4.19 **Policy KN01: Economy** relates to the aims of Community and Economy in the KNP. The policy seeks to support development that would complement the Village Centre. Whilst the Interpretation provides some clarification, some of the terminology within the first clause of the policy is not clear. In order to ensure that the policy itself is unambiguous in its meaning and to aid interpretation and enforcement, I recommend modifications to Clause 1 and to the Interpretation **[PM2]**. Furthermore, as community facilities are covered in Policy KN03, I recommend they are removed from Policy KN01.

### Policy KN02 Housing

- 4.20 **Policy KN02: Housing** relates to the aims for Climate Change, Community, Heritage and Housing. Concerns are raised by SSC that Clause 1 is not in general conformity with the SSLP Policy CP1. I note the amendment put forward by KPC but am not satisfied that this would secure general compliance with the Development Plan.
- 4.21 In the SSLP, Policy CP1 sets out a hierarchy of settlements for the delivery of sustainable development. Kinver is identified as one of the main service villages which are the main focus for housing growth, employment development and service provision in the SSLP. Other smaller settlements are identified for reducing levels of development, but Lawnswood, New Wood and Stourton fall within the category of "Other Villages and Hamlets" where development will only be permitted in exceptional circumstances to meet identified local needs. By identifying these villages in Policy KN02 for housing growth, the KNP is in conflict with the strategy of the SSLP which seeks to direct housing growth to sustainable locations.

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I recommend modifications to Clause 1 to ensure that it is in general conformity with the SSLP. In view of the modification proposed to Clause 1a of Policy KN02, there is no reason to retain Map KN02-1 on page 25 **[PM3]**.

- 4.22 Clause 2 seeks to ensure that schemes of 3 dwellings or more should address the local need for 2-3 bedroom dwellings. The AECOM Housing Needs Assessment supports the need for more smaller dwellings in Kinver which justifies the retention of this clause as proposed.
- 4.23 Clause 3 raises no issues of compliance.
- 4.24 In Clause 4, the KNP seeks to include specific categories of affordable housing within new development schemes in Kinver. In seeking to include specific categories, the KNP does not preclude any of the other types of affordable housing such as Social Rent, but identifies a locally specific requirement supported by housing needs assessment.
- 4.25 The inclusion of “First Homes” accords with the PPG, which requires 25% to be provided in a scheme where affordable housing is delivered through a planning obligation.<sup>17</sup> SSC consider that Rent to Buy should be deleted and replaced by Shared Ownership, since Rent to Buy is not supported in the South Staffordshire Housing Market Assessment Update (SSHMA) 2022. However, the 2021 AECOM assessment for Kinver supports the inclusion of this category. In view of its locally specific base, I consider the inclusion of Rent to Buy to be justified. In view of the findings of the more recent SSHMA, it would be appropriate to add the category of Shared Ownership. There has not been any assessment of viability to support the inclusion of affordable rented homes and for this reason I consider this category should be deleted **[PM3]**.

#### Policy KN03 Community Facilities

- 4.26 **Policy KN03: Community Facilities** relates to the aim for Community. Clause 2 of the policy is quite general and does not provide clear criteria against which a potential loss of community facilities would be assessed. In the SSCS there are a number of references to community facilities which seek to protect and promote their provision and retention. In particular, Policy EV9 sets out the tests which are to be applied in respect of a proposal for redevelopment or change of use of such facilities. I note that Policy EC9 in the emerging LPR would provide similar protection and tests. There is no need to duplicate the provisions made in the existing (and emerging) Development Plan in Clause 2 of Policy KN03 and I propose modifications accordingly **[PM4]**.
- 4.27 KPC suggest an addition to the text under the policy to refer to the Development Plan policies. However, the Development Plan should be read as a whole and there is no need for such a reference. Since this is

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<sup>17</sup> PPG Reference ID: 70-001-20210524



not an issue of compliance with the Basic Conditions, I make no proposal to modify the text.

#### Policy KN04 Sustainable Design

- 4.28 **Policy KN04: Sustainable Design** relates to the aims of Climate Change, Community, Natural Environment, Heritage and Housing. Whilst comments have been made with regard to this policy in responses to the Regulation 16 Consultation, the policy avoids being prescriptive and is sufficiently flexible in its requirements. The reference to “gaps of sufficient width” in Clause 10 is unclear but the text beneath the policy (page 32) identifies 2 metres to be a minimum. I propose a modification to ensure there is clarity in Clause 10 **[PM5]**.

#### Policy KN05 Climate Change and Building for the Future

- 4.29 **Policy KN05: Climate Change and Building for the Future** relates to the aims for Climate Change, Natural Environment, Economy and Housing. The policy raises no issue of compliance with the Basic Conditions.

#### Policy KN06 Infill

- 4.30 **Policy KN06: Infill** relates to the aims for Climate Change, Community, Heritage and Housing. SSC identifies a lack of general conformity between this policy and the Development Plan together with inconsistency with national policy. I agree with the views of SSC and propose a modification to the policy which would ensure that the policy complies with the Basic Conditions **[PM6]**.

#### Policy KN07 Natural Environment

- 4.31 **Policy KN07: Natural Environment** relates to the aims for Climate Change and Natural Environment. Clause 1 is contrary to national<sup>18</sup> and development plan policy which refers to the avoidance of significant harm. I propose a modification accordingly **[PM7]**. The 10% biodiversity net gain (BNG) in Clause 3 is proposed in Policy NB2 of the emerging LPR. Under the Environment Act 2021, all planning permissions granted in England (with a few exemptions) except for small sites will have to deliver at least 10% biodiversity net gain, expected to apply from November 2023 (BNG will be required for small sites from April 2024). In these circumstances, and since Clause 3 is not prescriptive, I consider that no modification is required.
- 4.32 Clause 6 does not provide for the replacement of trees and hedges which are of poor quality. I propose a modification to 6b. to address this **[PM7]**. Clause 7 duplicates the protection of openness and separation between settlements which is already provided by the Green Belt in Kinver Parish. I

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<sup>18</sup> NPPF, Paragraph 180.

note the KPC's wish to protect the character and amenity of rural settlements but agree with SCC that it is inappropriate within a policy directed towards the protection of the natural environment. I recommend Clause 7 be deleted. With the modifications as proposed, Policy KN07 meets the Basic Conditions **[PM7]**.

#### Policy KN08 Historic Environment

4.33 **Policy KN08 Historic Environment** relates to the aims for Climate Change and Heritage. However, Clause 1 lacks clarity in its intentions. I note that KPC indicates that the heritage assets to which it is intended to apply are covered in national policy<sup>19</sup> In view of the clear requirements set out in the NPPF which relate to heritage assets, there is no reason to seek to repeat the protection afforded at national level in the KNP. In these circumstances I propose the deletion of the Clause **[PM8]**. SSC has suggested changes to Clauses 5 and 6 with which I agree in order to secure clarity and consistency with national and development plan policy. I propose modifications accordingly**[PM8]**. I note the inaccuracy identified by SCC on page 52 in the final paragraph. This is not a compliance issue and it would be open to KPC to remedy the text in the next iteration of the Plan.<sup>20</sup> With the modifications as proposed, Policy KN08 meets the Basic Conditions

#### Policy KN09 Kinver Conservation Area

4.34 **Policy KN09: Kinver Conservation Area** relates to the aims for Heritage and Economy. The policy raises no issues of compliance with the Basic Conditions.

#### Policy KN10 Flooding and Surface Water

4.35 **Policy KN10: Flooding and Surface Water** relates to the aims for Climate Change and Housing.

4.36 National policy<sup>21</sup> sets out in detail the approach to be taken to development proposals in relation to the management of flood risk and securing of sustainable drainage systems (SuDS). I note the emerging LPR has proposed Policy NB7 which seek to address the matter, albeit this is not as yet part of the adopted development plan. Although Kinver is an area which has a risk of fluvial flooding, in my view the application of national policy more than adequately addresses the issue. In these circumstances Policy KN10 is not necessary and should be deleted in order to meet the Basic Conditions **[PM9]**.

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<sup>19</sup> NPPF, Paragraph 194.

<sup>20</sup> See paragraph 4.57 below.

<sup>21</sup> NPPF, Paragraphs 159-168.

## Policy KN11 Local Green Spaces

- 4.37 **Policy KN11: Local Green Spaces** relates to the aims of Community, Natural Environment, Heritage, and Housing.
- 4.38 Before considering the sites that have been identified, I consider it would be valuable to summarise national advice on the matter, as this will assist in understanding the conclusions that I have drawn. The NPPF (Paragraph, 102) confirms that LGS should be reasonably close to the community; demonstrably special to the community and holding a particular local significance to that community; and local in character. Designating land as LGS should also be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services and be capable of enduring beyond the end of the Plan period (NPPF, Paragraph 101).
- 4.39 The PPG<sup>22</sup> confirms that LGS should be areas of particular importance to the local community; they must be demonstrably special to the community; they will need to be consistent with local planning for sustainable development in the area; they should not undermine the aim of plan making; and where land is already protected consideration should be given to whether any local benefit would be gained by designation as LGS.
- 4.40 KPC carried out a process of site selection and review which is set out in the August 2022 Report. The report takes into account the value of green space, the policy context, community views on LGS and the criteria for LGS designation. I have read and had regard to the report, together with the responses to the Regulation 16 consultation. I have also visited all the sites proposed for designation. It is clear that the proposals for LGS designation in the KNP are valued and have considerable support from the local community.
- 4.41 I have considered all the requirements for LGS but there are three matters in particular that I consider need closer scrutiny:
- whether the proposed LGS sites are already sufficiently protected by existing policies;
  - whether all the proposed LGS sites can reasonably be described as 'demonstrably special'; and
  - whether the policy would contribute to the achievement of sustainable development.
- 4.42 On the first point, the great majority of the sites are currently within the Green Belt. In addition, many of the sites enjoy additional layers of policy protection such as national and local playing pitch policies, conservation area designation, the presence of heritage assets, nature conservation

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<sup>22</sup> See PPG section Open space, sports and recreation facilities, public rights of way and local green space (starting at reference ID: 37-005-20140306 through to 37-022-20140306).

designations, and Flood Zone 3 designation. In their response to the Regulation 16 consultation, SSC has detailed the policies and designations which apply to each of the LGS proposed in Policy KN11 which SSC suggest should be removed from the Plan.

- 4.43 A total of 28 sites are proposed for designation as LGS in Policy KN11. Each of the sites have been considered in detail in the August 2022 report. Other designations and policies which apply to each site are identified. Sites K01 – K09; K12; and K15 to K30 are all within the Green Belt. Sites K06, K08, K09 and K14 are designated as playing fields and therefore protected by national and local playing pitch policies in addition to GB protection in most cases; sites KN01, K04, K07, K19, K23, K25, K26, K29 and K30 have designations relating to biological or nature conservation and/or are managed for those purposes in addition to GB protection; sites K02, K03, K04, K05, K12, K18, and K22 are protected by heritage policies in addition to GB protection, and sites K02, K03, K04-K08, K12, K19 and K20 are within or affected by Flood Zone 3 in addition to being subject to GB protection.
- 4.44 The PPG on Open space, sports and recreation facilities, public rights of way and local green space, advises that 'if land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space'.<sup>23</sup> I have given very careful consideration to this issue and conclude that the proposed LGS identified in paragraph 4.43 above are satisfactorily protected by existing policies. I have seen no substantive evidence that would lead me to conclude that additional local benefit would result from their designation as LGS.
- 4.45 I turn now to the other criteria and advice regarding LGS (summarised in paragraphs 4.38 and 4.39 above) and, in particular, whether the sites could reasonably be described as demonstrably special to the local community. I note that identification of sites to be assessed for designation sprung from the results of the initial community survey in 2021, with some 37 sites then put forward by the KNPSG in February 2022. The local community and landowners have been fully consulted throughout the process of selection of the final 28 LGS proposed in the KNP. There is without doubt community support for the designations. However, I consider such support to be relatively subjective in nature because the potential loss of any open space is inevitably an emotive subject. Nevertheless, in the absence of any evidence to the contrary I conclude that the identified LGS sites can reasonably be considered to be special to the local community.
- 4.46 In response to my questions on Policy KN11, KPC argues that although GB protection is similar to that of LGS, the purpose of LGS designation is different to the five purposes of GB since it recognises community value and that the main purpose of the GB is to maintain the separation of

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<sup>23</sup> PPG Reference ID: 37-011-20140306.

settlements. That is not quite accurate. There are five purposes of GB designation, all of equal importance. These include: to assist in safeguarding the countryside from encroachment and to preserve the setting and special character of historic towns. Furthermore, as stated in PPG, " Designating a green area as Local Green Space would give it protection consistent with that in respect of Green Belt".<sup>24</sup> The PPG does also state that there could be exceptions to designation of land already protected by GB where the LGS designation could help to identify areas that are of particular importance to the local community. I acknowledge the value placed by the community on the areas proposed to be designated as LGS. However, I have taken into account all the evidence produced including the description of all those sites proposed for designation in the submitted Plan. However, the evidence does not lead me to conclude that any of the sites subject to GB protection are of such particular importance as to justify its designation as LGS.

- 4.47 There remains the issue of whether the designation of LGS as proposed would contribute to the achievement of sustainable development. In the SSLP Kinver is identified as a Main Service Village where some development should be accommodated and land is accordingly allocated in the SAD. In the emerging LPR, Kinver is identified as a Tier 2 settlement which will continue to accommodate development in response to housing needs.
- 4.48 The designation of LGS as proposed in the KNP would add an additional layer of policy constraint to that which already applies as a result of GB and other national and local policies. In view of the location and status of Kinver in the existing (and emerging LPR), it has the potential to provide for sustainable development to meet the needs of future generations, subject to the constraints imposed by GB boundaries. Changes to the GB boundary should only be made where exceptional circumstances are fully evidenced and justified, through the preparation or updating of development plans.<sup>25</sup> The addition of the designation of LGS to the existing layers of policy protection enjoyed by the majority of the sites proposed for LGS designation is clearly unnecessary. Furthermore, it would have the potential to impede the provision of sustainable development to meet the needs of future generations and thus be in conflict with national policy.
- 4.49 Having carefully considered all the issues relating to the designation of LGS in Policy KN11, I conclude that the designation of the following sites which are not subject to GB policy would be justified:
- K10: Jubilee Gardens, High Street, Kinver
  - K 11: Daneford Gardens, High Street, Kinver
  - K 13: Marketplace Green, High Street, Kinver

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<sup>24</sup> PPG Reference ID: 37-020-20140306.

<sup>25</sup> NPPF, Paragraph 140.

I do not include Foley Infant School Field since it is adequately protected by national and local playing field policies. In addition, I do not consider that the wording of Clause 2 of the policy is sufficiently aligned with the scope of the protection afforded by virtue of NPPF Paragraph 103. Therefore, I recommend modified wording to have due regard to national policy **[PM10]**.

- 4.50 With the modifications as proposed to the policy it would have regard to national policy and advice, contribute to the achievement of sustainable development and be in general conformity with the strategic policies of the Development Plan. It would therefore comply with the Basic Conditions.

#### Policy KN12 Movement and Transport

- 4.51 **Policy KN12: Movement and Transport** relates to the aims of Climate Change, Community, Natural Environment, Economy and Housing. The policy addresses a number of more general transport issues which are covered in detail in the SSCS within Policies EV11 and EV12 together with the Parking Standards in Appendix 5. I note in the emerging LPR, Policies EC12 and HC13 and Appendix 1 carry forward and update these policies.

- 4.52 Clauses 1 to 4 carry forward the policies in the Development Plan. I note that the reference to a "Design and Place" policy in Clause 2 should refer to Policy KN04 Sustainable Design **[PM11]**.

- 4.53 In relation to Clauses 5 – 8:

- Clause 5 is not clear as to its requirements, and the clause provides for matters covered in detail in the SSCS. Cycle storage is covered in Policy EV12 and the Parking Standards, and facilities for charging plug-in and other low emission vehicles are required in Policy EV11. I also note these policy requirements are proposed to be updated and carried forward in the emerging LPR;
- Clauses 6 and 7 appear to be repetitive but rather than seek a revision and amalgamation, I would refer to Policies EV11 and EV12 which together with the Car Parking standards cover the requirements sought in these clauses:
- As stated by SSC in their Regulation 16 response, Clause 8 is imprecise in its wording. The requirement is adequately covered in SSCS Policy EV11f.

Accordingly, on the basis of unnecessary duplication (contrary to national policy), I recommend Clauses 5 - 8 should be removed **[PM11]**.

- 4.54 Clauses 9 and 10 are directly related to Kinver. Potter's Cross is identified in the Kinver NDP Background Document as causing concern in relation to safety and capacity which justifies the inclusion of Clause 9. The Staffordshire Way is an important public right of way which starts in Kinver and is highly valued together with the other public rights of way in the Parish. Clause 10 is therefore relevant and justified.

- 4.55 With the modifications I propose, Policy KN12 complies with the Basic Conditions.
- 4.56 Part 5 of the KNP identifies priorities for expenditure on infrastructure and other beneficial changes to the Parish. No issues of compliance with the Basic Conditions are raised.

#### Factual and Minor Amendments and Updates

- 4.57 I have not identified any typographical errors in the text of the KNP that would affect the Basic Conditions. Minor corrections and amendments to the numbering of clauses within the Policies or to the wording of the text which accompanies each policy can be made consequential to the recommended modifications, alongside any other minor non-material changes or updates. Any changes should be agreed between KPC and SSC.<sup>26</sup>

## 5. Conclusions

### Summary

- 5.1 The Kinver Neighbourhood Development Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard to all the responses made following consultation on the Neighbourhood Development Plan, together with the evidence documents both submitted with the Plan and published on the website as background documents in the course of my examination.
- 5.2 I have made recommendations to modify a number of the policies to ensure that the Plan meets the Basic Conditions and other legal requirements. In particular I have endeavoured to ensure that the policies are clearly drafted and that they avoid the duplication of development plan policies. I appreciate that some of the modifications, in particular to the number of LGS to be allocated in the Plan, will be a disappointment to the community. However, the sites which I recommend be removed are well protected by Green Belt and other policies. I recommend that the Plan, once modified, proceeds to referendum.

### The Referendum and its Area

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates.
- 5.4 The Kinver Neighbourhood Development Plan, as modified, has no policy or proposals which I consider significant enough to have an impact beyond

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<sup>26</sup> PPG Reference ID: 41-106-20190509.

the designated Neighbourhood Development Plan boundary and which would require the referendum to extend to areas beyond the Plan boundary. I therefore recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

## Overview

- 5.5 The production of the KNP has undoubtedly required a high level of commitment and hard work by a group of volunteers from the local community. This task has no doubt been made more difficult by the abnormal conditions arising from COVID-19. Whilst it has been necessary for me to recommend a number of modifications to the Plan, I commend the Parish Council and the Neighbourhood Plan Steering Group for the hard work and enthusiasm which they have dedicated to producing a thoroughly comprehensive Neighbourhood Development Plan.
- 5.6 The Plan as modified will set out positive and concise proposals to enable Kinver to carry forward the policies of the SSLP. KPC has consulted with and taken into account the views of the local community, whilst seeking to produce policies which will benefit the community and protect the character of Kinver as an attractive and historic Parish within the countryside. As a result, with the modifications recommended in the Appendix to my report, the KNP meets the Basic Conditions. With the modifications, the KNP should provide an effective Plan for the future planning of Kinver.

*Wendy J Burden*

Examiner



## Appendix: Modifications

<b>Proposed modification number (PM)</b>	<b>Policy and page no./other reference</b>	<b>Modification</b>
PM1	Cover Page	Include on the cover page the period which the KNP will cover: 2023 - 2038.
PM2	Policy KN01 Page 19	In Clause 1: Insert: after "Development" "to provide employment facilities". Delete: "in and around" and insert "adjacent to". Insert: after "KN01-1)" "and within the village Development Boundary". In the Interpretation: Insert: after "Use Class E," "F1 and F2".
PM3	Policy KN02, Pages 24 and 25	In Clause 1: Delete: "the following" and insert "sustainable". Add "which include:". In Clause 1a.: delete after "Kinver" and insert "development boundary." In Clause 4c.: delete "Affordable rent" and insert "Shared ownership". Delete Map KN02-1.
PM4	Policy KN03, Page 28	Delete Clause 2. In the Interpretation: delete the last two paragraphs.
PM5	Policy KN04, Page 31	In Clause 10: Delete: "of sufficient width" and insert "of a minimum of 2 metres".
PM6	Policy KN06, Page 38	Insert after "built frontages" "in sustainable locations within settlements,".
PM7	Policy KN07, Page 42	In Clause 1: Delete: "should have no overall harmful impact on" and Insert:

		<p>"must avoid any significant harm to".</p> <p>In Clause 6b.:</p> <p>Insert after "unavoidable" "or they are of poor quality".</p> <p>Delete Clause 7.</p>
PM8	Policy KN08, Page 50	<p>Delete Clause 1 and renumber the remaining clauses.</p> <p>Clause 5:</p> <p>Delete "where" and insert "provided".</p> <p>Delete "the building" and insert "the character of the historic building."</p> <p>Clause 6:</p> <p>Delete "affecting the" and insert "should enhance the character and appearance of the".</p> <p>Delete: after "setting".</p>
PM9	Policy KN10, page 57	<p>Delete Policy KN10.</p> <p>Delete Interpretation and Map page 58.</p>
PM10	Policy KN11, Page 60  Plans pages 62-79	<p>Clause 1:</p> <p>Delete the proposed LGS designations as follows: K01 – K09; K12; K14-K30.</p> <p>Delete the plans with allocations for K01 – K09; K12; K14-K30.</p> <p>Clause 2:</p> <p>Delete all the wording and replace with:</p> <p>"Proposals for development on a Local Green Space will only be allowed if it is satisfactorily demonstrated that they are consistent with policies for managing development in Green Belts."</p>
PM11	Policy KN12 Page 83	<p>In Clause 2: delete "the Design and Place policy" and insert "Policy KN04 Sustainable Design".</p> <p>Delete Clauses 5, 6, 7, and 8.</p>

		Interpretation: Delete paragraph 3.
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